

Planning and Zoning Commission 6:30pm - 9:30pm

Wednesday, February 12, 2025, 6:30 PM Council Chambers 200 S. Main St. Cibolo, Texas 78108 Est. Duration: 1 hr 10 min

- 1. Call to Order
- 2. Roll call and Excused Absences
- 3. Invocation/Moment of Silence
- 4. Pledge of Allegiance

5. Citizens to be Heard

This is the only time during the Meeting that a citizen can address the Commission. It is the opportunity for visitors and guests to address the Commission on any issue to include agenda items. All visitors wishing to speak must fill out the Sign-In Roster prior to the start of the meeting. The Commission may not deliberate any non-agenda issue, nor may any action be taken on any non-agenda issue at this time; however, the Commission may present any factual response to items brought up by citizens. (Attorney General Opinion - JC-0169) (Limit of three minutes each.) All remarks shall be addressed to the Commission as a body. Remarks may also be addressed to any individual member of the Commission so long as the remarks are (i) about matters of local public concern and (ii) not disruptive to the meeting or threatening to the member or any attendee including City staff. Any person violating this policy may be requested to leave the meeting, but no person may be requested to leave or forced to leave the meeting because of the viewpoint expressed. This meeting is livestreamed. If anyone would like to make comments on any matter regarding the City of Cibolo or on an agenda item and have this item read at this meeting, please email citysecretary@cibolotx.gov or telephone 210-566-6111 before 5:00 pm the date of the meeting.

6. Consent Agenda

(All items listed below are considered to be routine and non-controversial by the commission and will be approved by one motion. There will be no separate discussion of these items unless a commission member requests, in which case the item will be removed from the consent agenda.)

6A. Approval of the minutes from the January 8, 2025, meeting.

7. Public Hearing

7A. Conduct a Public Hearing regarding a Conditional Use Permit (CUP) request to allow a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) in a Retail/Office District (C-3) for certain real property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1.

8. Discussion/Action Items

- 8A. Discussion/Action regarding a Conditional Use Permit (CUP) request to allow a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) in a Retail/Office District (C-3) for certain real property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1.
- 8B. Discussion/Action and Recommendation to the Mayor and City Council regarding the Replat of the Noble Group subdivision.
- 8C. Discussion regarding a potential application to rezone 5.205 acres, located south of the intersection of Dobie Boulevard and Borgfeld Road, legally described as Cibolo Kingdom Hall, Lot 2, 5.2050 acres.

9. UDC, CIP, Master Plan and Staff Updates

9A. Staff Update

10. Subcommittee Updates

10A. Phase 2 - P&Z Commissioner Training

11. Items for future agendas

12. Adjournment

This Notice of Meeting is posted and pursuant to the Texas Government Code 551.041 - .043 on the front bulletin board of the Cibolo Municipal Building, 200 South Main Street, Cibolo, Texas which is a place readily accessible to the public at all times and that said notice was posted on

Peggy Cimics, TRMC

City Secretary

Pursuant to Section 551.071, 551.072, 551.073, 551.074, 551.076, 551.077, 551.084 and 551.087 of the Texas Government Code, the City of Cibolo reserves the right to consult in closed session with the City Attorney regarding any item listed on this agenda. This agenda has been approved by the city's legal counsel and subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551. This has been added to the agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144.

A possible quorum of committees, commissions, boards and corporations may attend this meeting.

This facility is wheelchair accessible and accessible parking space is available. Request for accommodation or interpretive services must be made 48 hours prior to the meeting. Please contact the City Secretary at (210) 566-6111. All cell phones must be turned off before entering the meeting.

I certify that the attached notice and agenda of items to be considered by the Planning and Zoning Commission was removed by me from the City Hall bulletin board on the _____day of _____2024.

Name and Title

Date Posted: February 7, 2025



Planning and Zoning Commission Staff Report

A. Approval of the minutes from the January 8, 2025, meeting.

Meeting	Agenda Group
Wednesday, February 12, 2025, 6:30 PM	Consent Agenda Item: 6A.
From	
Peggy Cimics, City Secretary	

PRIOR CITY COUNCIL ACTION:

N/A

BACKGROUND:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

MOTION(S):

N/A

Attachments

010825 PZ Minutes.pdf



PLANNING AND ZONING MEETING CIBOLO MUNICIPAL BUILDING

200 S. Main Street January 8, 2025 6:30 PM - 9:30 PM

Minutes

- 1. Call to Order Meeting was called to order at 6:33 p.m. by Chairman Ms. Greve.
- 2. **Roll call and Excused Absences** Members Present: Ms. Greve, Ms. Weimer, Ms. Dodd, Ms. Garcia, Ms. Fishback, Mr. Thompson (arrived at 6:38 p.m.), Mr. Hinze; Members Absent: Ms. Hubbard and Ms. Beaver. Ms. Fishback made the motion to excuse the absence of Ms. Hubbard. The motion was seconded by Ms. Weimer. For: All; Against: None. The motion carried 6 to 0.
- 3. **Invocation/Moment of Silence** Ms. Greve asked for a Moment of Silence.
- 4. **Pledge of Allegiance** All in attendance recited the Pledge of Allegiance.

5. Citizens to be Heard

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No individual signed up to speak during this item.

6. Election of Chairperson and Vice Chairperson

Chairman Ms. Greve called for a nomination to elect a Chairman for calendar year 2025. Ms. Fishback made the motion to elect Ms. Greve as Chairman. The motion was seconded by Ms. Weimer. There were no other nominations. For: All; Against: None. Ms. Greve was re-elected to the position of Chairman. Ms. Greve called for a nomination for Vice-Chairman. Ms. Fishback made the motion to nominate Ms. Garcia. The motion was seconded by Ms. Greve. There were no other nominations. For: All; Against: None. Ms. Garcia was re-elected as Vice Chairman.

7. Consent Agenda

(All items below are considered to be routine and non-controversial by the commission and will be approved by one motion. There will be no separate discussion of these items unless a commission member requests, in which case the item will be removed from the consent agenda.)

A. Approval of the minutes from the December 11, 2024, Meeting.

Ms. Greve made the motion to approve the consent agenda. The motion was seconded by Ms. Fishback. For: All; Against: None. The motion carried 6 to 0.

8. <u>Discussion/Action Items</u>

A. Discussion/Action regarding a Variance to Unified Development Code Sec. 19.4 Block Design for the proposed Neil Tract subdivision.

Ms. Weimer made the motion to Deny the Variance for the proposed Neil Tract subdivision as it did not meet the UDC Section 19.4 or City Ordinance 1261 dated April 2019 requiring subdivision of lots less than 60' in width to have vehicular access from an alley. The motion was seconded by Ms. Garcia. For: All; Against: None. The motion carried 6 to 0.

B. Discussion/Action regarding a proposed amendment to the Land Study of the Steele Creek Subdivision.

Ms. Fishback made the motion to approve a proposed amendment to the Land Study of the Steele Creek Subdivision. The motion was seconded by Mr. Hinze. For: All; Against: None. The motion carried 6 to 0.

9. UDC, CIP, Master Plan and Staff Updates

Mr. Spencer gave an update to the Planning & Zoning Commission on Site Plans currently in review, Plats currently in review, and P&Z recommendations that went to the City Council.

10. <u>Subcommittee Updates</u> – Mr. Hinze went over Planning and Zoning Onboarding Session 1. The following subjects were briefed: P&Z Purpose, Standards of Ethical Conduct, Effect Meeting, and Tabling vs. Postponing agenda items. The board had the opportunity to ask questions and add additional information. They also received a power point presentation from the American Planning Association on How to be an Ethical Planning and Zoning Commissioner. The P&Z board again were able to ask question of the presentation.

Ms. Cimics also reminded the P&Z members that the city has mandatory Ethics Training on Tuesday, January 21 at 6:30 pm at City Hall or on Saturday, February 8th at 9:30 am at City Hall. You only have to attend one of the sessions.

- 11. <u>Items for Future Agendas</u> Mr. Hinze suggested a future item on the traffic lights that are planned for FM 1103.
- 12. <u>Adjournment</u> Ms. Greve made the motion to adjourn the meeting at 8:35 pm. The motion was seconded by Ms. Fishback. For: All; Against: None. The motion carried 6 to 0.

PASSED AND APPROVED THIS 12TH DAY OF February 2025.

Jennifer Greve Chairman Planning & Zoning Commission



Planning and Zoning Commission Staff Report

A. Conduct a Public Hearing regarding a Conditional Use Permit (CUP) request to allow a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) in a Retail/Office District (C-3) for certain real property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1.

Meeting	Agenda Group
Wednesday, February 12, 2025, 6:30 PM	Public Hearing Item: 7A.

From	
Eron Spencer, Assistant Planning Director	

PLANNING & ZONING COMMISSION ACTION: Conduct 1st Public Hearing

Discussion/Action and Recommendation regarding the above referenced petition

PROPERTY INFORMATION:

Project Name: CUP-25-01

Owners: Doan & Associates
Representative: Samir Maredia

Location/Area: 1636 FM 1103, 4.0253 acres

Location: Intersection of FM 1103, Brite Road, and Weil Road

Council Place: 4

Future Land Use: Neighborhood Commercial

Existing **Zoning**: Retail/Office (C-3)

Requested Zoning: Conditional Use Permit (CUP)

Proposed Use: Local Convenience Store with Fuel Sales (larger than 5,000 square feet)

FINDINGS:

The applicant lot is located on the bend on FM 1103, where FM 1103 intersects Brite Road and Weil Road. The property is located within the Retail/Office (C-3) commercial zoning district. Directly adjacent to the applicant property is a commercial property within the Neighborhood Commercial (C-1) zoning district. The Cibolo ETJ surrounds the property to the east and southeast. Directly south are residential properties within the C-3 zoning district. Across FM 1103 is an undeveloped property also zoned C-3, as well as the Cibolo Valley Ranch residential subdivision green belt, which is zoned SF-6.

The Cibolo Creek Center commercial plat was approved by City Council in April 2024 and recorded in August 2024. The applicant later submitted a site plan application for a building totaling 9,130 square feet. The building will be divided into four suites. The main suite for the proposed gas station and convenience store is 5,500 square feet, and the three remaining suites are 1,200 square feet each.

Per Section 1.12 of the Unified Development Code (UDC), Local Convenience Store with Fuel Sales is defined as:

Local Convenience Store (with fuel sales)

A commercial activity engaged in the sale of commonly used goods and merchandise, including petroleum products, for personal or household use in a structure five thousand and one (5,001) square feet or more in size. Refer to Article 6 of this UDC for additional requirements for fuel sales.

Local Convenience Store with Fuel Sales is permitted by right within the C-3 zoning district per Section 13.2 of the UDC. However, in accordance with Article 6.3.1.K.5 of the UDC, a Conditional Use Permit (CUP) is required if the structure, or building, for a fuel sales business exceeds 5,000 square feet.

K. Fuel Sale Businesses.

5. Stores exceeding 5,000 Square Feet: If a structure exceeds 5,000 square feet in size, a Conditional Use Permit (CUP) will be required.

The applicant is proposing a 5,500-square-foot Local Convenience Store with Fuel Sales. Therefore, the approval of a CUP is required to allow this use on the property.

The site plan underwent an initial review. During this process, City staff provided several comments, one of which noted the requirement for an approved CUP. Apart from this comment, all other outstanding comments will be resolved administratively as part of the standard site plan review process. The primary focus of this CUP request is the size of the proposed structure in relation to its intended use.

PUBLIC NOTICE:

Notice was published within the local newspaper (Seguin Gazette) on January 26, 2025, and the <u>City Website</u>. Individual letters were sent by mail to 11 property owners within 200 feet of the subject property. To date, Staff has received one (1) in favor of and zero (0) in opposition. Public Hearings were scheduled for February 12, 2025 (Planning & Zoning Commission) and on February 25, 2025 (City Council). Approval/Disapproval of the zoning ordinance is tentatively scheduled for the March 11, 2025, City Council meeting.

STAFF RECOMMENDED CONDITIONS:

Should the Planning & Zoning Commission recommend approval of the CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) on the property located at 1636 FM 1103, Staff recommends that it be subject to the following conditions:

- 1. <u>Building & Fire Codes</u> Applicant must comply with all Building and Fire Code requirements.
- 2. <u>Permits & Inspections</u> All required building permits and Certificate of Occupancy must be obtained. All permit applications submitted for this property are subject to the requirements of the Code.
- 3. Additional Uses No other conditional uses are allowed under this conditional use permit.
- 4. <u>Retail/Office (C-3) Regulations</u> All regulations of the Retail/Office (C-3) Zoning District, other than those amended by the Conditional Use Permit, apply to the Property.
- 5. <u>TxDOT Approval</u> The subject property is along TxDOT right-of-way. Applicant must obtain approval from TxDOT and include proof of approval with any development applications submitted to the City of Cibolo.
- 6. Site Plan A site plan in compliance with UDC Sec. 12.3.2, must be submitted to the City for review and approval.
- 7. Parking Requirements The site plan must comply with off-street parking requirements outlined in UDC Sec. 10.2.
- 8. Exterior Lighting A lighting plan subject to the illumination standards of Article 7 of the UDC must be submitted to the City for review and approval as part of the site plan application. The plan must ensure that light pollution, glare, and trespass are minimized, with illumination at the property lines limited to one (1.0) foot candle.
- 9. <u>Landscaping</u> A landscaping plan subject to the requirements of Article 17 of the UDC must be submitted to the City for review and approval as part of the site plan application.
- 10. Alcohol Sales Any alcohol sales are subject to Texas Alcoholic Beverage Commission rules and regulations.
- 11. <u>Supplemental Use Regulations</u> All regulations of UDC Article 6.3 Supplemental Use Regulations (K) Fuel Sales Business, other than those amended by the Conditional Use Permit, apply to the Property.

PLANNING & ZONING COMMISSION ACTION:

1. Recommend **Approval** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot

- 2. Recommend **Approval** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1, with conditions.
- 3. Recommend **Denial** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1, with findings.

STAFF ANALYSIS:

Section 4.3.2, Conditional Use Permit, of the UDC, provides direction to the Planning & Zoning Commission and City Council when considering a CUP request.

A Conditional Use Permit is intended to provide some flexibility to traditional zoning by offering a mechanism to balance specific site constraints and development plans with the larger interest of the community and the integrity of the UDC. An application for a Conditional Use Permit follows the same process as a Zoning Map Amendment Process (Rezoning)...The Permit, if granted, may include conditions placed upon the development of the property. The Planning & Zoning Commission and City Council shall consider the following, at a minimum, in conjunction with its deliberations for approval or denial of the application and the establishment of conditions:

A. Consistency with the Comprehensive Master Plan;

PlaceType: Neighborhood Commercial (pg. 43)

<u>Character and Intent:</u> Neighborhood Commercial development is characterized by small, free-standing buildings containing one or more businesses. Neighborhood Commercial primarily provides family-oriented services for the surrounding neighborhoods and city. They are generally located within walking distance of surrounding residential uses and neighborhoods. Business

types may include restaurants, local retail, medical offices, banks, and other retail and service uses.

Land Use Considerations:

- Primary Land Uses: Neighborhood Retail, Office
- Secondary Land Uses: Civic and Institutional, Parks and Open Space

Example Locations:

• Cibolo Valley Square, Steele Plaza, and Turning Stone Animal Hospital

STAFF FINDING: The City of Cibolo's Future Land Use Map (FLUM) was adopted as part of the 2024 Cibolo Tomorrow Comprehensive Plan on September 10, 2024, under Ordinance 1465. The FLUM is the community's visual guide for development decisions and includes the logical and orderly placement of PlaceTypes in the City and ETJ. It does not constitute zoning regulations or establish zoning district boundaries.

The property is designated as Neighborhood Commercial on the City's FLUM. The proposed multi-tenant building, which includes a Local Convenience Store with Fuel Sales (larger than 5,000 square feet), aligns with the 2024 FLUM and Comprehensive Plan. This development reflects the character and intent of the Neighborhood Commercial PlaceType by providing community-oriented "local retail" and "service uses" while also being consistent with "Neighborhood Retail", which is a primary land use within this PlaceType.

B. Conformance with applicable regulations in this UDC and standards established by the UDC;

STAFF FINDING: The subject property is currently zoned Retail/Office (C-3). The intent of the C-3 zoning district is explained in Section 14.2.O.13 of the UDC, as follows:

- a. Intent The Retail/Office District establishes a broad range of business operations, services and commercial development requiring arterial or collector street access. This district is intended for a variety of office, institutional and indoor retail uses that are designed to make the most efficient use of existing infrastructure and provide for orderly transitions and buffers between districts and uses. This district should facilitate economic development activities that will strengthen neighborhoods; promote the development of targeted industries and provide community balance; provide educational and employment opportunities; and encourage local economic investment for citizens of Cibolo.
- b. Permitted uses general retail, office and service uses
- c. Specific uses subject to Site Plan approval, completely enclosed general retail, office and service uses

Lot Area	Lot Width	Front Setback	Rear Setback	Side Setback	Max Impervious Coverage	Maximum Height
N/A	70'	25'	15'	15'	75%	45'

The proposed development must comply with the minimum lot design requirements for the Retail/Office (C-3) zoning district, as noted above and in the UDC. Based on the site plan and building elevations provided by the applicant, the proposed Local Convenience Store with Fuel Sales (larger than 5,000 square feet) appears to satisfy the minimum lot design requirements for the C-3 zoning district.

In addition, a Local Convenience Store with Fuel Sales is subject to supplemental use regulations, as specified in Article 6.3.1.K of the UDC.

K. Fuel Sale Businesses.

Property used for the purpose of the sale of fuels shall be developed in accordance with the following regulations:

- 1. Distance from Right-of-Way: Service stations may locate fuel pumps and pump islands beyond the setback, but in no case closer than fifteen (15') feet from any street right-of-way;
- 2. Canopy Requirements: Any canopy placed over the pump island may not extend closer than five (5') feet to the right-of-way;
- 3. Pumps near Residential Zones: Fuel pumps and pump islands may not be located closer than one hundred (100') feet to any residential zoning district;
- 4. Pumps near Existing Residence: Fuel pumps and pump islands may not be located closer than one hundred (100') feet to a property currently being developed and used for residential purposes within a zoning district that permits fuel sales.
- 5. Stores exceeding 5,000 Square Feet: If a structure exceeds 5,000 square feet in size, a Conditional Use Permit (CUP) will be required.

The proposed Local Convenience Store with Fuel Sales appears to comply with applicable regulations and standards in the UDC. Should this CUP be approved, additional compliance with all UDC requirements will be verified during the site plan review process.

C. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk, scale, setbacks and open spaces, landscaping and site development, and access/circulation.

STAFF FINDING: Surrounding properties within Cibolo city limits are zoned Retail/Office (C-3), which is the same zoning district as the subject property. The zoning regulations in Article 14 of the UDC, including lot design requirements such as building height, setbacks, and the like, are compatible with the surrounding mix of commercial and residential areas.

D. Potential unfavorable impacts on existing or permitted uses on abutting sites, the extent that such impacts exceed those which reasonably may result from use of the site by a permitted use;

STAFF FINDING: As previously noted, most of the surrounding properties within Cibolo's city limits shared the same Retail/Office (C-3) zoning district as the subject property.

The commercial uses permitted by right and with a CUP in the Retail/Office (C-3) zoning district are referenced in the table below per Section 13.2, Commercial Uses, of the UDC.

C-3 uses permitted by right	C-3 permitted with CUP
Administrative and Business Offices	Automotive Rentals
Administrative Services	Automotive Service Station *
Artisan Sales	Commercial Off-street Parking
Artisan/ Culinary Classes (Specialty Classes)	Concrete/Asphalt Batching Plant (Temporary)
Bar/Micro Brewery *	Farmers Market
Business Services	Food Truck, Park
Business Support Services	Indoor Gun Range
Clinic	Laundry Services, Laundry Mat
Club or Lodge	Pawn Shop
Consumer Repair Services	Research and Development Services
Cultural Services	Transportation Terminal
Day Care Services (General Commercial)	Warehousing and Distribution
Day Care Services (Group)	a.) Convenience Storage
Financial Services	Winery/Production Brewery
Fitness Studio/ Health Spa	
Food Sales; Grocery	
Food Truck, Ancillary	
General Retail Sales, Neighborhood Scale	
Health Care Offices	
Laundry Services: Dry Cleaning	
Life Care Services *	
Local Utility Services	
Outdoor Sports and Recreation (Light)	
Personal Services	
Pet Services	
Postal Facilities	
Professional Office	
Restaurant, Convenience	
Restaurant, Neighborhood	
Safety Services	
Veterinary Services	
Amusement Center	
Automotive Washing	
Automotive; Minor Repairs/Service	
Big Box Store *	
Building Maintenance Services	
Business or Trade School	
College and University Facilities	
Community Treatment Facility *	
Convalescent Services	
Funeral Services	
General Retail Sales, Regional *	

Hospital Services	
Hotel-Motel	
Ice Dispensing; Portable Building/Structure *	
Indoor Entertainment	
Indoor Sports and Recreation	
Liquor Store *	
Local Convenience Store (With Fuel Sales)*	
Local Convenience Store (Without Fuel Sales)	
Restaurant, Fast Food	
Service Station *	
Tire Dealer (No Open Storage)	

^{*}Subject to supplemental use regulations of UDC Article 6.

The proposed use aligns with other uses within the C-3 zoning district and other adjacent districts. To ensure compatibility and mitigate any potential unfavorable impacts on surrounding properties, specific conditions are recommended as part of this CUP.

E. Modifications to the site plan which would result in increased compatibility or would mitigate potentially unfavorable impacts or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.

STAFF FINDING: The site plan is currently under review, with several comments that must be addressed before approval, including the requirement for an approved CUP. All comments are related to code requirements and necessitate modifications to the plan. Once these revisions are made, the project will conform with all applicable regulations and standards, ensuring the protection of public health, safety, morals, and the general welfare of the community and surrounding properties.

F. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.

STAFF FINDING: As part of the Cibolo Creek final plat submittal, a Traffic Impact Analysis (TIA) was reviewed and approved by the City Engineer to ensure safe and efficient access and circulation for both the proposed building and nearby developments. Additionally, the applicant has obtained a driveway permit from TxDOT. Based on these approvals, Staff does not anticipate any significant traffic impacts associated with granting this CUP.



Planning and Zoning Commission Staff Report

A. Discussion/Action regarding a Conditional Use Permit (CUP) request to allow a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) in a Retail/Office District (C-3) for certain real property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1.

Meeting	Agenda Group
Wednesday, February 12, 2025, 6:30 PM	Discussion/Action Items Item: 8A.
From	
Lindsey Walker, Planner I	
Staff Co	ontact(s)

Lindsey Walker,

PLANNING & ZONING COMMISSION ACTION: Conduct 1st Public Hearing

Discussion/Action and Recommendation regarding the above referenced petition

PROPERTY INFORMATION:

Project Name: CUP-25-01

Owners: Doan & Associates
Representative: Samir Maredia

Location/Area: 1636 FM 1103, 4.0253 acres

Location: Intersection of FM 1103, Brite Road, and Weil Road

Council Place: 4

Future Land Use: Neighborhood Commercial

Existing **Zoning**: Retail/Office (C-3)

Requested Zoning: Conditional Use Permit (CUP)

Proposed Use: Local Convenience Store with Fuel Sales (larger than 5,000 square feet)

FINDINGS:

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The Cibolo Creek Center commercial plat was approved by City Council in April 2024 and recorded in August 2024. The applicant later submitted a site plan application for a building totaling 9,130 square feet. The building will be divided into four suites. The main suite for the proposed gas station and convenience store is 5,500 square feet, and the three remaining suites are 1,200 square feet each.

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STAFF RECOMMENDED CONDITIONS:

Should the Planning & Zoning Commission recommend approval of the CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) on the property located at 1636 FM 1103, Staff recommends that it be subject to the following conditions:

- 1. <u>Building & Fire Codes</u> Applicant must comply with all Building and Fire Code requirements.
- 2. <u>Permits & Inspections</u> All required building permits and Certificate of Occupancy must be obtained. All permit applications submitted for this property are subject to the requirements of the Code.
- 3. Additional Uses No other conditional uses are allowed under this conditional use permit.
- 4. <u>Retail/Office (C-3) Regulations</u> All regulations of the Retail/Office (C-3) Zoning District, other than those amended by the Conditional Use Permit, apply to the Property.
- 5. <u>TxDOT Approval</u> The subject property is along TxDOT right-of-way. Applicant must obtain approval from TxDOT and include proof of approval with any development applications submitted to the City of Cibolo.
- 6. Site Plan A site plan in compliance with UDC Sec. 12.3.2, must be submitted to the City for review and approval.
- 7. Parking Requirements The site plan must comply with off-street parking requirements outlined in UDC Sec. 10.2.
- 8. <u>Exterior Lighting</u> A lighting plan subject to the illumination standards of Article 7 of the UDC must be submitted to the City for review and approval as part of the site plan application. The plan must ensure that light pollution, glare, and trespass are minimized, with illumination at the property lines limited to one (1.0) foot candle.
- 9. <u>Landscaping</u> A landscaping plan subject to the requirements of Article 17 of the UDC must be submitted to the City for review and approval as part of the site plan application.
- 10. Alcohol Sales Any alcohol sales are subject to Texas Alcoholic Beverage Commission rules and regulations.
- 11. <u>Supplemental Use Regulations</u> All regulations of UDC Article 6.3 Supplemental Use Regulations (K) Fuel Sales Business, other than those amended by the Conditional Use Permit, apply to the Property.

PLANNING & ZONING COMMISSION ACTION:

- 1. Recommend **Approval** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot
- 2. Recommend **Approval** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1, with conditions.
- 3. Recommend **Denial** to the Mayor and Council of the requested CUP for a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) for property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1, with findings.

STAFF ANALYSIS:

Section 4.3.2, Conditional Use Permit, of the UDC, provides direction to the Planning & Zoning Commission and City Council when considering a CUP request.

A Conditional Use Permit is intended to provide some flexibility to traditional zoning by offering a mechanism to balance specific site constraints and development plans with the larger interest of the community and the integrity of the UDC. An application for a Conditional Use Permit follows the same process as a Zoning Map Amendment Process (Rezoning)...The Permit, if granted, may include conditions placed upon the development of the property. The Planning & Zoning Commission and City Council shall consider the following, at a minimum, in conjunction with its deliberations for approval or denial of the application and the establishment of conditions:

A. Consistency with the Comprehensive Master Plan;

PlaceType: Neighborhood Commercial (pg. 43)

<u>Character and Intent:</u> Neighborhood Commercial development is characterized by small, free-standing buildings containing one or more businesses. Neighborhood Commercial primarily provides family-oriented services for the surrounding neighborhoods and city. They are generally located within walking distance of surrounding residential uses and neighborhoods. Business

types may include restaurants, local retail, medical offices, banks, and other retail and service uses.

Land Use Considerations:

- Primary Land Uses: Neighborhood Retail, Office
- Secondary Land Uses: Civic and Institutional, Parks and Open Space

Example Locations:

• Cibolo Valley Square, Steele Plaza, and Turning Stone Animal Hospital

STAFF FINDING: The City of Cibolo's Future Land Use Map (FLUM) was adopted as part of the 2024 Cibolo Tomorrow Comprehensive Plan on September 10, 2024, under Ordinance 1465. The FLUM is the community's visual guide for development decisions and includes the logical and orderly placement of PlaceTypes in the City and ETJ. It does not constitute zoning regulations or establish zoning district boundaries.

The property is designated as Neighborhood Commercial on the City's FLUM. The proposed multi-tenant building, which includes a Local Convenience Store with Fuel Sales (larger than 5,000 square feet), aligns with the 2024 FLUM and Comprehensive Plan. This development reflects the character and intent of the Neighborhood Commercial PlaceType by providing community-oriented "local retail" and "service uses" while also being consistent with "Neighborhood Retail", which is a primary land use within this PlaceType.

B. Conformance with applicable regulations in this UDC and standards established by the UDC;

STAFF FINDING: The subject property is currently zoned Retail/Office (C-3). The intent of the C-3 zoning district is explained in Section 14.2.O.13 of the UDC, as follows:

- a. Intent The Retail/Office District establishes a broad range of business operations, services and commercial development requiring arterial or collector street access. This district is intended for a variety of office, institutional and indoor retail uses that are designed to make the most efficient use of existing infrastructure and provide for orderly transitions and buffers between districts and uses. This district should facilitate economic development activities that will strengthen neighborhoods; promote the development of targeted industries and provide community balance; provide educational and employment opportunities; and encourage local economic investment for citizens of Cibolo.
- b. Permitted uses general retail, office and service uses
- c. Specific uses subject to Site Plan approval, completely enclosed general retail, office and service uses

Lot Area	Lot Width	Front Setback	Rear Setback	Side Setback	Max Impervious Coverage	Maximum Height
N/A	70'	25'	15'	15'	75%	45'

The proposed development must comply with the minimum lot design requirements for the Retail/Office (C-3) zoning district, as noted above and in the UDC. Based on the site plan and building elevations provided by the applicant, the proposed Local Convenience Store with Fuel Sales (larger than 5,000 square feet) appears to satisfy the minimum lot design requirements for the C-3 zoning district.

In addition, a Local Convenience Store with Fuel Sales is subject to supplemental use regulations, as specified in Article 6.3.1.K of the UDC.

K. Fuel Sale Businesses.

Property used for the purpose of the sale of fuels shall be developed in accordance with the following regulations:

- 1. Distance from Right-of-Way: Service stations may locate fuel pumps and pump islands beyond the setback, but in no case closer than fifteen (15') feet from any street right-of-way;
- 2. Canopy Requirements: Any canopy placed over the pump island may not extend closer than five (5') feet to the right-of-way;
- 3. Pumps near Residential Zones: Fuel pumps and pump islands may not be located closer than one hundred (100') feet to any residential zoning district;
- 4. Pumps near Existing Residence: Fuel pumps and pump islands may not be located closer than one hundred (100') feet to a property currently being developed and used for residential purposes within a zoning district that permits fuel sales.
- 5. Stores exceeding 5,000 Square Feet: If a structure exceeds 5,000 square feet in size, a Conditional Use Permit (CUP) will be required.

The proposed Local Convenience Store with Fuel Sales appears to comply with applicable regulations and standards in the UDC. Should this CUP be approved, additional compliance with all UDC requirements will be verified during the site plan review process.

C. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk, scale, setbacks and open spaces, landscaping and site development, and access/circulation.

STAFF FINDING: Surrounding properties within Cibolo city limits are zoned Retail/Office (C-3), which is the same zoning district as the subject property. The zoning regulations in Article 14 of the UDC, including lot design requirements such as building height, setbacks, and the like, are compatible with the surrounding mix of commercial and residential areas.

D. Potential unfavorable impacts on existing or permitted uses on abutting sites, the extent that such impacts exceed those which reasonably may result from use of the site by a permitted use;

STAFF FINDING: As previously noted, most of the surrounding properties within Cibolo's city limits shared the same Retail/Office (C-3) zoning district as the subject property.

The commercial uses permitted by right and with a CUP in the Retail/Office (C-3) zoning district are referenced in the table below per Section 13.2, Commercial Uses, of the UDC.

C-3 uses permitted by right	C-3 permitted with CUP
Administrative and Business Offices	Automotive Rentals
Administrative Services	Automotive Service Station *
Artisan Sales	Commercial Off-street Parking
Artisan/ Culinary Classes (Specialty Classes)	Concrete/Asphalt Batching Plant (Temporary)
Bar/Micro Brewery *	Farmers Market
Business Services	Food Truck, Park
Business Support Services	Indoor Gun Range
Clinic	Laundry Services, Laundry Mat
Club or Lodge	Pawn Shop
Consumer Repair Services	Research and Development Services
Cultural Services	Transportation Terminal
Day Care Services (General Commercial)	Warehousing and Distribution
Day Care Services (Group)	a.) Convenience Storage
Financial Services	Winery/Production Brewery
Fitness Studio/ Health Spa	
Food Sales; Grocery	
Food Truck, Ancillary	
General Retail Sales, Neighborhood Scale	
Health Care Offices	
Laundry Services: Dry Cleaning	
Life Care Services *	
Local Utility Services	
Outdoor Sports and Recreation (Light)	
Personal Services	
Pet Services	
Postal Facilities	
Professional Office	
Restaurant, Convenience	
Restaurant, Neighborhood	
Safety Services	
Veterinary Services	
Amusement Center	
Automotive Washing	
Automotive; Minor Repairs/Service	
Big Box Store *	
Building Maintenance Services	
Business or Trade School	

College and University Facilities	
Community Treatment Facility *	
Convalescent Services	
Funeral Services	
General Retail Sales, Regional *	
Hospital Services	
Hotel-Motel	
Ice Dispensing; Portable Building/Structure *	
Indoor Entertainment	
Indoor Sports and Recreation	
Liquor Store *	
Local Convenience Store (With Fuel Sales)*	
Local Convenience Store (Without Fuel Sales)	
Restaurant, Fast Food	
Service Station *	
Tire Dealer (No Open Storage)	

^{*}Subject to supplemental use regulations of UDC Article 6.

The proposed use aligns with other uses within the C-3 zoning district and other adjacent districts. To ensure compatibility and mitigate any potential unfavorable impacts on surrounding properties, specific conditions are recommended as part of this CUP.

E. Modifications to the site plan which would result in increased compatibility or would mitigate potentially unfavorable impacts or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals and general welfare.

STAFF FINDING: The site plan is currently under review, with several comments that must be addressed before approval, including the requirement for an approved CUP. All comments are related to code requirements and necessitate modifications to the plan. Once these revisions are made, the project will conform with all applicable regulations and standards, ensuring the protection of public health, safety, morals, and the general welfare of the community and surrounding properties.

F. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed use.

STAFF FINDING: As part of the Cibolo Creek final plat submittal, a Traffic Impact Analysis (TIA) was reviewed and approved by the City Engineer to ensure safe and efficient access and circulation for both the proposed building and nearby developments. Additionally, the applicant has obtained a driveway permit from TxDOT. Based on these approvals, Staff does not anticipate any significant traffic impacts associated with granting this CUP.

Attachments

Application

Site Plan

Response F.1

Property Map



City of Cibolo

Planning Department 201 Loop 539 W/P.O. Box 826 Cibolo, TX 78108

Phone: (210) 658 - 9900

UNIVERSAL APPLICATION - CONDIT

Please fill out this form completely, supplying all necessary information and documentation to support your request. Please use a separate application for each submittal. Your application will not be accepted until the application is completed and required information provided. Cibolo Food Mart Project Name: 4.0253 Survey Name: Trinidad Garcia Survey No. 538, A-137 Total Acres: Abstract No.: 137 1636 FM 1103, Cibolo TX 78108 Project Location (address): Current Zoning: Retail/Office (C3) Overlay: None Old Town Proposed Zoning: Retail/Office (C3) # of Lots: # of Units: Commercial Please Choose One: Single-Family Multi-Family Industrial Other Current Use: Undeveloped Total Proposed Square Footage: 9,130 Proposed Use: Retail (Commercial/Industrial only) Applicant Information: Samir Maredia Property Owner Name: Address: 1624 Sunset Vista Bend City: Leander Zip Code: 78641 State: TX Phone: 832-713-4985 Email: samirsmaredia@gmail.com *Applicant (if different than Owner): Doan & Associates * Letter of Authorization required Address: 10101 Southwest Freeway, Suite 375 City: Houston Zip Code: 77074 State: TX Phone: 713-485-0665 Email: doan@doanassociates.com Fax: Representative: Julie Doan Address: 10101 Southwest Freeway, Suite 375 City: Houston State: TX Zip Code: 77074 Phone: 713-485-0665 Email: doan@doanassociates.com Fax: Authorization: By signing this application, you hereby grant Staff access to your property to perform work related to your application. City of Cibalo Use Only Representative's Signature Total Fees Payment Method State of Submittal Date County of , on this day personally appeared Before me, Accepted by , to be the person(s) who is/are subscribed to the Name of signer(s) Case Number foregoing instrument and acknowledge to me that he/she/they executed the same for the purposes and consideration therein expressed. Given under my hand and seal of office this Notary ID #134055519 My Commission Expires Notary Public Signature Novemotary Seal) 2026

Page 1 of 2



10101 Southwest Fwy, Suite 375 Houston, TX 77074 713.485.0665 doan@doanassociates.com www.doanassociates.com

NARRATIVE OF APPLICATION REQUEST

December 6, 2024

Dear City of Cibolo Planning Department,

I am writing to submit a request for a Conditional Use Permit (CUP) for the proposed development project located at **1636 FM 1103**, **Cibolo**, **TX 78108**, pursuant to the requirements outlined in UDC Sec. 4.3.2. The proposed building will exceed 5,000 square feet, thus necessitating the approval of this permit to proceed with the development as planned.

Project Overview

The proposed development is a retail building, with a convenience store and gas stations, and three spaces for future leases. The total building area will be 9,130 sq. ft., and the project aims to enhance the local economy and provide a new service to the community. This development has been designed to meet all local zoning and building code standards, ensuring compatibility with the surrounding area while improving the overall infrastructure of the neighborhood.

Criteria for Approval

In accordance with UDC Sec. 4.3.2, a Conditional Use Permit may be granted when the applicant demonstrates compliance with the following criteria. Below is a summary of how the proposed development meets these specific criteria:

o Compatibility with the Surrounding Area

The proposed building will be constructed to complement and enhance the aesthetic and functional character of the surrounding area. The design incorporates architectural features, materials, and landscaping that align with the existing development and character of the neighborhood. Additionally, the project will provide public benefits, such as pedestrian access and green space, contributing positively to the community's growth and well-being.

Traffic and Parking Considerations

The proposed development has been designed to ensure that it will not unduly impact the local traffic or transportation network. Additionally, the site has been designed with adequate on-site parking to serve the needs of the building's users, in compliance with the City's parking requirements.

Environmental Impact and Mitigation

The project has been evaluated for potential environmental impacts. We have taken steps to minimize any negative effects by incorporating sustainable design elements, such as stormwater management solutions and landscaping. Moreover, the proposed development will comply with all applicable environmental regulations.

Consistency with the Comprehensive Plan

The proposed development aligns with the goals and objectives of the City's Comprehensive Plan. Specifically, the project supports the plan's vision by contributing to the City's long-term goals of sustainable growth and neighborhood revitalization. The project is consistent with the land use designations outlined in the Plan and adheres to zoning regulations and the City's development standards.

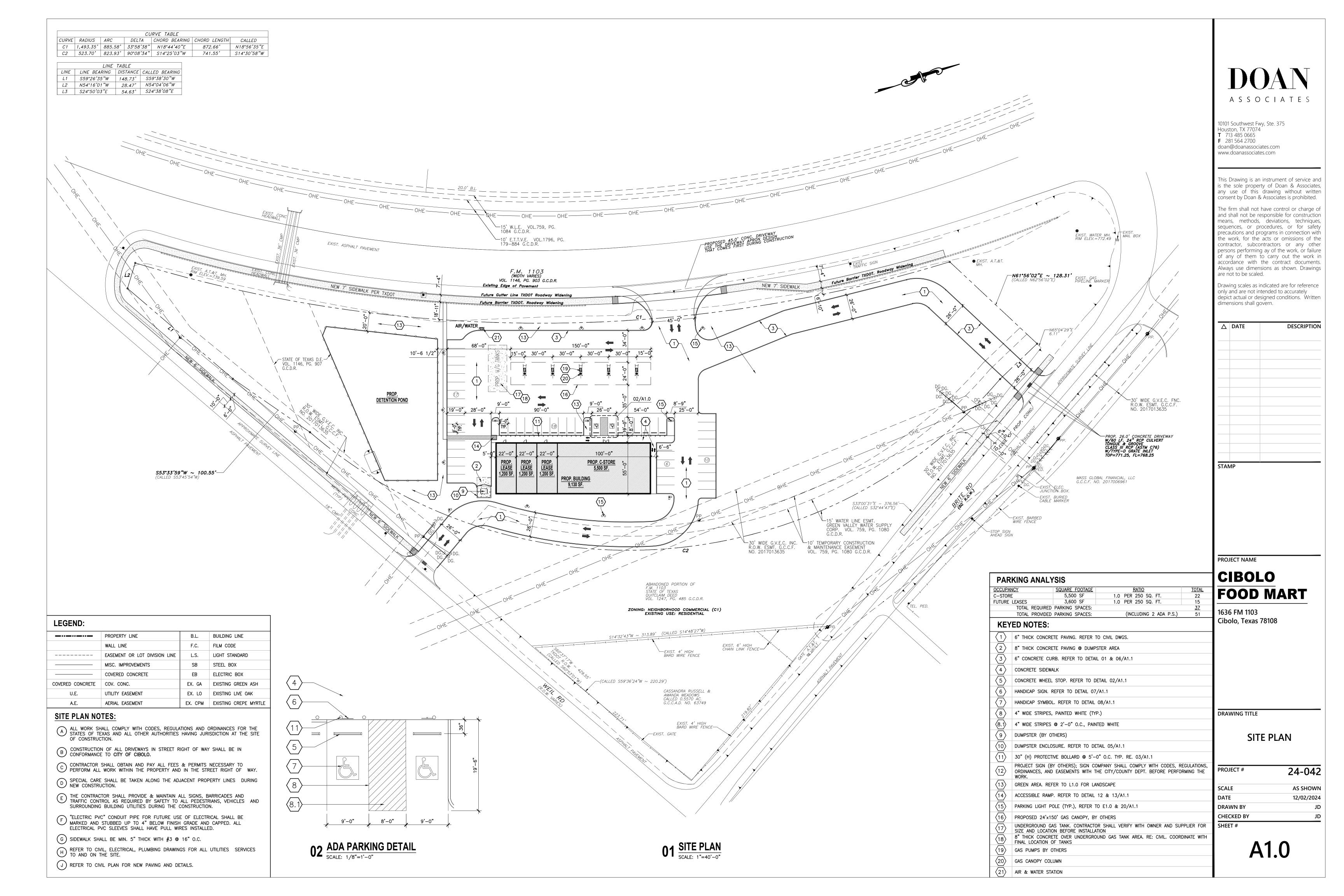
Public Health, Safety, and Welfare

The proposed development has been carefully planned to ensure the safety and welfare of both future occupants and the public. All necessary safety measures, such as fire apparatus access roads, and compliance with building codes, have been incorporated into the design. Furthermore, the development will provide appropriate buffering and screening to mitigate any potential negative impacts on neighboring properties.

Conclusion

In summary, the proposed development complies with all requirements outlined in UDC Sec. 4.3.2 for a Conditional Use Permit. We respectfully request approval of the CUP to proceed with the development as planned. We are committed to working closely with the City to ensure that the project enhances the community while meeting all regulatory standards and maintaining the highest quality of development.

Thank you for considering our request. Should you require any additional information or clarification, please do not hesitate to contact us at 713-485-0665 or doan@doanassociates.com.





Notice of Conditional Use Permit Petition

January 22, 2025

Dear Property Owner,

In accordance with the Texas Local Government Code and the Unified Development Code, you are receiving this official Notice of Conditional Use Permit petition.

This notice does not directly pertain to your property.

The purpose of this letter is to make you aware of a Conditional Use Permit request near your property and provide you an opportunity to voice your opinion about the Conditional Use Permit. Your opinion matters.

In accordance with the Code of Ordinances, the Planning and Zoning Commission will hold a public hearing on Wednesday, February 12, 2025, at 6:30 p.m. at the Council Chambers of the City Hall located at 200 South Main Street, Cibolo, Texas, and the City Council will hold a public hearing on Tuesday, February 25, 2025, at 6:30 p.m. at the Council Chambers of the City Hall located at 200 South Main Street, Cibolo, Texas.

The Conditional Use Permit proposal is as follows:

Applicant/Owner: Doan & Associates

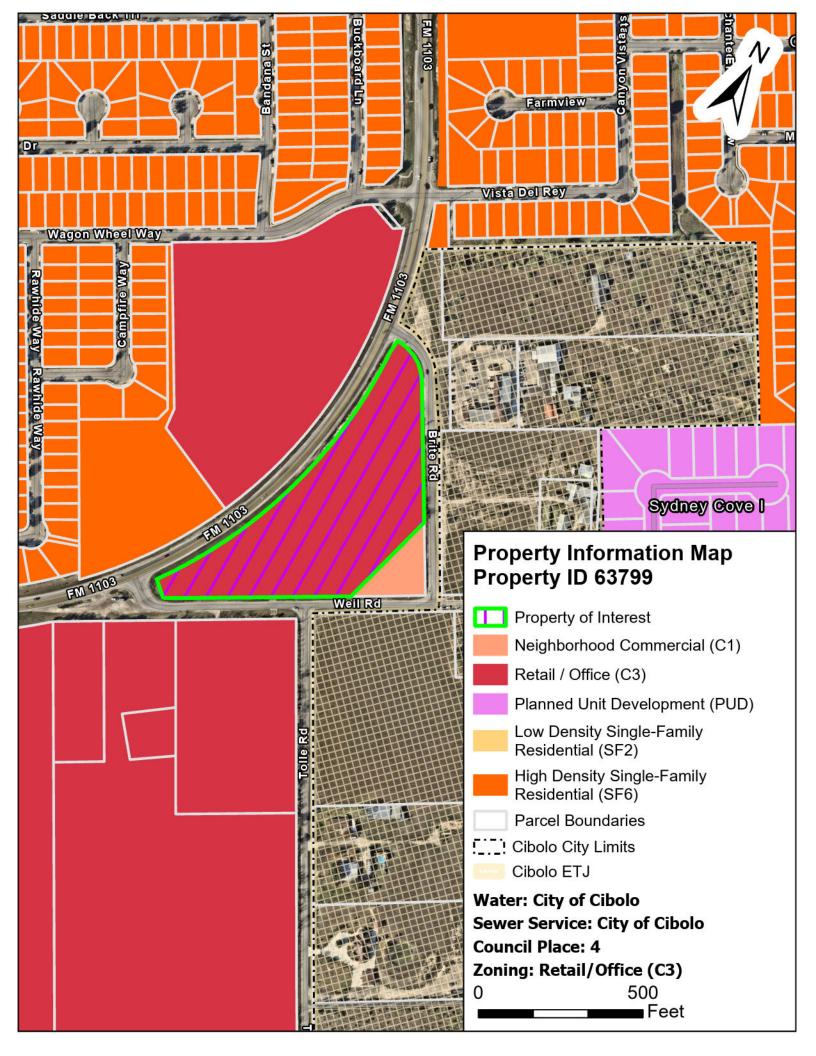
(210) 658-9900

The purpose of the meeting is to hear public testimony regarding a Conditional Use Permit (CUP) request to allow a Local Convenience Store with Fuel Sales (larger than 5,000 square feet) use in a Retail/Office District (C-3) for certain real property located at 1636 FM 1103, legally described as Cibolo Creek Center, Block 1, Lot 1.

Sincerely, Lindsey Walker, CNU-A Planner lwalker@cibolotx.gov Address (In relation to Map Exhibit): What N You or your representatives may attend either or both public hearings. In order to officially register your support or opposition to the Conditional Use Permit you must sign and return this form prior to the scheduled public hearing by one of the following options: US MAIL: City of Cibolo, Attn: Planning Department, 200 S Main Street, Cibolo, TX 78108 IN PERSON: City Hall Annex: 201 W Loop 539, Cibolo, TX, 78108 (Mail NOT accepted at this address) EMAIL: Take a photo or scan it to planning@cibolotx.gov In Favor Opposed Comments: Signature: Date:

200 S. Main Street Cibolo, Texas 78108

www.cibolotx.gov





Planning and Zoning Commission Staff Report

B. Discussion/Action and Recommendation to the Mayor and City Council regarding the Replat of the Noble Group subdivision.

Meeting	Agenda Group
Wednesday, February 12, 2025, 6:30 PM	Discussion/Action Items Item: 8B.
From	
Lindsey Walker, Planner I	

Staff Contact(s)
Lindsey Walker,

PLANNING & ZONING COMMISSION ACTION: Discussion/Action and Recommendation of the above referenced petition

PROPERTY INFORMATION:

Project Name: PC-25-04-RP

Owners: City of Cibolo, and Noble Group Realty, LLC

Representative: Sydney Ellis, Westwood Professional Services

Area: 1.14 acres

Location: Intersection of Main Street and Loop 539 West

Council Place: 2

Zoning (map): Community Retail/Services (C-2), Old Town Mixed Use Overlay

Proposed Use: 3 commercial lots

Utility Providers: Sewer/Water - City of Cibolo; Electricity - Guadalupe Valley Electric Coop

FINDINGS/CURRENT ACTIVITY:

Per Unified Development Code (UDC) Article 20.3.14, 'Replat', a property owner who proposes to re-subdivide any portion of an already approved and filed final plat must submit a replat, which is similar to the final plat process. The plat shall also bear a detailed "Purpose for Re-plat" statement which describes exactly what has been changed since the previously approved plat.

On July 23, 2024, City Council approved the purchase of the Noble Group Event Center, located at 203 South Main Street. This Replat involves a 1.14-acre commercial lot that currently contains three commercial structures, including the event center. The property was previously platted as Lot 3, Block 1 of the Noble Group Subdivision.

The purpose of this Replat is to subdivide the property into three separate lots – one (Lot 4R) for the City's ownership of the event center and the other two (Lot 3R & Lot 5R) that will remain under private ownership.

STREETS/FUTURE THOROUGHFARE PLAN (FTPX):

A total of 10 feet (0.15 acres) of right-of-way (ROW) along Loop 530 West and 5 feet (0.27 acres) along South Main Street were dedicated under the Final Plat approved in October 2014. No additional ROW dedication is required for this Replat.

UTILITIES:

The property is currently served by the City of Cibolo for water and sanitary sewer, while electricity is provided by GVEC.

DRAINAGE:

Drainage was reviewed and approved in October 2014 during review of the Final Plat. As the existing conditions of the property will remain unchanged, no additional drainage improvements are necessary for this Replat.

PARKLAND:

Since the property is designated for non-residential use, parkland dedication is not required.

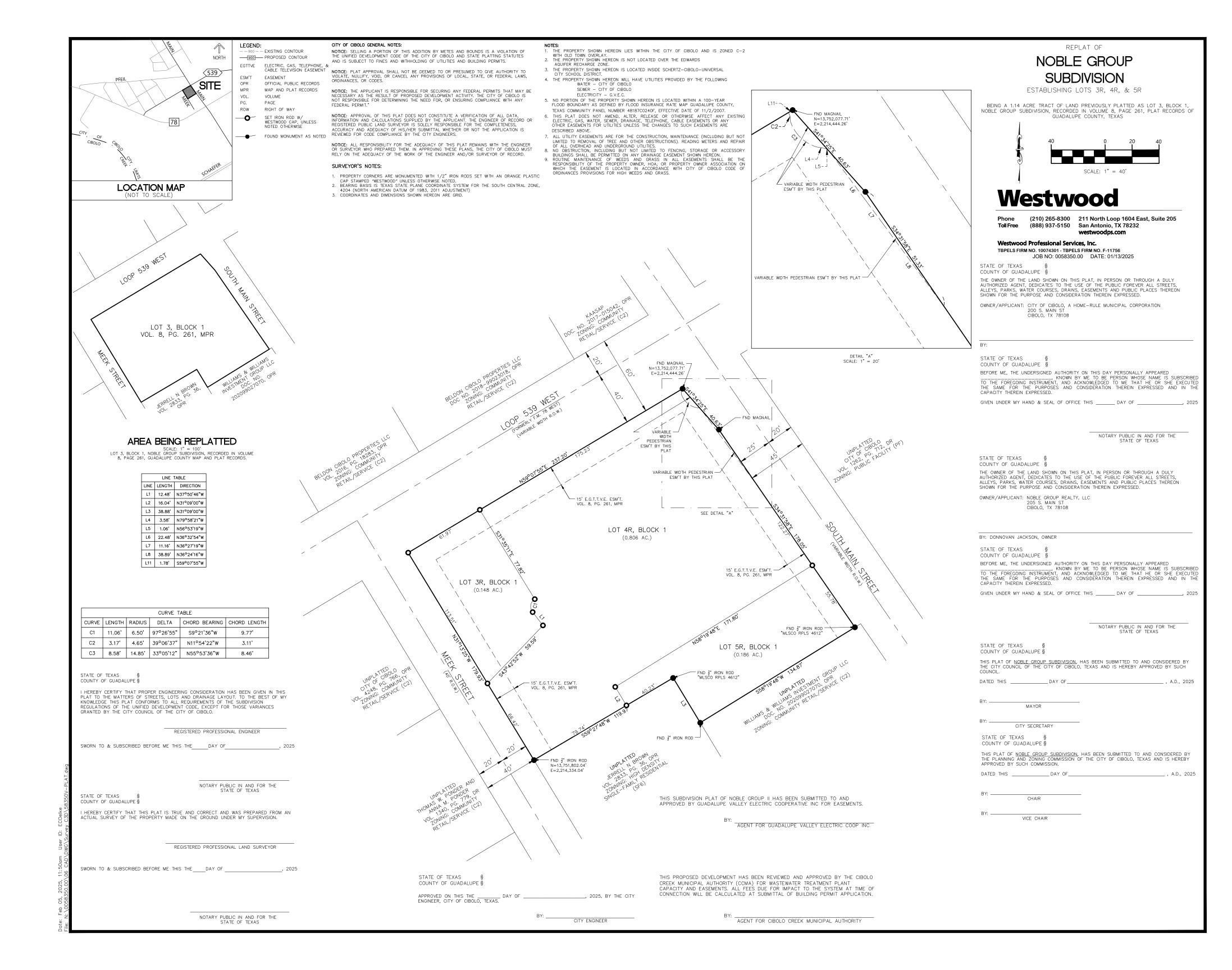
STAFF RECOMMENDATION:

Staff and the City Engineer reviewed the Replat and its associated documents. All comments have been addressed in accordance with the subdivision regulations outlined in the City's UDC and Section 212 of the Texas Local Government Code. Therefore, Staff recommends APPROVAL of this Replat.

Attachments

Plat

City Engineer Letter





February 6, 2025

On behalf of the:



Attn: Eron Spencer 200 S. Main Street Cibolo, Texas 78108



Re: Replat Review

Noble Group Subdivision (PC-25-04)

Mr. Spencer,

Colliers Engineering & Design has completed its review of the referenced project. We find that the development is in conformance with the City of Cibolo Unified Development Code and flood ordinances. We have no further comments.

Our review of the project does not relieve or release the Engineer of Record or Surveyor of Record from complying with any and all the requirements of the local, state, and federal rules and regulations or guidelines impacting this project. If you require additional information, please contact our office.

Sincerely,

Andy Carruth, P.E.

Plan Reviewer for the City of Cibolo



Planning and Zoning Commission Staff Report

C. Discussion regarding a potential application to rezone 5.205 acres, located south of the intersection of Dobie Boulevard and Borgfeld Road, legally described as Cibolo Kingdom Hall, Lot 2, 5.2050 acres.

Meeting	Agenda Group	
Wednesday, February 12, 2025, 6:30 PM	Discussion/Action Items Item: 8C.	
From		

Staff Contact(s)			
Stair Contact(c)			
Lindsey Walker,			
Endocy Walker,			

PLANNING & ZONING COMMISSION ACTION: Discussion regarding the above referenced petition

PROPERTY INFORMATION:

Project Name: PDM-25-04

Owners: Samdee Management LLC

Representative: Tiesha Hartman

Location/Area: Dobie Blvd, 5.205 acres

Location: South of the Borgfeld Rd and Dobie Blvd Intersection

Council Place: 2

Future Land Use: Estate Residential

Existing **Zoning**: Low Density Single-Family Residential (SF-2)

Lindsey Walker, Planner I

Requested Zoning: Commercial

Proposed Use: Gym and Multi-tenant Office Building

FINDINGS:

The City of Cibolo provides an opportunity for applicants to request feedback from the Planning and Zoning Commission prior to officially submitting a rezoning application. The applicants are required to provide an application, fees, and if possible, a presentation/letter stating their intent. The applicants are requesting a rezoning of their property for a 12,000-15,000 square foot Gym and Multi-tenant Office Development.

The property is currently located within the Low Density Single-Family Residential (SF-2) zoning district. The subject property is surrounded to the north and west by properties also within the SF-2 zoning district. South is the Dobie Heights residential subdivision, zoned High Density Single-Family residential (SF-6). West of the property, across Dobie Boulevard, are residential properties zoned Neighborhood Commercial (C-1) and SF-2. Further west is Cibolo's Industrial district, Schneider Business Park.

The uses proposed on the property would fall under the definitions of "Fitness Studio/ Health Spa" and "Administrative and Business Offices" under Section 1.12 of the Unified Development Code (UDC).

A public or private facility operated to promote physical health and fitness. Activities may include exercise, physical therapy, yoga, health spas and martial arts studios.

Administrative and Business Offices

Offices, private firms or organizations which are primarily used for the provision of executive, management or administrative services. Typical uses include administrative offices and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction and business offices or public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

Below are uses and suitable commercial zoning districts pulled from UDC Sec. 13.2. These uses are similar in nature to the proposed use. "P" indicates the use is allowed by right, "C" indicates that a Conditional Use Permit is required, and any blank cells indicate the use is expressly prohibited.

Use	C-1	C-2	C-3	C-4
Administrative and Business Offices	Р	Р	Р	Р
Fitness Studio/ Health Spa	С	Р	Р	Р

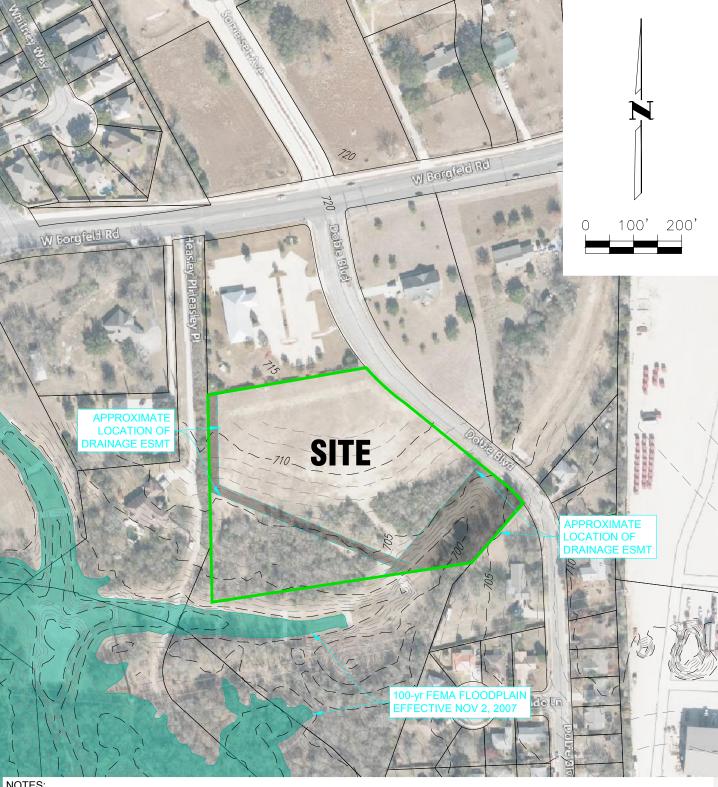
The 2024 Comprehensive Plan identifies the site as Estate Residential.

<u>Character and Intent</u> - Predominantly single-family housing on large lots located throughout the community. Residential uses are oriented with the front of the home facing the street and typically in a subdivision layout with access to some utilities. These kinds of lots may include farm and livestock uses. Cluster development, which involves the conservation of shared open space, natural areas, and scenic views, in exchange for smaller lot sizes, may be an alternative approach in certain circumstances.

The Commission's feedback and direction will help the applicant decide whether to proceed with the rezoning request or reconsider their approach.

Attachments

<u>Applicant Exhibit</u> <u>Zoning Map.pdf</u>



NOTES:

- PROPERTY BOUNDARY SHOWN IS FROM GUADALUPE CAD PARCELS AND WAS NOT ESTABLISHED FROM A FIELD VERIFIED SURVEY.THE ACCURACY OF BCAD PARCELS IS NOT KNOWN AND A FIELD VERIFIED SURVEY WILL BE NEEDED PRIOR TO FINALIZING ANY SITE PLAN.
- CONTOURS ARE BASED ON TNRIS LIDAR AND WAS NOT ESTABLISHED FROM A FIELD VERIFIED SURVEY. THE ACCURACY OF THE LIDAR IS NOT KNOWN AND A FIELD VERIFIED SURVEY WILL BE NEED PRIOR TO GRADING AND DRAINAGE DESIGN

EXHIBIT

DOBIE BLVD CIBOLO, TX

AERIAL EXHIBIT



111 TOWER DRIVE, SUITE 325 SAN ANTONIO, TX 78232 TEL 210-774-5504 WWW.UPENGINEERING COM TBPE F-17992 TBPELS F-10194606

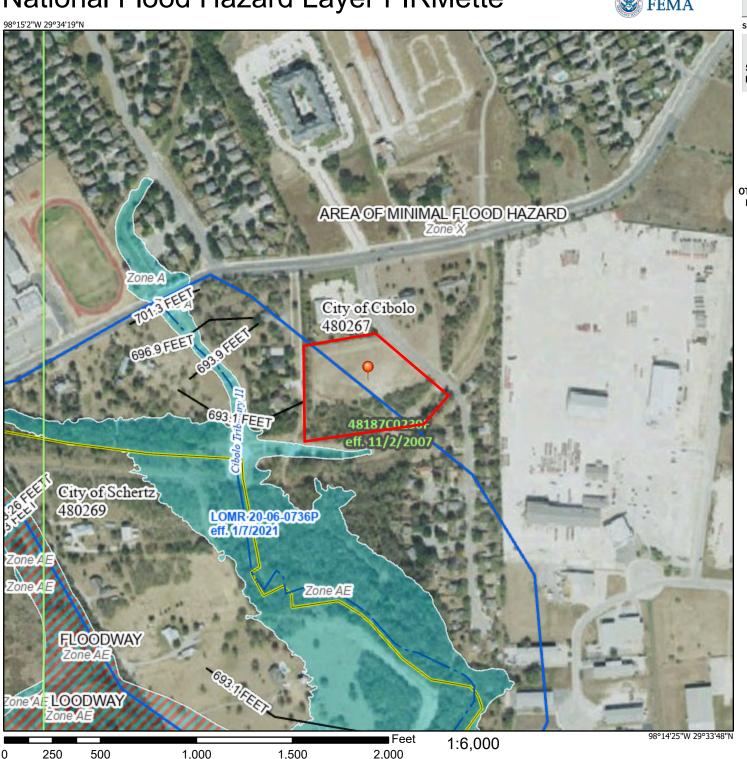
Dobie Blvd Utility Map





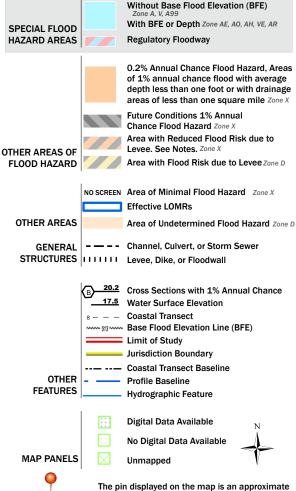
National Flood Hazard Layer FIRMette





Legend

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT




This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

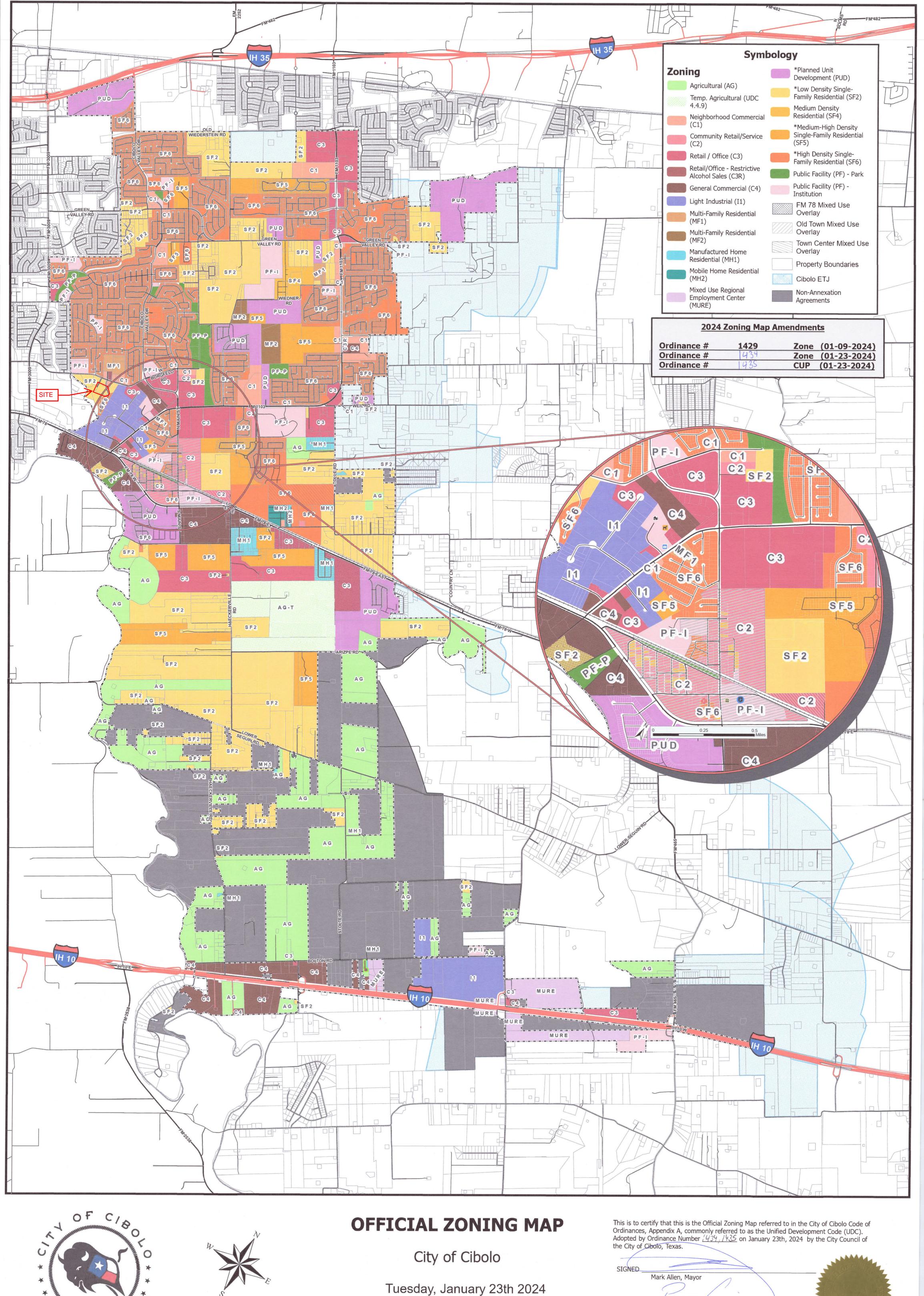
point selected by the user and does not represent

an authoritative property location.

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on 1/29/2025 at 9:49 PM and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



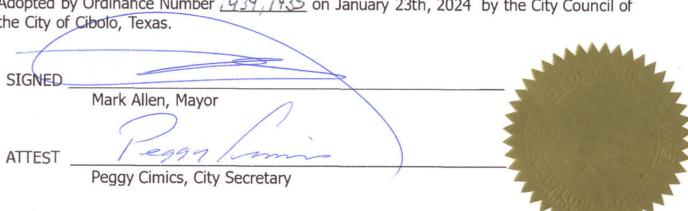






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Planning and Zoning Commission Staff Report

A. Staff Update

Meeting	Agenda Group			
Wednesday, February 12, 2025, 6:30 PM	UDC, CIP, Master Plan and Staff Updates Item: 9A.			
From				
Eron Spencer, Assistant Planning Director				
Staff Contact(s)				
Eron Spencer,				

PRIOR CITY COUNCIL ACTION:

N/A

BACKGROUND:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

MOTION(S):

N/A

Attachments

<u>02-12-25 Staff Update.pdf</u> <u>Development Projects Update - 2025-01.pdf</u>

Planning Department - Staff Update

February 12, 2025

Site Plans currently in review

Project	Description
504 Pfeil	Tattoo Studio
Cibolo Creek Center	Gas Station
506 N Main Street	Mixed Use
Borgfeld Plaza Retail	Retail
Sage Rentals	Equipment Rental Services

To follow permitted projects, visit our <u>website</u> for an interactive map on Current Development.

Site Plans recently approved

Project	Description
Andy's Frozen Custard	Restaurant
Pic N Pac #16	Car Wash

Plats currently in review

Project	Application Type
504 Pfeil Road	Minor Plat
Cibolo Crossing MF Amenity Center	Amending Plat
Noble Group	Replat

P&Z Recommendations/City Council Action

Agenda item	P&Z recommendation	date	City Council action	date
Old Wiederstein Self Storage Facility	Approval	8/14/2024	Tabled	2/11/25
Schryver Tract Land Study	Denial	12/11/2024	Denied	1/14/25
Schryver Tract Variance	Denial	12/11/2024	Denied	1/14/25
2090 Pfannstiel Lane Manufactured Home CUP	Approval	11/12/2024	Approved	1/14/25
210 & 633 Tolle Road Rezone (C-3 to SF-1)	Approval	11/12/2024	Approved	1/14/25
Legacy Traditional School Replat	Denial	12/11/2024	Approved	1/28/25
Venado Crossing Unit 6 Preliminary Plat	Denial	12/11/2024	Approved	1/28/25
Steele Creek Land Study Amendment	Approval	1/8/2025	Extension requested to align with PIA	-
Neill Tract Variance	Denial	1/8/2025	Withdrawn	-



CIBOLO CITY COUNCIL

Economic Development

Date: January 10, 2025

IN PLANNING REVIEW

CIBOLO	 Dorado @ Cibolo Crossing (Amenity Center Amending Plat Application Submitted) Kids Academy (Awaiting Final Acceptance of Infrastructure) Olive Garden (Pre-Application, circling back with Planning staff in January, aiming for site submittal in March)
CIBOLO VALLEY DRIVE	 Andy's Frozen Custard (In Site Plan Review) Legacy Traditional School (Replat in Review)
DOWNTOWN/ OLD TOWN	 504 Pfeil Rd (Minor Plat on hold) The Shops at the Mill Expansion (Pre-Development Meeting held) 506 N Main St (In Site Plan Review) Grooming Coop (Pre-Application)
FM 1103	 Old Wiederstein Road Self-Storage CUP (In-Progress) Cibolo Creek Center CUP (Submitted) Pic N Pac Carwash (Site Plan in Review)
FM 78	Cibolo Small Animal Hospital (Site Plan in Review)
IH-10	 Sage Rentals (Site Plan Submitted) Industrial Warehouses @ 465/Linne Rd & IH-10 (Pre-Application) Data Center @ 1000 Bolton Rd (Pre-Application)
ОТНЕВ	Borgfeld Plaza Retail Center (Site Plan Submitted)

BUILDING PERMITS IN PROCESS

CIBOLO	 Dorado @ Cibolo Crossing (MEP's Permit Application Submission on Hold by Builder– date TBD) Salata (Permitted)
CIBOLO VALLEY DRIVE	 Bentwood Oaks Medical Center (Pending 1 document before issuing C of O) Crepeccino (Permitted) Luxxe Salon Suites (Permitted)
DOWNTOWN/ OLD TOWN	
FM 1103	 QT – Location #1 at FM 1103 & Old Wiederstein Road (Permitted) Mattengas (Awaiting Payment) Scooter's Coffee at Turning Stone (Permitted) Turning Stone Retail (Permitted)
FM 78	 CertaPro Painters (Pending Fire Final) Bree Carleton Counseling (Pending Inspections) 9Round Fitness (Permitted)
0L-HI	
ОТНЕВ	Signature Plating (Inspection Completed, pending site approval)

NOW OPEN / C OF O ISSUED

7 /	
CIBOLO	
CIBOLO VALLEY DRIVE	 Whataburger (Now Open) Dutch Bros Coffee (Now Open)
DOWNTOWN/ OLD TOWN	
FM 1103	Zen Bubble – New Location (Now Open)
FM 78	
OI-HI	
ОТНЕВ	



Planning and Zoning Commission Staff Report

A. Phase 2 - P&Z Commissioner Training

Meeting	Agenda Group
Wednesday, February 12, 2025, 6:30 PM	Subcommittee Updates Item: 10A.
From	
Eron Spencer, Assistant Planning Director	

PRIOR CITY COUNCIL ACTION:

N/A

BACKGROUND:

N/A

STAFF RECOMMENDATION:

N/A

FINANCIAL IMPACT:

N/A

MOTION(S):

N/A

Attachments

- 1) Planning 101 (P&Z 02.12.2025).pdf
- 2) P&Z acronyms 2025.pdf
- 3) P&Z Zoning Districts 2025.pdf
- 4) P&Z Zoning Use Table 2025.pdf
- 5) HB 3167 Shot Clock QA 2021 January_sh_1.26.21.pdf

2025 UPDATE

PLANNING 101: PLANNING & ZONING COMMISSION

Roles and Responsibilities Workshop



The role and responsibilities of the Planning & Zoning Commission are prescribed by the Texas Local Government (TLGC), the Cibolo Code of Ordinances, the City Charter and the Unified Development Code (UDC).



Types of requests submitted to the P&Z

The UDC was adopted on February 26, 2013, with a proposed update within the month or so. The major update modifies numerous development issues, however it does not alter the P&Z's duties. This workshop will review the role and responsibilities of the P&Z, P&Z discretion (or lack of discretion) in reviewing development matters and issues pertaining to Commission and Cibolo liability.

- Subdivision Related (TLGC Section 212) ------
- **UDC Related** (Cibolo 2024 Unified Development Code) -----
- *Sign Ordinance Related (Cibolo Ordinance #1474) - - -

^{* =} As of November 12, 2024, requests for sign variances and comprehensive sign programs are no longer considered by P&Z per Ordinance #1474.

Level of P&Z Discretion/Liability: Very limited discretion & very limited liability

Cities may adopt rules governing plats and subdivisions of land within the municipality's jurisdiction to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the city.

Tex. Loc. Gov't Code § 212.002

Subdivision Regulations *TLGC & UDC*

- Land Study (UDC Article 20.3.2)
- Preliminary Plat (UDC Article 20.3.3)
- Final Plat (UDC Article 20.3.5)
- Vacating Plat (UDC Article 20.3.13)
- Replat (UDC Article 20.3.14)
- Amending Plat (UDC Article 20.3.15)
- Development Plat (UDC Article 20.3.17)
- Time Extensions (ex. UDC Sect. 20.3.5.H)
- Deferral of Required Improvements (ex. UDC Sect. 20.3.7)



Subdivision Related

Level of P&Z Discretion/Liability: Very limited discretion & very limited liability

When is platting required TLGC § 212.004

- Owner divides the tract into 2 or more parts to lay out a subdivision,
- To lay out suburban, building, or other lots,
- Or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

Exception TLGC § 212.004

Division into lots greater than five acres where each part has access and no public improvement is being dedicated

Delegation of approval TLGC § 212.65

- Amending plats (corrections)
- Minor plats (4 or fewer lots; no need for streets or extension of utilities)
- Replats (no need for streets or extension of utilities)

Approval procedure *TLGC § 212.009*

- The municipal authority responsible for approving plats shall act on a plat within 30 days after the date the plat is filed
- A plat is considered approved unless it is disapproved within 30 days
- A plat must be approved if it conforms to the general plan of the municipality and its current and future streets, alleys, parks, playgrounds, and public utility facilities; and
- It conforms to the general plan for the extension of the municipality and its roads, streets, and public highways within the municipality taking into account access to and extension of sewer and water mains and the instrumentalities of public utilities; and
- It conforms to the cities subdivision regulations
- Plat denials should contain specific findings as why the plat does not comply with the municipality's requirements



Level of P&Z Discretion/Liability: Broad discretion & limited liability

The powers granted under this subchapter are for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance.

Tex. Loc. Gov't Code § 211.001

Zoning Regulations *TLGC & UDC*

- Rezoning (UDC Article 4.3.1)
- Permanent Zoning upon Annexation (UDC Article 3.8.B)
- Conditional Use Permit (CUP) (UDC Article 4.3.2)
- Future Land Use Map (FLUM), Future Thoroughfare Plan (FTP), Comprehensive Plan (Amendments/Updates) (UDC Article 3.6)
- Zoning Variances (BOA) (UDC Article 4.3.5)
- Time Extensions (CUP's, Mixed Use Concept Plans, etc.)



Zoning Related

Level of P&Z Discretion/Liability: Broad discretion & limited liability

What can Zoning regulate? *TLGC § 211.003*

- Height, number of stories, and size of buildings and other structures;
- Percentage of a lot that may be occupied;
- Size of yards, courts, and other open spaces;
- Population density;
- The location and use of buildings, other structures, and land for business, industrial, residential, etc.;
- Construction in areas of historical, cultural, or architectural importance;
- The bulk of buildings (if home-rule).

What must Zoning be designed to do? TLGC § 211.004

- Lessen congestion on the streets
- Secure safety from fire, panic, dangers
- Promote health & general welfare
- Provide adequate light & air
- Prevent overcrowding of land
- Avoid undue concentration of population
- Facilitate adequate provision of transportation, water, sewer, schools, parks, etc.



Level of P&Z Discretion/Liability: Broad discretion & limited liability

Zoning Procedures *TLGC § 211.006*

- Adopted or amended by ordinance
- Property owner, P&Z, or City Council can request
- Public Hearing requirements
- P&Z A final report must be provided to the City Council before they can act
- Written protest by 20% of lots or area of land covered or within 200 feet requires a 3/4 vote of all members of the City Council
- Council requires ¾ vote of all members to overrule a recommended denial by the Planning & Zoning Commission



UDC Related

Level of P&Z Discretion/Liability: Broad discretion & limited liability, except when P&Z makes the final decision to approve or deny a request

The UDC is adopted to protect, promote, improve and provide for the public health, safety and general welfare of the citizens of the City.

Unified Development Code (UDC) Ord. #1046 as amended

Amended Ord. #1122 (Adopting 2015 Amendments)

Amended Ord. #1137 (Expiration Date on Traffic Impact Analysis)

Amended Ord. #1223 (Fitness Studio/Health Spa permitted in Neighborhood Commercial C-1)

- UDC Amendments (UDC Article 3.7)
- Appeals of Zoning Related Administrative Decisions (BOA) (UDC Article 4.3.4)
- Non-Zoning Related Variances (ex. Design Standards)
- Mixed Use Concept Plans (Old Town, Town Center, FM 78 & MURE districts) (UDC Article 4.7.4.4.3 & 4.7.4.5.3 & 4.7.4.6.3)
- Site Plan Appeals (UDC Article 12.2.3)
- Landscaping and Buffer Variances/Deferrals (UDC Article 17.1.P)



Sign Ordinance Related

Level of P&Z Discretion/Liability: None; Comprehensive Sign Programs and Sign Variances are currently handled by City Council under Ord. 1474

Section 58-16, Comprehensive Sign Program

- Only developments that current have or are platted to have at least three businesses are eligible to apply for a sign program.
- Specifications for all signs on the property must be submitted to ensure uniformity and compatibility (i.e., size, height, placement, etc.) with all businesses on the property.
- Final decision to be made within 45 days of receipt of application (City Council).

Section 58-17 Variances

- Sign variance standards were consolidated into four categories.
 - 1. The variance will not authorize a type of sign which is specifically prohibited by this chapter;
 - 2. The variance is not contrary to the public interest and will not have a substantially adverse effect on neighboring properties;
 - 3. Due to special conditions applying to the land, buildings, topography, vegetation, sign structures, or other unique matters on the subject property, adjacent lots, or within the adjacent right-of-way, a literal enforcement of the ordinance would result in unnecessary hardship. Ordinarily, hardship that is self-induced or that is common to other similarly classified properties will not satisfy this requirement. Financial or economic hardship alone will not ordinarily satisfy this requirement; and
 - 4. The applicant has not sought a sign variance for the specific parcel of land from the City within the past 12 months.
- Final decision to be made within 45 days of receipt of application (City Council).



Obligations

Staff

- Detailed report on all requests reviewing P&Z options, legal considerations, a technical recommendation and an analysis of whether each request conforms to City codes, ordinances and goals.
- Pertinent maps & plats that have a bearing on each request.
- Updated copy of the UDC as amended.

City Engineer

Lead findings and a recommendation.

P&Z Obligations:

- Provide findings of fact for any request that is denied.
- Provide recommendations, with any appropriate conditions to City Council.
- Provide fair and unbiased action and recommendations that are legally defensible.
- Follow the Texas Open Meetings Act. (No contact with applicants or discussions with other Commissioners about agenda items)
- Don't vote if you have an unanswered question or concern. Silence is not always golden.
- Inform staff if you have any questions or notice land development issues that concern you.
- Avoid the Courthouse.



If you have questions or need additional information, please notify us by phone or by email.

Rick Vasquez – Director of Planning & Economic Development (210) 658-9900 Ext. 1039 rvasquez@cibolotx.gov

Eron Spencer – Assistant Director of Planning (210) 658-9900 Ext. 1051 espencer@cibolotx.gov

Lindsey Walker – Planner II
(210) 658-9900 Ext. 1040 lwalker@cibolotx.gov

Links to useful/referenced sources:

- Texas Local Government Code (TLGC)
- City of Cibolo Unified Development Code (UDC)
- City of Cibolo Charter
- Cibolo Tomorrow Comprehensive Plan



Planning & Zoning Commission (Acronyms used) - July 2018			
AC	Acres		
AG	Agricultural		
ASHTO	American Association of State Highway and Transportation Officials		
BMP	Best Management Practices		
BOA	Cibolo Board of Adjustments		
BSL	Building Setback Line		
CAD	Computer Aided Drafting		
CCMA	Cibolo Creek Municipal Authority		
CIP	Capital Improvements Program		
CMP	Comprehensive Master Plan		
CRZ	Critical Root Zone		
CUP	Conditional Use Permit		
DBH	Diameter-at-breast-height		
DCM	Cibolo Design and Construction Manual		
DER	Department of Environmental Regulation		
DUA	Dwelling Units per Acre		
EPA	Environmental Protection Agency		
ESMR	Enhanced Specialized Mobile Radio		
ETJ	Extraterritorial Jurisdiction		
FAA	Federal Aviation Administration		
FCC	Federal Communications Commission		
FLUM	Future Land Use Map		
FTP	Future Thoroughfare Plan		
GFA	Gross Floor Area		
GIS	Geographic Information System		
GVEC	Guadalupe Valley Electric Cooperative		
GVSUD	Green Valley Special Utility District		
HOA	Home Owners Association		
HOV	Highr Occupancy Vehicle		
HP	Horsepower		
HUD	United States Department of Housing and Urban Development		
LWEC	Large Wind Energy Conversion System		
MF	Multi-Family		
MH	Mobile Home		
MURE	Mixed Use Regional Employment Center		
NFA	Net Floor Area		
OHWM	Ordinary High Water Mark		
ОТ	Old Town Mixed Use Overlay		
PCS	Personal Communication Services		
PF	Public Facility		
PUD	Planned Unit Development		
PV	Photovoltaic		
RCW	Revised Code of Washington		

ROW	Right of Way
RPZ	Root Protection Zone
RV	Recreational Vehicle
SF	Single Family; Square Footage
SMR	Specialized Mobile Radio
SWEC	Small Wind Energy Conversion System
TABC	Texas Alcoholic Beverage Commission
тс	Town Center Mixed Use Overlay
TCEQ	Texas Commission on Environmental Quality
TIA	Traffic Impact Analysis
TLGC	Texas Local Government Code
TXDOT	Texas Department of Transportation
UDC	Unified Development Code
USPS	United States Postal Service
VAWT	Vertical Axis Helix Wind Turbine
WCF	Wireless Communication Facility
WEC	Wind Energy Conversion System

DISTRICT CODE	DISTRICT NAME
AG	Agricultural—Homestead
SF-1	Estate Residential
SF-2	Low Density Single-Family Residential
SF-3	Low-Medium Density Single-Family Residential
SF-4	Medium Density Residential
TF-1	Duplex
MF-1	Multi Family
MF-2	Multi Family
MH-1	Manufactured Housing
MH-2	Mobile Home Park
C-1	Neighborhood Commercial
C-2	Community Retail/Service
C-2R	Community Retail/Service—Restrictive Alcohol Sales
C-3	General Retail/Office

DISTRICT CODE	DISTRICT NAME
C-3R	General Retail/Office—Restrictive Alcohol Sales
C-4	General Commercial
PF	Public Facilities (Parks and Institutional Facilities)
I-1	Light Industrial
I-2	Heavy Industrial
MURE	Mixed Use Regional Employment Center
ОТ	Old Town Mixed Use Overlay
78	FM 78 Mixed Use Overlay
TC	Town Center Mixed Use Overlay
21-3	Low Medium Banany Single-Samily Residential
SF2	

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s = Subject to supplemental use regulations of UDC Article 6						P PR Tryumangkunklerikhning derer kalkula-veliklerikh schalk
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Administrative and Business Offices.	P	P	P	P	P	
Offices or private firms or organizations which are primarily used for the provision of executive, management or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services, telephone answering, photocopy and reproduction, and business offices or public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.						
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Establishments or places of business engaged in sale (from the premises) of feed, grain, fertilizers, pesticides and similar goods or in the provision of agricultural related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, feed and grain stores and tree service firms.						
Amusement Center.		С	Р	Р		
An establishment offering five (5) or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.						
Artisan Sales.	P	P	P	P		
The manufacture and retail sale of hand-crafted wares such as pottery, jewelry, art, and similar products of craftsmanship.						adiana dan arawan a
Artisan/Culinary Classes (Specialty Classes).			P	P		
An establishment used in the teaching of specialty classes in the arts of crafting, sculpture, artwork, food and the like. Such classes will be conducted by a trained instructor on an occasional basis.						
Automobile Dealership.		general de de disemble de la companya de la company		P		
Includes new and used car, pick-up truck and motorcycle sales/display and associated maintenance facilities.			бого основного почето поче		A.	
Automotive Rentals.			C	P	P	

Rental of automobiles, noncommercial trucks, trailers and recreational vehicles, including incidental parking and servicing of vehicles available for rent or lease. Typical uses include auto rental agencies, trailer rental agencies and taxi cab parking and dispatching.						
Automotive; Minor Repairs/Service.		generia succidente la licenzió deschi Sidio Bull Portu Esta den Continuento escolo	P	P	p	P
An establishment primarily engaged in the repair, maintenance or washing of automobiles and pick-up trucks and similar mechanical equipment, including brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, washing and transmission work, which is conducted within a completely enclosed building.					Annuary (1971)	
Automotive; Major Repairs/Service.				Р	Р	P
Indoor and outdoor repair and service of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including the sale, installation and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, body and fender shops, painting and major repairs and service activities, but excluding dismantling or salvage.						
Automotive Sales.	diem Amerikaanse valuur valuurinning andere van die konstelle van de konst	t mod füll desmannen an talar eit hit dirk eit einem gereit einlegen delegen teel de som teel de som teel de s e		Р	procedurate communication as a constructive de displacement and a constructive de disp	
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Building Maintenance Services.			Р	Р	Р	
Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, landscape maintenance or window cleaning services.						
Business Services.	C	P	P	P		
An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.						
Business Support Services.		C	P	P	Р	
Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.						
Business or Trade School.	C	C	P	P		
A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university or public or private educational facility.						
Commercial Off-Street Parking.		С	С	P	Р	P

Parking of motor vehicles on a temporary basis within a privately owned off- street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.			
Communications Services.			no dia C. Sa kanta ngasarang pana da estaka pasa pang sa da estaka pang sa da estaka pang sa da estaka pang sa
Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as major utility facilities. Typical uses include television studios or telecommunication service centers.			A
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A permanent manufacturing facility for the production of concrete or asphalt.			
Construction Sales and Services.	THE EST AND THE EXECUTION OF THE STATE AND THE CONTRACT OF THE STATE O		renfelicita in plate per disciple solices quantum ese
Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites as well as the retail or wholesale sale, from the premises, of materials used in the construction of buildings to other structures other than retail sale of paint, fixtures and hardware excluding those classified as one of the automotive and equipment services use types. Typical uses included building materials stores, tool and equipment rental or sales or building contractors.			
onsumer Repair Services.	pan ilanan nyanganinasi minasi tersenasi atau anan	P	P
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Establishments primarily engaged in the provision or repair services to individuals and households rather than firms, but excluding automotive and equipment use types. Typical uses included appliance repair shops, watch or jewelry repair or musical instrument repair firms. All incidental storage shall be enclosed.						
Dry Cleaning Plant.					P	P
A large scale establishment primarily engaged in the large scale industrial scale cleaning of textiles and garments in large revolving washers where they are washed with the cleansing fluid and special soaps, rinsed with pure cleansing fluid, and then spun to remove most of the fluid. They are then dried with warm air in a tumbler where cleansing fluids are reclaimed and used again.						
Equipment Repair Services.				Р	Р	P
Repair of trucks, tractors, construction equipment, agricultural implements and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services and machine shops, but exclude dismantling or salvage.					de de la constante de la const	
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Food trucks parked and operating on a single lot and serving as the primary business on-site.					and the control was also as a second and a s	од А томпод одного в состой до до состой до со		
Funeral Services.		entre granter (satherentre et conservement et la contre de de persona et la contre de la cont	P	P				
Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals.								
General Retail Sales, Neighborhood Scale.	P	Р	P	P				
Sales or rental of commonly used goods and merchandise for personal or household uses for surrounding neighborhoods.		udievenena anna anna en	alantangan arang ara	and the second s				
General Retail Sales, Regional.	artistic contact the first con		P-S	P				
Sales or rental of commonly used goods and merchandise for personal or household use. Typical uses include department stores, apparel stores, furniture stores, mail order stores or similar establishments. Refer to Article 6 of this UDC for additional requirements.								
Health Care Offices.	P	Р	Р	P				
A use providing consultation, diagnosis, therapeutic, preventative or corrective personal treatment services by physicians, dentists, medical and dental laboratories and similar health practitioners.								
Hotel-Motel.	TO PET TO CONTROL (FECTOR POWER SINGLE AND A STREET AND A	C TOOL OF THE CONTRACT OF THE	P	P	1771 Nove William (September 1870 Onder 1886 Ander 1886 Ander 1886 Ander 1886 Ander 1886 Ander 1886 Ander 1886	and the order of the state of t		

Lodging services involving the provision of room and/or board. Typical uses						
include hotels, motels, bed and breakfast or transient boarding houses.						
Ice Dispensing; Portable Building/Structure.		and the figure and the second	P-S	P-S	PETPAN PAGE TO SELECTIVA QUE ANNO SELECTIVA QUE ANNO SELECTIVA SEL	indicates planta planta produce metaración en se sen a hacem men den el se est en el se est el se est el se es
Refers to an automatic self-contained portable ice dispensing structure that		ment Paum kenner ti tinda 100 sa dia gujum pambakan di sa dia pambakan di sa di sa dia pambakan di sa di sa di	o o pulla principa de la trata de la t La trata de la		оботного в вого убласт Саменчистоную на 44 слово устоницу до пуски интерис	kunter (sia) digesten musik kan si islandut kunnan terpingan terbahan kembanan keri kunnan
produces and dispenses ice for retail sale as a primary or secondary use of	eracionema de la composição de la compos					
site. This does not include typical ice machines that sell packages bags of ice.						
Indoor Entertainment.	And a contract of the contract		P	P		
Predominantly spectator uses conducted within an enclosed building.	n vinnen fin stem eine stem eine den den den den den den den den den d	ment ^a meta organismos consistenciminatori del construcción del construcción de construcción de construcción del construcció	and an angle of the angle of th	er en	metranii angiampiampiampiantia inimmetrio ny banazilari ummetriyani	an de en 🌡 encentra de verse personale en en el constituir el est prima d'home en en en en
Typical uses include motion picture theaters, meeting halls and dance halls.						
Indoor Gun Range.			С	P	P	
Permitted subject to building being soundproofed and a building design that		gilleroperigen uppstelsen in zur en untzegegne versieben ausstelle zuschen	and a second territorial and an extension and a second representative and an extension of the above and	a an air agus an tha an tha ann ann an Cora an bha ann ann an Cora an tha ann ann an Aire ann an Aire ann an A	utt van der die verde der deze er project gewijken gehiel de die verde in de de kommen.	itsus (a <mark>the</mark> de trumpung char _t e de servici de servici de distribute a their lacific de marches e e recomendo
will prevent ammunition from leaving the building, as per the Cibolo building						
codes.						
Indoor Sports and Recreation.		C	P	P	C	mental and mental specific production and the real flow body in the second specific production and the second specific pr
Uses conducted within an enclosed building. Typical uses include bowling	(Prof. Prof. Prince Pri	Accuments the control of the consumers on the consumers and consumers of the consumers of t	and and the second of the second section of the second second second second second second second second second	en de en	norm gille die grammit generalisch treut der zote zweisch verzund zu der verzeit zu der zu der zu zu der zu de	n godi. Na godi. Na godina na na na seria ili se di nelegia di nelegia di nelegia di nelegia di nelegia di nelegia di
alleys, billiard parlors, ice and roller skating rinks, Gymnasium, Cross-Fit	Text Control of Contro					
Studios and arcades.						
Kennels.	and difference continues continues continues accessors and include an administrative first approving exploraging	gewicht der	Na State (and Andreas	The control of the co	P	and the second s

Boarding and care services for dogs, cats and similar small animals. Typical uses include boarding kennels, pet motels, or dog training centers.							
Laundry Services: Dry Cleaning.	P	P	P	P	ent the second s	wa ku gili marifa ilima ku palaha ng sara ng sa nihit ni si ki da nagagi kama ta s	
Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services as personal services.				. L.	and the second and th		
Laundry Services, Laundry Mat.	meneng Malikacamanan an masatan akatan kepangkan pangkan takas sasi andasan tai bengan Malikacaman sasi sasi sasi sasi sasi sasi sasi sa	iki kenang hidariani enagan dalah dan dalah dan dalah dan ang intura yang dalah dan dan dalah dan dalah dan da	C	P	P		
A facility where patrons wash, dry or dry-clean personal clothing or other fabrics in machines operated by the patron.		nteredirection and an extraction and account and account and account account account account account account a			Acceptance		
Liquor Store.	ти под том водения в под том водения в под водения в п В под том водения в под вод	C*	P*	P			
Establishments or places of business engaged in the sale of alcoholic beverages for the purpose of off-premises consumption. Typical uses include liquor stores, bottle shops or any licensed sales of alcohol for off-site consumption such that the establishment derives 75% or more of its gross revenue from the on-premises sale of alcoholic beverages.	*Prohibited in C2-R and C-3R						
Local Convenience Store (Without Fuel Sales).	C	C	Р	Р			
A commercial activity engaged in the sale of commonly used goods and merchandise for personal or household use in a structure five thousand (5,000) square feet or less in size.			J				
Local Convenience Store (With Fuel Sales).	C	C	P	P		ege til kaj kommente, ny est di sike til kom deres er til general kine gjellede, en eng gen en	

A commercial activity engaged in the sale of commonly used goods and merchandise, including petroleum products, for personal or household use in a structure five thousand and one (5,001) square feet or more in size. Refer to Article 6 of this UDC for additional requirements for fuel sales.						
Outdoor Sports and Recreation (Light).		P	P	P		
Uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, miniature golf courses, golf courses, swimming pools, tennis courts, racquetball courts, skate parks, small scale entertainment venues and marinas.						
Outdoor Sports and Recreation (Intensive).					C	P
Intensive recreation uses that are conducted in the outdoors that generate considerable noise, vibration, heat, odor and other environmental impacts. Typical uses include race tracks, speedways, drag strips, gun firing ranges, concert venues and the like.						
Paint Shop (Non-Retail).	ne canada graphen (1996). Che un segui che segui che segui che segui ce di gi denesta se sessi chi di e sene			Р	Р	P
Establishments primarily engaged in the painting of cars, motorcycles, RV's and other materials.	arritaria a canada a que transcela e estar escuela.		Managan na n			
Pawn Shop.			C	С	MOOGRAFIE TO MATERIAL OF THE STATE OF THE ST	
An establishment where money is loaned on the security of personal property pledged in the keeping of the owners goods.						

Personal Services.	P	P	Р	Р	Middle profile memoriopoole	
Establishments primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, and shoe repair shops						
Pet Services.	C	P	P	P	and an extended plane in the light end of the light end o	
Retail sales, vet services and grooming of domestic dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, dog bathing and clipping salons or pet grooming shops.						,
Portable Building Sales.				Р	P	
Sale and/or display of a self-contained, transportable structure that does not require attachment to a foundation or to realty in order to be functional (ex: tool or storage shed).						
Professional Office.		P ,	P	P	Р	
A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions.			all and a second as	den errentiere erretanteten en euwerne, de trieben de en	den en e	
Restaurant, Convenience.	P	Р	Р	P	<u>ncommencements amended dended and insulface-models (insulface-models)</u>	meternalia comunicativa ne sa anno sa comunicativa com estre estre estre estre estre estre estre estre estre e Estre estre est
A use engaged in the preparation and retail sale of food and beverages (excluding alcoholic beverages), for on premises consumption only. Typical uses include soda fountains, ice cream parlors, sandwich shops and coffee shops.						

Restaurant, Fast Food.	C	С	Р	Р		PROGRESSION OF THE PROGRESSION O
A use engaged in the retail sale of pre-prepared or rapidly prepared food and beverages directly to customers (excluding alcoholic beverages), for on-and off-premises consumption, commonly referred to as having "take-out" service. Typical uses have drive-thru window service and have extended hours of operation.						
Restaurant, Neighborhood.	P	Р	P	Р	Present and the control of the contr	
A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as an accessory or secondary feature producing less than thirty (30) percent of the gross income. For a neighborhood restaurant including outdoor entertainment, see Article 6 of this UDC for additional requirements.						
Service Station.	men Delectro entre esta de la fina del decembra de dispensario de la fina del fina de la	C-S	P-S	P-S		
An establishment where the sale of petroleum products is the principal use but may also offer incidental indoor automobile service and repair. All services provided and all storage supplies, parts, equipment shall be kept indoors.						
Sexually Oriented Businesses.				C		C C
Refers to those acts, uses and services described more particularly in City Ordinance Number 744.				alkaratinan arabinan kananahan samu		
Tire Dealer (No Open Storage).	A THE COMMITTEE AND A STATE OF THE COMITTEE AND A STATE OF THE COMMITTEE AND A STATE OF THE COMMITTEE A		Р	Р		

Tire Dealer with Open Storage.					C	
Trailer/Mobile Home Display, Sales or Storage.				P	P	
Truck/Trailer Rental and/or leasing.				P	P	
Truck/Bus Repair.					P	
Truck Sales (Heavy Trucks) and RV Sales.					P	
Veterinary services.		P	P	P	P	P
Veterinary service for all animals. Typical uses include animal clinics and hospitals. Veterinary services shall not include the boarding of large or small animals.		l.		L	1	
Winery/Production Brewery.	and graduate the graduate teather and almost a brind an over a constitution and and a special and an application and an angle of the special and an application and application an	generale de l'est de			P	P
An establishment that produces wine and/or beer on site. Such businesses hold proper permitting and are regulated by the Texas Alcoholic Beverage Commission. This use may be permitted in Agricultural (AG) zoning.						J
Wrecker Business Associated With Auto Impounding and Storage		MANANT PERMANDEN PROVINCE PROVINCE AND	of the median contract of the term of the contract of the term of			
	Bergerin (nem od sinderest kijeren verdinam er en de de de de de sinderest kijeren sendinam er en de de de de de sinderest kijeren sendinam er en de de de de de sinderest kijeren sendinam er en de de de de de sinderest kijeren sendinam er en de		agotudas Permission Processor Processor and the American Publication on a service American Am	delle van reladie kelle i sich eine der angele bleden ettersverstegstadsvers av eless	fra Artifessa kirjonik kontribi ühelüven uhmistribingi ührjullin filosooni espoju ,	

A yard or building where automobiles are stored or offered for sale as whole units or salvaged parts.

H.B. 3167 (Updated January 2021 – Updates are Highlighted) Legal Q&A Scott Houston TM Special Counsel shouston@tml.org

1. What is H.B. 3167?

<u>House Bill 3167</u> by Rep. Tom Oliverson (R – Houston) is legislation that becomes effective on September 1, 2019. The bill makes numerous changes to the site plan and subdivision platting approval process, and it will require most cities to make changes to their subdivision ordinance, zoning ordinance, and/or unified development code approval processes. A chart of the process required by the bill is included at the end of this Q&A.

2. Why was the bill needed?

The Texas House Land and Resource Management Committee Report states that:

Concerns have been raised regarding the process for plat and land development application approval by political subdivisions. It has been suggested that some political subdivisions circumvent statutory timelines for approving an application by simply denying the application with generic comments that do not fully address specific deficiencies with the application. C.S.H.B. 3167 seeks to provide greater certainty and clarity for the process by setting out provisions relating to county and municipal approval procedures for land development applications.

In other words, the bill is meant to force cities to speed up the site plan/subdivision plat approval process, and to provide more information when a plan or plat isn't approved. In reality, it may create red tape that slows the process down and/or results in substandard planning. A list of witnesses for and against the bill is available at:

https://capitol.texas.gov/tlodocs/86R/witlistbill/pdf/HB03167H.pdf#navpanes=0.

3. What types of development applications are subject to H.B. 3167?

The bill applies to plans and plats. It defines a "plan" to mean a subdivision development plan, including a subdivision plan, subdivision construction plan, site plan, land development application, and site development plan. Tex. Loc. Gov't Code § 212.001(2). It defines "plat" to include a preliminary plat, general plan, final plat, and replat. *Id.* § 212.001(3).

Many have questioned the meaning of these terms. Does the reference to "site plan" only refer to that term as used in Chapter 212, Subchapter B? And what does the term "general plan" refer to? That term is mentioned in current law in a handful of places. *Id.* §§ 212.010; 212.044; 212.047. As mentioned in those sections, the term may be referring to the city's comprehensive plan. In the context of H.B. 3167, the term is included in the definition of "plat." The City of Houston's ordinance, which was praised by some developers, defines the term "general plan" as "a site plan

submitted for the purpose of establishing a street system for a large tract to be developed in sections. The General Plan is submitted with the subdivision plat for the first section being platted. The General Plan is valid for 4 years and can be extended by planning commission action. Upon planning commission approval, the General Plan establishes the street system for future development." Thus, it appears that the term "general plan" in H.B. 3167 means something different than where it appears in other places in Chapter 212.

The bill also provides that the approval procedures as amended by the bill apply to a city regardless of whether it has entered into an interlocal agreement, including an interlocal agreement between the city and county relating to extraterritorial jurisdiction subdivision platting agreement as required by state law. *Id.* § 212.0085.

4. What application materials are included in the definition of "plan?"

Looking at the definitions in the question above, some say that essentially any type of plan that shows the layout of a project is subject to the bill. The bill uses some terms that aren't common in planning, such as including "general plan" in the definition of "plan." No one is certain what a "general plan" means, so each city should decide and define that term in its ordinance(s).

The bill amends Local Government Code Chapter 212, which relates to subdivision platting. It seems to insert a "site plan" and "site development plan" into the subdivision plat approval process, but those are traditionally based on the zoning authority in Chapter 211. As such, some attorneys have argued, notwithstanding the bill language, that a zoning site plan can't practically be subject to the bill's requirements.

Because of the ambiguity, each city may wish to define certain term(s) in its ordinance for clarity.

5. How does H.B. 3167 change the plan/plat approval timeline?

The bill requires the municipal authority responsible for approving plats to take the following action with regard to the "initial approval" of a plan or plat within 30 days after the date the plan or plat is filed: (1) approve, (2) approve with conditions, or (3) disapprove with explanation. *Id.* § 212.009(a).

Current law defines "the municipal authority responsible for approving plats" as the municipal planning commission or, if the city has no planning commission, the governing body of the city. Also under current law, the governing body by ordinance may require the approval of the governing body in addition to that of the municipal planning commission. *Id.* § 212.006(a).

If an ordinance requires that a plan or plat be approved by the governing body of the city in addition to the planning commission, the governing body shall approve, approve with conditions, or disapprove the plan or plat within 30 days after the date the plan or plat is approved by the planning commission or is approved by the inaction of the commission, and a plan or plat is approved by the governing body unless it is approved with conditions or disapproved within that period.

6. May the city and applicant agree to extend the deadline in the question above?

Yes, but only if the applicant (not the city) requests the extension. The parties may extend the 30-day period described above for a period not to exceed 30 days if: (1) the applicant requests the extension in writing to the municipal authority responsible for approving plats or the governing body of the municipality, as applicable; and (2) the municipal authority or governing body, as applicable, approves the extension request. *Id.* § 212.009(b-2).

7. What does a city do when it approves a plan or plat?

If a plan or plat is approved, the municipal authority giving the approval shall endorse the plan or plat with a certificate indicating the approval. *Id.* § 212.009(c).

8. What if the municipal authority responsible for approving plats fails to approve, approve with conditions, or disapprove with explanation a plan or plat within the prescribed period?

A plan or plat is approved by the municipal authority unless it is disapproved within the periods described above and in accordance with the bill's procedures. *Id.* § 212.009(b); Op. Tex. Att'y Gen. No. KP-0349 (2021)("If a local jurisdiction fails to adequately explain the reason for the denial or conditional approval as required in section 212.0091...the plan or plat is approved, and a local authority's decision to deny approval of a plan or plat is subject to judicial review.").

If that happens, the authority on the applicant's request shall issue a certificate stating the date the plan or plat was filed and that the authority failed to act on the plan or plat within the period. *Id.* § 212.009(d).

9. What must a city do with regard to approval, approval with conditions, or disapproval with explanation?

A municipal authority or governing body that conditionally approves or disapproves a plan or plat shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. *Id.* § 212.0091(a).

Each condition or reason specified in the written statement: (1) must be directly related to the requirements under the subdivision platting law and include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable; and (2) may not be arbitrary. *Id.* § 212.0091(b).

10. If the municipal authority approves with conditions or disapproves with explanation, what is the applicant entitled to do?

After the conditional approval or disapproval with explanation of a plan or plat, the applicant may submit to the municipal authority or governing body a written response that satisfies each condition for the conditional approval or remedies each reason for disapproval provided, and the municipal

authority or governing body may not establish a deadline for an applicant to submit the response. *Id.* § 212.0093.

11. What must the city do with regard to the applicant's written response?

A municipal authority or governing body that receives a written response shall determine whether to "approve" or "disapprove [with explanation]" the applicant's previously conditionally-approved or disapproved plan or plat not later than the 15th day after the date the response was submitted. *Id.* § 212.0095(a). Again, a city may not establish a deadline before which the applicant must submit the response. *Id.* § 212.0093

A municipal authority or governing body that receives a response shall approve a previously conditionally approved or disapproved plan or plat if the response adequately addresses each condition of the conditional approval or each reason for the disapproval. *Id.* § 212.0095(c).

A previously conditionally-approved or disapproved plan or plat is approved if: (1) the applicant files a response that adequately addresses each condition of the conditional approval or each reason for disapproval, and (2) the municipal authority or governing body that receives the response does not disapprove the plan or plat on or before the 15th day the response was submitted. *Id.* § 212.0095(d).

The two paragraphs above mean the plan or plat must be approved if: (1) the applicant's written response addresses all the issues raised in the city's prior approval with conditions or disapproval with explanation; and (2) no new issues are raised by the applicant's written response. *Id.* § 212.0095(d)(2). What to do when new issues are raised by the applicant's written response is the subject of some debate and is addressed in question 12, below.

12. What if the applicant's written response changes the plan or plat in a way that creates new issues?

At least two schools of thought exist in relation to what happens once the city receives the applicant's written response: (1) the written response and 15-day decision period of the city continues repeatedly in relation to new issues raised by corrections; or (2) the city must disapprove with explanation a submission that creates new issues, which starts the process from the beginning.

Under the first process, it appears that – if the applicant's written response raises new issues – a city may, once again, "approve" or "disapprove with explanation" the plan or plat on or before the 15^{th} day the response was submitted. Section 212.0095(d) supports that conclusion:

(d) A previously conditionally approved or disapproved plan or plat is approved if: (1) the applicant filed a response that meets the requirements of Subsection (c); and (2) the municipal authority or governing body that received the response *does not disapprove the plan or plat* on or before the date required by Subsection (a) and in accordance with Section 212.0091.

Disapproval must follow the process spelled out previously:

- A municipal authority or governing body that conditionally approves or disapproves a plan or plat shall provide the applicant a written statement of the conditions for the conditional approval or reasons for disapproval that clearly articulates each specific condition for the conditional approval or reason for disapproval. *Id.* §§ 212.0095(b); 212.0091(a) (Note that (a) includes the "conditional approval" option, but a city can't use that. It can only disapprove with explanation because it is limited to doing so by Section 212.0095(d)(2)).
- Each condition or reason specified in the written statement: (1) must be directly related to the requirements under the subdivision platting law and include a citation to the law, including a statute or municipal ordinance, that is the basis for the conditional approval or disapproval, if applicable; and (2) may not be arbitrary. *Id.* §§ 212.0095(b); 212.0091(b) (Again, only disapproval with explanation is allowed at this stage).

Presumably, the approval or disapproval with explanation for new issues within 15 days allows the applicant to once again submit a written response, which once again triggers the 15 day deadline. That process could conceivably continue until all issues have been addressed.

The second process presumes that the applicant's written submission and the city's response to it within 15 days is a "one-and-done" proposition. That process interprets Sections 212.0095(b)(2) and (c)-(d) to allow approval if all of the items are corrected or disapproved with explanation if not. The disapproval with explanation would mean that the applicant starts again at the beginning by resubmitting the plan or plat.

13. Does the bill provide for an alternative plan or plat approval procedure?

Yes, but only if they applicant agrees. An applicant may elect at any time to seek approval for a plan or plat under an alternative approval process adopted by a city if the process allows for a shorter approval period than the approval process described in the questions above. *Id.* § 212.0096.

An applicant that elects to seek approval under the alternative approval process described above is not: (1) required to satisfy the requirements of the statutory approval process in the bill above before bringing an action challenging a disapproval of a plan or plat; or (2) prejudiced in any manner in bringing the action described by (1), including satisfying a requirement to exhaust any and all remedies. *Id.* § 212.0096(b).

This alternative approval procedure may be a way to grant more authority to staff and speed up internal processes. An applicant would usually have nothing to lose by trying a city's alternative process because the applicant could always opt back in to the procedures in the bill.

14. May a city require an applicant to waive any deadlines or procedures in the bill?

Maybe, but only with regard to a plan, not a plat. A municipal authority responsible for approving plats or the governing body of a city may not request or require an applicant to waive a deadline or other approval procedure. *Id.* § 212.0097. The waiver prohibition applies only to "plats" and not to "plans," which could allow a city to require a waiver for anything other than an actual plat,

which is defined in the bill as a preliminary plat, general plan, final plat, and replat. Of course, the prohibition against establishing a deadline by which the applicant must submit a written response remains in place. *Id.* § 212.0093.

15. What is the burden of proof in a legal action challenging the disapproval of a plan or plat?

In a legal action challenging a disapproval of a plan or plat, the city has the burden of proving by clear and convincing evidence that the disapproval meets the requirements of the subdivision platting law or any applicable case law, and the court may not use a "deferential standard." *Id.* § 212.0099.

16. May a city require a plan or plat to meet administrative completeness requirements before being considered "filed?" May a city have a submittal calendar that corresponds to the city's internal meetings process?

The bill doesn't appear to modify the authority of a city to require an administrative completeness review (i.e., meet a checklist of requirements) prior to being accepted for filing. A city could also continue to have a submittal calendar that corresponds, for example, to planning and zoning commission meetings. In other words, the bill doesn't make any additions related to acceptance for filing requirements. Thus, if a city believes it had the authority to do so prior to the bill, it should be able to continue those practices. In fact, Op. Tex. Att'y Gen. No. KP-0349 (2021) confirms that the practice is acceptable:

Subsections 212.009(a) and 232.0025(d) require the local authority responsible for approving plats to approve, approve with conditions, or disapprove a plan or plat within 30 days after the date the plan or plat is filed. A court is unlikely to construe the language of those provisions to prohibit local authorities from requiring reports or studies to be completed prior to the submission of a plan or plat.

One exception is that, if a groundwater availability certification is required, the 30-day period begins on the date the applicant submits the groundwater availability certification to the municipal authority responsible for approving plats or the governing body, as applicable. *Id.* § 212.009(b-1).

17. How does the bill interact with Chapter 245 (the "permit vesting statute")?

Chapter 245, in sections 245.001(a) and (b), provides in relevant part that:

Each regulatory agency shall consider the approval, disapproval, or conditional approval of an application for a permit solely on the basis of any orders, regulations, ordinances, rules, expiration dates, or other properly adopted requirements in effect at the time: (1) the original application for the permit is filed for review for any purpose, including review for administrative completeness; or (2) a plan for development of real property or plat application is filed with a regulatory agency.

Rights to which a permit applicant is entitled under this chapter accrue on the filing of an original application or plan for development or plat application that gives the regulatory agency fair notice of the project and the nature of the permit sought. An application or plan is considered filed on the date the applicant delivers the application or plan to the regulatory agency or deposits the application or plan with the United States Postal Service by certified mail addressed to the regulatory agency. A certified mail receipt obtained by the applicant at the time of deposit is prima facie evidence of the date the application or plan was deposited with the United States Postal Service.

The above means that an applicant could submit something for approval that would trigger vesting, but that doesn't necessarily mean that the application is "filed" for purposes of H.B. 3167. However, Section 245.001(e) provides that:

- (e) A regulatory agency may provide that a permit application expires on or after the 45th day after the date the application is filed if:
- (1) the applicant fails to provide documents or other information necessary to comply with the agency's technical requirements relating to the form and content of the permit application;
- (2) the agency provides to the applicant not later than the 10th business day after the date the application is filed written notice of the failure that specifies the necessary documents or other information and the date the application will expire if the documents or other information is not provided; and
- (3) the applicant fails to provide the specified documents or other information within the time provided in the notice.

The subsection above provides additional authority for a city to require "administrative completeness" prior to an application being considered as "filed" for purposes of H.B. 3167.

18. What are best practices and practical tips for compliance with the bill?

The following suggestions were provided by planners and land use attorneys:

- Review ordinances to make sure they: (1) include all grounds for approval with conditions or denial with explanation; and (2) specifically reference/cross-reference the development code, municipal code, charter, criterial manuals, and other rules that may be cited as a result of H.B. 3167.
- Conduct a study of the cost to provide service for the required staffing levels necessary to meet H.B. 3167 timelines. For instance, a city may need additional engineering services. Adopt new fees that require development to cover the associated costs.
- Establish a detailed internal review process with internal deadlines.
- If a city doesn't have both the planning commission and governing body approval process (as allowed in Local Government Code Section 212.006), it should consider adopting such

- a process so that if one misses something (e.g., an item that needs to be conditionally approved), the other one can address it.
- Define "filed" in the city's ordinance to mean the day the administrative review process is finished and the plan or plat is placed on the planning and zoning commission agenda.
- Create a waiver form and make it available to applicants. The city can't request a waiver for plats, but it arguably can for plans (see question 14, above), and staff could point out that the process may actually be longer without one.
- Develop standard forms with fill-in-the-blanks and have a comment bank that includes citations to point out frequent errors.
- Establish a detailed quality control checklist (with code citations) and require it to be submitted, and stamped by the submitting engineer, as part of the completeness review.
- Host meeting/informational sessions for the development community to roll out process changes.
- Require pre-application conferences before applicants can submit.
- Limit filing to a schedule or certain day(s) of week.
- Consider whether you need to add dates to the planning and zoning commission meeting schedule, and consider what happens to the application if the commission is unable to meet within the 30-day timeframe (e.g., because of a lack of quorum).
- Delegate any applications to staff rather than the "authority responsible for approving plats" to avoid the 30-day provisions.
- Require supporting "studies" (i.e. traffic impact analysis, drainage study, etc.) be submitted prior to the first application for development.
- Consider requiring submission and approval of preliminary utility plans, potentially as part of a service availability determination, separate and prior to any submission of the actual preliminary plan or plat. Consider the same regarding: utility evaluations (city and third party); TxDOT or county road approvals (curb cuts/driveways); traffic impact analysis; variance approvals; and any other submissions that need to be made to the county and ESD (or any other governmental entity that needs to review) prior to filing.
- Do not accept a final plat for review until subdivision construction plans are approved and either a fiscal surety is filed or the infrastructure improvements are constructed.

•	Call responses	"notices of code	deficiency"	that state	"your	submission	fails to	comply
	with section	regarding		" or "d	oes no	t adequately	address	section
	re	egarding	·"					

19. Does the bill contain any beneficial provisions?

Yes. With regard to the approval of replats, the bill provides that:

- 1. a replat of a subdivision or part of a subdivision may be recorded and is controlling over the preceding plat without vacation of that plat if the replat: (a) is signed and acknowledged by only the owners of the property being replatted; (b) is approved by the municipal authority responsible for approving plats; and (c) does not attempt to amend or remove any covenants or restrictions (*Id.* § 212.014); and
- 2. for a replat that, during the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot or any lot in the preceding plat was limited by deed restrictions to

residential use for not more than two residential units per lot: (a) if the proposed replat requires a variance or exception, a public hearing must be held by the municipal planning commission or the governing body of the city and; (b) if a proposed replat does not require a variance or exception, the city shall, not later than the 15th day after the date the replat is approved, provide written notice by mail of the approval of the replat to each owner of a lot in the original subdivision that is within 200 feet of the lots to be replatted according to the most recent municipality or county tax roll; (c) sections (a) and (b) do not apply to a proposed replat if the municipal planning commission or the governing body of the city holds a public hearing and gives notice of the hearing in the manner provided by section (b); (d) the notice of a replat approval required by section (b) must include: (i) the zoning designation of the property after the replat; and (ii) a telephone number and e-mail address an owner of a lot may use to contact the city about the replat (*Id.* § 212.015).

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