



Zoning Code Update

Council Meeting: 11.13.23

Purpose of Zoning

Must be in accordance with and further the goals of a comprehensive plan and is intended to:

- Promote the public health, safety, morals, or general welfare of the City
- Protect and preserve places and areas of historical, cultural, or architectural importance and significance

Texas Local Gov't Code Section 211.001



What Constitutes a Zoning Change

- If the zoning on a parcel of land is inconsistent with the use the landowner desires, the owner may apply to the local jurisdiction for a change of zoning; or
- City Council may amend or change by ordinance, the boundaries or districts established by the zoning ordinance after:
 - Proper publication, posting, and notice to adjacent property owners of said zoning change; and
 - Upon receipt of findings/ recommendation from the Planning and Zoning Commission (can be a joint meeting P&Z and Council if done so by prior Resolution); and
 - After a public hearing at City Council and upon a qualifying vote by Council to amend the zoning district or boundary
 - Amendments to the zoning ordinance constitute a change



Non-conforming Uses

- A nonconforming use is a permitted use of property which would otherwise be in violation of the current zoning ordinance. The use is permitted because the landowner was using the land or building for that use before the zoning ordinance became effective.
- Nonconforming uses are often referred to as being "grandfathered in" to a zoning code. To qualify for nonconforming use, the property needs to have been continuously put to the nonconforming use. Thus, if the businesses closes and the use lapses for 180 days, the permission for the nonconforming ceases.
- Non-conforming uses may not be enlarged, changed, or altered.



BACKGROUND

- Staff has worked on the zoning code update over the last several months utilizing feedback from the City attorney and Council, as well as lessons learned from recent zoning cases. Additionally, staff engaged Kimley-Horn and Associates Inc. to review the proposed changes from a best practices standpoint
- Kimley-Horn's comments
 - Minor in nature and primarily focused on providing graphics and tables to the “Development Area Regulations” of each of the zoning categories
 - Recommended changes to other sections of the Code of Ordinances to reflect the changes in the Zoning Code (i.e. Landscaping and parking)



Zoning Code Highlights

- Based on recent trends in planning to move from specific land use lists to streamlined use categories, staff consolidated 200+ uses into roughly 30 broad land use categories
- Updated definitions language and removed definitions that are no longer relevant
- Converted IH-35 and Business Park overlays into new base zoning districts named as Interstate Commercial & Business Park Districts respectively
- Increased minimum Single Family lot size to 8,500 sq ft via the new SF8.5 zoning district
- SF7, MF1 and MF2 become legacy districts in effort to reduce densities (will not impact existing zoned parcels)
- Altered PD, Planned Development language and criteria

Section 78. C, commercial district.

78-100. Purpose. The C, commercial district is established to accommodate the "heavier than retail sales and service uses" such as automobile sales and building material sales yards. Generally, the C, commercial district, is near highways, major thoroughfares, or railroad locations. Care is required in locating the C, commercial district, in close proximity to residential areas because of the heavier nature of the uses and the vehicular traffic which they tend to generate.

78-105. Primary uses allowed. In the C, commercial district no building or land shall be used and no building constructed, reconstructed, altered or enlarged, unless otherwise provided in this ordinance, except for one or more of the following uses:

(a) Primary uses allowed:

Retail Sales and Services	Quick Vehicle Service	Basic Utilities
Commercial Outdoor Recreation	Major Event Entertainment	Colleges
Office, Traditional	Parks and Open Spaces	Community Services
Religious Intuitions		

Airport or landing field
 Amusement, commercial (outdoor)
 Antique shop
 Art supply store
 Art gallery or museum
 Auto glass, seat cover, muffler shop
 Auto laundry/carwash
 Auto, new used auto sales; outdoors
 Auto painting or body shop
 Auto parts and accessory sales (No outside storage)
 Auto parts sales and accessory sales (with outside storage)
 Auto repair garage
 Auto sales or auction
 Automotive fuel sales
 Batting cages
 Bakery or retail confectionery
 Bakery or wholesale candy
 Bottling works
 Building materials sales
 Bus station or terminal
 Cabinet and upholstery shop

Commercial (approximately 582 parcels zoned)

Proposed Use Categories

By –right

Retail Sales and Services	Quick Vehicle Service	Basic Utilities
Commercial Outdoor Recreation	Major Event Entertainment	Colleges
Office, Traditional	Parks and Open Spaces	Community Services
Religious Institutions	Schools (Public)	

SUP

Commercial Parking	Self Service Storage	Wholesale Sales
Office, Industrial	Vehicle Repair	Rail Lines and Utility Corridors
Radio Frequency Transmission Facilities	Day Care	Medical Centers
Aviation and Passage Terminals	Detention Facilities	

Changes to uses in current Commercial zoning district

From by-right to requiring an SUP in Commercial

- Auto repair/paint
- Hospital/medical center (overnight facilities)
(this does not include urgent medical care, dental/medical offices which are classified as Retail Sales and Services)
- Commercial/truck parking
- Day care

From SUP to allowed by-right

- Indoor amusement (commercial)
- Mini-golf

General Retail (approximately 223 parcels zoned)

Proposed Use Categories

By –right

Office, Traditional	Retail Sales and Services	Basic Utilities
Parks and Open Space	Day Care	Religious Institutions
Schools (Public)		

SUP

Community Services	Colleges	Commercial Outdoor Recreation
Quick Vehicle Servicing	Wholesale Sales	Radio Frequency Transmission Facilities
Self Service Storage	Medical Centers	

Changes to uses in current General Retail zoning district

From by-right to requiring an SUP in General Retail

- Auto fuel sales
- Hospital/medical center (overnight facilities)
(this does not include urgent medical care, dental/medical offices which are classified as Retail Sales and Services)
- Commercial/truck parking

From SUP to allowed by-right

- Indoor amusement (commercial)
- Mini-golf

Neighborhood Services (12 parcels zoned) becomes General Retail

Proposed Use Categories

By-right

Office, Traditional	Retail Sales and Services	Basic Utilities
Parks and Open Space	Day Care	Religious Intuitions

SUP

Schools	Colleges	Commercial Outdoor Recreation
Quick Vehicle Servicing	Wholesale Sales	Radio Frequency Transmission Facilities
Self Service Storage	Medical Centers	Community Services

Changes to uses in current Neighborhood Services district

From by-right to requiring an SUP in General Retail

- Self Service Storage

From SUP to allowed by-right

- Office, traditional
- Retail Sales and Services:
 - Health studio
 - Restaurant
 - Travel Agency
 - Retail stores
 - Artist/photographer studio

Central Commercial (approximately 110 parcels zoned)

Proposed Use Categories

By-right

Retail Sales and Services	Parks and Open Spaces	Office, Traditional
Basic Utilities	Religious Institutions	Schools (Public)

SUP

Commercial Parking	Colleges	Community Services
Daycare		

Changes to uses in current Central Commercial district

From by-right to requiring an SUP in Commercial

- College campus
- Public facility, municipal buildings

From SUP to allowed by-right

- Indoor amusement (commercial)

Industrial (approximately 144 parcels zoned)

Proposed Use Categories

By-right

Commercial Parking	Aviation and Passage Terminals	Radio Frequency Transmission Facilities
Manufacturing and Production	Warehouse and Freight Movement	Wholesales Sales
Basic Utilities	Office	Medical Center
Quick Vehicle Services / Vehicle Repairs	Light Industrial Services	Self Service Storage
Retail Sales and Services	Rail Lines and Utility Corridors	Mining
Religious Institutions	Schools (Public)	

SUP

Major Event Entertainment	Waste Related	Sexually oriented business
College	Detention Facilities	

Changes to uses in current Industrial zoning district

From by-right to requiring an SUP in Commercial

- Sexually oriented business

From SUP to allowed by-right

- Manufacturing and Production uses

*Major entertainment and College by SUP
(previously not allowed)

Zoning Code Definitions

- Provided clarifying language and standards for accessory dwelling units (ADU).
 - Current code allows ADUs, but has no standards related to required minimum lot size and maximum ADU dwelling sizes
- a. **Accessory Dwelling Units:** ADUs are only authorized in the following zoning districts A, Agricultural (when the primary use is single-family residential), SF10, Single family dwelling district 10, SF16, Single family dwelling district 16, and SFE, Single family estate dwelling district.
 - b. **Accessory dwelling units are accessory structures with a kitchenette.** Accessory dwelling units are permitted as an incidental residential use of a building on the same lot as the main dwelling unit.
 - c. **Accessory Dwelling Unit Standards:**
 - i. The primary residence shall be occupied by the property owner.
 - ii. The accessory dwelling unit shall be subordinate to the primary structure in height, and size and in accordance with applicable zoning district.
 - iii. The minimum lot size for an accessory dwelling unit is 10,000 square feet.
 - iv. There is a limit of one (1) accessory dwelling unit per lot.
 - v. Occupancy is limited to regulations as per the adopted Building Code, ADUs shall not be subleased or rented.
 - vi. Lot must contain enough parking for primary dwelling unit to meet off street parking requirement and one space for accessory dwelling unit.
 - vii. Separate utility meters are prohibited.

Anticipating (future-proofing) land uses

Example: Liquor stores - If approved by Local Option election

Allow by right in certain districts as "Retail Sales and Services" when ALL supplemental regulations are met or by SUP

- C-Commercial
- GR-General Retail
- I – Industrial

SUP would be required if location proposed in Old Town/IH-35 or if alternative supplemental regulations were proposed

Supplemental regulations:

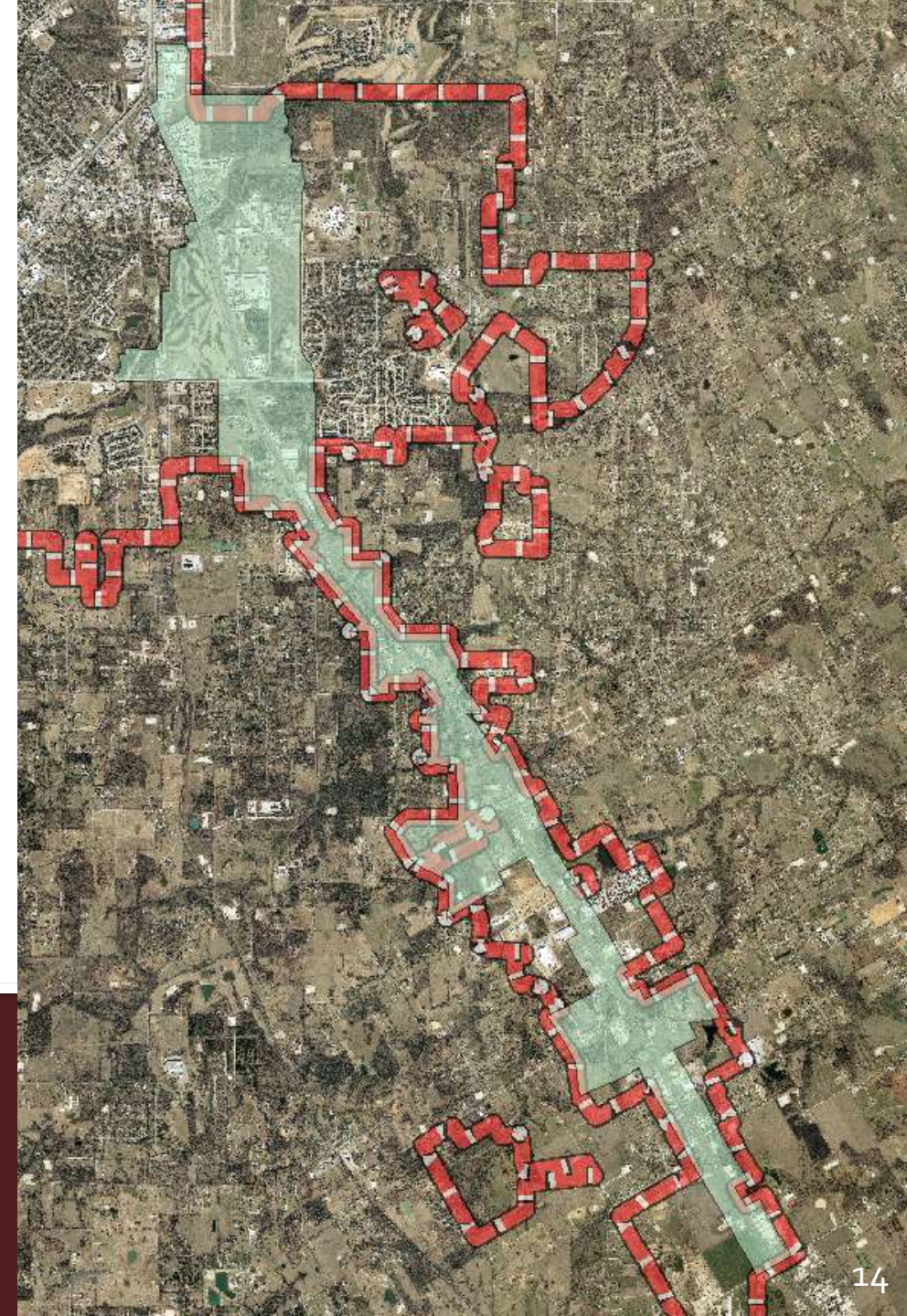
- Shall not be located within the Old Town Overlay District or within 300 feet of IH-35 frontage.
- Minimum building size shall be 7,500 sq ft (requires fire sprinkling).
- No liquor stores shall be allowed within 300 feet of another liquor store as measured in a straight line from their respective property lines.
- A liquor (package) store shall not have walk-up window access and shall not have drive-through or drive-up access.
- The liquor store has an independent entrance for deliveries and customers. "Partitioned" means walls or other physical divisions separating the liquor store from all other retail or commercial establishments.
- All windows shall be either polycarbonate or have a protective shatterproof film installed on both sides and glass window.
- Increased landscaping between front façade and the parkway. Shall maintain a 15-foot landscaping buffer with canopy trees planted no less than 20 feet on center along entire frontage.

IH-35 Design Standards

Staff believes the existing IH-35 design standards are cumbersome and present challenges to new development and existing businesses that would not normally occur outside of the IH-35 overlay.

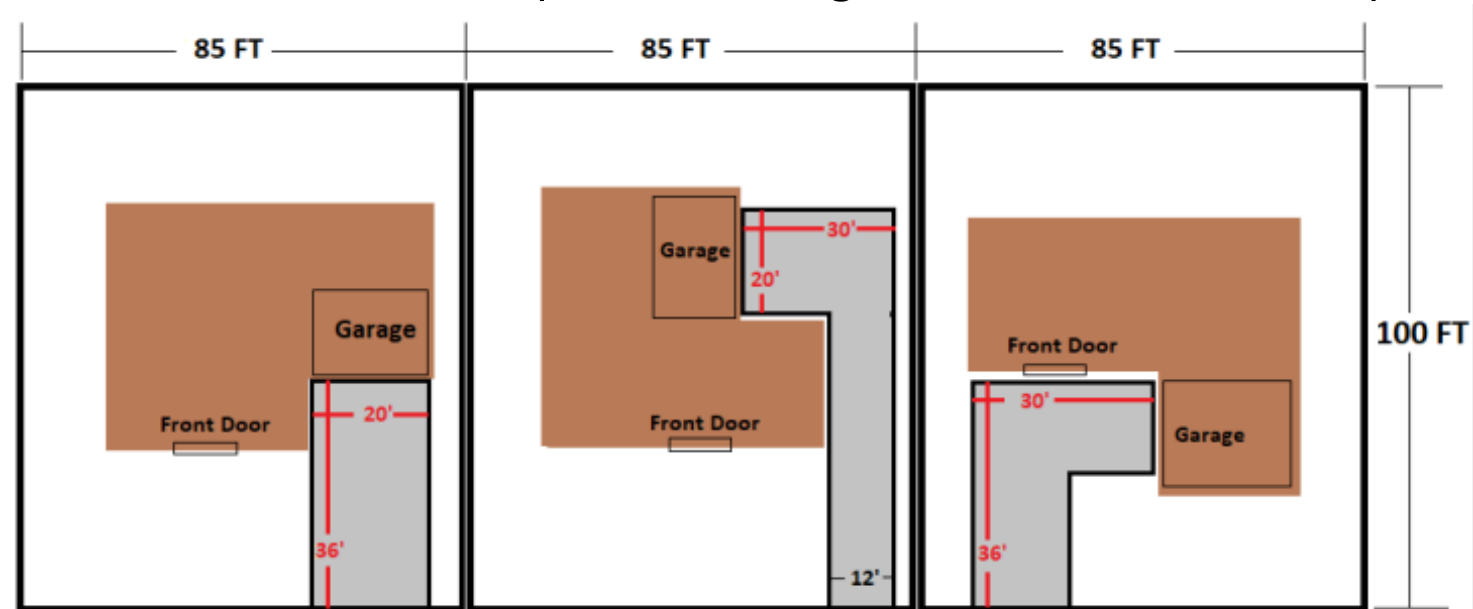
The design standards are overcomplicated and have conflicting standards with other ordinances. This has resulted in several recent variances to Council for site plans for industrial and commercial uses located and proposed within the IH-35 overlay.

Staff believes that the pattern of development along the IH-35 corridor and existing standards contained elsewhere are sufficient to maintain quality development along IH-35.



Proposed Changes to Residential Zoning Districts

- Increased the minimum Single Family lot size from SF7 to SF8.5
 - 8500 square foot lots to combat density and drainage related issues.
 - Created garage/driveway minimum standards to combat parking along streets.
 - SF7 zoning districts will become “legacy” districts; maintains vested rights but no new parcels will be zoned to this district unless requested through a PD, Planned Development
- Consolidated the Multi-Family₁ & Multi-Family₂ district standards into new Multi-Family Zoning district
 - Decreased the maximum density from 24 dwelling units per acre down to 18 dwelling units per acre
 - MF₁ and MF₂ zoning districts will become “legacy” districts; maintain vested rights but no new parcels will be zoned to this district unless requested through a PD, Planned Development



Changes and Impacts to existing zoning

Residential – smallest by-right lot size becomes 8500 square feet. SF7 becomes a legacy district as to not create non-conforming issues, however any new requests for a density greater than SF8.5 will have to be considered as part of a PD, Planned Development.

Multifamily – new max density of 18 du/per acre. MF1 and MF2 become legacy district, however any requests for greater density than new 18 du/acre will have to be considered as part of a PD, Planned Development.

Commercial – supplemental regulations related to car wash orientation in relation to the street and vacuum placement (Quick Vehicle Servicing is SUP in GR and by-right with supplemental regulations in C, IC, and I). Moves heavy commercial type uses to Interstate Commercial district and freight and light industrial uses to Business Park District.

Industrial – SOB's no longer allowed by-right and must now be requested through an SUP. Council has new districts that will be better suited than base Industrial such as Interstate Commercial which is geared towards heavier-interstate and tollway appropriate uses and Business Park District. Industrial zoning district can be used as a true "industrial" zoning. Existing Industrial uses will not lose any other by-right uses but may be candidates for downzoning to Interstate Commercial or Business Park.

Overlays – Business Park and IH-35 overlays would cease to exist. Standards are now streamlined into base zoning districts. Uses within the current BP overlay would be rezoned to Business Park zoning district (no change) and existing uses along IH-35 could be rezoned to Industrial or Interstate Commercial as appropriate. If a text only change is pursued, then some uses may become legal non-conforming until a rezone to the appropriate zoning district takes place.

Planned Development District

- Altered PD, Planned Development language and criteria
 - Establish expectations and minimum criteria for the use of Planned Developments
 - Must provide a benefit to the public, as well as a unique development or combination of complimentary uses not contained within a singular specific zoning district
 - Modified the requirements for concept plans and other supporting documents for the approval of a Planned Development
 - Can allow greater density if the proposal furthers the goals of the Comprehensive Plan and provides enhanced community amenities

Comprehensive Map Update versus Text-only zoning code update

A text-only update would not physically establish any of the newly created zoning districts (Interstate Commercial, SF 8.5, Business Park) but will allow landowners and Council better zoning district options for future requests to ensure appropriate land uses.

Text-only amendments to zoning districts still constitute a zoning change and require noticing. Overlays and design standards can be amended or removed without a comprehensive map update.

A comprehensive map update would allow Council to rezone certain existing businesses/areas to a new zoning districts at time of adoption. For example, commercial or industrial zoned parcels along IH35 could be rezoned to Interstate Commercial or Business Park District.

Any currently existing uses that did not already conform to the new text, or new zoning map, would be considered legally non-conforming and would be allowed to continue to operate.

Zoning Map: Highlighted Yellow areas are areas that could be rezoned

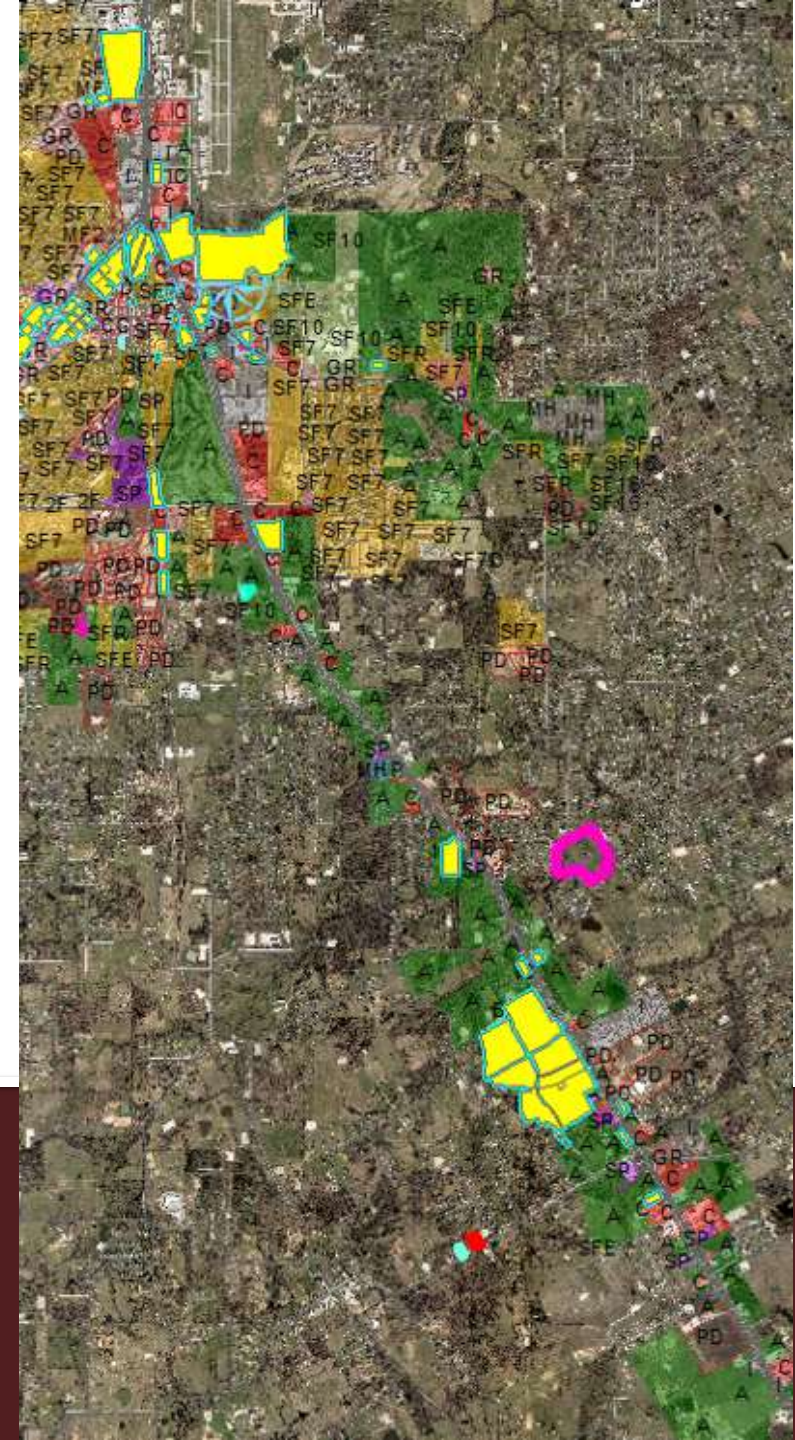
Summary 34 parcels could be rezoned with map update

- **1 AG** (previously Commercial / School property with split zoning)
- **8 Business Park** (previously Industrial in the BP overlay)
- **10 Commercial** (previously Industrial)
- **2 Central Commercial** (previously "C" in vicinity of Old Town)
- **13 Interstate Commercial** (previously Industrial or Commercial along IH-35 or CTP) did not rezone all Commercial on these corridors if developed already and/or would allow a more intense use than currently existing

Currently have 42 Industrial parcels

Proposed:

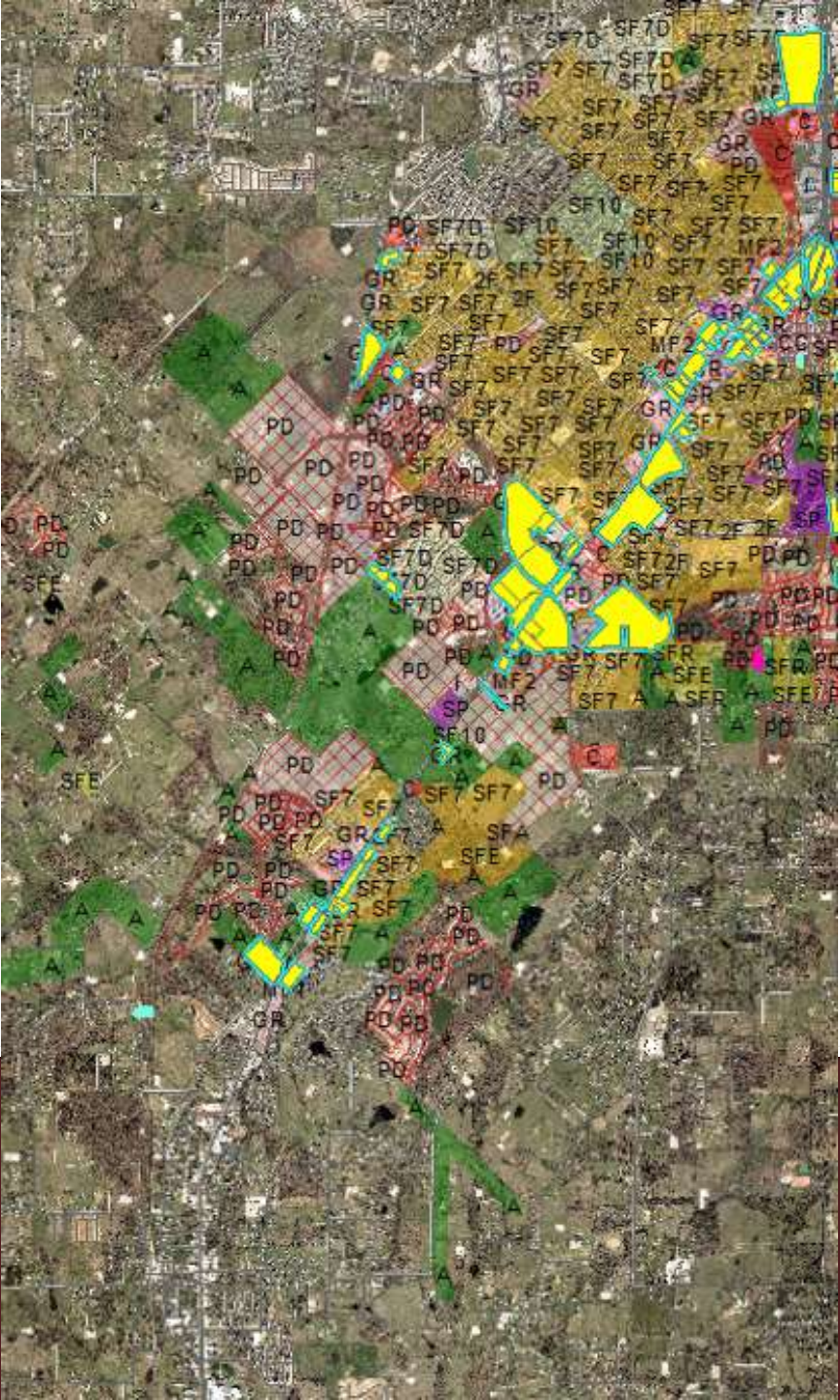
- 13 Industrial parcels to remain as zoned (I)
- 11 rezoned to Interstate Commercial
- 10 rezoned to Commercial
- 8 rezoned to Business Park



Zoning Map consideration of uses / zoning parcels along SH-174

Zone 72 new General Retail parcels

- Rezoning of parcels currently zoned Commercial / NS – primarily along Wilshire and some on Alsbury, John Jones, etc.
- Primarily impacts existing auto repair uses and would create legal nonconforming parcels that are currently used for auto repair. The applicant would be allowed to continue to operate, but would need an SUP to enlarge or expand the nonconformity
- Zoning NS parcels to General Retail will allow more uses than current NS zoned parcels allow. Primarily will grant more General Retail and Office uses by-right.
Would allow the following uses by-right that are currently SUP in NS
 - Office, traditional; and
 - Retail Sales and Services:
 - Health studio
 - Restaurant
 - Travel Agency
 - Retail stores
 - Artist/photographer studio



Noticing Requirements

It is important to reiterate that state law and local ordinance require noticing and public hearings for changes to zoning district land uses as well as for any zoning map updates. SB 929 requires additional notice to property owners and tenants whose property will be a nonconforming use after the map or text amendment.

S.B. 929 – NONCONFORMING USES

The legislature passed S.B. 929, effective immediately, to require: (1) certain notice to property owners whose property's use will be a nonconforming use after a zoning change; and (2) payment if the city terminates the nonconforming use according to a specific formula.

First, the bill requires a planning and zoning commission or city council to provide notice of each public hearing regarding any proposed adoption of or change to a zoning regulation or boundary when the current conforming use of the property will be a nonconforming use once the regulation or boundary is adopted or changed. The notice must go to an **owner of real or business property** where a proposed nonconforming use is located as indicated by the most recently approved tax roll and **each occupant of the property (i.e. the tenant(s))**. The notice must: (1) be mailed by U.S. mail by the 10th day before the hearing date; (2) contain the time and place of the hearing; and (3) include certain text required by statute in bold font that is 14-point type or larger.

SB 929 will require staff to send a notice to each property owner according to the address of the owner as listed by the appraisal district, in addition to a second notice to the tenant(s) of the property at the physical address of the property.

Staff will work with the City Attorney to determine the best method to satisfy public notice requirements.

Zoning Code Next Steps

- Current Phase - Incorporate any recommendations from Council into the proposed updates
- Phase 1 – Community engagement, solicit feedback from the public and stakeholders via the city's website, direct mail and/or email, public notice for solicitation efforts, and staff will conduct stakeholder meeting(s). This will occur before P&Z Commission consideration
- Phase 2 - Present updates and hold public hearings to both Planning and Zoning Commission and City Council
- Phase 3 – Present updates to other planning portions of the Code to be updated
 - Landscaping
 - Fencing and Screening
 - Sign Code
- Phase 4 – Continue to monitor and assess the new Code and bring forward any minor textual or grammatical changes as identified during the first year of implementation

Questions?