

**BOARD OF ADJUSTMENT AND
BUILDING BOARD OF APPEALS AGENDA**
REGULAR MEETING | January 8, 2019 at 7:00 PM
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE

I. REGULAR SESSION

II. ROLL CALL

III. SWEARING IN OF SPEAKERS

IV. VISITOR/CITIZENS FORUM

At this time, any person may address the board, provided that an official 'Speaker's Request Form' has been submitted to the board secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual Board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken nor discussion held regarding these items.

V. MINUTES APPROVAL

- A. Consider approval of minutes from the October 15, 2018 BOA meeting

VI. DECISION ITEMS

- A. **CASE # BOA 18-05** to receive comments and consider action on a request by The Organic Recycler for a special exception as required by the Unified Development Code Table 6.2, "Schedule of Uses: Commercial and Industrial Districts," to allow outdoor storage at 1525 Gilman Road, Kennedale, Tarrant County, Texas, more particularly described as T. W. Moore Addition, Lot 1.
- B. **CASE # BOA 18-06** to receive comments and consider action on a request by The Organic Recycler for a variance as required by the Unified Development Code Section 13.8.G.5, "Outdoor Storage," of outdoor storage screening at 1525 Gilman Road, Kennedale, Tarrant County, Texas, more particularly described as T. W. Moore Addition, Lot 1.

VII. EXECUTIVE SESSION *The Planning & Zoning Commission reserves the right to convene in Executive Session(s) during this meeting pursuant to §551.071(2) when the Board of Adjustment/Building Board of Appeals seeks the advice of its attorney concerning any item on this agenda or a matter in which the duty of the attorney to the Planning & Zoning Commission under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code.*

- A. Consultation with attorney pursuant to Sec 551.071 Texas Government Code to seek the advice about pending litigation.

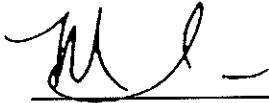
VIII. RECONVENE INTO OPEN SESSION, AND TAKE ACTION NECESSARY PURSUANT TO EXECUTIVE SESSION, IF NEEDED

IX. ADJOURNMENT

parking spaces are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meeting. Please contact the City Secretary at 817-985-2104 or (TTY) 1-800-735-2989.

CERTIFICATION

I certify that a copy of the January 8, 2019, Board of Adjustment and Building Board of Appeals agenda was posted on the City Hall bulletin board next to the main entrance of the City Hall building, 405 Municipal Drive, of the City of Kennedale, Texas, in a place convenient and readily accessible to the general public at all times and said agenda was posted at least 72 hours preceding the schedule time of said meeting, in accordance with Chapter 551 of the Texas Government Code.



MELISSA DAILEY, AICP
DIRECTOR OF PLANNING AND
ECONOMIC DEVELOPMENT



KENNEDALE
Board of Adjustment
www.cityofkennedale.com

BOARD OF ADJUSTMENT & BUILDING BOARD OF APPEALS
MINUTES
REGULAR MEETING
October 15, 2018
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE
REGULAR SESSION - 7:00 PM

I. CALL TO ORDER

Acting Chairman Lana Sather called the meeting to order at 7:00 PM

ROLL CALL

PLACE	COMMISSIONER	PRESENT	ABSENT
1	Eric Elam	x	
2	Josh Altom	X	
3	Perry Clementi	X	
4	Martin Young		x
5	Lana Sather	x	
6	Jeff Nevarez, alternate	x	
7	Josh Virnoche, alternate		x
8	VACANT		
9	Azam Shaikh, alternate	x	

A quorum was present.

Staff present: Melissa Dailey, Director of Planning & Economic Development, and Melinda Middleton, Board Secretary.

II. REGULAR SESSION

III. CALL TO ORDER

Acting Chairman Lana Sather called the regular session to order at 7:00PM

IV. SWEARING IN OF SPEAKERS

Ms. Middleton swore in the speakers:

Tracey Holland

VII. MINUTES APPROVAL

A. Consider approval of minutes from the August 6, 2018 BOA meeting.

Azam Shaikh made the motion to approve the minutes from the August 6, 2018 BOA meeting. Josh Altom seconded the motion. The motion passed unanimously.

VIII. VISITOR/CITIZENS FORUM

At this time, any person with business before the Board of Adjustment not scheduled on the Agenda may speak to the Board, provided that an official 'Speaker's Request Form' has been completed and submitted to the Board Secretary prior to the start of the meeting. All comments must be directed towards the Chair, rather than individual board members or staff. All speakers must limit their comments to the subject matter as listed on the 'Speaker's Request Form.' No formal action can be taken on these items.

No one signed up to speak from the public.

IX. REGULAR ITEMS

- A. **CASE # BOA 18-04** to receive comments and consider action on a request by Tracey Holland for a variance as required by the Unified Development Code Section 6.3, "Spatial Requirements," to allow 5 foot side setback at 119 Industrial Drive, Kennedale, Tarrant County, Texas, more particularly described as Woodlea Acres Addition, Block 1, Lot 28G.
1. Staff presentation: Melissa Dailey provided a summary of the application, including current zoning, land use, spatial requirements as required in the Unified Development Code, and photographs of the site. Ms. Dailey stated that side setbacks that are less than the 10 feet required are very common on this street, and that there would not be any adverse consequences of a 5 foot side setback. Ms. Dailey recommended approval.
2. Applicant presentation: The applicant spoke about the need to expand so that an addition of a sewer line could be installed without the need for demolition of the existing slab. Mr. Altom asked whether the business used any chemicals that could be deemed harmful to the environment. The applicant stated that no harmful chemicals were used.
3. Public hearing: No one from the public spoke.
4. Board Discussion: The board discussed the fact that several other neighboring buildings had less than the required setbacks.
5. Action by the Board of Adjustment:

A motion to approve a variance as required by the Unified Development Code Section 6.3, "Spatial

Requirements,” to allow 5 foot side setback at 119 Industrial Drive, Kennedale was made by Azam Shaikh with a second to the motion by Josh Altom. The motion was approved unanimously.

XI. ADJOURNMENT

The meeting adjourned at 7:15 P.M.



STAFF REPORT TO THE BOARD OF ADJUSTMENT

Date: January 8, 2019

Agenda Item No: REGULAR ITEMS (A)

I. SUBJECT

CASE # BOA 18-05 to receive comments and consider action on a request by The Organic Recycler for a special exception as required by the Unified Development Code Table 6.2, "Schedule of Uses: Commercial and Industrial Districts," to allow outdoor storage at 1525 Gilman Road, Kennedale, Tarrant County, Texas, more particularly described as T. W. Moore Addition, Lot 1.

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	Special exception to allow outdoor storage
Applicant	The Organic Recycler
Location	1525 Gilman Road
Surrounding Uses	Industrial, residential
Surrounding Zoning	I, C2, AG
Future Land Use Plan Designation	Park and Open Space
Staff Recommendation	Approve with the condition that any outdoor storage not exceed 8 feet in height and not be located within floodway

CURRENT STATUS OF PROPERTY

This property is vacant and zoned Industrial. There are two vacant metal buildings on the site.

The Future Land Use Plan classifies this property as Park and Open Space, likely due to the large amount of floodplain and floodway designated area. Although the City's zoning maps show most of this property to be located within a floodplain or floodway, FEMA's latest maps show that less than half of the property at the rear to be located within a floodway. Although some of the land noted in the Future Land Use Plan as Park and Open Space could be utilized for park land at some point, the properties are in use and in private ownership.

SURROUNDING PROPERTIES & NEIGHBORHOOD

SURROUNDING PROPERTIES AND NEIGHBORHOOD

The property is located east of Kennedale Parkway in an area that is primarily industrial in use in the immediate area of the applicant site. The most prominent use in the area is a significant industrial use,

Azz Galvanizing, with extensive outdoor storage exists to the north/northwest, directly across the street. This business has large pipes stored outdoors with no screening. The property adjacent immediately adjacent to the west is a large Oncor power line with an easement that would restrict any development within that easement. Adjacent to the Oncor easement is a vacant property fronting Kennedale Parkway zoned C2 that is currently listed for sale. C2 zoning allows for light industrial uses, a likely scenario given the surrounding uses in the area. Adjacent to the east is an industrial zoned property that is also vacant. Further east and north on Gilman Road, there are some large lot single family homes in AG zoned properties. There are no residential properties adjacent to the applicant site.

ANALYSIS

STANDARDS FOR GRANTING A SPECIAL EXCEPTION.

No application for a special exception shall be granted by the Board of Adjustment unless the board finds all of the conditions described below are present.

STANDARD 1

The board must find that the establishment, maintenance or operation of the use will not be materially detrimental to or endanger the public health, safety, morals or general welfare.

The use of this property as a mulch business is allowed within the current zoning, Industrial. It is the outdoor storage that necessitates a special exception. The applicant is requesting the ability to store bagged mulch outdoors. This type of outdoor storage would not be a detriment or endanger the public health, safety, morals or general welfare. It does not create any noise, odor, contamination or crime.

STANDARD 2

The board must find that the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the use.

EXISTING AND PERMITTED USES IN THE VICINITY OF THIS LOCATION

The outdoor storage of the mulch would have no impact on the uses, values and enjoyment of other property in the neighborhood, particularly given that the most significant use is a heavier industrial use with much more significant unscreened outdoor storage. Although some residential exists in the area to the north, there are no residential uses or zoning adjacent to the property, and storage of bagged mulch outdoors would not have any impact that would be experienced by those residents.

STANDARD 3

The board must find that the establishment of the use will not significantly impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The uses adjacent to and across from this property are industrial in use, and have industrial and C2 zoning, which allows for many light industrial uses. A mulch company with outdoor storage of bagged mulch is a light industrial use that will not have a negative impact on the normal and orderly development and improvement of surrounding property. Although some residential uses exist north of the property, the existence of industrial uses in the area is likely to remain for the foreseeable future.

STANDARD 4

The board must find that adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.

According to Public Works staff, the business is served by all necessary site improvements.

STANDARD 5

The board must find that adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.

According to Public Works staff, adequate measures have been provided.

STANDARD 6

The board must find that the use shall conform to all applicable area, yard, height, lot coverage, building size and exterior requirements and parking space regulations of the district in which it is located.

There are two existing metal buildings on the site, which meet all height and setback requirements. All required parking on site will be required to be paved with asphalt or concrete and meet the minimum required parking spaces. The outdoor storage would be required to meet all setback requirements.

STAFF RECOMMENDATION

Based on the above analysis, staff recommends approval of the special exception subject to the following conditions.

RECOMMENDED CONDITIONS OF APPROVAL:

- 1) Outdoor storage must be limited to bagged mulch.
- 2) Outdoor storage areas must be maintained in neat condition.

- 3) Outdoor storage must not be stacked more than eight (8) feet high.
- 4) Outdoor storage must be placed outside of the floodway defined by elevations noted in the most recent FEMA map.

ACTION BY THE BOARD OF ADJUSTMENT

The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.

Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a special exception and make a motion to approve case BOA 18-05.

Deny: Based on the evidence and testimony provided, I find that the proposed request does not meet the standards for a special exception and make a motion to case BOA 18-05.

Approve with Conditions: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a special exception and make a motion to approve case BOA 18-05 with the following conditions (state conditions).



STAFF REPORT TO THE BOARD OF ADJUSTMENT

Date: January 8, 2019

Agenda Item No: REGULAR ITEMS (B)

I. SUBJECT

CASE # BOA 18-06 to receive comments and consider action on a request by The Organic Recycler for a variance as required by the Unified Development Code Section 13.8.G.5, "Outdoor Storage," of outdoor storage screening at 1525 Gilman Road, Kennedale, Tarrant County, Texas, more particularly described as T. W. Moore Addition, Lot 1.

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	A variance to the requirement of outdoor storage screening to not provide screening
Applicant	The Organic Recycler
Location	1525 Gilman Road
Surrounding Uses	Industrial, single family residential
Future Land Use Plan Designation	Park and Open Space
Staff Recommendation	Approve

CURRENT STATUS OF PROPERTY

This property is vacant and zoned Industrial. There are two vacant metal buildings on the site.

The Future Land Use Plan classifies this property as Park and Open Space, likely due to the large amount of floodplain and floodway designated area. Although the City's zoning maps show most of this property to be located within a floodplain or floodway, FEMA's latest maps show that less than half of the property at the rear to be located within a floodway. Although some of the land noted in the Future Land Use Plan as Park and Open Space could be utilized for park land at some point, the properties are in use and in private ownership.

SURROUNDING PROPERTIES & NEIGHBORHOOD

The property is located east of Kennedale Parkway in an area that is primarily industrial in use in the immediate area of the applicant site. The most prominent use in the area is a significant industrial use, Azz Galvanizing, with extensive outdoor storage exists to the north/northwest, directly across the street. This business has large pipes stored outdoors with no screening. The property adjacent immediately

adjacent to the west is a large Oncor power line with an easement that would restrict any development within that easement. Adjacent to the Oncor easement is a vacant property fronting Kennedale Parkway zoned C2 that is currently listed for sale. C2 zoning allows for light industrial uses, a likely scenario given the surrounding uses in the area. Adjacent to the east is an industrial zoned property that is also vacant. Further east and north on Gilman Road, there are some large lot single family homes in AG zoned properties. There are no residential properties adjacent to the applicant site.

REQUIREMENTS FOR A VARIANCE

The following criteria shall be considered for a variance.

ANALYSIS

(1) Is the request owing to a special condition inherent in the property itself?

Yes, in that this property is industrial and surrounding by heavier industrial uses with outdoor storage that does not have screening.

(2) Is the condition unique to the property for which a variance is created?

Essentially, yes. The unique condition is that this is an area that was annexed and therefore has significant unscreened outdoor storage, a condition that is likely to remain for the foreseeable future. Adjacent properties are industrial in zoning and use, being a galvanized pipe company, a vacant industrial property, and a large Oncor easement with utility poles.

(3) Is the condition self-created?

No. The industrial character of the area has been in existence for many years.

(4) Will a strict enforcement of the zoning ordinance create a hardship above that suffered by the general public?

No, the public would not suffer a hardship.

(5) Will the hardship deprive the property owner of the right to use his property?

No. The property owner could use the property with or without screening.

(6) Would granting the variance be contrary to the public interest?

No. Given the industrial nature of this area, a mulch company is a good fit, and any screening would only be screening along other similar or higher level industrial uses.

(7) Is the request within the spirit of the ordinance and further substantial justice?

Yes. Mulch is a natural material and is not a noxious use. Screening along property lines of other higher level industrial uses is not needed in this location.

STAFF RECOMMENDATION

Will the literal enforcement of the provisions of this article result in an unnecessary hardship?

Yes, in that this company would be the only one in this industrial area required to provide screening, that would only screen mulch from other industrial uses. Based on the above analysis, staff recommends granting the request for a variance.

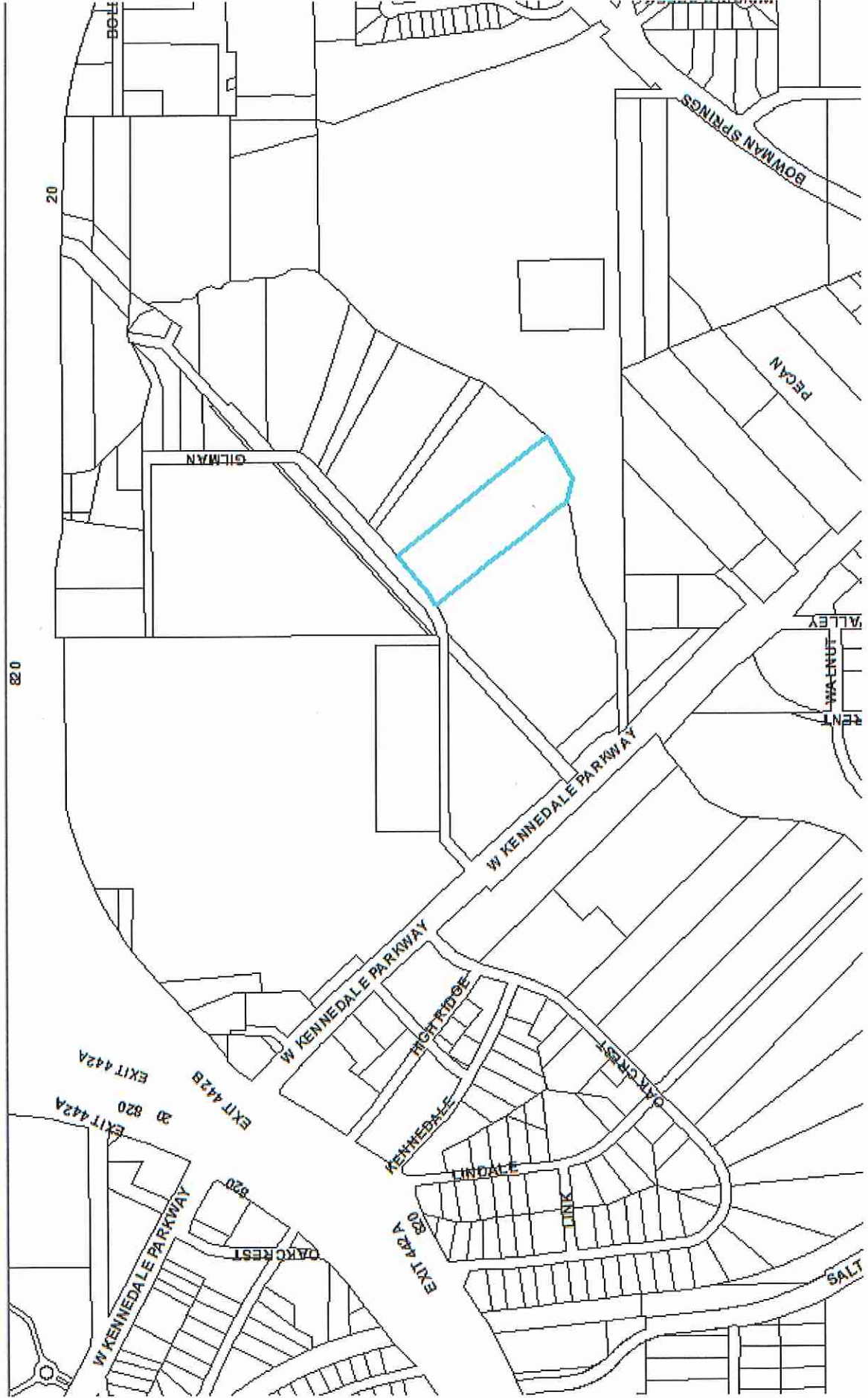
ACTION BY THE BOARD OF ADJUSTMENT

The board may grant or deny the request or postpone its vote until a later date. If you postpone your decision, you should state in your motion when the case will be heard by the board again. Sample motions are provided for your reference below. You are not required to use either of the motions provided, but your motion should state why you are granting or denying the request.

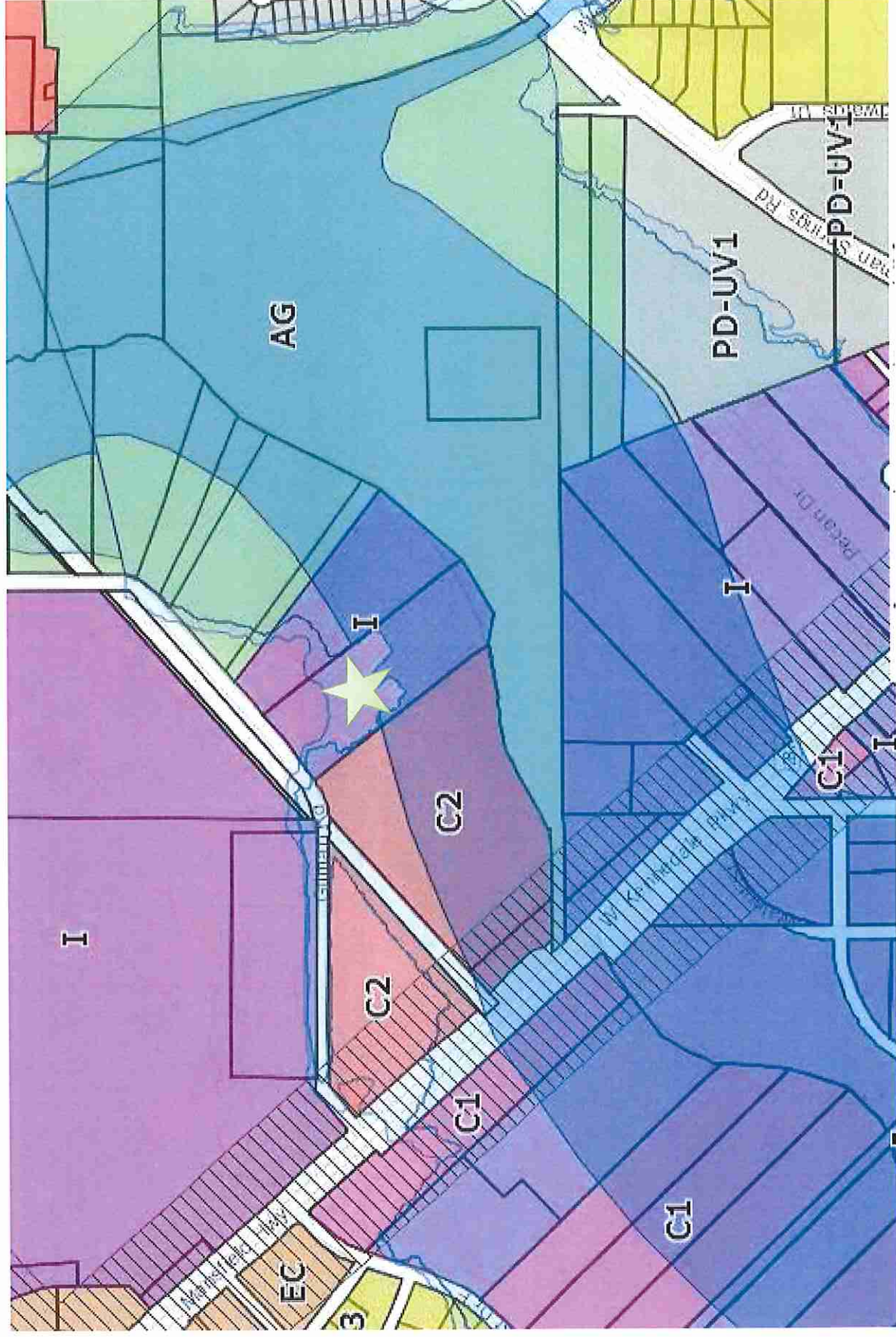
Approve: Based on the evidence and testimony provided, I find that the proposed request meets the standards for a variance and make a motion to approve the requested variance.

Deny: Based on the evidence and testimony provided, I find that the proposed use does not meet the standards for a variance and make a motion to deny the request.

1525 Gilman Road



1525 Gilman Road Zoning



1525 Gilman Road

