

**BOARD OF ADJUSTMENT AND
BUILDING BOARD OF APPEALS AGENDA
REGULAR MEETING
TUESDAY, SEPTEMBER 8, 2020 6:00 PM
VIA VIDEOCONFERENCE**

**MEMBERS OF THE PUBLIC MAY JOIN BY VISITING
<https://us02web.zoom.us/j/7732695410> AND/OR BY DIALING 877 853 5257 AND
USING MEETING ID Meeting ID: 773 269 5410**

I. CALL TO ORDER

NOTE: Pursuant to Texas Government Code §551.071, the Board reserves the right to adjourn into Executive Session at any time during the Work Session or the Regular Session to discuss posted Executive Session items or to seek legal advice from the City Attorney on any item posted on the agenda.

II. REGULAR SESSION

III. ROLL CALL

IV. SWEARING IN OF SPEAKERS

V. VISITOR AND CITIZEN FORUM

At this time, any person may address the board or governing body, provided that an official 'Speaker's Request Form' has been submitted to the secretary prior to the start of the meeting. All comments must be directed towards the body as a whole, rather than individual 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.

VI. REPORTS AND ANNOUNCEMENTS

VII. MINUTES APPROVAL

- A. Consider approval of minutes for the August 11, 2020 regular meeting

VIII. DECISION ITEMS

- A. **CASE # BOA 20-05** to receive comments and consider action on a request for a special exception by Kerwin Branch for the special exception use of Outdoor Storage as required by Section 6.2 of the Unified Development Code for 221 Valley Lane, Lot 5, Block 13, Oak Crest Addition, City of Kennedale, Tarrant County, Texas

IX. EXECUTIVE SESSION *The Board of Adjustment/Board of Appeals 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 Board of Adjustment/Board of Appeals under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Government Code.*

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

XI. ADJOURNMENT

CERTIFICATION

I DO HEREBY CERTIFY THAT THE SEPTEMBER 8, 2020 BOARD OF ADJUSTMENT AND BUILDING BOARD OF APPEALS AGENDA WAS POSTED INSIDE THE MAIN ENTRANCE OF CITY HALL (405 MUNICIPAL DRIVE), IN A PLACE CONVENIENT AND READILY ACCESSIBLE TO THE GENERAL PUBLIC AT ALL TIMES; AND THAT SAID AGENDA WAS POSTED AT LEAST SEVENTY-TWO (72) HOURS PRECEDING THE SCHEDULED TIME OF SAID MEETING, IN ACCORDANCE WITH CHAPTER 551 OF THE TEXAS GOVERNMENT CODE.



MELISSA DAILEY, AICP
DIRECTOR OF PLANNING AND
ECONOMIC DEVELOPMENT

In compliance with the Americans with Disabilities Act (ADA), the City of Kennedale will provide for reasonable accommodations for persons attending meetings. This facility is wheelchair accessible and accessible parking spaces are available. Requests for sign interpreter services must be made forty-eight (48) hours prior to the meeting by calling 817-985-2104 or (TTY) 1-800-735-2989.

CREATED 9/4/2020 10:06 AM

POSTED _____ (DATE) _____ (TIME)

**BOARD OF ADJUSTMENT AND
BUILDING BOARD OF APPEALS
MINUTES**

**REGULAR MEETING | August 11, 2020 at 6:00 PM
CITY HALL COUNCIL CHAMBERS, 405 MUNICIPAL DRIVE**

I. CALL TO ORDER

Chairman Jeff Nevarez called the meeting to order at 6:00 PM

II. REGULAR SESSION

III. ROLL CALL

PLACE	COMMISSIONER	PRESENT	ABSENT
1	Azam Shaikh	X	
2	Jeff Nevarez	X	
3	Kelli Rod	X	
4	Martin Young	X	
5	Lana Sather	X	
6	Jeremy Johnston, alternate		X
7	Josh Virnoche, alternate		X
8	Thelma Kobeck, alternate	X	
9	Patrick Vader, alternate	X	

IV. SWEARING IN OF SPEAKERS

Applicants Phong Nguyen and Farshid Ighani sworn in by Board Secretary Meghan Riddlespurger.

V. VISITOR AND CITIZEN FORUM

No citizens spoke.

VI. REPORTS AND ANNOUNCEMENTS

Mr. Nevarez announced that an updated Kennedale News website is available, and that an app will be available soon for mobile users.

Thelma Kobeck announced that US Census workers will be going door to door to collect census responses and stated all residents should fill out their census.

VII. MINUTES APPROVAL

- A. Consider approval of minutes from the June 23, 2020 regular meeting.

A motion was made by Azam Shaikh to approve the minutes from June 23, 2020 with a correction to amend Roll Call to reflect that Board Member Thelma Kobeck was present. Martin Young seconded the motion. The motion passed unanimously.

VIII. DECISION ITEMS

- A. CASE # BOA 20-03 to receive comments and consider action on a request for a special exception by Phong Nguyen for the special exception use of Outdoor Storage as required by Section 6.2 of the Unified Development Code for 7084 E Kennedale Parkway, Block 1, Lot 1, Elam Addition, City of Kennedale, Tarrant County, Texas.

Staff Presentation

Planning and Economic Development Director Melissa Dailey reviewed the special exception request. She stated that the applicant is requesting a special exception for outdoor storage for their business MKP Freight to store large trucks, RVs, and other vehicles. Ms. Dailey reviewed the surrounding zoning and uses. She stated salvage yards surrounding the property are in the process of closing and that the future land use calls for light industrial uses.

Ms. Dailey reviewed requirements for the issuance of a special exception and stated that the special exception for outdoor storage requested for this property does not meet several of the requirements: The stored vehicles may create environmental issues with close proximity to creeks, the use may create hardships for surrounding allowed uses, and the outdoor storage of vehicles may create challenges for development of surrounding properties. She stated due to not meeting standards, staff recommends denial of the special exception. She stated no notification forms were received from surrounding property owners.

Public Hearing

Applicant Phong Nguyen stated that the special exception will allow the proposed business at this site to store semi-truck tractors with trailers. He stated the property would serve as a place to part the trucks to be dispatched to locations as needed, and that the business would operate a dispatch office on the property. He stated that there will be light mechanical work performed on the trucks on the property. He clarified to Board members that the business would initially store three functioning trucks and no boats or other vehicles. He stated the property has historically been used in similar capacities. Mr. Nevarez closed the public hearing at 6:20 p.m.

Board Discussion

Kelli Rod asked whether the ingress and egress requirements are met to allow semi-truck access. Ms. Dailey stated that the lot would be reviewed for the specific use when the applicant applies for a Certificate of Occupancy.

Mr. Nevarez stated that he is aware there is a shortage of semi-truck parking in the DFW metroplex, and that allowing the use in Kennedale may open the floodgates for similar requests. He stated many cities do not want this type of use because of negative externalities

related to semi-truck parking lots. Lana Sather stated that if the Board approved the request, they could require conditions to avoid crime and camping concerns.

Ms. Rod stated this does not fit the future land use map and that adjacent properties are experiencing significant ongoing challenges. She stated the capacity on the lot would not allow this use because the capacity cannot scale with an increase in the number of vehicles.

Ms. Sather stated it is hard to regulate these uses once they are allowed. Mr. Shaikh concurred. Mr. Young stated this is not consistent with the future land use map and that the area is beginning the process of improving.

Mr. Shaikh made a motion to deny the special exception request. Ms. Sather seconded the motion. The motion passed unanimously.

- B. CASE # BOA 20-04 to receive comments and consider action on a request for a variance by Farshid Ighani as required by the Unified Development Code, Section 10.15 requiring the water's edge of swimming pools to be located at least eight (8) feet from the principle building for the property located at 505 Pennsylvania Avenue, City of Kennedale, Tarrant County, Texas.

Staff Presentation

Ms. Dailey reviewed the request and details regarding the property dimensions. She stated that a reduction is currently being considered for the minimum front setback for some residential zoning categories which will allow larger rear yards to mitigate the size limitations for pools in future rear yards. She stated that the location of the retaining wall in the center of the yard and a utility easement on the rear create unique challenges for the yard. She stated that strict enforcement of the zoning ordinance would create a unique hardship for the property and deprive the property owner of use of their property. She stated that three notification response forms were received in support of the request. She stated the request is within the spirit of the ordinance. She stated that staff recommends approval.

Mr. Young and Mr. Shaikh asked for clarification regarding the pool size. Ms. Dailey stated the key issue is the width of the pool which will be affected by the variance. She stated without the variance, a width of only 6 feet would be allowed. Mr. Young asked for clarification regarding fire access. She stated the setback to the nearest wall is larger than 8 feet, but that the setback is regarding the enclosed porch. The applicant stated the porch is enclosed with glass.

Public Hearing

Applicant Mr. Ighani stated that the hardships on the property would only allow a width of under 7 feet, and the applicant stated he is 6'4" tall, so the pool would functionally be a narrow lap pool. He stated that if the variance were granted, the pool would be approximately 11 feet wide which would allow the property owners to build a functioning pool.

Ms. Rod asked for clarification regarding the proposed pool location. She also asked whether the easement is being used. The applicant offered clarification of the pool location and stated the easement is not currently being used but could be used in the future. Mr. Nevarez closed the public hearing at 6:45 p.m.

Board Discussion

Mr. Young asked for clarification regarding whether the porch is enclosed. The applicant stated the porch is enclosed with glass that can be opened.

Mr. Shaikh made a motion to approve the variance request. Ms. Rod seconded the motion. The motion passed unanimously.

XII. ADJOURNMENT

Mr. Shaikh made a motion to adjourn the meeting. Ms. Rod seconded the motion. The motion passed unanimously. The meeting was adjourned at 6:50 p.m.

Date: September 8,, 2020
Agenda Item No: REGULAR ITEMS (A)

I. SUBJECT

CASE # BOA 20-05 to receive comments and consider action on a request for a special exception by Kerwin Branch for the special exception use of Outdoor Storage as required by Section 6.2 of the Unified Development Code for 221 Valley Lane, Lot 5, Block 13, Oak Crest Addition, City of Kennedale, Tarrant County, Texas.

II. SUMMARY

BACKGROUND AND OVERVIEW

Request	Special exception to allow outdoor storage
Applicant	Kerwin Branch
Location	414 S New Hope Rd
Surrounding Uses	Light and heavy industrial, residential, vacant land
Surrounding Zoning	I, OT4, AG, R3
Future Land Use Plan Designation	Park and open space
Staff Recommendation	Deny

CURRENT STATUS OF PROPERTY

This property is vacant land with variance vehicles, trucks and trailers parked on it. There is no principle building on the site, so the storage of vehicles and trailers would be the primary use, thus requiring a special exception for outdoor storage. Of the 2.37 acre tract, 1.7 acres on the northern part is within a flood plain.

SURROUNDING PROPERTIES & NEIGHBORHOOD

SURROUNDING PROPERTIES AND NEIGHBORHOOD

Properties in the immediate vicinity are a combination of heavy and light industrial uses, including Approximately 1/3 of a mile northwest is the Oakcrest neighborhood, a primarily single family neighborhood. Part of that area is zoned "EC" – Employment Center – with the intent of bringing a mix of uses in an urban, walkable form. A Tru Hotel is planned in this area. There are numerous auto salvage yards in the immediate area which are legal, non-conforming uses. At the point at which any of those businesses are no longer in business, those uses would not be able to continue without an issuance of a special exception. The salvage yards, along with most uses in the area are in a flood zone due to the location of the creek through this area.

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.

This area is designated and park and open space in the Comprehensive Plan because most of the area is in a flood zone. Over 70% of this property lies in a flood plain. Village Creek is only about 500 feet from this property. Continuing and expanding the use of vehicle storage in a flood zone and close to the creek could be detrimental to public health issue and general welfare due to leaking fluids that can flow into the creek, as well as the visual pollution along the creek.

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

Although the surrounding area is zoned Industrial, most outdoor storage of vehicles is legal non-conforming. The immediate area is envisioned in the Comprehensive Plan to be parks and open space due to the area being in a flood plain, and the adjacent neighborhood is envisioned to continue to be residential. The residential uses already permitted in the area as well as the area to be redeveloped that is zoned Employment Center would be impaired and diminished by this use and by adding to vehicle storage already in the area, most of which is legal non-conforming.

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.

Allowing for outdoor vehicle storage on this site, which continues to expand this use in the area does serve as a deterrent for improving the Oak Crest residential development nearby and needed infill

development. Development of vacant land in the Employment Center district will also be impeded by continuing to expand the use of vehicle storage in the area.

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 property 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 is no building on this site. The primary use would be outdoor storage of vehicles and trailers.

STAFF RECOMMENDATION

Based on the above analysis, staff recommends denial of the special exception.

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 20-01.

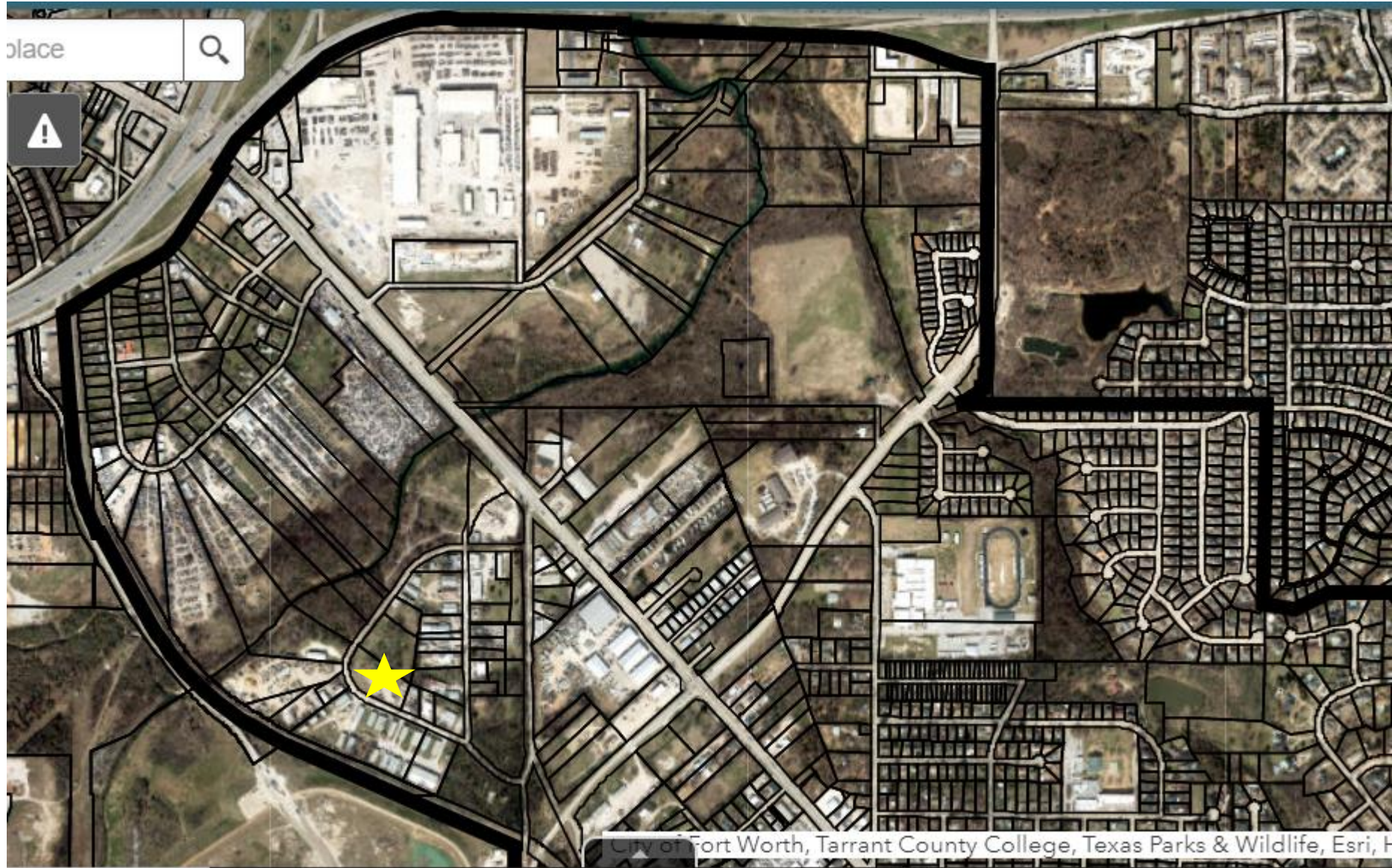
Deny: Based on the evidence and testimony provided, I find that the proposed request does not meet the standards for a special exception and make a motion to case BOA 20-01.

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 20-01 with the following conditions (state conditions).

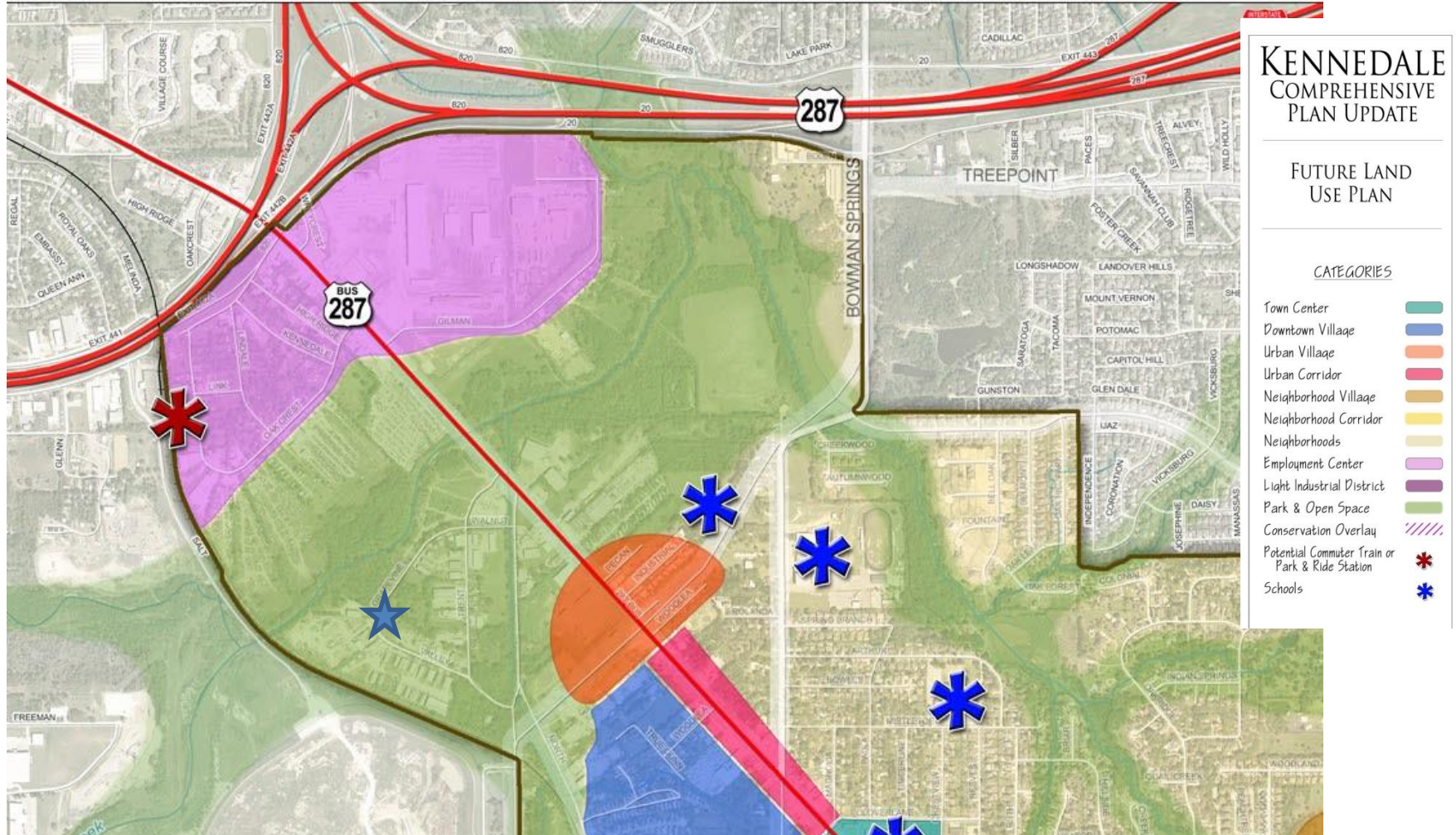
BOA 20-05 221 Valley Ln



BOA 20-05 221 Valley Ln



BOA 20-05 221 Valley Ln



★ Subject property

BOA 20-05 221 Valley Ln

