

STAFF REPORT



Meeting: February 17, 2015

To: City Council

From: Patrick B. Howard, AICP
Director

Through: Rebeca A. Guerra, AICP, LEED-AP, CPD
Planning Manager

Case: Z14-37

Request: Rezoning from Office Warehouse (OW) to Neighborhood Commercial (CN)

Location: 428 Montague Avenue, located approximately 240 feet southeast of the intersection of Montague Avenue and the Houston Harte Expressway Frontage Road; and an unaddressed tract, located at the southeast corner of Montague Avenue and the Houston Harte Expressway Frontage Road.

Legal Description: 2.790 Acres of the G Schubitz Survey, Abst: A-1854 S-0326; and 1.861 Acres of the G Schubitz Survey, Abst: A-1854 S-0326.

Size: 4.651 acres

Caption First Public Hearing and consideration of introduction of an Ordinance amending Chapter 12, Exhibit "A" (Zoning Ordinance) of the Code of Ordinances, City of San Angelo

Z14-37: Jeff Caloway

AN ORDINANCE AMENDING CHAPTER 12, EXHIBIT “A” OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO, TEXAS, WHICH SAID EXHIBIT “A” OF CHAPTER 12 ADOPTS ZONING REGULATIONS, USE DISTRICTS AND A ZONING MAP, IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY CHANGING THE ZONING AND CLASSIFICATION OF THE FOLLOWING PROPERTY, TO WIT: **428 Montague Avenue, located approximately 240 feet southeast of the intersection of Montague Avenue and the Houston Harte Expressway Frontage Road, more specifically occupying 2.790 Acres of the G Schubitz Survey, Abst: A-1854 S-0326; and 1.861 Acres of the G Schubitz Survey, Abst: A-1854 S-0326, in the PaulAnn neighborhood, a request for approval of a zone change from Office Warehouse (CG) to Neighborhood Commercial (CN); PROVIDING FOR SEVERABILITY AND PROVIDING A PENALTY**

General Information

Future Land Use: Transitional
Zoning: Office Warehouse (OW)
Existing Land Use: Vacant land
Surrounding Zoning / Land Use:

North:	Office Warehouse (OW) Single Family Residential (RS-1)	Vacant Land Single family dwellings
West:	Single Family Residential (RS-1)	Single family dwellings
South:	Single Family Residential (RS-1)	Single family dwellings
East:	General Commercial (CG)	Vacant Land Shannon Medical Center

District: CMD#4 – Don Vardeman
Neighborhood: PaulAnn Neighborhood

Thoroughfares/Streets: Per the Master Thoroughfare Plan (MTP), Montague Avenue is identified as Local Street. Local streets allow direct access to residential and commercial properties and similar traffic destinations. Direct access to abutting land is essential, for all traffic originates from or is destined to abutting land. Through traffic should be discouraged, volumes are low, and speed is slow. The MTP requires Montague Avenue to have a minimum paving width of 36 feet with a 4 foot wide sidewalk installed on one side of the street Right-of-Way or a minimum paving width of 40 feet with no such sidewalk; and a minimum right-of-way width of 50 feet. At present the paving width is approximately 30 feet wide with a 50-foot right-of-way. Per the MTP, the Houston Harte Expressway Frontage Road is identified as Local Street and requires that this street have a minimum paving width of 36 feet with a 4 foot wide sidewalk installed on one side of the street Right-of-Way or a minimum paving width of 40 feet with no such sidewalk; and a minimum right-of-way width of 50 feet. At present, the paving width is approximately 36 feet wide with an 80-foot right-of-way.

Recommendation:

The Planning Division recommends **APPROVAL** of Rezoning request for **Neighborhood Commercial (CN)**.

On January 26, 2015, the Planning Commission recommended **APPROVAL** of the applicant's request for a Rezoning to Neighborhood Commercial by a unanimous 5–0 vote. The following is the complete excerpt of the minutes from the January 26, 2015, meeting for this case:

Senior Planner Santiago Abasolo outlined the case. The applicant proposed a Rezoning request from the Office Warehouse zoning district to the General Commercial zoning district. Staff recommended Neighborhood Commercial instead of General Commercial which appears to be consistent with a "Transitional" Future Land Use designation. Mr. Abasolo also indicated that the Neighborhood Commercial zoning district would also serve as a buffer and lower intensity development compatible with lower density areas to west and south.

Mr. Farmer asked the applicant what he was trying to develop on the site. Mr. Abasolo responded that the proponent had not informed Staff.

Jesse Calloway, the applicant, indicated that he is attempting to develop retail uses and a fast food restaurant and that Neighborhood Commercial zoning district meets his needs.

Mr. Calloway stated that he was in agreement with staff recommendation to rezone the subject properties to Neighborhood Commercial.

Mr. Smith made a Motion to deny the request for a General Commercial zoning district and to approve a Rezoning to the Neighborhood Commercial zoning district. Mr. Farmer seconded the Motion, and it was approved unanimously by a vote of 5-0.

History and Background:

On December 4, 2014, the applicant submitted an application for a Rezoning on the subject properties from Office Warehouse (OW) to General Commercial (CG). Staff has not yet been made aware of the applicant's proposed use for the subject properties. However, the recommendation and analysis provided in this report reflects a more global examination of the subject site's Future Land Use designation and its proximity to single-family residential. To this end, Staff is recommending that a Rezoning to the Neighborhood Commercial zoning district be considered for approval by the Commission, rather than the applicant's request for General Commercial. In spite of not being informed as to the ultimate use for the properties, Neighborhood Commercial appears to be the most compatible and consistent zoning district for the site.

Analysis:

Section 212(G) of the Zoning Ordinance requires that the Planning Commission and City Council consider, at minimum, seven (7) factors in determining the appropriateness of any Rezoning request.

1. **Compatible with Plans and Policies.** *Whether the proposed amendment is compatible with the Comprehensive Plan and any other land use policies adopted by the Planning Commission or City Council.*

The subject properties are designated “Transitional” on the Future Land Use (FLU) map of the City’s Comprehensive Plan (CP). The proposed General Commercial (CG) zoning district does not appear to be consistent with the Transitional FLU designation. The Transitional designation defines two types of transitional situations. The first type refers to the conversion of commercial corridor frontage from CG/CH zoning and related strip-style development, and the second addresses how Neighborhood Centers, Downtown, or other Commercial areas may be bridged to neighborhoods. In both cases, Transition Areas provide for a scaling back of activity from more intense areas to neighborhoods which should be more passive in character. In general, Transition Areas imply increased density and greater mix of uses than neighborhoods, but not as much as in Neighborhood Centers, Downtown, or other Commercial areas. These properties appear to be ideal for a lower intensity development consistent with the Neighborhood areas to the West and South. This Transitional area blends the more intense recommended Commercial area to the East of the subject properties with the recommended Neighborhood areas previously mentioned. Having Neighborhood areas directly adjacent to a Commercial area without some type of buffer development will not easily allow for the scaling back of intensive

commercial areas into neighborhoods. The Transitional area, as explained in the Comprehensive Plan, calls for “a graduate density and intensity of activity to maintain connectivity, improve pedestrian experience, and provide for increased housing and nonresidential options.”

2. **Consistent with Zoning Ordinance.** *Whether and the extent to which the proposed amendment would conflict with any portion of this Zoning Ordinance.*

The NC zoning district allows for a variety of uses including offices, restaurants, retail sales and service, and limited vehicle service, as well as community services and day care centers. The minimum lot area in the CN zoning district is 6,000 square feet and the property is 202,597.56 square feet. The CN zoning district requires a minimum width of 50 feet and a minimum depth of 80 feet, and the properties are approximately 380 feet wide by 533 feet long. Section 509 of the Zoning Ordinance will require the erection of a 6-foot high opaque privacy

fence along the south property lines abutting residential zoning districts and along the east property lines abutting any residential use. Any future nonresidential development in CN zoning district will require a 25 foot minimum front yard, and if the future use is adjacent to a residential district or use, the minimum required side and rear yards is 10 foot. For residential uses the minimum front yard varies from 15 to 25 feet and the minimum side yard varies from 0 to 20. Given the size of the subject properties, it would appear that any future development would be able to comply with these requirements.

3. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zoning district for the land.*

The General Commercial (CG) zoning district does not appear to be compatible with the residential areas to the west and south of the subject properties. The CG district allows for large scale residential and commercial developments with no height limitations that are out of scale with the surrounding residential areas single-story construction. Further, per the Future Land Use (FLU) map of the City's Comprehensive Plan (CP), the surrounding areas are designated Transitional to the west and south, Residential to the west, south and north and Commercial to the East and North. A Neighborhood Commercial (NC) zoning designation for the subject properties appears to be compatible with Transitional and the surrounding area because it will allow the development of residential uses with a maximum height of 35 feet which is compatible with the adjacent residential areas. The Neighborhood Commercial district will also allow for the development of commercial and institutional uses with a maximum height of 35 feet, which will provide greater consistency with the surrounding area than the CG zoning district that does not have any height restrictions. The Neighborhood Commercial zoning designation requires a Maximum Floor Area Ratio (FAR) of 0.6 which is more compatible with the surrounding residential area than the FAR allowed in General Commercial district which is 2. A higher FAR translates into a more intense type of development that might not be compatible with the existing residential area and the proposed Transitional land development category of the Comprehensive Plan. Finally, the Neighborhood Commercial zoning designation, unlike the General Commercial zoning designation, requires that any Outdoor Display shall only be "allowed adjacent to a principal building and extending to a distance no greater than 5 feet from the wall." In addition, storage is not permitted to block windows, entrances, and shall "impair the ability of pedestrians to use the building." These requirements appear to be more compatible with the surrounding residential area than the regulations for the General Commercial zoning district, as CG would allow for up to 1,000 square feet or 10 percent of the total site area (whichever is greater) of Outdoor Storage.

4. **Changed Conditions.** *Whether and the extent to which there are changed conditions that require an amendment.*

The property is currently vacant and is surrounded by residential designations to the west and south. The proposed type of development found in the Vision Plan seems to support the Neighborhood Commercial district designation. This proposed mixed use development with commercial uses along the Houston Harte frontage road and residential development along Montague Avenue will allow new development in the area linking the existing institutional and commercial areas with the existing residential developments.

5. **Effect on Natural Environment.** *Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment, including but not limited to water and air quality, noise, storm water management, wildlife, vegetation, wetlands and the practical functioning of the natural environment.*

If the subject properties are rezoned as General Commercial, the adjacent residential areas may be affected by more noise created by the additional traffic generated from the more intense type of development allowed in the General Commercial zoning district. Any grading, drainage and stormwater issues would be reviewed by Engineering Staff at the building permit stage.

6. **Community Need.** *Whether and the extent to which the proposed amendment addresses a demonstrated community need.*

The Future Land Use (FLU) map of the Comprehensive Plan recommends Neighborhood and Transitional land uses to the west and south of the subject properties. The Transitional FLU provides a buffer between the recommended Commercial land use to the east of the properties and the Neighborhood FLU to the west and south. A land use buffer provides a type of development compatible with the adjacent residential uses, while also allowing for a nonresidential development such as retail, offices, community services, restaurants, and other land used that will be supported by the surrounding residential areas. An NC zoning in this area acts as a land use buffer in that it creates an intermediate type of development between the recommended Commercial land uses to the east of the properties and the Neighborhood land uses recommended to the west and south of the subject properties. The Commercial land uses are intended to support large retail and office clusters that seek visibility and convenient access offered by frontage roads. The uses allowed in CG zoning district have no height limitation and the FAR is 2, which translate into larger types of development that do not seem to be supported by the demand generated by the existing land uses and recommended land uses in the Future Land Use map of the Comprehensive

Plan. The CN district seems to better support the existing and future development demand recommended for this area. It also appears to fill the need for the type of less intense commercial development that will link the existing residential areas to the west and south of the subject properties with the commercial and institutional uses to the east of proposed rezoning area.

7. Development Patterns. *Whether and the extent to which the proposed amendment would result in a logical and orderly pattern of urban development in the community.*

The proposed rezoning from the OW zoning district to the CG zoning district does not seem to fit the existing and proposed development patterns for the area. The existing and recommended residential areas surrounding the subject properties have not experienced the type development activity that would support a CG district adjacent to residential areas. The development patterns for these residential areas appear to better support a NC zoning district that would allow a more intense type of development than the existing and recommended residential uses to the south and west of the properties but a less intense type of development than the existing Institutional uses and the recommended Commercial land uses to the east of the properties.

Notification:

On January 11, 2015, nine (9) notifications were mailed out within a 200-foot radius of the subject site. As of February 6, 2015, there were 0 responses in favor and 0 responses in opposition of the request.

Action Requested:

The action requested is for City Council to **APPROVE** Case Z14-37 for a Rezoning to the Neighborhood Commercial (CN) zoning district.

Attachments:

Aerial Map
Future Land Use Map
Zoning Map
Major Thoroughfare Map
Notification Map
List of Individuals/Entities Notified
Draft Ordinance



Zoning Case File

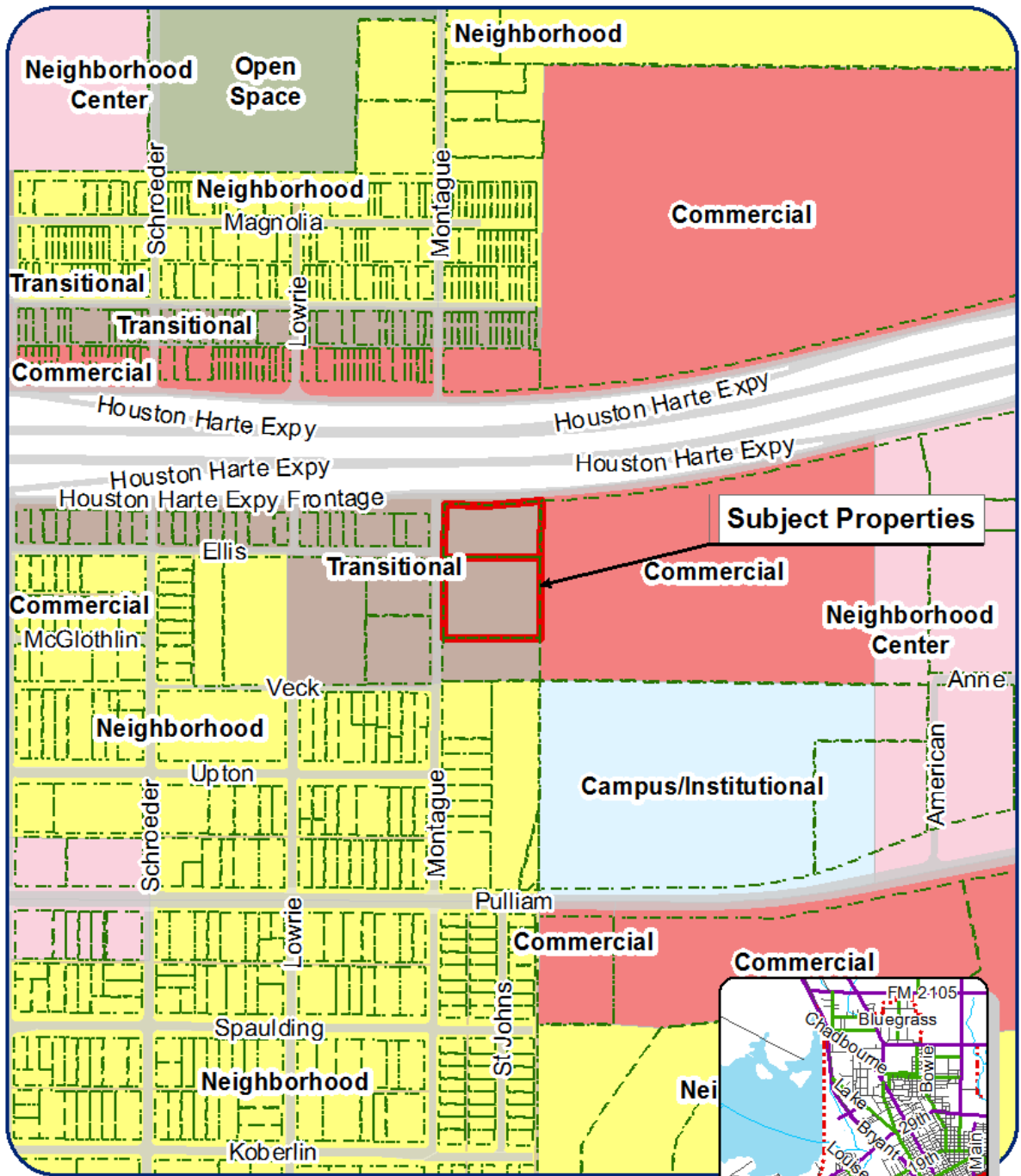
Case Z14-37: Jesse Caloway

Council District: Don Vardeman
 Neighborhood: PaulAnn
 Scale: 1" approx. = 500 ft
 Subject Property: 428 Montague

Legend

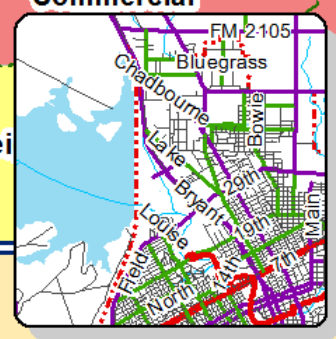
- Subject Properties: —
- Current Zoning: **OW**
- Requested Zoning Change: **CG**
- Vision: **Transitional**

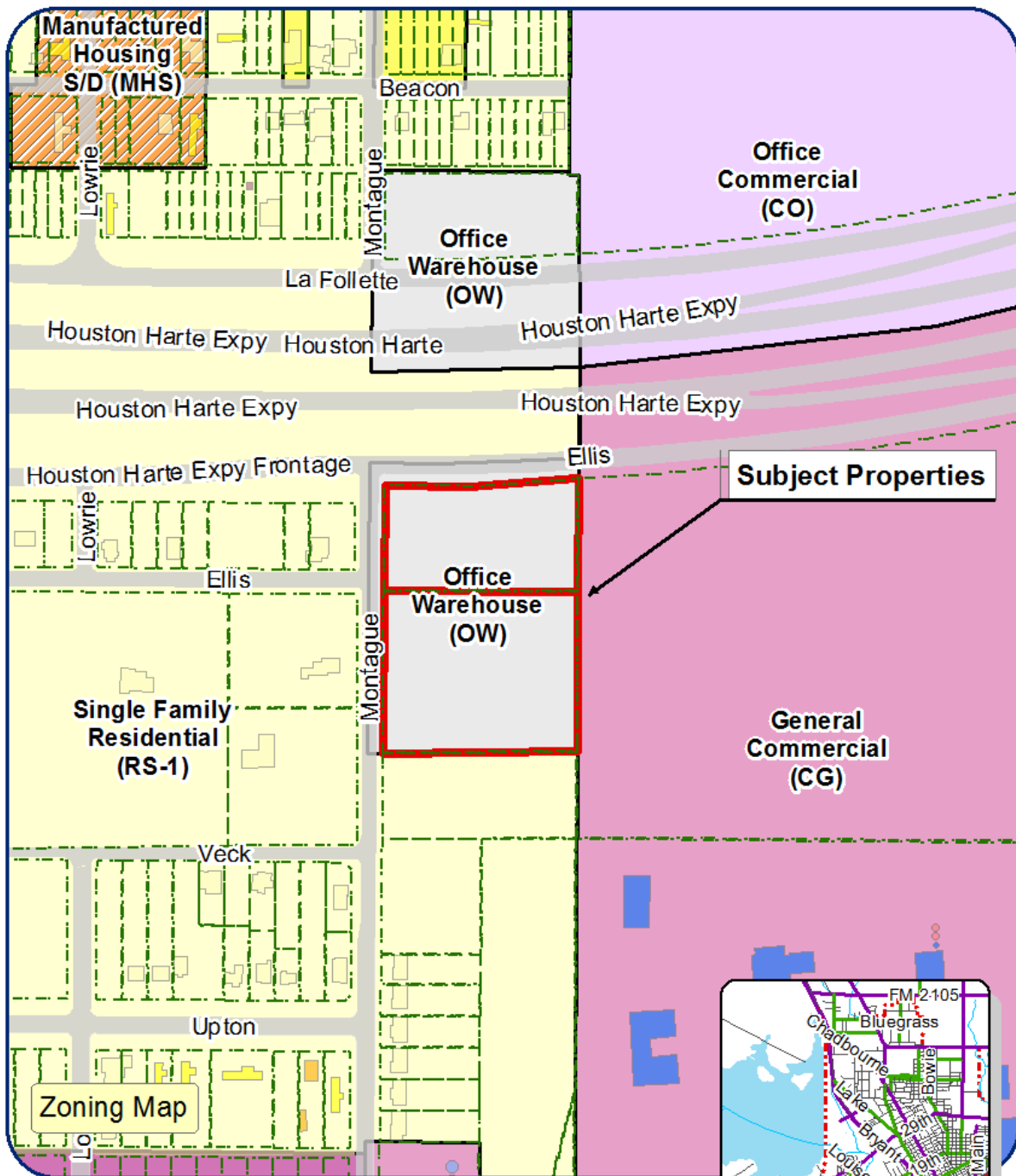




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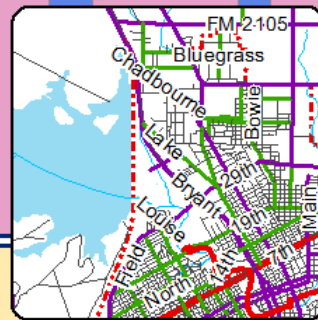
Zoning Case File

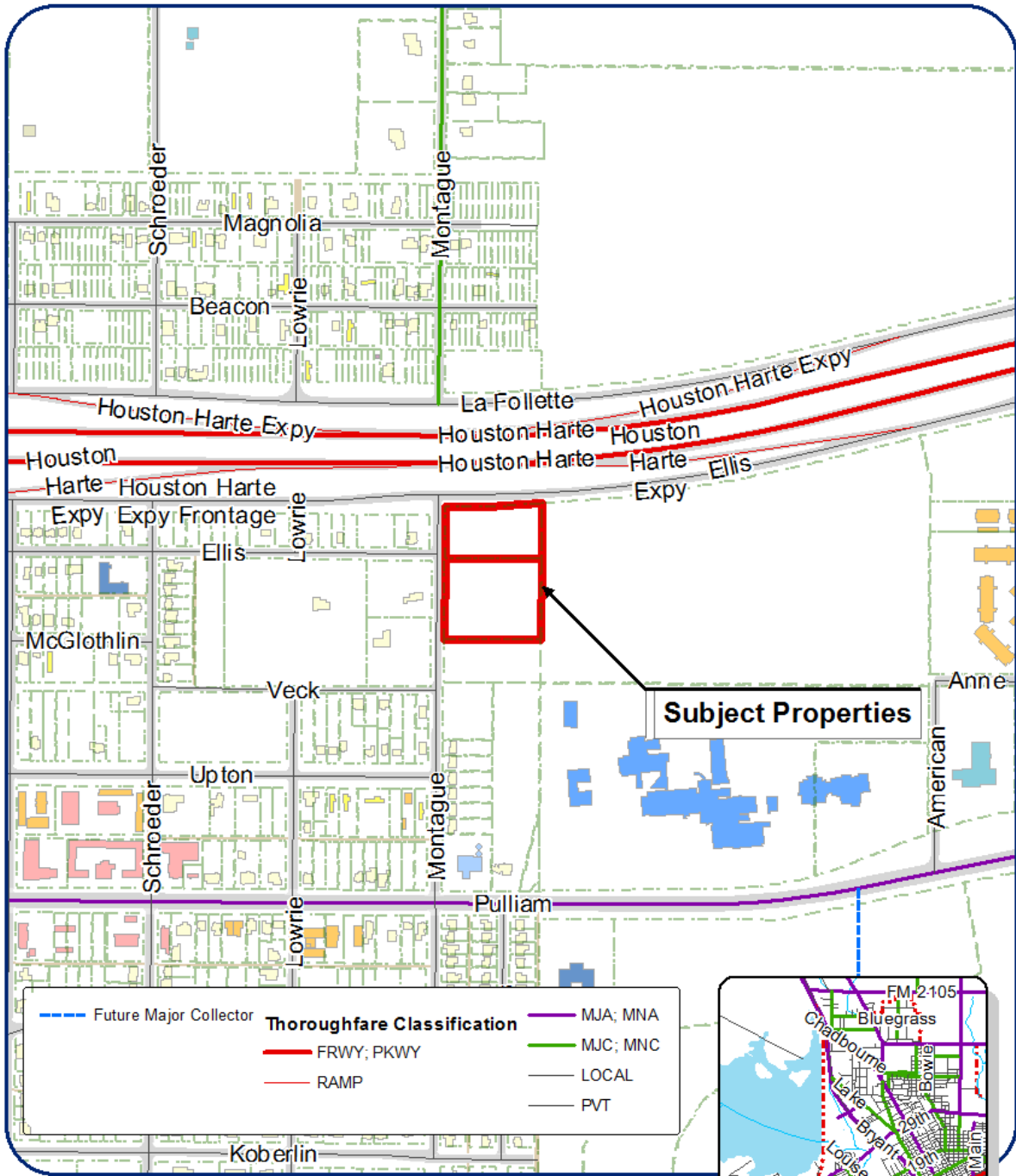
Case Z14-37: Jesse Caloway

Council District: Don Vardeman
 Neighborhood: PaulAnn
 Scale: 1" approx. = 250 ft
 Subject Property: 428 Montague

Legend

- Subject Properties:
- Current Zoning: **OW**
- Requested Zoning Change: **CG**
- Vision: **Transitional**

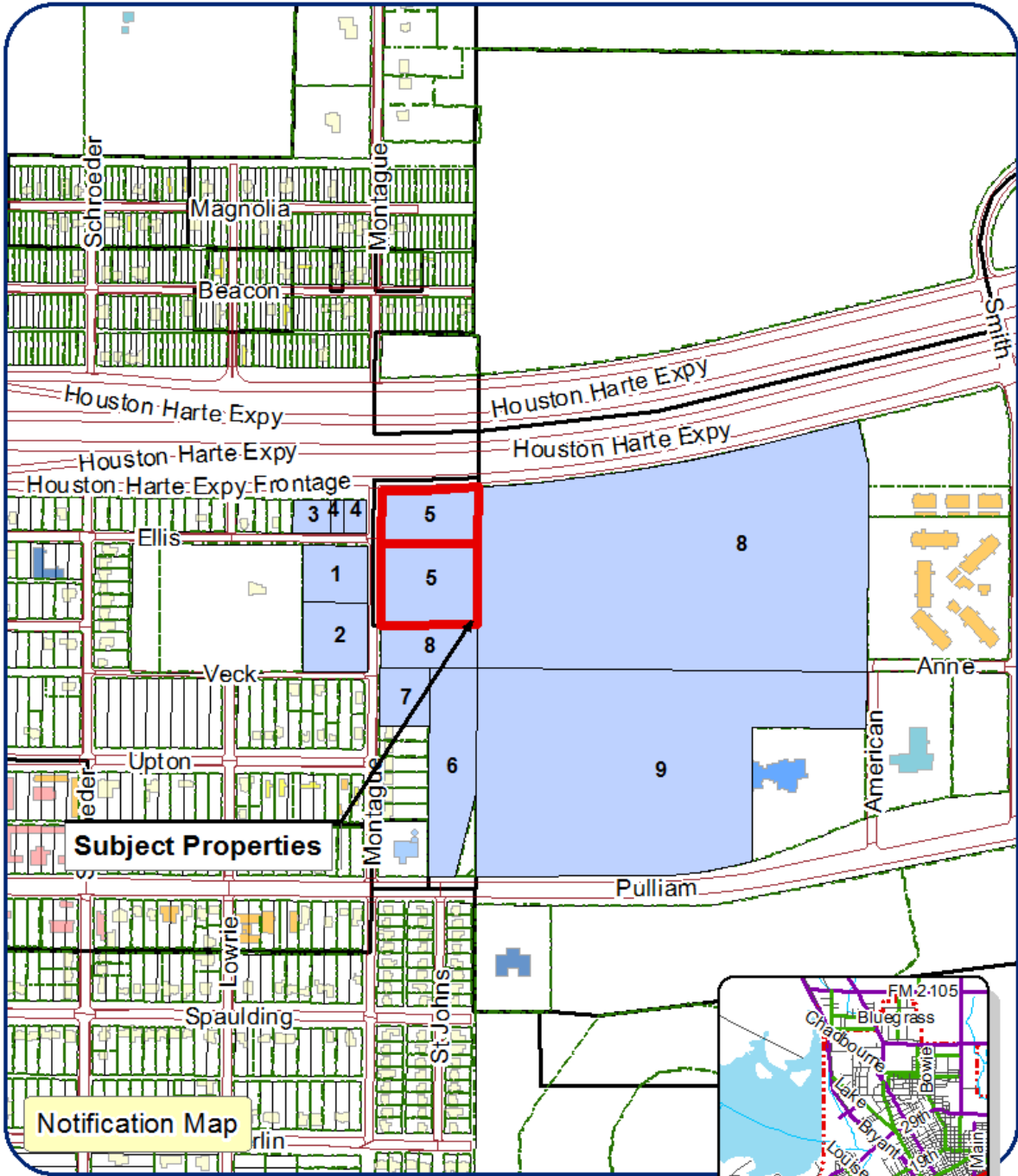




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Legend
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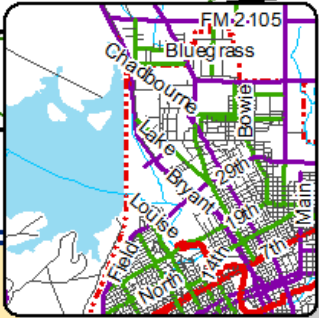
Zoning Case File

Case Z14-37: Jesse Caloway

Council District: Don Vardeman
 Neighborhood: Paul Ann
 Scale: 1" approx. = 500 ft
 Subject Properties: 428 Montague and southeast corner of Montague Avenue and the Houston Harte Expressway Frontage Road

Legend

- Subject Properties:
- Current Zoning: OW
- Requested Zoning Change: CG
- Vision: Transitional



LIST OF INDIVIDUALS / ENTITIES NOTIFIED

HENRY M A
1906 SPAULDING
SAN ANGELO, TX 76905-5152

1930 ELLIS TRUST
1930 ELLIS
SAN ANGELO, TX 76903-4318

PHILLIPS VERA ALDEANE
2016 PULLIAM ST
SAN ANGELO, TX 76905-5148

BRADSHAW BARBARA E REV LIVING
TRUST
419 MONTAGUE AVE
SAN ANGELO, TX 76905-4349

PITTMAN MICHAEL B
3806 E COURT ST
DEER PARK, TX 77536-6192

SISTERS CHARITY INCARNATE WORD
4503 BROADWAY
SAN ANTONIO, TX 78209-6209

MEDINA ROSALIO L
305 N 15TH
BALLINGER, TX 76821-2800

GARCIA ANA I TORRES
PO BOX 23
BRONTE, TX 76933-0023

SHANNON MEDICAL CENTER
PO BOX 1879
SAN ANGELO, TX 76902-1879

AN ORDINANCE AMENDING CHAPTER 12, EXHIBIT "A" OF THE CODE OF ORDINANCES, CITY OF SAN ANGELO, TEXAS, WHICH SAID EXHIBIT "A" OF CHAPTER 12 ADOPTS ZONING REGULATIONS, USE DISTRICTS AND A ZONING MAP, IN ACCORDANCE WITH A COMPREHENSIVE PLAN, BY CHANGING THE ZONING AND CLASSIFICATION OF THE FOLLOWING PROPERTY, TO WIT: **428 Montague Avenue, located approximately 240 feet southeast of the intersection of Montague Avenue and the Houston Harte Expressway Frontage Road, more specifically occupying 2.790 Acres of the G Schubitz Survey, Abst: A-1854 S-0326; and 1.861 Acres of the G Schubitz Survey, Abst: A-1854 S-0326, in the PaulAnn neighborhood, a request for approval of a zone change from Office Warehouse (CG) to Neighborhood Commercial (CN); PROVIDING FOR SEVERABILITY AND PROVIDING A PENALTY**

RE: Z14-37: Jeff Caloway

WHEREAS, the Planning Commission for the City of San Angelo and the governing body for the City of San Angelo, in compliance with the charter and the state law with reference to zoning regulations and a zoning map, have given requisite notice by publication and otherwise, and after holding hearings and affording a full and fair hearing to all property owners and persons interested, generally, and to persons situated in the affected area and in the vicinity thereof, is of the opinion that zoning changes should be made as set out herein; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SAN ANGELO:

SECTION 1: That the basic zoning ordinance for the City of San Angelo, as enacted by the governing body for the City of San Angelo on January 4, 2000 and included within Chapter 12 of the Code of Ordinances for the City of San Angelo, be and the same is hereby amended insofar as the property hereinafter set forth, and said ordinance generally and the zoning map shall be amended insofar as the property hereinafter described: **428 Montague Avenue, located approximately 240 feet southeast of the intersection of Montague Avenue and the Houston Harte Expressway Frontage Road, more specifically occupying 2.790 Acres of the G Schubitz Survey, Abst: A-1854 S-0326; and 1.861 Acres of the G Schubitz Survey, Abst: A-1854 S-0326, in the PaulAnn neighborhood, a request for approval of a zone change from Office Warehouse (CG) to Neighborhood Commercial (CN), shall henceforth be permanently zoned as follows: Neighborhood Commercial (CN) District.**

The Director of Planning is hereby directed to correct zoning district maps in the office of the Director of Planning, to reflect the herein described changes in zoning.

SECTION 2: That in all other respects, the use of the hereinabove described property shall be subject to all applicable regulations contained in Chapter 12 of the Code of Ordinances for the City of San Angelo, as amended.

SECTION 3: That the following severability clause is adopted with this amendment:

SEVERABILITY:

The terms and provisions of this Ordinance shall be deemed to be severable in that, if any portion of this Ordinance shall be declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

SECTION 4: That the following penalty clause is adopted with this amendment:

PENALTY:

Any person who violates any provisions of this article shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine as provided for in Section 1.106 of the Code of Ordinances for the City of San Angelo. Each day of such violation shall constitute a separate offense.

INTRODUCED on the **17th day of February, 2015** and finally PASSED, APPROVED AND ADOPTED on this the **3rd day of March, 2015**.

THE CITY OF SAN ANGELO

Dwain Morrison, Mayor

ATTEST:

Bryan Kendrick, Interim City Clerk

Approved As To Content:

Approved As To Form:

Patrick Howard, AICP, Director

Lysia H. Bowling, City Attorney