

**ZONING BOARD OF ADJUSTMENT – NOVEMBER 7, 2022
STAFF REPORT**



APPLICATION TYPE:	CASE:
Variance	ZBA22-18: 6622 Clarice Court

SYNOPSIS:
The applicant has applied for a variance from Section 402, A.2 of the, Zoning Ordinance to allow for an accessory structure greater than the allowed maximum accessory building floor area in order to construct a personal shop/storage/game area/sleep over building to the rear of a residence within the Single-Family Residential (RS-1) Zoning District, located at 6622 Clarice Court. The owner(s) residence/attached garage is 3493 sq. ft. He would be allowed an accessory structure of 1747 Sq. ft. by right. He would like to have up to 7500 sq. ft. to accommodate all the uses he envisions. Although the zoning is RS-1, his lot is 1.2 acres in size. Therefore, he is asking for a 5,754 sq. ft. variance to allow him to build a structure up to the 7500 sq. ft.

LOCATION:	LEGAL DESCRIPTION:
6622 Clarice Court	Being Lot 16 K1, Block 2, SUNSET RANCH ESTATES, 3 rd R/P in Blk. 2 Sec. 2

SM DISTRICT / NEIGHBORHOOD:	ZONING:	FUTURE LAND USE:	SIZE:
SMD District #1 – Tommy Hiebert Country Club Neighborhood	Single-Family Residential (RS-1)	N – Neighborhood	1.2 acres

THOROUGHFARE PLAN:
Clarice Court – Urban Local Streets, Required: 50’ right-of-way, 40’ pavement or 36’ with a 4’ wide sidewalk, Provided:

NOTIFICATIONS:
16 notifications mailed within 200-foot radius on October 22, 2022. No responses were received to date.

STAFF RECOMMENDATION:
Staff’s recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 402, A.2, of the Zoning Ordinance to allow a variance for an accessory structure greater than the allowed maximum accessory building floor area.

PROPERTY OWNER/PETITIONER:
Owner: William & Debra Taylor

STAFF CONTACT:
Sherry Bailey, Senior Planner
(325) 657-4210, Extension 1546
sherry.bailey@cosatx.us



Additional Information: The project is located in the Country Club neighborhood. This area is zoned Single Family Residential (RS-1), but the homes at the end of the street back up to the Heavy Commercial (CH) and Office Warehouse (OW) area off of Highway 277. The owner/applicant has a much larger lot (1.2 acres) than the other home lots in the neighborhood. This extra lot area allows him plenty of room for the addition of the accessory use, separation from his home and the homes of the adjoining neighbors, and still be able to buffer the noise of the commercially zoned areas. His vision is a large, 7500 sq. ft. structure that will house his shop, some storage area, a game area and a sleep over kitchenette/bathroom area for when his teenage children have friends over. It becomes a safe area removed from the house but still protected. His intent is construct a building with a compatible building style to his existing home. This building will be about 100 ft. from his home.

Allowed Variances:

In addition to the six (6) criteria listed in the City's Zoning Ordinance, in exercising its authority to grant a variance, per Section 207.D of the Zoning Ordinance, the Zoning Board of Adjustment must affirmatively find that one or more of the following circumstances applies:

1. **SPECIAL CIRCUMSTANCES RESULTING IN UNNECESSARY HARDSHIP.** *Where special circumstances exist on the property related to the size, shape, area, topography, surrounding conditions or location that do not generally apply to other property in the same zoning district, and that the circumstances are such that strict application of this zoning ordinance would create an unnecessary hardship or deprive the applicant of reasonable use of the land or building. **On September 1, 2021, the State of Texas has amended the Texas Local Government Code, Section 211.009 to include the following five criteria as grounds for a hardship:***
 - (1) **the financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the assessor for the municipality under Section 26.01, Tax Code;**
 - (2) **compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;**
 - (3) **compliance would result in the structure not being in compliance with a requirement of a municipal ordinance, building code, or other requirement;**
 - (4) **compliance would result in the unreasonable encroachment on an adjacent property or easement; or**
 - (5) **the municipality considers the structure to be a nonconforming structure.**
2. **OVERRIDING PUBLIC INTEREST.** *If the variance further an overriding public interest or concern, including, but not limited to: (a) Preserving the natural environment, (b) Promoting maintenance or reuse of older urban or historic buildings, or (c) Helping to eliminate a nonconforming use at another location.*

3. **LITERAL ENFORCEMENT.** *If it is found that the literal enforcement and strict application of this Zoning Ordinance will result in extraordinary circumstances inconsistent with the general provisions and intent of this ordinance, and that, in granting the variance, the spirit of the ordinance will be preserved and substantial justice done.*

Planning Staff believes that #3 is applicable to this request. The construction of the new accessory structure that meets his needs will not be detrimental to the neighbor and strict application of the Zoning Ordinance will result in extraordinary impact on the owners.

Variances: Section 207(F) of the Zoning Ordinance requires that an applicant for a variance must show that a hardship exists and that the Zoning Board of Adjustment make an affirmative finding that each and every one of the following six (6) criteria are met:

1. **Special circumstances exist that are peculiar to the land or structure that are not applicable to other land or structures in the same zoning district and are not merely financial.** See rationale above.
2. **These special circumstances are not the result of the actions of the applicant.** The owner is asking for a use that is in keeping with the size and use of his lot.
3. **Literal interpretation and enforcement of the terms and provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other land in the same zoning district, and would cause an unnecessary and undue hardship.** As indicated, strict adherence to the accessory building size restriction in this case would not be taking into account the lot size and the existing commercial zones that are adjacent to this property and that impact the owner(s) property in a negative way.
4. **Granting the variance is the minimum action that will make possible the use of the land or structure which is not contrary to the public interest, and would carry out the spirit of this Zoning Ordinance and substantial justice.** The request is what the owner would like to have to allow a better use of the land and a more complete use of his property. Denying the proposed use does not seem to be in keeping with the best use of the land criteria.
5. **Granting the variance will not adversely affect adjacent land in a material way.** The accessory use will not disturb adjacent property owners on either side of the owners home because he is placing the accessory building far enough to the rear to not affect the neighbors. The adjacent commercial uses will not be affected by the residential use of the property.
6. **Granting the variance will be generally consistent with the purposes and intent of this Zoning Ordinance.** Section 104.2 of the Zoning Ordinance states that the purpose of the Ordinance is to “Protect the character and the established pattern of development in each area”. The use, for the reasons above will maintain the established development pattern of the area.

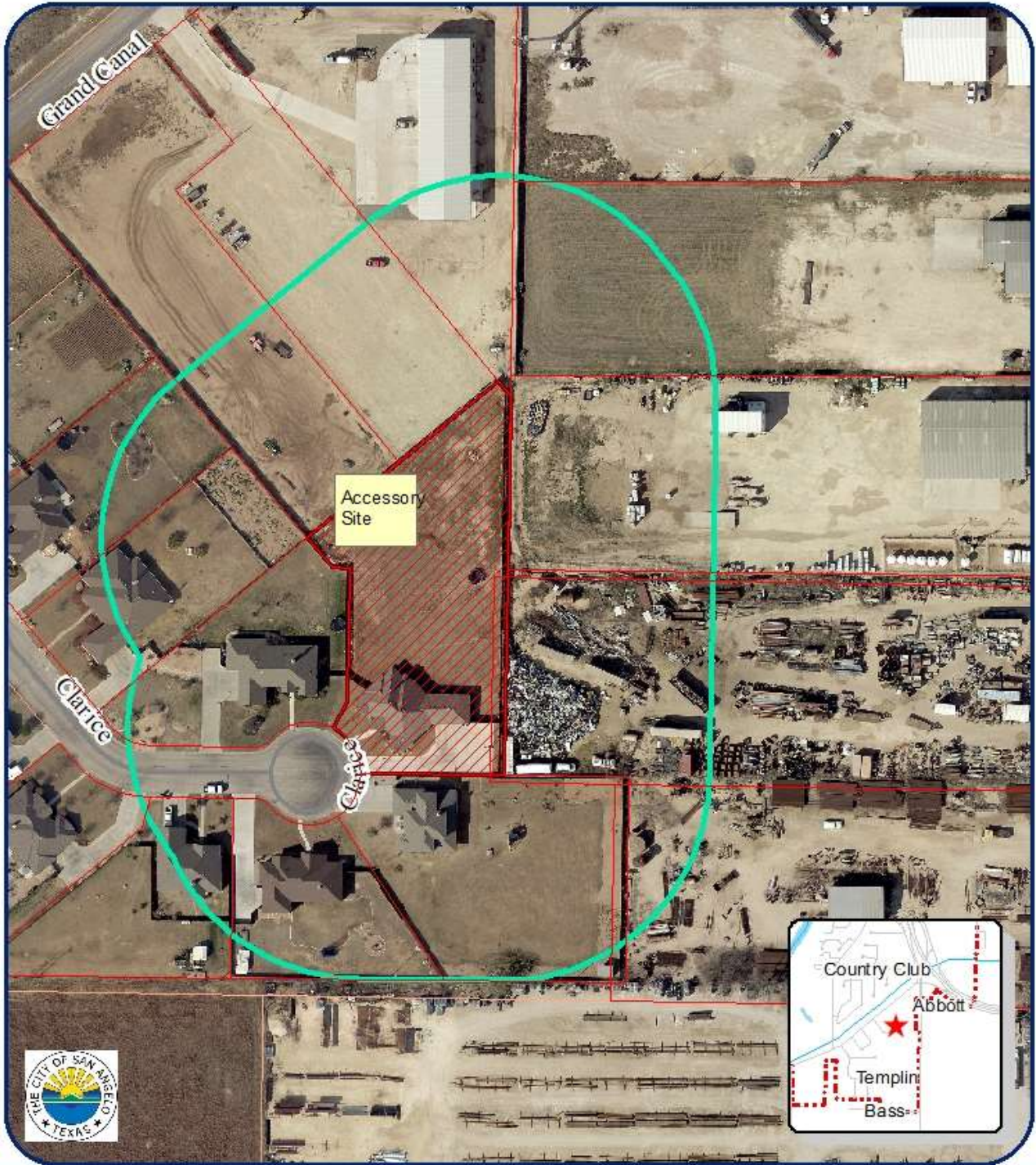
Recommendation:

Staff's recommendation is for the Zoning Board of Adjustment (ZBA) to **APPROVE** a variance from Section 402. A.2, to allow for an accessory structure greater than the allowed maximum accessory building floor area in order to construct a personal shop/storage/game area/sleep over building to the rear of a residence within the Single-Family Residential (RS-1) Zoning District located at 6622 Clarice Court, subject to **one (1) condition** of approval:

1. The applicant obtains all appropriate permits for the new accessory use structure.

Attachments:

Aerial Map
Zoning Map
Photographs
Concept Plan
Application



Aerial Map


ZBA22-18: 6622 Clarice Court


Council District: SMD #1 Tommy Hiebert

Neighborhood: Country Club

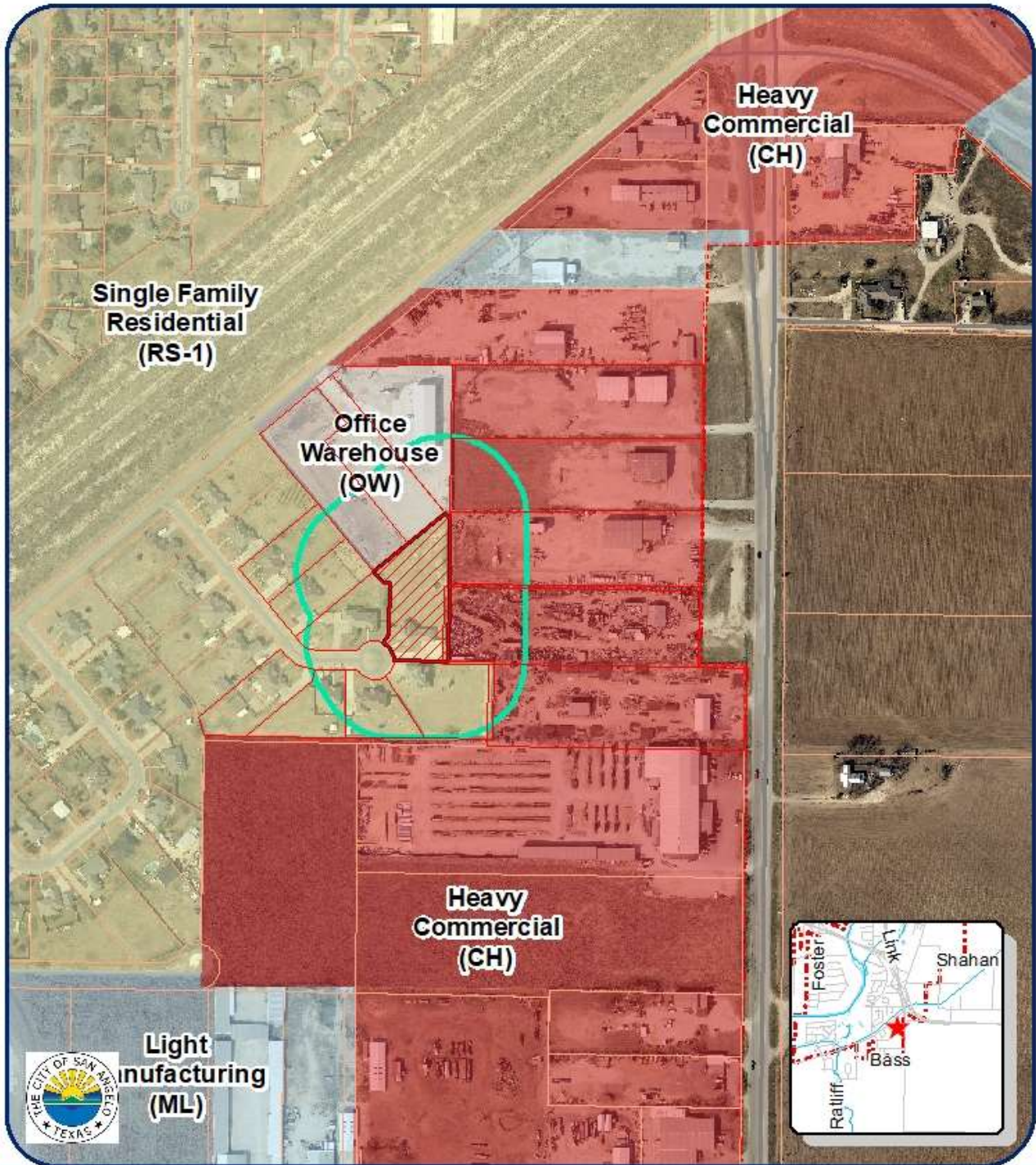
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Subject Properties: 

200' Buffer: 

Notified Properties: 





Zoning Map

ZBA22-18: 6622 Clarice Court

Council District: SMD #1 Tommy Hiebert

Neighborhood: Country Club

Scale: 0.01 0.03 0.06 0.09 0.12

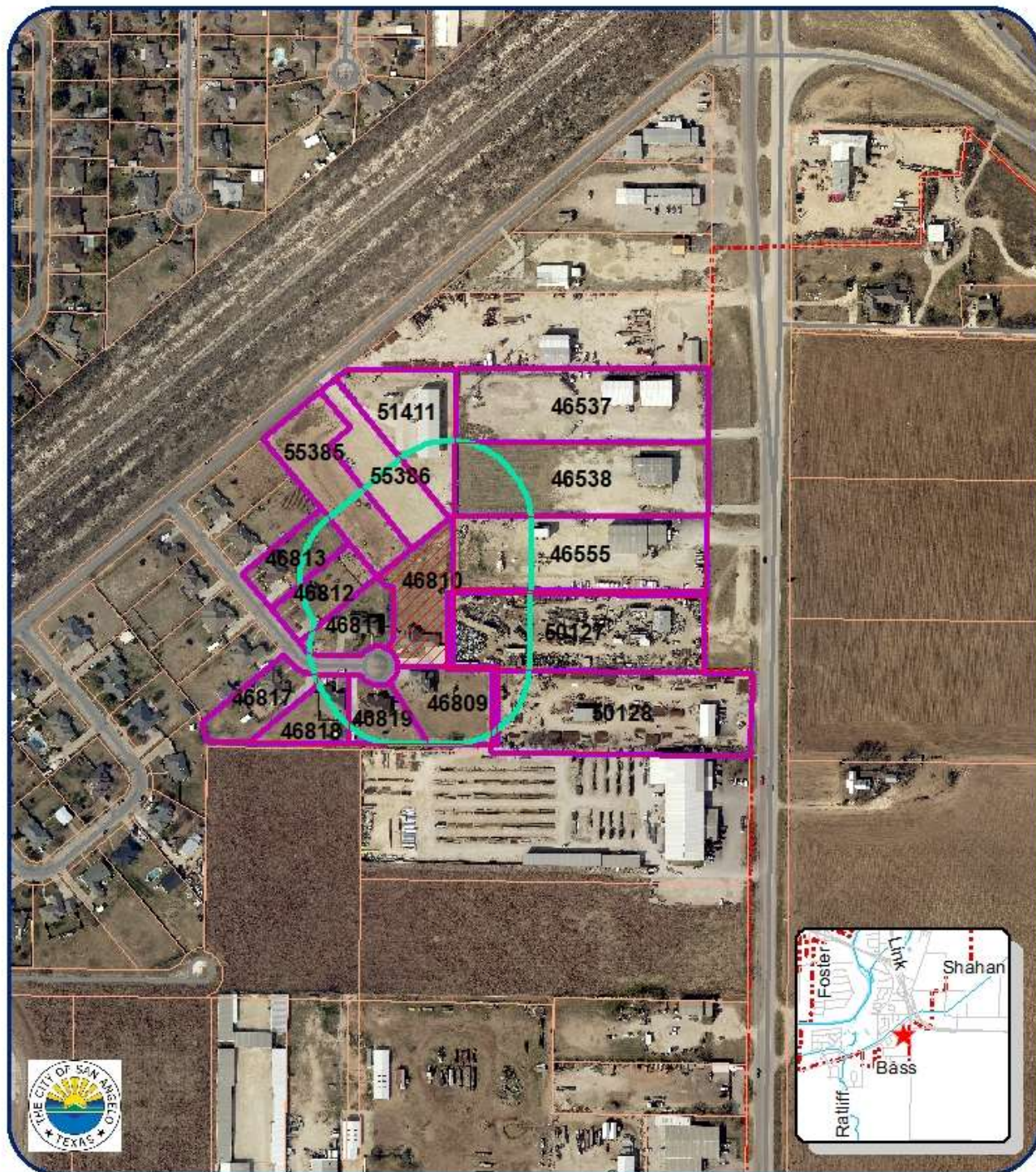
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Subject Properties:

200' Buffer:

Notified Properties:







200' Notification Map
ZBA22-18: 6622 Clarice Court

Council District: SMD #1 Tommy Hiebert
Neighborhood: Country Club
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Subject Properties: 

200' Buffer: 

Notified Properties: 



Photos of Site and Surrounding Area

PARKING AREA AND REAR YARD



NORTH ON BOWIE ST.
COMMERCIAL STRUCTURE DIRECTLY BEHIND



OPEN AREA OF COMMERCIAL STRUCTURE



Concept Plan

