

STAFF REPORT



Meeting: December 2, 2014

To: City Council members

From: Patrick B. Howard, AICP
Director

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

Case: Z14-33

Request: Rezoning from Single-Family Residential (RS-1) to Neighborhood Commercial (CN)

Location: 3417 Sherwood Way, located at the southeast corner of Sherwood Way Service Road and Diana Lane, and three (3) unaddressed tracts at the southwest corner of Sherwood Way Service Road and Moritz Circle.

Legal Description: Clar-Mor Heights Addition, Block 1, Lot 11 and part of the adjacent alley; more specifically occupying the Clar-Mor Heights Addition, Block 1, Lots 1-3 and part of the adjacent alley; in western San Angelo.

Size: 1.665 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

Z14-33: Christ Evangelical Lutheran Church

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: **3417 Sherwood Way, located at the southeast corner of Sherwood Way Service Road and Diana Lane, more specifically occupying the Clar-Mor Heights Addition, Block 1, Lot 11 and part of the adjacent alley; and three (3) unaddressed tracts at the southwest corner of Sherwood Way Service Road and Moritz Circle, more specifically occupying the Clar-Mor Heights Addition, Block 1, Lots 1-3 and part of the adjacent alley; in western San Angelo, a request for approval of a zone change from Single-Family Residential (RS-1) to Neighborhood Commercial (CN) District; PROVIDING FOR SEVERABILITY AND PROVIDING A PENALTY**

General Information

Future Land Use: Neighborhood
Zoning: Single-Family Residential (RS-1)
Existing Land Use: Vacant residential land

Surrounding Zoning / Land Use:

North:	General Commercial/ Heavy Commercial (CG/CH)	Kozy Kitchen, Olive’s Nursery, Cactus Car Wash
West:	Single-Family Residential (RS-1)	Single family dwellings
South:	Low Rise Multifamily Residential (RM-1)	Single family dwellings, vacant residential land
East:	Neighborhood Commercial (CN) and General Commercial (CG)	Sonic, HEB, Dollar Tree retail plaza

District: CMD#5 – Elizabeth Grindstaff

Neighborhood: ASU – College Hills

Thoroughfares/Streets: Per the Master Thoroughfare Plan (MTP), the Sherwood Way Service Road, Diana Lane, and Moritz Circle are classified as local streets. A local street carries light neighborhood traffic at low speeds. The MTP requires Moritz Circle, Diana Road and Sherwood Way Frontage Road as existing streets to have a minimum paving width of 36 feet and a minimum right-of-way width of 50 feet. Diana Road at present is approximately 30 feet wide and Sherwood Way Service Road approximately 32 feet. Should the applicant decide to replat the subject properties, a dedication of half of the required right-of-ways along Diana Road of approximately 3 feet and along the Sherwood Way Service Road of approximately 2 feet shall be required.

Recommendation:

The Planning Division recommends **APPROVAL** of a Rezoning request for **Office Commercial (CO)**, not Neighborhood Commercial (CN), contingent on City Council also approving the associated Comprehensive Plan (aka Vision Plan) Amendment VP14-05.

On November 17, 2014, the Planning Commission recommended **APPROVAL** of the applicant’s request for a Rezoning to CN by a 5–1 vote, with Commissioners Crisp, Farmer, Jones, Priess and Jackson voting in favor, and Commissioner Brooks voting against the request. The following is the complete excerpt of the minutes from the November 17, 2014, meeting for this case:

Planner Jeff Fisher introduced the application and request. Explained it is a busy intersection, what to do with site long term? Staff would like to see a transition buffer between the existing residential area in relation to any commercial or office zoning districts.

The public hearing was opened for discussion: Questions on zoning CO and CN. Planning Manager Rebeca Guerra informed the Commission that the applicant is requesting CN zoning.

Discussion: Commissioner Farmer doesn't see anything wrong with having their CN zoning.

Ms. Guerra informed the Commission of previous site requests over the past years and the opposition from residential community of a higher density of commercial use and increase in traffic. Office Commercial would respect the wishes of the community with less traffic than a heavier commercial use. As of today, no letters of opposition have been received.

Commissioner Crisp stated support for staff's recommendation of CO due to the high residential area.

Public comment: Glinda Martindale, real estate agent and applicant representative, recommended the rezoning to Neighborhood Commercial (CN), stated heavy traffic is already in the area, and shared a handout of deed stating requirements for building, traffic, hours of operation, signage for retail. Property has been on market for one year but buyers want this site rezoned to some type of retail or commercial zoning. She reiterated her request for approval of CN rezoning rather than CO (Office Commercial).

Commissioner Brooks said she owns a car wash across the street, and stated heavy traffic is currently in and out all day and night.

Glinda Martindale, responded trucks are in use anyway regardless of the request. Buyers would like a retail center with no conditions put upon them and then the property would be easier to market and sell.

Ms. Guerra informed the Commission that the CC&R's (deed restrictions) are private and only enforceable through the courts, and that the City has no jurisdiction on CC&R's. She stated the document allows for office commercial uses and specifically left out retail uses permitted in the Neighborhood Commercial district.

PV McMinn represents Plateau Development and told Commission that he is currently building high-end Mediterranean townhomes in the area. He stated that Plateau Development will enforce the CC&R's and that he would like to see a nice high end strip center commercial center. He stated that he didn't feel Office Commercial could be successfully marketed.

Discussion by commissioners: does Office Commercial allow retail or commercial? Ms. Guerra stated CO would allow retail sales and service with a Conditional Use. They would have to submit a proposed site plan for approval. By approving CO, staff will be able to add conditions to the approval which would serve to protect the public by requiring such items as additional screening and buffering. This would serve to also mitigate some of the concerns previously raised for other projects.

Glinda Martindale informed Commission that they have had 2 or 3 buyers who would like to see retail.

Commissioners asked for clarification of what could be approved. Ms. Guerra stated that the applicant is proposing CN zoning, but that the Commission can chose to approve CN or any other less intense zoning district.

A motion was made by Commissioner Crisp to approve Rezoning as requested by applicant to CN, seconded by Commissioner Farmer. The motion to approve was carried 5-1, with Commissioners Crisp, Farmer, Jones, Priess, and Jackson voting in favor, and Commissioner Brooks voting against the request.

History and Background:

The subject land comprises 1.665 acres and is currently designated "Neighborhood" on the Future Land Use map with a Single-Family Residential (RS-1) zoning underlay. It is currently owned by the Christ Evangelical Lutheran Church and is within the Clar-Mor Heights Addition Subdivision which was filed for record by the Tom Green County Clerk on February 24, 1956. The existing church is located on Lot 11 next to the alley. Lots 1-3 located immediately east of the alley are presently vacant. It is understood Lots 1-3 have remained vacant for years and now the church plans to sell its entire holdings which include all of Lots 1-3, Lot 11, and the portion of the alley adjacent to the lots.

On October 7, 2014, the applicant submitted a request to amend the Comprehensive Plan from "Neighborhood" a residential designation to "Neighborhood Center" for future commercial development. The Vision Plan Amendment (VP14-05) is being run concurrently with this application.

On October 14, 2014, the applicant submitted an associated Rezoning application (Z14-33) on the properties from "Single-Family Residential" to "Neighborhood Commercial (CN)," one possible underlay zone district of a

Neighborhood Center Future Land Use. The applicant representing the church did not provide any anticipated land uses, but mentioned the church was considering retail commercial uses in order to maximize the potential use of the land.

After further review and several site visits to the property, Planning Staff communicated via telephone and e-mail with the applicant on November 7, 2014, that it could support the Vision Plan Amendment to "Neighborhood Center," but not the Rezoning to a Neighborhood Commercial (CN) given that three of the lots front onto Moritz Circle, a local road intended for residential traffic, and that all of the lots are part of the Clar-Mor residential subdivision which were never intended or planned for commercial uses. It was communicated that Staff will be recommending the alternate zoning category of "Office Commercial (CO)" with the primary use as professional offices, which would appear to be more suitable given that the properties immediately abut single family dwellings and the area was intended for residential. The CO zone would appear to provide a more suitable transition between the more intense retail commercial to the east and north and the residential neighborhood to the west and south.

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 property is designated "Neighborhood Center" on the Future Land Use (FLU) map of the Comprehensive Plan which supports an Office Commercial (CO) Zoning underlay at this location. The Neighborhood Center policies in the Comprehensive Plan support "transition areas to better 'scale-down' intensity of use from commercial centers to neighborhoods." Given that these properties were originally zoned Single-Family Residential (RS-1) as part of the Clar-Mor subdivision, and were intended as such, an Office Commercial (CO) zoning district, which allows professional and related offices, would provide for a smoother transition between the existing residential neighborhood south and west and the heavier retail commercial uses to the north and east. A Neighborhood Commercial (CN) zoning designation would allow for retail commercial uses that generally generate more commercial truck traffic and also generate more garbage and waste than typical professional and medical offices would.

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

The subject property would comply with all of the provisions of the CO Zone District. The minimum lot area in the CO district is 6,000 square feet and the property is 7,252.74 square feet. The CO district requires a minimum width of 50 feet and a minimum depth of 80 feet, and the property is approximately 385 feet wide by 365 feet long. The CO district allows for community services, day care, religious institutions, and offices for business, government, professional, medical and financial services. Outdoor storage is strictly prohibited in the CO district, except for Type 1 storage which restricts outdoor display to no greater than 5 feet from a principal building wall. Section 509 of the Zoning Ordinance will require the erection of a 6 foot high opaque privacy fence along the south lot line of Lot 11, and along the west and south lot lines of Lot 3 which abut residential lots.

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.*

Compatibility has been an issue that has arisen before in this area. On February 21, 2011, the Planning Commission heard an application for a Conditional Use on Lots 5 and 6 of the same Block 1, just south of the subject properties, to allow for a religious institution in the RS-1 Zone District (CU11-02). The Planning Commission denied the application by a 5-0 vote. Several local residents came out in opposition at that hearing, citing increased traffic concerns, noise, property devaluation, and aesthetics being within a residential neighborhood. Similar concerns arise under the current proposal to rezone to CN. The CN district would be even more intense than a religious institution and would generate truck traffic to ship goods to and from retail commercial establishments. Moritz Circle was designed as a local road and any retail commercial development would create a significant increase in traffic. Another major concern is that this neighborhood was zoned for residential single-family homes. While lots 4-6 immediately south of the property were later rezoned for Low Rise Multifamily Residential in June 20, 2014, by City Council, bringing retail commercial to this neighborhood would be too intense of a land use given the low density residential nature of this area. Staff believes the Office Commercial (CO) district, which allows professional offices but not retail commercial uses, is more appropriate and would generate less traffic, garbage, and noise.

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

The subject properties zoned RS-1 are vacant and not presently being utilized. Given the fact that two of the lots, Lots 1 and 11 front onto the Sherwood Way, and these properties are vacant, it appears there are changing conditions that may support an amendment. Staff believes the CO Zone District is most

appropriate nonresidential zoning classification given that the property is surrounded by an established residential neighborhood to the west and south.

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.*

A site visit on November 12, 2014, shows an example of a retail commercial plaza, which is a permitted use in the CN district, the Dollar Tree/HEB plaza across Moritz Circle facing the site, with large garbage dumpsters outside. Even if these dumpsters were screened, the increased traffic, noise and smell from such uses would not be appropriate next to existing residential lots. Alternatively, an Office Commercial (CO) Zone District would prohibit outside storage to 5 feet of the building wall, and the permitted uses would be mainly offices and clean which are significantly less intense uses. Therefore, effects on the natural environment would appear to be minimal. Future commercial development will require building permits which would include a review of grading, drainage and stormwater runoff to further ensure there are no negative environmental impacts.

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

An underlying Office Commercial (CO) zone district at this location would provide needed office space for the surrounding residential community and provide a transitional buffer between the existing residential neighborhood to the south and west, and the more intense retail commercial area to the north and east.

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.*

There may be increased traffic on Moritz Circle which is a local road designed for local residential traffic only. Planning Staff believes that a CO zone district in this location is the least intensive nonresidential zoning classification and would be generate substantially less traffic – and minimal commercial trucks – than a CN district which allows retail commercial as a primary use.

Notification:

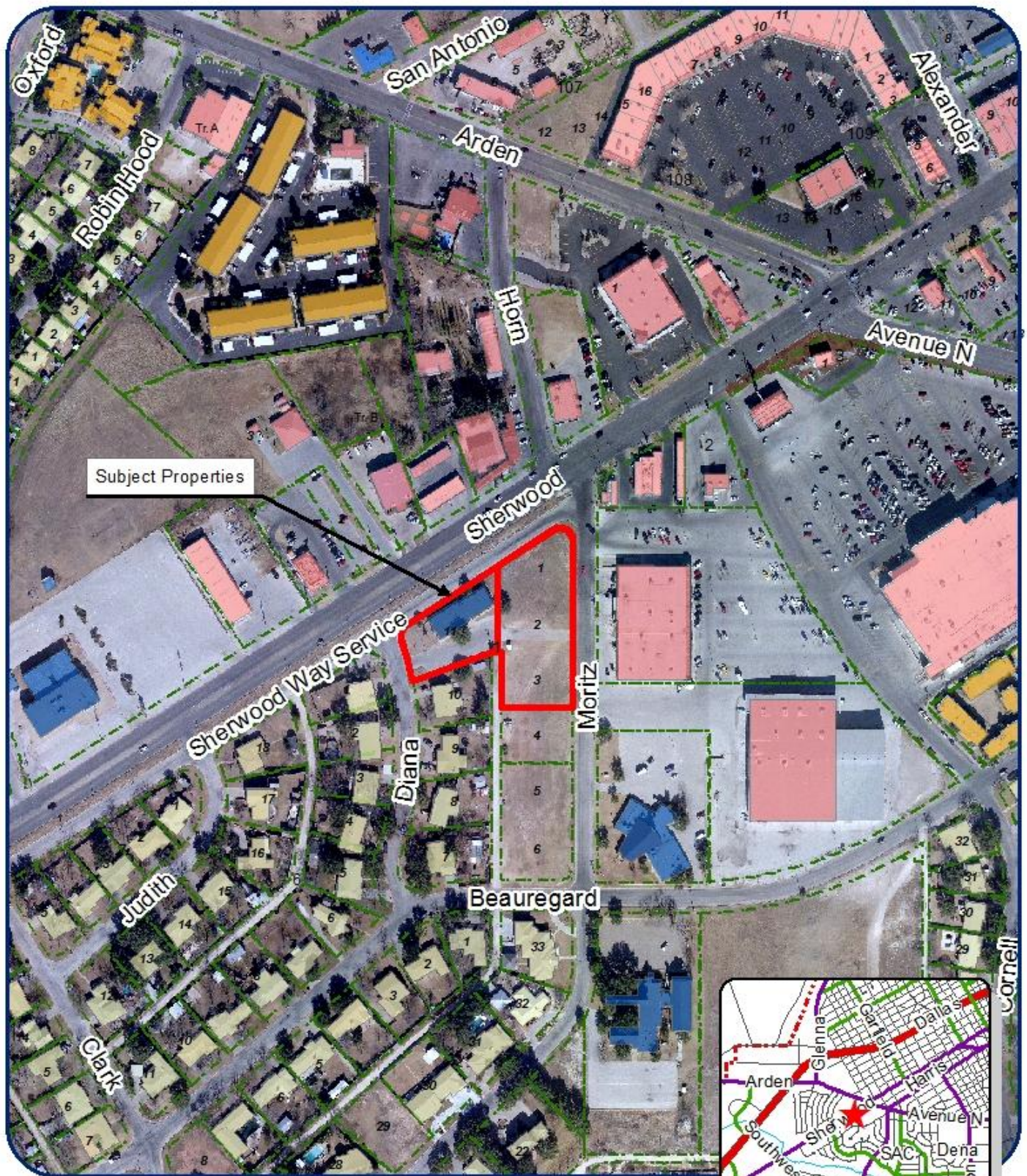
On November 7, 2014, 19 notifications were mailed out within a 200-foot radius of the subject site. As of November 21, 2014, there were 0 responses in favor and 1 response in opposition of the request.

Action Requested:

The action requested is for City Council to **APPROVE** a Rezoning request for **Office Commercial (CO)**, not Neighborhood Commercial (CN), contingent on City Council also approving the associated Comprehensive Plan (aka Vision Plan) Amendment VP14-05.

Attachments:

- Aerial Map
- Future Land Use Map
- Zoning Map
- Major Thoroughfare Map
- Notification Map
- List of Individuals/Entities Notified
- Response Letter
- Excerpt of CO and CN Permitted Uses and Provisions
- Draft Ordinance

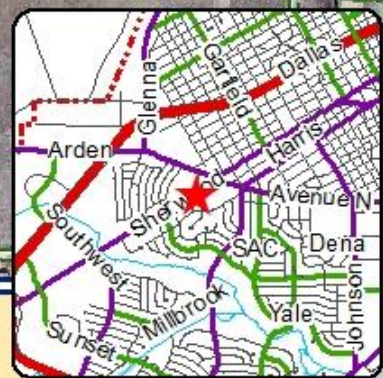


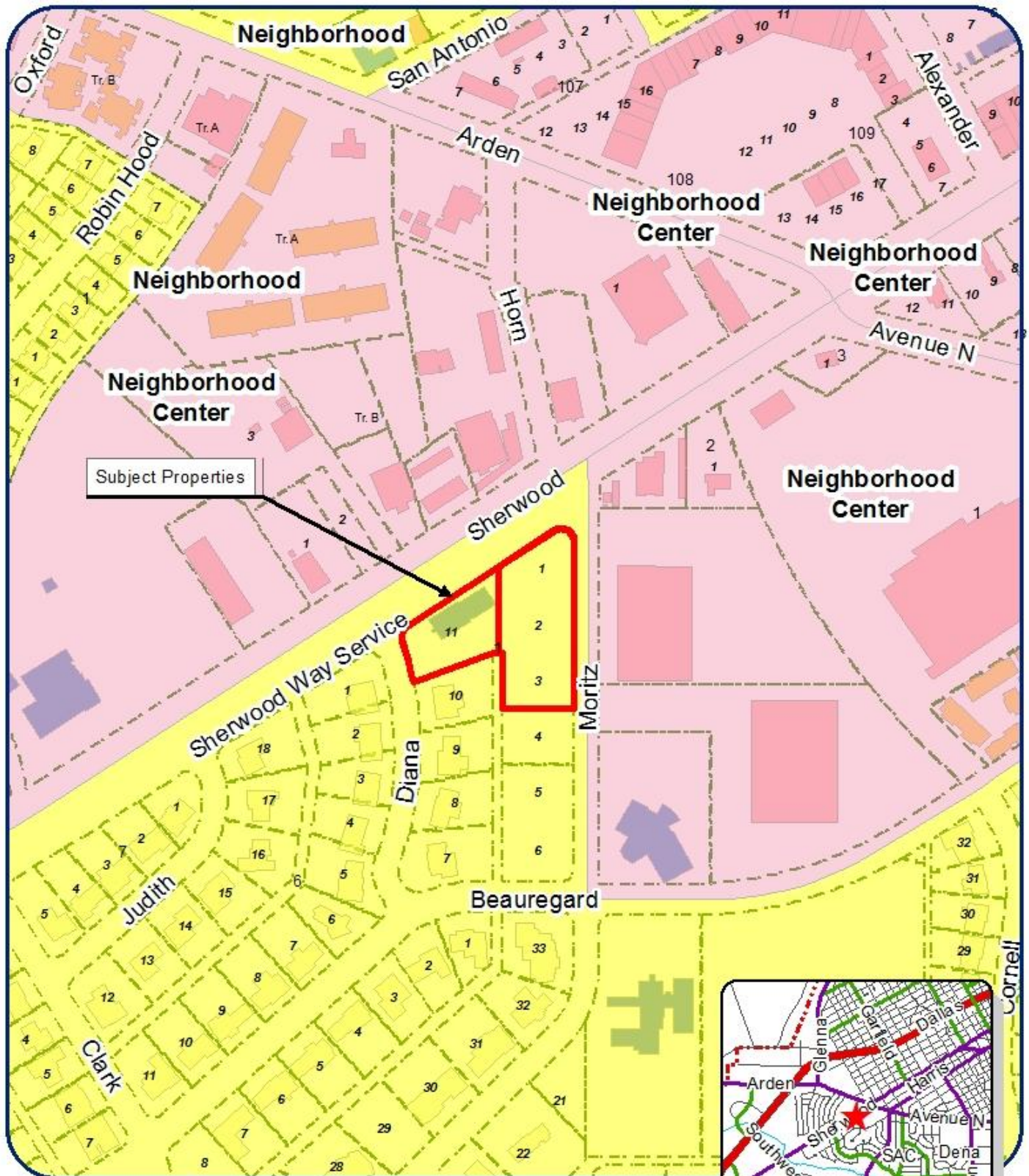
Zoning Case File

Case Z14-33: Christ Evangelical Lutheran Church
 Council District: Elizabeth Grindstaff
 Neighborhood: ASU - College Hills
 Scale: 1" approx. = 250 ft
 Subject Property: SW Corner of Sherwood Way Service Rd/Moritz Circle

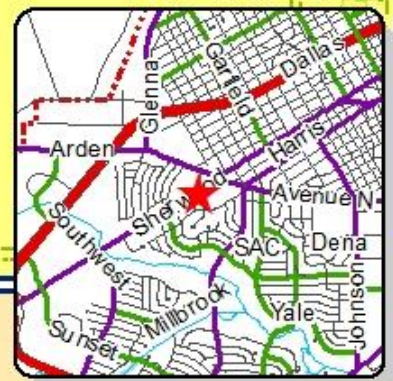
Legend

Subject Properties: 
 Current Zoning: **RS 1**
 Requested Zoning Change: **CN**
 Vision: **Neighborhood**





Subject Properties



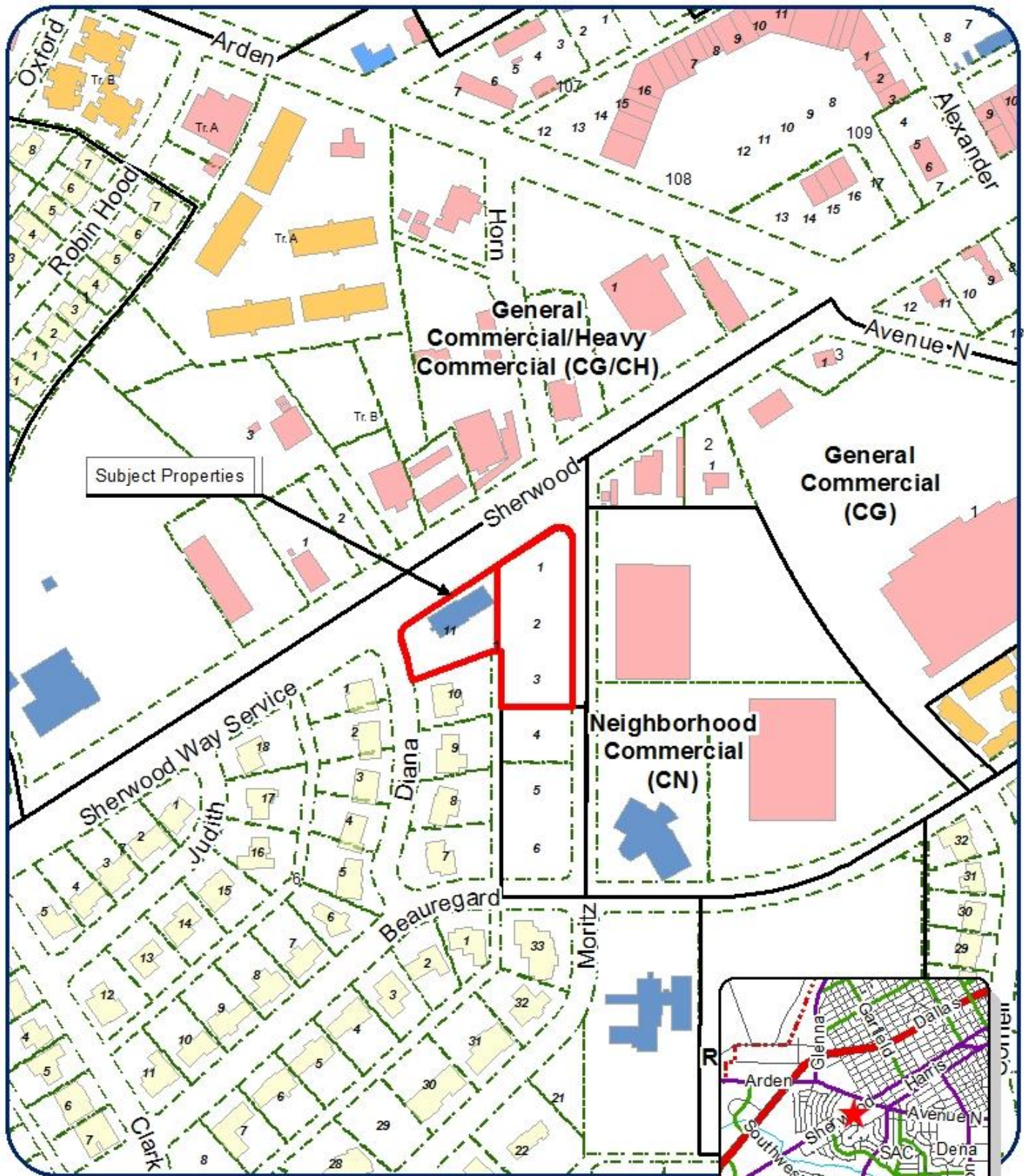
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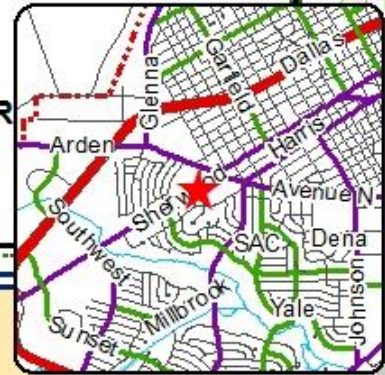


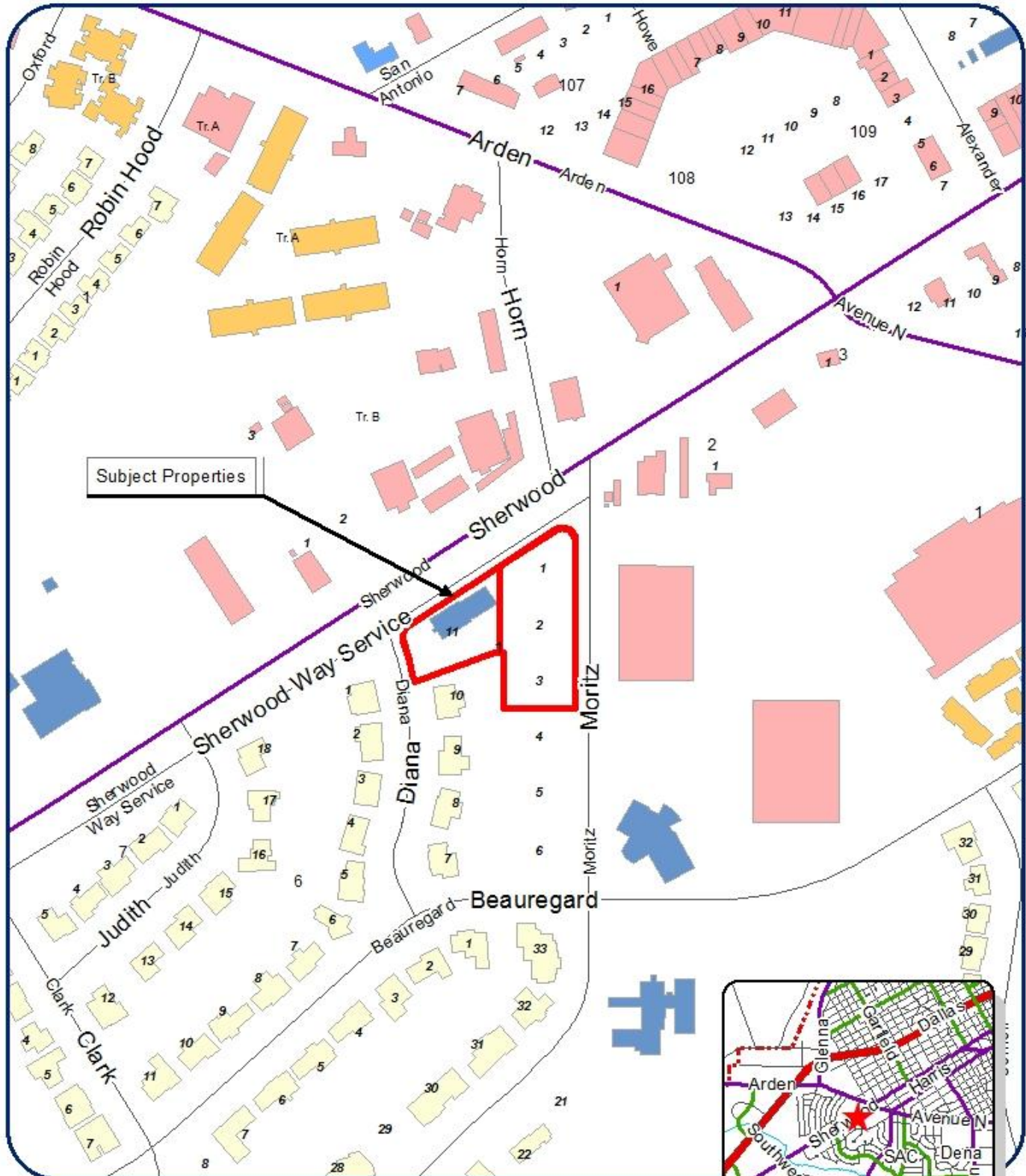
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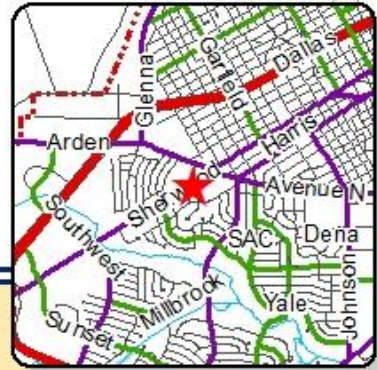
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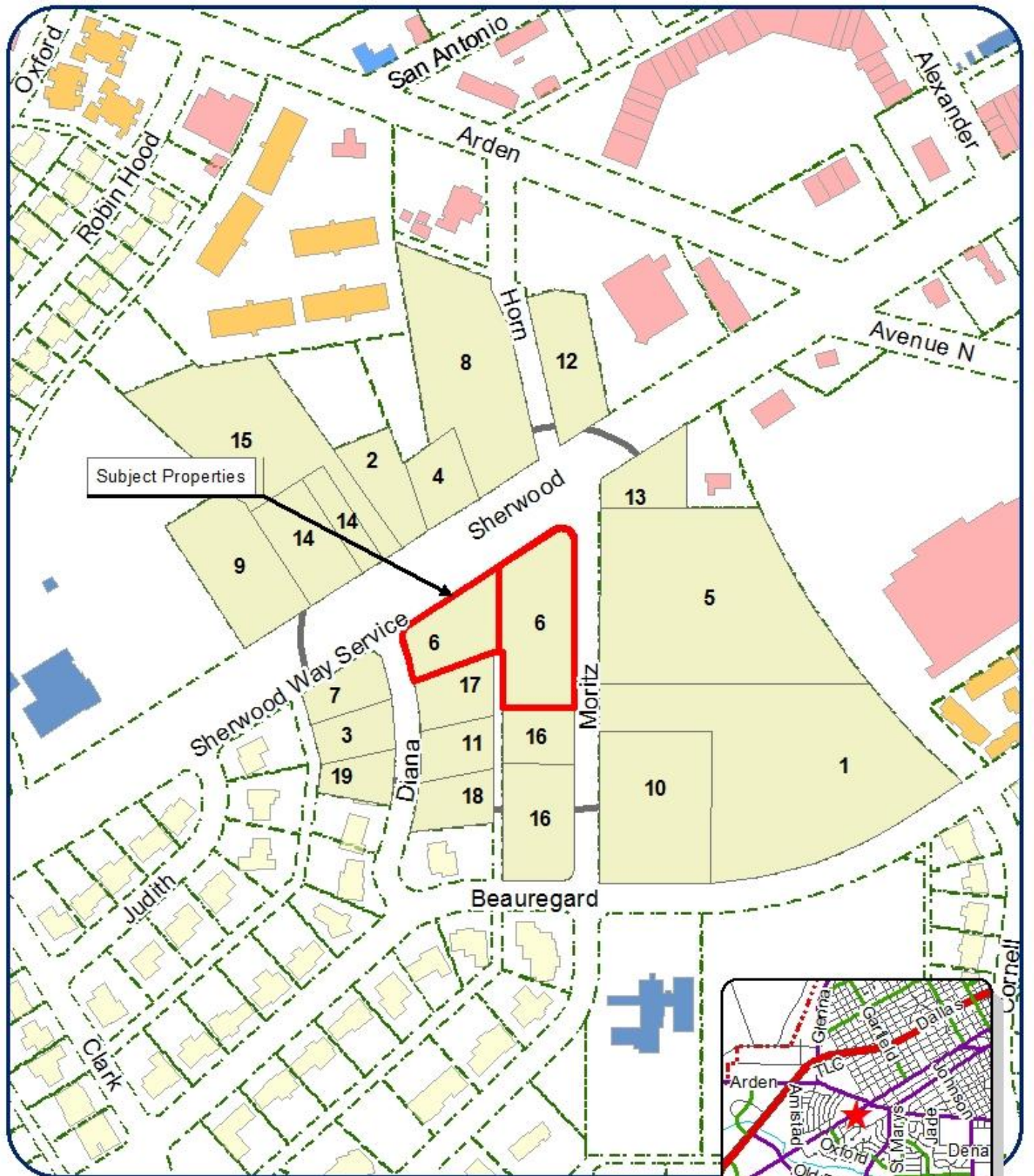
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Legend

Subject Properties: —
 Current Zoning: **RS 1**
 Requested Zoning Change: **CN**
 Vision: **Neighborhood**



LIST OF INDIVIDUALS / ENTITIES NOTIFIED

A R INTERESTS SAN ANGELO LLC 4629 MACRO DR SAN ANTONIO, TX 78218-5420	AULDRIDGE JACK(DEC) & BETH 5218 BEVERLY DR SAN ANGELO, TX 76904-8034	BINGHAM LAURA & RONNY 11 DIANA LN SAN ANGELO, TX 76904-4941
BROOKS CONOLYO III PO BOX 60673 SAN ANGELO, TX 76906-0673	BURNS MARTIN TRUSTEE 24910 JOHN FREMONT ROAD HIDDEN HILLS, CA 91302-1133	CHRIST EVANGELICAL LUTHERAN CHURCH 3417 SHERWOOD WAY SAN ANGELO, TX 76901-3530
CHRIST EVANGELICAL LUTHERAN CHURCH 3417 SHERWOOD WAY SAN ANGELO, TX 76901-3530	DOBBS CHARLES D & STEPHANIE B 1 DIANA LN SAN ANGELO, TX 76904-4941	DRAPER VICTORIA J - TTEE OF OLIVE FAMILY TRUST 2420 W TWOHIG AVE SAN ANGELO, TX 76901-3729
ELLIOTT PARTNERS LTD PO BOX 630610 NACOGDOCHES, TX 75963-0610	FIRST CHURCH OF THE NAZARENE 3354 W BEAUREGARD AVE SAN ANGELO, TX 76904-4904	GEORGE ROBERT S II & CHRISTINE M 16 DIANA LN SAN ANGELO, TX 76904-4942
JEM PROPERTIES INC 6959 LEBANON RD SUITE 212 FRISCO, TX 75034-6738	KMOORE INVESTMENTS LP MOORE KEITH & JULIANN PO BOX 60006 SAN ANGELO, TX 76906-0006	MALLEN COMPANY INC PO BOX 459 LOVINGTON, NM 88260-0459
MALLEN CO INC PO BOX 459 LOVINGTON, NM 88260-0459	NOLAND JAMES S & SANDRA 3436 SHERWOOD WAY SAN ANGELO, TX 76901-3531	PLATEAU DEVELOPMENT LLC PO BOX 2038 SAN ANGELO, TX 76902-2038
PLATEAU DEVELOPMENT LLC PO BOX 2038 SAN ANGELO, TX 76902-2038	SIEWERT KERRY A & EDITH ELAINE 8 DIANA LN SAN ANGELO, TX 76904-4942	ZAPATA JOE R SR & MARY E 10 DIANE LANE SAN ANGELO, TX 76904-4942
ZEMLOCK REBECKA & MAGNESS BILLY JR 17 DIANA LANE SAN ANGELO, TX 76904-4941		

TO BE FORMALLY ON RECORD IN FAVOR OR AGAINST THIS REQUEST, YOU MAY ALSO FILL OUT THIS FORM, SIGN IT AND MAIL IT BACK TO THE PLANNING DIVISION AT 52 W COLLEGE STREET IN SAN ANGELO, TEXAS 76903. THIS FORM CAN ALSO BE FAXED TO THE PLANNING DIVISION AT 325-657-4227.

() IN FAVOR

(X) IN OPPOSITION

REASON(S) _____

Violates existing zoning

NAME: All Interests San Angelo, LLC

ADDRESS: 3315 Sherwood Way
San Angelo, TX 76901

SIGNATURE: *Mark Dungen*

Z14-33: Christ Evangelical Lutheran Church, property owner number: 1
If you have any questions about these proceedings, please call Mr. Jeff Fisher with the City of San Angelo's Planning Division at telephone number 325-657-4210. The Planning Division staff may also be reached at fax number 325-657-4227.



Planning Division
72 W. College Ave.
San Angelo, TX 76903
(325) 657-4210 ph.
(325) 657-4227 fx.
www.sanangelotexas.us

PLANNING DIVISION

OFFICE COMMERCIAL (CO) ZONING DISTRICTS

Allowed Uses:

- Group living
- Drug and alcohol recovery facility
- College
- Public, nonprofit or charitable community services
- Day care for children or adults
- Meeting areas for religious institutions
- Schools
- Business, government, professional, medical or financial offices
- Commercial parking
- Public safety and emergency services

Conditional Uses:

- Household living
- Bed & breakfast
- Self-service storage
- Hospital
- Retail sales
- Vehicle service (performed while the customer waits)
- Personal service-oriented business
- Entertainment-oriented business
- Repair-oriented business
- Restaurants
- Veterinary clinic for small animals
- Waste-related uses

These uses are allowed with the approval of a "conditional use" by the Planning Commission. Applications for a conditional use may be completed through the Planning Division. The Development handout titled "Conditional Uses" gives a thorough explanation of the process.

Special Uses:

Facilities for golf, including practice areas
Any use which the Planning Commission and the City Council deem appropriate as a transition between zoning districts

These uses are allowed with the approval of a "special use" by the Planning Commission and the City Council. Applications for a special use may be completed through the Planning Division. The Development handout titled "Special Uses" gives a thorough explanation of the process.

Required Setbacks:

- Front Setback: 25 feet
- Side Setback: None required
10 feet if abutting a residential district or use
- Rear Setback: None required
10 feet if abutting a residential district or use



Planning Division
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PLANNING DIVISION

NEIGHBORHOOD COMMERCIAL (CN) ZONING DISTRICTS

Allowed Uses:

- Group living
- Public, nonprofit or charitable community services
- Day care for children or adults
- Meeting areas for religious institutions
- Public safety and emergency services
- Business, government, professional, medical or financial offices
- Retail sales
- Personal service-oriented business
- Entertainment-oriented business
- Repair-oriented business
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- Veterinary clinic for small animals
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RE: Z14-33: Christ Evangelical Lutheran Church

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: **3417 Sherwood Way, located at the southeast corner of Sherwood Way Service Road and Diana Lane, more specifically occupying the Clar-Mor Heights Addition, Block 1, Lot 11 and part of the adjacent alley; and three (3) unaddressed tracts at the southwest corner of Sherwood Way Service Road and Moritz Circle, more specifically occupying the Clar-Mor Heights Addition, Block 1, Lots 1-3 and part of the adjacent alley; in western San Angelo, 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 **2nd day of December, 2014** and finally PASSED, APPROVED AND ADOPTED on this the **16th day of November, 2014**.

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