

# STAFF REPORT



**Meeting:** December 15, 2014

**To:** Planning Commission

**From:** Patrick B. Howard, AICP  
Director

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

**Presenter:** Jeff Fisher  
Planner

**Case:** NCU14-02

**Request:** Expansion of a Non-Conforming Use in a Heavy Commercial (CH) Zoning District and a Light Manufacturing (ML) Zoning District, as defined in Section 609 of the Zoning Ordinance, to allow the construction of a residential storage and workshop building accessory to an existing single detached dwelling.

**Location:** 1190 Templin Road, approximately 300 feet northwest of Highway 277 and Templin Road, in southeast San Angelo.

**Legal Description:** 6.5875 acres of the L.P. Moore Survey #169.5, and 0.548 acres of the L.P. Moore Survey #169.5.

**Acreage:** 7.1355 acres

**General Information**

Future Land Use: Industrial

Zoning: Heavy Commercial (CH) and Light Manufacturing (ML)

Existing Land Use: Diamond Construction Facility, Existing Single-Family Dwelling

Surrounding Zoning / Land Use:

North:	Heavy Commercial (CH)	Vacant Land
West:	Light Manufacturing (ML)	Tres Amigos Convenience Store Office, RV storage, AA Pump Company
South:	Heavy Commercial (CH)	Roberts Construction Company, Schwans Fine Foods
East:	Heavy Commercial (CH)	Diamond Construction Office

District: CMD #1: Rodney Fleming

Neighborhood: Country Club

Thoroughfares/Streets: The subject property has frontage onto Templin Road. As per the Major Thoroughfare Plan (MTP), Templin Road is a "local street" designed to carry light neighborhood traffic at low speeds. It has an existing right-of-way width of 60 feet and a pavement width of 24 feet. The subdivision ordinance requires a paved width of 36 feet for existing street which could only be enforced if a subdivision plat is required. A plat is only required in this case if the proposed expansion was more than 50% of the existing floor area of all buildings on the property which it is not. Therefore, the existing road would not be required to be widened.

## **Recommendation:**

The Planning Division recommends **APPROVAL** of the proposed Expansion of a Non-Conforming Use, **subject to two (2) Conditions of Approval**.

## **History and Background:**

On November 10, 2014, the applicant submitted an application for an Expansion of a Non-Conforming Use on his property at 1190 Templin Road. The purpose of the application was to allow the applicant to erect a 3,738-square foot residential storage and workshop building accessory to an existing single detached dwelling on the west side of the property. The existing house is 3,428 square feet with an 840-square foot attached garage.

There were initial concerns about whether the existing house was legally erected as the portion of the property where the house sits is zoned Heavy Commercial (CH) which does not permit a residence an Allowed Use on the property, only as a Conditional Use if approved by the Planning Commission. Staff retrieved a Memo from the Permits Division written by Bradley Stone of the Planning Department dated July 30, 2002. In the letter, Mr. Stone stated that per Section 601 of the Zoning Ordinance, if a “use lawfully occupying land immediately before the effective date of this ordinance (01/04/2000) is classified as a conditional use in the zoning district where that use is situated, such use shall be considered a lawful conditional use as if the Planning Commission had expressly approved the location of such use on the property where existing at the effective date of this ordinance.” In this case, the property was annexed into the City on November 18, 1997, and zoned to CH which allows a single family dwelling as a conditional use. Mr. Stone further indicated that a manufactured home was observed on July 23, 2002, and therefore, may be removed and replaced with a new single family residence. Staff confirmed the new single family residence received a building permit in 2007 and exists today. Therefore, the house exists as a legal non-conforming use on the property.

The applicant now wants to expand this non-conforming use to allow for an accessory residential building to store his recreational vehicle (RV) and boat from the weather. He also stated that a workshop area inside will be used to repair these vehicles and other household items, but will not be used for commercial purposes.

The property has two addresses, 1190 Templin Road to the west where the applicant’s existing home and new accessory building will be located, and 1070 Templin Road to the east where his construction business, Diamond Construction exists. All of the property is zoned Heavy Commercial (CH) except for the 0.548 acre strip which is approximately 37 feet wide along the west portion of the property that is zoned Light Manufacturing (ML). Most of the accessory building will be located in the

ML zone, with a portion encroaching onto the CH portion as the building is 40 feet wide.

As a Condition of Approval, the applicant will be required to submit a revised site plan to the Planning Division showing all required setbacks: a minimum of 10 feet from the house for an accessory building, and a minimum of 2 feet from the west side yard as required per the Zoning Ordinance.

In addition, Planning Staff wishes to ensure that no further expansion of non-conformities take place on the property to circumvent the zoning process. A second Condition of Approval will prohibit any further accessory structures on the property, thereby capping the total square footage to the proposed 3,738 square feet. The floor area of the existing home, which doesn't include the garage, is 3,428 square feet. Residential lots of at least 1 acre or larger that are zoned Ranch and Estate (R&E) would be allowed an accessory building area of 100% of the floor area of the principal dwelling. This property is larger than 1 acre and the new accessory building would be 109% of the floor area of the principal building, slightly over what would be allowed had this property been zoned R&E. Therefore, a condition has been proposed to ensure no further expansions of non-conformities take place to be in keeping with the intent of the Zoning Ordinance.

### **Analysis:**

Section 609(D) of the Zoning Ordinance requires that the Planning Commission consider, at minimum, five (5) factors in determining the appropriateness of any Expansion of a Nonconforming Use request.

1. **Impacts Minimized.** *Whether and the extent to which the proposed expansion of a nonconforming use creates adverse effects, including adverse visual impacts, on adjacent properties.*

Allowing a new residential storage building on the property would not appear to have any negative impacts on adjacent properties. The storage building would be next to the existing house on the west portion of the property, screened from the commercial portion of the property to the east. The property immediately to the west, AA Pump Company, has an office building very close to the property line. As a Condition of Approval, the applicant will be required to move the proposed building back an additional 10 feet to provide more visual separation from the AA Pump building, as well as maintain a minimum 2-foot setback from the west side yard as required for accessory buildings in the Zoning Ordinance.

2. **Compatible with Surrounding Area.** *Whether and the extent to which the proposed expansion of a nonconforming use is compatible with existing and anticipated uses surrounding the subject property.*

The accessory storage building would be constructed in such a manner as to blend into its surroundings in several respects. It would be accessory to the existing house on the property, which is legal non-conforming, and would also intermingle with the large amount of storage buildings in this predominantly commercial area.

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

Effects on the natural environment appear to be minimal. Any issues pertaining to grading, drainage, and stormwater will be addressed through the building permit process.

4. **Community Need.** *Whether and the extent to which the proposed expansion of a non-conforming use addresses a demonstrated community need.*

The accessory storage building, as previously indicated, would provide storage for the applicant's boat and RV which are presently parked outside in an uncovered location. Housing them in this new building would shelter them from weather conditions and also reduce outside visual clutter.

5. **Development Patterns.** *Whether and the extent to which the proposed expansion of a nonconforming use would result in a logical and orderly pattern of urban development in the community.*

At present, the building provides storage for the existing residence on the property. It could also be used for heavy commercial purposes as the ML and CH zoning on the property would allow for both uses. Whether utilized as a residence or for commercial purposes, its appearance is consistent with others in the existing neighborhood and would appear to be a logical and orderly development of the land.

### **Notification:**

On November 26, 2014, 15 notifications were mailed out to residences within a 200-foot radius of the subject site. As of December 10, 2014, there were 2 responses in favor and 0 responses in opposition of the request.

**Action Requested:**

The action requested is for the Planning Commission to recommend APPROVAL of Case NCU14-02, **subject to the following two (2) Conditions of Approval:**

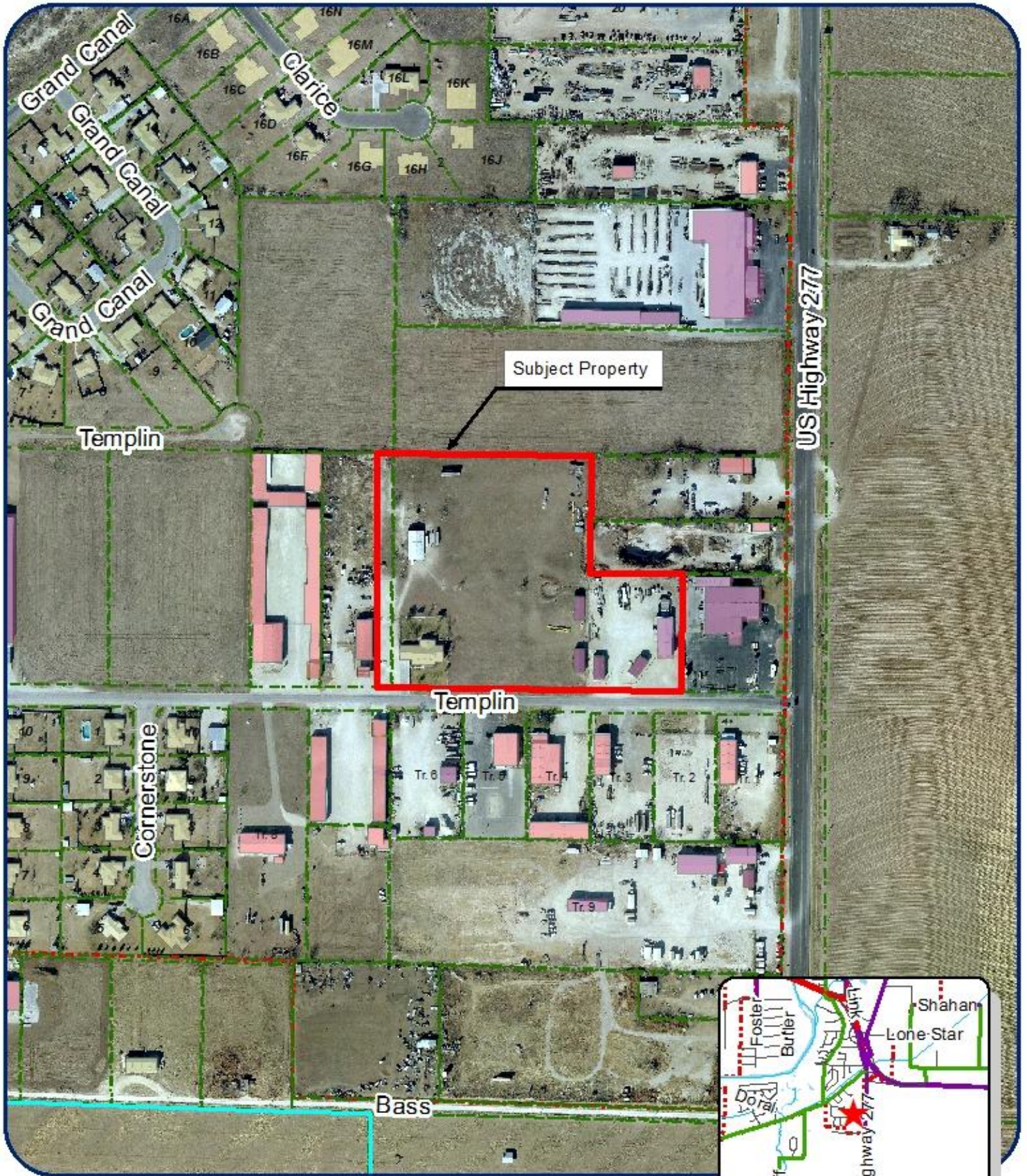
**Proposed Conditions:**

1. The proposed residential storage building shall not exceed a maximum of 3,738 square feet in size on the overall 7.1355-acre property. No further residential accessory buildings shall be allowed.
2. The applicant shall submit a revised site plan showing the accessory building with a front yard setback of 180 feet instead of 170 feet to provide additional separation from the building on the adjacent property to the west, and delineate a minimum 10-foot setback from the house and a minimum setback of 2 feet from the west side yard as required by the Zoning Ordinance.

**Attachments:**

Aerial Map  
Future Land Use Map  
Zoning Map  
Major Thoroughfare Plan  
Notification Map  
Photos of Site and Surrounding Area  
Site Plan  
Floor Plan and Elevations  
Expansion of Non-Conforming Use Application





**Non-Conforming Use Case File**

**Case NCU14-02**

Council District: Rodney Fleming (CMD #1)

Neighborhood: Country Club

Scale: 1" approx. = 325 ft

Subject Property: 1190 Templin Rd

**Legend**

Subject Properties: █

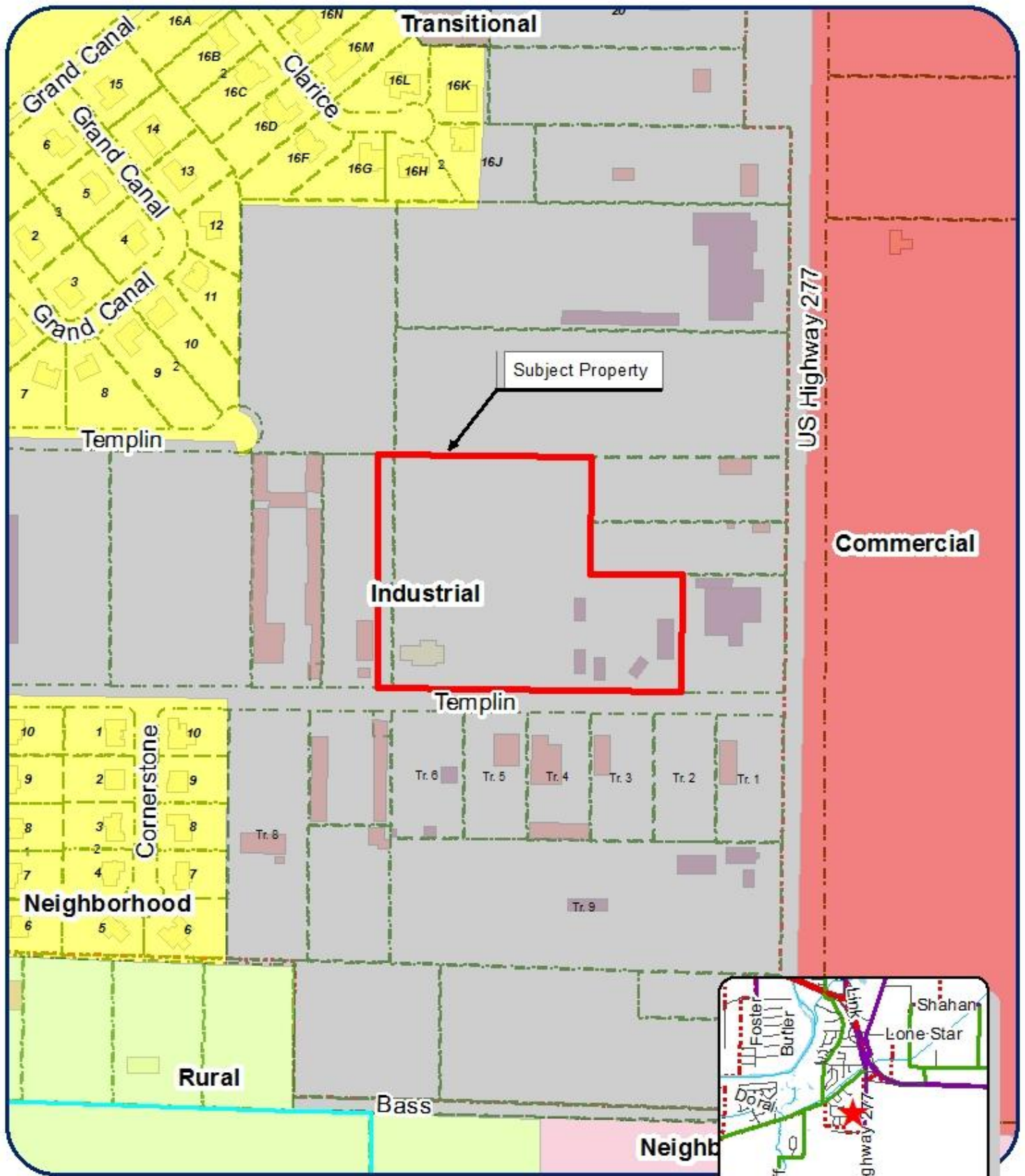
Current Zoning: ML/CH

Requested Zoning Change: N/A

Vision: Industrial








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**Case NCU14-02**

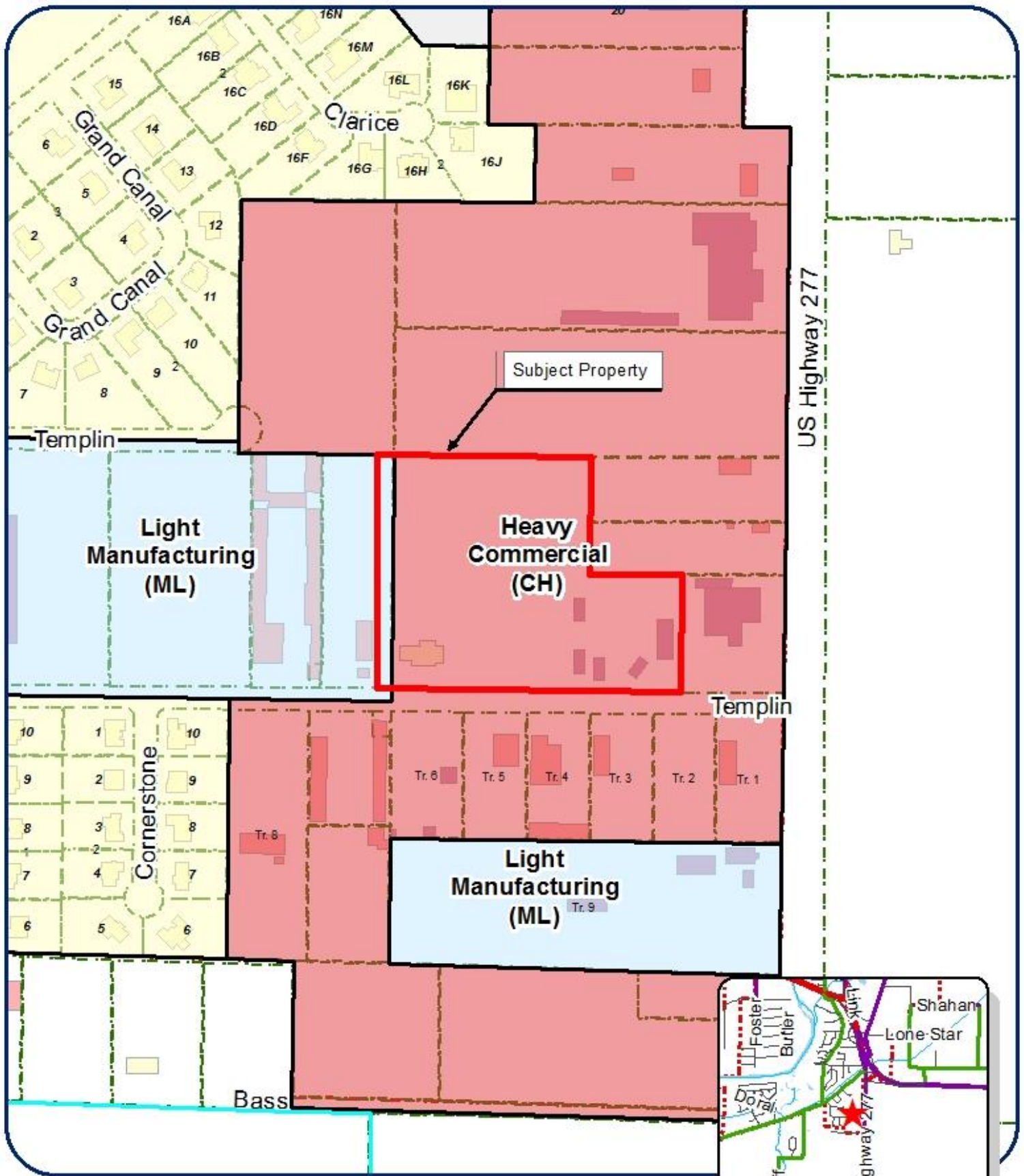
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**Legend**

Subject Properties:   
 Current Zoning: **ML/CH**  
 Requested Zoning Change: **N/A**  
 Vision: **Industrial**







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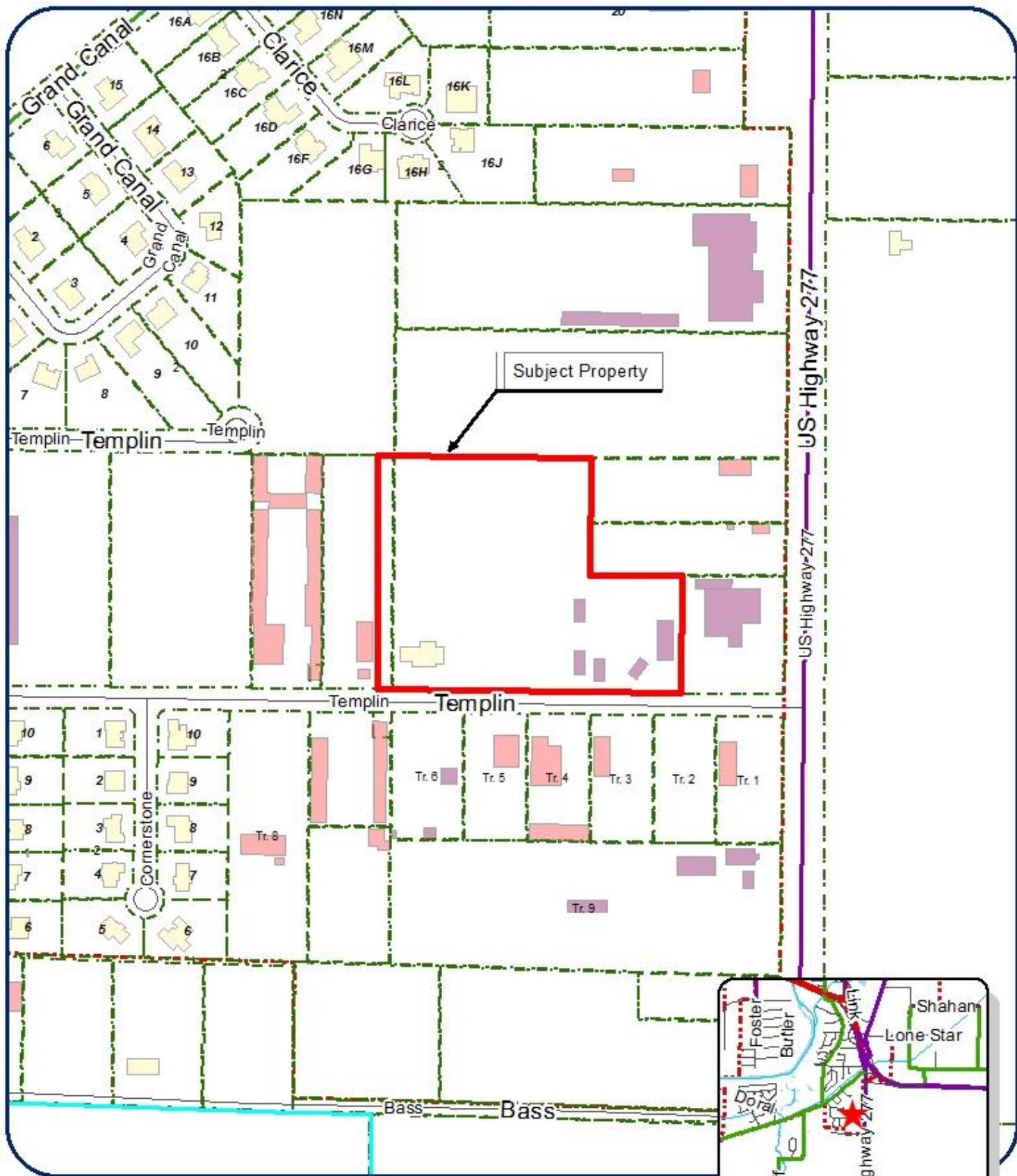
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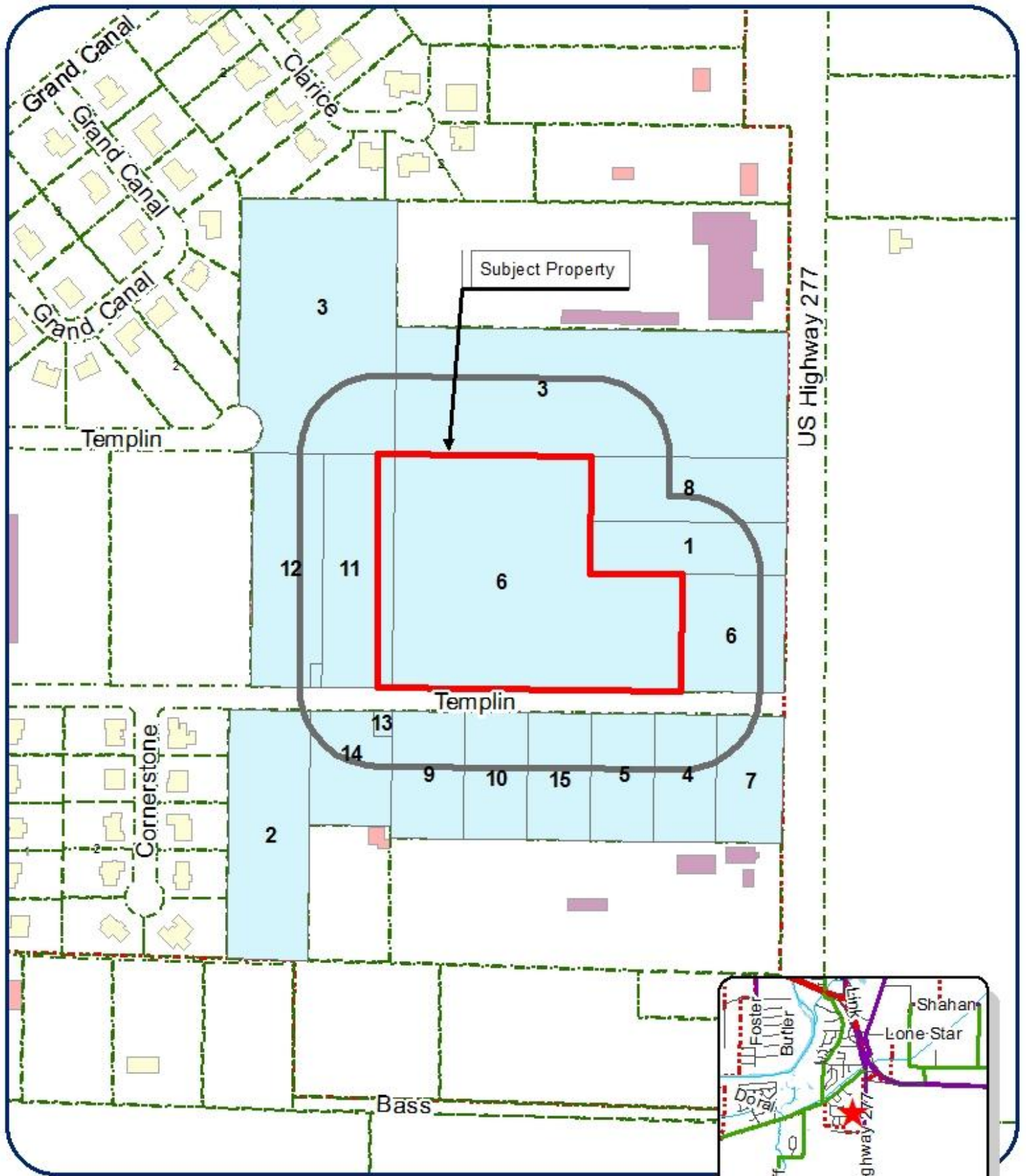
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**Legend**

Subject Properties:   
 Current Zoning:  ML/CH  
 Requested Zoning Change:  N/A  
 Vision: Industrial



# Photos

**North – proposed location of storage building**



**North at existing house on property**



**North at commercial portion of property**



**East**



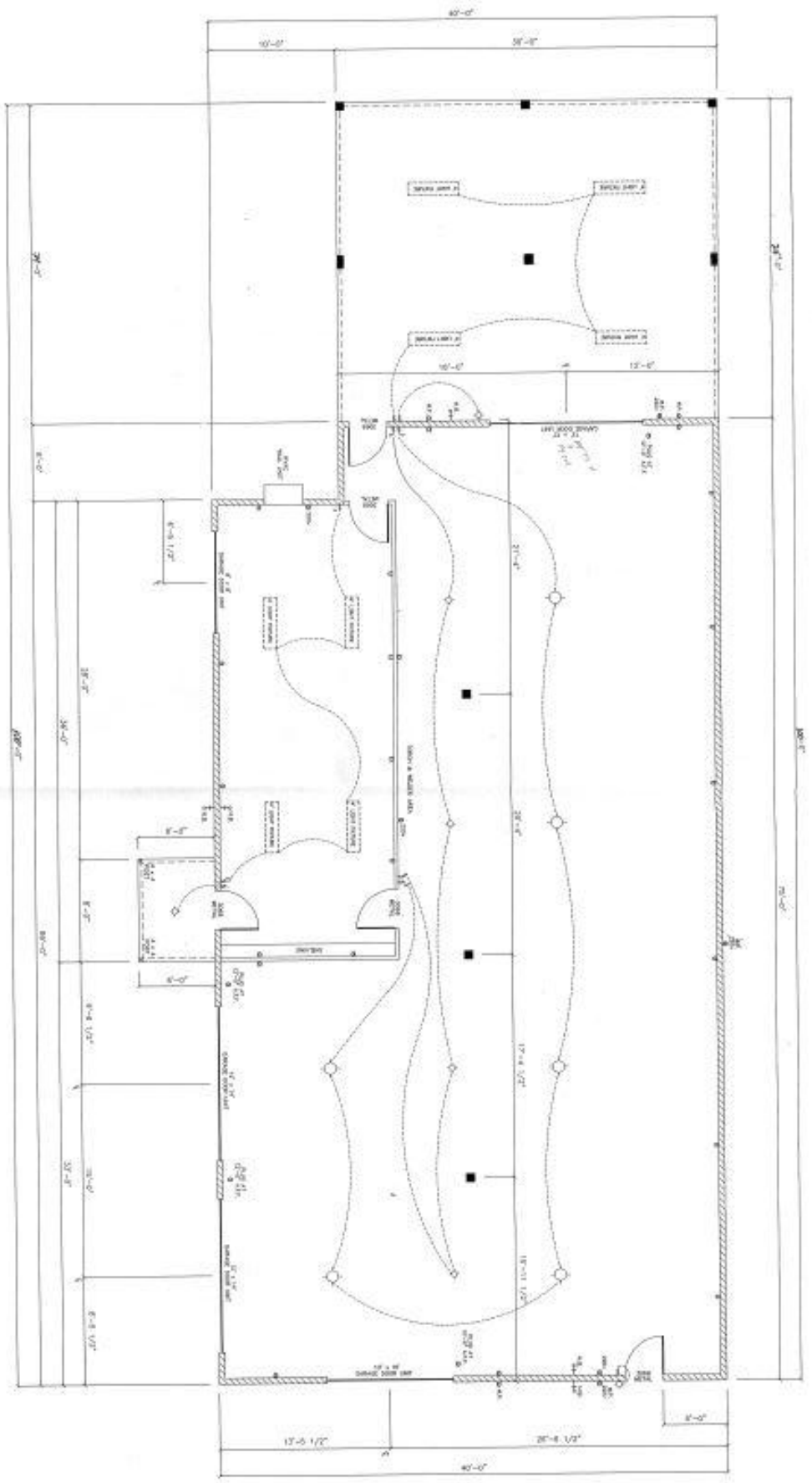
**South**



**West**



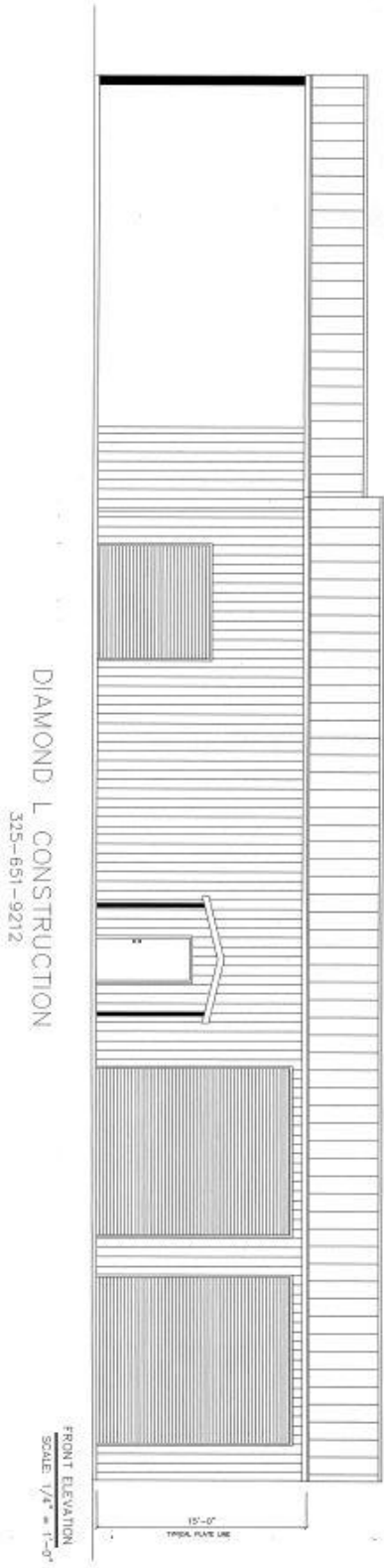
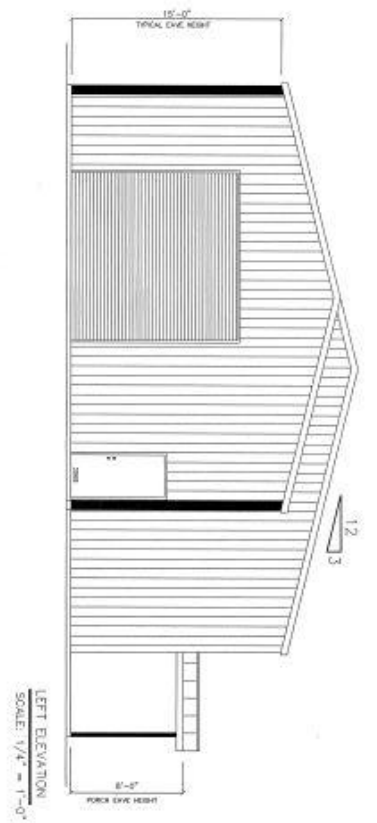
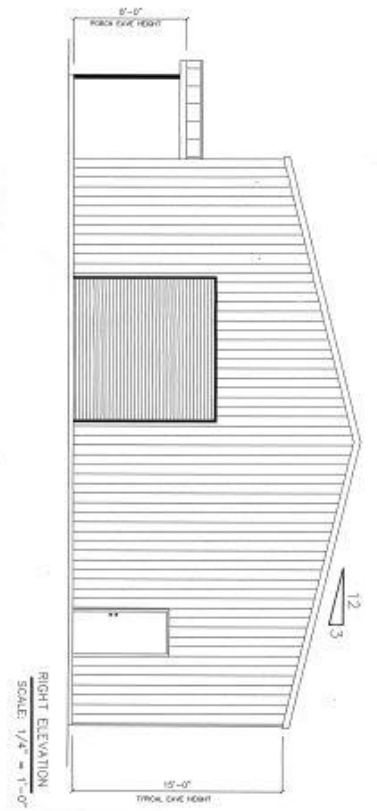




AREAS	
2380	SA FT. Covered Dining Area
2390	SA FT. Covered Dining Area
48	SA FT. Covered Entry
2338	SA FT. Cold Water Pool

DIAMOND L CONSTRUCTION  
 325-651-9212

FLOOR PLAN  
 SCALE 1/4" = 1'-0"



City of San Angelo, Texas - Planning Division  
**Application for EXPANSION OF A NONCONFORMING  
USE/NONCOMFORMING STRUCTURE**

Name of Applicant(s): Tray Lennon

Owner  Representative (Affidavit required)

Mailing Address: 1190 Templin Rd

Telephone: 325-651-9212

City/State/Zip: San Angelo, TX 76904

Fax/other: 325-651-7781

Contact Email Address: TLDiamondL@aol.com

Subject Property Address and/or Location\*:

1190 Templin Rd San Angelo, TX 76904

Legal Description\*: 8.5875 acres out of L.P. Moore Survey No. 169 1/2  
and bordering the north side of Templin Rd

Lot Size: 8.5875 acres

Zoning: CH

Existing Use of Property: Residential

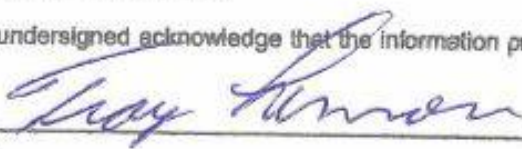
Proposed Size/Use: \_\_\_\_\_

Nonconforming Feature: Accessory Building

\* use attachment, if necessary

I/We the undersigned acknowledge that the information provided above is true and correct, and have read the statements below.

Signature



Date

11-10-14

1. The Planning Commission makes the final decision on these requests; appeals may be directed to City Council.
2. I understand that the Commission may impose conditions including, but not limited to: limitations on size, bulk and location; requirements for landscaping, buffering and screening, lighting, & adequate ingress and egress; cash deposits, bonds or other guarantees of performance; other on-site improvements; and limitations on the duration or hours of operation of an expanded use.
3. Approval of this request does not constitute approval of permits, site plans, or other processes that require separate approval.
4. If a permit is not sought within one year of the approval date of this Conditional Use, it will expire and requires another application.

I understand that this Commission is required by law to make decisions based on the following criteria, and I assert that my request meets all of the required criteria **based on my explanation(s)** below:

- **Impacts Minimized.** Whether and the extent to which the proposed expansion of a nonconforming use creates adverse effects, including adverse visual impacts, on adjacent properties.

Explanation: The building will have no adverse effect on the adjacent building and or area and will be of the same type of construction.

- **Compatible with Surrounding Area.** Whether and the extent to which the proposed expansion of a nonconforming use is compatible with existing and anticipated uses surrounding the subject property.

Explanation: The residence was established prior to city annexation, I would like to enjoy the same benefits as others to have an accessory building. The type of construction would be consistent with both residential and surrounding commercial buildings.

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

Explanation: Will have no effect on the natural environment

- **Community Need.** Whether and the extent to which the proposed expansion of a nonconforming use addresses a demonstrated community need.

Explanation: To be able to park a boat and RV indoors out of public view.

- **Development Patterns.** Whether and the extent to which the proposed expansion of a nonconforming use would result in a logical and orderly pattern of urban development in the community.

Explanation: Consistent with its surroundings

OFFICE USE ONLY

Case no.: NCU14 02

Date of application: 11/10/14

Received by: Jeff Fisher

Nonrefundable application fee (with deposit):

\$ 163.75

Date paid: 11/10/14

Fully-dimensioned site plan:     

Planning Commission hearing date: 12/15/14

River Corridor Commission?

yes  no

If yes, RCC meeting date: