



NOTICE TO PUBLIC

Notice is hereby given in accordance with the order of the Office of the Governor issued March 19, 2020, the Planning & Zoning Commission for the City of Athens, Texas, will hold a Regular Session on **Monday, April 6, 2020 at 5:30 p.m.** in the Derek D. Daniels Conference Room of the Athens Partnership Center, 201 West Corsicana Street, Athens, Texas via Facebook Live in order to advance the public health goal by avoiding social gatherings in groups of more than 10 people to slow the spread of the Coronavirus (COVID-19). **There will be no public access to the location described above.**

The public hearing notices and meeting agendas are posted online at <https://athenstx.gov/your-government/meeting-information/>

The public can participate during the meetings by going to the following website <https://www.facebook.com/CityofAthensTexas/>

The public will be permitted to offer public comments by sending an email to citysecretary@athenstx.gov as provided by the agenda and as permitted by the presiding officer during the meeting.

1. Consider approving the minutes of the March 2, 2020 Regular Session.
2. Discuss/consider a request from Crone Builders, LLC for approval of the final plat of Tracts 25, 25G, 25G-1, 25G-2 and 25G-3 of the William Trimmer Survey A-758, also known as Property ID R19776 located at the southeast corner of CR 4500 and CR 4628. This property is located in the City's extraterritorial jurisdiction (ETJ).
3. Public hearing concerning a request from Rodney Session for approval of a zoning change from Agriculture (A) to Single Family – 5 (SF-5) for Lot 5 of the F. M. Coker Tract, B. C. Walters Survey A-797, also known as 907 Cream Level Road.
4. Discuss/consider a request from Rodney Session for approval of a zoning change from Agriculture (A) to Single Family – 5 (SF-5) for Lot 5 of the F. M. Coker Tract, B. C. Walters Survey A-797, also known as 907 Cream Level Road.
5. Public hearing concerning the repeal and replacement of Section 31A of the Zoning Ordinance, in its entirety, regarding Temporary Use Permits.
6. Discuss/consider the repeal and replacement of Section 31A of the Zoning Ordinance, in its entirety, regarding Temporary Use Permits.
7. Adjourn

City of Athens Development Services

501 US Hwy 175 West | Athens, Texas 75751 | P 903.677.6615 | F 903.220.0935



Pursuant to Texas Government Code section 551.007, members of the public may speak on an agenda item during the public communication section of the meeting or at the time the agenda item is called for discussion by the Planning and Zoning Chairperson. Speakers shall be given three (3) minutes to speak. A speaker needing a translator and/or interpreter may be given six (6) minutes to speak. Criticism of city employees or staff is prohibited. Those wishing to address the Planning and Zoning Commission regarding an item not on the agenda must be a citizen, property owner or business owner of the city of Athens. Comments on such non-agenda items shall be limited to three minutes. The Planning and Zoning Commission will not comment on items not on the agenda; however, the Planning and Zoning Commission may refer the item to city staff for research, resolution or referral of the matter to the Planning and Zoning Commission as a future agenda item.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for additional accommodations or interpretive services must be made 48 hours prior to any meeting. Please contact the City Secretary's Office at (903) 675-5131 or by FAX (903) 675-7562 for further information.

Esta instalación es accesible para sillas de ruedas y hay plazas de aparcamiento accesibles disponibles. Las solicitudes de alojamiento adicional o servicios de interpretación deben hacerse 48 horas antes de cualquier reunión. Favor de comunicarse con la Oficina de la Secretaria de la Ciudad al (903) 675-5131 o por FAX (903) 675-7562 para más información.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

De conformidad con la Sección 30.07, Código Penal (estar en esta propiedad por titular de la licencia con una pistola en pleno vista), una persona con licencia bajo el Subcapítulo H, Capítulo 411, Código de Gobierno (ley de licencias arma de fuego), no puede entrar en esta propiedad con una pistola en pleno vista.

PLANNING & ZONING COMMISSION
REGULAR SESSION
March 2, 2020

The Planning and Zoning Commission of the City of Athens, Texas met in Regular Session on Monday, March 2, 2020, 5:30 p.m. in the Derek D. Daniels Conference Room of the Athens Partnership Center, 201 West Corsicana Street, Athens, Texas. The following members were present constituting a quorum: Mark Carroll, Scott Fullingim, Brandon Smith and Chris Tinsley.

Audrey Sloan, Director of Development Services; Sheila Garrett, Development Coordinator; Elizabeth Borstad, City Manager; Aaron Smith, Councilman; Michael Climer, Building Inspector; Betty Foster, Donna Meredith, Jim Kerlin, Alex Flores and Brian Garner were also present.

The meeting was called to order by Chairperson Carroll.

CONSIDER APPROVING THE MINUTES OF THE FEBRUARY 3, 2020 REGULAR SESSION.

Member Tinsley made a motion to approve the minutes. The motion was seconded by Member Fullingim and passed unanimously.

PUBLIC HEARING CONCERNING A REQUEST FROM TRITON ATHENS I, LLC FOR APPROVAL OF A SITE PLAN AMENDMENT FOR LOTS 1-5, BLOCK 1 OF THE TRITON ATHENS SUBDIVISION, R.A. CLARK SURVEY A-171, ALSO KNOWN AS 1006, 1010 AND 1012 EAST TYLER STREET.

Chairperson Carroll opened the public hearing. Sloan described the location of the property and stated that the applicant is proposing to amend the site plan that was previously approved. The proposed amendments include changing the drive approach locations per TXDOT approval, the addition of wall signs on the east and west facades of the buildings, increasing the height of the screening wall to ten feet in height and allowing a temporary screening wall while the site is under construction. Jim Kerlin, 1015 Crestway Drive, spoke about concerns he had with the height of the screening wall and the elevation of the Triton site in relation to the neighboring properties to the south. Alex Flores, 1013 Crestway Drive, spoke about concerns he had regarding the height of the screening wall. Michael Climer discussed the height of the portions of the screening wall that have already been installed. Elizabeth Borstad discussed the elevation of the ground immediately adjacent to the screening wall according to the grading plan that was submitted. Discussion on the screening wall continued. Chairperson Carroll closed the public hearing.

DISCUSS/CONSIDER A REQUEST FROM TRITON ATHENS I, LLC FOR APPROVAL OF A SITE PLAN AMENDMENT FOR LOTS 1-5, BLOCK 1 OF THE TRITON ATHENS SUBDIVISION, R.A. CLARK SURVEY A-171, ALSO KNOWN AS 1006, 1010 AND 1012 EAST TYLER STREET.

Member Tinsley made a motion to not allow additional wall signage on the east and west facades of the buildings, to maintain an elevation of at least 516 feet for the top of the screening wall, and to allow temporary screening while the site is under construction, but the permanent wall shall be completed prior to the issuance of any certificate of occupancy for the site. The motion was seconded by Member Fullingim and was approved unanimously.

PUBLIC HEARING CONCERNING A REQUEST TRITON ATHENS I, LLC FOR APPROVAL OF THE AMENDED FINAL PLAT FOR LOTS 1-5, BLOCK 1 OF THE TRITON ATHENS SUBDIVISION, R.A. CLARK SURVEY A-171, ALSO KNOWN AS 1006, 1010 AND 1012 EAST TYLER STREET.

Chairperson Carroll opened the public hearing. Sloan described the location of the property and stated that the applicant is requesting to amend the final plat of the property in order to update the location of the drive approaches and the corresponding access and utility easements. The plat is compliant with the City's subdivision and zoning ordinances. Chairperson Carroll closed the public hearing.

DISCUSS/CONSIDER A REQUEST FROM TRITON ATHENS I, LLC FOR APPROVAL OF THE AMENDED FINAL PLAT FOR LOTS 1-5, BLOCK 1 OF THE TRITON ATHENS SUBDIVISION, R.A. CLARK SURVEY A-171, ALSO KNOWN AS 1006, 1010 AND 1012 EAST TYLER STREET.

Member Tinsley made a motion to approve the amended plat. The motion was seconded by Member Fullingim and was approved unanimously.

PUBLIC HEARING CONCERNING THE REPEAL AND REPLACEMENT OF SECTION 31A OF THE ZONING ORDINANCE, IN ITS ENTIRETY, REGARDING TEMPORARY USE PERMITS.

Chairperson Carroll opened the public hearing. Sloan discussed the proposal to replace the existing Temporary Use Permit ordinance with a new ordinance that addresses both temporary events and temporary structures as the current ordinance only addresses events. The new ordinance also establishes appropriate time frames and other guidelines for each type temporary use and structure. The proposal was discussed at length. Chairperson Carroll and Member Tinsley expressed a desire to include an additional section that would allow a category for businesses in temporary to permanent situations. Chairperson Carroll closed the public hearing.

DISCUSS/CONSIDER THE REPEAL AND REPLACEMENT OF SECTION 31A OF THE ZONING ORDINANCE, IN ITS ENTIRETY, REGARDING TEMPORARY USE PERMITS.

Member Tinsley made a motion to table the item to allow time to establish the criteria for the temporary to permanent certificate of occupancy category. The motion was seconded by Member Fullingim and was approved unanimously.

ADJOURN

The meeting was adjourned.

PASSED AND APPROVED ON THIS THE 6th DAY OF APRIL 2020.

Chairman

ATTEST: _____
Sheila Garrett, Development Coordinator



Agenda Memorandum

Agenda Date: April 6, 2020

DEPARTMENT: Development Services

CONTACT: Audrey Sloan, Director of Development Services

SUBJECT: Discuss/consider a request from Crone Builders, LLC for approval of the final plat of Tracts 25, 25G, 25G-1, 25G-2 and 25G-3 of the William Trimmer Survey A-758, also known as Property ID R19776 located at the southeast corner of CR 4500 and CR 4628.

SUMMARY: The proposal is to subdivide the property for residential use.

BACKGROUND: This property is located in the City's extraterritorial jurisdiction (ETJ) south of the Loop in between South State Highway 19 and the airport.

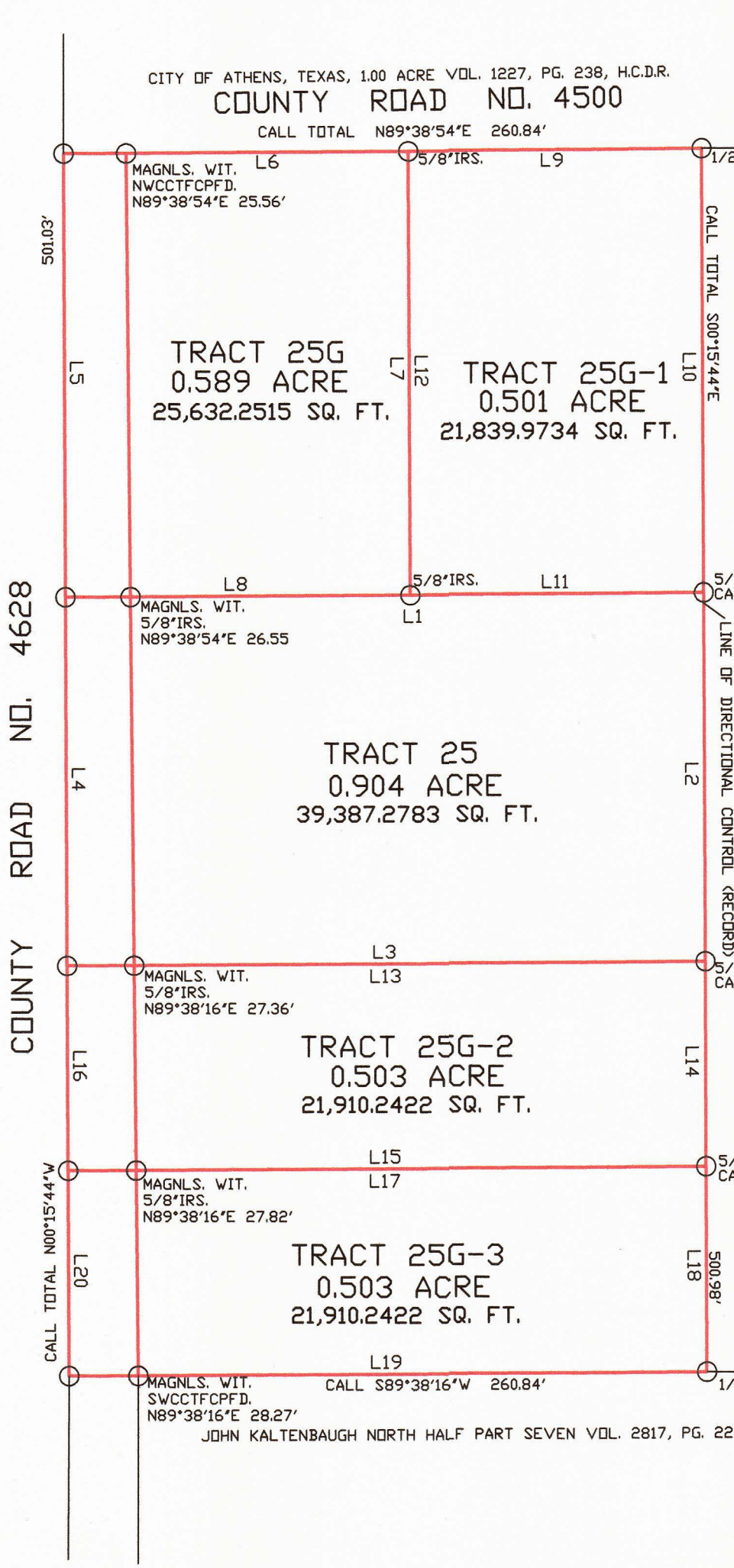
The owner is subdividing the property into 5 tracts for residential use. The plat is compliant with the City's zoning and subdivision ordinances.

ISSUE: n/a

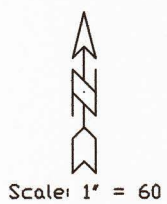
ALTERNATIVES: n/a

FISCAL IMPACT: n/a

RECOMMENDATION: Consider recommending the approval of the final plat of Tracts 25, 25G, 25G-1, 25G-2 and 25G-3 of the William Trimmer Survey A-758, also known as Property ID R19776 located at the southeast corner of CR 4500 and CR 4628.



WATER PROVIDED BY VIRGINIA HILL WATER SUPPLY CORPORATION
 707 EAST COLLEGE STREET, ATHENS, TEXAS 75751 903-675-7487
 ON-SITE SEWAGE FACILITY
 THIS SUBDIVISION IS REGULATED BY THE CODE OF ORDINANCES OF
 THE CITY OF ATHENS, TEXAS AND LOCAL GOVERNMENT CODE
 CHAPTER 42, EXTRATERRITORIAL JURISDICTION OF MUNICIPALITIES
 AND LOCAL GOVERNMENT CODE CHAPTER 212, MUNICIPAL REGULATION
 OF SUBDIVISIONS AND PROPERTY DEVELOPMENT.



HENDERSON COUNTY, TEXAS
 REPLAT
 TRACT 25
 CREATING TRACTS 25, 25-G, 25-G1,
 25-G2 AND 25-G3
 WILLIAM TRIMMER SURVEY, A-758

LEGAL DESCRIPTION OF LAND. ALL THAT CERTAIN LOT, TRACT OR PARCEL OF LAND
 SITUATED IN HENDERSON COUNTY, STATE OF TEXAS, ON THE WILLIAM TRIMMER SURVEY,
 A-758, AND BEING ALL OF THE CALLED 3.00 ACRE TRACT CONVEYED TO CRONE BUILDERS LLC,
 BY GARY J. CRONE AND WIFE, PAMELA J. CRONE, BY GENERAL WARRANTY DEED DATED APRIL
 11, 2019 AND RECORDED UNDER INSTRUMENT NUMBER 2019-00004910, OF THE HENDERSON
 COUNTY OFFICIAL RECORDS.

WE, CRONE BUILDERS LLC, DO HEREBY DECLARE THAT WE ARE THE OWNERS OF THE
 PROPERTY SHOWN HEREON AND DO HEREBY ACCEPT THIS PLAN FOR SUBDIVIDING SAME,
 DEDICATING ALL EASEMENTS SHOWN HEREON TO THE PUBLIC FOR EVER.

Crone Builders, LLC, by Gary J. Crone
 P.O. BOX 753,
 GENTRY ARKANSAS, 72734

SUBSCRIBED AND SWORN TO BEFORE ME A NOTARY PUBLIC IN AND FOR HENDERSON
 COUNTY, TEXAS, THIS _____ DAY OF _____, 2020.

NOTARY PUBLIC

APPROVED BY THE ATHENS PLANNING AND ZONING COMMISSION THIS _____

DAY OF _____, 2020

CHAIRMAN

SECRETARY

APPROVED BY THE CITY COUNCIL OF THE CITY OF ATHENS, TEXAS, THIS _____

DAY OF _____, 2020

APPROVE _____ MAYOR

ATTEST _____ CITY SECRETARY

I, COUNTY CLERK FOR HENDERSON COUNTY, TEXAS, DO HEREBY CERTIFY THAT THE
 FORGOING PLAT WAS FILED IN MY OFFICE ON THIS _____ DAY OF _____,
 2020

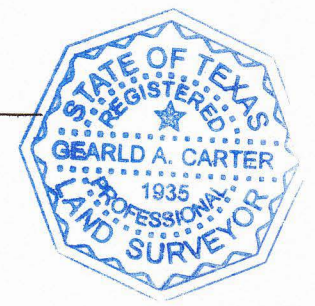
COUNTY CLERK

THIS TRACT LIES IN ZONE X, AREA OF MINIMAL FLOOD HAZARD, ACCORDING TO FIRM MAP NUMBER
 48213C0340E, COMMUNITY PANEL NUMBER 4811740340E EFFECTIVE DATE APRIL 5, 2010.

SURVEY COMPLETED IN FEBRUARY, 2020

Geard A. Carter

Geard A. Carter, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 1935
 GEARD A. CARTER AND ASSOCIATES LAND SURVEYORS
 TEXAS LICENSED SURVEYING FIRM NO. 10068300
 100 BEL-AIR DRIVE ATHENS, TEXAS 75751 903-675-7346
 SURVEY FOR: CRONE BUILDERS



TRACT 25G
 ACTUAL BEARING AND DISTANCE

NUMBER	DIRECTION	DISTANCE
L5	N 00°15'44" W	182.00 FT
L6	N 89°38'54" E	140.84 FT
L7	S 00°15'44" E	182.00 FT
L8	S 89°38'54" W	140.84 FT

TRACT 25G-1
 ACTUAL BEARING AND DISTANCE

NUMBER	DIRECTION	DISTANCE
L9	N 89°38'54" E	120.00 FT
L10	S 00°15'44" E	182.00 FT
L11	S 89°38'54" W	120.00 FT
L12	N 00°15'44" W	182.00 FT

TRACT 25
 ACTUAL BEARING AND DISTANCE

NUMBER	DIRECTION	DISTANCE
L1	N 89°38'54" E	260.84 FT
L2	S 00°15'44" E	150.98 FT
L3	S 89°38'16" W	260.84 FT
L4	N 00°15'44" W	151.03 FT

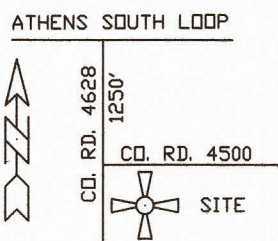
LEGEND
 MAGNLS. MAG NAIL SET
 1/2" IRF. 1/2" IRON ROD FOUND
 5/8" IRS. 5/8" IRON ROD SET
 5/8" IRS. CAP CARTER 1935 5/8" IRON ROD SET
 WITH A PLASTIC CAP STAMPED CARTER 1935
 SWCCTFCPFD. SOUTHWEST CORNER OF A CROSS
 TIE FENCE CORNER POST FOUND
 NWCCTFCPFD. NORTHWEST CORNER OF A CROSS
 TIE FENCE CORNER POST FOUND
 WIT. WITNESS

TRACT 25G-2
 ACTUAL BEARING AND DISTANCE

NUMBER	DIRECTION	DISTANCE
L13	N 89°38'16" E	260.84 FT
L14	S 00°15'44" E	84.00 FT
L15	S 89°38'16" W	260.84 FT
L16	N 00°15'44" W	84.00 FT

TRACT 25G-3
 ACTUAL BEARING AND DISTANCE

NUMBER	DIRECTION	DISTANCE
L17	N 89°38'16" E	260.84 FT
L18	S 00°15'44" E	84.00 FT
L19	S 89°38'16" W	260.84 FT
L20	N 00°15'44" W	84.00 FT



ROYCE BANE AND WILLIAM CRAIG MURHEAD 6439 ACRE FIRST TRACT INSTRUMENT NUMBER 2016-00006148, HENDERSON COUNTY OFFICIAL RECORDS.

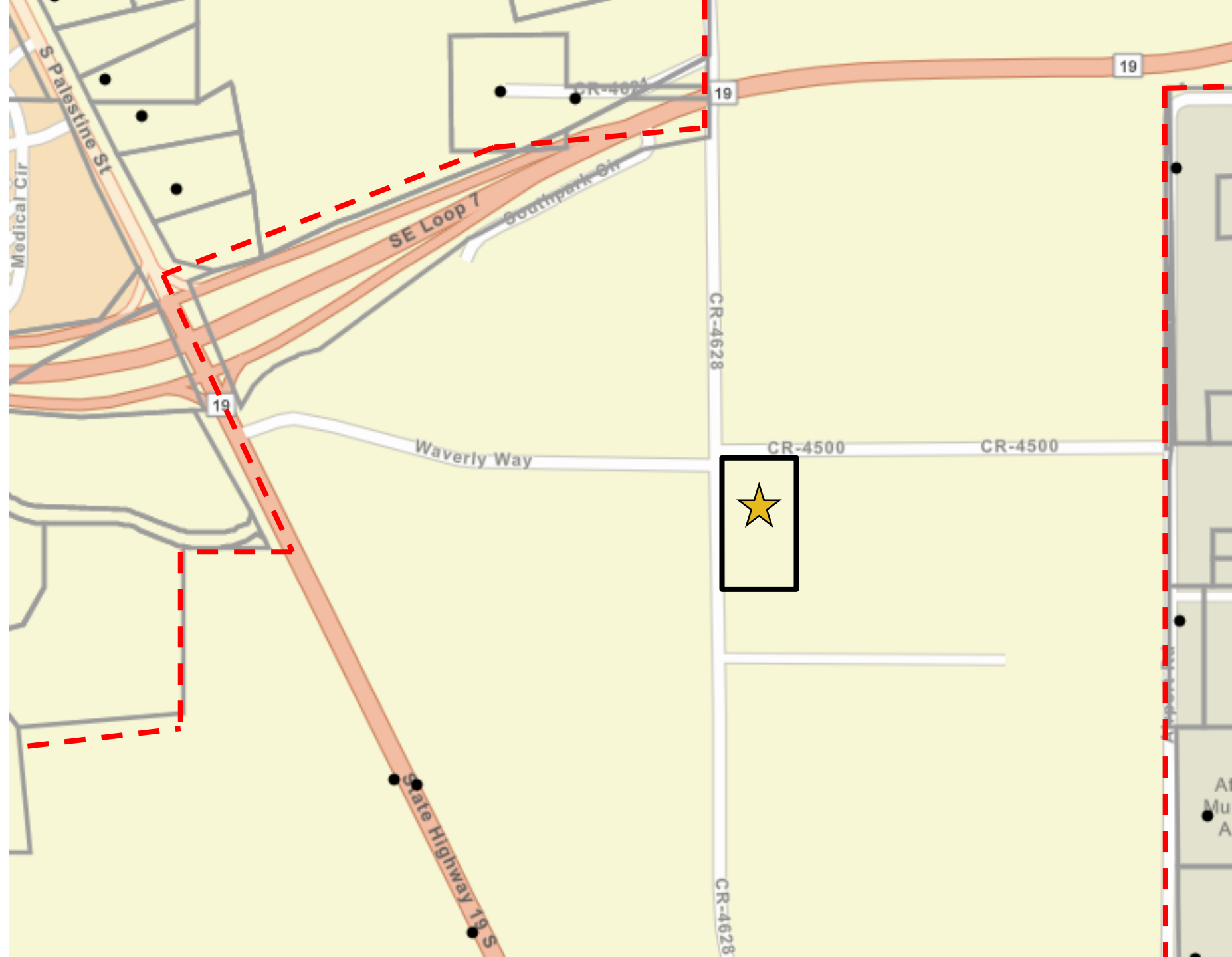
Final Plat

Applicant:
Crone Builders, LLC

Tracts 25, 25G, 25G-1, 25G-2
& 25G-3

William Trimmer Sur, A-758

CR 4500 & CR 4628



Final Plat

Applicant:
Crone Builders, LLC

Tracts 25, 25G, 25G-1, 25G-2
& 25G-3

William Trimmer Sur, A-758

CR 4500 & CR 4628



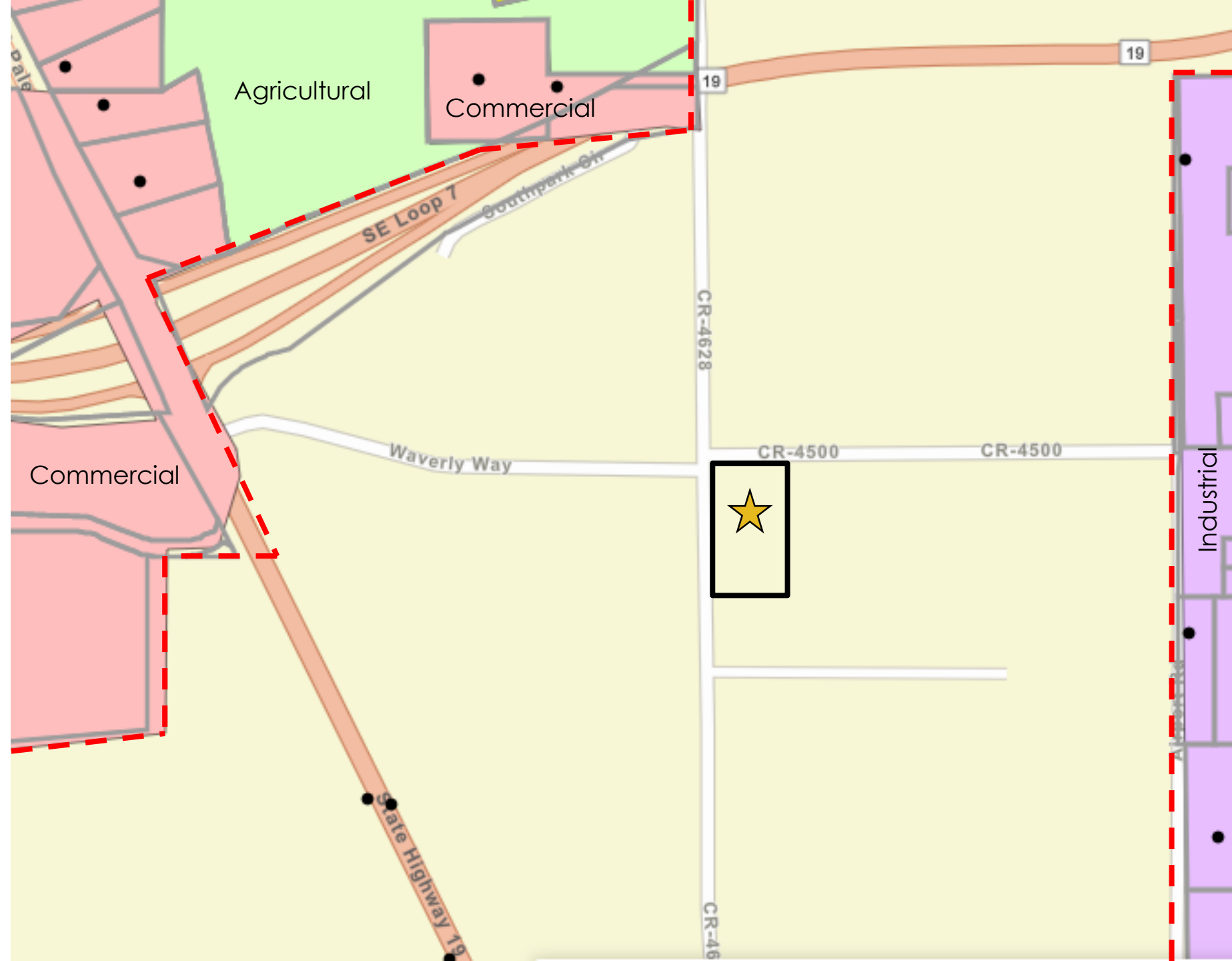
Final Plat

Applicant:
Crone Builders, LLC

Tracts 25, 25G, 25G-1, 25G-2
& 25G-3

William Trimmer Sur, A-758

CR 4500 & CR 4628



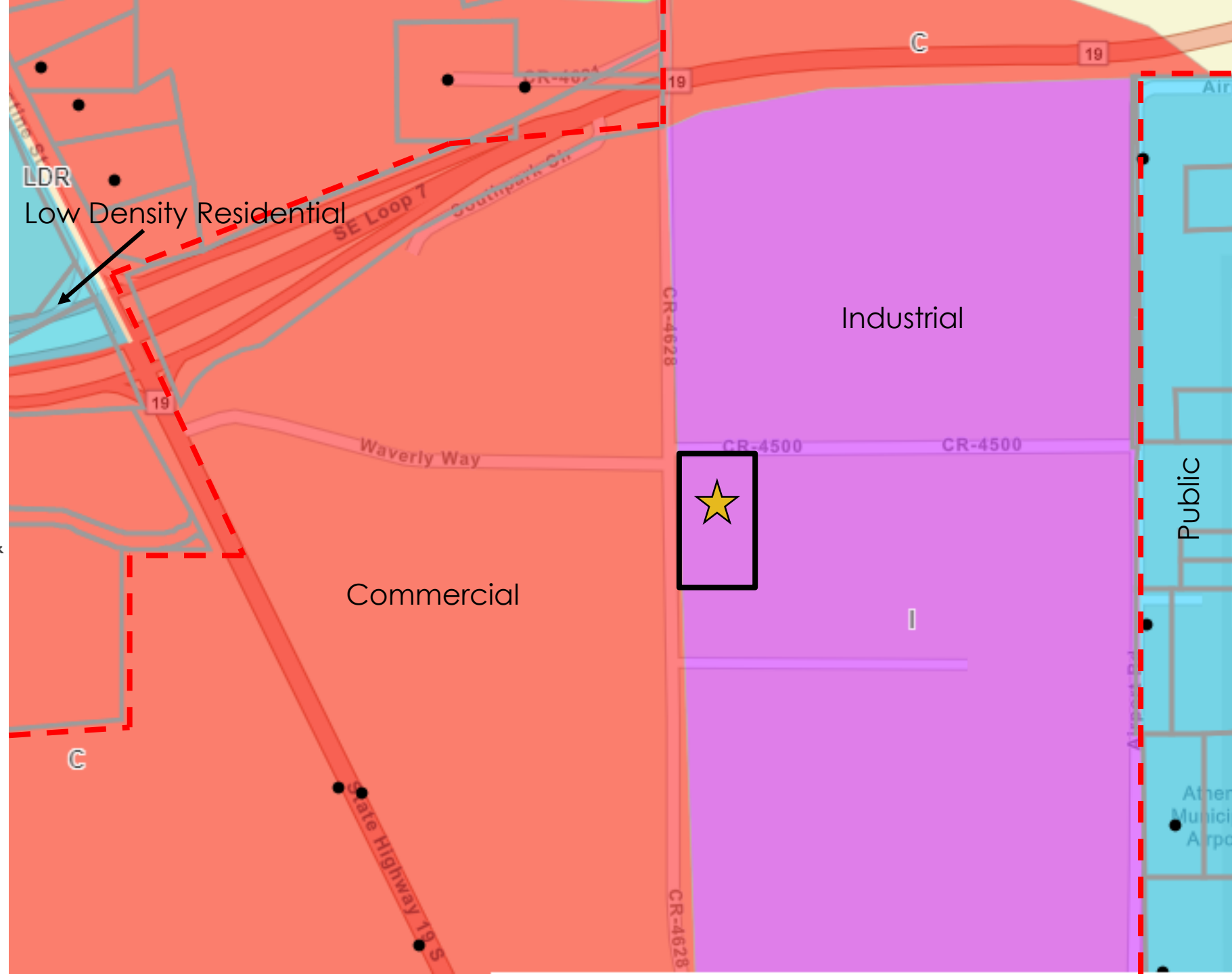
Final Plat

Applicant:
Crone Builders, LLC

Tracts 25, 25G, 25G-1, 25G-2 &
25G-3

William Trimmer Sur, A-758

CR 4500 & CR 4628





Agenda Memorandum

Agenda Date: April 6, 2020

DEPARTMENT: Development Services

CONTACT: Audrey Sloan, Director of Development Services

SUBJECT: Discuss/consider a request from Rodney Session for approval of a zoning change from Agriculture (A) to Single Family – 5 (SF-5) for Lot 5 of the F. M. Coker Tract, B. C. Walters Survey A-797, also known as 907 Cream Level Road.

SUMMARY: The zoning change and specific use permit (SUP) is requested in order to install a manufactured home on the property.

BACKGROUND: This property is located on Cream Level Road and the current zoning of the property is Agriculture.

The owner is proposing to install a 1,568 square foot doublewide manufactured home on the property. The use of manufactured homes requires a SUP according to the zoning ordinance. In addition, a zoning change to Single Family – 5 is requested because the lot does not meet the minimum square footage requirement of one (1) acre for Agriculture zoned lots. The lot is only 0.5 acres.

Letters of notification were sent to the seven (7) surrounding property owners within two hundred (200) feet. No responses were returned.

The Future Land Use Plan designates this area as Low Density Residential.

ISSUE: n/a

ALTERNATIVES: n/a

FISCAL IMPACT: n/a

RECOMMENDATION: Consider recommending the approval of a zoning change from Agriculture (A) to Single Family – 5 (SF-5) for Lot 5 of the F. M. Coker Tract, B. C. Walters Survey A-797, also known as 907 Cream Level Road.

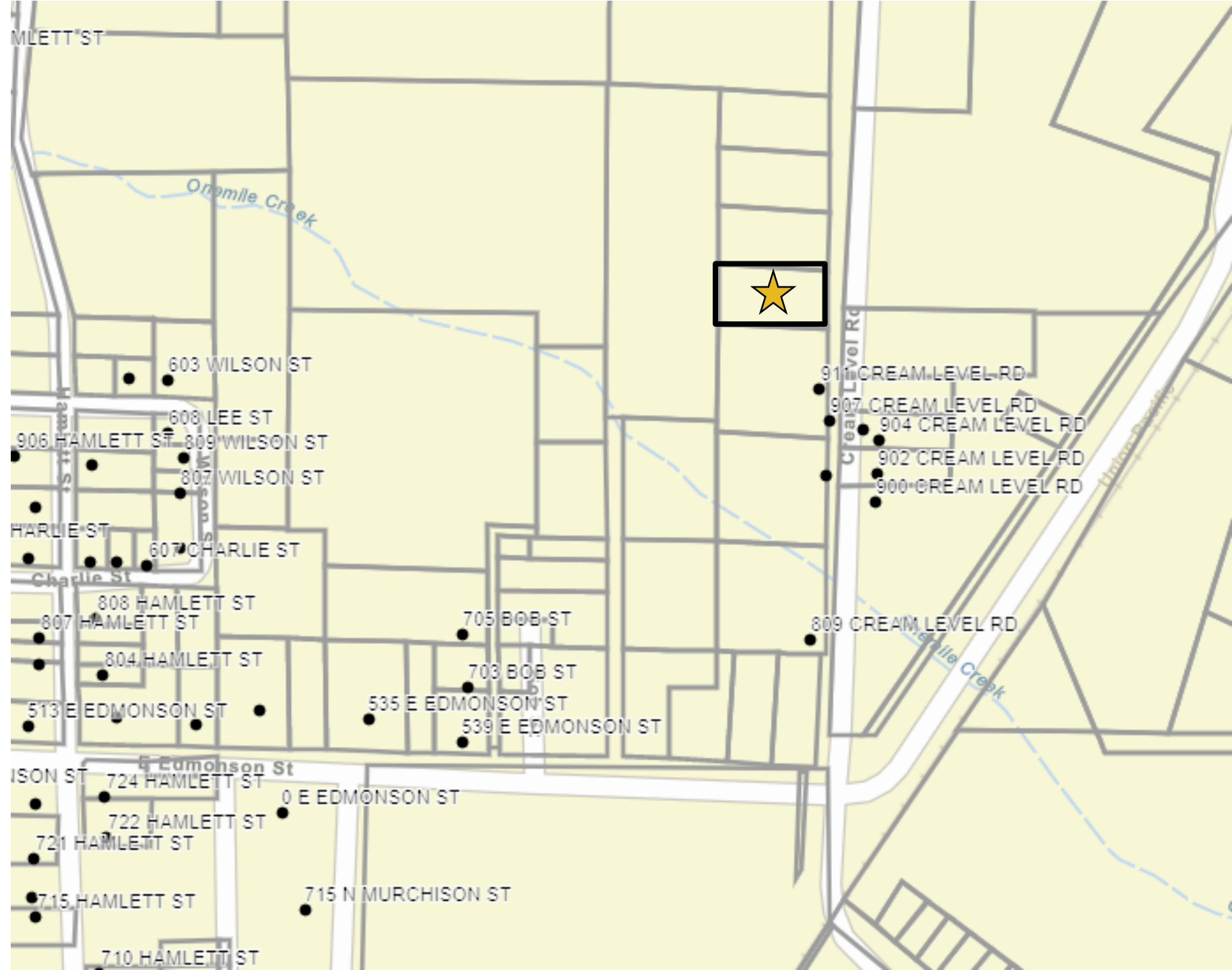
Zoning Change & SUP

**Applicant:
Rodney Session**

Lot 5, F. M. Coker Tract

B. C. Walters Sur, A-797

907 Cream Level Rd



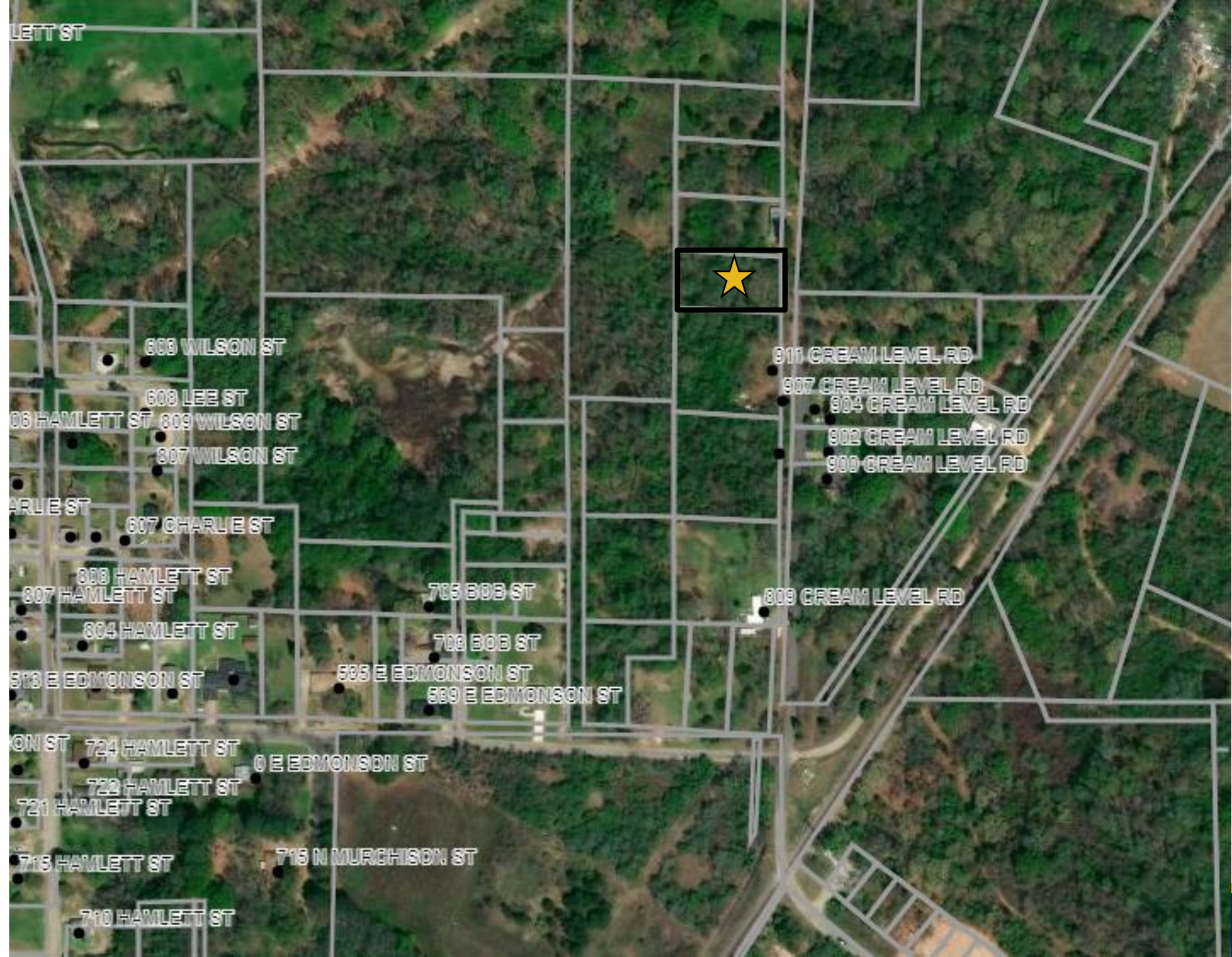
Zoning Change & SUP

Applicant:
Rodney Session

Lot 5, F. M. Coker Tract

B. C. Walters Sur, A-797

907 Cream Level Rd



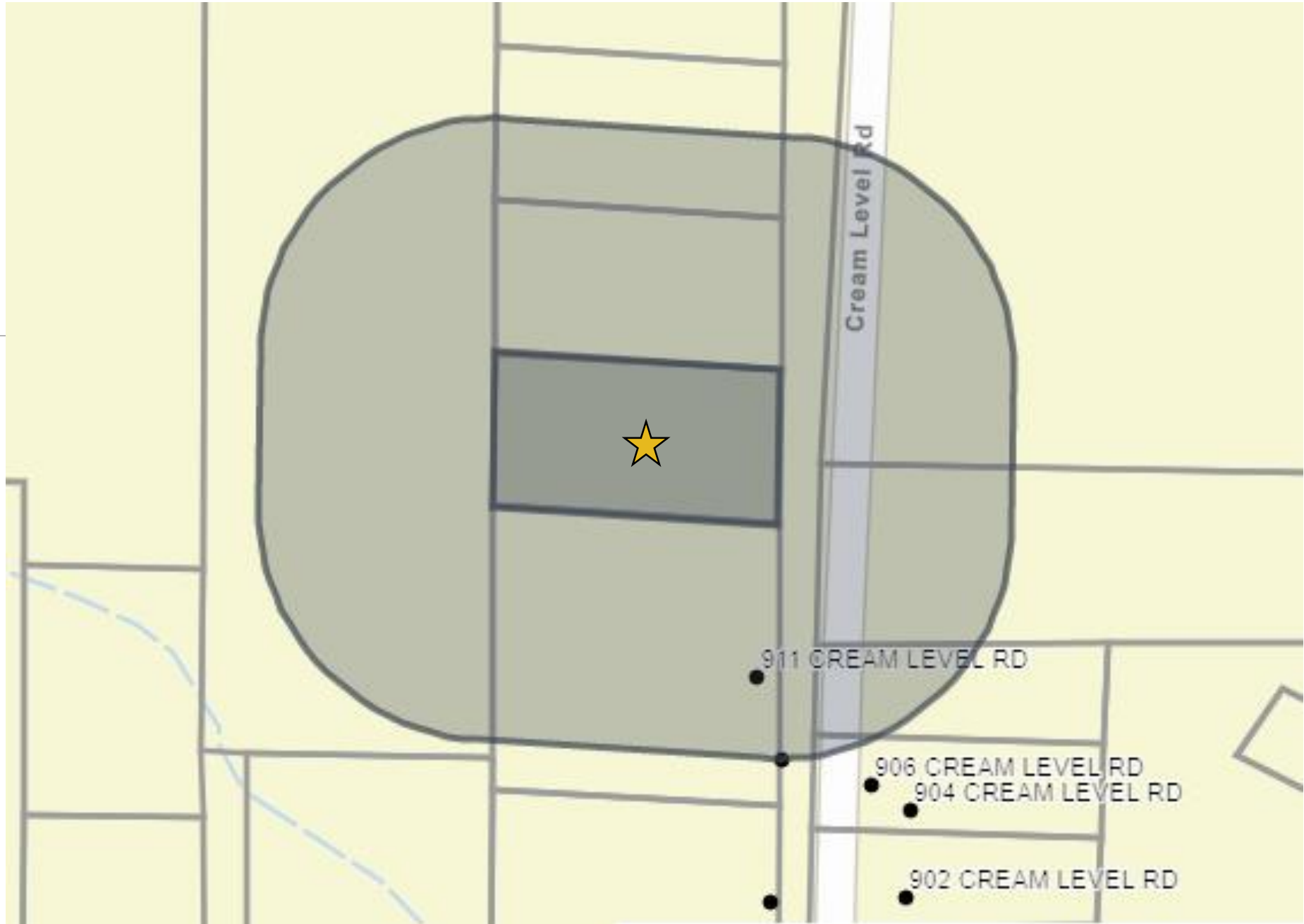
Zoning Change & SUP

**Applicant:
Rodney Session**

Lot 5, F. M. Coker Tract

B. C. Walters Sur, A-797

907 Cream Level Rd



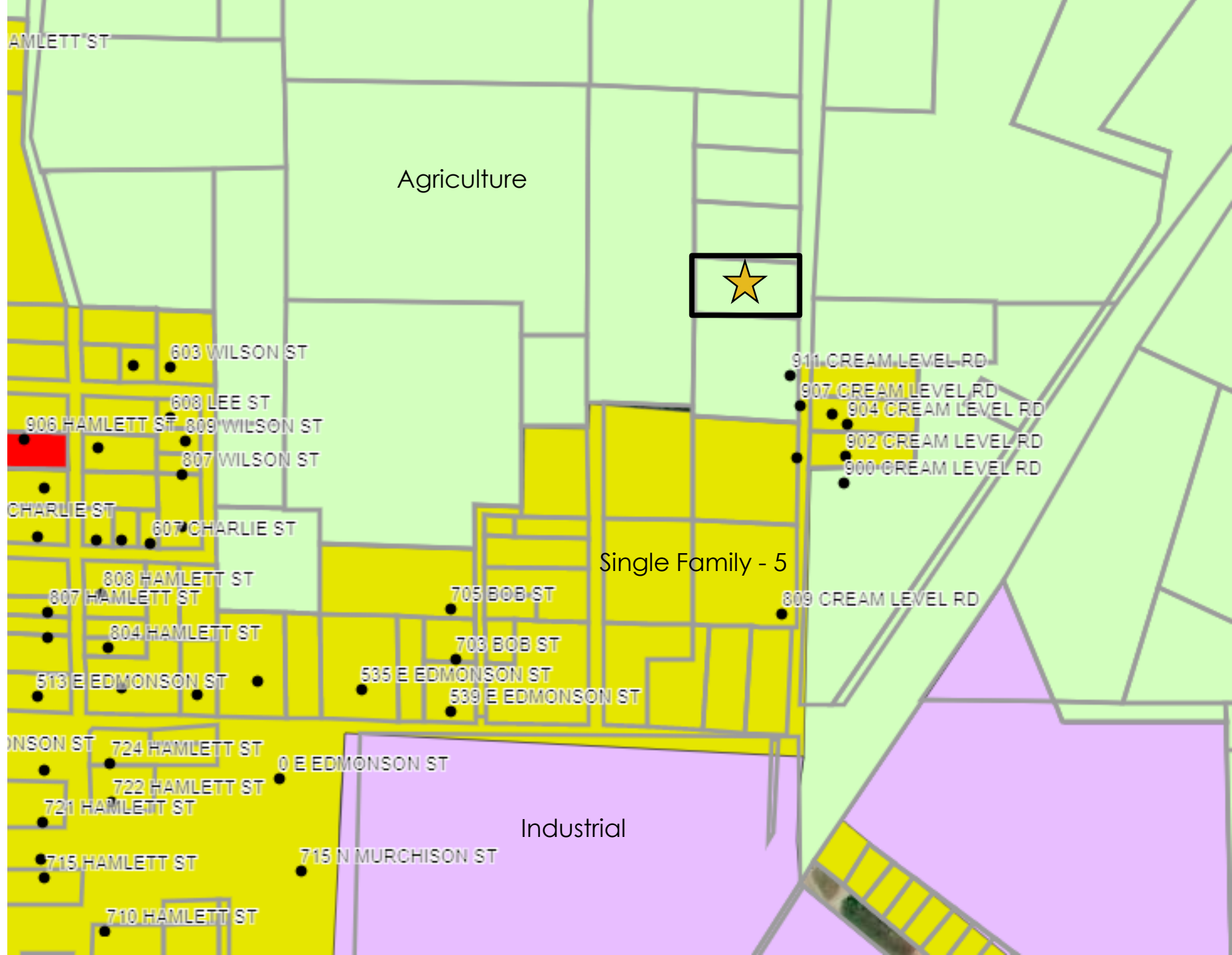
Zoning Change & SUP

**Applicant:
Rodney Session**

Lot 5, F. M. Coker Tract

B. C. Walters Sur, A-797

907 Cream Level Rd



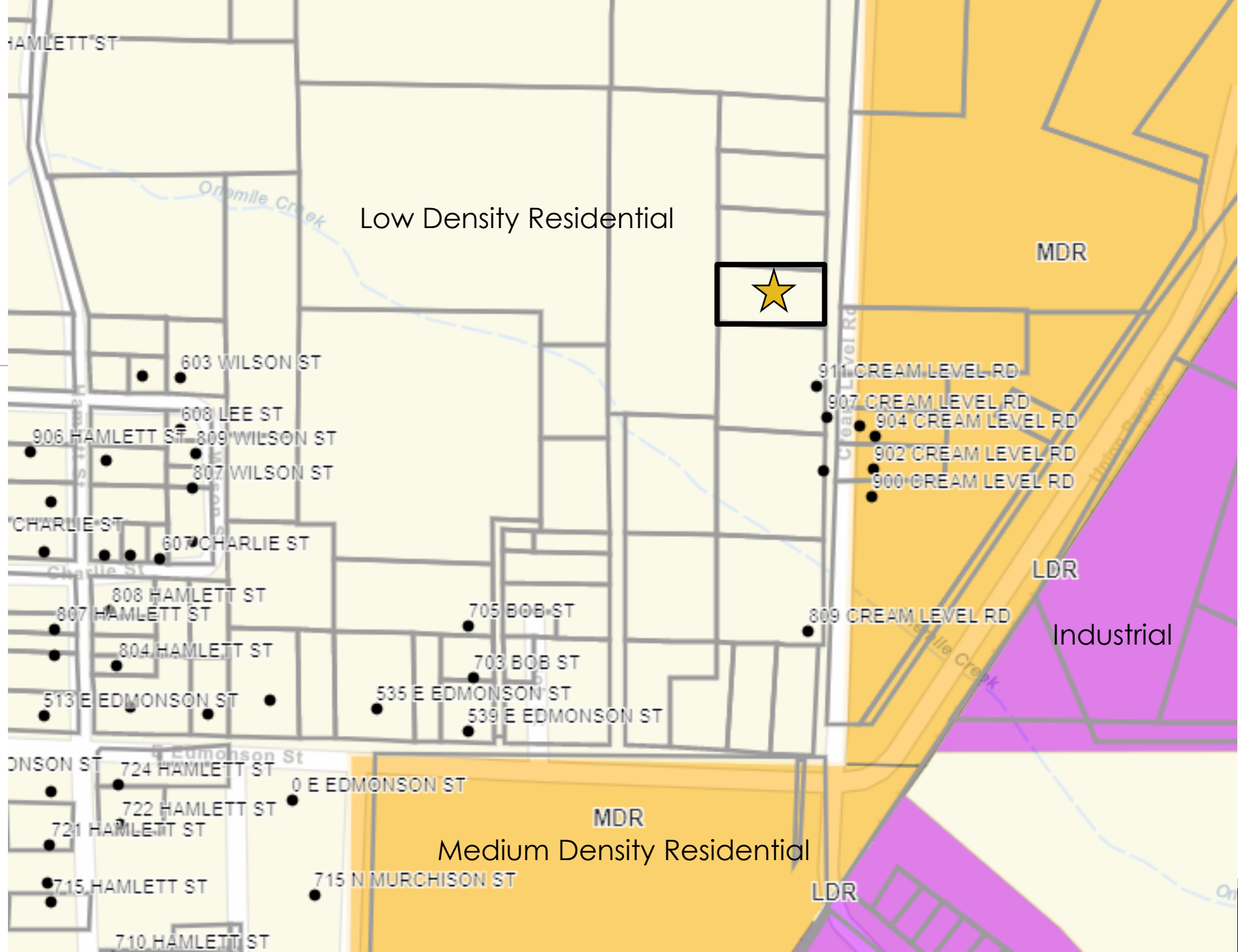
Zoning Change & SUP

**Applicant:
Rodney Session**

Lot 5, F. M. Coker Tract

B. C. Walters Sur, A-797

907 Cream Level Rd





Agenda Memorandum

Agenda Date: April 6, 2020

DEPARTMENT: Development Services

CONTACT: Audrey Sloan, Director of Development Services

SUBJECT: Discuss/consider the repeal and replacement of Section 31A of the Zoning Ordinance, in its entirety, regarding Temporary Use Permits.

SUMMARY: The proposal is to update and clarify the Temporary Use Permits ordinance.

BACKGROUND: The proposal is to replace the existing Temporary Use Permit ordinance with a new ordinance that addresses both temporary events and temporary structures. The current ordinance only addresses events.

New ordinance also establishes appropriate time frames and other guidelines for each type of temporary use and structure.

This item was tabled during the February & March P&Z meetings.

ISSUE: n/a

ALTERNATIVES: n/a

FISCAL IMPACT: n/a

RECOMMENDATION: Consider recommending the repeal and replacement of Section 31A of the Zoning Ordinance, in its entirety, regarding Temporary Use Permits.

PROPOSED

SECTION 31A - TEMPORARY USE PERMIT

The Department of Development Services may issue a permit for a temporary event or temporary structure under the conditions and for the time specified in accordance with this section, provided that the temporary use does not constitute a nuisance for adjacent properties.

31A.1 Temporary events.

1. *Number of permits and duration.* Unless stated otherwise herein, a business or property owner may receive during any calendar year no more than two temporary use permits, or no more than one temporary use permit and one renewal of said permit for a specific property upon making application, after paying the required fee and receiving approval of the director. Except as otherwise set forth in this Code, a temporary event permit and each extension of a temporary event permit shall be effective for the duration of the event not to exceed 30 consecutive days.
2. *Application.*
 - a. Unless otherwise determined by the director, an application for a temporary event permit must be submitted with the following information:
 - i. A written letter of approval from the property owner indicating the applicant has the right to use such property for the temporary use described in the application.
 - ii. A site plan of the property showing:
 1. Property boundaries.
 2. Building footprint of permanent structures and paved parking lot, if applicable.
 3. Location of all fire lanes, driveways, sidewalks and/or alleys.
 4. Location of merchandise, display areas, and temporary structures including tents, canopies or shelters.
 5. Fire rating documentation for any temporary tent, canopy or shelter to be used during the event.
 6. The number of displaced parking spaces, if any, and the number of remaining parking spaces.
 7. Location of temporary lighting or security lighting, if any.
 8. Size and location of any temporary signage, pennants, or banners.
 9. Location of restrooms that will be available for use by the public during the event for which the permit is to be issued.
 10. A description of the temporary event activities, requested days, and hours of operation.
 11. Contact information for the applicant and/or organization operating the event and contact information for a representative that will be on site during the event.
 12. Information regarding any temporary mobile food vendors, and/or any food or drink preparation, sales or sampling that may be on site in conjunction with the event.
 - iii. Charitable, religious, educational, public service, and/or civic organizations are exempt from all fees to be collected pursuant to this section.

- b. Additional requirements.
 - i. No parking space required by this Code or other ordinance shall be used for a temporary event permit.
 - ii. All temporary lighting will require an electrical permit and an inspection by the city building inspector prior to the event. No lighting may flash, travel, blink, fade, move, or scroll.
 - iii. Temporary restrooms and/or on-site restrooms shall be allowed with the approval of the property owner and business owner whose restrooms will be used.
 - iv. The preparation, sale and/or sampling of any food and/or drinks shall comply with all applicable provisions of the Code of Ordinances, as amended, and any other applicable codes including, but not limited to, the issuance of any required health permit.
 - v. The use of a temporary tent, canopy, or shelter, made of cloth, plastic, canvas or similar material, shall comply with requirements of Chapter 31 of the International Fire Code, as amended. The application submittal shall include fire rating certificate documentation to be reviewed and approved by the Fire Marshal.
 - vi. No event receiving a temporary use permit shall locate in an approved landscape buffer or within 20 feet of a right of way or alley.
- 3. *Decommission or removal.* The site shall be vacated completely and cleaned at the end of the event and prior to the issuance of new temporary use permits for the same property.
- 4. *Types of temporary events.*
 - a. *Seasonal sales.* Temporary sales of seasonal products such as firewood, plants, fruits, vegetables, and similar items or products may be allowed during their normal and generally accepted season, and subject to the following provisions:
 - i. Issuance of permits for temporary outdoor sales of seasonal products shall be limited to areas zoned for retail or commercial uses.
 - ii. Where an existing business is operating in accordance with a certificate of occupancy, the area for display shall be no more than 200 square feet, being generally square or rectangular in shape, with a maximum length of 25 feet and a minimum width of eight feet. Examples would be ten feet by 20 feet, or eight feet by 25 feet.
 - iii. This section does not apply to temporary outdoor services such as mobile blood banks, mammography screening, eye screening, or similar medical services for humans.
 - iv. An application for a temporary event shall also include a true copy of the sales tax permit which designates the City as point of sale.
 - v. Temporary sales of fruits and vegetables for off-premises consumption shall be allowed; however, the products must remain whole, and not be cut or opened in any manner.
 - b. *Christmas tree sales.* Temporary sales of Christmas trees may be allowed during the normal and generally accepted season, and subject to the following provisions:
 - i. Issuance of permits for temporary outdoor sales of Christmas trees shall be limited to areas zoned for retail or commercial uses, or any church property.
 - ii. Sales may not begin prior to November 15.
 - iii. Sale site must be cleaned and vacated by January 1.

- iv. The application for a temporary use permit shall also include a true copy of the sales tax permit which designates the City as point of sale.
- c. *Carnival, circus, fair, or festival.* Such temporary events may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances, and subject to the following provisions.
 - i. The term of a temporary event permit for a carnival, circus, fair, or festival shall not exceed a maximum of five days.
 - ii. Issuance of permits for a carnival, circus, fair or festival shall be limited to areas zoned for retail or commercial uses, or any church property.
- d. *Temporary event.* Sporting events, philanthropic or religious events, community garage sales for charities, general community events and similar activities may be allowed provided the use conforms to all other provisions of this Code and the Code of Ordinances. Parking lot sales may be allowed for the existing businesses holding a certificate of occupancy for the site.
 - i. Issuance of a permit for a temporary event pursuant to this paragraph shall be limited to areas zoned for retail or commercial uses, or any church property.
 - ii. The term of a temporary use permit issued pursuant to this paragraph for a temporary event shall not exceed 15 days.
- e. *Temporary food vendor.* A mobile food unit, as defined in Chapter 13, Article VI of the Code of Ordinances may operate as a temporary food vendor as follows:
 - i. Mobile food units may be permitted to operate in association with temporary event permits issued for seasonal sales, Christmas tree sales, carnivals, circuses, fairs, festivals, or temporary events. The temporary food vendor information shall be submitted with the corresponding temporary event permit application and shall include a copy of any required health permits. A separate temporary event permit for the mobile food unit is not required if operating in conjunction with a permitted temporary event. The corresponding temporary event permit must be secured prior to the mobile food unit commencing the preparation or sale of any food on the property.
 - ii. Mobile food units not operating in conjunction with a permitted temporary event shall be regulated in accordance with Chapter 13, Article VI of the Code of Ordinances.
- f. *Other temporary events.* A temporary event permit may be granted for similar temporary uses not listed in this section upon approval of the City Manager, provided the event conforms to all other provisions of this Code and the Code of Ordinances.

31A.2 Temporary buildings.

1. Application. Unless otherwise determined by the director, an application for a temporary building must be submitted with the following information:
 - a. A site plan of the property, as described in section 31A.1.
 - b. A description of the temporary building and any applicable engineering, building, plumbing, electrical and/or mechanical plans.
 - c. Additional requirements.
 - i. No temporary structure shall occupy any parking space required by this Code or other ordinance.

- ii. All temporary lighting will require an electrical permit and an inspection by the city building inspector prior to the event. No lighting may flash, travel, blink, fade, move, or scroll.
- iii. Temporary restroom facilities shall be allowed with the approval of the property owner.
- iv. The use of a temporary tent, canopy, or shelter, made of cloth, plastic, canvas or similar material, shall comply with requirements of Chapter 31 of the International Fire Code, as amended. The application submittal shall include fire rating certificate documentation to be reviewed and approved by the Fire Marshal.
- v. No temporary structure shall locate in an approved landscape buffer or within 20 feet of a right of way or alley.

2. Types of temporary buildings.

- a. *Temporary construction office building.* A temporary building may be used as a construction office if it is located within the same property, contains no living quarters, and provides for only uses incidental to construction on the premises. Such building shall be removed within 10 days following the final inspection of the construction permit by the City. Additional temporary construction office buildings and storage trailers may be allowed in nonresidential zoning areas with the approval of the director.
- b. *Temporary warehousing or storage structure.* A temporary structure may be used as a warehousing or storage area if it is located within the same property, contains no living quarters, and provides for only uses incidental to construction on the premises or clean-up of premises after a fire, natural disaster, or similar event. Such structure shall be removed within 10 days following the final inspection of the construction activity by the City or the closure of the clean-up activities. Additional temporary structures may be allowed in nonresidential zoning areas with the approval of the director.
- c. *Temporary residential subdivision sales office.* A temporary sales office may be located within an approved residential subdivision. This office should be used for display purposes in order to enhance the sales of residential structures within the subdivision. No more than one sales office shall be allowed for any one builder in any subdivision. Such temporary use shall be allowed for a period of one year, with extensions of not more than six months upon application and approval, provided the builder has unsold lots remaining in the subdivision and the office continues to be in use and properly maintained.
- d. *Church or school temporary accessory buildings.* Temporary accessory buildings for church and public or private school use are subject to the following conditions:
 - i. Temporary accessory buildings for church, private or public-school use constructed of alternate exterior building materials are allowed by permit by the director for a maximum of 24 months. Thereafter, the permit may be renewed by the City Council on an annual basis for additional periods of 12 months each if active preparation and/or efforts have or are being taken in completion of the development which necessitated the temporary accessory buildings.
 - ii. The director may approve an alternate exterior building material if of noncombustible construction and in accordance with the city's building code and fire prevention code. Metal exterior walls shall be compatible in color with the principal building and existing surrounding structures. If the walls are metal, the use of corrugated panels is prohibited; profile panels, deep ribbed panels and concealed facing systems are permitted. Exterior finish for metal walls fronting or siding a public street shall be of a permanent material such as baked or enamel finish or painted to the wall manufacture standards. The use of galvanized, corrugated aluminum coated, zinc-aluminum coated, or unpainted exterior metal finish is prohibited.

- iii. The temporary accessory building shall be removed prior to the end of the period when such building is allowed under this section.
- iv. Not more than three temporary accessory buildings shall be allowed on the same site, lot or tract of land for church or private school use.
- v. Temporary accessory buildings shall not exceed 840 square feet in size and one story in height; except 1,792 square feet shall be allowed for public schools.
- vi. Temporary accessory buildings shall meet the area regulations of the zoning district in which located.
- vii. Temporary accessory buildings are not permitted without a main structure on the same site, lot or tract.
- viii. Each temporary accessory building shall be constructed in such a manner that it shall be portable, easily transportable, and capable of being moved. The director shall consider the nature of the use; existing uses in surrounding areas; noise, dust, light, and traffic generated by the proposed use; health and sanitary conditions; and compliance with other regulations within this Code or the Code of Ordinances. The director shall have the right to revoke any temporary use permit at any time or to deny any extension upon finding that a hazard or nuisance shall exist by continuing such use; after which revocation or denial such temporary use shall immediately cease and shall be removed within ten days of notification of such finding.

EXISTING

SECTION 31A - TEMPORARY USE PERMIT.

The Department of Development Services may issue a temporary use permit (TUP) for the uses below provided that the temporary use complies with regulations of this Code governing area, parking, sanitation requirements, etc., for the district in which it is to be conducted and does not constitute a nuisance for adjacent properties. A temporary use may be approved up to 120 days (maximum of two permits per calendar year per location).

- Outdoor storage or display.
- Temporary seasonal sales (Christmas trees, lawn and garden supplies, nurseries, tree lots, etc.).
- Outdoor Concert.
- Outdoor Revival.
- Outdoor Fairs and Festivals.
- Domestic Animals.
- Outdoor Carnivals and Circuses.
- Fruit/vegetable stand.

31A.1 **APPLICABILITY :**

Temporary uses shall comply with the minimum requirements set forth in this Ordinance.

31A.2 **REVIEW AND APPROVAL BY THE DIRECTOR OF DEVELOPMENT :**

- A. The Director must approve, approve with conditions, or deny the temporary use permit.
- B. The Director must review all signs in conjunction with the issuance of the temporary permit. Such signs must be in accordance with the requirements of this Ordinance.

31A.3 **REVIEW CRITERIA :**

In determining whether to approve, approve with conditions, or deny a temporary use permit, the director will consider the following criteria:

- A. **Land Use Compatibility** . Whether the proposed temporary use:
 1. Is compatible with the purpose and intent of this Ordinance and its location;
 2. Does not impair the normal, safe, and effective operation of a permanent use on the same site; and
 3. Does not endanger or is not materially detrimental to the public health, safety, or welfare or injurious to property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the site, and its relationship to parking and access points.
- B. **Compliance with Other Regulations** . The structures and the site meets all applicable building code, zoning district, and fire code standards and must be promptly removed upon the

cessation of the use or event. Upon cessation of the event or use, the site must be returned to its previous condition (including the removal of all trash, debris, signs, or other evidence of the temporary use).

1. **Traffic Circulation** . The temporary use does not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections, and traffic controls.
 2. **Off-Street Parking** . Off-street parking for the temporary use does not eliminate required parking for any of the other existing uses on the site, thus creating a parking shortage.
 3. **Public Conveniences and Litter Control** . Adequate on-site rest room facilities and refuse containers will be provided. All litter generated by the event or use will be removed at no expense to the City.
 4. **Appearance and Nuisances** . The temporary use is compatible in intensity, appearance, and operation with surrounding land uses in the area, and it does not unduly impair the usefulness, enjoyment, or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution.
- C. **Other Criteria** . The Director of Development may establish any additional review criteria deemed necessary to ensure land use compatibility and to minimize potential adverse impacts on nearby uses, including, but not limited to, restrictions on hours of operation, temporary arrangements for parking and traffic circulation, requirements for screening or buffering and guarantees for site restoration and cleanup following the temporary use.
- D. **Expiration** . The Director of Development must set the time limit of the temporary use permit at the time of approval, but in no case must the duration exceed 120 days.
- E. **Violations, Penalties, and Revocation** . Violation of any term, condition, requirement, or duration of a temporary use permit approved under this division is unlawful, must constitute a violation of this development code. The violator may be subject to penalties set forth in Section 44. In addition, the temporary use permit may be revoked or suspended by the City Council due to such violation, following public hearings by both the Zoning Commission and the City Council.

(Ord. No. O-10-16, 2-22-16)