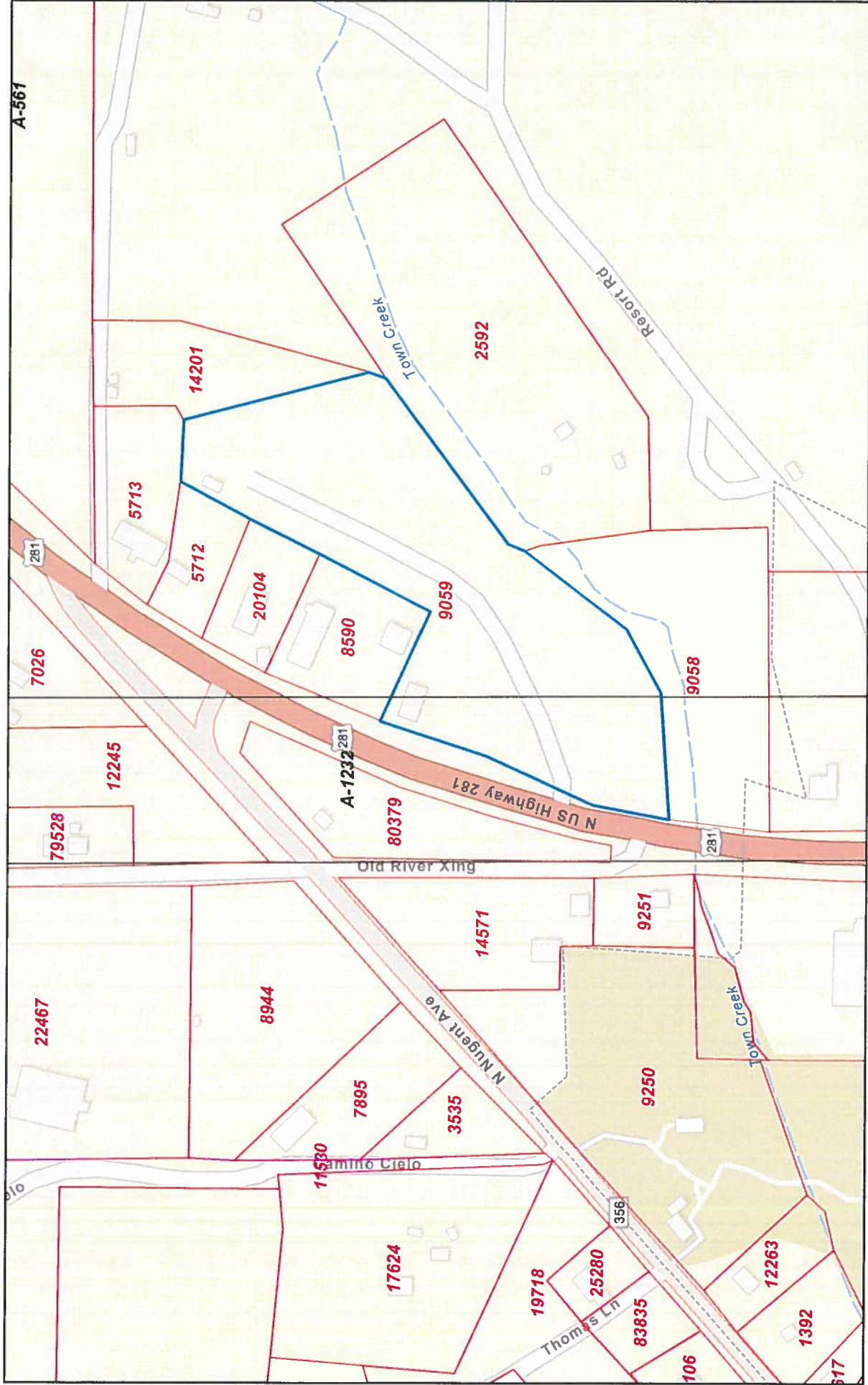


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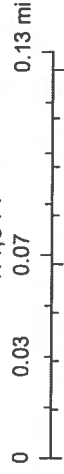


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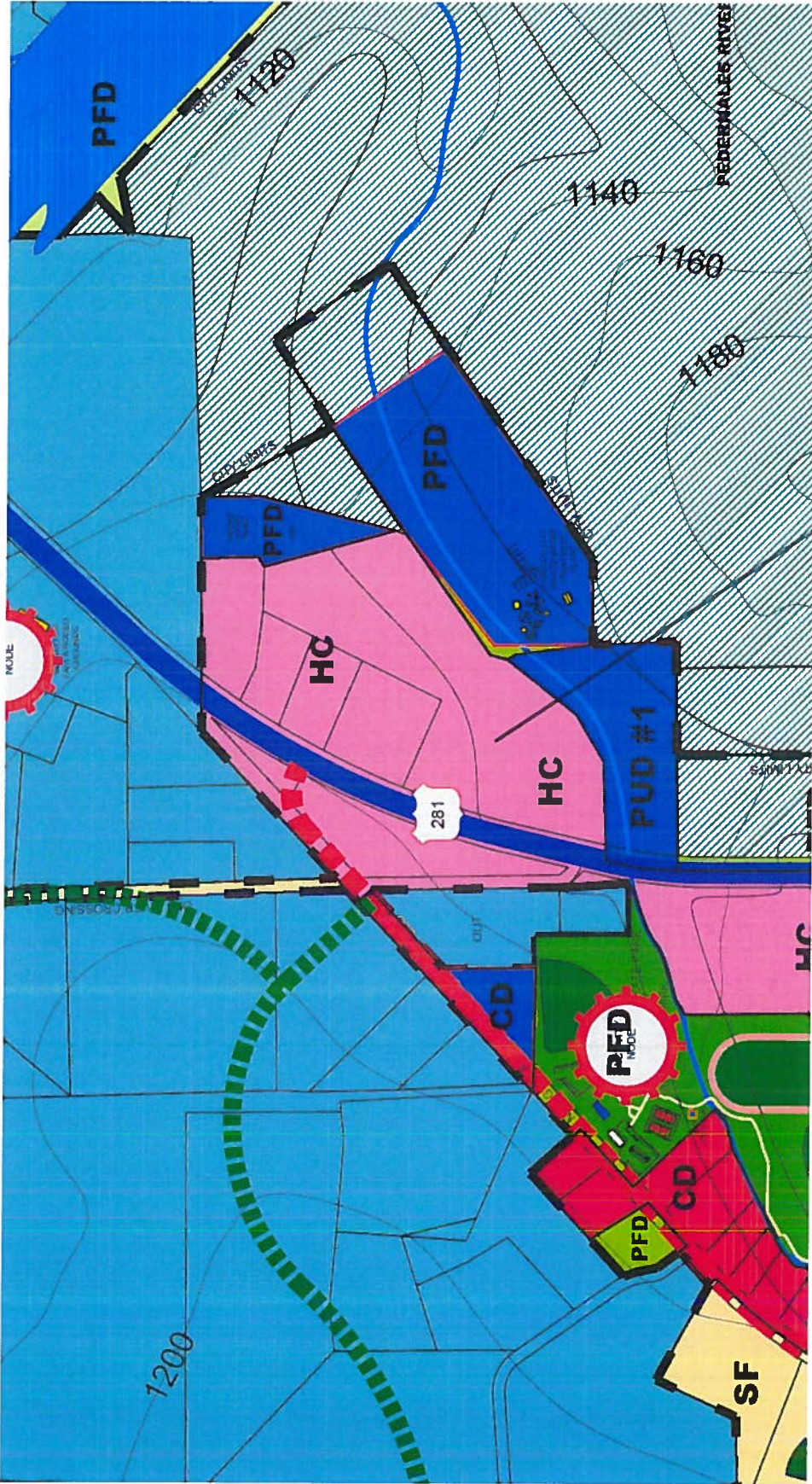
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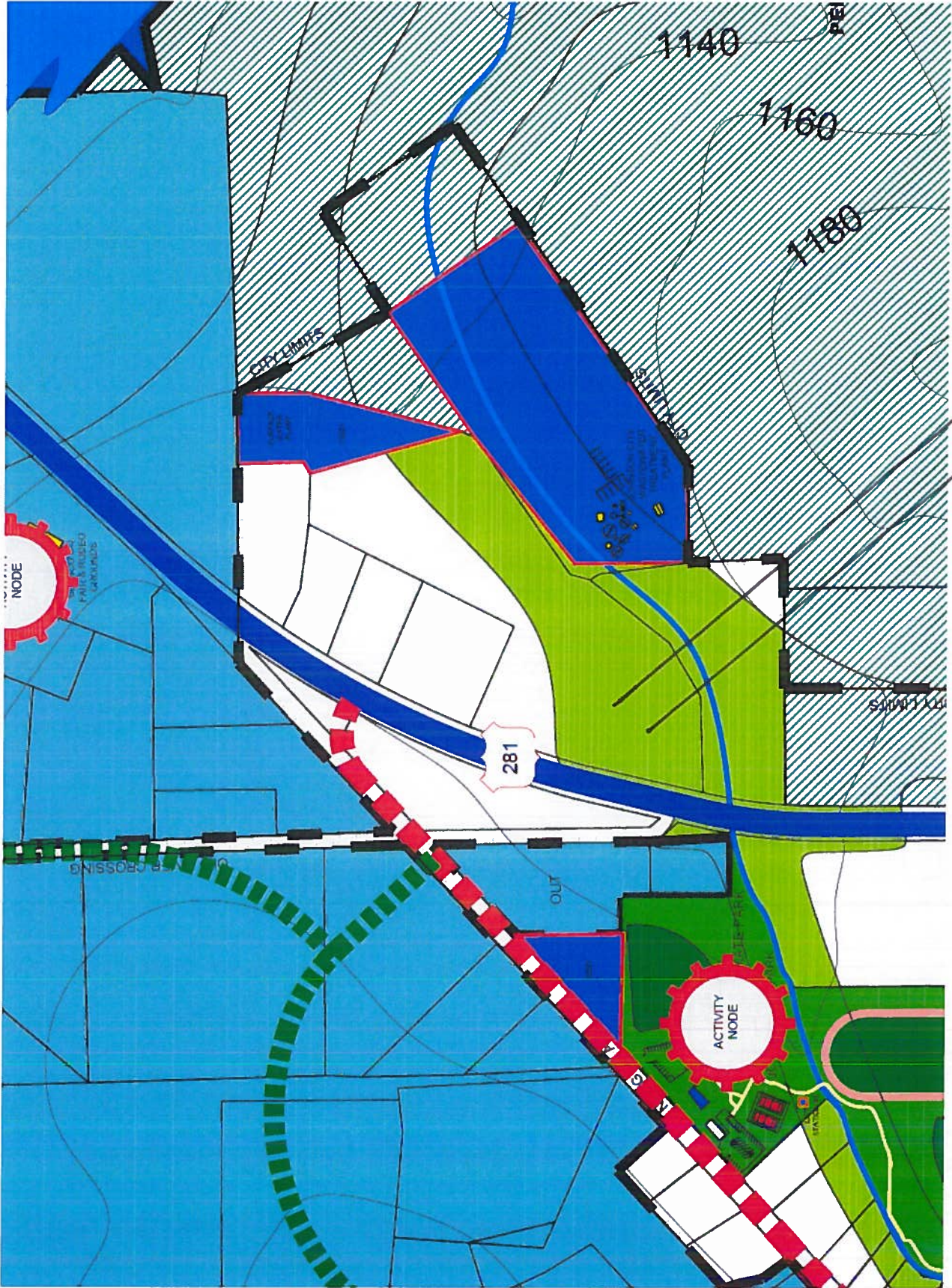
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Subject Property





Subject Property
100 year FEMA Floodplain

§ 3-6. Highway Commercial Corridor District (HC).

- (a) The purpose of the HC district is to create centers of activity including shopping, services, recreation, employment, public uses, and institutional facilities supported by and serving an entire region. It is intended for use on tracts directly adjacent to Highway 281 and Highway 290. It is specifically envisioned to handle a mixture of commercial and office uses along highway corridors. The unique characteristics of this development are its high concentration of activity requiring extensive planning and engineering for ingress and egress to the development site coupled with the need for extensive off-street parking, loading and maneuvering areas. Development in the HC district will serve the needs of locals and visitors.
- (b) See schedule of uses in Article VIII of this ordinance for permitted and conditional uses.
- (c) General regulations of the HC district are contained in the table below:

HC DISTRICT	
Minimum lot area	None
Minimum lot width	None
Minimum lot depth	200 feet
Minimum front yard	5 feet
Minimum side yard	15 feet
Minimum side yard, adjacent to SF, MR, MH districts	15 feet plus one additional foot for each additional one foot in height above 15 feet
Minimum rear yard	10 feet
Minimum rear yard, adjacent to SF, MR, MH districts	25 feet
Maximum lot coverage	75 percent (75%)
Maximum structure height	2 stories
Maximum density/residential units per acre	18

- (d) Additional requirements:
 - (1) All uses within this district shall be of a retail, service, or office character. A mixture of uses may be undertaken provided they occur within a unified development project.
 - (2) All businesses shall be conducted entirely within a building, with the exception of outdoor seating for a restaurant. Outside storage and/or display of any type shall be prohibited unless in accordance with the outdoor storage section of this ordinance.
 - (3) All exterior lighting designed for security, illumination, parking lot illumination or advertising and which is placed within this zoning district shall be designed in such a manner as to ensure that is [it] does not extend into adjacent residentially zoned properties.
 - (4) Outdoor storage of trash receptacles shall be at the side or rear of the site and shall be screened on three sides by fence, planting, or other suitable visual barrier.
 - (5) If development within this district is configured as a pedestrian mall, either indoor or outdoor, sales from small stand-alone booths, kiosks, stands, carts or other display devices shall be

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permitted within the pedestrian walking areas of the mall. This zoning district is intended to permit the aggregation of a wide array of retail marketing activities to include arts and crafts. Sidewalk or interior mall displays and sales of these types of products and activities is permitted and encouraged.

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- (6) If development within this district is configured as a pedestrian mall, the location of sidewalk-type cafes shall be permitted within this district in pedestrian walkways.
 - (7) A site plan shall be required for any construction in the HC district.
 - (e) Landscaping requirements are contained in the City's landscaping ordinance.
 - (f) Parking requirements are contained in the City's parking ordinance.
- (Ordinance 16-0303 adopted 2/1/16)

	Schedule of Permitted Uses										
	SF	SFR	MR	MH	GHD	MHD	CD	HC	IP	PFD	DO
AGRICULTURE											
Community Garden	C		C	C		P					
Farmers Market						C					P
Plant Nursery (Small-Scale, retail)	P						P	P			
RESIDENTIAL											
Accessory Bldg/Structure (Nonresidential)											P
Accessory Bldg/Structure (Residential)	P		P	P	P	P					
Accessory Dwelling	C		C	C	C						
Caretaker's/Guard Residence	P		P	P	P						P
Community or Group Home	C	C	C	C	C	C	C	C			
Duplex/Two-Family			P			C					
Garage Residential Conversion	P		P								
Garden Home/Townhome			P		P						
Home Occupation	P		P	P							
HUD-Code Manufactured Home, Single Wide				P							
HUD-Code Manufactured Home, Double Wide	P			P							
Living Quarters onsite with a Business											P
Multiple Family Dwelling			P								
Residential Loft											
Single Family Dwelling, Detached	P		P	P	P	P					P
Single Family Industrialized Housing				P							
Swimming Pool Private	P		P	P	P	P					

§ 4-3. Conditional use permits.

Conditional use permits are authorized under the terms of this article to provide for certain uses which cannot be well adjusted to their environment in particular locations, with full protection offered to surrounding properties by the application of the underlying zoning district regulations. Further, conditional permit uses are those uses which, if not specially regulated, can have an undue impact on or be incompatible with other uses of land within or adjacent to a given zoning district. Upon the granting of a conditional use permit by City Council, these uses may be allowed to be located or expanded within given designated zoning districts under the standards, controls, limitations, performance criteria, restrictions and other regulations of this ordinance.

- (a) All applications for conditional use permits shall be reviewed using the following criteria:
- (1) The proposed use shall be:
 - (A) In harmony with the adopted comprehensive plan;
 - (B) In harmony with the intent and purpose of the zoning district in which the use is proposed to be located; and
 - (C) In harmony with the character of adjacent properties and the surrounding neighborhoods and also with existing and proposed development.
 - (2) The proposed use shall be adequately served by essential public services such as streets, drainage facilities, fire protection and public water and sewer facilities.
 - (3) The proposed use shall not result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance.
 - (4) The proposed use shall be designated, sited and landscaped so that the use will not hinder or discourage the appropriate development or use of adjacent properties and surrounding neighborhoods.
- (b) In granting any conditional use permit, the City Council may impose any conditions necessary to assure that the proposed use will conform to the requirements of this section and will continue to do so. The City Council may take all necessary actions to ensure compliance with the conditions imposed.
- (1) The City Council may impose reasonable standards as deemed necessary to protect the public interest and welfare. Such standards may include, but need not be limited to:
 - (A) More restrictive sign standards.
 - (B) Additional open space, landscaping or screening requirements.
 - (C) Additional yard requirements.
 - (D) Special lighting requirements.
 - (E) Time limitations on hours of operation.
 - (F) Additional off-street parking and loading requirements.
 - (G) Additional utility, drainage and public facility requirements.
 - (H) Additional right-of-way and public access requirements.

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- (I) Additional requirements to ensure compatibility with the comprehensive plan.
 - (J) Conditions for renewal, extension, expiration and/or revocation of the conditional use permit.
- (2) The City Council may specify time limits or expiration dates for a conditional use permit, including provisions for periodic review and renewal.
- (c) Application requirements for a conditional use permit are as follows:
- (1) An application for a conditional use permit shall be made by the owner, contract purchaser with the owner's written consent, or the owner's agent, of the property on which the proposed use is to be located. The application shall be submitted to the zoning administrator, and shall be accompanied by the filing fee.
 - (2) If the request for a conditional use permit has been denied by the City Council, a request in substantially the same form shall not be resubmitted within one year of the date of denial.
 - (3) The application shall include the following information:
 - (A) A description of the proposed use and, where applicable, the hours of operation and the proposed number of employees/patrons.
 - (B) A written statement of the proposed use's compatibility with the following:
 - (i) The comprehensive plan.
 - (ii) The applicable zoning district.
 - (iii) The surrounding properties.
 - (iv) Current and future neighborhood conditions.
 - (v) Pedestrian and vehicular traffic patterns, on-site and off-site.
 - (vi) Adequate public facilities.
 - (vii) When requested by the zoning administrator, the Planning and Zoning Commission or the City Council, the following information shall be provided by the applicant:
 - (a) The architectural elevations and floor plans of proposed building(s).
 - (b) Parking and site circulation analysis.
 - (c) Photographs of the property and surrounding area.
- (d) Action by the Planning and Zoning Commission and City Council is as follows:
- (1) No conditional use permit shall be approved unless the proposal has been reviewed by the Planning and Zoning Commission. The Planning and Zoning Commission shall conduct at least one public hearing in accordance with this article. Following the public hearing, the Planning and Zoning Commission shall prepare, and by motion adopt, its recommendations, which may include changes in the applicant's original proposal resulting from the hearing, and shall report such recommendations, together with any explanatory material, to the City Council.
 - (2) Before approving a conditional use permit, the City Council shall hold at least one public

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hearing in accordance with this article after which the City Council may make appropriate changes to or impose appropriate conditions upon the proposed conditional use. Nothing herein shall preclude the City Council from holding a joint public hearing with the Planning and Zoning Commission.

- (3) A concurring vote of a majority of the members of City Council shall be required to approve a conditional use permit.

(e) Extension, renewal, expiration, revocation:

(1) Extension.

- (A) An extension shall be for the purpose of administratively extending timeframes established by the City Council for the implementation and/or completion of certain improvements which were stipulated as a condition of original conditional use permit approval. A request for extension may be initiated by the property owner.
- (B) Upon initiation of property owner's request for extension, or upon any other initiative, the zoning administrator shall inspect the conditional use permit, review the record of compliance with those conditions and restrictions previously imposed by the City Council, and make a determination on whether the conditional use permit satisfies other conditions of approval and the provisions of this ordinance.
- (C) Upon a favorable finding, the zoning administrator shall approve an extension of the original conditional use permit for a period of time not to exceed one year or for such timeframe as may have been otherwise specified for future extension by the City Council at the time of approval of the original conditional use permit.
- (D) If it is determined that the use is not in compliance with all conditions and restrictions previously imposed by the City Council, the zoning administrator shall, depending on the nature of the noncompliance, either deny the extension or require the remedy of any violation within a specified time. If the extension is denied or the property owner fails to correct the violation within the time specified, the conditional use permit shall expire. The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.

(2) Renewal.

- (A) A renewal shall be for the purpose of allowing a new period of time for the operation of a currently valid conditional use permit; provided, however, that the City Council shall not approve a renewal application for a use which is no longer allowed as a conditional use permit in the zoning district in which the conditional use permit is located.
- (B) The procedure for the renewal of a conditional use permit shall be the same as specified herein for the approval of the original permit, except that the zoning administrator may waive any submission requirement if such requirement is deemed not necessary for an adequate review of the application.
- (C) The City Council shall review the applicant's record of compliance with those conditions and restrictions previously imposed and determine if the use still satisfies the provisions of this ordinance.
- (D) Any conditional use permit that is not renewed prior to the established time shall expire

without notice and become null and void.

(3) Expiration.

- (A) Whenever a conditional use permit is approved by the City Council, the conditional use authorized shall be established, or any construction authorized shall be commenced and diligently pursued, within such time as the City Council may have specified, or, if no such time has been specified, then within two years from the approval date of such permit.
- (B) If the conditional use or construction has not commenced in accordance with the above provisions, then the conditional use permit shall automatically expire without notice and become null and void.

(4) Revocation.

- (A) Unless a time limit is specified for a conditional use permit, the same shall be valid for an indefinite period of time, except that if the use or activity should cease for any reason for a continuous period of two years or more, the conditional use permit shall automatically terminate without notice and become null and void.
- (B) The approval of a new conditional use permit shall be required prior to any subsequent reinstatement of the use.
- (C) A conditional use permit shall be revocable upon written order of the City Council at any time because of the failure of the owner or operator of the use covered by the permit to observe all requirements with respect to the maintenance and conduct of the use and all conditions in connection with the permit that were imposed in issuing the same. A revoked permit shall become null and void.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-6. Board of Adjustment creation.

There is hereby created a Board of Adjustment, sometimes referred to herein as the “BOA,” for the purpose of making special exceptions to the terms of this ordinance that are consistent with the general purpose and intent of this ordinance. The BOA may grant special exceptions, in appropriate cases, that are subject to certain conditions and safeguards. The BOA may be composed of the members of the City Council of the City of Johnson City as authorized by Section 211.008(g) of the Texas Local Government Code, until such time as separate membership is appointed by the City Council.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-7. Board of Adjustment membership.

- (a) The City Council shall act as the BOA.
- (b) The City Council shall appoint a chairperson for the BOA, who shall serve a one-year term of office.
- (c) The BOA shall elect a vice-chairperson from among its membership who shall serve a one-year term of office.
- (d) The BOA shall designate a secretary to the BOA who shall keep minutes of all meetings held by the BOA and serve a one-year term of office.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-8. Board of Adjustment meetings.

- (a) Meetings of the BOA shall be held at the call of the chairperson or secretary and at such other times as the BOA may determine. All meetings of the BOA shall be open to the public, except as allowed by law. All cases to be heard by the BOA shall always be heard by at least four of the members.
- (b) When meeting as the Board of Adjustment, the BOA cannot function as the City Council. While BOA hearings may be held on the same day as City Council meetings, BOA hearings must be clearly identified as separate from City Council hearings.
- (c) BOA meetings shall be conducted in accordance with Chapter 551 of the Texas Government Code.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-9. Board of Adjustment authority.

- (a) The BOA shall have the authority, granted under the Texas Local Government Code and those established herein, to exercise powers and to perform duties including the following:
 - (1) Hear and decide an appeal that alleges error in an order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance;
 - (2) Authorize, in specific cases, a special exception-variance from the terms of this ordinance if the special exception-variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of this ordinance is observed and substantial justice is done; and
- (b) The concurring vote of at least 75 percent (75%, or 4 of 5) of the full BOA is necessary to:
 - (1) Reverse an order, requirement, decision or determination of an administrative official;
 - (2) Decide in favor of an applicant on a matter on which the board is required to review under this

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zoning ordinance; or

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(3) Authorize a special exception-variance from the terms of this ordinance.
(Ordinance 16-0303 adopted 2/1/16)

§ 5-10. Board of Adjustment conflict of interest.

- (a) A member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any personal interest in the property in question, whether such interest is direct, indirect, financial or otherwise. In any case where the question of a member's interest is raised, the chairman shall rule on whether the member shall be disqualified.
- (b) A BOA member shall not vote or participate in any deliberations regarding a matter before the BOA if the member has any substantial interest in any tract within 200 feet of the property in question.
- (c) The BOA member is considered to have a substantial interest if the BOA member is related within the first degree of consanguinity (blood or adoption) or affinity (marriage) to a person who has a substantial interest.
- (d) In any case where the question of a member's interest is raised, the BOA chairperson shall rule on whether the member shall be disqualified.
- (e) Under this section, a substantial interest exists in the following situations:
 - (1) The BOA member has an equitable or legal ownership interest in a tract with a fair market value of \$2,500.00 or more;
 - (2) The BOA member acts as a developer of the tract; or
 - (3) The BOA member receives in a calendar year funds exceeds [exceeding] ten percent (10%) of the BOA member's gross annual income for the previous year from a business that:
 - (A) Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or
 - (B) Acts as a developer of the tract; or
 - (4) The BOA member has an ownership interest in a business entity and:
 - (A) The business entity:
 - (i) Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00; or
 - (ii) Acts as a developer of the tract; and
 - (B) The BOA member:
 - (i) Owns ten percent (10%) or more of the voting stock or shares;
 - (ii) Owns ten percent (10%) more of the fair market value; or
 - (iii) \$5,000.00 or more of the fair market value.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-11. Board of Adjustment authority limitations.

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- (a) The BOA may not grant a special exception authorizing a use other than those permitted in the district for which the special exception is sought, except as provided below.
- (b) In the event that a written request for a zoning amendment is pending before the Planning and Zoning Commission or the City Council, the BOA shall neither hear nor grant any special exceptions with respect to the subject property until final disposition of the zoning amendment.
- (Ordinance 16-0303 adopted 2/1/16)

§ 5-12. Special exceptions, also Variances.

- (a) There shall be a presumption against special exceptions-variances.
- (b) The BOA may authorize a special exception from these regulations when, in its opinion, undue hardship will result from requiring strict compliance.
- (c) In granting a special exception, the BOA may prescribe conditions that it deems necessary to preserve the public interest. Violation of any such condition, limitation or safeguard shall constitute a violation of this ordinance.
- (d) In making the findings hereinbelow required, the BOA shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work within the proposed use, and the probable effect such special exception will have upon traffic conditions and upon the public health, safety, convenience and welfare of the community.
- (Ordinance 16-0303 adopted 2/1/16)

§ 5-13. Conditions for special exception.

- (a) No special exception shall be granted without first having given public notice and having held a public hearing on the written special exception request in accordance with this ordinance.
- (b) No special exception shall be granted unless the BOA finds that:
- (1) There are special circumstances or conditions affecting the land involved such that the literal enforcement of the provisions of this ordinance would deprive the applicant of the reasonable use of the land; and
 - (2) The special exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - (3) The granting of the special exception will not be detrimental to the public health, safety or welfare, or injurious to other property within the area; and
 - (4) The granting of the special exception constitutes a minimal departure from this ordinance; and
 - (5) The subject circumstances or conditions giving rise to the alleged hardship are not self-imposed, are not based solely on economic gain or loss, and do not generally affect most properties in the vicinity of the property; and
 - (6) Granting the special exception is in harmony with the spirit, general purpose, and intent of this ordinance so that:
 - (A) The public health, safety and welfare may be secured; and

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(B) That substantial justice may be done.

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(c) Such findings of the BOA, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the BOA meeting at which such special exception is granted.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-14. Burden on applicant.

The applicant bears the burden of proof in establishing the facts that may justify a special exception.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-15. Special exceptions for nonconforming uses.

(a) Upon written request of the property owner, the BOA may grant special exceptions to the provisions of Section 4-4 (Nonconforming uses), limited to the following, and in accordance with the following standards:

- (1) Expansion of a nonconforming use within an existing structure provided that, in the case of a nonconforming residential use, such expansion does not increase the number of dwelling units to more than the number existing when the use first became nonconforming; or
- (2) Expansion of the gross floor area of a nonconforming structure provided that such expansion does not decrease any existing setback; or
- (3) Change from one nonconforming use to another, reconstruction of a nonconforming structure that has been totally destroyed, or resumption of a nonconforming use previously abandoned, only upon finding that the failure to grant the special exception deprives the property owner of substantially all use or economic value of the land.

(b) In granting special exceptions to nonconforming uses, the BOA may impose such conditions as are necessary to protect adjacent property owners and to ensure the public health, safety and general welfare. Examples of possible conditions include, but not limited to, conditions specifying the period during which the nonconforming use may continue to operate or exist before being conformed to the standards of the zoning ordinance.

(c) The conditions for receiving a special exception listed in Section 5-13 apply to nonconforming uses.
(Ordinance 16-0303 adopted 2/1/16)

§ 5-16. Special exception hearing procedures.

(a) Application and fee. An application for a special exception shall be made in writing using forms prescribed by the city, and shall be accompanied by an application fee, a site plan and such additional information as may be requested in writing in order to properly review the application. Such information may include, but is not limited to, plat plans, site building plans, photographs, topographic contour maps, and other similar documents. All drawings must be to scale.

(b) Administrative report by the city. The city administrator or designated city representative shall visit the site where the proposed special exception will apply and the surrounding area, and shall report findings to the BOA.

(c) Public hearings. The BOA shall hold a public hearing for consideration of the written special exception request no later than 45 days after the date the application for action, or an appeal, is

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filed.

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- (d) **Notice.** Notice of the hearing must be published in the city's official newspaper no more than 30 nor less than 15 days prior to the date of the hearing. Notice of the hearing shall also be provided to all property owners within 200 feet of the affected property no more than 30 nor less than 15 days prior to the public hearing. Weather resistant signs shall be erected on the property under application for the purposes of advertising the special exception request.
- (1) The signs shall be provided by the city.
 - (2) Signs placed on the property involved must be within ten feet of any property line paralleling any established or proposed street, and must be visible from that street.
 - (3) All required signs shall remain on the property until final disposition of the special exception request is determined.

(Ordinance 16-0303 adopted 2/1/16)

§ 5-17. Appeals to the Board of Adjustment.

- (a) The appellant must file with the BOA and the official from whom the appeal is taken a written notice of appeal specifying the grounds for the appeal.
- (b) The appeal must be filed within 60 days after the decision has been rendered.
- (c) Upon receiving the notice, the official from whom the appeal is taken shall immediately transmit to the BOA all papers constituting the record of action that is appealed.
- (d) An appeal stays all proceedings in furtherance of the action that is appealed unless the official from whom the appeal is taken certifies in writing to the BOA facts supporting the official's opinion that a stay would cause imminent peril to life or property.
- (e) The appellant party may appear at the appeal hearing in person, by agent or attorney, or in abstentia.
- (f) The BOA shall decide the appeal within four weeks after the written request (notice of appeal) was received, after which time the written request shall be deemed automatically approved if no formal action is taken.
- (g) The BOA may reverse or affirm, in whole or in part, or modify the administrative official's order, requirement, decision or determination from which an appeal is taken, and may make the correct order, requirement, decision or determination.
- (h) A member or members of the BOA may not bring an appeal on behalf of a property owner, other than himself/herself, to the BOA. An appeal must be requested by the owner of the property being considered.

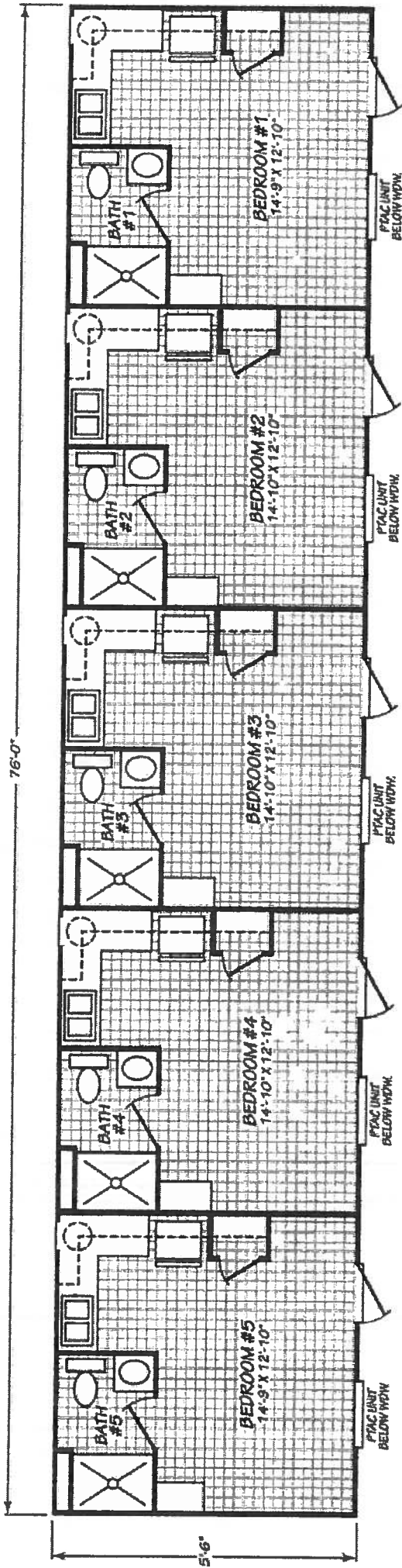
(Ordinance 16-0303 adopted 2/1/16)

§ 5-18. Judicial review.

All decisions of the BOA are final and binding. Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, or board of the city may present, within ten days of the date the BOA decision is filed in the board's office, a petition to a court of competent jurisdiction for review in accordance with Chapter 211 of the Texas Local Government Code, as amended.

(Ordinance 16-0303 adopted 2/1/16)





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