

ORDINANCE NO. 6649

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS, AMENDING SHERMAN'S ZONING ORDINANCE/CODE OF ORDINANCES CHAPTER 14, AND GRANTING A SPECIFIC USE PERMIT TO ALLOW A VAPE SHOP IN THE C-1 (RETAIL BUSINESS) DISTRICT/75 & 82 OVERLAY DISTRICT, LOCATED AT 738 EAST HIGHWAY 82, CONSISTING OF 1.830 ACRES, BEING LOTS 1 & 2, BLOCK 1, 82-75 ADDITION, CITY OF SHERMAN, GRAYSON COUNTY, TEXAS (W DOUGLASS DISTRIBUTING, LTD, OWNER; SAMIR BHIMANI, TENANT; DAVID WEAVER, REPRESENTATIVE; AND HELVEY-WAGNER SURVEYING, INC, SURVEYOR); PRESCRIBING CONDITIONS TO THE SPECIFIC USE PERMIT; PROVIDING A PENALTY NOT TO EXCEED \$2,000.00; PROVIDING A REPEALING/SAVINGS CLAUSE, SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS NOTICED AND IS OPEN TO THE PUBLIC AS REQUIRED BY LAW

WHEREAS, the City Planning and Zoning Commission and the City Council, in accordance with the state law and the ordinances of the City of Sherman, have given the required notices and have held the required public hearings regarding this Specific Use Permit; and

WHEREAS, the City Council finds that this use will complement or be compatible with the surrounding uses and community facilities; contribute to, enhance, or promote the welfare of the area of request and adjacent properties; not be detrimental to the public health, safety, or general welfare; and conform in all other respects to all applicable zoning regulations and standards; and

WHEREAS, the City Council finds that it is in the public interest to grant this Specific Use Permit, subject to certain conditions.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS:

SECTION 1. That, from and after the effective date of this Ordinance, the property located at 738 East Highway 82, City of Sherman, Grayson County, Texas is/are granted a Specific Use Permit to a Vape Shop, subject to the conditions described in this Ordinance and that Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14 is hereby amended so as to hereafter include property highlighted in yellow on **Exhibit A – Survey/Site Plan**.

SECTION 2. That this Specific Use Permit is granted on the following conditions:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal. (*Code of Ordinances Chapter 3.02(c)*)
3. The property must be properly maintained in a state of good repair and neat appearance.
4. One parking space for every 250 square feet of gross floor area shall be provided. (*Sec. 14.04.003(e)(1)*)
5. The use of the property must comply with all Federal and State Laws and regulations and with all the ordinances, rules and regulations of the City of Sherman.
6. The granting of a Specific Use Permit has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.
7. A Specific Use Permit is an amendment to the district regulations of the Zoning Ordinance that permits the establishment of a specific use within a zoning district in which such specific use may be established unless such use of land or structure is discontinued or abandoned for a period of thirty (30) consecutive days in which event such Specific Use Permit shall be void and such use may not thereafter be resumed unless a new Specific Use Permit is granted in accordance with this section. (*Chapter 14, Sec. 14.06.009 (a)(1)(C)*)
8. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
9. Any changes made to the site plan prior to the final fulfillment of the conditions of the Staff Review Letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

Additional Conditions:

10. The property shall be developed and used in accordance with all City Ordinances and the Site Plan shown in **Exhibit A**.
11. Notwithstanding anything to the contrary herein, the Specific Use Permit granted in this Ordinance shall automatically expire, terminate and be rescinded in the event that a person or entity other than Samir Bhimani is the lessee of the Property.
12. Notwithstanding anything to the contrary herein, the Specific Use Permit granted in this Ordinance shall automatically expire, terminate and be rescinded on the first anniversary of the effective date identified below, unless earlier terminated, rescinded, extended or renewed by separate action of the City Council. The owner of the property subject to the Specific Use Permit must receive City Council approval of an application to extend or renew the Specific Use Permit prior to the expiration thereof.
13. This Specific Use Permit is for a Vape and Smoke Shop only as requested by the applicant.

SECTION 3. That this Ordinance shall be entered upon the official zoning map as provided in Sherman's Zoning Ordinance/Code of Ordinances, Chapter 14, Section 14.01.002.

SECTION 4. That after holding a properly noticed public hearing, the City Council may amend, change, or rescind the Specific Use Permit if any of the conditions set forth in Zoning Ordinance/Code of Ordinances Chapter 14, Section 14.06.009(1)(g), apply or exist.

SECTION 5. That the Specific Use Permit shall be effective from and after the effective date of this Ordinance. Upon termination of the Specific Use Permit, the property shall cease to be used as provided herein unless another Specific Use Permit or appropriate zoning has been obtained.

SECTION 6. That it shall be unlawful for any person to make use of the property in some manner other than as authorized by this Ordinance, and it shall be unlawful for any person to construct on the property any building that is not in conformity with the permissible uses under this Ordinance. Any person violating any provision of this Ordinance or the Zoning Ordinance, as they exist or may be amended, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in an amount not exceeding TWO THOUSAND AND NO/100 DOLLARS (\$2,000.00). A violation of any provision of this Ordinance shall constitute a separate violation for each calendar day in which it occurs. The penal provisions imposed under this Ordinance shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state, and federal law.

SECTION 7. That the Zoning Ordinance shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

SECTION 8. That in the event any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional and/or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, regardless of whether any one or more sections, subsections, sentences, clauses or phrases is declared unconstitutional and/or invalid.

SECTION 9. That it is hereby officially found and determined that the meetings at which this Ordinance was introduced and passed were open to the public and that public notice of the time, place and purpose of said meetings were given all as required by law.

SECTION 10. That this Ordinance shall become effective from and after its adoption and publication as required by law and the City Charter.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF SHERMAN, TEXAS.

INTRODUCED on this the 18th day of September 2023.

ADOPTED on this the 20th day of November 2023.

EFFECTIVE DATE on this the 20th day of November 2023.

CITY OF SHERMAN, TEXAS


BY:



DAVID PLYLER, MAYOR

ATTEST:

BY:



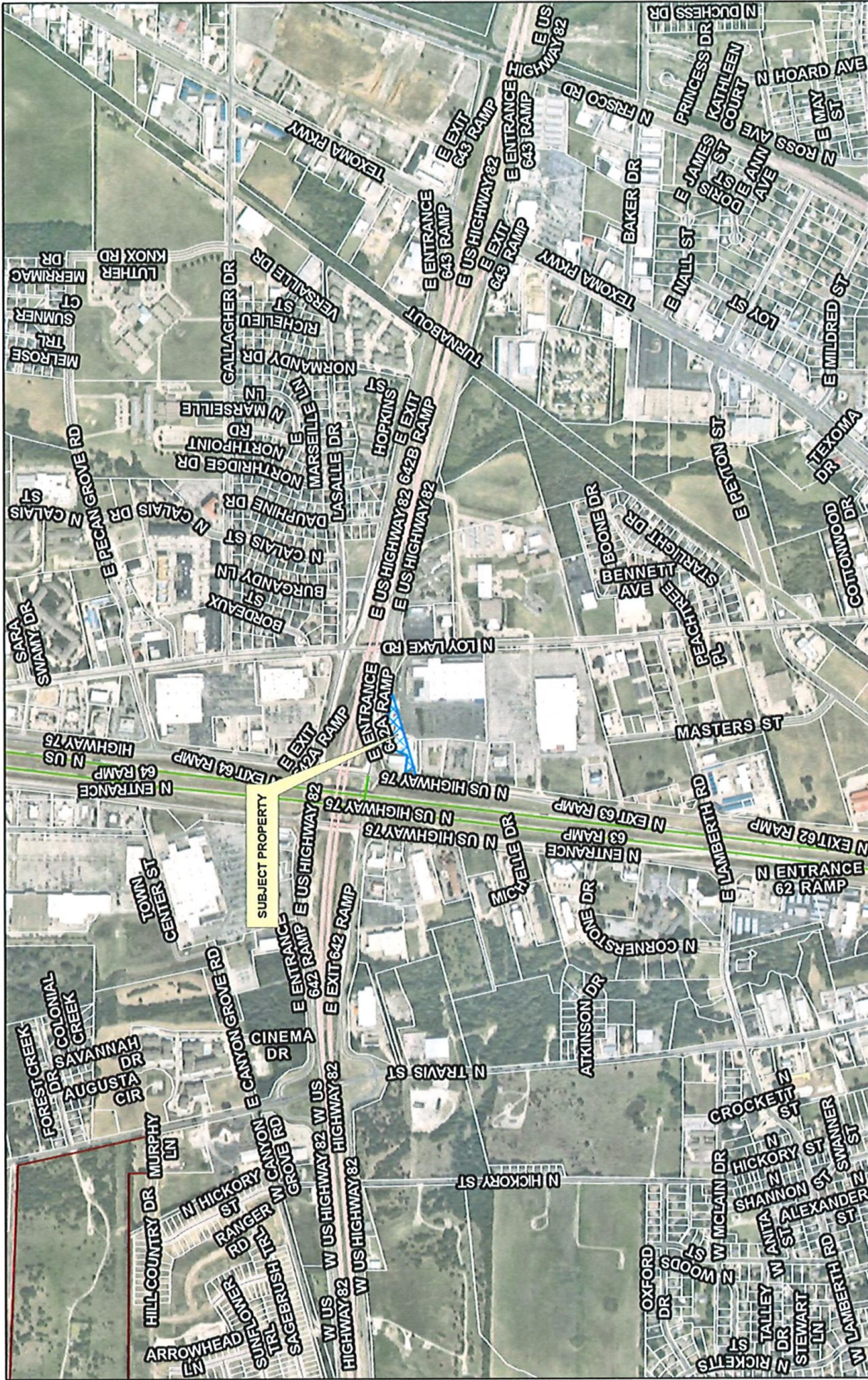
LINDA ASHBY, CITY CLERK

APPROVED AS TO FORM:
THE LAW FIRM OF ABERNATHY,
ROEDER, BOYD & HULLETT, P.C.

BY:



RYAN D. PITTMAN, CITY ATTORNEY

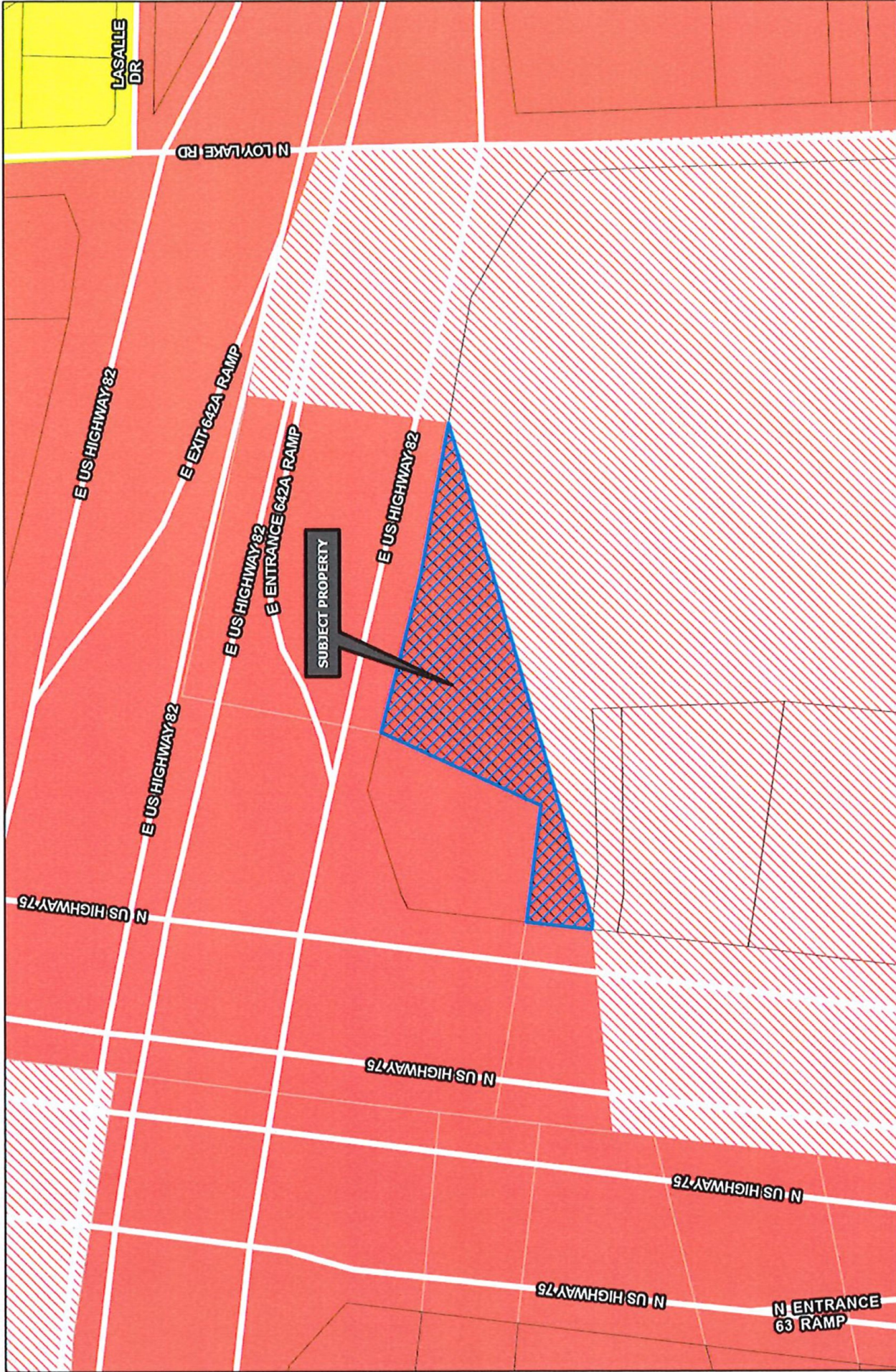


CITY OF SHERMAN
 LOCATION MAP
 738 E HWY 82

Date: 9/15/2023 8:36 AM



City of Sherman, Texas
 Development Services Department



CITY OF SHERMAN
 ZONING MAP
 738 E HWY 82

Date: 8/11/2023 1:29 PM

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|--|--------------------------------|--|----------------------------|
| | R-A Residential Agricultural | | M-1.5 Medium Manufacturing |
| | R-E Estate Residential | | M-2 Heavy Manufacturing |
| | R-12 Single Family Residential | | PD Planned Development |
| | R-6 Single Family Residential | | Subject Locations |
| | R-5 Single Family Residential | | Road Names All |
| | R-4 Pato Home Residential | | |
| | R-2F Duplex Residential | | |
| | R-TH Townhome Residential | | |
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REGIONAL COMMERCIAL

Intent & Character

The Regional Commercial category is intended to promote large-scale commercial development along US-75, while promoting community character through design. US-75 serves as the major gateway to and through the community; therefore, aesthetics and design should be promoted in this corridor. This category should allow large-scale commercial uses that serve the region and the community alike. A mix of uses and inter-connectivity between parcels should be encouraged.

Appropriate Land Use Types

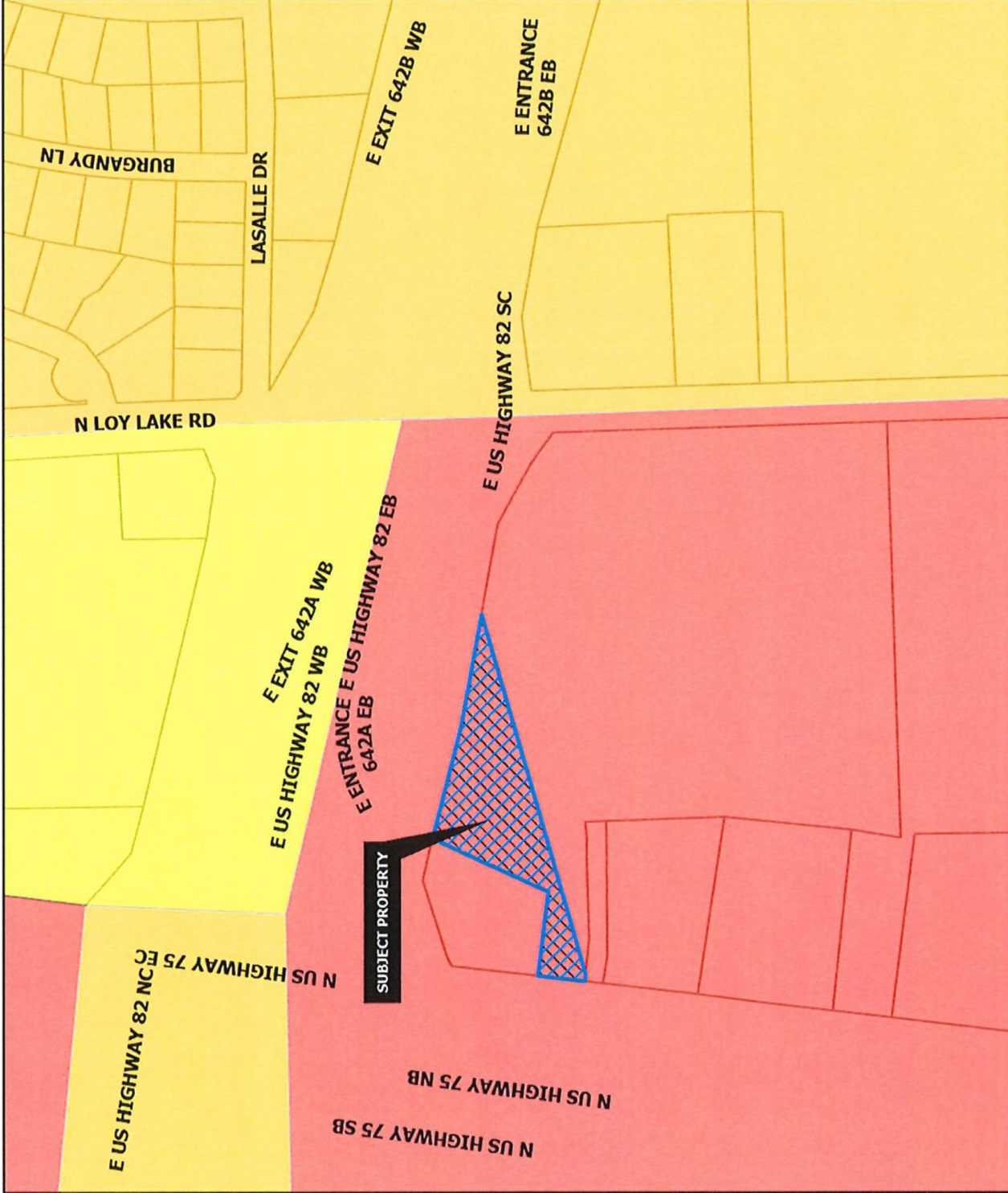
- Retail and Restaurants
- Multi-Family Living
- Office Complex
- Medical
- Mixed Use
- Indoor Entertainment

Compatible Zoning Districts

- Retail Business
- General Commercial
- Office
- Multi-Family Residential (MF-15 and MF-30)
- Planned Development (for larger tracts)

Considerations

- Site design considerations should be given to parking, landscaping, and building articulation.
- Where possible, parking should be screened from view or well-landscaped with native, drought-tolerant plants.
- All building facades fronting a public street or within significant public view should have aesthetically-pleasing horizontal and vertical articulation.
- Signage should be multi-tenant, where possible, and should match the character of the primary structure.
- High density residential should be included in mixed use developments.
- High density residential is appropriate behind commercial areas, with inter-connectivity.
- If high density is stand alone, the surrounding uses and connectivity should be considered to avoid an "island."



CITY OF SHERMAN
 FUTURE LAND USE MAP
 738 E HWY 82



Marlow, Lauren

From: laurenm@cityofsherman.com
To: David Weaver
Subject: RE: Specific Use Permit Application - 738 E. Highway 82

From: David Weaver
Sent: Tuesday, August 8, 2023 9:25 AM
To: Marlow, Lauren
Cc: Snapp, Ryan
Subject: RE: Specific Use Permit Application - 738 E. Highway 82

Lauren,

Please see below photo of the notification sign taken this morning. Please let me know if this is sufficient.



Thank You,

738 E. US Highway 82

Sherman, TX. 75090

Vape and Smoke Shop Project Narrative for Specific Use Permit

Previous Use

The tenant space was previously occupied by Affordable Dentures. That tenant terminated their lease and vacated the property in 2019. A demolition permit was obtained on October 20, 2022. A lease for the space was executed between Douglass Distributing and Ayden Business on February 20, 2023 to open a vape and smoke retail storefront.

Scope of Project

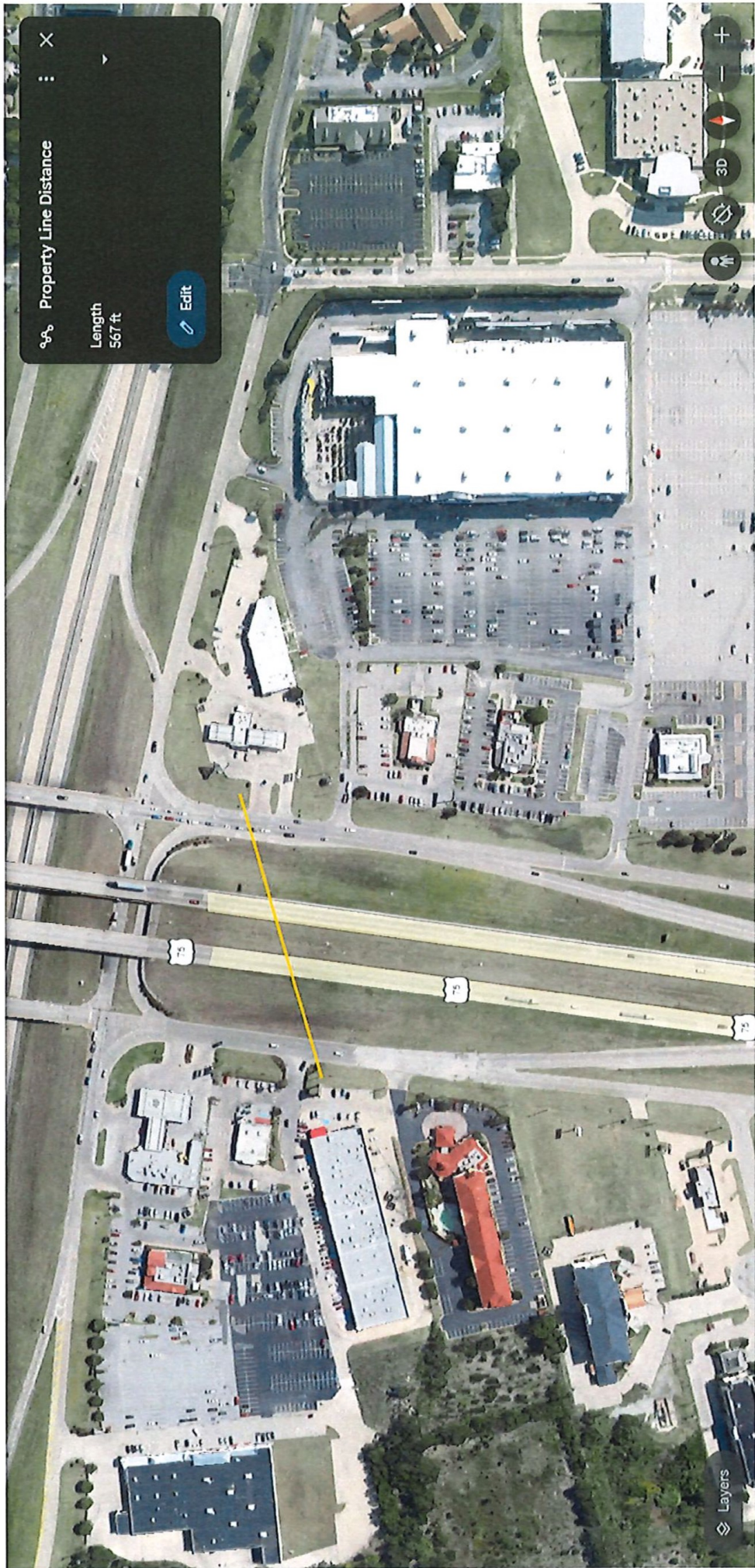
Construction of the new lease space included the following: construction of fire-rated demising walls, construction of new interior partitions, lay-in acoustical ceilings, new light fixtures, drywall finishing, painting, installation of new doors, frames and hardware, installation of a drinking fountain per code requirements, and new LVT flooring in areas open to the general public. The existing restroom was left intact as it meets applicable ADA and TAS standards. The restroom will be accessible to both store employees and customers. A building final inspection was passed on Tuesday, 07/12/23.

Intended Use

The store will be called "Vape and Smoke Stop". The store will offer a variety of electronic nicotine delivery devices as well as traditional tobacco products including cigarettes, cigars, smokeless tobacco, pipe tobacco and smoking accessories.



734



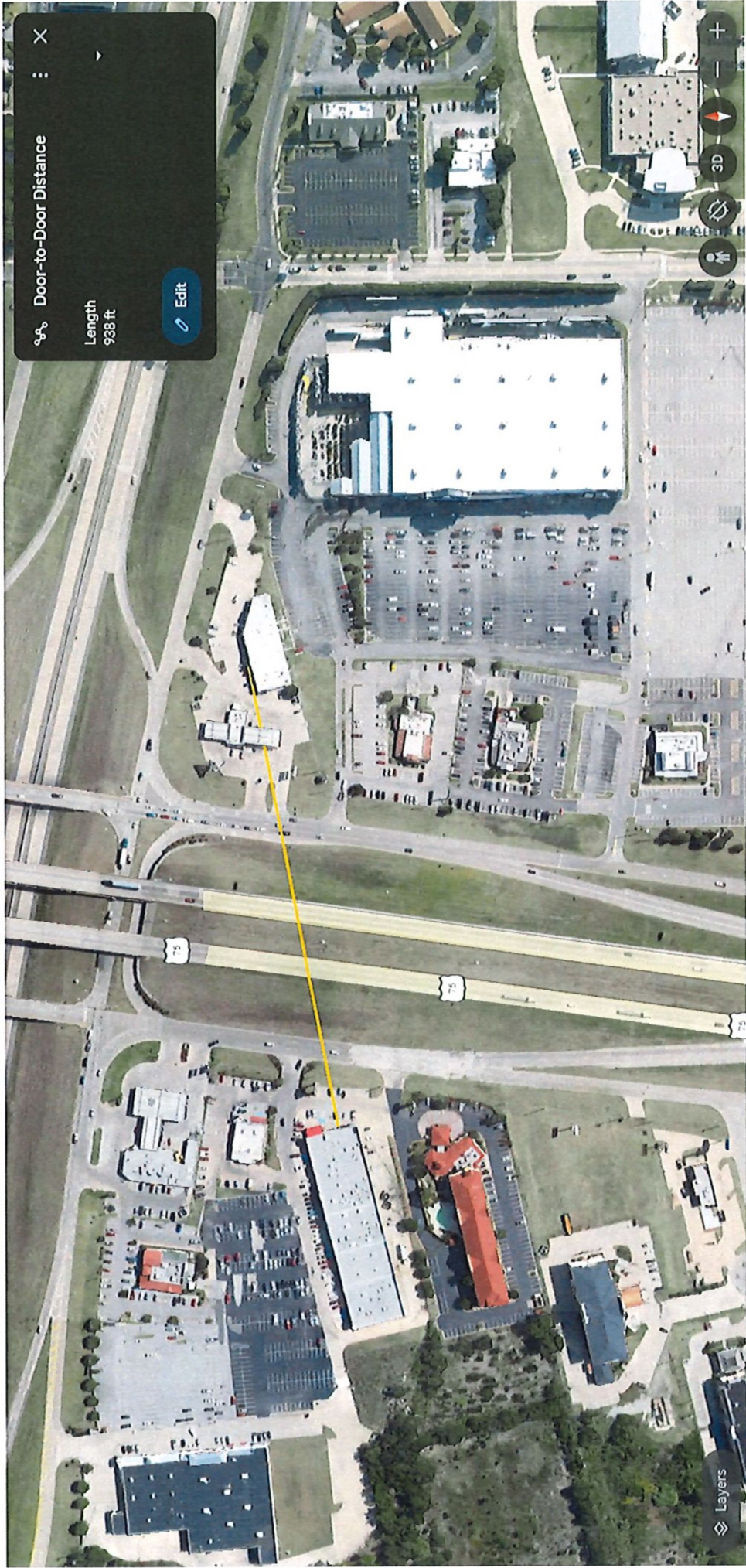
Property Line Distance

Length
567 ft

Edit

Layers

3D



Door-to-Door Distance

Length
938 ft

Edit

Layers



STAFF REVIEW LETTER

August 15, 2023

Sent via email

Samir Bhimani
10214 Frankford Ave., Suite 410
P.O. Box 8357
Lumberton, TX 77657

W Douglass Distributing, LTD
325 E. Forest Ave.
Sherman, TX 75090

Dear Applicants,

The request of a Public Hearing, Site Plan and Specific Use Permit under Section 14.06.009 to allow a Hookah Bar, Smoking Lounge, Smoke Shop, or Vape Shop in a C-1 (Retail Business) District/75 & 82 Overlay District located at 738 East Highway 82 has been scheduled to be heard by the Planning and Zoning Commission on Tuesday, August 22, 2023, at 5:00 P.M., in the City Council Chambers, City Hall at 220 W. Mulberry.

City staff has reviewed your request and the following items need to be noted/addressed:

Zoning:

1. Compliance with applicable City ordinances, regulations, standards and rules and other laws, as they exist or may be amended, including but not limited to the City's Zoning Ordinance/Code of Ordinance Chapter 14.
2. Fire access, lanes and codes shall be coordinated with the Fire Marshal (dillons@cityofsherman.com). (*Code of Ordinances Chapter 3.02(c)*)
3. The property must be properly maintained in a state of good repair and neat appearance.
4. One parking space for every 250 square feet of gross floor area shall be provided. (*Sec.14.04.003(e)(1)*)
5. The use of the property must comply with all Federal and State Laws and regulations and with all the ordinances, rules and regulations of the City of Sherman.
6. The granting of a Specific Use Permit has no effect on the uses permitted as of right and does not waive the regulations of the underlying zoning district.
7. A Specific Use Permit is an amendment to the district regulations of the Zoning Ordinance that permits the establishment of a specific use within a zoning district in which such specific use may be established unless such use of land or structure is discontinued or abandoned for a period of thirty (30) consecutive days in which event such Specific Use Permit shall be void and such use may not thereafter be resumed unless a new Specific Use Permit is granted in accordance with this section. (*Chapter 14, Sec. 14.06.009 (a)(1)(C)*)
8. The approval of a Site Plan shall be effective for a period of two (2) years from the date of approval, at the end of which time the Site Plan shall expire unless the applicant demonstrates to the Director of Development Services that progress has been made toward completion of the project for which the Site Plan was approved.
9. Any changes made to the site plan prior to the final fulfillment of the conditions of the Staff Review Letter must be considered minor by the staff, as to not require resubmission to the Planning & Zoning Commission.

It is the policy of Planning and Zoning Commission and Board of Adjustment not to consider a request unless the applicant or its representative attends the meeting at which the request is considered. You are hereby notified to present your case on the date and time stated above.

If additional information or clarification is needed, contact Development Services by emailing planning@cityofsherman.com prior to the meeting.

Respectfully,



Rob Rae
Acting Secretary, Planning and Zoning Board and Board of Adjustment

CC: Robby Hefton, City Manager
Clint Philpott, Asst. City Manager
Wayne Lee, P.E., Director of Engineering
Tom Pruitt, Utility Engineer
The Law Firm of Abernathy, Roeder, Boyd, & Hullett, P.C., City Attorney
Dillon Stewart, Fire Chief
Amber Doan, Engineering Coordinator
Christopher Armstrong, Asst. City Engineer