

ORDINANCE NO. 1035-2023

AN ORDINANCE OF THE CITY OF DICKINSON, TEXAS, AMENDING CHAPTER 18 “ZONING” OF THE CITY OF DICKINSON CODE OF ORDINANCES; AMENDING THE OFFICIAL ZONING DISTRICT MAP OF THE CITY OF DICKINSON TO REZONE APPROXIMATELY 1.78 ACRES OF LAND GENERALLY LOCATED AT 4401, 4403, 4405, 4407, 4409, AND 4411 EAST 36th STREET AND 4402, 4404, 4406, 4408, AND 4410 EAST 35th STREET FROM CONVENTIONAL RESIDENTIAL (“CR”) ZONING DISTRICT TO MANUFACTURED HOUSING (“MH”) ZONING DISTRICT; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000) FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR PUBLICATION; AND, PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, Patrick C. Restivo (the “Owner”) owns approximately 1.78 acres of land generally located at 4401, 4403, 4405, 4407, 4409, and 4411 East 36th Street and 4402, 4404, 4406, 4408, and 4410 East 35th Street, and being legally described as Reserve II Menotti Special Subdivision No. 2 (the “Property”), with the Property being more particularly depicted and described in “Exhibit A” attached to and made a part of this Ordinance for all purposes; and

WHEREAS, the Property presently has a zoning classification of Conventional Residential (“CR”) Zoning District; and

WHEREAS, the Planning and Zoning Commission (the “Commission”) of the City of Dickinson (the “City”) held a public hearing and issued a report (the “Report”) in response to the request of the Owner, to rezone the Property to Manufactured Housing (“MH”) Zoning District; and,

WHEREAS, the Commission delivered the Report to the City Council of the City (the “Council”), and the Council, in making its decision regarding the zoning of the Property, has considered the Commission’s recommendations in the Report, with the Report being attached to and made a part of this Ordinance as “Exhibit A”; and

WHEREAS, the Council has, in the time and manner and after the notice required by law and the City’s Zoning Ordinance, conducted a public hearing on the request for the rezoning of the Property; and

WHEREAS, the Council deems it appropriate to approve the rezoning of the Property as requested by the Owner; and **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DICKINSON, TEXAS:

SECTION 1. THAT the facts and matters set forth in the preamble of this Ordinance are hereby found to be true and correct and are incorporated into this Ordinance for all intents and purposes.

SECTION 2. THAT the Property, being an approximately 1.78 acres of land generally located at 4401, 4403, 4405, 4407, 4409, and 4411 East 36th Street and 4402, 4404, 4406, 4408, and 4410 East 35th Street, and being legally described as Reserve II Menotti Special Subdivision No. 2, be rezoned from Conventional Residential (“CR”) Zoning District to Manufactured Housing (“MH”) Zoning District, with the Property being more particularly depicted and described in “Exhibit A” attached to this Ordinance.

SECTION 3. THAT the Official Zoning Map (the “Zoning Map”) of the City of Dickinson, Texas (the “City”) be revised and amended to show the change in zoning classification of the Property from Conventional Residential (“CR”) Zoning District to Manufactured Housing (“MH”) Zoning District, and that the Zoning Map reflect all appropriate references to the number and effective date of this Ordinance.

SECTION 4. THAT upon the effective date of this Ordinance, the Property shall comply with the development and land use standards set forth in Chapter 18 of the Code of Ordinances of the City for to Manufactured Housing (“MH”) Zoning District and shall be in compliance with the application and the site plan submitted to the City by the Owner, which is included in “Exhibit A” attached to and made a part of this Ordinance.

SECTION 5. THAT in the event any clause phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Council declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 6. THAT any person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed two thousand dollars (\$2,000), with each day of violation constituting a separate offense.

SECTION 7. THAT all ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 8. THAT this Ordinance shall become effective upon final reading and adoption of this Ordinance when the caption hereof is caused to be published in the official newspaper of the City, by the City Secretary, as required by law.

PASSED, APPROVED, AND ADOPTED on first reading on 11TH of JULY, 2023.

PASSED, APPROVED, AND ADOPTED on second reading on 25TH of JULY, 2023.

[SIGNATURES AND EXHIBITS ON FOLLOWING PAGES]

FOR THE CITY OF DICKINSON:



SEAN SKIPWORTH, MAYOR

ATTEST:



Ana Urps, City Secretary

EXHIBIT A – COMMISSION’S REPORT, ZONING APPLICATION, AND MAP



Planning & Zoning Commission
Zoning Map Amendment
June 20, 2023

Commission Report

Request:

Amend the official zoning map from Conventional Residential (CR) zoning district to Manufactured Home (MH) zoning district.

Applicant: Patrick C. Restivo

Owner: Patrick C. Restivo

Subject Property:

Approximately ± 1.78 acres, located at 4401 E 36TH ST, 4403 E 36TH ST, 4405 E 36TH ST, 4407 E 36TH ST, 4409 E 36TH ST, 4411 E 36TH ST, 4402 E 35TH ST, 4404 E 35TH ST, 4406 E 35TH ST, 4408 E 35TH ST, 4410 E 35TH ST, legally described as Reserve II Menotti Special Subdivision No.2.

Parcel Information:

Current Use: Residential - Manufactured Homes
Proposed Use: Residential - Manufactured Homes

Surrounding Properties Information:

North: Right-of-way (E 35TH Street) and
Manufactured Home ("MH") zoning district
West: Right-of-way (Kansas Avenue) and
Conventional Residential ("CR") zoning district
East: Conventional Residential ("CR") zoning district
South: Right-of-way (E 36TH Street) and
Manufactured Home ("MH") zoning district

Background:

The applicant is requesting to rezone the subject property from Conventional Residential ("CR") zoning district to Manufactured Home ("MH") zoning district.

The subject property has been a Manufactured Home community since the City of Dickinson zoning ordinance was established in 2001. The property owner has been granted permits to replace some of the homes in recent years, but no other improvements have been made to come closer to compliance with the City Ordinances.

In order to recommend approval, Dickinson Code of Ordinances Sec. 18-22 states the Commission may give consideration to factors which may be relevant to the application in addition to the following criteria:

(1) Conformance of the proposed zoning classification with the city's land use policies.

The Future Land Use Plan (FLUP) reflects the desired pattern of growth over a given time within the City and its ETJ. The purpose of the plan is to ensure the orderly and efficient development of the City and will serve as a guide in evaluating development proposals. The requested zoning district aligns with the FLUP allowing for commercial zoning. Shown below in Figure A is the Dickinson Comprehensive Plan 2015 to 2030, Figure 2.3 Future Land Use Map. Shown below in Figure B is a zoomed in view of subject property shown in Figure A.

Figure A

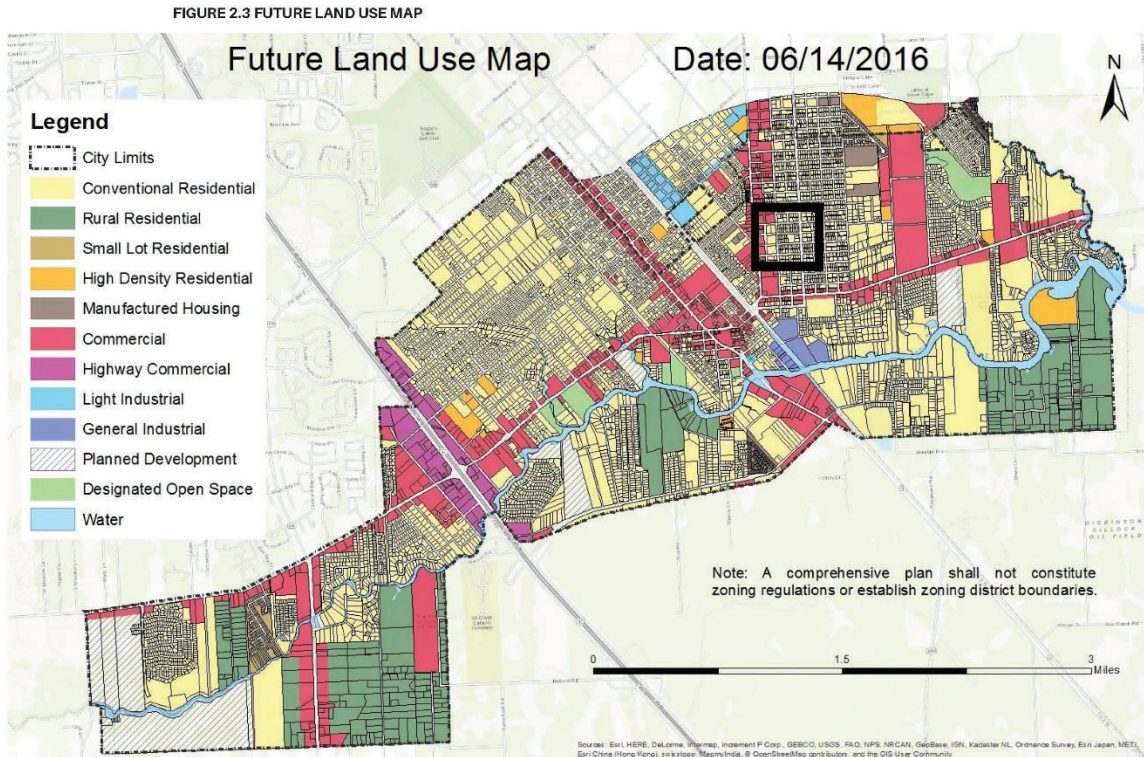
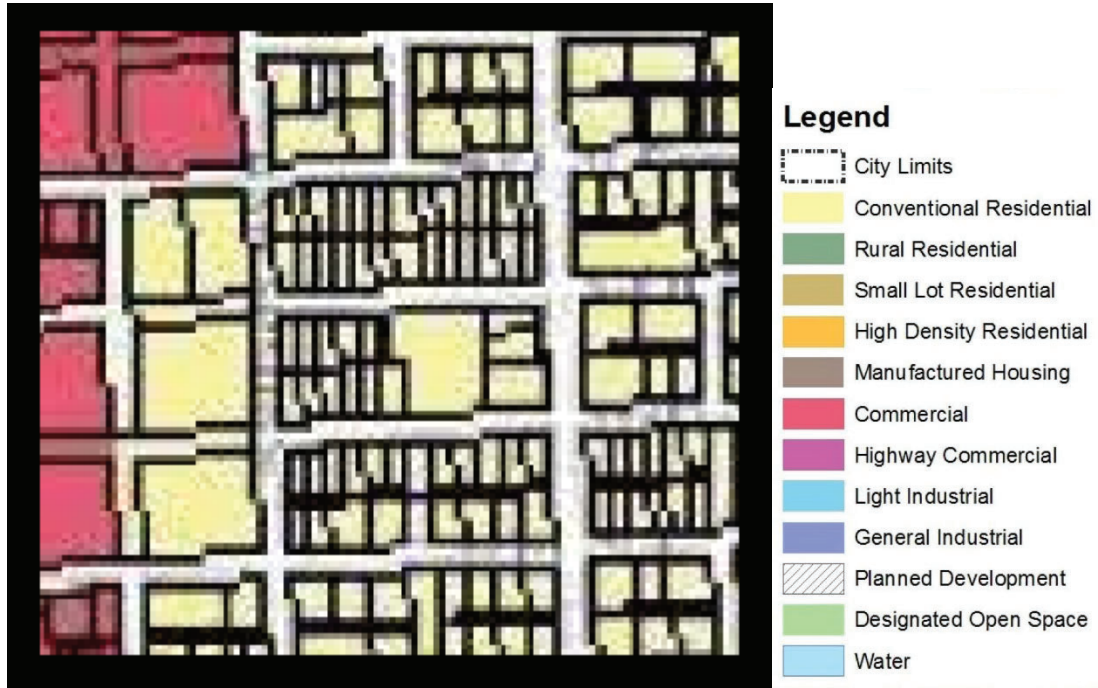


Figure B

The subject property is designated for Conventional Residential in the Dickinson Comprehensive Plan 2015 to 2030, Figure 2.3 Future Land Use Map. This category accommodates for conventional detached single-family dwellings. The purpose of this category is to accommodate for development of standard low-density residential developments, in areas where adequate public facilities exist, and residential development is appropriate given the surrounding land uses and neighborhood.

The proposed zoning of property as "MH" manufactured home does not conform with the city's land use policies.

Planning Commission Update: The Commission heard testimony that the proposed zoning request is not in line with the newly adopted Comprehensive Plan and agreed that the city is looking to move in a different direction.

(2) The character of the neighborhood.

The subject properties are part of the Nicholstone subdivision. Being one of the oldest areas of the City, development occurred organically without any consideration to the character of the neighborhood. This has resulted in a mismatch of adjacent uses. The Manufactured Home (MH) zoning district may not affect the character of the neighborhood.

(3) The zoning and use of nearby properties, and the extent to which the proposed zoning and use would be compatible.

The zoning of property as "MH" manufactured home is intended for the development of a manufactured home subdivision or manufactured home community meeting all requirements of the city's Code of Ordinances, and any applicable state law. The purpose of the "MH" district is to allow for a means of affordable housing within a well-managed, compatible and cohesive manufactured home environment.

The subject property does not meet MH zoning requirements. The following requirements have not been met:

(c) General development and performance standards.

(6) Each residential dwelling unit is hereby required to have a garage or some enclosed, lockable area for outdoor storage of lawn equipment, bicycles, and other storage items. Such garage or enclosed storage area shall be permanently affixed to the land. The minimum floor space for a storage area which is not designed to enclose or house an automobile shall be eighty (80) square feet.

(d) Screening requirements.

(1) Greenbelt. A greenbelt/landscape buffer of not less than twenty-five (25) feet in width shall be located along all manufactured home community or manufactured home subdivision boundary lines. Such greenbelt/landscape buffer shall be continuously maintained and shall be devoted exclusively for common open space and landscaping, as provided in article VIII, tree protection, landscaping and screening.

(2) Fencing. A solid fence of wood or masonry construction, at least six (6) feet in height and of a uniform size, shall be constructed and maintained along the boundaries of the manufactured home subdivision or manufactured home community. Such fencing shall be constructed of materials such as wood, brick, stone, split-face concrete block, or other similar material. In no instance will plain concrete block, fiberglass, or metal sheeting be allowed.

(e) Recreational areas. All manufactured home subdivisions or manufactured home communities shall have at least one (1) recreational area, as follows:

(1) Recreational areas may include space for community buildings and community use facilities, such as indoor recreational areas, swimming pools, and service buildings. Playground areas shall be so designated and must be protected from traffic, thoroughfares and parking areas. Such areas shall be maintained in a sanitary condition and free of safety hazards. A four (4) foot fence, to restrict the movement of children, shall be installed around the area and shall have self-closing gates.

(2) Manufactured home subdivisions or manufactured home communities with less than twelve (12) manufactured home lots shall have not less than five (5) percent of the gross site area devoted to recreational facilities, provided in a central location. Manufactured home subdivisions or manufactured home communities with twelve (12) or more manufactured home lots shall provide a recreational area of not less than four thousand six hundred (4,600) square feet, plus two hundred seventy (270) square feet per lot.

(3) Lots for common facilities shall be of such size to meet the minimum setbacks established in this section, and such that no more than fifty (50) percent of the common lot is covered by building area, exclusive of parking.

In addition, staff was unable to determine if the following zoning requirements have been met:

(b) Height and area regulations. The maximum height of buildings and structures, the minimum dimensions of lots, setbacks for yards and parking lots, and the minimum lot area per dwelling unit manufactured homes shall be as follows, except as otherwise provided in article VI, supplemental regulations:

(5) Maximum height of structures: Two and one-half (2½) stories, maximum thirty-five (35) feet from finished grade.

(6) Spacing: Manufactured homes shall be located not less than twenty (20) feet from any exterior wall to the closest exterior wall of the nearest manufactured home. The distance from a manufactured home to a common area or street shall be not less than twenty-five (25) feet.

(7) Minimum yards:

- a. Front: Fifteen (15) feet.*
- b. Side: Ten (10) feet.*
- c. Corner: Fifteen (15) feet.*
- d. Rear: Ten (10) feet.*

While the subject property is nonconforming to the existing Conventional Residential ("CR") zoning designation, changing the zoning to Manufactured Home ("MH") zoning will not bring the property into compliance with the City's zoning code. In addition, Dickinson Code of Ordinances Sec. 18-115 states:

Sec. 18-115. - Registration of nonconforming use or structure.

The owner of any lot upon which a nonconforming use or nonconforming structure exists shall register said nonconforming use or structure with the zoning official within one (1) year following adoption of this chapter or, as applicable, following adoption of any amendment hereto, which renders such use or structure nonconforming...

In the event an owner does not register a nonconforming use or structure as provided above, thereafter the city shall require proof by the owner that a use or structure was lawfully existing at the time of adoption of this chapter, or any applicable amendment hereto, or said nonconforming use or structure shall be deemed unlawful and a violation of this chapter.

The subject property has not been registered as a nonconforming use or nonconforming structure and is not in compliance with Sec. 18-115.

Nonconforming manufactured homes and Nonconforming manufactured home communities and subdivisions are governed by Dickinson Code of Ordinances Sec. 18-112 and Sec. 18-113, which allow manufactured homes to continue and be maintained, and in some cases replaced within ninety (90) days.

Planning Commission Update: The Commission stated that if the zoning does not change, the existing manufactured homes may still be maintained.

(4) The suitability of the property for the uses permitted by right in the proposed zoning district.

The Manufactured Home (MH) zoning district could be suitable for the uses permitted by right in the proposed zoning district. The property owner owns many of the surrounding properties and could bring the area into compliance with the City's zoning regulations.

(5) The extent to which approval of the application would detrimentally affect nearby properties.

The approval of Manufactured Home (MH) zoning may detrimentally affect nearby properties. A manufactured home community that does not meet the General development and performance standards, Screening requirements, and Recreational areas requirement of the City's zoning ordinance, does not provide adequate safeguards to protect nearby properties.

Planning Commission Update: The Commission expressed concern that manufactured home communities are required to meet standards set by the City which would include amenities which this property does not have.

(6) The extent to which the proposed use would affect the capacity or safety of that portion of the street network, other public facilities or utilities, or present parking problems in the vicinity of the property.

The proposed use would not affect the capacity or safety of that portion of the street network, other public facilities or utilities, or present parking problems in the vicinity of the property. Additional development and improvements are not planned for the subject property. Any future development would require the subject property to meet or exceed all requirements for capacity or safety of that portion of the street network, other public facilities or utilities.

(7) The extent to which approval of the application would harm the value of nearby properties.

While approval of the application may not harm the value of nearby properties, it decreases the ability to have a more positive impact. Existing manufactured homes can be replaced within 90 days. If a manufactured home is not replaced within the allowed timeframe a conventional residential home would be the only structure permitted, making a positive impact to the value of nearby properties.

Planning Commission Update: The Commission expressed concern that the area contains a mix of residential uses and was not developed this way by design.

RECOMMENDATION:

The requested rezoning does not meet the following criteria:

- (1) Conformance of the proposed zoning classification with the city's land use policies.
- (3) The zoning and use of nearby properties, and the extent to which the proposed zoning and use would be compatible.
- (5) The extent to which approval of the application would detrimentally affect nearby properties.
- (7) The extent to which approval of the application would harm the value of nearby properties.

Staff recommends **Denial** of the proposed zoning map amendment from Conventional Residential ("CR") zoning district to Manufactured Home ("MH") zoning district.

*Planning and Zoning Commission recommends **Denial** by unanimous vote on the 20TH DAY OF JUNE 2023.*

Deborah Fortner

PLANNING AND ZONING COMMISSION,
Vice Chairperson Deborah Fortner



City of Dickinson Community Development

Zoning Map Amendment Application

Property Information

Address: **4401 / 4411-36Th St. , 4402 / 4410-35Th.St.**

County Appraisal District No.: **M300919 M354280 M386115 M501705 M358346 M500167**
M354299 M403223 M313088 M401828 M389786

Legal Description: **Reserve II Menotti Special Sub No 2**

Acres: **1.78** Floodplain: _____

Property Owner Information

Owner: **Patrick Restivo C.**

Last First M.I.

Address: **4418-36Th. St.**

Street Address Apartment/Unit #

Dickinson Texas 77539

City State ZIP Code

Phone: **713-240-0902** Email: **p.restivo@yahoo.com**

Applicant / Agent Information

Applicant: **Restivo Patrick C.**

Last First M.I.

Address: **4418-36Th. St.**

Street Address Apartment/Unit #

Dickinson Texas 77539

City State ZIP Code

Phone: **713-240-0902** Email: **p.restivo@yahoo.com**

**If applicant is different than property owner, a Notarized Agent Authorization is required. **

Details of Request

Current Zoning: **Residential**

Requested Zoning: **Manufactured Housing Community**

Current Use: **Manufactured Housing Community**

Proposed Use: **Manufactured Housing Community**

Describe why the amendment is being requested (attach additional pages to support your request):

To bring property into conforming Zoning use.

See attached

Additional Contact Information

Contact Type: _____

Contact: _____
Last *First* *M.I.*

Address: _____
Street Address *Apartment/Unit #*

_____ *City* *State* *ZIP Code*

Phone: _____ Email: _____

Additional Contact Information

Contact Type: _____

Contact: _____
Last *First* *M.I.*

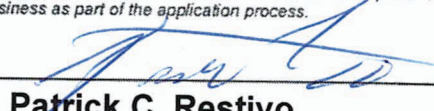
Address: _____
Street Address *Apartment/Unit #*

_____ *City* *State* *ZIP Code*

Phone: _____ Email: _____

Disclaimer and Signature

*I certify that my answers are true and complete to the best of my knowledge. By my signature, I hereby affirm that I am the **property owner** of record, or if the applicant is an organization or business entity, that authorization has been granted to represent the owner, organization or business in this application. I certify that the preceding information is **complete and accurate**, and it is understood that I agree to the application being requested for this property. Additionally, my signature below indicates my awareness of the fee required at the time of the application submittal and any additional fees as noted in the City's Fee Schedule. This (FEE) is **non-refundable** even in the event of application withdrawal. I have the power to authorize and hereby grant permission for City of Dickinson Officials to enter the property on official business as part of the application process.*

Signature:  _____ Date: **14 Nov 2022**

Printed Name: **Patrick C. Restivo** _____

Kansas

35th

<p>28 4402-35th, Francisco & Johana Rodriguez</p> <p><i>608842</i></p> <p>M389786 50 3505 Kansas</p>	<p>27 4404-35th, Aide Hernandez</p> <p><i>608843</i></p>	<p>26 4408-35th, Patsy Gilbert & Douglas Railey</p> <p><i>608844</i></p>	<p>25 4410-35th, Herbey Mireles & Dalia Soto</p> <p><i>608845</i></p>	<p>4 4401-36th, Gloria M. & Juan A</p> <p><i>608848</i></p>	<p>5 4403-36th, Edilberta Bello</p> <p><i>608849</i></p>	<p>6 4405-36th, Amelia Ruiz</p> <p><i>608850</i></p>	<p>8 4407-36th, Reyna Flores</p> <p><i>608851</i></p>	<p>9 4409-36th, Marcelino Buendia</p> <p><i>608852</i></p>	<p>11 4411-36th, Juan Palomo</p> <p><i>608853</i></p>
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M300919

M354280

M386115

M501705

M358346

M500167

M354299

M403223

M313088

M401828

86th



MONTANA AVE

KANSAS AVE

TEXAS AVE

HOUSTON AVE

TEXAS AVE

HOUSTON AVE

HOUSTON AVE

COLORADO AVE

COLORADO AVE

37TH ST

39TH ST

41ST ST

43RD ST

45TH ST

37TH ST

39TH ST

41ST ST

43RD ST

45TH ST

47TH ST

49TH ST

31ST ST

33RD ST

35TH ST

37TH ST

39TH ST

41ST ST

43RD ST

45TH ST

1. Conformance of the proposed zoning classification with the city's land use policies.

The property has been a Manufactured Home Community since the 1970's rezoning to Manufactured Housing from residential would bring from its present use to its historical use.

2. The character of the neighborhood.

The neighborhood is a mixture of Manufactured Housing and conventional Housing.

3. The zoning and use of nearby properties, and the extent to which the Proposed zoning and use would be compatible

Considering that it has been in existence as a Manufactured Housing Community since the 1970's and has been coexisting with conventional housing with out any adverse problems I propose that the rezoning would and is compatible with the neighborhood.

4. The suitability of the property for the use permitted by the right in the proposed zoning district.

The property is already a Manufactured Home Community as so there would be no change in the suitability to zoning it as Manufactured Housing.

5. The extent to which approval of the application would detrimentally affect nearby properties

There would be no detrimentally affect of nearby properties since a Manufactured Home Community already existence at the proposed property to be rezoned

6. The extent to witch the proposed use would affect the capacity of the safety of that portion of the street network, other public facilities or unities, or present parking problems in the vicinity of the property.

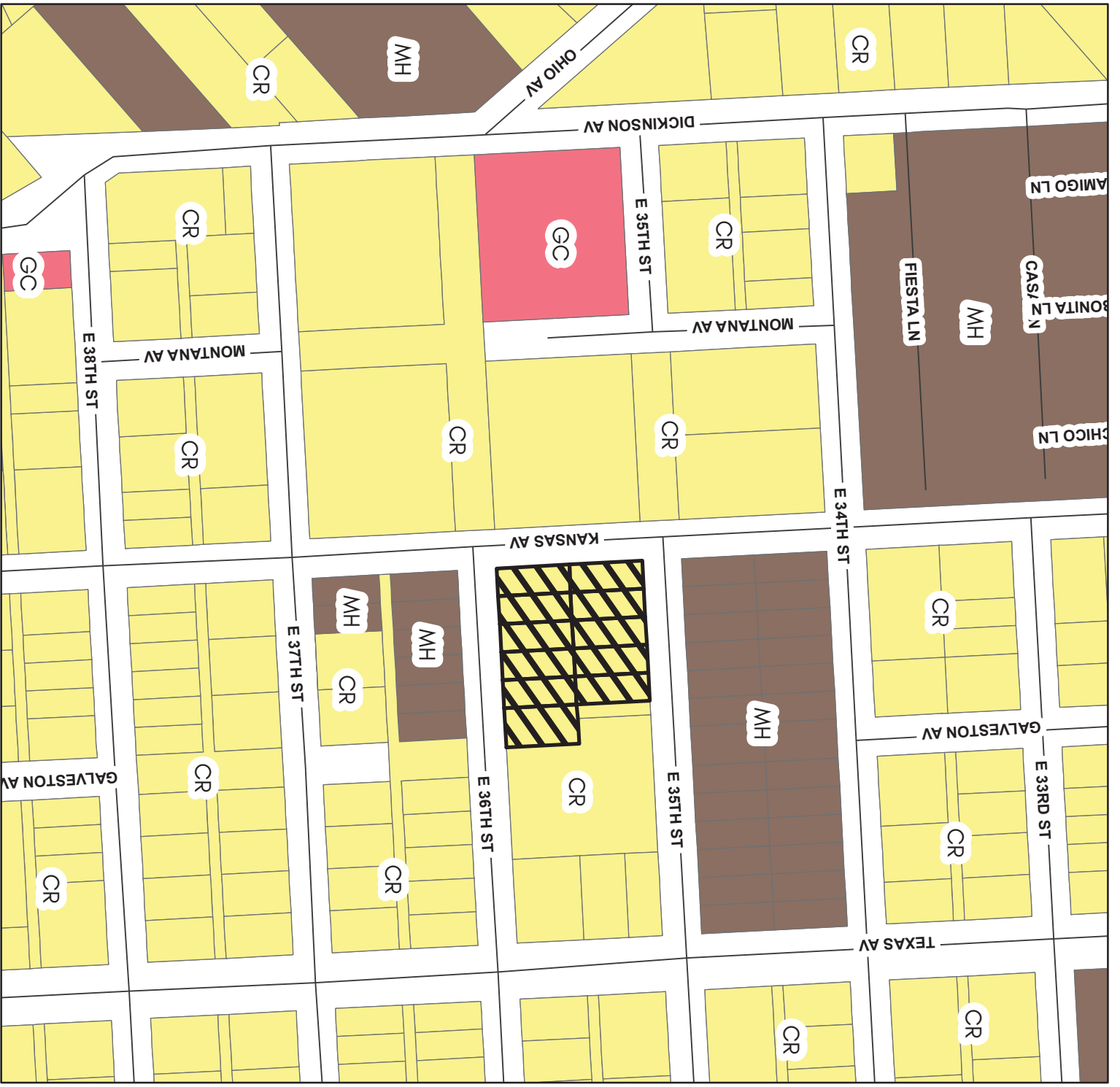
There would be no affect because of the fact that the Manufactured Home Community already existence with all infrastructure in place.

7. The extent to which approval of the application would harm the value of the nearby properties, and

Since the approval would simply bring piece of property that is in a portion of an existing property that is already zoned as a Manufacture Community there would be no harm to nearby properties

8. Other factors may be considered which may be relevant to the application.

At this time I cannot surmise of any others factors that would be relevant.



Zoning Map Amendment

- Vicinity Map -

GCAD ID 608842, 608843, 608844, 608845,
 608848, 608849, 608850, 608851, 608852, 608853,
 being approx. 1.78-acres, located at 4401 E 36TH ST,
 4403 E 36TH ST, 4405 E 36TH ST, 4407 E 36TH ST
 4409 E 36TH ST, 4411 E 36TH ST, 4402 E 35TH ST,
 4404 E 35TH ST, 4406 E 35TH ST, 4408 E 35TH ST
 4410 E 35TH ST, and legally described as
 Reserve II Menotti Special Subdivision No. 2

Subject Property

Zoning Districts

- "CR" Conventional Residential
- "MH" Manufactured Housing
- "GC" General Commercial



The City of Dickinson Texas makes no warranty, representation, or guarantee regarding the accuracy of this map. This map is intended for display purposes only and does not replace official recorded documents.

1 inch = 250 feet Date: 4/11/2023