

# ZONING REPORT

**Case No.:** 1212-01

**HTE No.** 12-10000039

**Planning Commission Hearing Date:** March 27, 2013

(Tabled from Dec. 5, Dec. 19, Jan. 16 and Feb 27)

<b>Applicant &amp; Legal Description</b>	<p><b>Applicant/Owner:</b> Minerva V. Muro  <b>Representative:</b> Cliff Atnip  <b>Legal Description/Location:</b> Nemec Addition, Block 2, Lot 5, located on the southwest corner of Nemec Street and Dodd Drive.</p>			
<b>Zoning Request</b>	<p><b>From:</b> "RS-6" Single-Family 6 District  <b>To:</b> "ON" Office District  <b>Area:</b> 0.35 acres  <b>Purpose of Request:</b> To allow construction of a parking lot to be used by employees of the adjacent vehicle sales and service business.</p>			
<b>Existing Zoning and Land Uses</b>		<b>Existing Zoning District</b>	<b>Existing Land Use</b>	<b>Future Land Use</b>
	<i>Site</i>	"RS-6" Single-Family 6	Low Density Residential	Medium Density Residential
	<i>North</i>	"RS-6" Single-Family 6	Low Density Residential	Low Density Residential
	<i>South</i>	"CG-2" General Commercial	Commercial	Commercial
	<i>East</i>	"RS-6" Single-Family 6	Low Density Residential	Low Density Residential
	<i>West</i>	"RS-6" Single-Family 6	Low Density Residential	Medium Density Residential
<b>ADP, Map &amp; Violations</b>	<p><b>Area Development Plan:</b> The subject property is located in the Southeast Area Development Plan (ADP) and is planned for medium density residential uses. The proposed change of zoning to the "ON" Office District is not consistent with the adopted Future Land Use Map.  <b>Map No.:</b> 047038  <b>Zoning Violations:</b> None</p>			
<b>Transportation</b>	<p><b>Transportation and Circulation:</b> The subject property has 88 feet of frontage along Nemec Street and 175 feet of frontage along Dodd Drive, which are both local residential streets. The property also has indirect access, via Dodd Drive, to South Padre Island Drive (SH 358), which is an "F1" Freeway/Expressway.</p>			

Street R.O.W.	Street	Urban Transportation Plan Type	Proposed Section	Existing Section	Traffic Volume (2011)
	Nemec Street	"Local" Street	50' ROW 28' paved	50' ROW 28' paved	Not Available
	Dodd Drive	"Local" Street	50' ROW 28' paved	50' ROW 24' paved	Not Available
	SH 358	"F1" Freeway/Expressway	400' ROW paved varies	255' ROW 230' paved	4,403 (2011 ADT)

### **Staff Summary:**

**Requested Zoning:** The applicant is requesting a change of zoning from the "RS-6" Single-Family 6 District to the "ON" Office District to allow construction of an employee parking lot for the adjacent vehicle sales and service business to the south and fronting South Padre Island Drive (SH 358).

**Applicant's Development Plan:** The proposed development of a parking lot would be used for employee parking for the adjacent business, All-Star Mitsubishi. Buffering and screening would be required by the Unified Development Code (UDC) to protect the adjacent residential properties from the expansion of the commercial use. The buffer yard requires a six-foot tall concrete panel wall or wood screening fence on the shared property lines with the single-family residential properties. Canopy trees planted every 30 feet on the center within a five-foot wide buffer strip located along the street right-of-way is also required. Additionally, canopy trees must be planted along the property lines on the interior of the screening wall adjacent to the existing single-family property. This would also meet the standard buffer requirements for redevelopment areas between an "ON" Office District and an "RS-6" Single-Family 6 District.

**Existing Land Uses & Zoning:** South of the subject property is the existing All-Star Mitsubishi facility, which is zoned "CG-2" General Commercial District. North, east, and west of the subject property is a residential subdivision zoned "RS-6" Single-Family 6 District.

**AICUZ:** The subject property is not located in one of the Navy Air Installation Compatibility Use Zones (AICUZ).

**Comprehensive Plan & Area Development Plan (ADP) Consistency:** The proposed change of zoning is not consistent with the adopted Future Land Use Map, which slates the property for a medium density residential use. The medium density residential use proposed in the Future Land Use Map serves as a transitional land use between the commercial developments on South Padre Island Drive and the single-family neighborhood to the north. This rezoning would allow the expansion of non-residential activity into an existing single-family neighborhood. The planned use for this property is an apartment complex ranging from 8 to 22 dwelling units per acre or 7 units on this 0.35-acre site.

**Special Permit Criteria:**

In determining whether to approve, approve with conditions, or deny a special permit, the applicable review bodies shall consider the following criteria:

1. The use is consistent with the Comprehensive Plan.
2. The use complements and is compatible with the surrounding uses and community facilities.
3. The impact of the use on public infrastructure can be minimized without negatively impacting existing uses in the area and in the City.
4. The use contributes to, enhances or promotes the welfare of adjacent properties and the surrounding area.
5. The use does not substantially adversely affect adjacent and neighboring uses.
6. The use conforms in all other respects to regulations and standards in the UDC.
7. If located within or adjacent to a residential area, the physical appearance, hours of operation and conduct of the use does not generate excessive noise, dust, smoke, glare, spillover lighting or other forms of environmental or visual pollution or otherwise detrimentally affect the residential character.
8. The development provides ample off-street parking and loading facilities.

**Department Comments:**

- The Comprehensive Plan discourages incompatible commercial land uses abutting into residential areas. Whenever possible, commercial uses should not encroach into residential areas.
- The Comprehensive Plan states that a commercial use should be allowed within a residential area only if it maintains or improves the residential desirability of the neighborhood. This proposed zoning district and use would not improve the desirability of the neighborhood.
- The Future Land Use Map slates the property for a medium density residential use. By changing the zoning to commercial, the residential designation will not be fulfilled and there will be an incompatible commercial use within the residential neighborhood.
- City Council approved the amendment to the UDC to allow Special Permits. Staff considered the Special Permit option for this case and the applicant has provided a site plan that addresses Staff's concerns with the proposed use. Considering that a parking lot for an apartment complex might have been created on this lot should the Future Land Use Plan be implemented, Staff finds that the employee parking lot subject to screening and landscaping requirements would maintain the residential desirability of the neighborhood and that the use does not substantially adversely affect adjacent and neighboring uses.

**Planning Commission and Staff Recommendation (March 27, 2013):**

Denial of the change of zoning from the "RS-6" Single-Family 6 District to the "ON" Office District and, in lieu thereof, approval of the "RS-6/SP" Single-Family 6 District with a Special Permit subject to a site plan and the following conditions:

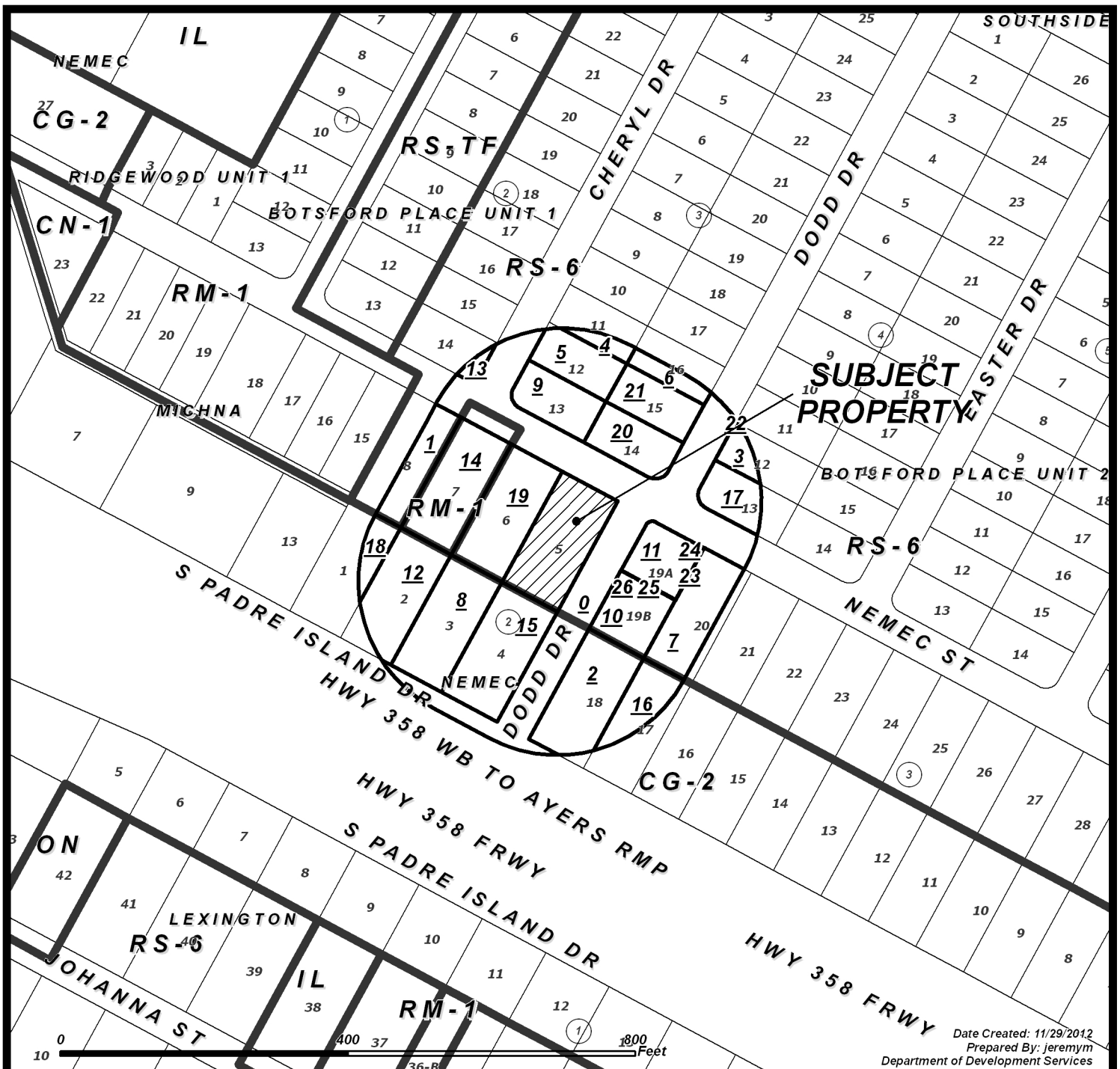
1. **Uses:** An employee parking lot (to serve the adjacent vehicle sales and repair use) is the only use allowed on the Property other than those uses allowed by

right in the “RS-6” Single-Family 6 District. Vehicle sales, vehicle service, and vehicle holding or preparation area are prohibited uses of the Property.

2. **Screening:** A six-foot tall solid wood screening fence must be constructed, maintained, and remain in place along Dodd Drive, Nemec Street, and the adjacent residence to screen the employee parking lot from public view, with the placement of the decorative side of the screening fence facing the public roadways and residence.
3. **Landscaping:** The Owner shall maintain a 20-foot wide buffer yard in front of the screening fence along Nemec Street and a five-foot wide buffer yard in front of the screening fence along Dodd Drive. The Owner shall plant and maintain canopy trees with a minimum of a 2.5-inch caliper every 30 feet on the center within the buffer yards and on the interior of the screening fence along the side property line adjacent to the single-family residence. The Owner shall plant and maintain minimum three-gallon shrubs along the exterior of the screening fence fronting Nemec Street.
4. **Lighting:** Any outdoor lighting shall be of the full cut-off type and placed below the height of the screening fence.
5. **Access:** The Property shall not have vehicular access to or from Dodd Drive and Nemec Street.
6. **Dumpsters:** No dumpsters shall be placed in or on the Property.
7. **Time Limit:** This Special Permit shall be deemed to have expired within 12 months of this ordinance unless a complete building permit application has been submitted, and the Special Permit shall expire if the allowed use is discontinued for more than six consecutive months.

<b>Public Notification</b>	Number of Notices Mailed – 26 within 200’ notification area; 5 outside notification area	
	<u>As of March 28, 2013:</u>	
	In Favor	– 0 (inside notification area); 0 (outside notification area)
	In Opposition	– 0 (inside notification area); 0 (outside notification area)
For 0.00% in opposition.		

Attachments:           1. Location Map (Existing Zoning & Notice Area)  
                                  2. Proposed Site Plan



Date Created: 11/29/2012  
Prepared By: Jeremym  
Department of Development Services

## CASE: 1212-01

### 2. SITE - EXISTING ZONING, NOTICE AREA & OWNERSHIP

RM-1	Multifamily 1	IL	Light Industrial
RM-2	Multifamily 2	IH	Heavy Industrial
RM-3	Multifamily 3	PUD	Planned Unit Dev. Overlay
ON	Professional Office	RS-10	Single-Family 10
RM-AT	Multifamily AT	RS-6	Single-Family 6
CN-1	Neighborhood Commercial	RS-4.5	Single-Family 4.5
CN-2	Neighborhood Commercial	RS-TF	Two-Family
CR-1	Resort Commercial	RS-15	Single-Family 15
CR-2	Resort Commercial	RE	Residential Estate
CG-1	General Commercial	RS-TH	Townhouse
CG-2	General Commercial	SP	Special Permit
CI	Intensive Commercial	RV	Recreational Vehicle Park
CBD	Downtown Commercial	RMH	Manufactured Home
CR-3	Resort Commercial		
FR	Farm Rural		
H	Historic Overlay		
BP	Business Park		

Subject Property  
with 200' buffer

Owners within 200' listed on  
attached ownership table

Owners  
in favor

Owners  
in opposition



Site Plan for the Rezoning of 2529 Nemec  
Zoning Case No. 1212-01

