AGENDA

CITY OF PEARLAND
PLANNING & ZONING COMMISSION

NOVEMBER 4, 2013 6:30 p.m.

Henry Fuertes
P&Z CHAIRPERSON

Matthew Hanks
P&Z VICE-CHAIRPERSON

COMMISSIONERS

Linda Cowles

Mary Starr

Daniel Tunstall

Ginger McFadden

Elizabeth McLane

In accordance with the Texas Open Meeting Act the Agenda is posted for public information, at all times, for at least 72 hours preceding the scheduled time of the meeting on the bulletin board located at the front entrance of the City Hall, 3519 Liberty Drive.

AGENDA – WORKSHOP OF THE PLANNING & ZONING COMMISSION OF THE CITY OF PEARLAND, TEXAS, TO BE HELD ON MONDAY, NOVEMBER 4, 2013, AT 6:30 P.M., IN THE COUNCIL CHAMBERS, CITY HALL, 3519 LIBERTY DRIVE, PEARLAND, TEXAS.

I. CALL TO ORDER

II. PURPOSE OF THE WORKSHOP:

1. **COMMISSION INPUT AND DISCUSSION: REGARDING ANNUAL DEVELOPMENT CODE UPDATE (T-16),** Ms. Lata Krishnarao, AICP, LEED ND, Director of Community Development and *Mr. Harold Ellis, City Planner*

III. ADJOURNMENT

This site is accessible to disabled individuals. For special assistance, please call Young Lorfing at 281-652-1840 prior to the meeting so that appropriate arrangements can be made.

I, Debbie Cody, Office Assistant of the City of Pearland, Texas, do hereby certify that the foregoing agenda was posted in a place convenient to the general public at City Hall on the 1st day of November, 2013, A.D., at 5:30 p.m.

_____
Debbie Cody, Office Assistant

Agenda removed _____ day of November 2013.

AGENDA REQUEST
BUSINESS OF THE CITY COUNCIL
CITY OF PEARLAND, TEXAS

AGENDA OF: November 4, 2013 **ITEM NO.:**

DATE SUBMITTED: October 29, 2013 **DEPT. OF ORIGIN: Planning**

PREPARED BY: Harold Ellis and Johnna Matthews **PRESENTOR: Lata Krishnarao**

REVIEWED BY: Mike Hodge **REVIEW DATE: October 29,2013**

SUBJECT: Annual Unified Development Code Updates (T-16) – Additional Amendment regarding the Garden/O'Day Mixed Use Zoning District

EXHIBITS: 1) Garden/O'Day Mixed Use Zoning District – Current Land Uses of existing Non-Residential properties

EXPENDITURE REQUIRED: N/A **AMOUNT BUDGETED:** N/A
AMOUNT AVAILABLE: N/A **PROJECT NO.:** N/A
ACCOUNT NO.: N/A

ADDITIONAL APPROPRIATION REQUIRED: N/A
ACCOUNT NO.: N/A
PROJECT NO.: N/A

To be completed by Department:
☐ **Finance** ☐ **Legal** ☐ **Ordinance** ☐ **Resolution**

EXECUTIVE SUMMARY

The City's Unified Development Code, initially adopted in February 2006, is reviewed annually. This review is based on input over the past year from citizens, developers, City Council, the Planning and Zoning Commission, board members, and city staff. Based on this input, Planning staff creates a list of proposed amendments to the Unified Development Code. This initial list was finalized as a result of a series of workshops with the Planning and Zoning Commission on July 15, 2013; August 5; and 19, 2013. The Commission then presented their final list of recommended changes to the City Council in the form of two Joint Workshop's, on September 16, and October 7, 2013.

The third and final joint workshop is to discuss one additional amendment to the Unified Development Code, not discussed at prior workshops. This amendment pertains to the Garden/O'Day-Mixed Use zoning district, pertaining to the re-use of existing commercial buildings/properties used for non-residential purposes. More

specifically, and as discussed in more detail in this report, this amendment proposes to expand upon the current section of the Unified Development Code which allows a property owner to seek a Conditional Use Permit to allow uses which were either allowed by-right or with the approval of a Conditional Use Permit in the property's former zoning district if the property was formerly zoned Light or Heavy Industrial (M-1 or M-2).

The next steps in the annual Unified Development Code amendment process include a Joint Public Hearing, which is scheduled for November 18, 2013, followed by first and second readings of the ordinance adopting the amendments. This year's amendments, if approved, would result in the 16th amendment to the Unified Development Code, and are anticipated to be finalized in January, 2014.

Additions to the Unified Development Code are shown in red font and deletions are shown in red strikeout font. Current code language is *Italicized.*

Exhibit 1 Proposed Additional Amendment and Recommended Language:

Addition to existing UDC language

Section to be amended – Industrial Use CUP- 2.4.3.3 (i)

Proposed amendment:

Currently in the G/O-MU zoning district, properties which were formerly zoned industrial (either M-1 or M-2), are eligible to be granted a Conditional Use Permit to allow uses not permitted in the existing zone, but were permitted either by right or with the approval of a Conditional Use Permit in the property's former zone.

It has recently been discussed that there are a number of nonresidential uses which currently exist on properties where the former zoning was not industrial and therefore are not able to request a Conditional Use Permit to continue or introduce a use formerly permitted on the property. In addition to industrial zones, properties were formerly zoned the following non-residential and residential zoning districts:

Non-Residential	Residential
Commercial (C)	Suburban Development (SD)
General Business (GB)	Low Density Residential (R-1)
Office Professional (OP)	Residential Estate (RE)

Staff has identified two issues which need to be addressed:

1) Properties which were **zoned** Office Professional (OP), General Business (GB), Commercial (C), Light Industrial (M-1), and Heavy Industrial (M-2) prior to the adoption of the Unified Development Code when the Garden/O'Day Mixed Use (G/O-MU) zoning district was applied.

These properties had uses which were permitted by their prior zoning but are not permitted by the Garden/O'Day Mixed Use (G/O-MU) zoning district.

In order to ensure that these properties are able to continue, resume, and change to any use that was permitted by their prior zoning of Office Professional (OP), General Business (GB), Commercial (C), Light Industrial (M-1), and Heavy Industrial (M-2), staff is proposing the following amendment:

Amendment:

2.4.3.3 (i)

(i) ***~~Industrial Use~~ CUP for properties formerly zoned non-residential prior to the adoption of the Unified Development Code.***

(1) Eligibility. Properties located ~~on Garden Road or O'Day Road~~ within the current Garden/O'Day Mixed Use zoning district that were formerly zoned Neighborhood Service (NS), Office Professional (OP),General Business (GB), Commercial (C), Light Industrial District (M-1) or Heavy Industrial District (M-2) and which were rezoned to Garden/O-Day Mixed Use District (G/O-MU) when the UDC was adopted in 2006, are eligible to seek ~~one of two Industrial Use CUPs, either an M-1 CUP or an M-2 CUP~~ a Conditional Use Permit (CUP), based upon ~~the~~ each individual property's~~ies~~ previous zoning.

(2) Effect.

a. The ~~M-1~~Conditional Use Permit (CUP) would add all permitted uses and uses permitted by the approval of a Conditional Use Permit (CUP) allowed in the ~~M-1~~property's prior zoning district as listed in the Unified Development Code's Land Use Matrix and/or the Land Use and Urban Development Ordinance's Schedule of Uses, in addition to the permitted uses for the underlying G/O-MU zoning. ~~Uses listed as conditional uses for the M-1 district would require a separate CUP to authorize.~~

b. ~~The M-2 CUP would add all permitted uses allowed in the M-2 zoning district as listed in the Land Use Matrix in addition to the permitted uses for the underlying G/O-MU zoning. Uses listed as conditional uses for the M-2 district would require a separate CUP to authorize.~~

(3) Applicable requirements. The zoning district regulations applicable to a property zoned G/O-MU with ~~an Industrial Use~~a Conditional Use Permit ~~-~~(CUP) shall follow ~~be determined by the primary use of said property. If the primary use is a G/O-MU use, then~~ the regulations for the G/O-MU district~~ shall apply~~. Additional regulations may be placed on the Conditional Use Permit (CUP) in accordance with Section 2.2.3.4 (b). ~~If the primary use is an M-1 or M-2 use, then the regulations for the appropriate industrial district shall apply. If the use~~

~~is permitted in both the G/O-MU district and the industrial district, then the less restrictive regulations shall apply.~~

(4) Expiration. The abandonment and expiration provisions of Section 2.2.3.5 shall ~~not~~ apply. ~~to any Industrial Use CUP.~~

2) Properties that were being **used** as non-residential uses and were zoned Suburban Development (SD), Low Density Residential (R-1), and Residential Estate (RE) prior to the adoption of the Unified Development Code when the Garden/O'Day Mixed Use (G/O-MU) zoning district was applied.

In order to ensure that these properties are able to be developed, redeveloped, or reused in the manner in which they are currently being used, or were used prior to the properties current zone, this amendment proposes a Conditional Use Permit process to allow for additional uses, based upon the individual property's prior use.

In order to ensure that non-residential properties which were zoned residential prior to the application of the Garden/O'Day Mixed Use Zoning District have guidelines, a non-residential base zoning district needs to be applied to the property. This zoning district will be used for the purposes of establishing what uses would be allowed with the approval of a Conditional Use Permit. As part of the Planning Department's analysis, as shown below and indicated on the attached map, it has been determined that existing non-residential properties, which were A) developed either with a prior residential zone in place or B) prior to annexation, the Unified Development Code's General Commercial (GC) zone will best allow all existing uses to remain, expand, or change, with the approval of a Conditional Use Permit.

Garden/O'Day Road Land Use Classification

The Garden/O'Day Mixed Use (G/O-MU) zoning district was applied to the below properties with the adoption of the Unified Development Code (UDC) in February, 2006.

Properties located on the east side of O'Day Road were annexed in 1983; properties located on the west side of O'Day Road were annexed in 1995 and 1996. Properties located on the east side of Garden Road were annexed in 1996; and properties located on the west side of Garden Road were annexed in 1997.

C: Conforming
NC: Non-conforming
P: Permitted
CUP: Permitted with the approval of a Conditional Use Permit
** Staff will verify that the CUP is for the current use*

Number Identification on Map	Historical Zoning- Land Use and Urban Development Ordinance	Current Use – UDC Land Use Classification	Current Zoning Status	Effect of Proposed T-16 Amendment
1	Suburban Development District (SD)	N/A (Vacant) (CUP 2009-18, Ord. # 2000CUP-41)	N/A	N/A
2	Suburban Development District (SD)	Office (Other Than Listed)	C	P
3	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
4	Heavy Industrial District (M-2)	Office Warehouse/Storage/Sales (CUP 2008-14, Ord. # 2000CUP-15)	NC	CUP*
5	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
6	Suburban Development District (SD)	Heavy Machinery Sales/ Storage, Rental & Repair	NC	CUP
7	School (S) & Suburban Development District (SD)	School/Elementary	C	P
8	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
9	School ((S), Ord. # 509-666)	Church, Temple, Place of Worship	C	P
10	Suburban Development District (SD)	Heavy Machinery Sales/ Storage, Rental & Repair	NC	CUP
11	Heavy Industrial District (M-2)	Metal, Machine or Wood Shop	C	CUP*

		(CUP2008-14 Ord. # 2000CUP-15)		
12	Heavy Industrial District (M-2)	Office Warehouse/Storage/Sales (CUP2008-14 Ord. # 2000 CUP-15)	C	CUP*
13	Heavy Industrial District (M-2)	Light Manufacturing (CUP2008-14, Ord. # 2000 CUP-15)	C	CUP*
14	Suburban Development District (SD)	Church, Temple, Place of Worship	C	P
15	Suburban Development District (SD)	Pet & Animal Grooming Shop	C	CUP
16	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
17	Commercial (C)	Auto Repair (Major)	NC	CUP
18	Suburban Development District (SD)	Mini-Warehouse Storage/Sales	NC	CUP
19	Office Professional District (OP)	Office (Other Than Listed)	C	P
20	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
21	Suburban Development District (SD)	Auto Repair (Major)	NC	CUP
22	Heavy Industrial District (M-2)	Office/Warehouse Light Manufacturing (CUP 2008-14, Ord. # 2000CUP-15)	NC	CUP*
23	Heavy Industrial District (M-2)	Office (Other Than Listed) Office Warehouse (CUP 2008-14, Ord. # 2000CUP-15)	NC	CUP*
24	Low Density Residential (R-1)	Office Warehouse/Storage/Sales	NC	CUP
25	Suburban Development District (SD)	Upholstery Business	NC	CUP
26	Suburban Development District (SD)	Office Warehouse/Storage/Sales	NC	CUP
27	Light Industrial District (M-1)	Office Warehouse/Storage/Sales (CUP 2008-14, Ord. # 2000 CUP-15)	NC	CUP*

28	Suburban Development District (SD)	N/A	N/A	N/A
29	Commercial (C)	N/A	N/A	N/A

While it is always the intent of the Planning Department to provide clear and accurate information; the information provided is preliminary in nature and is based on a windshield survey and minor discrepancies may exist.

Amendment

2.4.3.3 (j)

(j) ***CUP for properties formerly zoned residential prior to the adoption of the Unified Development Code.***

(1) Eligibility. Properties located on within the current Garden/O'Day Mixed Use zoning district that were formerly zoned Suburban Development (SD), Low Density Residential (R-1), or Residential Estate (RE) and which were rezoned to Garden/O-Day Mixed Use District (G/O-MU) when the UDC was adopted in 2006, are eligible to seek a Conditional Use Permit (CUP).

(2) Effect.

a. The Conditional Use Permit (CUP) would add all permitted uses and uses permitted by the approval of a Conditional Use Permit (CUP) allowed in the General Commercial (GC) zoning district as listed in the Unified Development Code's Land Use Matrix and/or the Land Use and Urban Development Ordinance's Schedule of Uses, in addition to the permitted uses for the underlying G/O-MU zoning.

(3) Applicable requirements. The zoning district regulations applicable to a property zoned G/O-MU with a Conditional Use Permit –(CUP) shall follow the regulations for the G/O-MU district. Additional regulations may be placed on the Conditional Use Permit (CUP) in accordance with Section 2.2.3.4 (b).

(4) Expiration. The abandonment and expiration provisions of Section 2.2.3.5 shall apply.

Basis for Recommendation

As previously mentioned, the Planning Department has done an analysis of non-residential properties in the G/O-MU zoning district. The results of this analysis indicate there are a total of approximately 27 existing non-residential properties within the boundaries of the existing zoning district. The majority of the non-residential uses are along Garden Road, with approximately 21 businesses, and the remaining 6 being located along O'Day Road.

As the chart below indicates, there are a wide variety of non-residential uses currently operating in the G/O-MU zoning district. It should be noted, however, that most of the uses are not retail related and are more service oriented businesses.

A summary of the uses identified by staff is below, classified by the Unified Development Code's Land Use Matrix:

Quantity	Land Use Matrix Classification
2	Auto Repair (Major)
2	Church, Temple, Place of Worship
2	Heavy Machinery Sales, Storage, Rental and Repair
1	Light Manufacturing
1	Metal, Machine, or Wood Shop
1	Mini-Warehouse Storage/Sales
3	Office (Other than listed)
12	Office Warehouse Storage/Sales
1	Pet and Animal Grooming Shop
1	School, Elem, Jr, or High School (Public or Parochial)
1	Upholstery Business
3	Vacant Non-residential (land classification not applicable)

As the Garden/O'Day Mixed Use zoning district currently has the uses listed above, and the Unified Development Code currently allows industrial uses which were formerly permitted to go through the Conditional Use Permit process to locate or expand within the current zoning, staff believes additional uses which were also permitted in former zoning districts or within the General Commercial (GC) zone for properties with a residential prior zoning would not adversely impact the area.

Through the Conditional Use Permit process, the Planning and Zoning Commission and City Council will have the opportunity to review each request for a use not currently permitted in the Garden/O'Day Mixed Use zone, ensure the requested use is suited for the proposed site, and add conditions of approval if necessary to ensure compatibility and mitigate any potentially adverse impacts.

For reference, the criteria of approval in Section 2.2.3.4 of the Unified Development Code, as well as the discussion on conditions of approved is provided below:

Section 2.2.3.4 Criteria for Approval

(a) ***Factors.*** *When considering an application for a Conditional Use Permit, the Planning and Zoning Commission and City Council shall evaluate the impact of the proposed conditional use on and its compatibility with surrounding properties and residential areas to ensure the appropriateness of the use at the particular location, and shall consider the extent to which:*

(1) The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;

(2) The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;

(3) The proposed use is compatible with and preserves the character and integrity of adjacent developments and neighborhoods, and includes improvements either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and neighborhoods;

(4) The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;

(5) The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;

(6) The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties; and

(7) The proposed use meets the standards for the zoning district, or to the extent variations from such standards have been requested, that such variations are necessary to render the use compatible with adjoining development and the neighborhood.

(b) ***Conditions.*** *The City Council may require such modifications in the proposed use and attach such conditions to the Conditional Use Permit as the City Council deems necessary to mitigate adverse effects of the proposed use and to carry out the spirit and intent of this section. Conditions and modifications may include but are not limited to limitation of building size or height, increased open space, limitations on impervious surfaces, enhanced loading and parking requirements, additional landscaping, curbing, sidewalk, vehicular access and parking improvements, placement or orientation of buildings and entryways, buffer yards, landscaping and screening, signage restrictions and design, maintenance of buildings and outdoor areas, duration of the permit and hours of operation.*

<u>Recommended action:</u>

Conduct the workshop and provide staff with direction.
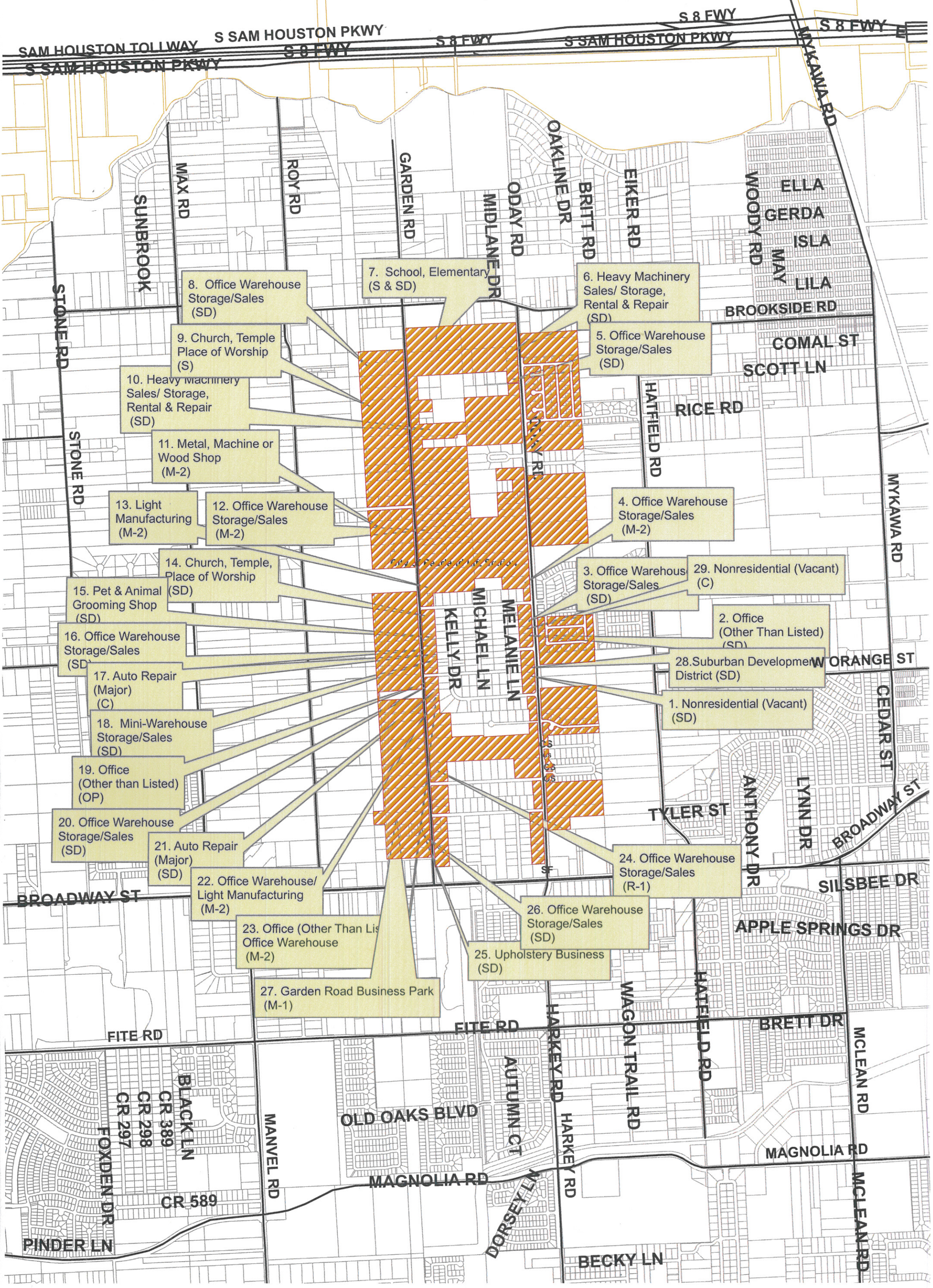
Exhibit 1
Garden/O'Day-Mixed Use Zoning District
Current Land Uses of Existing Non-Residential Properties