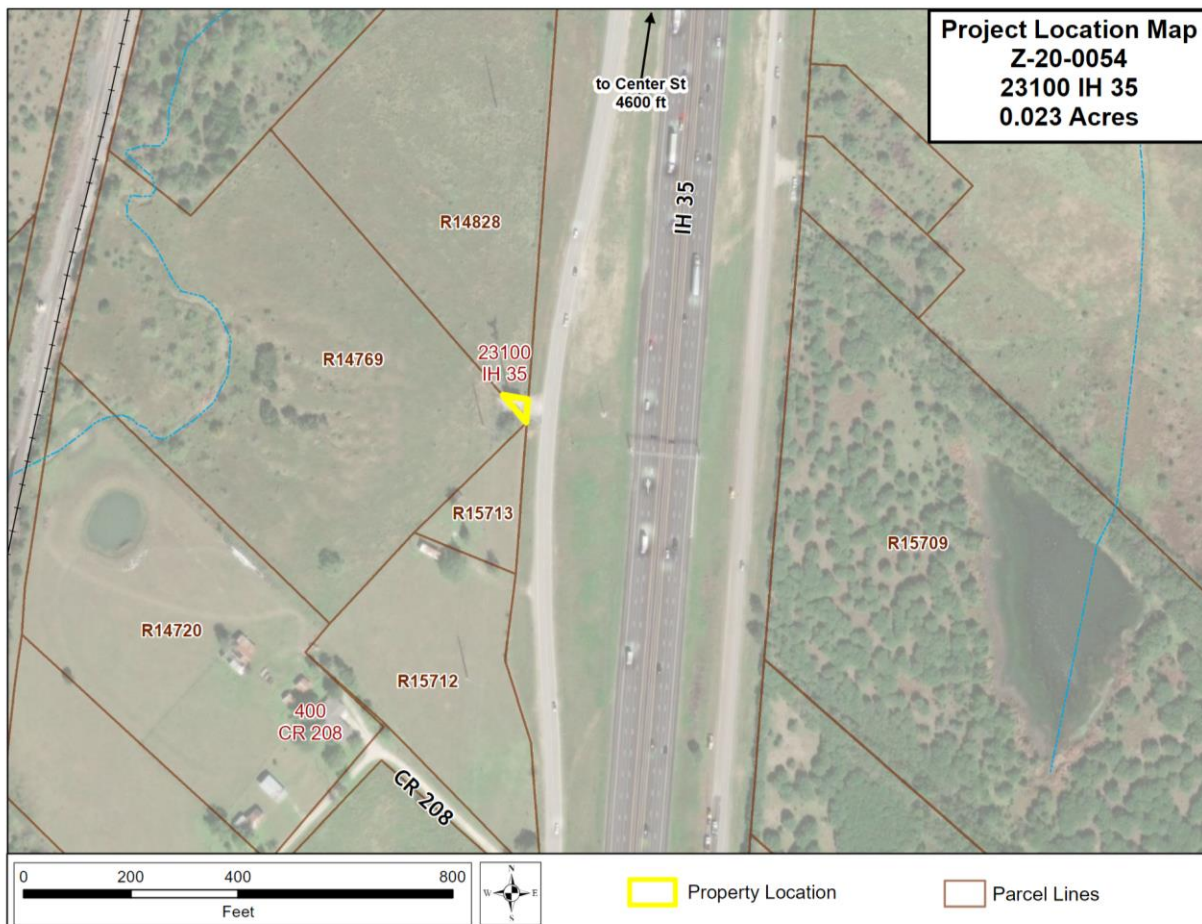


|                   |                                                                                     |
|-------------------|-------------------------------------------------------------------------------------|
| Property Location | CR 208 and S IH-35 Frontage Road, Kyle, TX 78640                                    |
| Owner             | J. Stephen Smith (Manager)<br>Deersa, LLC<br>8800 Appaloosa Run<br>Austin, TX 78737 |
| Agent             | Hugo Elizondo, Jr., P.E.<br>3601 Kyle Crossing, Ste. A<br>Kyle, TX 78640            |
| Request           | Rezone 0.023-Acres RS (Retail/Services) to T/U<br>(Transportation/Utility)          |

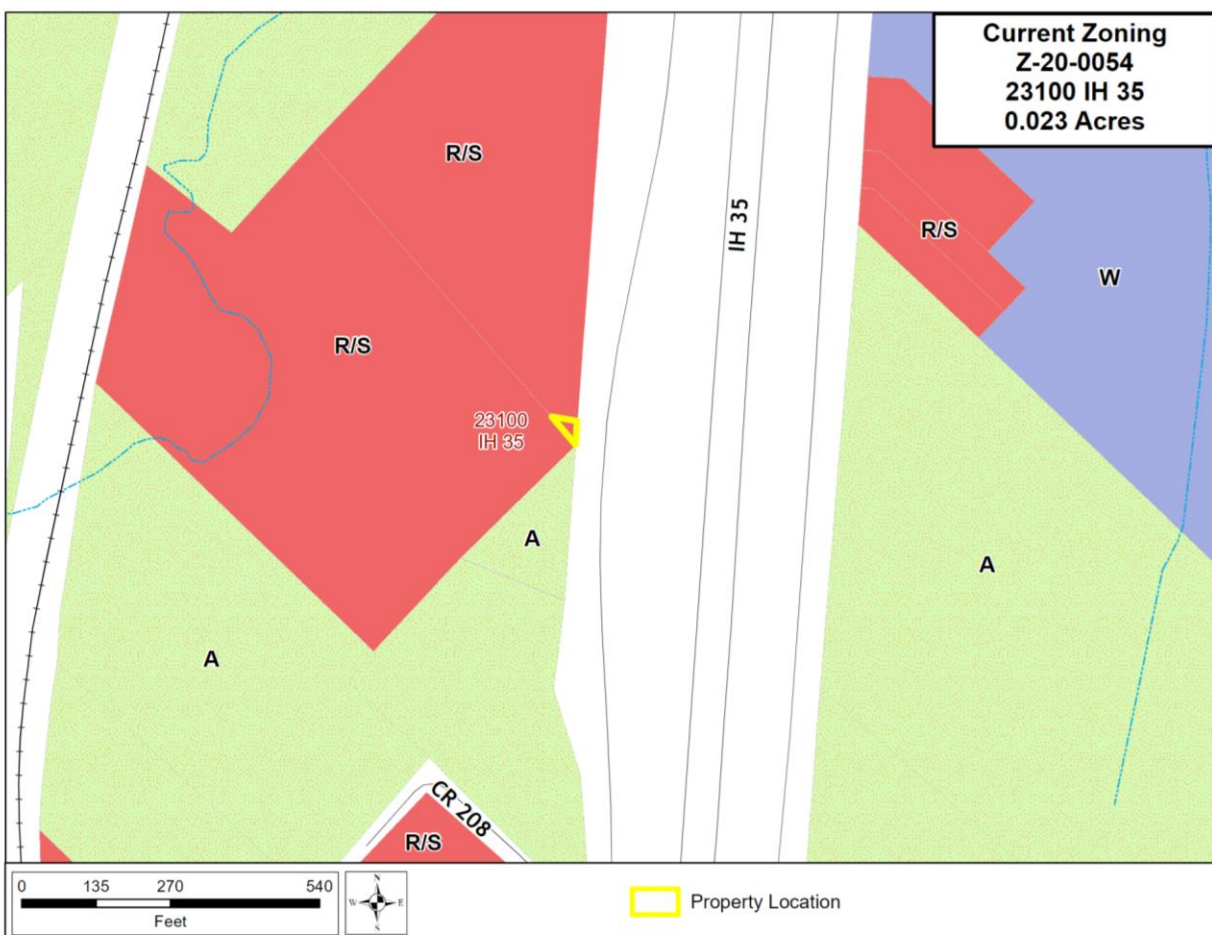
### Vicinity Map



## Site Description

The site is located on a vacant parent lot that is zoned “RS” or Retail/Services. The proposed minor parcel is situated at the southern corner of the southbound IH-35 access road and the parent parcel, ID R14828. IH-35 is directly adjacent to and east of the site. To the south is land zoned “A” and used for agricultural purposes. To the west is land zoned “RS” and remains undeveloped.

The applicant seeks to rezone the property from “RS” (Retail/Services) to “T/U” (Transportation/Utility).



## Current Zoning

### R/S (Retail/Services)

#### **Sec. 53-480. - Purpose and permitted uses.**

This district allows general retail sales of consumable products and goods within buildings of products that are generally not hazardous and that are commonly purchased and used by consumers in their homes, including most in-store retail sales of goods and products that do not pose a fire or health hazard to neighboring areas, e.g., clothing, prescription drugs, furniture, toys, hardware, electronics, pet supply, variety, department, video rental and antique stores, art studio or gallery, hobby shops and florist shops., and the retail sale of goods and products (in the following listed use areas) to which value has been added on site, including sales of goods and services outside of the primary structure as customary with the uses specifically listed, and the following: Any use permitted in CBD-1 or CBD-2 and RS districts as provided in section 53-1230.

## Requested Zoning

### T/U (Transportation/Utility)

#### **Sec. 53-610. - Purpose and permitted uses.**

The transportation and utilities district allows airports, utilities, and communication towers as provided in section 53-1230.

#### Sec. 53-33(k)(Chart 1)

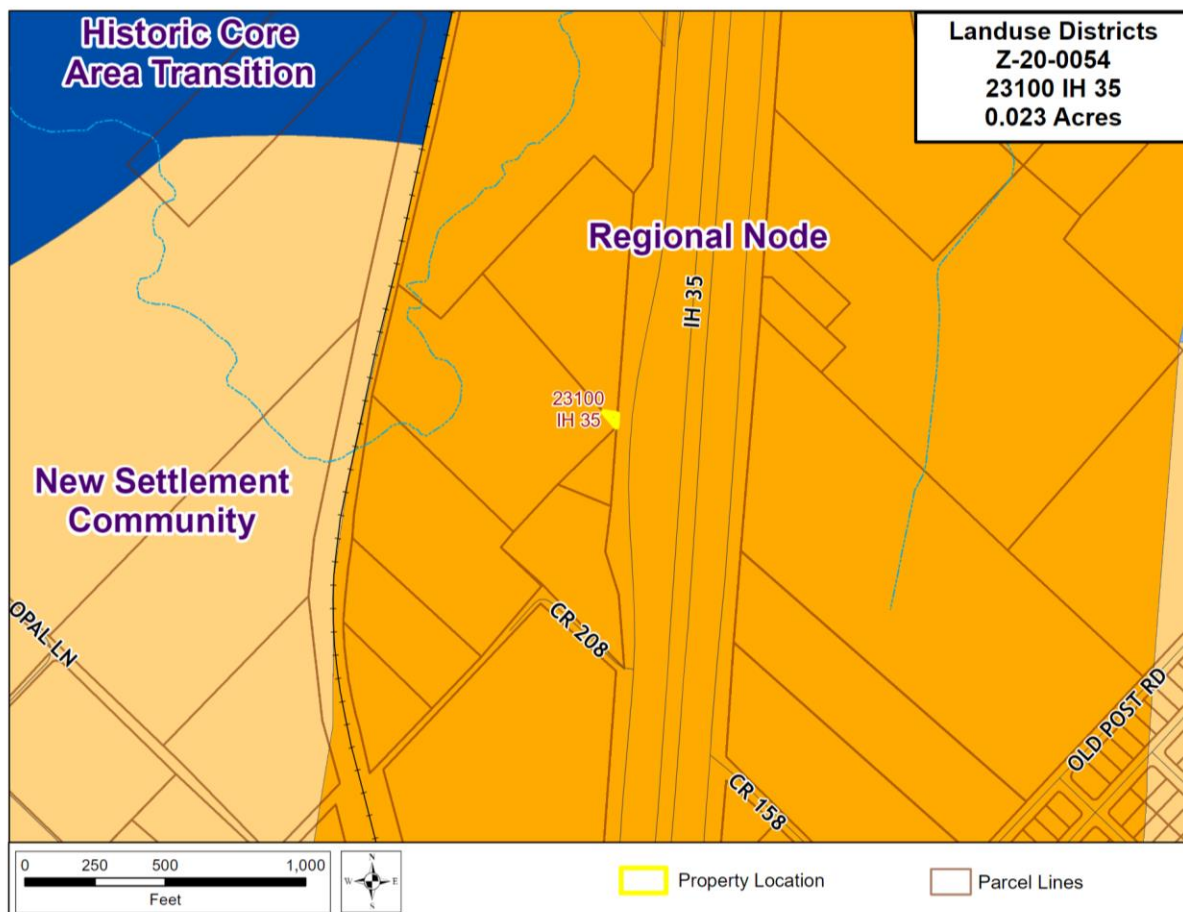
|    |    |   |    |    |    |      |      |      |
|----|----|---|----|----|----|------|------|------|
| TU | 25 | 7 | 15 | 15 | 15 | (10) | (10) | (10) |
|----|----|---|----|----|----|------|------|------|

(10) The conditions, limitations, setbacks and lot requirements shall be determined by the planning commission as part of the site development approval process subsequent to review and recommendation by staff.

## Conditions of the Zoning Ordinance

### Sec. 53-1205 Amendments

- (d) *Referral of amendment to planning and zoning commission.* Upon its own motion, a request by the planning and zoning commission, or the receipt of an administratively complete petition and application to zone or rezone a lot, tract or parcel of land, which petition and application has been examined and approved as to form by the city manager, shall be referred to the planning and zoning commission for consideration, public hearing, and recommendation to the city council. The council may not enact a rezoning amendment until the planning and zoning commission has held a public hearing and made its recommendation to the city council, or has made a final vote on the matter without obtaining a majority, on the zoning or rezoning of the property.
- (e) *Action by the planning and zoning commission.* The planning and zoning commission shall cause such study and review to be made as advisable and required, shall give public notice and hold a public hearing as provided by state law, and shall recommend to the council such action as the planning and zoning commission deems proper...



## Comprehensive Plan Text

The subject site is located in the “Regional Node”. The “T/U” zoning district is not considered in the “Regional Node” land use district.

## **Current Land Use Chart**

### Regional Node

Recommended Zoning Categories: R-1-C, R-3-2, R-3-3, CC, NC, R/S, MXD

Conditional Zoning Categories: CBD-1, CBD-2, E, HS, R-3-1, O/I

## **Regional Node**

‘Character’: Regional Nodes should have regional scale retail and commercial activity complimented by regional scale residential uses. These Nodes should represent the character and identity of Kyle, and signal these traits to the surrounding community. Regional Nodes have a radius of approximately 1/3 of a mile so that they are walkable, but are able to contain a greater range of uses at a larger scale than those found in Local Nodes. Appropriate uses may include grocery stores, retail shopping centers, multi-family housing, and municipal services, such as libraries and recreation centers. Regional Nodes are scaled and designed as activity centers where users not only secure goods and services, but also congregate and remain for extended periods, unlike Local Nodes which are designed around quick turnaround convenience retail. The Regional Nodes located along I-35 at the northern and southern boundaries of Kyle should be designed as entryways into Kyle with elements that are symbolic of Kyle and serve to attract I-35 travelers into Kyle. Transitions between Regional Nodes and surrounding districts must be carefully constructed to avoid abrupt shifts in land uses. Trails and sidewalks should be present throughout all Regional Nodes and should connect to surrounding neighborhoods.

‘Intent’: The primary goal of the Regional Nodes is to capture commercial opportunities necessary to close Kyle’s tax gap. To achieve this goal, these Nodes should draw down upon anticipated regional growth and aggregate density to enhance value and activity levels in a concentrated and visible location. Regional Nodes should provide a mixture of uses that compliments regional commercial activity, as well as encourage high density residential development. These Nodes should respond to other regional areas of growth, specifically along I-35 and FM 1626, and to grow toward Hwy 21, SH 45 and SH 130. The anchor of each Regional Node should be regional commercial uses, and Regional Nodes should have a high level of development intensity.



## **Analysis**

The property is a pre-existing cellular tower site. The applicant desires to subdivide this minor parcel away from the remaining parent parcel. In order to do so, a district that will allow for such minor lot dimensions must be instituted. Other zoning districts that allow cellular towers are RS (Retail/Services), W (Warehouse), CM (Construction/Manufacturing), E (Entertainment) and T/U. While other zoning districts may better follow the comprehensive plan's recommendation for this region, they do not allow the dimensional flexibility for this proposed land division. In this case, the issue with the current and other zoning districts to consider, will be that the minimum lot area required would be too large.

- RS = 6,000 Sq. Ft.
- W = 9,000 Sq. Ft.
- CM = 43,500 Sq. Ft.
- E = 6,000 Sq. Ft.
- T/U = P&Z determination = .023-acres/1,039 Sq. Ft. (Approximately).

The "T/U" zoning district allows for the Planning & Zoning Commission to determine appropriate bulk standards (setbacks, lot area, etc.). As the site is pre-existing, staff believes creating the lot as shown in the exhibit, will create a code compliant lot. If new structures are constructed on site, they'll have to comply with the setbacks shown in Chart 1 of Sec. 53-33(k).

Relating to the comprehensive plan, the "T/U" zoning district is generally not considered in the "Regional Node" land use district. In the case of this cell tower site, the applicant and staff are trying to make the proposed parcel legally conforming. The site is already legally non-conforming because of the location of the communications infrastructure on the lot as it exists today; and because the land uses proposed on this site with this zoning are exactly equal to those that would be allowed with a recommended zoning district, staff has no issue with applying T/U zoning in an effort to make the lot lawful and conforming to modern-day standard.

## **Recommendation**

In conclusion, staff supports the rezoning from R/S (Retail/Services) to the T/U (Transportation/Utility) district. At the Planning & Zoning Commission meeting on March 10, 2020, the Commission favorably voted 6-0, recommending the zoning change matching the lease, to the Mayor and Council.

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## **Attachments**

- Application
- Location Map
- Land Use Districts Map