



# MEMORANDUM

PLANNING DIVISION  
DEPARTMENT of COMMUNITY and NEIGHBORHOODS

To: Salt Lake City Planning Commission

From: Ashley Scarff, (801) 535-7660, [ashley.scarff@slcgov.com](mailto:ashley.scarff@slcgov.com)

Date: July 11, 2018

Re: PLNPCM2018-00066 Single Room Occupancy (SRO) Dwellings Text Amendments

The purpose of this memorandum is to provide additional information regarding the proposed SRO Dwellings text amendments (PLNPCM2018-00066). The referenced petition was initially presented to the Planning Commission at a public hearing held on June 27<sup>th</sup>, 2018. At that time, the Commission decided to table the item in order to give Staff time to research four (4) specific topics identified in this memo. In addition, the City Attorney's Office recommended a minor revision to the proposed definition of 'Dwelling,' which has been included at the end of this report. The Planning Commission shall review the information provided and make a recommendation for the City Council's future consideration.

## BACKGROUND:

The Planning Commission first heard this proposal at a public hearing held on June 27<sup>th</sup>, 2018. The agenda, staff report, record of decision, and minutes from that meeting can be found at <https://www.slc.gov/boards/planning-commission-agendas-minutes/>. At that time, the Commission tabled making a decision until a future meeting, and requested that Staff investigate the following four (4) items:

- (1) Dimensional and occupancy regulations found in the building code for the use as proposed;
- (2) Information on the Fair Housing Act; specifically, if placing an occupancy limitation on SRO Dwelling units is a violation of the law;
- (3) If any of the zoning districts proposed to permit the use about any single family zoning districts;
- (4) Provide a case study example focused on a city of a similar size that has defined the SRO Dwelling use in the ordinance, addressing where they permit the use, where they've actually been developed, and if they neighbor single family residential zones.

The City Attorney's Office also recommended a minor amendment to the proposed definition of 'Dwelling,' which has been included at the end of this memo.

## **FINDINGS:**

### **(1) Building Code Requirements**

Planning Staff's recommended definition of an SRO does not specify the number of individuals who may occupy a living unit. It is Staff's opinion that the occupancy numbers should be regulated by building code and should not be capped by the zoning ordinance. This would allow flexibility in the design of this housing type and would also help to achieve the city's goal of providing needed housing.

At the meeting on June 27<sup>th</sup>, the Commissioners expressed questions/concerns regarding the potential density of a development that contains SRO Dwellings, as well as occupancy restrictions of the individual units. Staff consulted Building Services Staff on the occupancy component. The following are some of the basic occupancy regulations based on overall building and individual room size:

- **General residential occupancy**
  - 1 person / 200 square feet of gross building square footage
  - Note: This is a general guideline for designing a building. Designers are not required to state how many people will be living in a typical residential structure.
- **Dormitory occupancy (most similar building type to SRO)**
  - 1 person / 50 square feet of gross building square footage
- **Efficiency dwelling (studio apartment)**
  - 2 people / 165 square feet of *dwelling unit square footage*
  - The State of Utah amended this portion of the International Building Code to allow for higher densities in studio apartments (IBC ratio is 2 people / 220 square feet).
- **Sleeping room minimum size**
  - 70 square feet
  - This is not a direct occupancy regulation, but it does impact the overall density of a development as no individual unit can be smaller than 70 square feet.

The information above provides basic building code occupancy limitations. There are many other building code and zoning regulations that would determine how many people could be housed in a development. When looking at the basic occupancy ratios, a SRO Dwelling could house more people than a standard multi family or studio apartment development; however, the zoning districts where SRO Dwellings are proposed are the districts where the City has determined that higher density housing is appropriate, and is needed to meet the City's housing goals.

### **(2) Fair Housing Act Information**

During the discussion regarding occupancy restrictions, the Commission considered amending the definition of SRO Dwelling that Staff is recommending in order to add language that would restrict the maximum occupancy of each sleeping room to one (1) or two (2) persons. Paul Neilson, Senior City Attorney, cautioned that type of restriction may be in violation of the Fair Housing Act. Since the meeting, the City Attorney's Office searched for relevant case law on this issue, which they reported is "scant at best." The most relevant case was a challenge of a restriction placed on SRO units in New York City, which prohibits occupation by children under 16 years of age. The court ultimately upheld the regulation as the City was able to show evidence that it "furthered legitimate governmental interests in protecting children from significant health and safety risks." If the Planning Commission

chooses to recommend to the City Council that the text should limit the number of occupants permitted in each unit, the Attorney's Office recommends that the Commission include specific findings related to how the restriction will mitigate public harm.

### **(3) Proposed Proximity to Single Family Districts**

The Planning Commission requested information regarding the potential impact that the SRO Dwelling use could have on single family neighborhoods; specifically, if any of the zoning districts proposed to permit the use abut single family zoning districts.

Staff has prepared a series of maps that illustrate 1) the zoning districts where Staff is proposing to permit the SRO Dwelling use (color coded) and 2) single and two family zoning districts (gray) (Attachment A). Areas that are not color coded or shown in gray fall under other zoning designations, including RMF Residential Multi Family, Manufacturing, Institutional, Open Space, etc. The first map shows the entire city, and the following maps are broken into City Council districts.

#### **Single and two family zoning districts include:**

- Foothills Residential Districts (FR-1, FR-2, FR-3)
- Single Family Residential Districts (R-1/5,000, R-1/7,000, R-1/12,000)
- Special Development Pattern Residential Districts (SR-1, SR-1A, SR-3)
- Single and Two Family Residential District (R-2)

#### **Conclusions:**

- With the exception of the Downtown districts, all of the zoning districts proposed to permit the SRO Dwelling use are at some point adjacent to a single or two family residential district.
  - However, this contact generally occurs at the perimeter of single or two family neighborhoods—the neighborhoods, themselves, are fairly homogeneous, meaning that there would be little to no opportunity for the SRO Dwelling use to be located within them.
- All zoned areas of the city, with the exception of the Airport, NOS Natural Open Space, OS Open Space, EI Extractive Industries, and the University of Utah make up **33,392 acres**. Under this total:
  - Single and two family zoning districts occupy **23%** of land area;
  - Multi family zoning districts occupy **3%** of land area;
  - Zones where SRO Dwellings would be permitted occupy **9%** of land area.

Staff is proposing to permit SRO Dwellings to be located in mixed-use zoning districts that do not have density limitations. These are the zoning districts that permit the type of housing that can make an impact on Salt Lake City's housing crisis; however, they only make up approximately 9% of the developable area of the city.

### **(4) Case Study**

To address the Commission's request for a case study example that focuses on another city that regulates a housing type that is similar to that being proposed, Staff chose Seattle due to the amount of relevant information that is publicly available. Despite Seattle having a population that is more than 3.5 times that of Salt Lake City's, both populations are rapidly rising, leading to significant affordable housing challenges in both cities. In addition, both locales have similar amounts of developable area ([Seattle contains approximately 38,728 acres](#) to Salt Lake City's 33,392 acres), with significant proportions devoted to strictly single family use. As a result, both cities are seeing significant

development in concentrated areas that are zoned for higher densities, while the dominant single family districts absorb very minimal amounts of growth.

Definition and Additional Standards:

Seattle's ordinances refer to what Planning Staff is calling 'SRO Dwellings' as 'Congregate Residences,' but [the general idea is the same](#)—"the rooms are 'sleeping rooms,' rather than complete dwelling units, and renters enjoy private bathrooms and kitchenettes in their units, along with shared kitchens and other common amenities for the whole building...a typical project looks like an apartment building."

The official [definition](#) in Seattle's Land Use Code is as follows:

***"Congregate residence" means a use in which rooms or lodging, with or without meals, are provided for nine or more non-transient persons not constituting a single household, excluding single-family dwelling units for which special or reasonable accommodation has been granted.***

[23.42.049](#) of the Land Use Code imposes additional requirements on Congregate Residences related to the minimum size of food preparation and communal areas:

*Congregate residences are subject to the development standards for the zone in which they are located, to the development standards for apartments where such housing type standards are specified, and to the following requirements:*

*A. Common food preparation area. At least one complete common food preparation area is required within the congregate residence, and all residents shall have access to either a common complete food preparation area or a food preparation area within a sleeping room.*

*B. Food preparation areas in sleeping rooms. Within a congregate residence not more than 25 percent of sleeping rooms shall have complete food preparation areas, where a complete food preparation area is identified by the presence of a plumbed sink, a stove or range, a refrigerator, and a counter top. The Director has discretion to increase the percentage up to 100 percent of sleeping rooms if the congregate residence is owned by a college or university, is a sorority or fraternity, or is owned by a not for profit entity or charity, or is a congregate residence that is licensed by the State and provides on-site supportive services for seniors or persons with disabilities. Supportive services include meal service, cleaning service, health services or similar services.*

*C. Communal area. Communal areas such as common kitchens, lounges, recreation rooms, dining rooms, living rooms, foyers and lobbies, that are accessible to all residents of the congregate residence with sufficient accommodations for socializing and meeting shall be provided, and shall meet the following standards:*

*1. The total amount of communal area shall have a floor area that is at least 15 percent of the total floor area of all sleeping rooms. In calculating the total floor area of sleeping rooms, the abutting ancillary areas associated with sleeping rooms shall be included, such as: sleeping lofts, counters, closets, built-ins, and private bathrooms;*

2. *Service areas, including, but not limited to hallways and corridors, supply or janitorial storage areas, operations and maintenance areas, staff areas and offices, and required bicycle parking areas may not be counted toward the communal area requirement;*

3. *Communal areas are required in addition to any residential amenity area that is required in the zone.*

Beyond these dimensional requirements, it is Staff's understanding that the Congregate Residence use is subject to requirements of the International and Seattle building codes. Congregate Residences are also subject to a formal '[Design Review](#).' The intensity of the review process is based on the total square footage of the development (i.e., a Streamlined Design Review, Administrative Design Review, or full Design Review). The parking requirement for the use is one (1) space per four (4) sleeping rooms, but Congregate Residences are primarily permitted in areas with no minimum parking requirement.

#### Where are Congregate Residences permitted?

Congregate Residences that are not owned by or directly affiliated with a non-profit housing provider, college, or university, or that are not licensed to provide support services, are **only allowed in urban villages and urban centers in these higher density zones:**

- Neighborhood Commercial 3 (NC3)
- Midrise multifamily (MR)
- Highrise multifamily (HR)
- Seattle Mixed (SM)
- Commercial (C1)
- Downtown zones

**\*\*[Seattle's Comprehensive Plan](#)** identifies specific areas as "urban villages"—neighborhood nodes that permit higher densities and a mix of uses, which geographically [include everything within a 10 minute walk of a frequent transit node](#). The Plan's intent is to direct growth to these areas rather than in less dense areas that primarily consist of single family neighborhoods.

Congregate Residences that are owned by or directly affiliated with a non-profit housing provider, college, or university, or that are licensed to provide support services, **continue to be allowed in all zones that allow multi-family development including:**

- Lowrise zones (LR1, LR2, LR3)
- Neighborhood Commercial 1 and 2 zones (NC1 and NC2)

#### Proximity to Single Family Districts:

As can be seen on the maps attached to the end of this memo (Attachment B), the areas of Seattle where a mix of housing types can be developed are dispersed throughout the city. This is likely approximate to where Congregate Residences that are owned or affiliated with nonprofit housing providers, universities, licensed support services, etc. are permitted.

Privately owned or managed Congregate Residences are essentially permitted in the areas that fall within both the areas that permit a mix of housing types and the urban center/village boundaries. Urban center and village areas are also dispersed throughout the city.

Based on these land use patterns, it does not appear that regulators based their location decisions on other districts' *proximities* to single family zones—it seems that their main aim was to not permit the use to be located *within* single family zones. This is similar to the SLC Planning Staff's

recommendation to permit the use within zoning districts that permit other similar uses, but not in areas zoned exclusively for single and two family homes.

### Where have Congregate Residences been Developed?

Seattle's Department of Planning and Development published a [list](#) that tracked the development activity of 58 micro housing projects between 2010 (when the city began to see the proliferation of this housing type) and June 2014. It seems that this tracking was meant to assist with text amendments that were adopted in October 2014, which imposed additional restrictions on small efficiency dwelling units (units that are smaller than studios) and congregate residences.

During the published tracking period, congregate residences were a permitted use in any zoning district that permitted multi family housing. Even with this flexibility (as current regulations are more stringent), [Seattle's Staff found](#) that developers were mainly constructing congregate housing within Residential Multi Family Lowrise districts, which permit a building height of approximately 30-40 feet. In addition, as of September 2013, only 5/58 projects were located outside of an urban center or urban village. Seattle Staff indicated that this may be due to the lack of parking requirements within the villages and centers. Of the same 58 micro projects mentioned above, only 3 buildings provided on-site parking.

### **REVISED DEFINITION OF 'DWELLING':**

At the June 27th Planning Commission meeting, Staff proposed the following minor amendment to the current definition of 'Dwelling':

#### **21A.62.040: DEFINITIONS OF TERMS:**

DWELLING: A building or portion thereof, which is designated for residential purposes of a family for occupancy on a monthly basis and which is a self-contained unit with kitchen and bathroom facilities, [unless otherwise stipulated in this chapter](#). The term "dwelling" excludes living space within hotels, bed and breakfast establishments, ~~apartment hotels~~, boarding houses and lodging houses.

At that meeting, the City Attorney's Office expressed technical concerns over the way the proposed definition was written, and has since suggested that the following definition be incorporated instead:

DWELLING: A building or portion thereof, which is designated for residential purposes of a family for occupancy on a monthly basis and which is a self-contained unit with kitchen and bathroom facilities, [except that Single Room Occupancy \(SRO\) Dwellings are not required to have both kitchen and bathroom facilities within the dwelling unit as provided in the definition of and regulations for that use](#). The term "dwelling" excludes living space within hotels, bed and breakfast establishments, ~~apartment hotels~~, boarding houses and lodging houses.

### **RECOMMENDATION:**

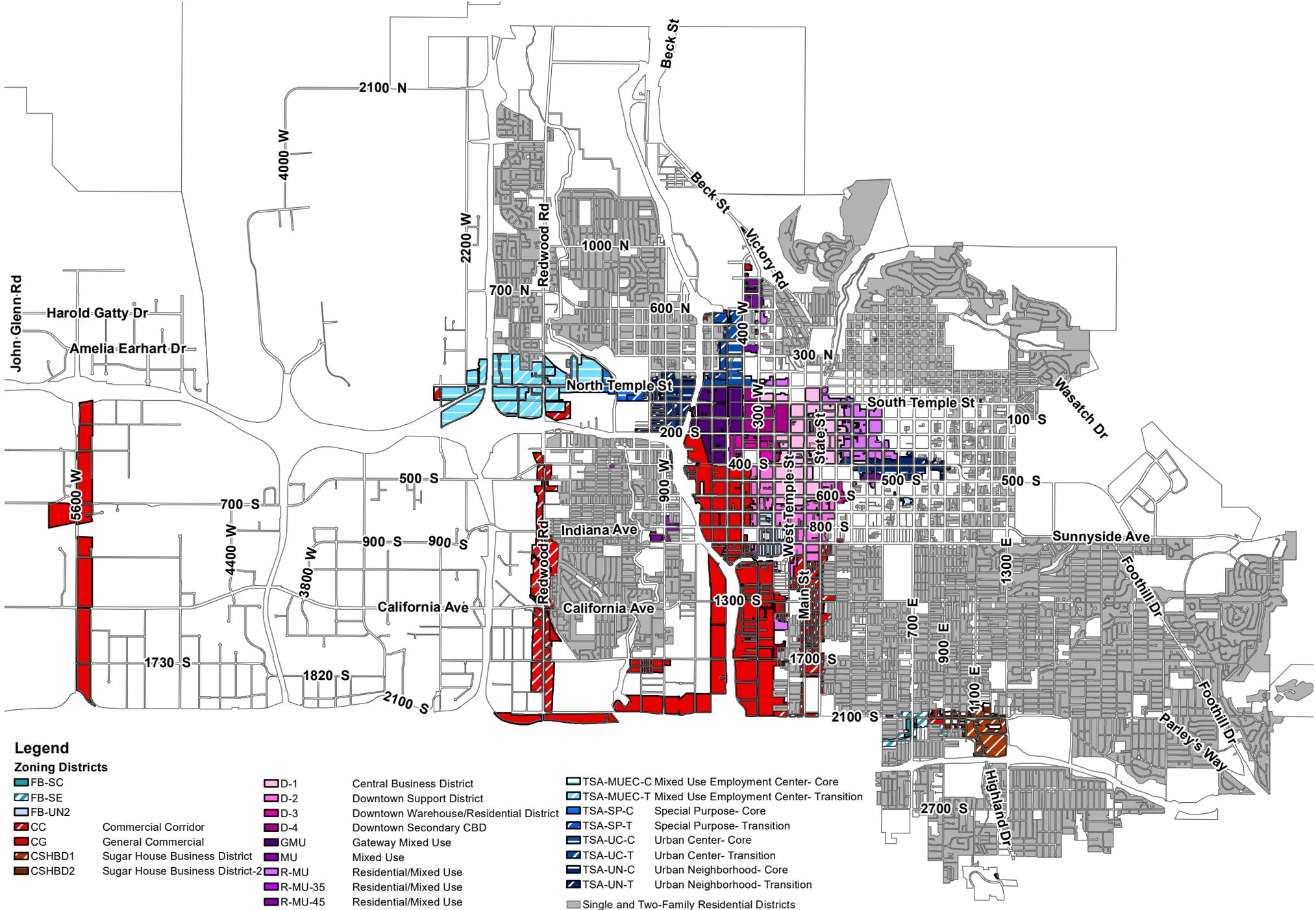
Based on the analysis and findings contained in the staff report dated June 27<sup>th</sup>, 2018, as well as additional findings contained in this memo, it is the opinion of Staff that the proposed zoning text amendments meet the intent of the Mayor's direction and the standards for a zoning ordinance amendment. Staff recommends that the Planning Commission forwards a favorable recommendation of petition PLNPCM2018-00066 to the City Council for their consideration.

**ATTACHMENTS:**

- A. Maps of Proposed Districts to Permit SRO Dwellings—Citywide and by Council Districts
- B. Seattle Case Study Maps

# **ATTACHMENT A: PROPOSED LOCATION MAPS**

# Proposed Single-Room Occupancy Zoning Districts CITYWIDE

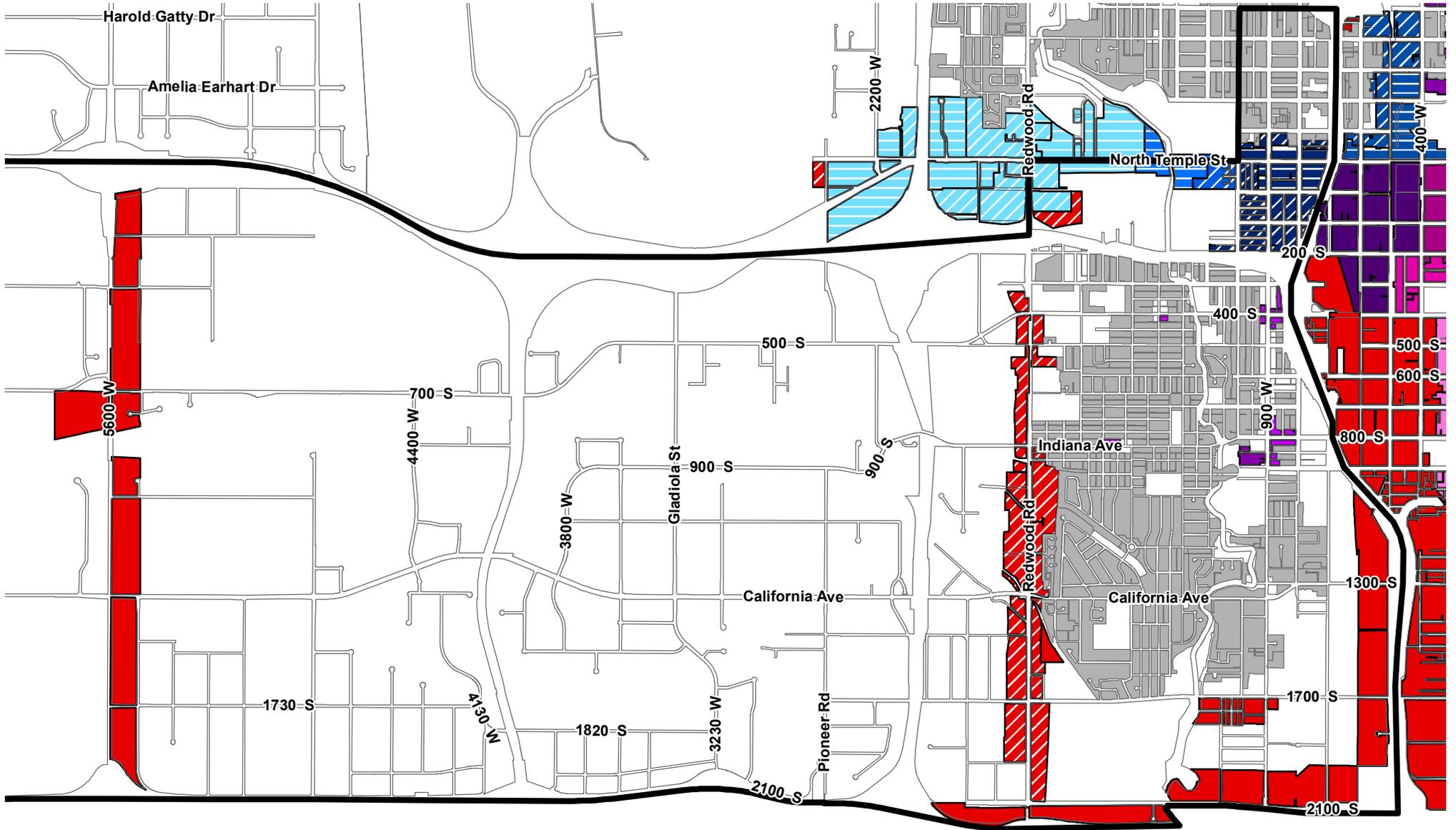


## Legend

### Zoning Districts

- |  |        |  |         |   |  |            |   |
|--|--------|--|---------|---|--|------------|---|
|  | FB-SC  |  | D-1     | Central Business District               |  | TSA-MUEC-C | Mixed Use Employment Center- Core           |
|  | FB-SE  |  | D-2     | Downtown Support District               |  | TSA-MUEC-T | Mixed Use Employment Center- Transition     |
|  | FB-UN2 |  | D-3     | Downtown Warehouse/Residential District |  | TSA-SP-C   | Special Purpose- Core                       |
|  | CC     |  | D-4     | Downtown Secondary CBD                  |  | TSA-SP-T   | Special Purpose- Transition                 |
|  | CG     |  | GMU     | Gateway Mixed Use                       |  | TSA-UC-C   | Urban Center- Core                          |
|  | CSHBD1 |  | MU      | Mixed Use                               |  | TSA-UC-T   | Urban Center- Transition                    |
|  | CSHBD2 |  | R-MU    | Residential/Mixed Use                   |  | TSA-UN-C   | Urban Neighborhood- Core                    |
|  |        |  | R-MU-35 | Residential/Mixed Use                   |  | TSA-UN-T   | Urban Neighborhood- Transition              |
|  |        |  | R-MU-45 | Residential/Mixed Use                   |  |            | Single and Two-Family Residential Districts |

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 2



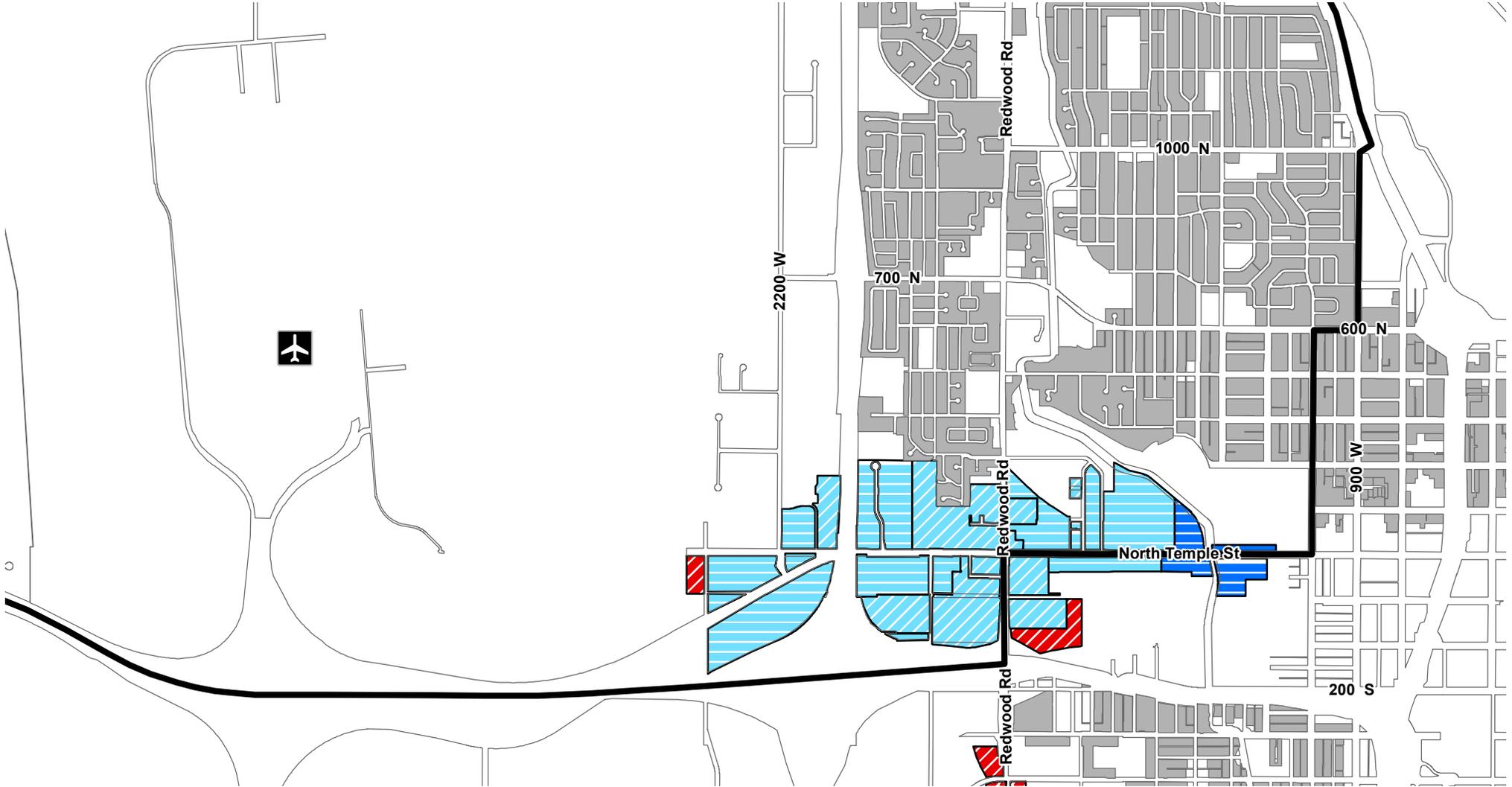
## Legend

### Zoning Districts

- CC Commercial Corridor
- CG General Commercial
- R-MU-35 Residential/Mixed Use
- R-MU-45 Residential/Mixed Use
- Single and Two-Family Residential Districts

City Council District Boundary

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 1



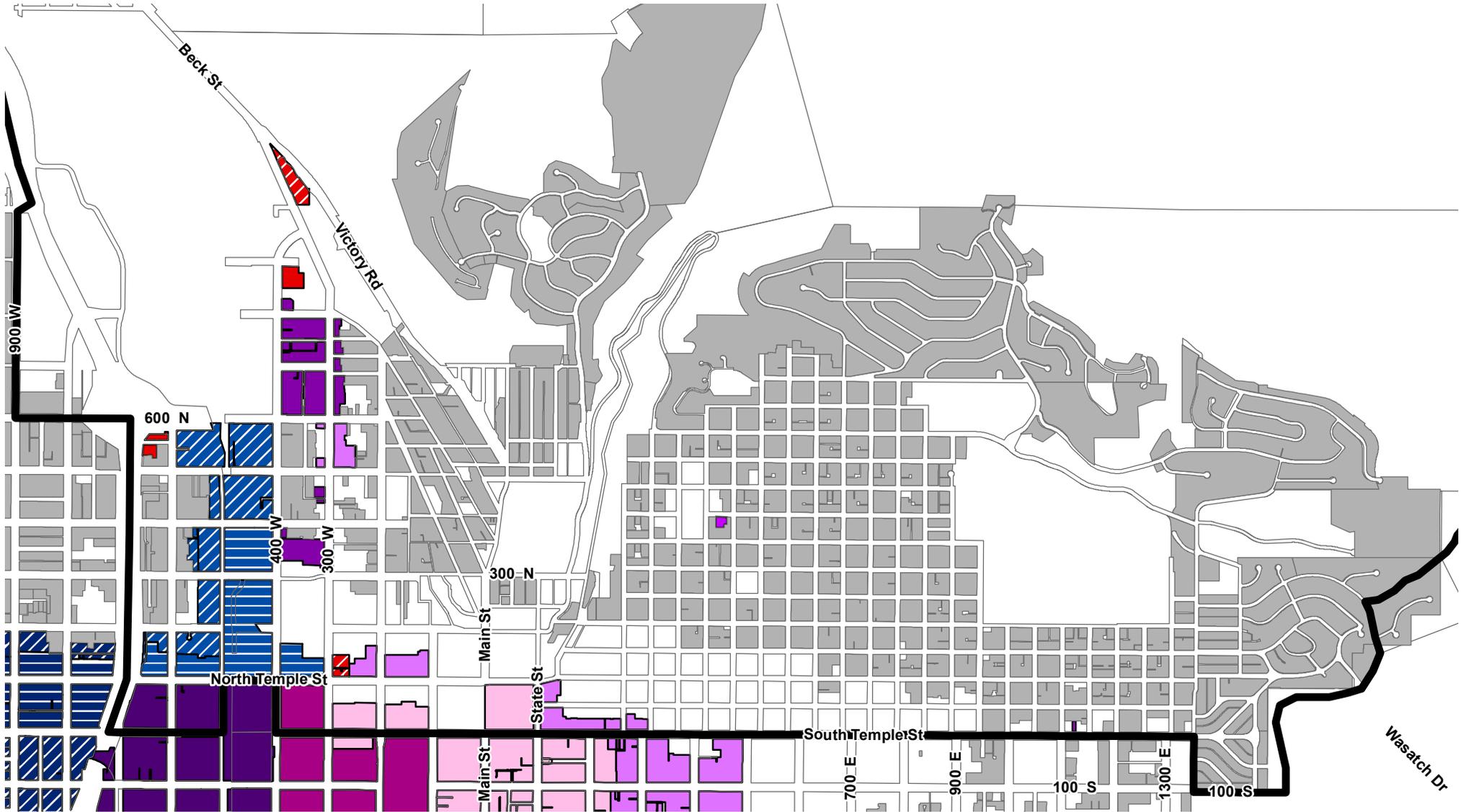
## Legend

### Zoning Districts

- CC Commercial Corridor
- TSA-MUEC-C Mixed Use Employment Center- Core
- TSA-MUEC-T Mixed Use Employment Center- Transition
- TSA-SP-C Special Purpose- Core
- Single and Two-Family Residential Districts

City Council District Boundary

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 3

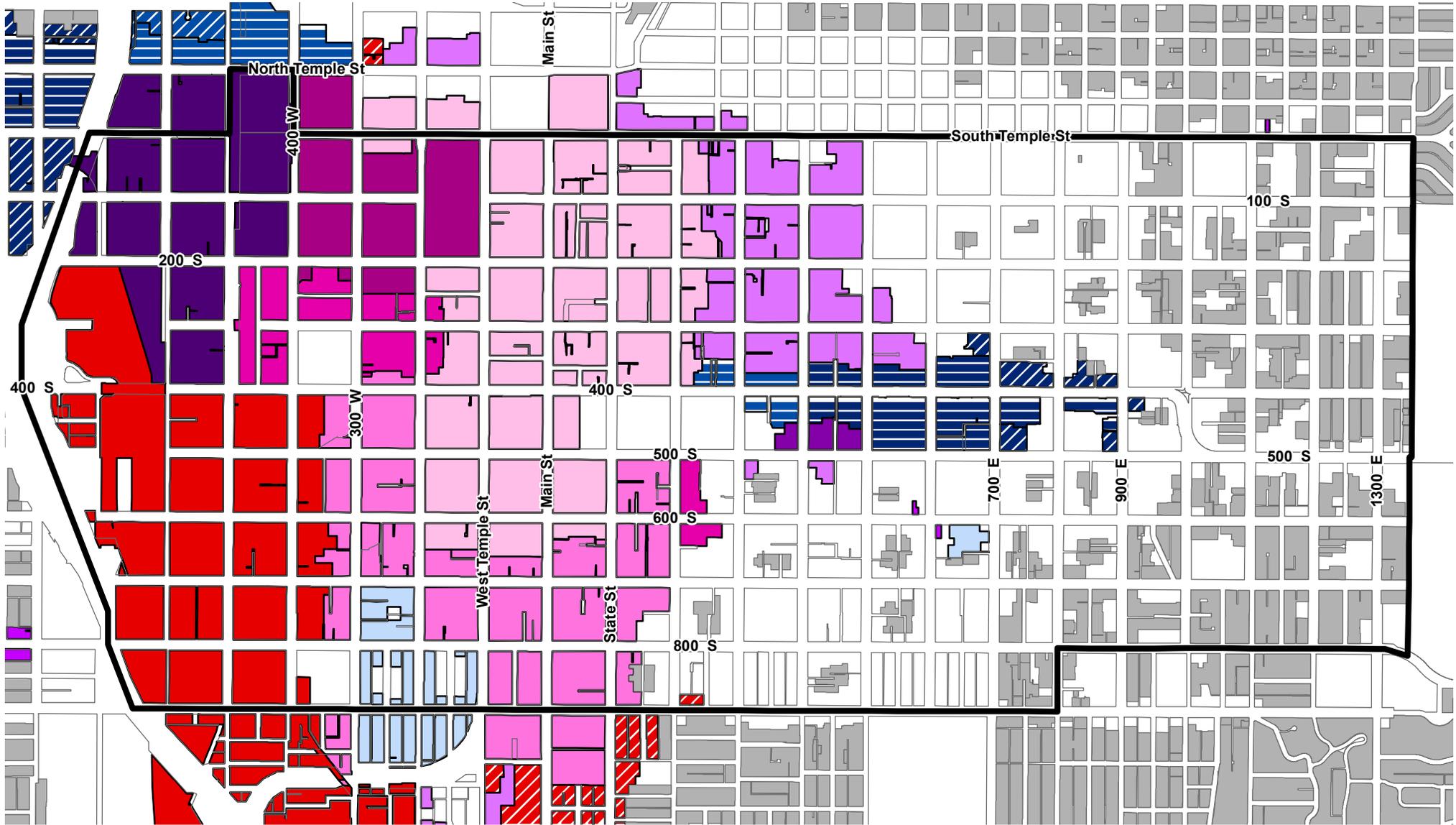


## Legend

### Zoning Districts

	CC Commercial Corridor		GMU Gateway Mixed Use		TSA-UC-C Urban Center- Core
	CG General Commercial		MU Mixed Use		TSA-UC-T Urban Center- Transition
	D-1 Central Business District		R-MU Residential/Mixed Use		Single and Two-Family Residential Districts
	D-4 Downtown Secondary CBD		R-MU-35 Residential/Mixed Use		City Council District Boundary

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 4



## Legend

### Zoning Districts

	CC Commercial Corridor		D-1 Central Business District		TSA-UC-C Urban Center- Core
	CG General Commercial		D-2 Downtown Support District		TSA-UN-C Urban Neighborhood- Core
	GMU Gateway Mixed Use		D-3 Downtown Warehouse/Residential District		TSA-UN-T Urban Neighborhood- Transition
	R-MU Residential/Mixed Use		D-4 Downtown Secondary CBD		Single and Two-Family Residential Districts
	R-MU-45 Residential/Mixed Use		FB-UN2		City Council District Boundary

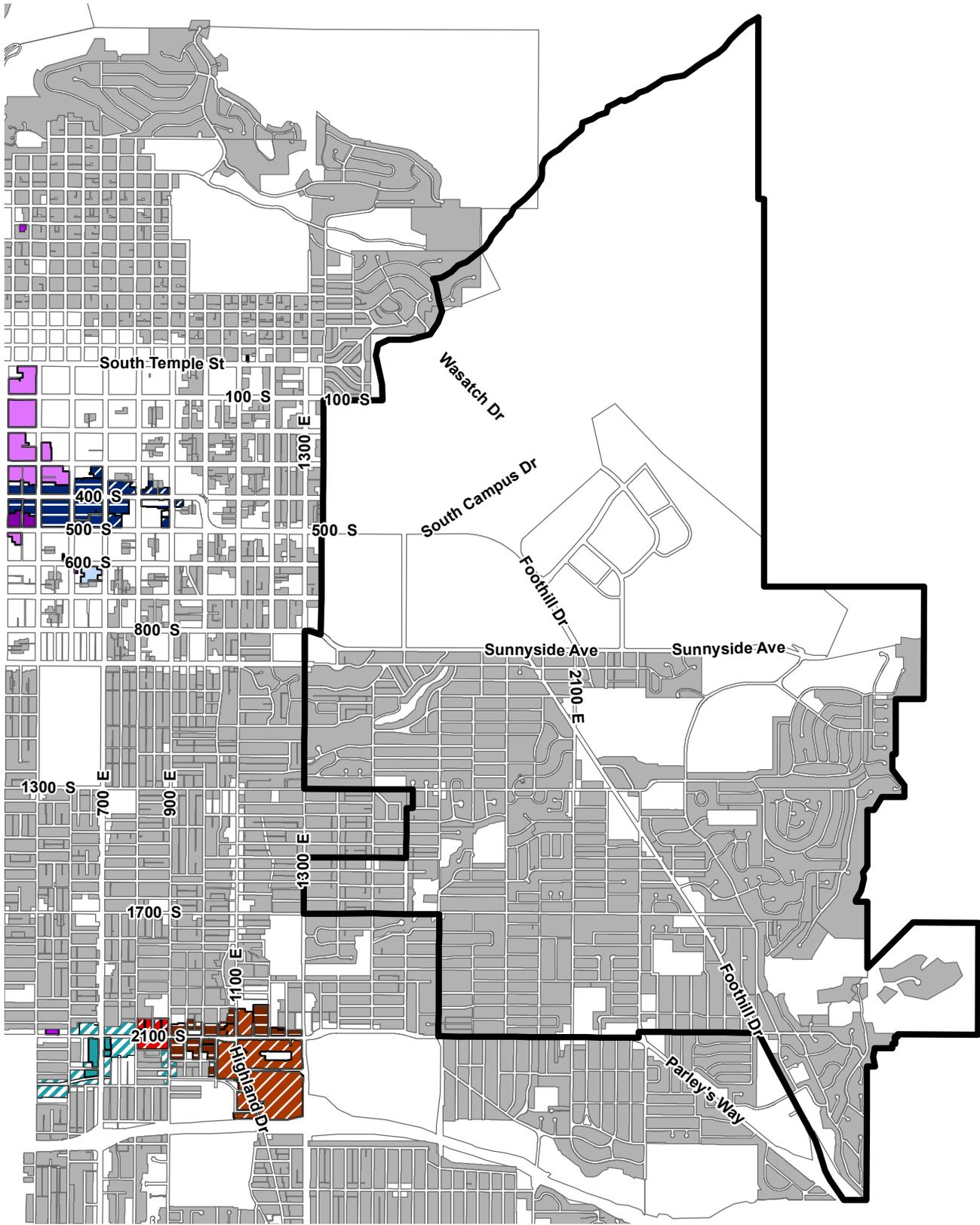
# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 5



## Legend Zoning Districts

- |   |                               |   |   |   |                                |
|---|-------------------------------|---|---|---|--------------------------------|
|  | FB-SE                         |  | R-MU Residential/Mixed Use                  |  | City Council District Boundary |
|  | FB-UN2                        |  | R-MU-35 Residential/Mixed Use               |   |                                |
|  | CC Commercial Corridor        |  | R-MU-45 Residential/Mixed Use               |   |                                |
|  | CG General Commercial         |  | Single and Two-Family Residential Districts |   |                                |
|  | D-2 Downtown Support District |   |   |   |                                |

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 6



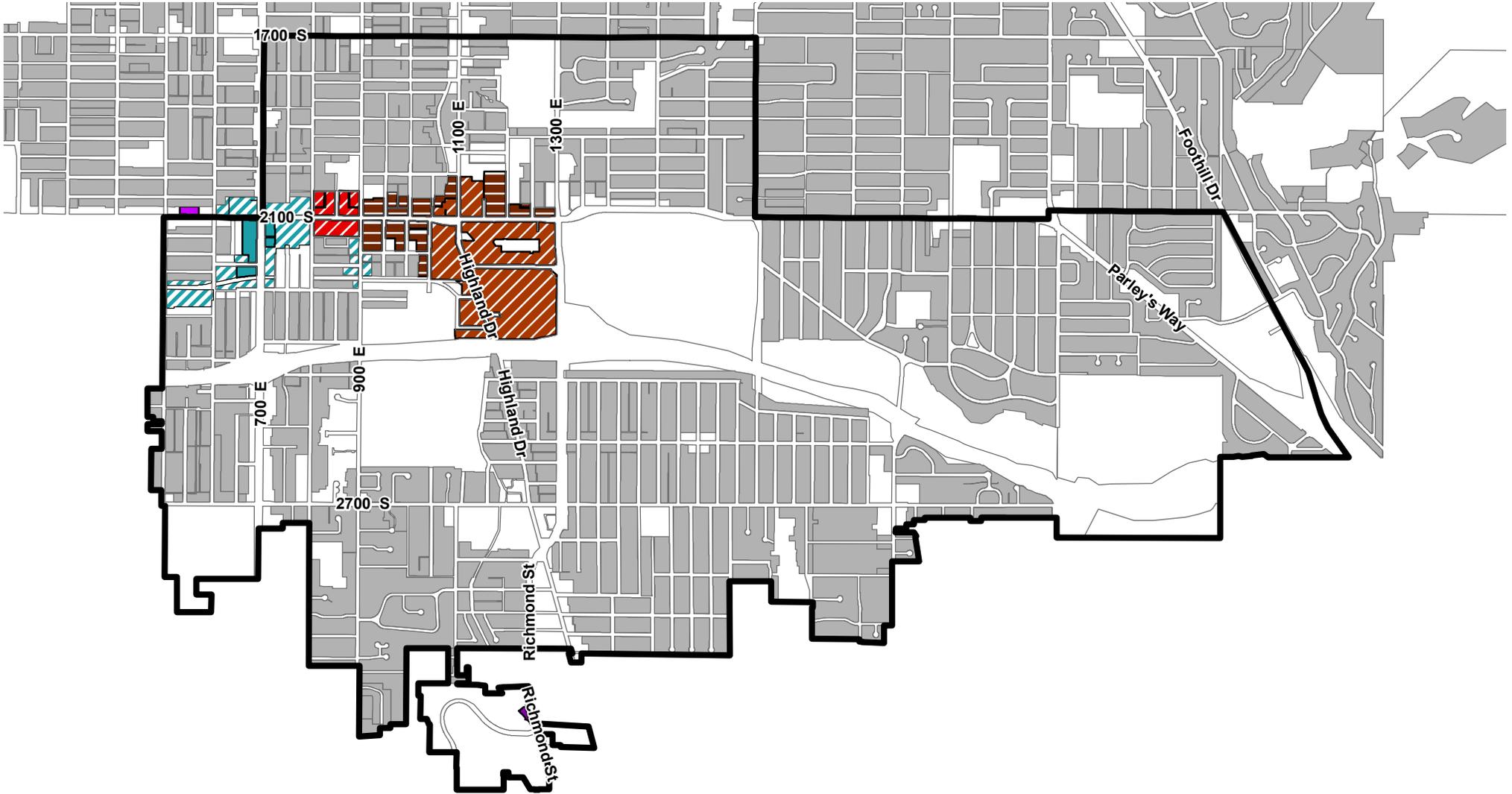
## Legend

□ City Council District Boundary

## Zoning Districts

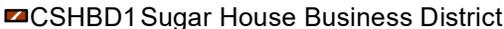
■ Single and Two-Family Residential Districts

# Proposed Single-Room Occupancy Zoning Districts CITY COUNCIL DISTRICT 7



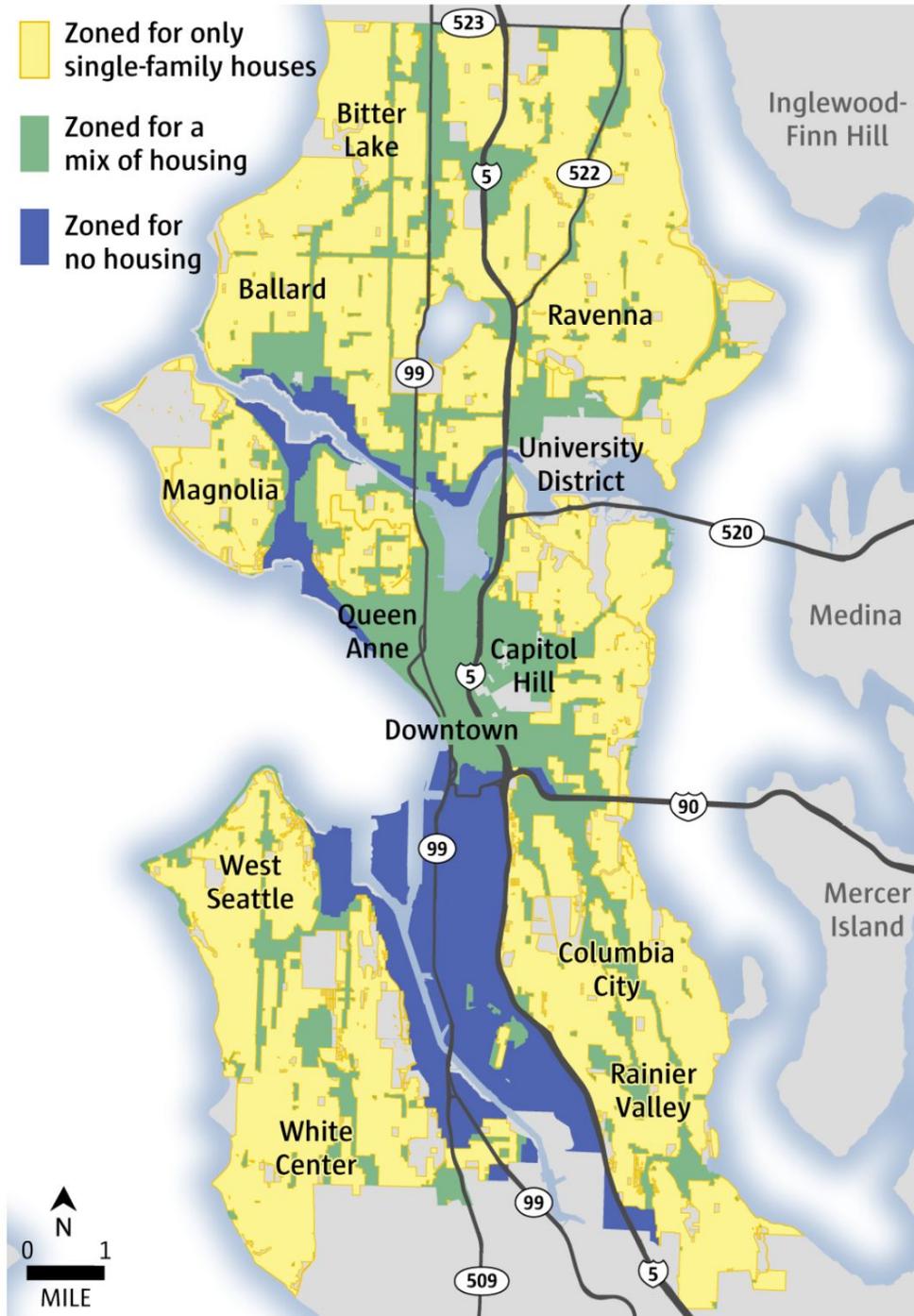
**Legend**

**Zoning Districts**

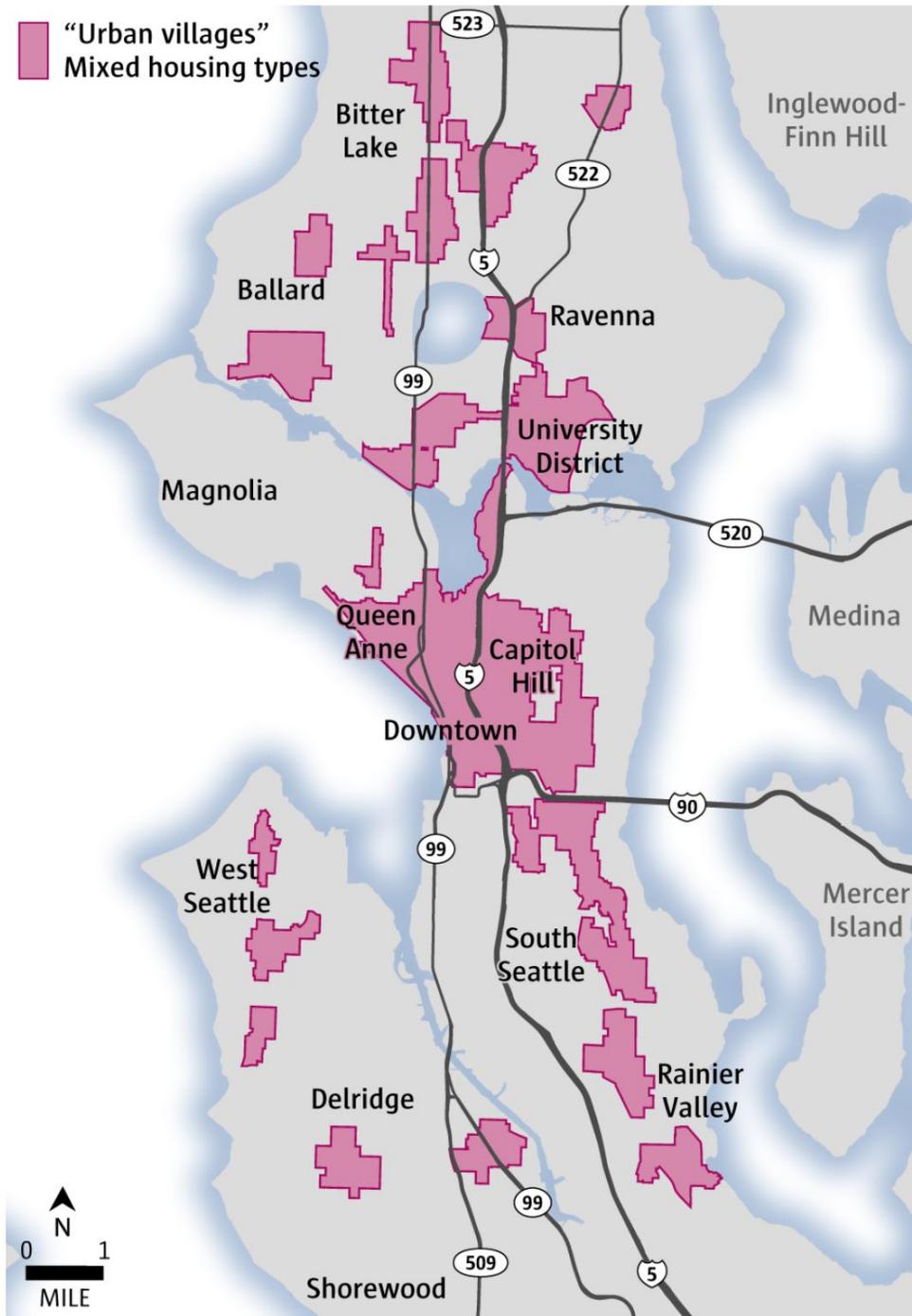
- |   |  |  |
|---|--|--|
|  FB-SC                         |  CSHBD1 Sugar House Business District        |  City Council District Boundary |
|  FB-SE                         |  CSHBD2 Sugar House Business District-2      |  |
|  CC Commercial Corridor        |  Single and Two-Family Residential Districts |  |
|  R-MU-35 Residential/Mixed Use |  |  |

## **ATTACHMENT B: CASE STUDY MAPS**

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This map illustrates the distribution of districts zoned exclusively for single family housing, and districts that permit mixed housing types. In theory, congregational facilities that are affiliated with nonprofits, universities, etc., could be located within the green areas.



Source: city of Seattle

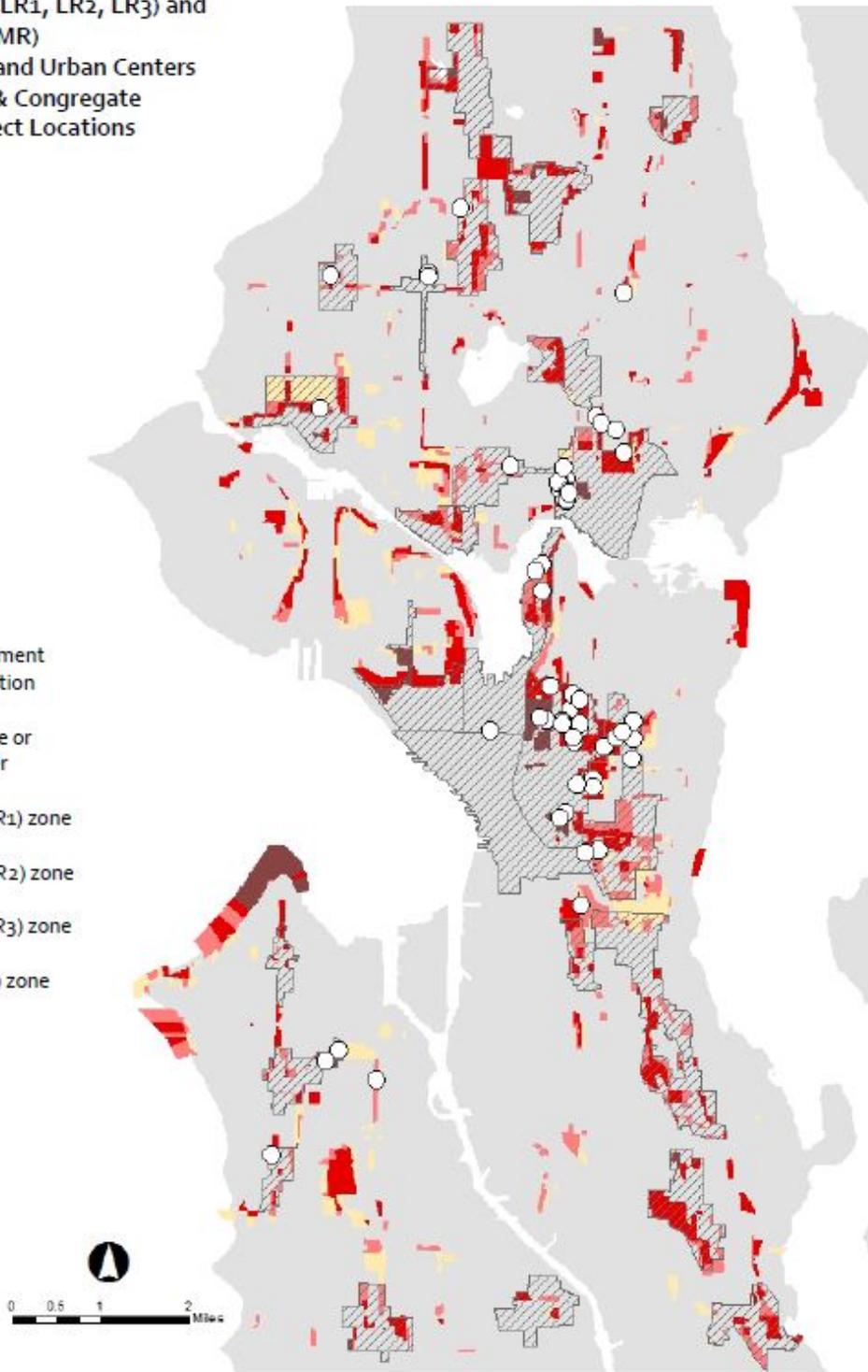
EMILY M. ENG / THE SEATTLE TIMES

This map shows the various urban centers and villages that are dispersed throughout the city. Text amendments made in 2014 limited privately owned/operated congregate facilities to being located within select zoning districts that also fall within the areas shown in pink.

Lowrise Zones (LR1, LR2, LR3) and  
Midrise Zones (MR)  
Urban Villages and Urban Centers  
Micro-housing & Congregate  
Residence Project Locations

**Legend**

-  Micro-Apartment Project Location
-  Urban Village or Urban Center
-  Lowrise 1 (LR1) zone
-  Lowrise 2 (LR2) zone
-  Lowrise 3 (LR3) zone
-  Midrise (MR) zone



This map shows where all micro housing projects (including both efficiency dwelling units and congregate facilities) were located between 2010 and September 2013. Even without the locational restrictions passed in October 2014, developers were choosing to build these facilities in lowrise multi family zoning districts that were also located within the urban centers/villages.