



PLANNING AND ZONING COMMISSION ITEM MEMORANDUM

02/16/2021

Item #5

Regular Agenda

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APPLICANT / DEVELOPMENT: Bluebonnet Spirits LLC

CASE MANAGER: Jason Deckman, Senior Planner

ITEM DESCRIPTION: FY-21-13-ZC: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow sales of alcoholic beverages for off-premise consumption at 8774 West Adams Avenue.

PROPOSED CITY COUNCIL MEETING SCHEDULE: This Conditional Use Permit (CUP) is scheduled for 1st Reading on March 18, 2021 and 2nd Reading on April 1, 2021.

STAFF RECOMMENDATION: Based on the following analysis that:

1. The project has demonstrated compliance with the specific standards in Unified Development Code (UDC) Section 5.3.17;
2. The project has demonstrated compliance to Chapter 4 of the City of Temple Code of Ordinances related to alcoholic beverages; and
3. The request is compatible with adjacent and anticipated uses in this area.

Staff recommends approval of the requested Conditional Use Permit to allow sales of all alcoholic beverages for off-premise consumption:

1. Compliance with UDC Section 5.3.17 related to sales of alcohol for off-premise consumption (package store); and
2. Compliance with Chapter 4 of the City Code of Ordinances related to alcoholic beverages.

ITEM SUMMARY: The proposed business falls under the definition of "Package Store" per UDC 11.2 "Sales of distilled liquors, wines and beers in unbroken original containers for off-premises consumption". This location is zoned for General Retail, which does require an approved CUP per UDC 5.1. The applicants own and operate a package store called "Bluebonnet Liquors" in Fort Worth, and are looking to expand into the Temple area under the same name.

BACKGROUND: A package store differs from other permitted alcohol uses, such as bars and restaurants, in that on-premise consumption is prohibited and different performance standards apply to a package store than to other alcohol uses. These standards are listed in UDC 5.3.17 “Alcoholic Beverage Sales for Off-Premise Consumption, Package Store” and are as follows:

- A. Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code.
- B. Outdoor lighting must comply with the standards in subsection 6.7.7J.
- C. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys.
- D. The drive-through lane must provide a minimum of 60 feet of stacking space as measured from the pick-up window.
- E. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane.
- F. Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified in Sec. 7.5).
- G. Window signs are prohibited.
- H. Lighted signs must be turned off at closing time. This requirement does not apply to multi-tenant signs that meet the requirements of Sec. 7.6.3 of this UDC.

The City Code of Ordinances Chapter 4 “Alcoholic Beverages” is applicable, and Sec. 4.3 lays out distances for alcohol sales from certain protected uses.

- a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - 1) 300 feet of a church, public or private school, or public hospital;
 - 2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.

The proposed package store would not be located within the regulated distance of any protected uses from Chapter 4. The current retail center parking lot provides 45 spaces which complies with UDC 5.3.17.F.

Additionally, the UDC states:

The City Council may deny or revoke a Conditional Use Permit in accordance with UDC Section 3.5 if is affirmatively determines that the issuance of the permit is:

- a. Incompatible with the surrounding uses of property; or*
- b. Detrimental or offensive to the neighborhood or contrary to the health, safety and general welfare of the City and its inhabitants, and*
- c. Per UDC Section 3.5.5, the Planning & Zoning Commission may recommend, and the City Council may impose additional conditions of approval.*

Adherence to both UDC Section 5.3.17 & Chapter 4 in their entirety is included by reference in the Ordinance as conditions of approval. A Conditional Use Permit runs with each property and a change in ownership or change in the lessee does not affect the Conditional Use Permit.

One note about the retail center - A restaurant that serves alcohol is located on the western end of the building – see the attached site photos. Per the use tables in UDC 5.1, sales of beer and wine for on-premise consumption is permitted by right in the General Retail zoning district, where revenue from alcohol sales constitutes less than 75% of the total revenue.

The Future Development Plan designates this area as “Corridor Mixed Use” which allows higher density/intensity and is intended to provide for a mix of both commercial and residential uses. Appropriate commercial uses include a mix of commercial retail, office, personal service uses, and restaurants, including drive-throughs. In fact, a restaurant is located at the western end of the retail building and does offer a drive-through window. This location is not contained within any Neighborhood Planning District.

DEVELOPMENT REVIEW COMMITTEE (DRC): The Development Review Committee reviewed the case on February 1, 2021 and found no issues.

PUBLIC NOTICE: Fourteen (14) properties within 200-feet of the subject property were sent notice of the public hearing as required by State law and City Ordinance. As of Thursday, February 11, 2021, at 12:00 PM, zero responses have been received. Staff will provide an update regarding late responses, if necessary.

The newspaper printed notice of the public hearing on January 31, 2021 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Exhibit A – Floor Plan

CUP Review Criteria

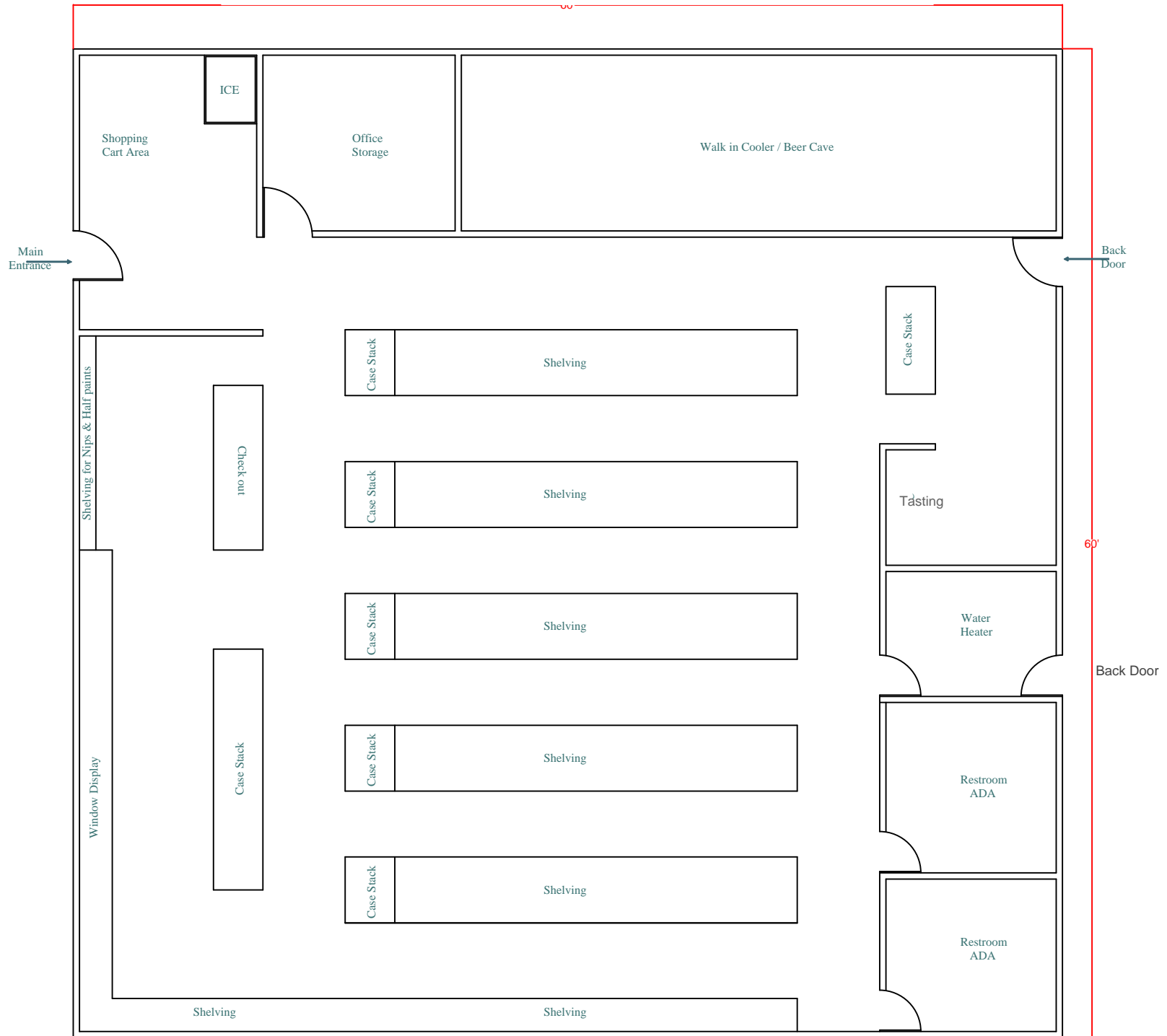
UDC Section 5.3.17 – Alcoholic Beverage Sales, Off-Premise Consumption

Chapter 4 – Code of Ordinances – Alcoholic Beverages

Site and Surrounding Property Photos

Maps

Returned Property Notice(s)















Conditional Use Permit for Alcohol Sales

VICINITY MAP

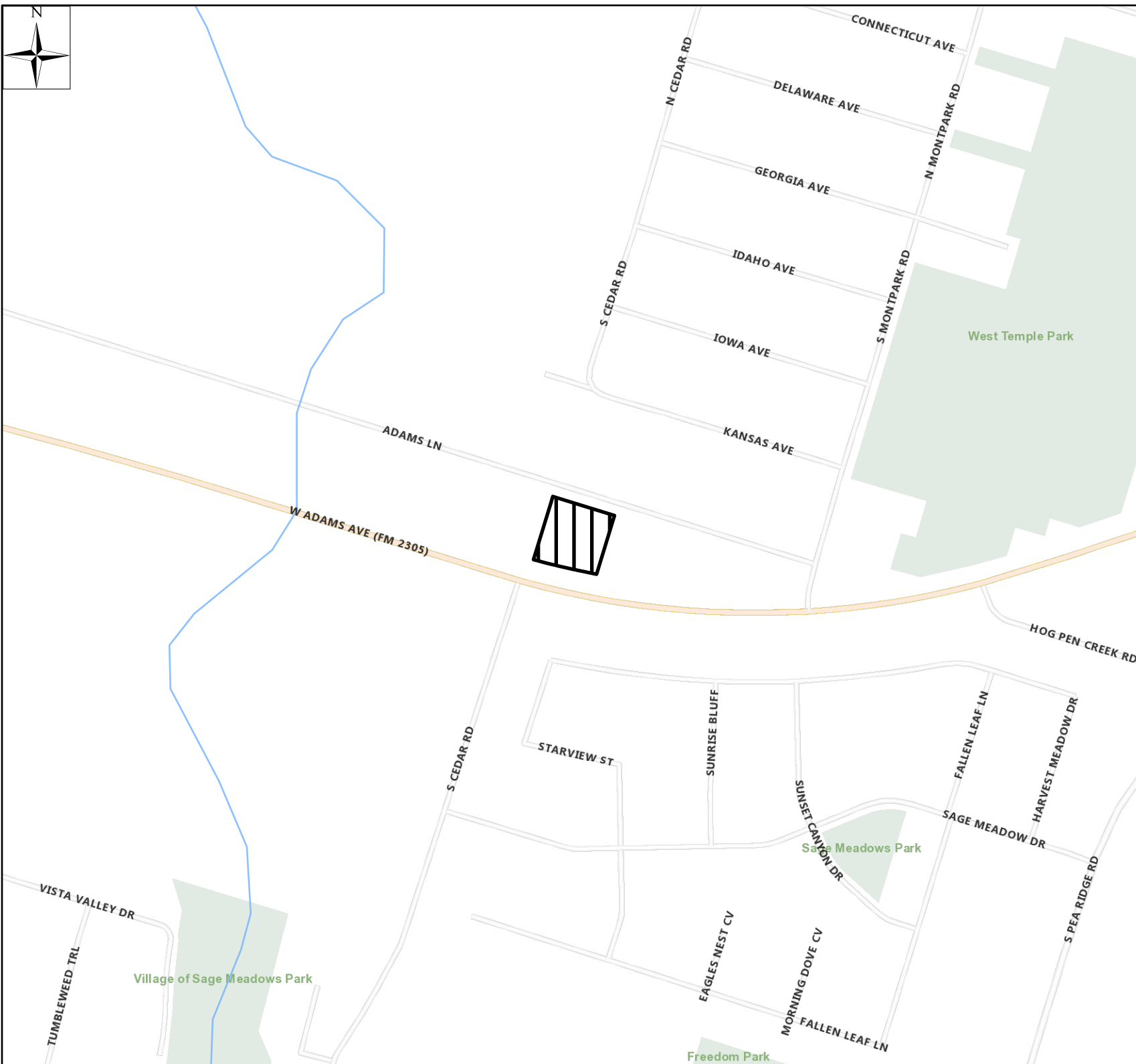
Zoning Case :
FY-21-13-ZC

Address :
8774 W Adams Ave

-  CaseArea
-  EXPRESSWAY
-  MAJOR ARTERIAL
-  COLLECTOR
-  LOCAL STREET
-  MINOR ARTERIAL
-  PRIVATE
-  RAMP
-  Railroad
-  Park Areas

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

jdeckman
Date: 1/29/2021














Conditional Use Permit for Alcohol Sales

AERIAL IMAGERY

Zoning Case :
FY-21-13-ZC

Address :
8774 W Adams Ave

-  CaseArea
-  EXPRESSWAY
-  MAJOR ARTERIAL
-  COLLECTOR
-  LOCAL STREET
-  MINOR ARTERIAL
-  PRIVATE
-  RAMP
-  Railroad
-  Park Areas

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Date: 1/29/2021












Conditional Use Permit for Alcohol Sales

ZONING MAP

Zoning Case :
FY-21-13-ZC

Address :
8774 W Adams Ave

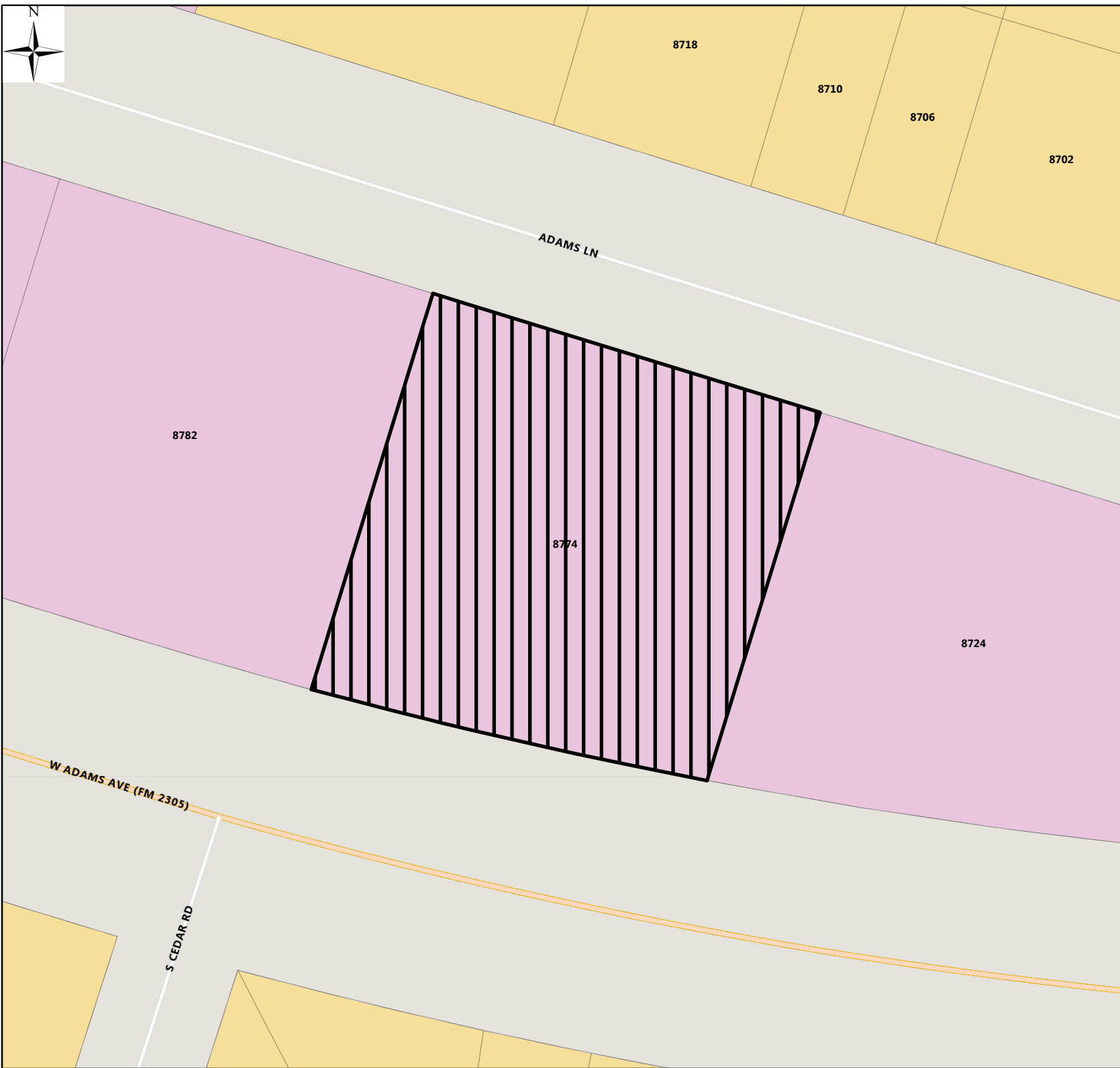
-  Case Area
-  SF-2
-  SF-3 - PD
-  GR - PD
-  AG
-  Bell County Municipal Boundaries
-  TempleBoundary

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Date: 1/29/2021





Conditional Use Permit
for Alcohol Sales

FUTURE LAND USE MAP

Zoning Case :
FY-21-13-ZC

Address :
8774 W Adams Ave

-  CaseArea
- 2020 Future
Development Map
-  Residential and Neighborhood Services
 -  Corridor Mixed-Use
 -  Employment Mixed-Use
 -  Business Park
 -  Parks and Open Space
 -  Rural - Estate
 -  Regional Commercial
 -  Temple Medical & Education District
 -  Industrial
 -  Urban Residential
 -  Downtown Transition
 -  Downtown Core

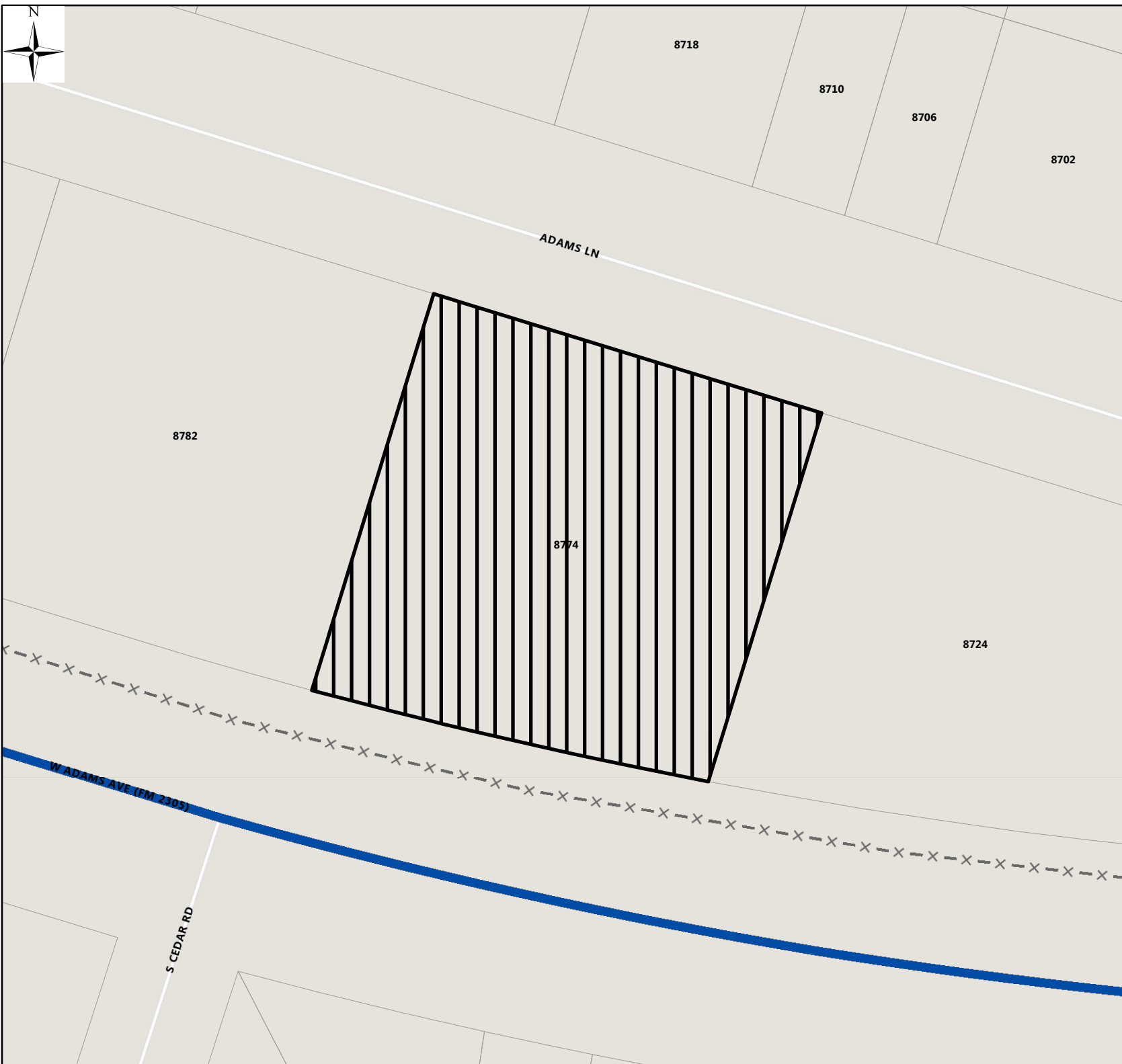
 Bell County Municipal
Boundaries

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 Temple Boundary

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Date: 1/29/2021





Conditional Use Permit
for Alcohol Sales

THOROUGHFARE
AND TRAILS MAP

Zoning Case :
FY-21-13-ZC

Address :
8774 W Adams Ave

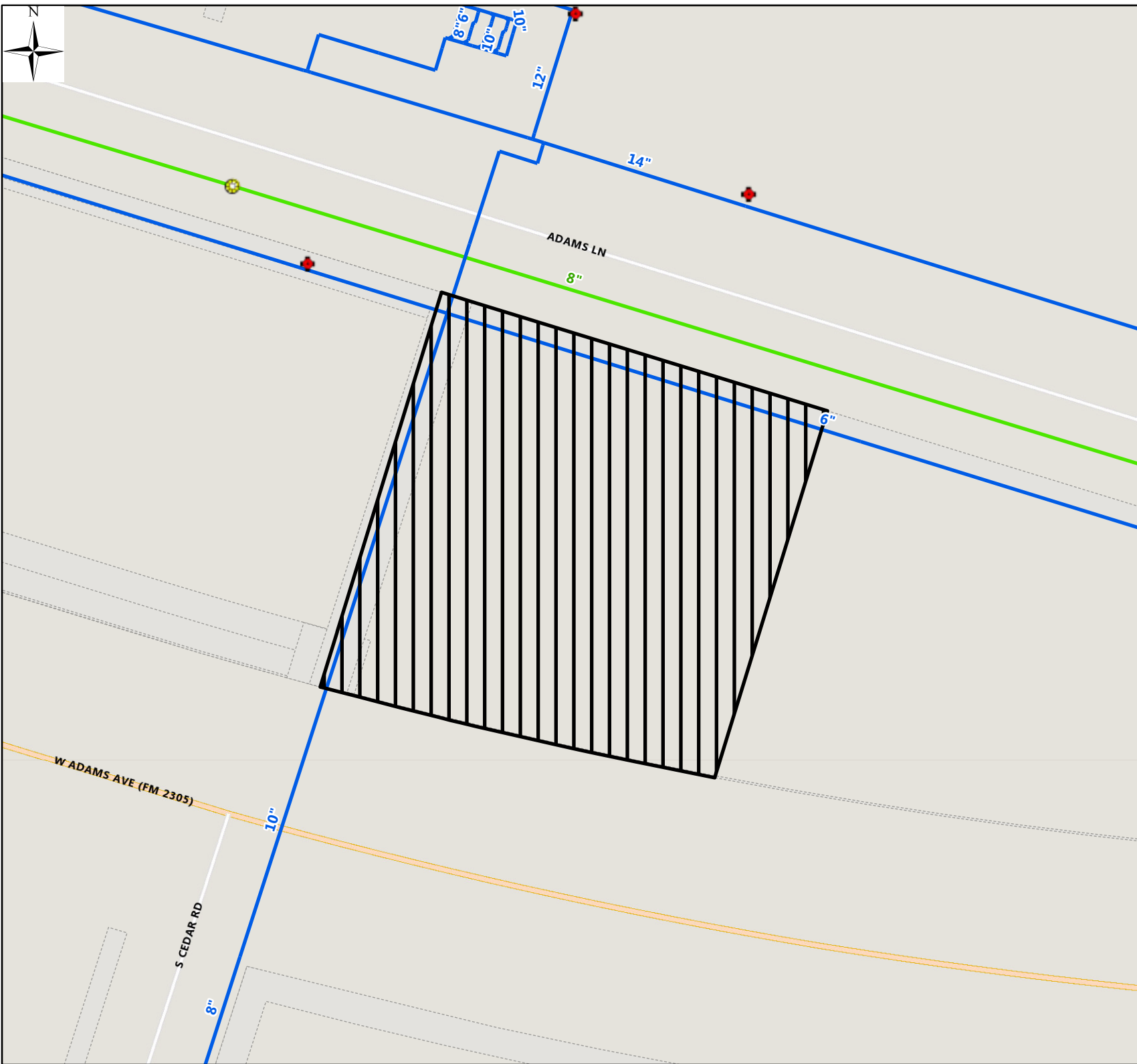
- CaseArea
- Bell County Municipal
- Boundaries
- Highway
- Temple Boundary
- Major Arterial
- Minor Arterial
- Community Collector
- Neighborhood Collector
- Future Major Arterial
- Future Minor Arterial
- Future Community Collector
- Future Neighborhood Collector

- Trails Master Plan
- EXISTING, CITY WIDE SPINE
 - EXISTING, COMMUNITY WIDE CONNECTOR
 - EXISTING, LOCAL CONNECTOR
 - PROPOSED, CITY WIDE SPINE
 - PROPOSED, COMMUNITY WIDE CONNECTOR
 - PROPOSED, LOCAL CONNECTOR
 - UNDER DESIGN/CONSTRUCTION, CITY WIDE SPINE
 - UNDER DESIGN/CONSTRUCTION, COMMUNITY WIDE CONNECTOR

GIS data for this map was prepared for legal purposes only and may not have been prepared for or be suitable for legal purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

Bell County Municipal
Boundaries
Temple Boundary
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Date: 1/29/2021





Conditional Use Permit for Alcohol Sales

UTILITY MAP

Zoning Case :
FY-21-13-ZC

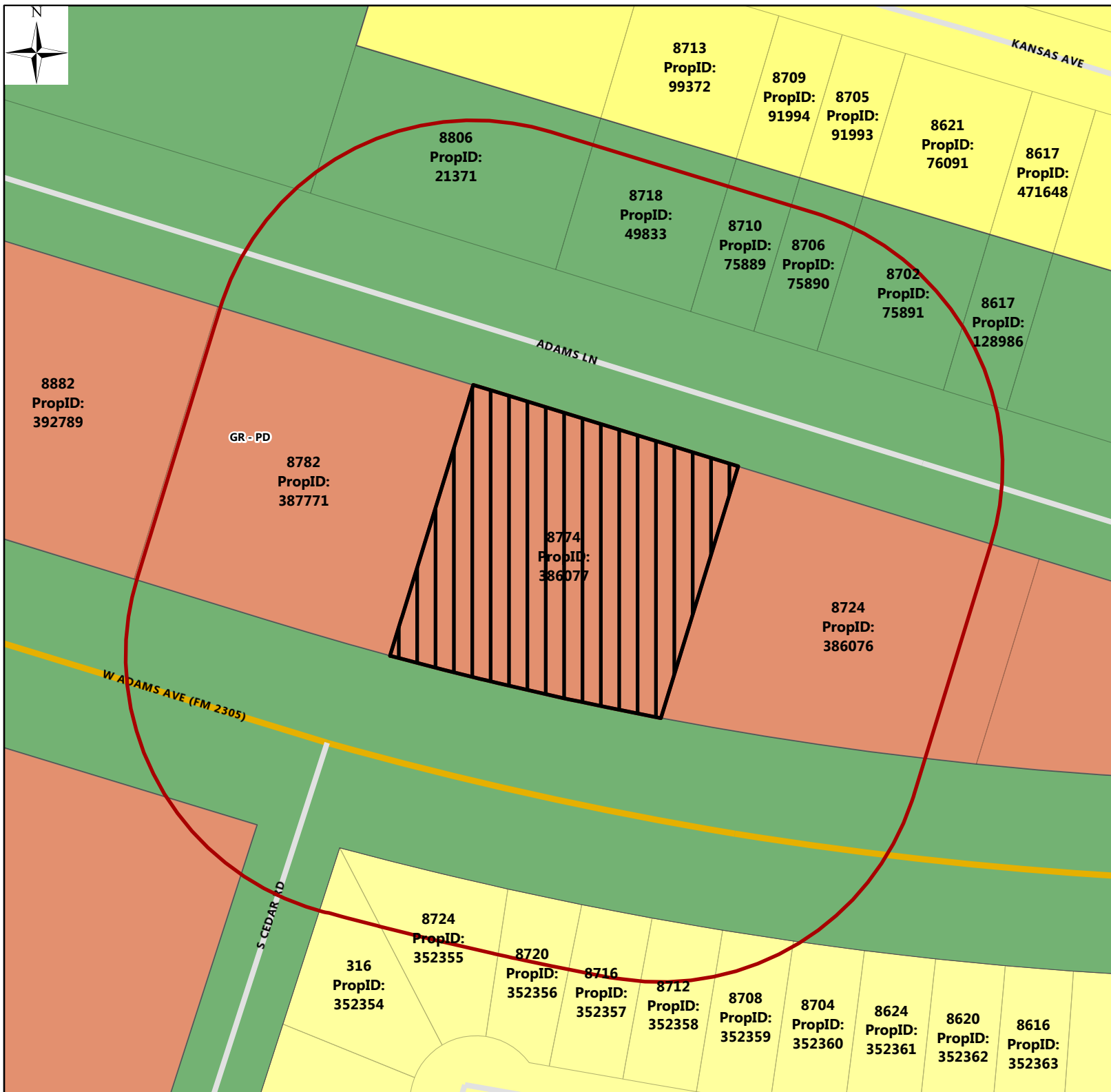
Address :
8774 W Adams Ave

- CaseArea
- City Hydrant
- Potable Water
- Sewer Manhole
- Sewer Gravity Main
- Easement
- EXPRESSWAY
- MAJOR ARTERIAL
- COLLECTOR
- LOCAL STREET
- MINOR ARTERIAL
- PRIVATE
- RAMP
- Railroad
- Temple Municipal Boundary
- Park Areas
- Bell County Municipal Boundaries
- TempleBoundary

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UDC Code Section 3.5.4	Criteria met?	Discussion
A. The conditional use is compatible with and not injurious to the use and enjoyment of the property and does not significantly diminish or impair property values within the immediate area.	Yes	Alcohol sales will be for retail purposes only – no consumption will be allowed on the premises. The strip center is zoned GR which is intended for retail uses, thus the package store is compatible with the immediate surroundings.
B. The establishment of the conditional use does not impede normal and orderly development and improvement of surrounding vacant property.	Yes	Allowing alcohol sales from the package store will not impede development or improvements on the surrounding properties.
C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.	Yes	The property fronts onto West Adams Avenue, a major arterial, with driveway access and parking available. Additional access may come via West Adams Lane, a local street. Utilities are already installed and connected to the retail suite.
D. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.	Yes	The strip center provides 44 parking spots to be shared by the retail tenants. Based on a staff site visit and the requirements in UDC 7.5, adequate parking and circulation is available.
E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.	Yes	Retail sales of alcohol in sealed packages for off-premise consumption is not expected to create any offensive conditions.
F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.	Yes	UDC 5.3.17 provides for regulation of any illuminated electronic sign, except where such sign is part of a shared multi-tenant installation.
G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes	Landscaping requirements have already been met with development of the strip center.

- S. A fence designed in accordance with the standards in Sec. 7.7 must surround the range site and downrange safety area. Such fence must be of suitable height and material to exclude persons or livestock from unauthorized entry. Warning signs must be provided along the perimeter of the fence. These signs must be placed at the applicant's expense and must specify a firing range is present and operational during daylight hours.

5.3.17 Alcoholic Beverage Sales for Off-Premise Consumption, Package Store

A package store may be permitted in accordance with the use table in Sec. 5.1 subject to the following standards.

- A. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code.
- B. Outdoor lighting must comply with the standards in subsection 6.7.7J.
- C. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys.
- D. The drive-through lane must provide a minimum of 60 feet of stacking space as measured from the pick-up window.
- E. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane.
- F. Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified in Sec. 7.5).
- G. Window signs are prohibited.
- H. Lighted signs must be turned off at closing time. This requirement does not apply to multi-tenant signs that meet the requirements of [Sec. 7.6.3](#) of this UDC.

[Ord. No. 2015-4707]

Chapter 4

ALCOHOLIC BEVERAGES

State law reference -- Alcoholic Beverage Code § 1.01 et seq.

ARTICLE I. IN GENERAL

Sec. 4-1. Definitions.

“City” means the City of Temple, Texas, the City Council of Temple, Texas, or its representatives, employees, agents, or designees.

“City Council” means the City’s elected governing body.

“City Manager” means the City’s city manager or their designee.

“License or permit” means a license or permit granted by the Texas Alcoholic Beverage Commission.

“Licensee or permittee” means a person holding a license or permit granted by the Texas Alcoholic Beverage Commission.

“Private school” means a private school, including a parochial school, that:

- (a) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (b) has more than 100 students enrolled and attending courses at a single location.

ARTICLE II. EXTENDED HOURS

Sec. 4-2. Extended hours.

- (a) Pursuant to Sections 105.03(d) and 105.05(d) of the V.C.T.A., Alcoholic Beverage Code, as amended, the City adopts extended hours sales of alcoholic beverages in any part of the City as follows:

- (1) A holder of a mixed beverage late hours permit may sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.
- (2) A holder of a retail dealer's on-premise late hours license may sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

State law reference -- V.T.C.A., Alcoholic Beverage Code § § 105.03, 105.05, and 105.06.

ARTICLE III. ALCOHOLIC BEVERAGE SALES NEAR SCHOOL, CHURCH, OR HOSPITAL

Sec. 4-3. Sales near school, church, or hospital.

- (a) The sale of alcoholic beverages is prohibited at a place of business that is located within:
 - (1) 300 feet of a church, public or private school, or public hospital;
 - (2) 1,000 feet of a private school if City Council receives a request from the governing body of the private school.
- (b) Subsection (a)(1) does not apply to the holder of:
 - (1) a license or permit who also holds a food and beverage certificate issued by the Texas Alcoholic Beverage Commission covering a premise that is located within 300 feet of a private school; or
 - (2) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 300 feet of a private school.
- (c) Subsection (a)(2) does not apply to the holder of:
 - (1) a retail on-premises consumption permit or license if less than 50% of the gross receipts for the premises is from the sale or service of alcoholic beverages;
 - (2) a retail off-premises consumption permit or license if less than 50% of the gross receipts for the premises, excluding the sale of items subject to the motor fuels tax, is from the sale or service of alcoholic beverages;

- (3) a wholesaler's, distributor's, brewer's, distiller's and rectifier's, winery, wine bottler's or manufacturer's permit or license, or any other license or permit held by a wholesaler or manufacturer as those words are ordinarily used and understood in V.T.C.A., Alcoholic Beverage Code Chapter 102, as amended;
- (4) a license or permit issued under V.T.C.A., Alcoholic Beverage Code Chapters 27 (Temporary and Special Wine and Beer Retailer's Permit), 31 (Caterer's Permit), or 72 (Temporary Licenses), all as amended, who is operating on the premises of a private school; or
- (5) a license or permit covering a premise where minors are prohibited from entering under V.T.C.A., Alcoholic Beverage Code § 109.53, as amended, (i.e. a package store) and that is located within 1,000 feet of a private school.

(Prior Code, § 4-2; Ord. No. 2017-4830)

State law reference -- V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 4-4. Measurement of distances for church and public hospital.

The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-3; Ord. No. 2009-4323)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b).

Sec. 4-5. Measurement for public and private school.

The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school will be:

- (a) in a direct line from the property line of the public or private school to the property line of the place of business, and in a direct line across intersections; or
- (b) if the permit or license holder is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections, and vertically up the building at the property line to the base of the floor on which the permit or license holder is located.
- (c) As to any business who held a license or permit on September 1, 1983, the measurement of the

distance between the place of business of the dealer and a public or private school will be along the property lines of the street fronts and from front door to front door, and in direct line across intersections.

(Prior Code, § 4-4; Ord. No. 2017-4830)

State law reference -- Similar provisions, V.T.C.A., Alcoholic Beverage Code § 109.33(b), (d).

Sections 4-6--4-10. Reserved.

ARTICLE IV. MUNICIPAL FEES AND REGISTRATION

State law reference -- Authority to require licenses and permits and fees, V.T.C.A., Alcoholic Beverage Code § § 11.38; 61.36.

Sec. 4-11. Municipal fees and City registration.

- (a) A municipal fee is levied in the amount of one-half the state fee for each license or permit issued for premises located within the City, except as otherwise provided by state law. The municipal fees must be paid to the City when the license or permit fees are paid to the state.
- (b) The City will issue a certificate of registration under this Section to a licensee or permittee authorizing the sale of alcoholic beverages under this Chapter and a license or permit, if the licensee or permittee:
 - (1) pays the fees established by Subsection (a); and
 - (2) provides the City with a copy of the license or permit.
- (c) A person who sells an alcoholic beverage at a business location before the person receives a certificate of registration from the City as provided by this Section commits a Class C misdemeanor.
- (d) The City's certificate of registration must be displayed in a conspicuous place at all times on the licensed or permitted premises. It is unlawful for a person in charge of such premises to fail to display this certificate of registration.

(Prior Code, § 4-11; Ord. No. 2009-4323)

State law reference -- Authority for license and permit fees, V.T.C.A. Alcoholic Beverage Code § 11.38; § 61.36.

Sections 4-12--4-20. Reserved.

ARTICLE V. SALE OF ALCOHOLIC BEVERAGES ON CITY PROPERTY

Sec. 4-21. Sale of alcoholic beverages on City property prohibited except where specially permitted.

- (a) City Property. It is unlawful for any person to sell alcoholic beverages in any public park of the City, or on or in other publicly owned property, save and except that the City and concessionaires or caterers having a contract with the City to sell alcoholic beverages at the Frank W. Mayborn Civic and Convention Center, Santa Fe Depot, and at Sammons Park, if properly licensed or permitted by the state, may sell alcoholic beverages upon the premises of the civic and convention center, depot, and within the Sammons Park Restaurant, Clubhouse, and deck exclusively. The City Manager may authorize a special event permit for the sale of alcoholic beverages on City property other than a City park.
- (b) Criteria for Permits. The City Council may from time to time by resolution establish criteria for special event permit applications and approvals under this Section.

(Prior Code, § 4-21; Ordinance No. 2009-4323)

ARTICLE VI. ENFORCEMENT

Sec. 4-22. Criminal offense.

- (a) A person violating a provision of this Chapter commits a Class C misdemeanor for each separate violation for each day, or part of a day, during which the violation is committed, continued, or permitted. Each offense is punishable by a fine not to exceed five hundred dollars (\$500.00).
- (b) A culpable mental state is hereby not required to prove an offense under this Chapter.



Facing north towards subject property



View of the retail strip center



Facing east along Adams Lane, behind the retail center



Adjacent properties to west of subject property