



**MEETING OF THE
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING
2 NORTH MAIN STREET
TEMPLE, TX**

THURSDAY, JULY 17, 2008

**3:00 P.M.
3RD FLOOR CONFERENCE ROOM**

WORKSHOP AGENDA

1. Discuss Preliminary FY 09 budget issues, including:
 - (A) Texas Municipal Retirement System
 - (B) City's Compensation Plan and Benefits, and
 - (C) Solid Waste Services
2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 17, 2008 as follows:

5:00 P.M.
CITY COUNCIL CHAMBERS – 2ND FLOOR

TEMPLE CITY COUNCIL
REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Recognition of [2008 Junior Fire Cadet Program](#)

III. PUBLIC HEARING

4. Conduct a public hearing to receive comments and questions concerning the 2008 Drinking [Water Quality Report](#) (Consumer Confidence Report).

IV. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

V. CONSENT AGENDA

All items listed under this section, Consent Agenda, are considered to be routine by the City Council and may be enacted by one motion. If discussion is desired by the Council, any item may be removed from the Consent Agenda at the request of any Councilmember and will be considered separately.

5. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:

Minutes:

- (A) [July 3, 2008 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) Consider adopting a resolution authorizing:
1. **2008-5449-R:** *A General Conveyance, Transfer and Assignment Agreement* between RDM Commerce, Inc., and McLane Company, Inc., authorizing the transfer of Buildings #19 and #23 at the Draughon Miller Central Texas Regional Airport;
 2. **2008-5450-R:** An amendment to the lease agreement with RDM Commerce, Inc., providing for the transfer of Building #19 to McLane Company, Inc.; and
 3. **2008-5451-R:** An amendment to the lease agreement with McLane Company, Inc., providing for the transfer of Building #23 to RDM Commerce, Inc.
- (C) **2008-5452-R:** Consider adopting a resolution authorizing a purchase agreement for water treatment plant chemicals with Chameleon Industries, Inc of Mesquite in the estimated amount of \$88,320.
- (D) **2008-5453-R:** Consider adopting a resolution authorizing the emergency purchase of five portable ultrasonic transit time flow meters for the water distribution system with Instruments Direct, Inc of Woodstock, Georgia, in the amount of \$32,550.
- (E) **2008-5454-R:** Consider adopting a resolution authorizing an annual purchase agreement for the purchase of bunker gear for structural firefighting with Metro Fire Apparatus Inc. of Houston at \$1,509.00 per set.
- (F) **2008-5455-R:** Consider adopting a resolution authorizing a Sanitary Sewer Overflow Initiative Agreement with the Texas Commission on Environmental Quality (TCEQ).
- (G) **2008-5456-R:** Consider adopting a resolution authorizing a contract with Brockway, Gersbach, McKinnon and Neimeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$42,700.
- (H) **2008-5457-R:** Consider adopting a resolution authorizing a contract with Colonial for Voluntary Supplemental Insurances and a subcontract with AmeriFlex for Flexible Spending Account management.

Ordinances - Second and Final Reading

- (I) **2008-4231:** SECOND READING – Consider adopting an amendment to Ordinance 2005-4006 abandoning the following street rights-of-way for the First United Methodist Church; and retaining blanket utility easements for the abandoned rights-of-way to protect existing utilities:
1. A portion of North 2nd Street, near its intersection with Calhoun Avenue (Original Town – Volume 36, Page 640 and Moore's First Addition – Volume 115, Page 416), and
 2. A portion of East Barton Avenue, south of Main Street, and north of the portion previously abandoned (Original Town – Volume 36, Page 640 and Moore's First Addition – Volume 115, Page 416).

- (J) [2008-4236](#): SECOND READING – Consider adopting an ordinance repealing and replacing Chapter 13, “Flood Damage Prevention,” of the City Code of Ordinances to be consistent with updated language complying with Federal Emergency Management Agency requirements and City of Temple Drainage Criteria.
- (K) [2008-4237](#): SECOND READING – Consider adopting an ordinance renaming a portion of the planned Outer Loop (new portion of Old Howard Road and the portion from McLane Parkway through the Bioscience Park to FM 2305) as Research Parkway.

Misc:

- (L) [2008-5458-R](#): P-FY-08-48: Consider adopting a resolution authorizing the Final Plat for Syring Addition, one single family lot on a 4.7± tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3± miles outside of the City Limits, with exceptions to the Subdivision Ordinance Section 33-93(k) (1&2) for local street paving, Section 33-102 for park fees and Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection.
- (M) [2008-5459-R](#): Consider adopting a resolution denying a request from Oncor Electric Delivery Company LLC to change rates within the City of Temple.
- (N) [2008-5460-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

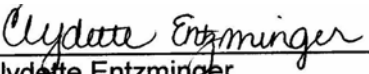
VI. REGULAR AGENDA

ORDINANCES

- 6. [2008-4238](#): FIRST READING – PUBLIC HEARING - Z-FY-08-28: Consider adopting an ordinance amending the City of Temple Zoning Ordinance, 91-201, Section 7-108 (Automobile and Related Service Uses) to allow motorcycle sales by right in the General Retail (GR) District.
- 7. [2008-4239](#): FIRST READING – PUBLIC HEARING - Z-FY-08-30: Consider adopting an ordinance authorizing a zoning change from Agriculture (A) to Commercial (C) on a 5.0± acre tract of land located at the southwest corner of the 53.8± acre tract being out of the M. Moreno Survey, Abstract Number 14, adjacent to the East right of way line of Loop 363 and adjoining the northwest property corner of the 29.83 acre City of Temple tract.
- 8. [2008-4240](#): FIRST READING – PUBLIC HEARING - Z-FY-08-27: Consider adopting an ordinance authorizing a zoning change from Planned Development (PD) District to General Retail (GR) District, on 0.904 ± acres situated in the George Givens Survey, Abstract No. 345, located on the south side of West Adams Avenue, between Kegley Road and the Wildflower Villa Apartments.
- 9. [2008-4241](#): FIRST READING – PUBLIC HEARING - Z-FY-08-29: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) District to Single Family One (SF-1) District on 55.95 ± acres recorded as Eagle Oaks At The Lake Phases One, Two, Three , Four and Five, located on both sides of Eagle Landing Drive, east of Cen-Tex Sportsman Club Road.

***The City Council reserves the right to discuss any items in executive (closed) session
whenever permitted by the Texas Open Meetings Act.***

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 10:15 AM, on July 11, 2008.


Clydette Entzminger
City Secretary

I certify that this Notice of Meeting Agenda was removed by me from the outside bulletin board in front of the City Municipal Building on _____ day of _____ 2008. _____



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #3
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Recognition of 2008 Junior Fire Cadet Program

STAFF RECOMMENDATION: Present special recognition as presented in item description.

ITEM SUMMARY: Thomas Pechal, Temple Fire and Rescue, would like to recognize the participants in the 2008 Junior Fire Cadet Program.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

07/17/07
Item #4
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works

ITEM DESCRIPTION: Conduct a public hearing to receive comments and questions concerning the 2007 Drinking Water Quality Report (Consumer Confidence Report).

STAFF RECOMMENDATION: Conduct public hearing; no action required.

ITEM SUMMARY: The Consumer Confidence Report (CCR) is an annual water quality analysis of the City's drinking water. The Texas Commission on Environmental Quality (TCEQ), under Title 30 of the Texas Administrative Code §290.271-290.275, requires that community water systems deliver the 2007 CCR to all of their customers, making a good faith effort to reach non bill-paying customers by appropriate methods. This has been done through including the CCR in all three utility billing cycles and by posting the CCR on the City's internet web site and in public places. The Code also requires that a public forum be provided to any citizen who may wish to comment or ask questions about the CCR. The July 17, 2008, meeting has been designated as the public participation opportunity for this purpose.

FISCAL IMPACT: N/A

ATTACHMENTS:

[2007 Drinking Water Quality Report](#)



2007 Drinking Water Quality Report

(Consumer Confidence Report)

City of Temple



Ph: (254) 298-5621 Fax: (254) 298-5479

www.ci.temple.tx.us

Special Notice for the ELDERLY, INFANTS CANCER PATIENTS, people with HIV/AIDS or other immune problems:

Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/Centers for Disease Control Prevention (CDC) guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (1-800-426-4791).

Public Participation Opportunities

Date: July 17, 2008
Time: 5:00 p.m.
Location: Regular Council Meeting, Council Chambers
Municipal Building
2 North Main
Phone No: (254) 298-5700

Our Drinking Water Meets or Exceeds all Federal (EPA) Drinking Water Requirements

This report is a summary of the quality of the water we provide our customers. The analysis was made by using the data from the most recent U.S. Environmental Protection Agency (EPA) required tests and is presented in the attached pages. We hope this information helps you become more knowledgeable about what's in your drinking water.

En Español

Este reporte incluye información importante sobre el agua potable. Para obtener una copia de ésta información traducida al Español, favor de llamar al teléfono (254) 298-5621.

WATER SOURCES: The sources of drinking water (both tap water and bottled water) include rivers, lakes, streams, ponds, reservoirs, springs and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals, and in some cases, radioactive material, and can pick up substances resulting from the presence of animals or from human activity. Contaminants that may be present in source water before treatment include: microbes, inorganic contaminants, pesticides, herbicides, radioactive contaminants, and organic chemical contaminants.

Where do we get our drinking water?

Our drinking water is obtained from Surface water sources. It comes from Lake Belton by way of the Leon River.

TCEQ completed an assessment of our source water and results indicate that some of our sources are susceptible to certain contaminants. The sampling requirements for our water system are based on this susceptibility and previous sample data. Any detections of these contaminants will be found in this report. For more information on source water assessments and protection efforts at our system, please contact us.

ALL drinking water may contain contaminants.

When drinking water meets federal standards, there may not be any health-based benefits to purchasing bottled water or point of use devices.

Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects can be obtained by calling the EPA's Safe Drinking Water Hotline (800-426-4791).

Secondary Constituents

Many constituents (such as calcium, sodium, or iron) which are often found in drinking water can cause taste, color, and odor problems. The taste and odor constituents are called secondary constituents and are regulated by the State of Texas, not the EPA. These constituents are not causes for health concern. Therefore, secondaries are not required to be reported in this document but they may greatly affect the appearance and taste of your water.

About The Following Pages

The pages that follow list all of the federally regulated or monitored contaminants which have been found in your drinking water. The U.S. EPA requires water systems to test up to 97 contaminants.

Maximum Contaminant Level (MCL)

The highest permissible level of a contaminant in drinking water. MCLs are set as close to the MCLGs as feasible using the best available treatment technology.

Maximum Contaminant Level Goal (MCLG)

The level of a contaminant in drinking water below which there is no known or expected health risk. MCLGs allow for a margin of safety.

Maximum Residual Disinfectant Level (MRDL)

The highest level of disinfectant allowed in drinking water. There is convincing evidence that addition of a disinfectant is necessary for control of microbial contaminants.

Maximum Residual Disinfectant Level Goal (MRDLG)

The level of drinking water disinfectant below which there is no known or expected risk to health. MRDLGs do not reflect the benefits of the use of disinfectants to control microbial contamination.

Action Level (AL)

The concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow.

NTU – Nephelometric Turbidity Units

pCi/L – picocuries per liter (a measure of radioactivity)

ppm – parts per million, or milligrams per liter (mg/L)

ppb – parts per billion, or micrograms per liter (ug/L)

Inorganic Contaminants

Year	Contaminant	Average Level	Minimum Level-Maximum Level	MCL	MCLG	Unit of Measure	Source of Contaminant
2004	Barium	0.047	0.047 – 0.047	2	2	ppm	Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits.
2007	Fluoride	1.25	1.25-1.25	4	4	ppm	Erosion of natural deposits; water additive which promotes strong teeth; discharge from fertilizer and aluminum factories.
2007	Nitrate	1.29	1.29-1.29	10	10	ppm	Runoff from fertilizer use; leaching from septic tanks, sewage; erosion of natural deposits.
2005	Gross beta emitters	2.9	2.9 – 2.9	50	0	pCi/L	Decay of natural and man-made deposits.

Organic Contaminants: TESTING WAIVED, NOT REPORTED, OR NONE DETECTED

Maximum Residual Disinfectant Level

Systems must complete and submit disinfection data on the surface Water Monthly Operations Report (SWMOR). On the CCR report, the system must provide disinfectant type, minimum, maximum and average levels.

Year	Disinfectant	Average Level	Minimum Level-Maximum Level	MRDL	MRDLG	Unit of Measure	Source of Chemical
2007	Chloramines	2.54	0.5 – 54.0	4.0	<4.0	ppm	Disinfectant used to control microbes.

Disinfection Byproducts

Year	Contaminant	Average Level	Minimum Level-Maximum Level	MCL	Unit of Measure	Source of Contaminant
2007	Total Haloacetic Acids	51.6	15.6-67.4	60	ppb	By-product of drinking water disinfection
2007	Total Trihalomethanes	67.4	25.8-101.3	80	ppb	By-product of drinking water disinfection.

Unregulated Initial Distribution System Evaluation for Disinfection Byproducts

This evaluation is sampling required by EPA to determine the range of total trihalomethane and haloacetic acid in the system for future regulations. The samples are not used for compliance, and may have been collected under non-standard conditions. EPS also requires the data to be reported here.

Year	Contaminant	Average Level	Minimum Level-Maximum Level	MCL	Unit of Measure	Source of Contaminant
2007	Total Haloacetic Acids	51.2	19.8-142.1	N/A	ppb	By-product of drinking water disinfection
2007	Total Trihalomethanes	86.8	35-253.8	N/A	ppb	By-product of drinking water disinfection.

Unregulated Contaminants

Bromoform, chloroform, dichlorobromomethane and dibromochloromethane are disinfection byproducts. There is no maximum contaminant level for these chemicals at the entry point to distribution.

Year	Contaminant	Average Level	Minimum Level-Maximum Level	Unit of Measure	Source of Contaminant
2007	Chloroform	55	55-55	ppb	By-product of drinking water disinfection.
2007	Bromodichloromethane	27	27-27	ppb	By-product of drinking water disinfection.
2007	Dibromochloromethane	6.2	6.2-6.2	ppb	By-product of dinking water disinfection.

Lead and Copper

Year	Contaminant	The 90th Percentile	Number of Sites Exceeding AL	Action Level	Unit of Measure	Source of Contaminant
2006	Lead	3.9	0	15	ppb	Corrosion of household plumbing systems; erosion of natural deposits.
2006	Copper	0.186	0	1.3	ppm	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives.

Recommended Additional Health Information for Lead

All water systems are required by EPA to report the language below starting with the 2009 CCR to be delivered to you by July of 2010. We are providing this information now as a courtesy.

“If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. This water supply is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to 2 minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or at <http://www.epa.gov/safewater/lead>.”

Turbidity

Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.

Year	Contaminant	Highest Single Measurement	Lowest Monthly % of Samples Meeting Limits	Turbidity Limits	Unit of Measure	Source of Contaminant
2007	Turbidity	0.30	100.00	0.3	NTU	Soil runoff.

Total Organic Carbon

Total organic carbon (TOC) has no health effects. The disinfectant can combine with TOC to form disinfection by-products. Disinfection is necessary to ensure that water does not have unacceptable levels of pathogens. By-products of disinfection include trihalomethanes (THMs) and haloacetic acids (HAA) which are reported elsewhere in this report.

Year	Contaminant	Average Level	Minimum Level-Maximum Level	Unit of Measure	Source of Contaminant
2007	Source Water	4.48	2.97-5.76	ppm	Naturally present in environment.
2007	Drinking Water	3.56	2.51-5.23	ppm	Naturally present in environment
2007	Removal Ratio	21.24%	0.00%-43.46%	% removal*	N/A

*Removal ratio is the percent of TOC removed by the treatment process divided by the percent of TOC required by TCEQ to be removed.

Cryptosporidium

Year	Contaminant	Average Level	Minimum Level-Maximum Level	Unit of Measure	Source of Contaminant
2007	Cryptosporidium	.0222	0.00 - .186	oocysts/liter	*

*Cryptosporidium is a microbial pathogen that may be found in water contaminated by feces. Although filtration removes Cryptosporidium, it cannot guarantee 100 percent removal, nor can the testing methods determine if the organisms are alive and capable of causing cryptosporidiosis, an abdominal infection with nausea, diarrhea and abdominal cramps that may occur after ingestion of contaminated water.

Total Coliform: REPORTED MONTHLY TESTS FOUND NO COLOFORM BACTERIA.

Fecal Coliform: REPORTED MONTHLY TESTS FOUND NO FECAL COLIFORM BACTERIA.

Secondary and Other Constituents Not Regulated

(No associated adverse health effects)

Year	Constituent	Average Level	Minimum Level	Maximum Level	Secondary Limit	Unit of Measure	Source of Constituent
2004	Aluminum	0.027	0.027	0.027	50	ppm	Abundant naturally occurring element.
2007	Bicarbonate	190	190	190	NA	ppm	Corrosion of carbonate rocks such as limestone.
2004	Calcium	41.5	41.5	41.5	NA	ppm	Abundant naturally occurring element.
2007	Chloride	34	34	34	300	ppm	Abundant naturally occurring element; used in water purification; by-product of oil field activity.
2004	Copper	0.013	0.013	0.013	NA	ppm	Corrosion of household plumbing systems; erosion of natural deposits; leaching from wood preservatives.
2004	Hardness as Ca/Mg	140	140	140	NA	ppm	Naturally occurring calcium and magnesium

Year	Constituent	Average Level	Minimum Level	Maximum Level	Secondary Limit	Unit of Measure	Source of Constituent
2004	Magnesium	8.8	8.8	8.8	NA	ppm	Abundant naturally occurring element.
2007	pH	7.1	7.1	7.1	>7.0	Units	Measure of corrosivity of water
2004	Sodium	16	16	16	NA	ppm	Erosion of natural deposits; by-product of oil field activity.
2007	Sulfate	38	38	38	300	ppm	Naturally occurring; common industrial by-product; by-product of oil field activity.
2007	Total Alkalinity as CaCO ₃	156	156	156	NA	ppm	Naturally occurring soluble mineral salts.
2007	Total Dissolved Solids	273	273	273	1000	ppm	Total dissolved mineral constituents in water.
2003	Total Hardness as CaCO ₃	168	168	168	NA	ppm	Naturally occurring calcium.



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) July 3, 2008 Special Called Meeting & Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[July 3, 2008 Special Called Meeting & Regular Meeting](#)

TEMPLE CITY COUNCIL

JULY 3, 2008

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, July 3, 2008 at 3:00pm in the 3rd Floor Conference Room, 2 North Main Street.

Present:

Councilmember Marty Janczak
Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III

1. Discuss Preliminary FY 09 budget issues, including:

(A) City's Solid Waste services, and

David Blackburn, City Manager, began the presentation with a review of the budget calendar. He noted the preliminary budget proposes maintaining service levels and increasing rates. He also reviewed the seven fence posts for development of the FY 2009 budget.

Bruce Butscher, Director of Public Works, discussed the Solid Waste services provided by the City. He reviewed the total number of employees, vehicles, and organization of the division. Statistics for both the residential and commercial collection system were presented, including the number of routes, drivers, trucks and customers, the operating days and container sizes. Mr. Butscher noted they have seen a 35% decrease in revenues over the past 6 to 8 months, particularly with temporary pulls.

Next, Mr. Butscher reviewed the operations of the brush/bulk collection system. BRA is the disposal site for clean materials and mixed materials are dropped at the landfill. The current frequency of service is two times per month.

Tommy Wright, the City's Solid Waste consultant, stated the brush pickup complaints have been declining, after a peak in April. Most of the complaints have been relative to the timing and out of cycle charges.

Councilmember Janczak agreed the citizens, at least in his district, have been angry about the current system.

Councilmember Jeter stated he would like to look at the numbers regarding how much and where the brush and bulk items are coming from. He would like to see the option of charging the users of the brush system pay for the service instead of all customers funding it.

Mr. Blackburn stated the issue is what level of service the community wants and is willing to pay for. He added the Council will be provided with additional data regarding the brush and bulk

collection system.

Traci Barnard, Director of Finance, provided a financial overview of the solid waste expenditures which are 10.88% of the General Fund budget. She reviewed the fuel costs for solid waste for the current year and what is projected for FY 2009. Staff is proposing a rate increase of \$1.25 for residential customers and 6% for commercial customers. This increase would result in \$416,000 in additional revenue. Mrs. Barnard concluded with a peer city comparison of solid waste rates.

(B) Hotel Motel Fund and Capital Improvement Projects

Mr. Blackburn stated the preliminary budget proposes \$2,700,000 in funding for recommended Mayborn Center renovation projects.

Ken Cicora, Director of Parks and Leisure Services, presented this report to the Council regarding the renovation and expansion study conducted by Strategic Advisory Group. These study results were presented to the City Council on November 15, 2007. Mr. Cicora began with an overview of the survey responses which indicate renovation would increase a new users' propensity to book the Mayborn Center from 15% to 50%. Renovation could potentially double the number of events and attendance. Next, Mr. Cicora reviewed capital expenditures at the Center over the past 6 years which average \$90,000 per year.

The recommended renovation plan developed by the Strategic Advisory Group, which totals \$2,704,991, was presented and discussed. This plan is for upgrades only and does not include expansion of the facility. Mr. Cicora also presented the community requested renovations not being recommended at this time and the recommendations for future consideration.

Mrs. Barnard addressed how the improvements might be financed. She recommended \$2,000,000 in Combination Tax and Revenue Bonds be used to fund the improvements, as well as \$700,000 from Hotel/Motel Tax fund balance. The average annual debt service on this issuance would be \$177,000. During the first 5 to 6 years after issuance, the General Fund would have to subsidize the Hotel/Motel Tax fund if revenues don't increase to cover the deficit.

Councilmember Jeter stated the City is approaching difficult and uncertain times and he is uncomfortable spending this kind of money at this time. He asked if these funds could be better used in downtown or elsewhere. Is the Mayborn Center the best location for this use?

Mayor Pro Tem Luna stated the Mayborn Center has done well, considering its location, and she felt it should be renovated.

Mr. Blackburn agreed some level of investment needs to occur to maintain the facility or re-locate it. It is primarily a civic center and we are not doing service to the facility unless it is maintained.

Mayor Jones stated, given the costs to re-locate the facility to downtown, the \$2,700,000 proposed for renovations won't be near enough to re-locate. He felt the renovations would be worthwhile, if for no other reason than civic pride.

Councilmember Jeter he stated this would be a good program to take to the voters in a General

Obligation bond issue.

2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 3, 2008 as follows:

The City Council discussed item 13, the appointment of a member to the Airport Advisory Board. They discussed current means of soliciting board members and how the process might be improved by utilizing Channel 10, the City's web page, and flyers.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, July 3, 2008 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Marty Janczak
Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor William A. Jones, III

I. CALL TO ORDER

1. Invocation

Mayor Jones voiced the Invocation.

2. Pledge of Allegiance

Scott Allen, Chair of the Parks and Leisure Services Advisory Board, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) Parks and Recreation Month July 2008

Scott Allen, Chair of the Parks and Leisure Services Advisory Board, Ken Cicora, Director of Parks and Leisure Services and Parks staff members accepted this proclamation presented by Mayor Jones.

III. PUBLIC COMMENTS

There were no public comments.

IV. BOND ITEMS

4. 2008-4233: FIRST & FINAL READING - PUBLIC HEARING - Consider adopting

an ordinance authorizing the issuance of \$13,975,000* City of Temple, Texas Combination Tax and Revenue Certificates of Obligation, Series 2008A; authorizing the Levy of an ad valorem tax and the pledge of certain revenues in support of the Certificates; approving an Official Statement, a Paying Agent/Registrar Agreement, Purchase Contract and other agreements related to the sale and issuance of the Certificates; establishing procedures for selling and delivering the bonds; and authorizing other matters related to the issuance of the certificates, to be considered on an emergency basis.

- 5. 2008-4234: FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an ordinance authorizing the issuance of \$9,750,000* City of Temple, Texas General Obligation Bonds, Series 2008; authorizing the levy of an ad valorem tax in support of the bonds; approving a Paying Agent/Registrar Agreement, an Official Statement, a Purchase Agreement and other agreements related to the sale and issuance of the bonds; establishing procedures for selling and delivering the bonds; and authorizing other matters relating to the issuance of the bonds, to be considered on an emergency basis.**
- 6. 2008-4235: FIRST & FINAL READING - PUBLIC HEARING - Consider authorizing the Second Supplemental Ordinance to the Master Ordinance establishing the City of Temple, Texas Utility System Revenue Financing Program related to the issuance of \$15,425,000* City of Temple, Texas Utility System Revenue Bonds, Series 2008 and the establishment of procedures for selling and delivering the bonds, to be considered on an emergency basis.**

Traci Barnard, Director of Finance, presented items 4, 5, and 6 to the City Council. She stated this is a different approach to issuing bonds for the City. Staff is seeking authorization to proceed with the issuance next Tuesday, July 8th, within certain parameters. Mrs. Barnard reviewed each of the bond issues and the projects to be funded with the proceeds, as well as the associated issuance costs. She also explained the source of repayment for the bonds.

Dan Wegmiller, First Southwest Company, the City's financial advisor, reviewed the City's bond ratings. Moody's affirmed the City's Aa3 bond rating for the General Obligation Bonds and the Certificates of Obligation, and an A1 rating for the Utility System Revenue Bonds. Standard & Poor's increased the City's rating to a AA for the Certificates of Obligation and General Obligation Bonds and upgraded the Utility Revenue Bonds to AA from AA-. Mr. Wegmiller read several favorable comments presented in these rating documents regarding the City's financial strength.

Mr. Wegmiller continued with an explanation of the Delegation Ordinance, which delegates the parameters by which the debt can be sold. This allows pricing on a future date. Traci Barnard and David Blackburn will be delegated the authority to accept the pricing next Tuesday, July 8th, and sign the pricing certificates and purchase agreements.

Carol Polumbo, McCall, Parkhurt and Horton, LLP, bond counsel for the City, addressed the Council. She explained the delegation parameters in each of the

separate bond issuance ordinances, as well as the other requirements set forth in the documents.

Mayor Jones declared the public hearing open with regard to agenda items 4, 5, and 6 and asked if anyone wished to address these items. There being no comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinances in items 4, 5 and 6 on first and final reading, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

V. CONSENT AGENDA

- 7. Consider adopting a resolution approving the Consent Agenda items and the appropriate resolutions for each of the following:**

(A) June 19, 2008 Special Called Meeting and Regular Meeting

(B) 2008-5438-R: Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC, of Temple for engineering services including design, surveying, construction administration, and site observation required for the 27th Street Waterline Improvements Project in an amount not to exceed \$160,933.34 and declaring an official intent to reimburse this expenditure made prior to the issuance of tax-exempt obligations for this project.

(C) 2008-5439-R: Consider adopting a resolution authorizing an out of scope contract with CH2MHill/OMI of Englewood, Colorado for replacement of the belt press feed pump #1 in the not to exceed amount of \$54,496.46.

(D) 2008-5440-R: Consider adopting a resolution granting a street use license for a 3.8 foot encroachment of an existing house in a 15' foot wide utility easement along the west property line for Lot 5, Block 1, Carriage House Village.

(E) 2008-5441-R: Consider adopting a resolution granting a street use license for a 2.7 foot encroachment of an existing house in a 15' foot wide utility easement along the east property line for Lot 1, Block 3, and Canyon Ridge Phase 1.

(F) 2008-4232: SECOND READING - Consider adopting an ordinance abandoning the following street rights-of-way for the proposed Westfield Phase V (2 commercial lots on the west side of the future Outer Loop and on both sides of the future Stone Hollow Drive); for the following rights of way:

1. A 0.282 acre portion of Old Hilliard Road, (Nancy Chance Survey, Abstract # 5), and
2. A 0.766 acre portion of Old Hilliard Road, (Nancy Chance Survey, Abstract # 5). Total: 1.048 acres

(G) 2008-5442-R: Consider adopting a resolution authorizing the Texas Department of Transportation, Aviation Division, on the City of Temple's behalf, to enter into eminent domain proceedings for the purpose of acquiring real estate to comply with applicable runway surface protection requirements for a runway extension at the Draughon-Miller Central Texas Regional Airport.

(H) 2008-5443-R: Consider adopting a resolution authorizing the acceptance of a Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant, to assist with airfield crack filling and runway/taxiway pavement markings at the Draughon-Miller Central Texas Regional Airport in the amount of \$100,000, with a City match of \$50,000.

(I) 2008-5444-R: Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2008-2009 budget for August 7, 2008 and August 28, 2008 at 5:00 p.m. in the City Council Chambers.

(J) 2008-5445-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

Motion by Councilmember Marty Janczak to adopt resolution approving Consent Agenda items, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

VI. REGULAR AGENDA

ORDINANCES

8. **2008-4231: FIRST READING - PUBLIC HEARING - Consider adopting an amendment to Ordinance 2005-4006 abandoning the following street rights-of-way for the First United Methodist Church; and retaining blanket utility easements for the abandoned rights-of-way to protect existing utilities:**

(A) A portion of North 2nd Street, near its intersection with Calhoun Avenue (Original Town - Volume 36, Page 640 and Moore's First Addition - Volume 115, Page 416), and

(B) A portion of East Barton Avenue, south of Main Street, and north of the portion previously abandoned (Original Town - Volume 36, Page 640 and

Moore's First Addition - Volume 115, Page 416).

Tim Dolan, Planning Director, presented this item to the Council. He explained this is the continuation of a request that came before the Council in 2005 and displayed maps of the areas to be abandoned. The existing water and sewer lines will remain in the easements but can be accessed by the utility companies. Mr. Dolan also noted the Church provides extra parking for Centrovision.

Mayor Jones declared the public hearing open with regard to agenda item 8 and asked if anyone wished to address this item.

Christina McNeil, 2701 Valley Forge, stated this item came up several years ago. There are 49 other churches that might want to have their streets closed if this action is approved. The access to the north from Adams would be limited. This could also present a problem with the anticipated growth in downtown Temple and she asked the Council to disapprove the request.

There being no further comments, Mayor Jones closed the public hearing.

Motion by Councilmember Russell Schneider to adopt ordinance, with second reading set for July 17, 2008, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

9. 2008-4236: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance repealing and replacing Chapter 13, "Flood Damage Prevention," of the City Code of Ordinances to be consistent with updated language complying with Federal Emergency Management Agency requirements and City of Temple Drainage Criteria.

Michael Newman, Assistant Director of Public Works/City Engineer, presented this item to the Council. He reviewed some of the definitions contained in the ordinance and provided some history regarding the City's previous flood damage prevention efforts. He also explained the process by which the updated flood maps will be adopted and implemented. Mr. Newman reviewed the Temple rainfall history since 1921, noting significant events. The benefits to the community of participating in the National Flood Insurance Program were discussed, as well as the penalties for non-compliance. In summary, Mr. Newman outlined the major changes to the current ordinance as required by FEMA.

Mayor Jones declared the public hearing open with regard to agenda item 9 and asked if anyone wished to address this item.

Troy Glasson, Temple Area Builders Association, affirmed their organization's support of the proposed ordinance.

Mr. Travis Brett, 1002 East Shell Avenue, addressed the Council. He asked what authorization was in place to allow continued building in the Industrial Park and other locations which contributes to the erosion of his property, from about 8 feet to 50 feet, along Williamson Creek. The flooding is worse now that the rock has been placed along the creek channel.

There being no further comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading set for July 17, 2008, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

10. 2008-4237: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance renaming a portion of the planned Outer Loop (new portion of Old Howard Road and the portion from McLane Parkway through the Bioscience Park to FM 2305) as Research Parkway.

Tim Dolan, Planning Director, presented this item to the Council. He stated if this item is approved, it will become effective 30 days from the date of the second reading. Mr. Dolan showed a map of the roadway to be renamed. The Reinvestment Zone No. 1 Board of Directors approved the recommendation for the street name change, which was requested by the Temple Economic Development Corporation.

Mayor Jones declared the public hearing open with regard to agenda item 10 and asked if anyone wished to address this item.

Loretta Grisham, 2415 Old Howard Road, stated she has lived on this road her entire life. Old Howard Road has undergone a lot of changes over the past few years. She noted the work that has been done, as well as those things that are still lacking. She felt the name should continue to remain Old Howard Road because of the historical significance. All of the property owners affected by this name change should have been notified.

There being no further comments, Mayor Jones closed the public hearing.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading set for July 17, 2008, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

RESOLUTIONS

11. 2008-5446-R: Consider adopting a resolution authorizing a construction contract with James Construction Group, LLC, of Belton for construction

activities required to build the Industrial Rail Spur Phases 1 & 2 between Northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$9,140,115 and declaring an official intent to reimburse the portion of this contract related to Phase I of the construction of the Industrial Rail Spur funded with Certificates of Obligation bonds in the amount not to exceed \$1,890,000 prior to the issuance of tax-exempt obligations designated for that portion of the project. .

Mayor Jones indicated he would abstain from the discussion or voting on this item due to a potential conflict of interest.

Mayor Pro Tem Luna introduced this item to the City Council for consideration.

Michael Newman, Assistant Director of Public Works/City Engineer, presented this item to the City Council. He noted the various components of this project, which are a significant part of the Gulf States Toyota agreement. Add alternate A is being recommended for approval, as well as the base bid, for a total contract of \$9,554,955.

Motion by Councilmember Marty Janczak to adopt resolution, seconded by Councilmember Russell Schneider.

Mayor William A. Jones, III abstained. The other Councilmembers voted aye. The motion passed.

- 12. 2008-5447-R: Consider adopting a resolution authorizing a construction contract with Ranger Excavating, LP, of Austin for construction activities required to build the Rail Park Detention Pond and Underground Stormwater Conveyance system between Northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$3,201,991.**

Michael Newman, Assistant Director of Public Works/City Engineer, presented this item to the Council. This detention pond will also serve the Gulf States Toyota 300-acre site. He reviewed the components of this project. Gulf States will pay 50% of the construction costs associated with the underground stormwater conveyance improvements.

Motion by Councilmember Marty Janczak to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

Councilmember Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

- 13. 2008-5448-R: Consider adopting a resolution appointing one member to the Airport Advisory Board to fill an unexpired term through September 1, 2008.**

Motion by Mayor Pro Tem Patsy E. Luna to table item 13 until other August board appointments are considered, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing:

1. A *General Conveyance, Transfer and Assignment Agreement* between RDM Commerce, Inc., and McLane Company, Inc., authorizing the transfer of Buildings #19 and #23 at the Draughon Miller Central Texas Regional Airport.
2. An amendment to the lease agreement between the City of Temple and RDM Commerce, Inc., providing for the transfer of Building #19 to McLane Company, Inc.
3. An amendment to the lease agreement between the City of Temple and McLane Company, Inc., providing for the transfer of Building #23 to RDM Commerce, Inc.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City of Temple currently has a lease with McLane Company, Inc., for lease of Buildings #21, #22, & #23 (expires on December 31, 2014), and also a lease with RDM Commerce, Inc., for lease of Building #19 (expires on May 17, 2014) at the Airport. RDM & McLane have requested the City approve a *General Conveyance, Transfer and Assignment Agreement* authorizing the transfers of Building #19 from RDM to McLane Company and Building #23 from McLane Company to RDM. The Staff recommends approving the transfer agreement and the lease amendments to reflect the changes to the buildings each company is leasing.

FISCAL IMPACT: RDM Commerce, Inc., leases approximately 3,600 square feet @ \$.07 cents per square foot for a total of \$252 monthly. McLane Company leases approximately 2,900 square feet @ \$.07 cents per square foot for a total of \$203 monthly. After the leases are transferred each company will continue to pay the rental fee previously paid by the original lessee.

ATTACHMENTS:

Resolutions- to be provided



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing a purchase agreement for water treatment plant chemicals with Chameleon Industries, Inc of Mesquite in the estimated amount of \$88,320.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On September 15, 2005, Council authorized an annual purchase agreement with Chameleon Industries, Inc. of Mesquite, Texas, for the purchase of liquid aluminum sulfate, copper sulfate and a water treatment grade polymer for potable water at a price of \$.0695 per pound. On September 21, 2006, and September 6, 2007, Council authorized two one-year extensions to the purchase agreement.

On June 16, 2008, the City received notification from Chameleon that due to extraordinary price increases of acid and polymer, Chameleon was not going to be able to uphold their annual contract prices for alum and polymer and that starting July 1, 2008, the City's price would be increased as follows:

Alum and Copper without Polymer (used in the Membrane plant)	-	\$.09 per pound
Alum and Polymer with 2% Copper (used in the Conventional plant)	-	\$.11 per pound

These chemicals are critical to the operation of the water treatment plants, especially during the summer months. If chemicals were to become unavailable, water would not be able to be treated at the plants and the distribution of water would stop. As a result, there is a health and safety issue related to this particular item and there are a very limited number of suppliers who are capable and able to deliver the chemicals to our water treatment plants.

Staff has contacted the two other known distributors of these chemicals and received the following price quotes:

<u>Products</u>	<u>Altivia Corp</u>	<u>Gen Chemical Performance</u>
Alum and Copper without Polymer	\$.102 per lb	\$.1060 per lb
Alum and Polymer with 2% Copper	\$.117 per lb	not available

Based on these quotes, staff concluded that Chameleon's price adjustments are reasonable.

It is estimated that approximately 248,000 pounds of the alum and copper without polymer and 600,000 pounds of the alum and polymer with 2% copper will be needed for the remaining three months of FY 2008. The annual contract terminated by Chameleon did not allow for any price fluctuations. However, in consideration of the health and safety issues that could result by not having a reliable vendor to procure these chemicals from and the limited vendors who supply these particular chemicals, it is staff's recommendation that Council authorize a three-month contract with Chameleon for the purchase of the alum chemicals at the prices stated above without going through a competitive bidding process. The Local Government Code Section 252.022(2) allows for an exemption to the competitive bidding process for expenditure necessary to preserve or protect the public health or safety of the municipality's residents, which staff believes this purchase falls under.

FISCAL IMPACT: Based on the estimated 248,000 pounds of the alum and copper without polymer and 600,000 pounds of the alum and polymer with 2% copper needed for the remaining three months of FY 2008, approximately \$88,320 will be expended for the alum chemical through the end of FY 2008. The \$88,320 represents a \$29,384 increase over the previous contracted prices. Funding for this incremental increase is available in account #520-5100-535-2118.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PURCHASE AGREEMENT FOR WATER TREATMENT PLANT CHEMICALS WITH CHAMELEON INDUSTRIES, INC., OF MESQUITE, TEXAS, IN THE ESTIMATED AMOUNT OF \$88,320; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 16, 2008, the City received notification from Chameleon that due to extraordinary price increases of acid and polymer, Chameleon was not going to be able to uphold their annual contract prices for alum and polymer and that starting July 1, 2008, the City's price would be increased as follows: Alum and Copper without Polymer (used in the Membrane plant) \$.09 per pound, and Alum and Polymer with 2% Copper (used in the Conventional plant) \$.11 per pound;

Whereas, the staff checked the chemical prices with 2 other companies and determined that the price increases are reasonable;

Whereas, purchase of the chemicals is necessary to preserve or protect public health and safety, and staff recommends approving a purchase agreement for these chemicals, for a cost not to exceed \$88,320;

Whereas, funds are available for this project but an amendment to the FY2007-2008 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council authorizes a purchase agreement for water treatment plant chemicals with Chameleon Industries, Inc., of Mesquite, Texas, for a cost not to exceed \$88,320, at the following prices: Alum and Copper without Polymer (used in the Membrane plant) \$.09 per pound, and Alum and Polymer with 2% Copper (used in the Conventional plant) \$.11 per pound.

Part 2: The City Council approves an amendment to the FY2007-2008 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, P.E., Director of Public Works

Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing the emergency purchase of five portable ultrasonic transit time flow meters for the water distribution system with Instruments Direct, Inc of Woodstock, Georgia, in the amount of \$32,550.

STAFF RECOMMENDATION: Adopt resolution as presented in the item description.

ITEM SUMMARY: During late June 2008, the water distribution system began to see increased water usage, especially in the West Temple area. City staff began to diagnose the problem, looking for water leaks and reviewing system events to determine if any recent changes related to ongoing capital improvement projects or day to day procedures had contributed to the problem. No discernable reason could be positively identified as being the cause of the reduced flows to the area other than water consumption in the West Temple area being at unprecedented high levels.

Operational staff made some system modifications to alleviate the immediate problem. In addition, staff arranged for American Leak Control to visit the area on July 7 to determine if any leaks could be found on the new 14" waterline from the FM 2305 Pump Station to the Pepper Creek Tank. No identifiable leaks were found.

While the immediate problem appears to have been corrected, Public Works staff is still concerned about flows to the West Temple area and the possibility of similar problems arising again this summer that could create issues with fire protection in West Temple or other parts of the City. The best way to identify a problem and quickly formulate a solution is to be able to use portable ultrasonic transit time flow meters placed in key locations to monitor the flow of water through the area of concern. In this manner, areas of high usage can quickly be identified and the problem addressed. The City currently does not have devices to assist with this analysis and the lead-time to acquire such meters is a minimum of one week.

Public Works staff researched different flow monitoring design options and identified only one manufacturer of battery-powered meters that would fulfill the needs of the City, Instruments Direct, Inc. Staff then concluded that due to unprecedented water consumption levels in West Temple, for public health and safety reasons, these meters needed to be acquired immediately instead of taking

the risk of another crisis situation. Accordingly, staff has placed an order for the purchase of the necessary five flow meters on July 10, 2008.

FISCAL IMPACT: Funding for the purchase of these flow meters is available in the Water Department Contingency account #520-5200-535-6532 (\$31,335) and savings in the Water Department Automotive account #520-5200-535-6213 (\$1,215). A budget amendment is presented for Council approval re-appropriating these funds to the Water Department Special Instruments account #520-5200-535-6211, Project #100396.

ATTACHMENTS:

[Budget Amendment
Resolution](#)

FY **2008****BUDGET ADJUSTMENT FORM**

Use this form to make adjustments to your budget. All adjustments must balance within a Department.

Adjustments should be rounded to the nearest \$1.

+

-

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
520-5200-535-62-11	100396	Special Instruments	\$ 32,550	
520-5200-535-62-13	100060	Automotive		330
520-5200-535-62-13	100308	Automotive		885
520-5200-535-65-32		Water Department Contingency		31,335
TOTAL.....			\$ 32,550	\$ 32,550

EXPLANATION OF ADJUSTMENT REQUEST- Include justification for increases AND reason why funds in decreased account are available.

To fund the purchase of five portable ultrasonic transit time flow meters for the Water Department. Funds are available in the operating budget of the water department for this purchase.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

7/17/2008

WITH AGENDA ITEM?

☒ Yes☐ No

Department Head/Division Director

Date

☐ Approved
☐ Disapproved

Finance

Date

☐ Approved
☐ Disapproved

City Manager

Date

☐ Approved
☐ Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE EMERGENCY PURCHASE OF 5 PORTABLE ULTRASONIC TRANSIT FLOW METERS FOR THE WATER DISTRIBUTION SYSTEM FROM INSTRUMENTS DIRECT, INC., OF WOODSTOCK, GEORGIA, FOR A COST NOT TO EXCEED \$32,550; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Public Works staff recommends purchasing 5 portable ultrasonic transit flow meters for the water distribution system due to the possibility of reduced water flows in the West Temple area;

Whereas, so that fire protection in the West Temple area, as well as other parts of the City, will not be compromised, staff feels that purchasing portable ultrasonic transit time flow meters and placing them in key locations to monitor the flow of water through an area of concern, is necessary for public health and safety reasons;

Whereas, after researching different flow monitoring design options and identifying only one manufacturer of battery-powered meters that will fulfill the needs of the City, staff recommends purchasing the meters from Instrument Direct, Inc., of Woodstock, Georgia, in the amount of \$32,550;

Whereas, funds are available for this purchase but an amendment to the FY2007-2008 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council authorizes the emergency purchase of 5 portable ultrasonic transit time flow meters for the water distribution system from Instruments Direct, Inc., of Woodstock, Georgia, in the amount of \$32,550.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

Part 3: The City Council approves an amendment to the FY2007-2008 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

Part 4: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing an annual purchase agreement for the purchase of bunker gear for structural firefighting with Metro Fire Apparatus Inc. of Houston at \$1,509.00 per set.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On June 17, 2008, the City received one (1) bid for bunker gear for structural firefighting. The bid is shown on the attached tabulation sheet.

The Fire Department will purchase approximately five (5) sets this fiscal year and anticipates purchasing approximately fifteen (15) sets next fiscal year if budget allows. The bid continues through September 2009 with firm pricing throughout the contract period.

The initial order under this proposed agreement will not exceed \$25,000; however, fourteen (14) sets of bunker gear have already been purchased this fiscal year at a cost of \$20,046.70. Thus, the proposed purchase of the five (5) additional sets will take the annual purchase over \$25,000.

The City has done business with Metro Fire Apparatus Inc. in the past and finds them to be a responsible vendor.

FISCAL IMPACT: FY 2008 funding in the amount of \$76,530 has been budgeted in account 110-2200-522-2113, Fire Department Clothing & Uniforms. To date \$58,406.65 has been expended of this budget leaving available funds of \$18,123.35. After the proposed purchase under this agreement for five (5) additional sets of bunker gear in FY 2008 in the amount of \$7,545 there will be a balance of \$10,578.35 in the clothing & uniform budget line item account.

ATTACHMENTS:

[Bid Tabulation](#)
[Resolution](#)

Tabulation of Bids Received
on June 17, 2008 at 2:00 p.m.
Bunker Gear for Structural Firefighting

		Bidders	
		Metro Fire Apparatus Inc. Houston, Texas	
Description	Qty	Unit Price	Total Price
Bunker Gear	20	\$1,509.00	\$30,180.00
Delivery within 90 days?		Yes	
Local Preference?		No	
Exceptions?		No	
Credit Check Authorization		Yes	

I hereby certify that this is a correct and true tabulation of all bids received.

*Note: Highlighted bid is recommended
for Council approval.*

Belinda Mattke

Belinda Mattke, Director of Purchasing

17-Jun-08

Date

Vendors who picked up the Invitation to Bid:

Bacou-Dalloz Protective Apparel, LLC, Grand Junction, CO
Dooley Tackaberry, Deer Park, TX
Metro Fire Appartus, Inc., Houston, TX
Prime Vendor Inc., planroom in NC

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING AN ANNUAL PURCHASE AGREEMENT FOR THE PURCHASE
OF BUNKER GEAR FOR STRUCTURAL FIREFIGHTING WITH METRO FIRE
APPARATUS, INC., OF HOUSTON, TEXAS, AT A COST OF \$1,509 PER SET;
AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 17, 2008, the City received one bid for bunker gear for structural firefighting;

Whereas, the staff recommends accepting the bid received from Metro Fire Apparatus, Inc., of Houston, Texas, at a cost of \$1,509 per set of bunker gear;

Whereas, funds are available in Account No. 110-2200-522-2113 for this expenditure; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council authorizes an annual purchase agreement for the purchase of bunker gear for structural firefighting with Metro Fire Apparatus, Inc., of Houston, Texas, at a cost of \$1,509 per set of bunker gear.

Part 2: The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for this purchase.

Part 3: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 17th day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Bruce A. Butscher, P.E., Director of Public Works
Nicole Torralva, P.E., Assistant Director of Public Works / Operations

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Sanitary Sewer Overflow Initiative Agreement with the Texas Commission on Environmental Quality (TCEQ).

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Over the past several years, the City of Temple has been cited by the Texas Commission on Environmental Quality (TCEQ) for failure to ensure that all municipal systems of wastewater collection, treatment, and disposal are properly operated and maintained. An original Summary Investigation Finding prepared by the TCEQ on August 3, 2004, required development of a plan and schedule for mitigating the effects of storm water and groundwater Inflow and Infiltration (I&I) on the wastewater collection system. Since the original finding was issued in 2004, several attempts were made by previous city staff members to prepare a corrective action plan for addressing sanitary sewer overflows (SSO's) as required by state law.

During the fall of 2006, the Public Works Department began taking proactive steps toward working with the TCEQ to avoid potential violations and fines resulting from sanitary sewer overflows. An updated plan was drafted for inclusion into a voluntary sanitary sewer overflow initiative program established by the TCEQ. Under this program, the City of Temple may submit an SSO Program to the state establishing specific projects, timelines, and resources needed to reduce overflows and reduce the threat to human health and safety. The activities identified are coordinated over a 10-year period, resulting in decreases of unauthorized discharges and improving the overall quality of the natural and urbanized environments.

In March, 2007, this updated Sanitary Sewer Overflow Outreach Program document was presented to Council for review. Upon approval by Council, the document was submitted to the TCEQ. In March, 2008, the document was approved by the TCEQ and an agreement was drafted between the State of Texas and the City of Temple for execution. City staff reviewed the agreement and found that the plan goals and project timelines had shifted during the year the document was under review by the State. As a result, City staff has amended the original submission and resubmitted the plan to TCEQ, with updated projects and timelines established in accordance with current capital improvement projects.

Specific projects identified in the program include the completion of current sanitary sewer projects under design and construction and identified capital improvement projects currently funded under the bond program. Additionally, new rehabilitation projects are also included to be identified in the upcoming wastewater master plan and programmed into future revenue bond sales. According to the agreement, within 90 days of the effective date of the agreement and on an annual basis thereafter, the City shall submit a progress report to the Commission including information regarding actions taken by the City toward completion of the Provisions in this Agreement. This will be accomplished each fall with a report prepared to the TCEQ outlining which projects will be completed each year as the fiscal year begins, and as documented by the adopted budget. Acceptance into this voluntary TCEQ program will allow the City of Temple to avoid potential fines and exhibit to the state its desire to meet State and federal regulations regarding protecting the public health and welfare. This executed agreement will be in effect until December 31, 2017.

FISCAL IMPACT: The City of Temple will fund proposed projects through three sources. Water and Sewer Revenue Bonds were sold during the fall of 2006 to pay for immediate system improvements. In addition, revenue bonds sold earlier this month will also fund already identified projects for both the water and sewer system. The Wastewater Master Plan will propose project funding and timing for additional projects in both the water and sewer areas. Specific projects, timelines, and funding necessary for rehabilitation of the system will be further identified in the Master Plan. Refinement of these specific projects will be prioritized through the Master Planning process. Future cost of service/rate analysis will need to establish rates to meet the revenue requirements to complete the projects identified in the 'program'.

ATTACHMENTS:

[TCEQ Agreement & Maps](#)

[Executive Summary of Program](#)

(Full version of the City of Temple Sanitary Sewer Overflow Outreach Program, dated May 14, 2008 – available in City Secretary's Office)

[Resolution](#)

Buddy Garcia, *Chairman*
Larry R. Soward, *Commissioner*
Bryan W. Shaw, Ph.D., *Commissioner*
Glenn Shankle, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 20, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED 91 7108 2133 3935 1943 5511

The Honorable William A. Jones, III
Mayor of Temple
2 North Main Street
Temple, Texas 76501

Re: Sanitary Sewer Overflow ("SSO") Initiative
City of Temple, Bell County
RN105135636
Enforcement Case No. 35256

Dear Mayor Jones:

Please find enclosed a revised Agreement based on an amended SSO plan submitted by Ms. Nicole Torralva on May 14, 2008. Please review the Agreement, affix your signature and the date, and return it to this office by **July 31, 2008**. A copy of the Agreement is provided for your files. Also, enclosed for your convenience is a return envelope.

If you observe any inaccuracies in the document, please contact us immediately so that an amended Agreement can be considered within the 30-day deadline. If you have any questions, please contact Ms. Lynley Doyen of my staff at 512-239-1364.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan Johnson" followed by a flourish.

Susan Johnson, Manager
Enforcement Division

SJ/LD

Enclosures: Agreement with Attachments, File Copy, Return Envelope

cc: Mr. Frank Burleson, Manager, Water Section, Waco Regional Office, TCEQ
Bruce A. Butscher, P.E., Director of Public Works, City of Temple, 3210 East Avenue H, Suite 130, Temple, Texas 76501
Nicole Torralva, P.E., Assistant City Engineer, City of Temple, 2 North Main Street, Temple, Texas 76501

RECEIVED

JUN 30 2008

City of Temple Engineering Dept.

Texas Commission on Environmental Quality

AGREEMENT

CITY OF TEMPLE

RN105135636

Enforcement Case No. 35256

Bell County, Texas

The Texas Commission on Environmental Quality ("Commission" or "TCEQ") is the state agency charged with enforcing TEX. WATER CODE ch. 26 (the "Code") and the regulations promulgated pursuant to the Code.

The City of Temple ("the City") owns and operates a wastewater collection system comprised of six drainage basins serving the Brazos River Authority Temple-Belton Regional Sewerage System ("T-BRSS") and the Doshier Farms Wastewater Treatment Plant ("Doshier Farms WWTP") located in Bell County, Texas (collectively referred to as the "System").

The City has reported 135 unauthorized discharges during the period between January 2005 and December 2006. The majority of these discharges were due to grease and root blockages and infiltration/inflow ("I/I") within the T-BRSS drainage basin and power outages and I/I within the Doshier Farms WWTP drainage basin. The City will be required to rehabilitate the System to insure a reduction of risk to the public health and the environment and to comply with Commission requirements.

PROVISIONS

In response to these deficiencies and in an effort to eliminate the potential threat to public health, the City and the Commission have entered into an Agreement. This Agreement formalizes the commitments made by the City in its letter to the TCEQ on May 14, 2008 (see Attachment A) and incorporates Phase I of the City's proposed 10-year plan to rehabilitate the System. The provisions of this Agreement are as follows:

1. The Executive Director recognizes that the City has completed the following projects:
 - a. Replaced approximately 6,850 linear feet of old, deteriorated clay lines, as identified on Page 7 of Attachment A;
 - b. During Fiscal Years 2007 and 2008, added an additional crew to the Utility Services Division with the sole purpose of replacing deteriorated wastewater lines and a goal of completing a minimum of three wastewater projects per year. By January 2008, the crew had completed a total of four projects with a total of 4,100 linear feet replaced; and
 - c. By December 31, 2007, completed two emergency projects totaling 2,400 linear feet as a result of immediate failing infrastructure issues.
2. Immediately upon the effective date of this Agreement, the City shall begin cleaning approximately 270,000 linear feet per year of the System.

3. Immediately upon the effective date of this Agreement, the City shall begin inspecting approximately 70,000 linear feet per year of the System using closed-circuit television.
4. Immediately upon the effective date of this Agreement, the City shall begin replacing approximately 10,000 linear feet per year of the System.
5. Immediately upon the effective date of this Agreement, the City shall begin implementing Phases II and III on Page 13 of Attachment A, pertaining to new capital improvement program rehabilitation projects and in-house operational budget rehabilitation projects. The City shall provide projects that have been identified under Phases II and III, in accordance with Provision No. 14 below.
6. By June 30, 2008, the City shall replace approximately 3,500 linear feet on North 19th Street to 21st Street, North 23rd Street from Adams Avenue to the dead end.
7. By August 31, 2008, the City shall prepare and continue to regularly update a comprehensive Water and Wastewater Master Plan (the "Plan") that will identify both System expansion projects to target new land development growth and existing rehabilitation projects. In addition, the Plan may recommend future studies of the System to include I/I studies, System flow monitoring, and capacity, management, operation, and maintenance ("CMOM") recommendations.
8. By September 31, 2008, the City shall replace approximately 500 linear feet on East Avenue B & 14th Street.
9. December 31, 2008, the City shall complete the wastewater line replacement projects identified under "FY 2007-2008 Projects" on Page 12 of Attachment A.
10. By December 31, 2008, the City shall develop and implement a plan to actively monitor known problem areas and rapidly address unauthorized discharges from the System. The City shall provide the plan, including any public education activities, response tracking log, or other actions completed under the plan, in accordance with Provision No. 14 below.
11. By December 31, 2008, the City shall complete a preliminary engineering study of the City's primary basin, as described on Page 8 of Attachment A, from which specific projects will be identified (collectively referred to as the Bird Creek Interceptor Project). The City shall submit information regarding the progress of items identified in the Bird Creek Interceptor Project, in accordance with Provision No. 14 below.
12. By June 30, 2009, the City shall relocate approximately 2,100 of deteriorating clay tile lines from beneath a Texas Department of Transportation roadway near East Adams Street, eliminating an aerial crossing and upsizing of the System.
13. The City shall evaluate the effectiveness of its corrective actions by:
 - a. Implementing a reporting and tracking system to document each sanitary sewer overflow ("SSO"), including complaints, confirmed SSOs, and associated repairs. This information shall be mapped and evaluated geographically, as well as updated and reviewed on a monthly basis by the Engineering Department to determine the

effectiveness of ongoing preventative maintenance tasks and wastewater rehabilitation projects. This information shall also be used to assist in the identification of future rehabilitation projects in basins where SSOs occur most frequently; and

- b. Monitoring flows in the System and at the wastewater treatment plants during and after significant rainfall events. The City shall dispatch crews during significant storm events to open manhole lids on trunk mains to evaluate the repairs completed and effectiveness of the projects. The City shall use historically rainfall and flow data to compare flows before and after repair and rehabilitation of lines in the System.
14. Within 90 days of the effective date of this Agreement, and on an annual basis thereafter, the City shall submit a progress report to the Commission. These reports shall include information regarding actions taken by the City towards completion of the Provisions in this Agreement.
15. By December 31, 2017, the City shall submit a written Final Report that contains the following:
 - a. A summary of all corrective actions that have been completed in accordance with the Provisions in this Agreement;
 - b. A summary of all Provisions in this Agreement that were not completed, including reasons why specific corrective actions were delayed; and
 - c. A description of the overall improvement the corrective actions had on the System.
16. The Executive Director may grant an extension to any provisions of this Agreement upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the TCEQ. Extensions are not effective until the City receives written approval from the TCEQ. The determination of what constitutes good cause rests solely with the TCEQ.
17. The City shall submit copies of all correspondence, reports, and documentation required by Provision Nos. 1 through 16 to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

In return for the City's agreement and adherence to these terms, the Commission will withhold further enforcement actions related to the noted deficiencies. Should unforeseen circumstances indicate a need to alter the above mentioned schedule, the City must immediately notify the Commission so that an amendment can be discussed.

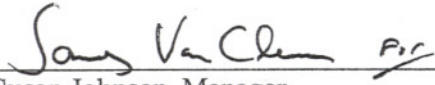
The effective date of this Agreement is the signature date of the City's authorized representative. Acceptance of the terms of this Agreement is indicated by the signature below.

Authorized representative of
the City of Temple

Date

Printed name of authorized representative
for the City of Temple

Title



Susan Johnson, Manager
Water Enforcement Section, Enforcement Division

6-18-08

Date

Instructions: Send this signed, original Agreement to Lynley Doyen, Enforcement Division, MC 169, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087

LEGEND:

- EXISTING TRUNK SEWER AND MANHOLE
- EXISTING LIFT STATION
- PROPOSED PHASE I TRUNK SEWER
- PROPOSED PHASE I FORCE MAIN & LIFT STATION
- PROPOSED PHASE II TRUNK SEWER
- PROPOSED PHASE II FORCE MAIN & LIFT STATION
- (TBA)

DRAINAGE BASINS

- LEON RIVER
- PEPPER'S CREEK
- BIRD CREEK
- FRIARS CREEK
- KNOB CREEK
- LITTLE ELM

TRUNK SEWERS:

B-1	Boggy Creek Trunk	NMO-1	North Meadows Oak Trunk
BC-1	Bird Creek Trunk	OH-1	Oak Hills Trunk
E-1	1994 Existing System	PC-1	Pepper Creek Trunk
EA-1	East Airport Trunk	PR-1	Pea Ridge Trunk
F-1	Friars Creek Trunk	R-1	Ridgewood Trunk
FH-1	Forest Hills Trunk	S-1	South Trunk
H-1	Howard Trunk	SE-1	Southeast Trunk
HB-1	Harrick Bluff Trunk	SMO-1	South Meadows Oak Trunk
KC-1	Knob Creek Trunk	TV-1	Taylor's Valley Trunk
LA-1	Lavedusky Trunk	WA-1	West Airport Trunk
L-1	Leon River Trunk	WC-1	Williamson Creek Trunk
LE-1	Little Elm Trunk	WS-1	West Side Trunk
LR-1	Little River Trunk		

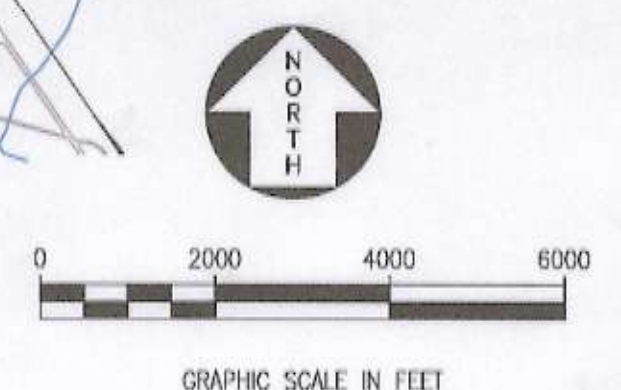


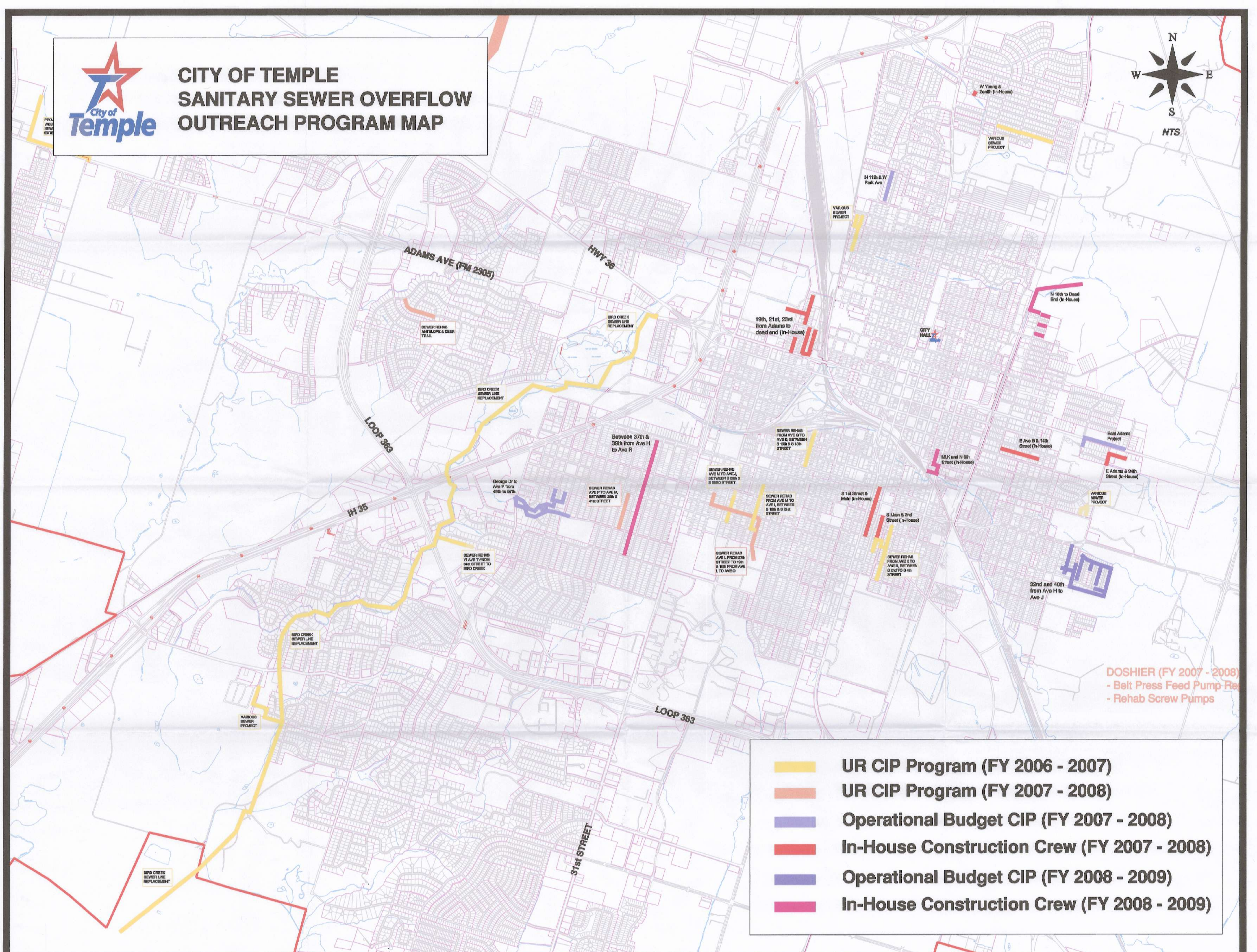
2000 WASTEWATER MASTER PLAN (UPDATED 4-20-2006)

Temple-Belton Regional
Sewerage System (T-BRSS)
Treatment Plant

General Location
of Future
Treatment Plant

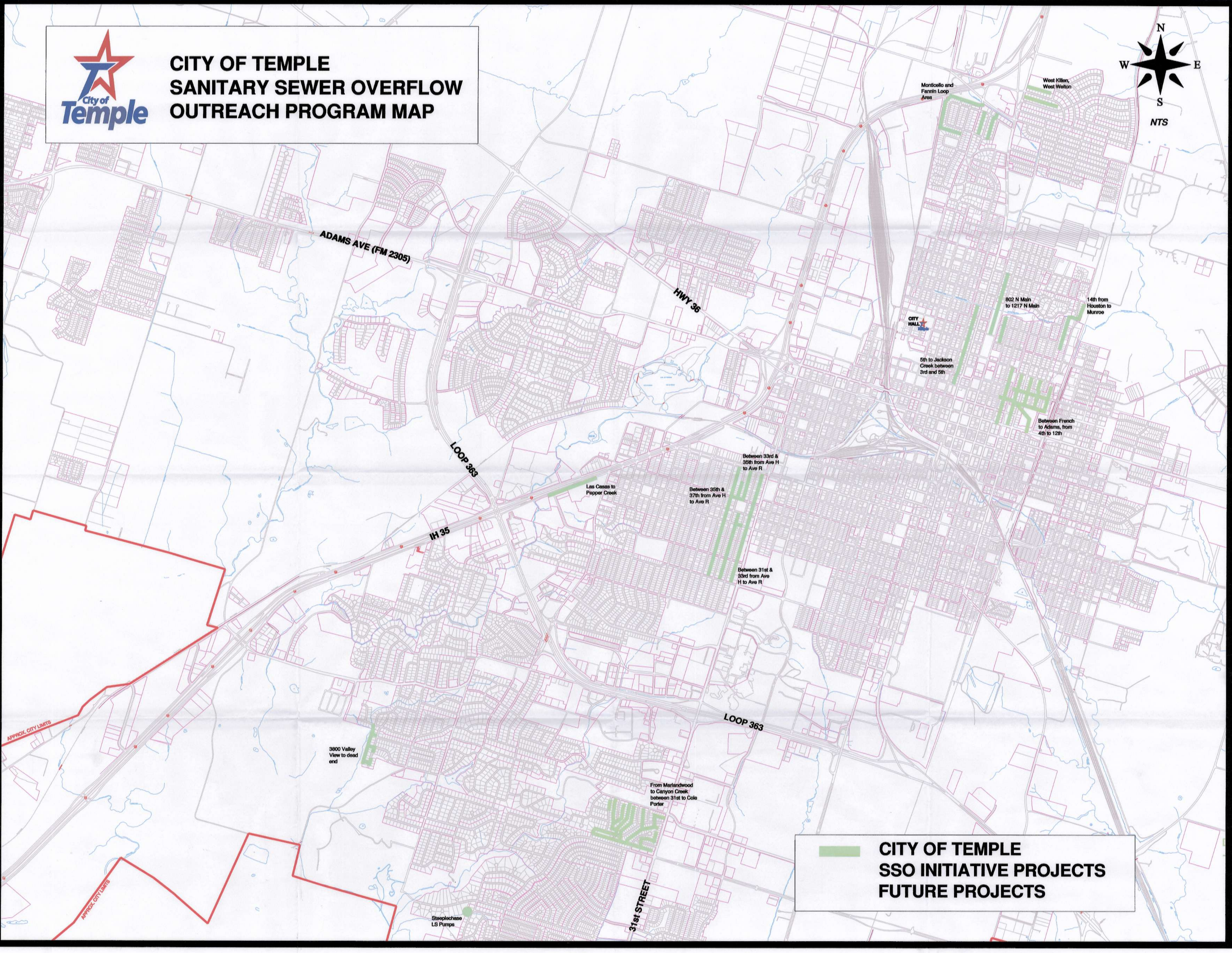
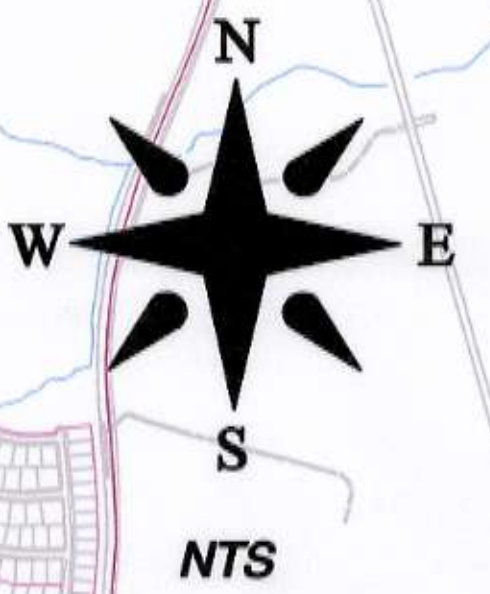
KPA KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76701







CITY OF TEMPLE SANITARY SEWER OVERFLOW OUTREACH PROGRAM MAP



**CITY OF TEMPLE
SSO INITIATIVE PROJECTS
FUTURE PROJECTS**

I. Executive Summary

Over the past several years, the City of Temple has been cited by the Texas Commission on Environmental Quality (TCEQ) for failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. The original Summary Investigation Finding (Investigation #275543) dated August 3, 2004, required development of a plan and schedule for mitigating the effects of Inflow and Infiltration (I&I) on the collection system. This Sanitary Sewer Outreach Program for the City of Temple's Wastewater Collection System will provide a description of the causes of the Sanitary Sewer Overflows (SSO's), a description of the corrective measures to be taken to address the cause of the SSO's, projected time lines and completion dates for the corrective measures, a description of the funding sources for the corrective measures, a description of interim measures taken to mitigate the effect of the SSO's, and a description of a plan to monitor the collection system and receiving waters during and after rainfall events to identify unauthorized discharges and evaluate the threat to human health and safety or the environment. These activities coordinated over a 10-year period will result in decreases of unauthorized discharges and protection of both the public health and safety and enhancement of the overall quality of the natural and urbanized environment.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SANITARY SEWER OVERFLOW INITIATIVE AGREEMENT WITH THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ); AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, over the past several years, the City of Temple has been cited by the Texas Commission on Environmental Quality (TCEQ) for failure to ensure that all municipal systems of wastewater collection, treatment, and disposal are properly operated and maintained;

Whereas, in March, 2008, the TCEQ approved the City's updated Sanitary Sewer Overflow Outreach Program document and an agreement was drafted between the State of Texas and the City of Temple;

Whereas, the staff recommends approving a Sanitary Sewer Overflow Initiative Agreement – according to the agreement, within 90 days of the effective date of the agreement and on an annual basis thereafter, the City shall submit a progress report to the Commission including information regarding actions taken by the City toward completion of the provisions in the Agreement;

Whereas, acceptance into this voluntary TCEQ program will allow the City of Temple to avoid potential fines and exhibit to the State its desire to meet state and federal regulations regarding protecting the public health and welfare; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council authorizes the City Manager, or his designee, to execute a Sanitary Sewer Overflow Initiative Agreement, after approval as to form by the City Attorney, with the Texas Commission on Environmental Quality (TCEQ).

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Brockway, Gersbach, McKinnon and Neimeier, P.C. to perform the annual City of Temple audit for an amount not to exceed \$42,700.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to engage the audit firm of Brockway, Gersbach, McKinnon and Neimeier, P.C. to perform the annual audit of the City of Temple. This will be the fourth year of a five year proposal for audit services.

Staff anticipates the audit will be completed and presented to the Council in February 2009.

Listed below are the cost proposals related to audit services:

First Year	2004-2005	\$38,750
Second Year	2005-2006	40,100
Third Year	2006-2007	41,500
Fourth Year	2007-2008	42,700
Fifth Year	2008-2009	43,900

FISCAL IMPACT: \$42,700 is budgeted in the FY 2008-2009 preliminary budget, to be presented to Council for adoption on August 28, 2008.

ATTACHMENTS:

[Engagement letter](#)
[Resolution](#)



BROCKWAY, GERSBACH, MCKINNON & NIEMEIER, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

July 15, 2008

Honorable Mayor and
Members of the City Council
Temple, Texas

We are pleased to confirm our understanding of the services we are to provide the City of Temple, Texas for the year ended September 30, 2008. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements of the City of Temple, Texas as of and for the year ended September 30, 2008. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to accompany the City of Temple, Texas' basic financial statements. As part of our engagement, we will apply certain limited procedures to City of Temple, Texas' RSI. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis
2. Budgetary Comparison Schedules
3. Schedule of Funding Progress

Supplementary information other than RSI, such as combining and individual fund financial statements, also accompanies City of Temple, Texas' basic financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the basic financial statements and will provide an opinion on it in relation to the basic financial statements:

1. Combining and Individual Fund Statements and Schedules.
2. Schedule of Expenditures of Federal Awards.

The following additional information accompanying the basic financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and for which our auditor's report will disclaim an opinion.

1. Introductory Section
2. Statistical Data

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America and to report on the fairness of the additional information referred to in the first paragraph when considered in relation to the basic financial statements taken as a whole. The objective also includes reporting on—

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with the Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

The reports on internal control and compliance will each include a statement that the report is intended solely for the information and use of management the body of individuals charged with governance, others within the entity, regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include tests of accounting records, a determination of major program(s) in accordance with Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. You are responsible for making all management decisions and performing all management functions relating to the financial statements, schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter that you have reviewed and approved the financial statements, schedule of expenditures of federal awards and related notes prior to their issuance and have accepted responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page three

Management is responsible for establishing and maintaining internal controls, including monitoring ongoing activities; for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, the aggregate discretely presented component units and the aggregate remaining fund information of the City of Temple, Texas and the respective changes in financial position and, where applicable, cash flows in conformity with accounting principles generally accepted in the United States of America; and for federal award program compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us, including identifying significant vendor relationships in which the vendor has the responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud, or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws and regulations, contracts, agreements and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous audits or other engagements or studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits or other engagements or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions.

Audit Procedures—General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page four

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include tests of the physical existence of inventories, and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will also require certain written representations from you about the financial statements and related matters.

Audit Procedures—Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City of Temple, Texas' compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page five

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of the tests of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* for the types of compliance requirements that could have a direct and material effect on each of City of Temple, Texas' major programs. The purpose of those procedures will be to express an opinion on Texas' compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to OMB Circular A-133.

Audit Administration, Fees, and Other

We may from time to time, and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers, but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of the engagement, we will complete the appropriate sections of and sign the Data Collection Form that summarizes our audit findings. We will provide an original of our report to the City; however, it is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and a corrective action plan) along with the Data Collection Form to the designated federal clearinghouse and, if appropriate, to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits. At the conclusion of the engagement, we will provide information to management as to where the reporting packages should be submitted and the number to submit.

The audit documentation for this engagement is the property of Brockway, Gersbach, McKinnon & Niemeier, P. C. and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Brockway, Gersbach, McKinnon & Niemeier, P. C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

Honorable Mayor and
Members of the City Council
Temple, Texas
Page six

The audit documentation for this engagement will be retained for a minimum of five years after the date the auditors' report is issued or for any additional period requested by the City. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party(ies) contesting the audit finding for guidance prior to destroying the audit documentation.

We expect to begin our audit in August, 2008 and to issue our reports no later than February, 2009. Our fee for these services will be at our standard rates, except we agree that our gross fee, including expenses, will not exceed \$ 42,700, plus the cost of implementing the new risk based standards which we estimate at \$ 6,400. Our standard hourly rates vary accordingly to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report(s). You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our 2006 peer review report accompanies this letter.

We appreciate the opportunity to be of service to the City of Temple, Texas and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Sincerely,

BROCKWAY, GERSBACH, MCKINNON & NIEMEIER, P.C.



Stephen H. Niemeier, CPA

RESPONSE:

This letter correctly sets forth the understanding of the City of Temple, Texas

By: _____

Title: _____

Date: _____

Carneiro, Chumney & Co., L.C.

Robert M. McAdams, CPA
Robert L. Lewis, CPA
Franklin W. Burk, CPA
Paul Roth-Roffy, CPA

CERTIFIED PUBLIC ACCOUNTANTS

J. Lowell Goode, CPA
Julia C. Norton, CPA
Allen E. Robertson, Jr., CPA

July 11, 2006

To the Shareholders
Brockway, Gersbach, McKinnon & Niemeier, P.C.

We have reviewed the system of quality control for the accounting and auditing practice of Brockway, Gersbach, McKinnon & Niemeier, P.C. (the firm) in effect for the year ended April 30, 2006. A system of quality control encompasses the firm's organizational structure, the policies adopted and procedures established to provide it with reasonable assurance of conforming with professional standards. The elements of quality control are described in the Statements on Quality Control Standards issued by the American Institute of CPAs (AICPA). The firm is responsible for designing a system of quality control and complying with it to provide the firm reasonable assurance of conforming with professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance with its system of quality control based on our review.

Our review was conducted in accordance with standards established by the Peer Review Board of the AICPA. During our review, we read required representations from the firm, interviewed firm personnel and obtained an understanding of the nature of the firm's accounting and auditing practice, and the design of the firm's system of quality control sufficient to assess the risks implicit in its practice. Based on our assessments, we selected engagements and administrative files to test for conformity with professional standards and compliance with the firm's system of quality control. The engagements selected represented a reasonable cross-section of the firm's accounting and auditing practice with emphasis on higher-risk engagements. The engagements selected included among others, audits of Employee Benefit Plans and engagements performed under Government Auditing Standards. Prior to concluding the review, we reassessed the adequacy of the scope of the peer review procedures and met with firm management to discuss the results of our review. We believe that the procedures we performed provide a reasonable basis for our opinion.

In performing our review, we obtained an understanding of the system of quality control for the firm's accounting and auditing practice. In addition, we tested compliance with the firm's quality control policies and procedures to the extent we considered appropriate. These tests covered the application of the firm's policies and procedures on selected engagements. Our review was based on selected tests therefore it would not necessarily detect all weaknesses in the system of quality control or all instances of noncompliance with it. There are inherent limitations in the effectiveness of any system of quality control and therefore noncompliance with the system of quality control may occur and not be detected. Projection of any evaluation of a system of quality control to future periods is subject to the risk that the system of quality control may become inadequate because of changes in conditions, or because the degree of compliance with the policies or procedures may deteriorate.

To the Shareholders
Brockway, Gersbach, McKinnon &
Niemeier, P.C.

- 2 -

July 11, 2006

In our opinion, the system of quality control for the accounting and auditing practice of Brockway, Gersbach, McKinnon & Niemeier, P.C. in effect for the year ended April 30, 2006, has been designed to meet the requirements of the quality control standards for an accounting and auditing practice established by the AICPA and was complied with during the year then ended to provide the firm with reasonable assurance of conforming with professional standards.

Carreira, Chunney & Co., L.C.



BROCKWAY, GERSBACH, MCKINNON & NIEMEIER, P.C.
CERTIFIED PUBLIC ACCOUNTANTS

City of Temple, Texas
Temple, Texas

Re: New Auditing Standards for 2008

You may notice a few changes in our audit approach this year, and for good reason. We are mandated to implement the new risk-based auditing standards. While we will try not to bore you with the details, these changes are substantial and you should be aware of their impact.

After the audit failures of ENRON, Worldcom and a host of others, Sarbanes-Oxley was passed into law. Its purpose was to change auditing of publicly traded companies. In 2003, new risk-based auditing standards were set to change auditing for all companies, but public accountants said the change was too sudden and too dramatic to implement in a cost effective way. While many hoped to permanently delay these changes on audits of non-public entities, the standards were delayed by four years!

The attachment provides a summary of changes that are incorporated in the new standards, and we encourage you to read this summary to get a feel for how our audits are required to change. In addition, we have included in the attachment suggestions of things you can do to assist us in this transition.

While the impact for each audit will vary based on the unique situations to each company and its risk, we believe that the time commitment in this first year of implementation will on average increase by 15 percent. After the new standards are implemented, we anticipate that our time will level off or possibly decrease.

We encourage you to ask questions and we also ask for your patience and cooperation in making this transition as smooth and seamless as possible.

Sincerely,

A handwritten signature in cursive script, reading "Stephen H. Niemeier", is written over the typed name.

Stephen H. Niemeier, CPA, CFP
President

Changes in Auditing Standards

The Auditing Standards Board believes that the requirements and guidance provided in the Risk Assessment Statements of Auditing Standards will result in a substantial change in audit practice and in more effective audits. Overall the new standards change the audit process as follows:

- Expands the quality and depth of the auditors' required understanding of the entity and its environment, including its internal control.
- Requires the auditor to assess the risks of material misstatements at the financial statement level and at the assertion level on all audits based on the understanding obtained.
- Eliminates the "default to maximum" for control risk, which should encourage testing of controls.
- Emphasizes the importance of the entity's risk assessment process.
- Strengthens the linkage between assessed risks and the auditors' responses to those risks.
- Clarifies the auditors' ability to rely on audit evidence gathered in prior audits.
- Strengthens guidance for testing disclosures.
- Clarifies and expands guidance on evaluating audit findings.
- Expands documentation requirements:
 - Results of the risk assessments both at the financial statement level and the assertion levels;
 - The nature, timing, and extent of audit procedures performed;
 - The linkage of auditor responses with the assessed risks at the assertion level; and
 - Results of the audit procedures.

The AICPA also issued a new auditing standard, *Communicating Internal Control Related Matters Identified in an Audit*. This standard made some significant changes that will most likely have a major impact on your organization. Some of these changes are as follows:

- The new standard segregates deficiencies into three categories - control deficiencies, significant deficiencies and material weaknesses. Significant deficiencies replaces the old term we previously used as "reportable conditions." The terms "significant deficiency" and "material weakness" have been redefined.
- The auditor is now required to evaluate your organization's internal control deficiencies and to determine which deficiencies rise to the level of a significant deficiency or a material weakness. Although an audit is not designed to identify internal control

deficiencies, the auditor will be required to evaluate the design and implementation of your internal controls and deficiencies may be noted.

- The auditor **MUST** communicate in writing to management and those charged with governance both significant deficiencies and material weaknesses, including those already communicated to you in prior periods, even if you choose not to correct them. However, they will not be expressing an opinion on the effectiveness of your internal control. This will significantly increase the number of management letters issued compared to the past.

Ways to Respond

Some suggestions of what you can do that may reduce the extra time follow:

- Provide us with complete information on how your organization operates, including industry, environmental, regulatory and economic conditions. When we meet, we can review with you the exact information that we will need for the risk assessment.
- Summarize the organization's objectives, strategies and related business risks.
- Identify what the organization does to measure and review financial performance. This should include names and frequency of reports generated by the organization, ratios calculated by the organization, use of forecasts and budgets, and whether the organization has used outside benchmarks such as information from trade associations. Copies of these tools should also be provided.
- Explain how the organization selects and applies accounting principles. Documentation of this process would be helpful.
- Provide us with detailed information and documentation of internal control.
- Designate one person to be responsible on a timely basis for:
 - Reviewing misstatements discovered during our test procedures
 - Discussing control deficiencies and whether they rise to the level of significant deficiencies or material weaknesses
 - Approving the draft financial statements and notes

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING RENEWAL OF A CONTRACT WITH BROCKWAY,
GERSBACH, MCKINNON AND NEIMEIER, P.C., TO PERFORM THE
ANNUAL CITY OF TEMPLE AUDIT FOR AN AMOUNT NOT TO EXCEED
\$42,700; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City entered into a 5-year proposal for audit services on July 7, 2005,
with Brockway, Gersbach, McKinnon and Neimeier, P.C.;

Whereas, the Staff recommends renewing the contract for a one-year term for these
services;

Whereas, the cost for the fourth year of the proposal is \$42,700, and funds are
budgeted in the FY2007-2008 proposed budget for this expenditure; and

Whereas, the City Council has considered the matter and deems it in the public
interest to authorize this action.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY
OF TEMPLE, TEXAS, THAT:**

Part 1: The City Council authorizes the City Manager to execute an agreement, not
to exceed \$42,700, between the City of Temple and Brockway, Gersbach, McKinnon and
Neimeier, P.C., after approval as to form by the City Attorney, to perform the annual City of
Temple audit.

Part 2: It is hereby officially found and determined that the meeting at which this
Resolution is passed was open to the public as required and that public notice of the time,
place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Amy M. House, Director of Human Resources

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with Colonial for Voluntary Supplemental Insurances and a subcontract with AmeriFlex for Flexible Spending Account management.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On June 10, 2008, the City received eight (8) proposals for providing City employees with voluntary supplemental insurances and flexible spending account program management.

The City's insurance consultant reviewed the proposals and narrowed them to two for consideration – Colonial/Ameriflex and Combined Benefits Group (CBG). The insurance committee interviewed the two companies. The committee preferred that Colonial marketed its own products whereas CBG was a broker for different insurance companies. Since the City is currently contracted with Colonial, there would be no interruption of service nor change in benefits for the employees who purchase these voluntary supplemental insurance policies. For these reasons, the committee is recommending Colonial/Ameriflex for award.

FISCAL IMPACT: There is no cost to the City for these services.

ATTACHMENTS:

[Proposal Tabulation
Resolution](#)

City of Temple
Section 125 and Voluntary Benefits
2008 Bid Analysis

Vol Benefits	Combined Benefits Group	Colonial	AFLAC	Higginbotham	Humana
		\$5.25/Enrollee Per Month to be paid by			
Section 125 Administration	\$0.00 CBG	Colonial AmeriFlex	\$0.00 AFLAC	\$0.00 EZFlex	\$5.50 per Enrollee Humana
Cost to City	35.00	35.00	35.00	35.00	0.00
125 Service	10.00	10.00	10.00	10.00	10.00
Document Review	10.00	10.00	10.00	10.00	10.00
New Hire Mtgs.	10.00	10.00	10.00	0.00	4.00
Cancer	\$11.90 Am Public 1.00	\$20.65 Colonial 0.58	\$31.46 AFLAC 0.38	\$18.96 Allstate 0.63	\$12.83 Humana 0.93
Accident	\$16.10 IL Mutual 0.46	\$18.00 Colonial 0.41	\$19.80 AFLAC 0.38	\$26.12 Allstate 0.29	\$12.95 Humana 0.58
Heart/Stroke	\$11.68 Loyal Am 0.72	\$19.00 Colonial 0.44	\$14.17 AFLAC 0.59	\$17.90 Allstate 0.47	\$15.23 Humana 0.55
Medical Gap	\$37.40 Am Public 0.79	\$30.85 Colonial 0.96	\$29.80 AFLAC 0.99	\$29.50 Allstate 1.00	
Intensive Care	\$9.00 Am Public 0.90	\$8.12 Colonial 1.00	\$11.31 AFLAC 0.72		
STD	\$11.63 Am Gen 1.00	\$22.20 Colonial 0.52	\$36.00 AFLAC 0.32	\$45.72 Allstate 0.25	\$62.85 Humana 0.19
Benefits Total	28.43	22.83	19.71	15.38	13.07
Other					
Permanent Life	\$15.50 Texas Life				
Debit Card	Yes Inc.	Yes Inc.	Yes Inc.	Yes Inc.	Yes Inc.
Grand Total	93.43	87.83	84.71	70.38	37.07

City of Temple
Section 125 and Voluntary Benefits
2008 Bid Analysis

Vol Benefits	Total Admin Services Corp		TransAmerica	Met Life
Section 125 Administration	\$3.25 per Enrollee		Not Offered	Not Offered
Cost to City	0.00		0.00	0.00
125 Service Document Review	10.00		0.00	0.00
New Hire Mtgs.	10.00		0.00	0.00
Cancer			\$19.62 Trans Am 0.61	
Accident			\$13.34 Trans Am 0.56	
Heart/Stroke			9.50 Trans Am 0.89	
Medical Gap				
Intensive Care				
STD			\$28.20 Trans Am 0.41	\$74.40 Met Life 0.16
Benefits Total	0.00		14.37	0.91
Other				
Permanent Life				
Debit Card	Yes	\$1.60	No	
Grand Total	30.00		14.37	0.91

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH COLONIAL FOR VOLUNTARY SUPPLEMENTAL INSURANCES AND A SUBCONTRACT WITH AMERIFLEX FOR FLEXIBLE SPENDING ACCOUNT MANAGEMENT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 10, 2008, the City received 8 proposals for providing City employees with voluntary supplemental insurances and flexible spending account program management;

Whereas, the City's insurance consultant reviewed the proposals and narrowed them to 2 for consideration – Colonial/Ameriflex and Combined Benefits Group (GBG);

Whereas, the staff insurance committee interviewed the 2 companies and recommend award of the proposal to Colonial/Ameriflex;

Whereas, there is no cost to the City for these services; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract with Colonial, after approval as to form by the City Attorney, for Voluntary Supplemental Insurances and a subcontract with Ameriflex for Flexible Spending Account management.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 17th day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: SECOND READING – Consider adopting an amendment to Ordinance 2005-4006 abandoning the following street rights-of-way for the First United Methodist Church; and retaining blanket utility easements for the abandoned rights-of-way to protect existing utilities:

1. A portion of North 2nd Street, near its intersection with Calhoun Avenue (Original Town – Volume 36, Page 640 and Moore's First Addition – Volume 115, Page 416), and
2. A portion of East Barton Avenue, south of Main Street, and north of the portion previously abandoned (Original Town – Volume 36, Page 640 and Moore's First Addition – Volume 115, Page 416).

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second reading and final adoption.

ITEM SUMMARY: In 2005, at the request of First United Methodist Church, the City Council abandoned other rights-of-way along North 2nd Street, Calhoun and Barton, pursuant to Ordinance 2005-4006. The church requested other right-of-way to be abandoned; however, access issues arose at that time. Subsequently, the church has acquired this property and is requesting the abandonment.

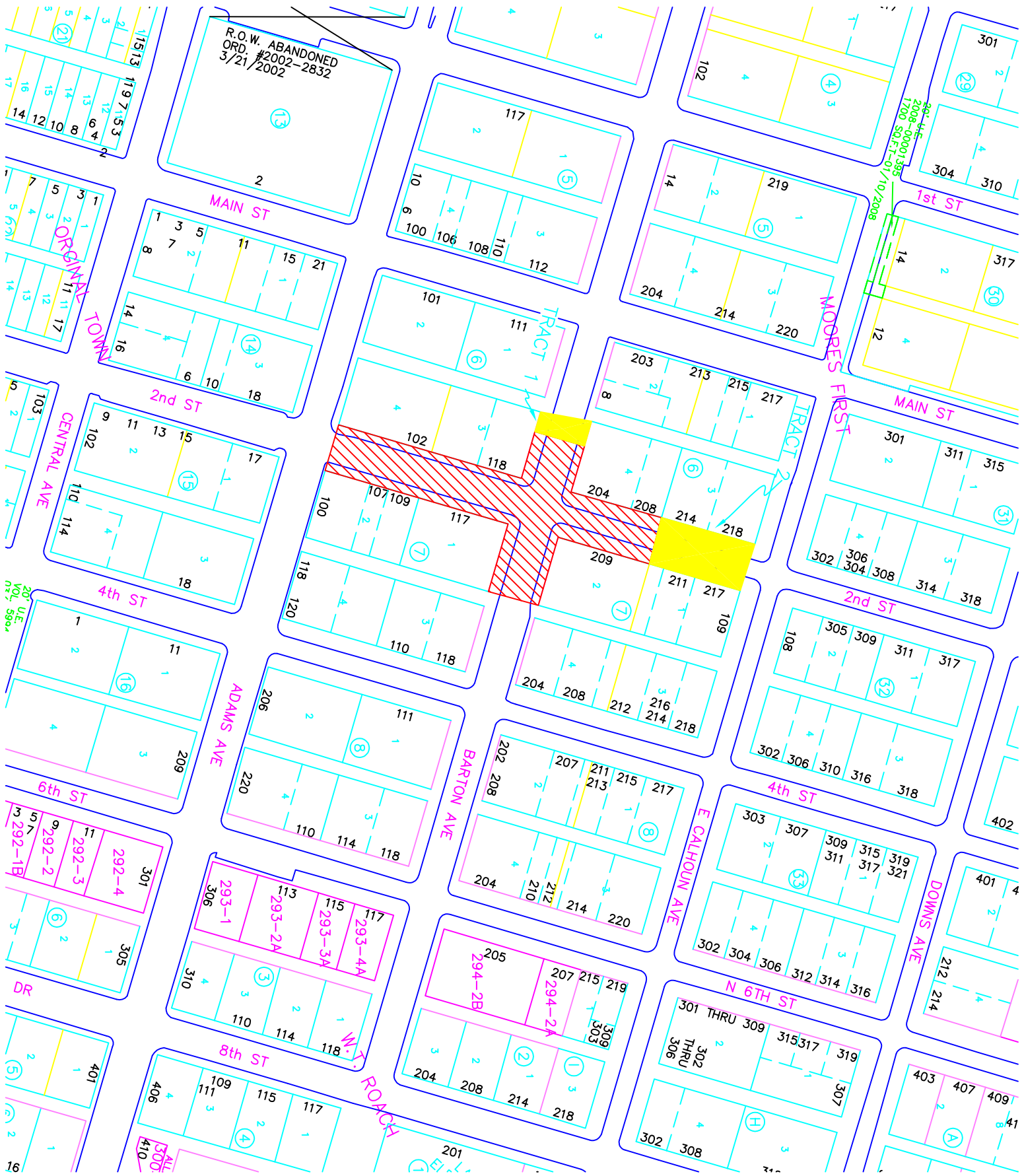
The First United Methodist Church requests this abandonment to allow expansion of the church and improve pedestrian safety between existing and future buildings. First United Methodist Church owns the properties on both sides of the proposed abandonment. All utility companies have responded with the proposed abandonment, with TXU utility requesting access to its guy wire and anchors, AT&T access to a buried wire in the right-of-way of Barton Avenue. Existing water and waste water lines will need to have an easement also.

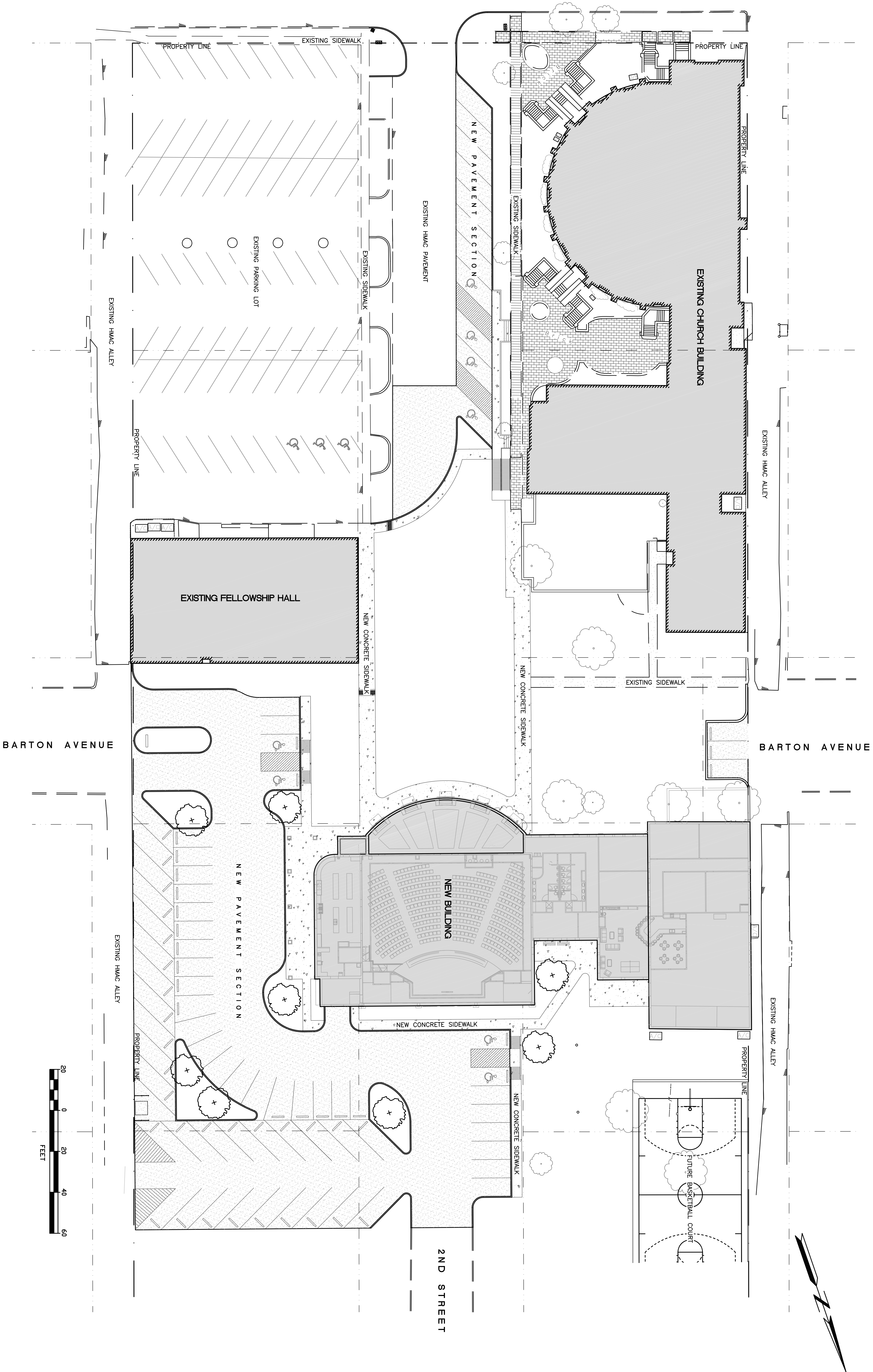
Centrovision will be provided parking by the church improvements.

FISCAL IMPACT: The previous case from 2005 established the fair market value for this area and was accepted by the City Council.

ATTACHMENTS:

[Location Map](#)
[Church exhibit](#)
[Ordinance](#)





KEYED NOTES:

1. PRIOR TO BEGINNING CONSTRUCTION, THE CONTRACTOR SHALL CONSULT WITH THE ARCHITECT TO DETERMINE THE EXISTING SIDEWALK, MATERIALS, PLACEMENT, AND CONDITION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES.

- NOTES:**
1. FURNISH & INSTALL NEW HANDICAP SIDEWALK RAMP (PER T&S STANDARDS)
 2. FURNISH & INSTALL NEW HEAVY DUTY SIDEWALK GRATE (PER DETAILS)

①

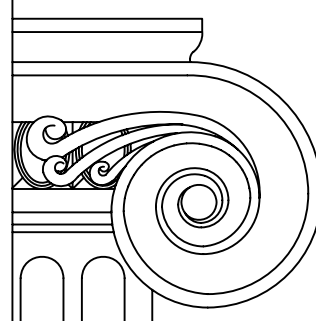
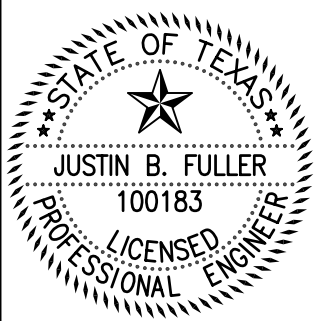
LEGEND:

- NEW PRECAST CONCRETE WHEEL STOP (PER DETAILS)
- NEW PARALLEL SECTION (PER GEOTECHNICAL REPORT)
- NEW STANDARD CONCRETE CURB AND GUTTER (PER DETAILS)
- NEW CONCRETE FLATWORK (PER DETAILS)
- NEW FIRELANE STRIPING (PER CITY OF TEMPLE FIRE MARSHALL REQUIREMENTS)

NOT FOR CONSTRUCTION

THIS DOCUMENT IS PREPARED FOR THE PURPOSE OF INTERNAL REVIEW UNDER THE AUTHORITY OF JUSTIN B. FULLER, P.E. 10083 AS PER DATE ON DRAWING. IT IS NOT TO BE USED FOR BIDDING OR CONSTRUCTION.

Clark & Fuller, PLLC
Civil Engineers - Designers - Planners
Tel: (254) 899-0899 Fax: (254) 899-0901
2010 SW Hickok Loop, Suite 105, Temple, Texas 76704



Heimsath Architects
2108 EM Franklin, Austin, Texas 78723
Tel. (512) 478 1621 Fax (512) 477-7259 E-Mail arch@heimsath.com

FIRST UNITED METHODIST CHURCH
102 NORTH 2ND STREET, TEMPLE, TX 76501

SITE PLAN

C1.1

Project #	718
Date	05/14/08
Drawn	JBF
Checked	CMC
Scale	As Shown

ORDINANCE NO. 2008-4231

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2005-4006 ABANDONING ADDITIONAL STREET RIGHTS-OF-WAY FOR THE FIRST UNITED METHODIST CHURCH; RETAINING BLANKET UTILITY EASEMENTS FOR THE ABANDONED RIGHTS-OF-WAY TO PROTECT EXISTING UTILITIES; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in on May 5, 2005, the City Council passed Ordinance No. 2005-4006 which abandoned certain rights-of-way along North 2nd Street and Calhoun and Barton Avenues at the request of the First United Methodist Church;

Whereas, the First United Methodist Church has requested that additional rights-of-way be abandoned consisting of a portion of North 2nd Street, between Calhoun and Barton Avenues and a portion of East Barton Avenue from the west side of the alley to 4th Street;

Whereas, a blanket utility easement will be maintained for the entire abandoned area allowing utility companies easement rights, clearances and access to their facilities;

Whereas, the Staff recommends that the property be abandoned and that the land be sold for not less than the fair market value of \$0.694 per square foot;

Whereas, the land is not necessary for the purpose of serving the general public or landowners adjacent thereto for any public purposes and the Staff recommends this action; and

Whereas, the City Council has considered the matter and deems it in the public interest to declare approve this action.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council abandons The City Council abandons the following public rights-of-way:

- (a) A portion of North 2nd Street, near its intersection with Calhoun Avenue (Original Town – Volume 36, Page 640 and Moore’s First

Addition – Volume 115, Page 416) of the Deed Records of Bell County, Texas); , and

- (b) A portion of East Barton Avenue, south of Main Street, and north of the portion previously abandoned (Original Town – Volume 36, Page 640 and Moore’s First Addition – Volume 115, Page 416 of the Deed Records of Bell County, Texas).

Part 2: The City Council reserves in the entire area abandoned for public street purposes, an easement for drainage purposes and for the installation, operation, maintenance, repair, use and replacement of public utilities, including but not limited to electric power, water, sewer, gas, and telecommunications.

Part 3: The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 4, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owner, which when done, shall be and become a binding act and deed of the City of Temple. Provided, however, the actual transfer of ownership will be executed following formal site plan approval by the City Manager or the filing of a building permit for improvements within a particular phase.

Part 4: As consideration for the conveyance described in Part 1 hereof, the abutting property owner shall pay an amount which is equal to or greater than the appraised fair market value of **\$0.694 per square foot** for the property.

Part 5: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 6: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **3rd** day of **July**, 2008.

PASSED AND APPROVED on Second Reading the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the ____ day of July, 2008, by
WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Bruce Butscher, PE, Director of Public Works
Michael C. Newman, PE, CFM, Assistant Director of Public Works/City Engineer

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance repealing and replacing Chapter 13, “Flood Damage Prevention,” of the City Code of Ordinances to be consistent with updated language complying with Federal Emergency Management Agency requirements and City of Temple Drainage Criteria.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second reading and final adoption.

ITEM SUMMARY: Subdivision Ordinance Section 33-35 requires that all subdivisions comply with Ordinance No. 1376 of the Code of Ordinances known as “Flood Damage Prevention Ordinance of the City of Temple”. Bell County and its communities have been involved in updating and digitizing Federal Emergency Management Agency (FEMA) flood insurance rate maps (FIRMs). In association with this process, the City of Temple is required to also update the Flood Damage Prevention Ordinance.

On March 26, 2008 FEMA sent a Letter of Final Determination stating that “prior to September 26, 2008, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the enclosed NFIP regulations (44 CFR 59, etc.) by the effective date of the FIRM.”

Temple, as a participating community in the NFIP, is required to meet FEMA rules as outlined in the Code of Federal Regulations (CFR) regarding flood plain management.

The previous ordinance was approved on May 21, 1987. Along with the process of adopting the current model ordinance as provided by FEMA, this is an opportunity to clean up language regarding elevating structures above the Base Flood Elevation. The BFE is defined to be the 100-year frequency storm event or a storm event having a 1% chance of being equaled or exceeded in a given year. In order to be consistent between the proposed flood damage prevention ordinance and Temple’s drainage criteria, it is recommended to elevate finish floors to “not less than 1 foot above” the Base Flood Elevation (BFE). This language is included in the proposed new ordinance. Many

communities have adopted this recommendation as it allows a margin of safety for building structures located in proximity to special flood hazard areas.

On June 12, 2008 city staff provided a presentation of the proposed language to the Governmental Affairs Committee of the Temple Area Builders Association (TABA). TABA provided a letter dated June 12, 2008 supporting the proposed language change in order to maintain Temple's status as a participating community in the National Flood Insurance Program and to be consistent with FEMA regulations and City of Temple drainage criteria.

On June 16, 2008, Planning and Zoning Commission approved a recommendation to repeal and replace Chapter 13 Flood Damage Prevention Ordinance in order to be consistent with FEMA and current City of Temple drainage criteria. The approval vote was 7-0 with two members absent.

FISCAL IMPACT: No fiscal impact to City funds.

ATTACHMENTS:

[Temple Area Builders Association – Governmental Affairs Committee Letter of Support Ordinance](#)



June 12, 2008

Michael Newman
City Engineer
City of Temple
2 North Main Street
Temple, Texas 76501

Re: Repeal and replacement of 1987 FDP Ordinance.

Dear Mr. Newman,

Thank you for your recent briefing to our Government Affairs Committee on the Temple ordinance relating to Flood Damage Prevention. Up to date flood plain management regulations will reduce potential loss to properties and allow our community to participate in the National Flood Insurance Program.

It is important that the City of Temple update our ordinance to achieve compliance with FEMA's regulations prior to September 26, 2008 so that we can continue to participate in the NFIP.

In order to accomplish this update, TABA supports your recommendations to bring our local ordinance in line with current federal standards. We ask that the Planning and Zoning Commission and Temple City Council would repeal and replace Chapter 13 Flood Damage Prevention Ordinance consistent with updated ordinance language complying with FEMA requirements and City of Temple Drainage Criteria.

Thanks again for the opportunity to review and comment on this issue.

Sincerely,

Derrick Hunt
President

Troy Glasson
Government Affairs Director

Cc: Temple City Council, Temple Planning and Zoning Commission, Temple Public Works Department.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING CHAPTER 13 “FLOOD DAMAGE PREVENTION” AND ENACTING A NEW CHAPTER 13 “FLOOD DAMAGE PREVENTION” OF THE CODE OF THE ORDINANCES OF THE CITY OF TEMPLE, TEXAS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR PENALTIES; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

—
WHEREAS, the City Council of the City of Temple, Texas (the “City Council”) has determined that flooding can cause loss of life and property; and

WHEREAS, the City Council has determined that it will be beneficial to the citizens of Temple and its inhabitants to have an updated flood damage prevention ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: All of the recitals and preambles hereinabove stated in this ordinance are hereby found and declared to be true and correct and are incorporated herein and made part of this ordinance.

Part 2: That Chapter 13 “Flood Damage Prevention” of the City’s Code of Ordinances is hereby repealed and that a new Chapter 13 “Flood Damage Prevention,” is hereby enacted to read as follows:

Chapter 13
FLOOD DAMAGE PREVENTION ORDINANCE

ARTICLE I. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

Sec. 13-1. Statutory authorization.

The Legislature of the State of Texas has in ~~Article 8280-13 V.A.C.S.~~ the Flood Control Insurance Act, Texas Water Code, Section 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Temple, Texas does ordain as follows:

Sec 13-2. Findings of fact.

(a) ~~Certain~~ The flood hazard areas of the City of Temple are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(b) These flood losses are created by the cumulative effect of obstructions in floodplains which ~~cause~~ ~~can contribute to~~ an increase in flood heights and velocities; by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. ~~and by the development of land upstream from any downstream point.~~

Sec. 13-3. Statement of Purpose.

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and
- (7) Insure that potential buyers are notified that property is in a flood area.

Sec. 13-4. Methods of reducing flood losses.

In order to accomplish its purposes, this chapter uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or **which** cause **excessive** ~~dangerous or damaging~~ increases in flood heights **(more than one foot)** or velocities;
- (2) Require that uses vulnerable to floods **s** ~~damage~~, including facilities which serve such uses, be ~~appropriately~~ protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) **Prevent or** regulate the construction of flood barriers which will **unnaturally** divert flood waters or which may increase flood hazards to other lands.

Secs. 13-5 – 13-9. Reserved.

ARTICLE II. DEFINITIONS

Sec. 13-10. Words, terms and phrases defined.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

~~(a) *Administrator.* The city manager, or the person designated by him or her to administer this ordinance.~~

~~(b) *Appeal.* A request for a review of the administrator's interpretation of any provisions of this chapter or a request for a variance.~~

(a) ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

(b) **APEX** - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

(c) **BOARD OF ADJUSTMENTS** – means the Appeal Board, called the (Zoning) Board of Adjustments, the body that hears and renders judgment on requests for variances. This board hears appeals and rules on special exceptions and variances.

(d) **APPURTENANT STRUCTURE** – means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

(e) **AREA OF FUTURE CONDITIONS FLOOD HAZARD** – means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.

(f) **AREA OF SHALLOW FLOODING** - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with ~~base flood depths from one to three (3) feet~~ a 1 percent or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

(g) **AREA OF SPECIAL FLOOD HAZARD** - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

(h) **BASE FLOOD** - means the flood having a 1 percent chance of being equaled or exceeded in any given year.

(i) **BASE FLOOD ELEVATION (BFE)** – The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS) for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

(j) **BASEMENT** - means any area of the building having its floor subgrade (below ground level) on all sides.

(k) **BREAKAWAY WALL** – means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific

lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

~~(f) *Channel.* A creek, ravine, swale, river bed, or other such similar hydraulic conveyer whose hydraulic characteristics for uniform flow can be defined by Mannings equation:~~

$$Q = \frac{1.486 A R^{2/3} S^{1/2}}{n}$$

Where: Q = Flow in cfs; n = roughness coefficient; A = cross sectional area; R = hydraulic radius; S = energy gradient.

(l) CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

(m) DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

(n) ELEVATED BUILDING - ~~A nonbasement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program Regulations.~~ means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

(o) EXISTING CONSTRUCTION - means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

(p) **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

(q) **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

(r) **FLOOD OR FLOODING** - means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) the overflow of inland or tidal waters.

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

~~(1) Flood hazard boundary map (FHBM). An official map of a community, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated as Zone A.~~

(s) **FLOOD ELEVATION STUDY** – means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

(t) **FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the ~~Federal Insurance Administration~~ **Federal Emergency Management Agency** has delineated both the ~~areas of special flood hazard areas~~ and the risk premium zones applicable to the community.

(u) **FLOOD INSURANCE STUDY (FIS)** – ~~The official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the flood hazard boundary floodway map~~ **see Flood Elevation Study**

(v) **FLOODPLAIN OR FLOOD-PRONE AREA** - means any land area susceptible to being inundated by water from any source (see definition of flooding).

(w) **FLOODPLAIN MANAGEMENT** - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited

to emergency preparedness plans, flood control works and floodplain management regulations.

(x) FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

(y) FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

(z) FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(aa) FLOODWAY – ~~The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot~~ *see Regulatory Floodway.*

(bb) FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

(cc) HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(dd) HISTORIC STRUCTURE - means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior or;

(b) Directly by the Secretary of the Interior in states without approved programs.

(ee) **LEVEE** - means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

(ff) **LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

(gg) **LOWEST FLOOR** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; **provided** that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of this ordinance-Section 60.3 of the National Flood Insurance Program regulations.

(hh) **MANUFACTURED HOME** - means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. ~~For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.~~ The term "manufactured home" does not include a "recreational vehicle".

(ii) **MANUFACTURED HOME PARK OR SUBDIVISION** - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(jj) MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

~~(y) National Geodetic Vertical Datum (NGVD). Based on the mean seal level (MSL) of 1929 which was defined as the average height of surface of the sea (Atlantic, Pacific, and Gulf of Mexico) over a nineteen year period at twenty six (26) tidal stations.~~

(kk)NEW CONSTRUCTION - means, for floodplain management purposes for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of a floodplain management of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

(ll) NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

(mm) RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(nn)REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(oo) RIVERINE – means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

(pp)SPECIAL FLOOD HAZARD AREA – see *Area of Special Flood Hazard*

(qq)START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or

other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(rr) STRUCTURE – means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a ~~mobile home~~ manufactured home.

(ss) SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

(tt) SUBSTANTIAL IMPROVEMENT - ~~Any expected and/or proposed repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the verified market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.~~ means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

(uu) **VARIANCE** – ~~A grant of relief to a person from the requirements of this chapter when specific enforcement of this chapter would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter.~~ means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

(vv) **VIOLATION** - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections 13-13, 13-26, 13-27, and other applicable sections of this chapter and Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Insurance Program Regulations is presumed to be in violation until such time as that documentation is provided.

(ww) **WATER SURFACE ELEVATION** - means the height, in relation to the ~~National Geodetic Vertical Datum (NGVD) of 1929~~ North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III. GENERAL PROVISIONS

Sec. 13-11. Lands to which this chapter applies.

The chapter shall apply to all areas of special flood hazard with the jurisdiction of the City of Temple.

Sec. 13-12. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, ~~"The Flood Insurance Study of the City of Temple, Texas", dated July 19, 1982,~~ "The Flood Insurance Study (FIS) for Bell County Texas and Incorporated Areas," dated September 26, 2008, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) dated September 26, 2008 and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

Sec. 13-13. Establishment of development permit.

~~A development permit shall be required to ensure conformance with the provisions of this chapter. This permit is separate from and supplementary to the requirements for a building permit.~~ A Floodplain Development Permit shall be required to ensure conformance with the provisions of this ordinance.

Sec. 13-14. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

Sec. 13-15. Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, **easement, covenant, or deed restriction** conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Sec. 13-16. Interpretation.

In the interpretation and application of this chapter, all provisions shall be; (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under State statutes.

Sec. 13-17. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Secs. 13-18—13-23. Reserved.

ARTICLE IV. ADMINISTRATION

Sec. 13-24. Designation of the floodplain administrator.

~~The city manager shall appoint the administrator as required under this chapter.~~ The City Engineer is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 13-25. Duties and responsibilities of the **floodplain administrator.**

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this chapter.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by ~~Article III, section 13-13,~~ adoption of this chapter.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) ~~The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in section 13-27(b) of this article~~ the Floodplain Administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the ~~Texas Department of Water Resources~~ Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal ~~Insurance Administration~~ Emergency Management Agency.
- (7) ~~Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished~~ Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Article III, ~~section 13-12~~ Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State or other source, in order to administer the provisions of Article V.

- (9) ~~Develop and obtain city council approval of the amount of permit fees.~~ When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (10) ~~Promulgation of forms as necessary to implement this ordinance~~ Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community **first** completes all of the provisions required by Section 65.12.
- (11) ~~When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.~~

Sec. 13-26. Permit procedures.

(a) Application for a **Floodplain** Development Permit shall be presented to the **Floodplain** Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, **including the placement of manufactured homes**, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- (1) ~~Elevation in relation to National Geodetic Vertical Datum (N.G.V.D.)~~ (in relation to mean sea level), of the lowest floor (including basement) of all ~~proposed~~ **new and substantially improved** structures;
- (2) Elevation in relation to ~~N.G.V.D.~~ mean sea level to which any nonresidential structure shall be floodproofed;

- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, ~~Section 13-32(b)~~ Section B (2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- (5) Maintain a record of all such information in accordance with Article 4, Section (B)(1);

(b) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this chapter and the following relevant factors:

- (1) The danger to life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The danger that materials may be swept onto other lands to the injury of others;
- (4) The compatibility of the proposed use with existing and anticipated development;
- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, and duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (8) ~~The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use~~ The necessity to the facility of a waterfront location, where applicable;
- (9) ~~The relationship of the proposed use to the City's comprehensive plan(s).~~ The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

Sec. 13-27. Variance procedure.

(a) ~~The City Planning Commission as established by the City of Temple~~ Board of Adjustments, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.

(b) ~~The City Planning Commission~~ Board of Adjustments shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this chapter.

(c) Any person or persons aggrieved by the decision of the ~~City Planning Commission~~ Board of Adjustments may appeal such decision in the City ~~Commission of the City of Temple~~ courts of competent jurisdiction. ~~Such appeal must be filed in the office of the administrator within ten (10) days after the decision of the city planning commission. The decision of the city commission shall be the final determination of all matters herein and no right of appeal exists from said decision.~~

(d) ~~The City Commission~~ Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal ~~Insurance Administration~~ Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.

(f) ~~Generally,~~ Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section ~~13-25(b)~~ C (2) of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this chapter, the ~~board~~ Board of Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter. ~~(Article 1, sections 13-3 and 13-4).~~ (Article 1, Section C).

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(j) Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) showing a good and sufficient cause;

(b) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and

~~(c) When an error, described in section 13-27(b), has been identified and ruled upon by the city planning commission.~~

(c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local existing laws or ordinances.

(3) Any applicant application to whom which a variance is granted shall be given written notice by the administrator that the structure will be permitted to be built with the lowest floor elevation no more than one foot below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(k) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (1) the criteria outlined in Article 4, Section D (1)-(9) are met, and (2) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

Sec. 13-28 – 13-30. Reserved.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 13-31. General Standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be ~~anchored~~ designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- ~~(7) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;~~
- ~~(8) For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with~~

~~screens, louver, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters~~

Sec. 13-32. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (1) Article III, Sec. 13-12, (2) Article IV, Sec. 13-25 ~~(7)~~ (8), or (3) Article V, Sec. 13-33~~(4)~~ (c), the following provisions are required:

- (1) **Residential Construction** - new construction ~~or~~ and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to ~~or above~~ be not less than 1 (one) foot above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in Article IV, Sec 13-26 C (a)(1), is satisfied.
- (2) **Nonresidential Construction** - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the be not less than 1 (one) foot above the base flood elevation level or together with attendant utility and sanitary facilities, be floodproofed designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
- (3) **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(b) The bottom of all openings shall be no higher than 1 foot above grade.

(c) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

~~(4) Floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:~~

~~(a) Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.~~

~~(b) If Article V, Section 13-32(4)(a) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V.~~

~~(c) The placement of any manufactured home in floodways is prohibited.~~

(4) Manufactured Homes -

~~All manufactured homes to be substantially improved within Zone A shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Federal Emergency Management Agency Manual Number 85, "Manufactured Home Installation in Flood Hazards Areas."~~

(a) Require that all manufactured homes to be placed within Zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(b) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i)

outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home shall be not less than one (1) foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(c) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (4) of this section be elevated so that either:

(i) the lowest floor of the manufactured home is elevated to not less than one (1) foot above the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Recreational Vehicles - Require that recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either (i) be on the site for fewer than 180 consecutive days, or (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of Article 4, Section C (1), and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

~~Sec. 13-34. Standards for subdivision proposals.~~

~~— (a) all subdivision proposals shall be consistent with Article I, sections 13-2, 13-3 and 13-4 of this chapter.~~

~~(b) All proposals for the development of subdivisions shall meet development permit requirements of: Article III, section 13-13, Article IV, section 13-26, and the provisions of Article V of this chapter.~~

~~(c) Base flood elevation data shall be provided by the owner for subdivision proposals and other proposed development if not otherwise provided pursuant to Article III, section 13-12 or Article IV, section 13-25(7) of this chapter.~~

~~—(d) All subdivision proposals shall have drainage designed to minimize exposure to flood hazards.~~

~~—(e) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.~~

Sec. 13-33. Standards for subdivision proposals.

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, Secs. 13-2, 13-3, and 13-4 of this ordinance.

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Sec. 13-13; Article 4, Section 13-26; and the provisions of Article 5 of this ordinance.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Sec. 13-12 or Article 4, Section 13-25 (8) of this ordinance.

(d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

Sec. 13-34. Standards for areas of shallow flooding (AO/AH Zones)

Located within the areas of special flood hazard established in Article III, Sec. 13-12, are areas designated as shallow flooding. These areas have special flood hazards associated with **base** flood depths of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be

evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of **residential** structures have the lowest floor (including basement) ~~elevated above the highest adjacent grade~~ shall be not less than 1 (one) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (2) All new construction and substantial improvements of **non-residential** structures;
 - (a) have the lowest floor (including basement) ~~elevated above the highest adjacent grade~~ shall be not less than 1 (one) foot above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities be designed so that below the base specified flood level depth in an AO Zone, or below the Base Flood Elevation in an AH Zone, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article IV, Sec. ~~13-36(a)(1)~~ 13-13 are satisfied.
- (4) Require within Zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

~~Sec. 13-35. Restricted uses of the flood hazard area.~~

~~—(a) Any development in flood hazard areas not classified an unrestricted use shall be considered a restricted use and shall require a development permit.~~

~~—(b) Agricultural development requiring a permit will, for most farm and ranch operations, be limited to residential structures which are proposed for construction in the identified flood hazard area.~~

~~—(c) Certain uses of the floodplain may not be appropriate and the administrator may deem it necessary to restrict or prohibit uses that are dangerous to health, safety, or property in times of flood. These uses may include, but are not limited to, the following:~~

- ~~(1) Hospitals, nursing homes and other facilities where elderly or invalid persons reside.~~
- ~~(2) Boarding schools, orphanages and any other facility where young children reside.~~
- ~~(3) Detention facilities, sanitariums and any other facility where movements of persons may be restricted.~~
- ~~(4) Refuge centers, disaster relief centers, disaster shelters and any other operation which may be utilized during times of emergency.~~
- ~~(5) Permanent storage materials or equipment.~~

~~(d) Certain uses are not appropriate within a floodway where extreme velocities and flood depths pose serious threats to life and property, and the administrator may deem it necessary to restrict or prohibit uses that are dangerous to health, safety, property or which may cause an increase in flood heights. These uses include, but are not limited to:~~

- ~~(1) Land fills and obstructive structures.~~
- ~~(2) Floatable storage.~~
- ~~(3) Disposal of garbage, rubbish, or trash.~~

~~Sec. 13-36. Unrestricted uses of the flood hazard areas.~~

~~—The following uses having a low flood damage potential, shall be permitted to the extent that they cause no obstruction of flood flows, are not prohibited by any other regulation or statute, and provided that they do not require the construction of structures, placement of fill, alteration of stream channels, or storage of materials or equipment:~~

- ~~—(1) Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, viticulture, sod farming, game farming, and fish hatcheries. Catagorized under general farming are temporary structures such as animal pens, cribs, temporary crop covers, machinery storage, sheds, wells and well installations primarily for stock or crop use, open wire fences such as stranded barbed wire and wire netting sheep and goat fences and, in general, any type of open agricultural fence (breakaway wire gaps should be provided on all fences crossing streams or drainage channels).~~
- ~~—(2) Private and public recreational uses such as golf courses, picnic grounds, parks, wildlife and nature preserves, target ranges, hunting and fishing areas, hiking, bike, and horseback riding trails.~~

- ~~(3) Residential uses such as lawns, gardens, parking areas, and play areas. Lawn or yard fences such as chain link or wooden privacy fence will not be permitted to cross stream channels or drainage easements unless provisions are made for the unobstructed passage of flood water flows.~~

Sec. 13-35. Floodways.

Floodways - located within areas of special flood hazard established in Article 3, Sec. 13-12, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If Article 5, Section E (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** completes all of the provisions required by Section 65.12.

Sec. 13-36. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$400.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

Part 3: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 4: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Part 5: If any provision of this ordinance shall be held to be invalid or unconstitutional, the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Part 6: It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

PASSED AND APPROVED on First Reading and Public Hearing on the **3rd** day of **July**, 2008.

PASSED AND APPROVED on Second Reading on the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(K)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance renaming a portion of the planned Outer Loop (new portion of Old Howard Road and the portion from McLane Parkway through the Bioscience Park to FM 2305) as Research Parkway.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second reading and final adoption.

ITEM SUMMARY: The Reinvestment Zone No. 1 Board of Directors, upon a request from the Temple Economic Development Corporation, recommended changing the name for a portion of the Outer Loop to Research Parkway, as indicated on the attached map. The purpose is to facilitate its identification for economic development purposes. The proposed street name does not conflict with other names in Temple. All City departments reviewed the request. The ordinance will take affect 30 days after the second reading to allow time for the installation of new street signs and update maps.

According to the City of Temple policy, described in Resolution #2002-3395-R, a street name change may be considered when a majority of the area is recognized as a significant contribution by an organization to the enhancement of the quality of life in the community. This portion of the Outer Loop is suited to the name change of Research Parkway.

As a result of public comments received at the July 3rd Council meeting, Staff mailed letters to the 5 affected property owners on July 10th advising them of the proposed street name change.

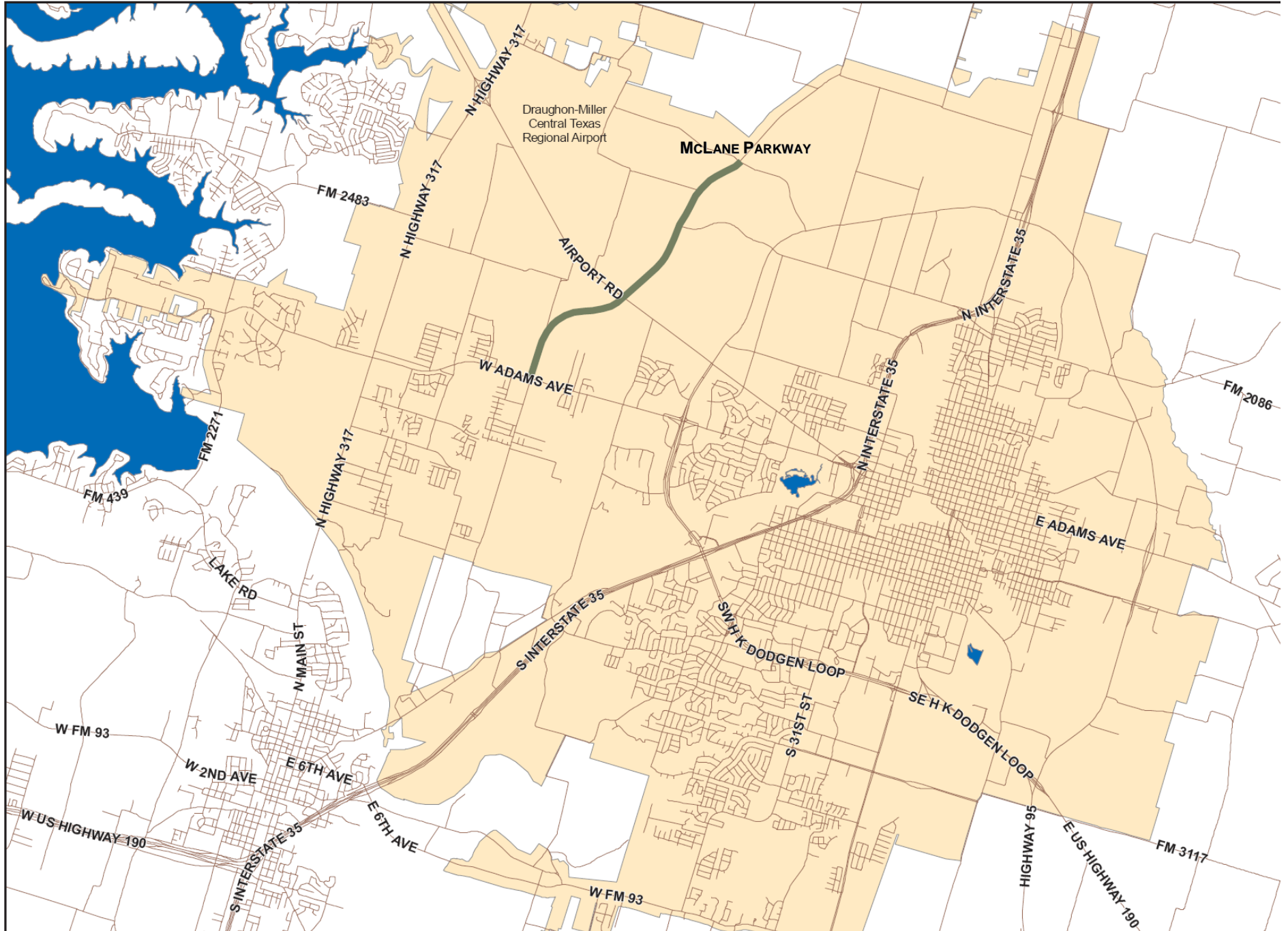
FISCAL IMPACT: None

ATTACHMENTS:

[Map](#)
[Ordinance](#)



Proposed Renaming: Research Parkway



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RENAMING A PORTION OF THE PLANNED OUTER LOOP TO *RESEARCH PARKWAY* NORTH OF FM 2305, THROUGH THE BIOSCIENCE PARK, TO MCLANE PARKWAY; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, at its meeting on June 25, 2008, the Reinvestment Zone Committee, upon a request from the Temple Economic Development Corporation, recommended changing the name for a portion of the Outer Loop to *Research Parkway* from McLane Parkway south to FM 2305;

Whereas, the Staff concurs in this recommendation and feels that the change will be beneficial to facilitate the roadway's identification for economic development purposes; and

Whereas, the City Council, after a public hearing, has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves a street name change renaming a portion of the planned Outer Loop to *Research Parkway* north of FM 2305, through the Bioscience Park, to McLane Parkway.

Part 2: The City Council directs the Street Department of the City of Temple, Texas, to make and place the appropriate signs on said streets after the effective date of this ordinance.

Part 3: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 4: This ordinance shall take effect 30 days after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **3rd** day of **July**, 2008.

PASSED AND APPROVED on Second Reading on the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(L)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: P-FY-08-48: Discuss and consider a Final Plat for Syring Addition, one single family lot on a 4.7± tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3± miles outside of the City Limits and considering exceptions to the regulations of the Subdivision Ordinance Section 33-93(k) (1&2) for local street paving, Section 33-102 for park fee and Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection.

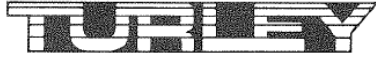
PLANNING & ZONING COMMISSION AND STAFF RECOMMENDATION: The Planning & Zoning Commission and Staff recommend approval of the preliminary plat with the following exceptions requested by the applicant:

1. Exempt the required residential street pavement width of 30' (Subdivision Ordinance Section 33-93(k) Street Pavement Width) and allow pavement width to 24' for the existing county road;
2. Exempt park fee of \$225 x 1 lot (Section 33-102(d) (2) since the closest park is 4.75 miles away.
3. Exempt fire protection of installation of a fire hydrant (Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection) since the water corporation will not have capacity for a fire hydrant.

ITEM SUMMARY: The proposed final plat is for one single family residential lot on 4.7 acres, 3.3 miles into the ETJ. Please review the Planning & Zoning Commission Agenda Memo and minutes from the meeting, July 7, 2008. The Design Review Committee (DRC) considered the project administratively complete on June 30, 2008.

ATTACHMENTS:

[Plat Map](#)
[Aerial](#)
[PZ Staff Report](#)
[PZ Excerpts](#)
[Resolution](#)



TURLEY ASSOCIATES, INC.

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
FAX • (254) 773-3998

HERITAGE PLACE City of Temple, Texas

Requested Exceptions

The following exceptions are requested on the above mentioned project:

Section 33-102. Requirements for park land dedication.

Section 33-10. Exceptions

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of this land.

The subdivision will have Common Area D (1.763 acres) which will be developed as a park and Nature Trail to be maintained by the Heritage HOA with the potential for future trail extension through neighboring properties.

- (2) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

The developer will improve 1.763 acres of land along Bird Creek, clear brush and undergrowth and construct a Natural Trail the full length of the park, approximately 1,110 ft.

- (3) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

The improvement of common Area D with a Hike and Bike Trail will meet or exceed the value of the park fees and will provide the opportunity to extend the trail through neighboring properties. The park shall be constructed proportionally as phasing occurs over the next 5 years.

Section 33-93. Streets.

(k) *Pavement widths and rights-of-way:*

- (1) The minimum standards for street pavement width and right-of-way are as follows.

<i>Standard Category</i>	<i>Pavement width (feet)</i>	<i>Right-of-Way Width (feet)</i>
Local street	31	50
Rural local street	22	50
Collector street	36	55
Rural collector street	26	55

Section 33-10. Exceptions.

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of this land.

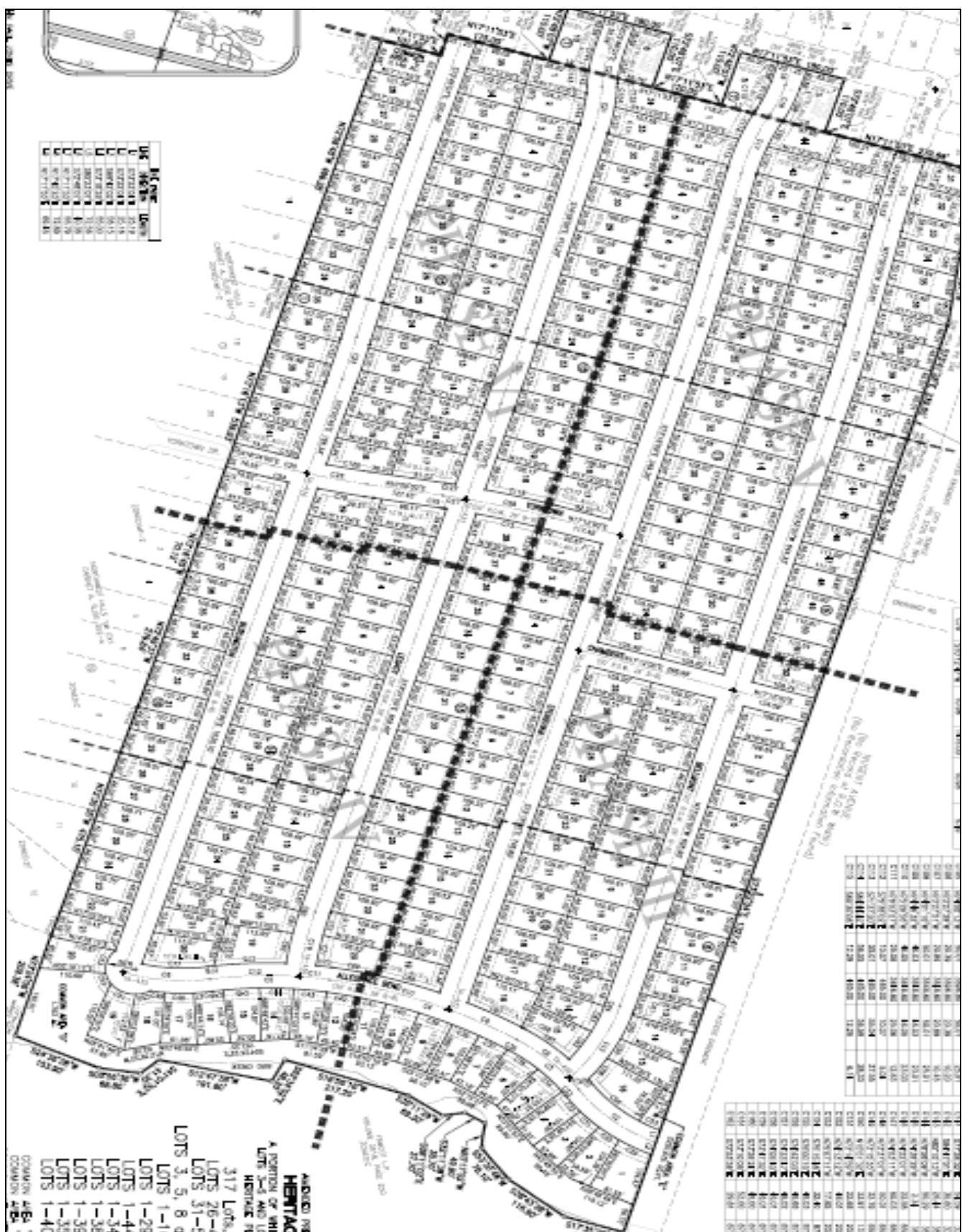
The Heritage Place Preliminary Plat approval included 28' curb back to street design. For the Amended Preliminary Plat it is requested that we continue the current street design. It has worked well with the first two phases and has produced a Traffic Calming effect and has been a cost savings benefit for the entry level homebuyer.

- (2) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

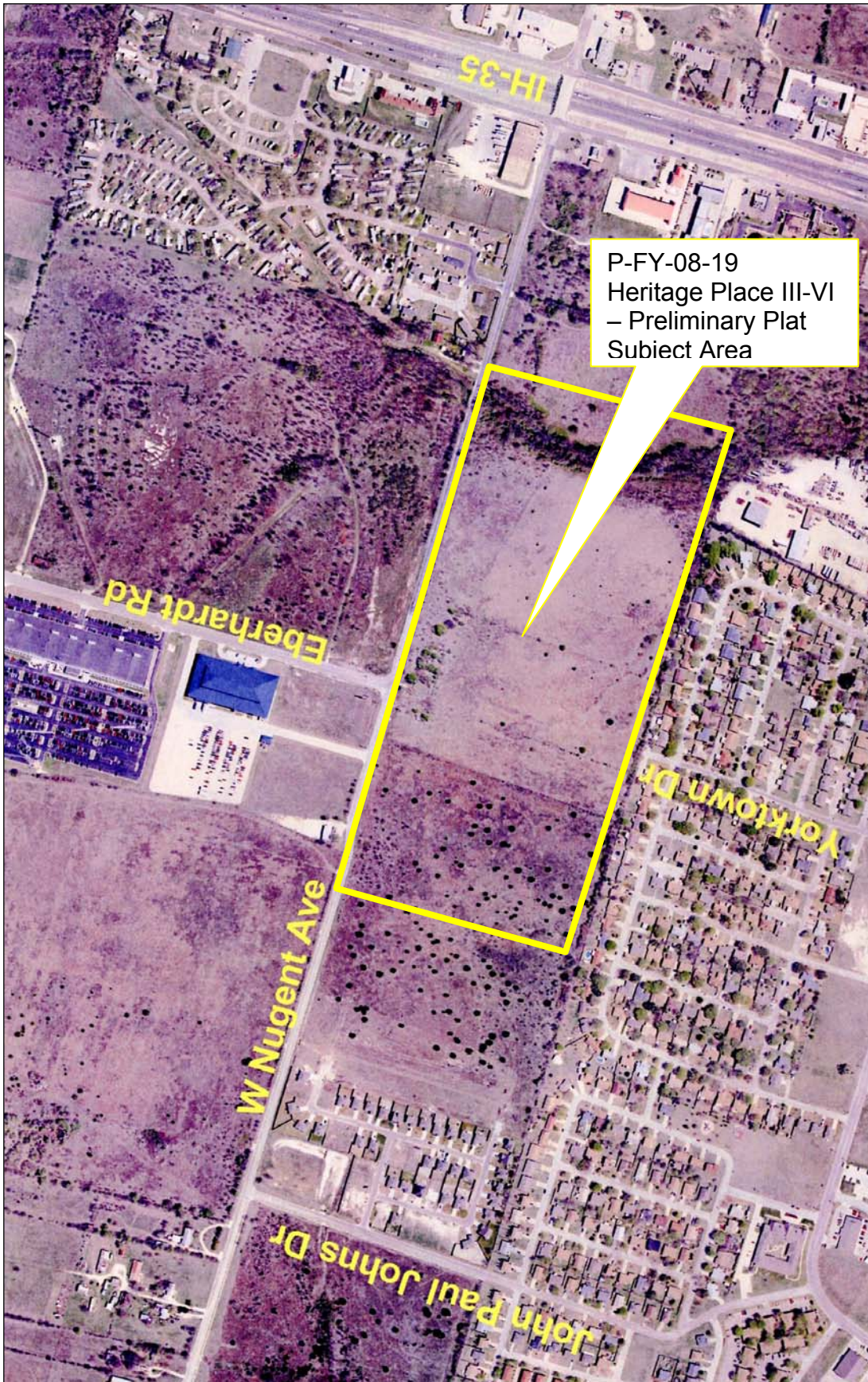
24' wide asphalt paving with mountable curb will not be detrimental, it will produce a calming on traffic and does not limit emergency or service vehicle access.

- (3) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

The land to the South is already subdivided as is two phases of Heritage Place to the West. Any development to the North has direct access to Nugent Avenue, an arterial street.



P-FY-08-19
Heritage Place III-VI
– Preliminary Plat
Subject Area





PLANNING AND ZONING COMMISSION AGENDA ITEM

07/07/08
Item# 8
Page 1 of 4

APPLICANT / DEVELOPMENT: Applicant: Harold Syring, c/o All County Surveying, Inc.

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION:

P-FY-08-48: Discuss and consider a Final Plat for Syring Addition, one single family lot on 4.7± tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3± miles outside of the City Limits and considering exceptions to the regulations of the Subdivision Ordinance Section 33-93(k) (1&2) for local street paving, Section 33-102 for park fee and Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection.

STAFF RECOMMENDATION: Staff recommends approval of the plat with approval of the requested exceptions to Subdivision Ordinance Section 33-93(k) (1&2) for local street paving, Section 33-102 for park fee and Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection.

BACKGROUND: The Development Review Committee administratively accepted the application as complete June 30th. Except for the exceptions requested below, it meets the requirements of the Subdivision Ordinance.

Plat
Water Authority Letter

[illegible]

**BELL-MILAM-FALLS WATER SUPPLY CORPORATION
P.O. DRAWER 150
CAMERON, TX 76520
(254) 697-4016**

July 2, 2008

To Whom It May Concern:

Bell-Milam-Falls WSC provides water service to Harold Syring account 1452 meter serial # 99573363 at 8182 Knob Creek Rd, Temple TX. The line size is not large enough to provide adequate pressure for the installation of a fire hydrant.

If you have any questions, please contact our office.

Thank You,

Sheryl

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JULY 7, 2008

Item 8: P-FY-08-48: Discuss and consider a Final Plat for Syring Addition, one SF lot on a 4.7±acre tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3± miles outside of the City Limits and considering exceptions to the regulations of the Subdivision Ordinance Section 33-93(k) (1&2) for local street paving, Section 33-102 for park fee and Section 33-97 and Code of Ordinance Chapter 12-145 and 146 for fire protection. (Applicant: Harold Syring, c/o All County Surveying, Inc.)

Mr. Dolan, Planning Director presents this case. He explains that it is on the fringe of the ETJ. The staff recommends approval with exceptions. The first exception is to Section 33-102 due to the distance from the city park as being over 5 miles away. Section 33-94 due to limited frontage on Riggs. Section 33-97 due to local water system is unable to provide fire flow. He then asks for questions.

Chair Susan Luck asks who maintains EMS to that area. Mr. Dolan believes that it would be Rodgers but will do further research on the matter. Commissioner Pilkington asks if there would just be no fire hydrants and Mr. Dolan explains that the area does not have the required water pressure.

Commissioner Pilkington moves for approval with exceptions; Commissioner Carothers seconds the approval. The vote is unanimously carried. (7/0)

RESOLUTION NO. _____

(PLANNING NO. P-FY-08-48)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE FINAL PLAT OF SYRING ADDITION, ONE SINGLE FAMILY LOT ON AN APPROXIMATELY 4.7 ACRE TRACT OF LAND, ON THE SOUTH SIDE OF RIGGS ROAD WEST OF KNOB CREEK ROAD, APPROXIMATELY 3.3 MILES OUTSIDE OF THE CITY LIMITS, SUBJECT TO THE DEVELOPER'S REQUESTED EXCEPTIONS TO THE SUBDIVISION ORDINANCE AND CHAPTER 12 OF THE CITY OF TEMPLE CODE OF ORDINANCES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 7, 2008, the Planning and Zoning Commission approved the final plat of Syring Addition, one single family lot on an approximately 4.7 acre tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3 miles outside of the city limits, subject to the developer's requested exceptions to the Subdivision Ordinance regarding park fees, residential street pavement width requirements, and fire protection requirements; and

Whereas, the City Council has considered the matter and deems it in the public interest to approve the final plat of Syring Addition.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves the final plat of Syring Addition, one single family lot on an approximately 4.7 acre tract of land, on the south side of Riggs Road west of Knob Creek Road, approximately 3.3 miles outside of the city limits, more fully shown on the Plat which is on file in the City's Planning Department, incorporated herein and referred to by reference, and including the following exceptions to the Subdivision Ordinance: *Section 33-93(k)* allowing pavement width to 24 feet for the existing county road; *Section 33-102(d)(2)* to waive the park fee requirements; and *Section 33-97 and Chapter 12-145-146 of the City Code* to waive the requirement for fire protection.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the **17th** day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(M)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Trudi Dill, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution denying a request from Oncor Electric Delivery Company LLC to change rates within the City of Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On June 27, 2008, Oncor filed with the City of Temple (and over 500 other communities in Texas) a Statement of Intent to Change Rates.

The City Council has primary jurisdiction to approve rates for electric service. The City Council has three options: approve the rate request as submitted, stay the rate increase for ninety days, or deny the rate request. The City Council must take final action by August 8, 2008 or suspend the effective date for up to 90 days. The Texas Public Utilities Commission has appellate jurisdiction—meaning that Oncor may appeal the City's decision to the Public Utilities Commission. If the appeal is granted, the City would have standing as a party to participate fully in the proceeding at the Commission either independently or as part of a coalition. The City participates in the Steering Committee of Cities Served by TXU.

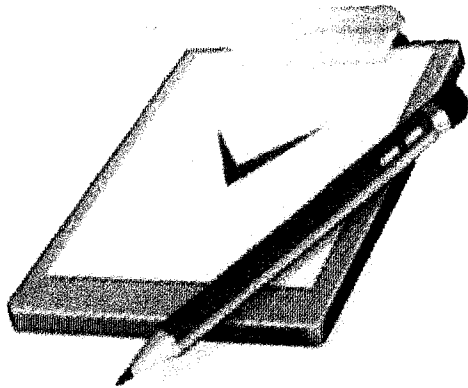
We recommend that Oncor's rate adjustment request be denied, allowing Oncor to pursue a system-wide electric service rate change with the Texas Public Utilities Commission.

FISCAL IMPACT: None at this time.

ATTACHMENTS:

[Rate Review Process
Resolution](#)

Rate Review Process



- **Filing Date – June 27, 2008**
- **Proposed Effective Date for new rates – August 8, 2008**
- **Suspend Effective Date – 90 days**
- **Suspended Deadline for City Action – November 6, 2008**

Next Steps:

By August 8th City must:

- 1) Take Final Action; or
- 2) Suspend Effective Date for up to 90 days

Once City has taken Final Action, Oncor will file an appeal with the PUC and request consolidation with the PUC Case.

Administratively it is more efficient and cost effective for both cities and Company to litigate one consolidated proceeding. It is Oncor's intent to have system-wide rates in effect and towards that end intends to appeal to the Commission any final action taken by the City, and request consolidation into one proceeding at the Commission.

Once the appeal is granted, the City would have standing as a party to participate fully in the proceeding at the Commission either independently or as part of a coalition.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DENYING THE PROPOSED CHANGE IN RATES FOR ONCOR ELECTRIC DELIVERY COMPANY LLC; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 27, 2008, Oncor Electric Delivery Company LLC filed with the City of Temple a Statement of Intent to Change Rates;

Whereas, the Staff recommends that Oncor's rate adjustment request be denied, allowing Oncor to pursue a system-wide electric service change with the Texas Public Utilities Commission; and

Whereas, the City Council has considered the matter and deems it in the public interest to authorize this action.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The proposed changed rate schedules and service regulations filed with the City of Temple by Oncor Electric Delivery Company LLC on June 27, 2008, are hereby denied and disapproved, and Oncor Electric Delivery Company LLC shall continue to provide electric delivery service within this city in accordance with its rate schedules and service regulations in effect within this city on June 27, 2008.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 17th day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #5(N)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2007-2008 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$172,248.

ATTACHMENTS:

[Budget Amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
July 17, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-1600-512-2512		Court Costs (Legal)	\$ 5,130	
110-1000-511-2514		Travel & Training (City Council)		\$ 5,130
To appropriate funds for the recording fees to be incurred when filing the recent annexation development agreements approved by Council.				
110-2000-521-2516		Judgments & Damages (Police)	\$ 62	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 62
Deductible reimbursement to the Texas Municipal League for attorney fees for a claim filed against the City by Bruce Wayne Ervin - claim arises out of police officers' seizure of numerous items that were in his possession when his premises were searched.				
110-2000-521-1119		Salaries - Overtime (Police)	\$ 5,896	
110-0000-442-0718		Police Overtime		\$ 5,896
Reimburse overtime expense for working the Bloomin' Temple Festival				
110-3500-552-2516		Judgments & Damages (Parks)	\$ 6,173	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 250
110-0000-461-0554		Insurance Claims		\$ 5,923
This budget adjustment appropriates funds for the repair of the Pool of Tears. \$250 will be appropriated from Contingency Judgments & Damages for the deductible. The remaining \$5,923 is recognized as insurance claim revenue to be received from the Texas Municipal League (TML).				
520-5900-535-6362	100377	Water & Sewer Extension (W&S Capital)	\$ 13,568	
520-5000-535-6545		Contingency for Approach Mains		\$ 13,568
To appropriate funds for the cost sharing agreement with Bare Land Development, Incorporated for an offsite utility extension (sewer lines) to the Heritage Place Village Phase III residential subdivision, located on West Nugent Avenue. This utility extension agreement is for approximately 81 LF of 8" sewer line.				
520-5000-535-6545		Contingency for Approach Mains	\$ 141,419	
520-5900-535-6368	100343	Sewer Line Extension		\$ 141,419
On 10/18/07, Council authorized a cost sharing agreement with Stellar Development Company for Las Colinas Subdivision in the amount of \$141,418.35. The project was for an extension of an 8" wastewater line to serve the subdivision. The developer was not able to acquire all the necessary easements and instead chose to abandon the wastewater line extension in lieu of building a new lift station to service the site. Public Works supports the abandonment of the agreement; therefore, we are reinstating the funds originally appropriated for the project back to the Approach Main Contingency account so that they will be available for a future project.				
TOTAL AMENDMENTS			\$ 172,248	\$ 172,248

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
July 17, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		GENERAL FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning Judgments & Damages Contingency	\$	70,000
		Added to Contingency Judgments & Damages from Council Contingency	\$	-
		Taken From Judgments & Damages	\$	(56,469)
		Net Balance of Judgments & Damages Contingency Account	\$	13,531
		Beginning Master Plan Implementation Contingency	\$	250,000
		Added to Master Plan Implementation Contingency	\$	-
		Taken From Master Plan Implementation Contingency	\$	(176,334)
		Net Balance of Master Plan Implementation Contingency Account	\$	73,666
		Beginning Performance Pay Contingency	\$	150,000
		Added to Compensation Plan Contingency	\$	-
		Taken From Compensation Plan Contingency	\$	(150,000)
		Net Balance of Compensation Plan Contingency Account	\$	-
		Net Balance Council Contingency	\$	87,197
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	904,672
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(169,258)
		Net Balance of Contingency Account	\$	735,414
		Beginning Performance Pay Contingency	\$	30,000
		Added to Compensation Plan Contingency	\$	-
		Taken From Compensation Plan Contingency	\$	(30,000)
		Net Balance of Compensation Plan Contingency Account	\$	-
		Beginning Approach Mains Contingency	\$	500,000
		Added to Approach Mains Contingency	\$	-
		Taken From Approach Mains Contingency	\$	(13,568)
		Net Balance of Approach Mains Contingency Account	\$	486,432
		Net Balance Water & Sewer Fund Contingency	\$	1,221,846
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	20,126
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(11,120)
		Net Balance of Contingency Account	\$	9,006
		Beginning Performance Pay Contingency	\$	8,000
		Added to Compensation Plan Contingency	\$	-
		Taken From Compensation Plan Contingency	\$	(8,000)
		Net Balance of Compensation Plan Contingency Account	\$	-
		Net Balance Hotel/Motel Tax Fund Contingency	\$	9,006

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2008 BUDGET
July 17, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	1,495
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	1,495
		Beginning Performance Pay Contingency	\$	2,000
		Added to Compensation Plan Contingency	\$	-
		Taken From Compensation Plan Contingency	\$	(838)
		Net Balance of Compensation Plan Contingency Account	\$	1,162
		Net Balance Drainage Fund Contingency	\$	2,657
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	-
		Carry forward from Prior Year	\$	86,477
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(57,766)
		Net Balance of Contingency Account	\$	28,711

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2007-2008
CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, on the 23rd day of August, 2007, the City Council approved a budget for the 2007-2008 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2007-2008 City Budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves amending the 2007-2008 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 17th day of **July**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #6
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-28: Consider adopting an ordinance amending the City of Temple Zoning Ordinance, 91-201, Section 7-108 (Automobile and Related Service Uses) to allow motorcycle sales by right in the General Retail (GR) District.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: The Commission and Staff recommend the adoption for an ordinance amending the City of Temple Zoning Ordinance, 91-201, Section 7-108 (Automobile and Related Service Uses) to allow motorcycle sales by right in the General Retail District (GR).

ITEM SUMMARY: Staff was approached by three property owners about the possibility of opening motorcycles sales areas in property zoned GR. Now vehicles sales of new or used automobile or truck sales are allowed, but not motorcycles. Amending the use chart for automobiles and related service uses to add motorcycle sales in the GR District will allow that use.

FISCAL IMPACT: None

ATTACHMENTS:

[P&Z Staff Report](#)
[P&Z Excerpts](#)
[Ordinance](#)



PLANNING AND ZONING COMMISSION AGENDA ITEM

07/07/08
Item 4
Page 1 of 2

APPLICANT / DEVELOPMENT: Staff c/o Planning & Zoning Commission

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Public Hearing–FY-08-28: Discuss and recommend action to consider amending the City of Temple Zoning Ordinance, 91-201, Section 718 (Automobile and Related Service Uses) to allow motorcycle sales by right in the General Retail District (GR). (Applicant: Planning Department).

BACKGROUND: Staff requests the Commission to consider this use as an appropriate one for the GR District. Staff has been approached by three companies wishing to locate in the GR District. For example, the GR district allows automobile sales, either new or used. The attached table shows requested area highlighted in yellow.

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval to amend the City of Temple Zoning Ordinance, 91-201, Section 718 (Automobile and Related Service Uses) to allow motorcycle sales by right in the General Retail District (GR).

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Proposed Use Chart

AUTOMOBILE AND RELATED SERVICE USES

ORDINANCE SECTION 7-108																										
		Residential												Nonresidential Districts												
		Single Family										Multiple Family														
DISTRICT	A	UE	SF-1	SF-2	SF-3	SFA	SFA-2	SFA-3	MH	TH	2F	MF-1	MF-2	MF-3	MU	O-1	O-2	NS	GR	CA	C	LI	HI			
TYPE OF USE	AGRICULTURAL	URBAN ESTATE	SINGLE-FAMILY DWELLING - 1	SINGLE-FAMILY DWELLING - 2	SINGLE-FAMILY DWELLING - 3	SINGLE-FAMILY ATTACHED	SINGLE-FAMILY ATTACHED - 2	SINGLE-FAMILY ATTACHED - 3	MANUFACTURED HOME	TOWNHOUSE	TWO-FAMILY DWELLING	MULTIPLE-FAMILY DWELLING - 1	MULTIPLE-FAMILY DWELLING - 2	MULTIPLE-FAMILY DWELLING - 3	MIXED USE	OFFICE - 1	OFFICE - 2	NEIGHBORHOOD SERVICE	GENERAL RETAIL	CENTRAL AREA	COMMERCIAL	LIGHT INDUSTRIAL	HEAVY INDUSTRIAL			
AUTO LAUNDRY (CAR WASH)															C				•	•	•	•	•			
AUTO LEASING, RENTAL																			•	•	•	•	•			
AUTO PARTS ACCESSORY AND SALES (INDOORS)															C				•	•	•	•	•			
AUTO PARTS ACCESSORY AND SALES (OUTDOORS)																					C	•	•			
AUTO STORAGE OR AUTO AUCTION																					C	•	•			
BOAT SALES, SERVICING																				•	•	•	•			
GASOLINE STATION (FULL SERVICE)																				•	•	•	•			
GASOLINE STATION (SELF-SERVICE)																		C	•	•	•	•	•			
MAJOR VEHICLE REPAIR																				•	•	•	•			
MINOR VEHICLE SERVICING																			•	•	•	•	•			
NEW OR USED AUTO SALES OUTDOOR LOT																			•	•	•	•	•			
NEW OR USED AUTO SALES FACILITY																				•	•	•	•			
Motorcycle Sales																			•	•	•	•	•			

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JULY 7, 2008

Item 5: Public Hearing—Z-FY-08-28: Discuss and recommend action to consider amending the City of Temple Zoning Ordinance, 91-201, section 708 (Automobile and Service Related Uses) to allow motorcycle sales by right in GR. (Applicant: Planning Department)

Mr. Dolan, Planning Director explains that vehicle sales are approved for the GR but not motorcycle sales. He shows and explains the general use chart for the area. He explains that it would make it by right. He asks for questions from the commissioners. Commissioner Pilkington asks about boat sales and service. Mr. Dolan explains that is not the agenda for tonight but that he is willing to address it at the next meeting.

Chair Luck opens the floor to the public. Being no speakers, Chair Luck closes the public hearing.

Commissioner Pilkington moves for approval; Vice-Chair Pope seconds motion. Motion is unanimously carried. (7/0)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 91-2101, THE ZONING ORDINANCE OF THE CITY OF TEMPLE, TEXAS, AMENDING SECTION 7-108, ENTITLED, "AUTOMOBILES AND RELATED SERVICES USES," TO ALLOW MOTORCYCLE SALES BY RIGHT IN THE GENERAL RETAIL DISTRICT (GR); PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 7-108, entitled, "Automobile and Related Service Uses," in accordance with the chart attached hereto as Exhibit "A."

Part 2: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 3: Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 17th day of **July**, 2008.

PASSED AND APPROVED on Second Reading and Public Hearing on the 7th day of **August**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #7
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-30: Consider adopting an ordinance authorizing a zoning change from Agriculture (A) to Commercial (C) on a 5.0± acre tract of land located at the southwest corner of the 53.8± acre tract being out of the M. Moreno Survey, Abstract Number 14, adjacent to the East right of way line of Loop 363 and adjoining the northwest property corner of the 29.83 acre City of Temple tract.

P&Z COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 7/0, upon Staff's recommendation, recommended approval of the zoning of Commercial (C) from Agriculture (A) at its meeting on July 7, 2008.

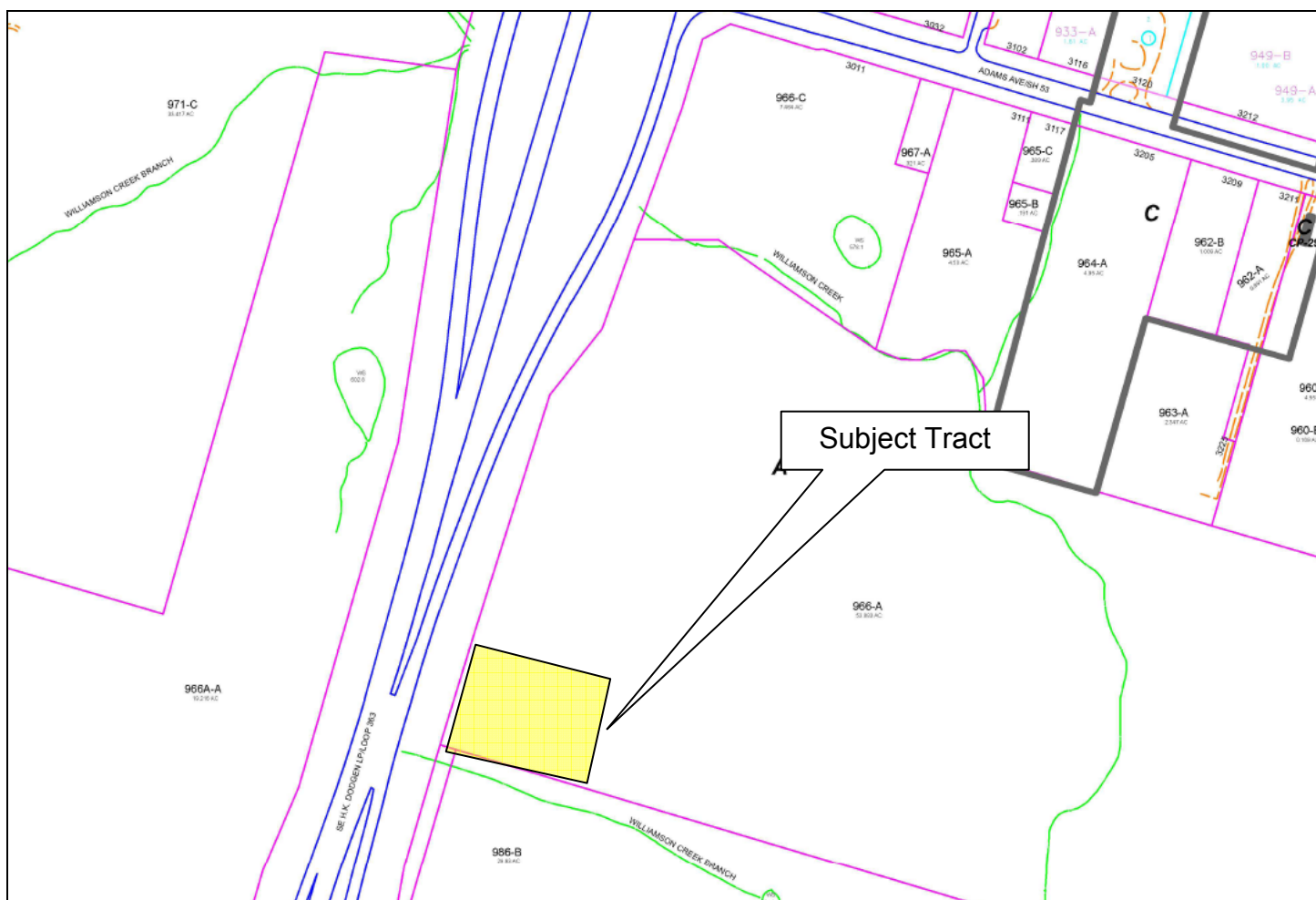
ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-30, from the Planning and Zoning meeting, July 7 2008. The request is for a future cabinet shop.

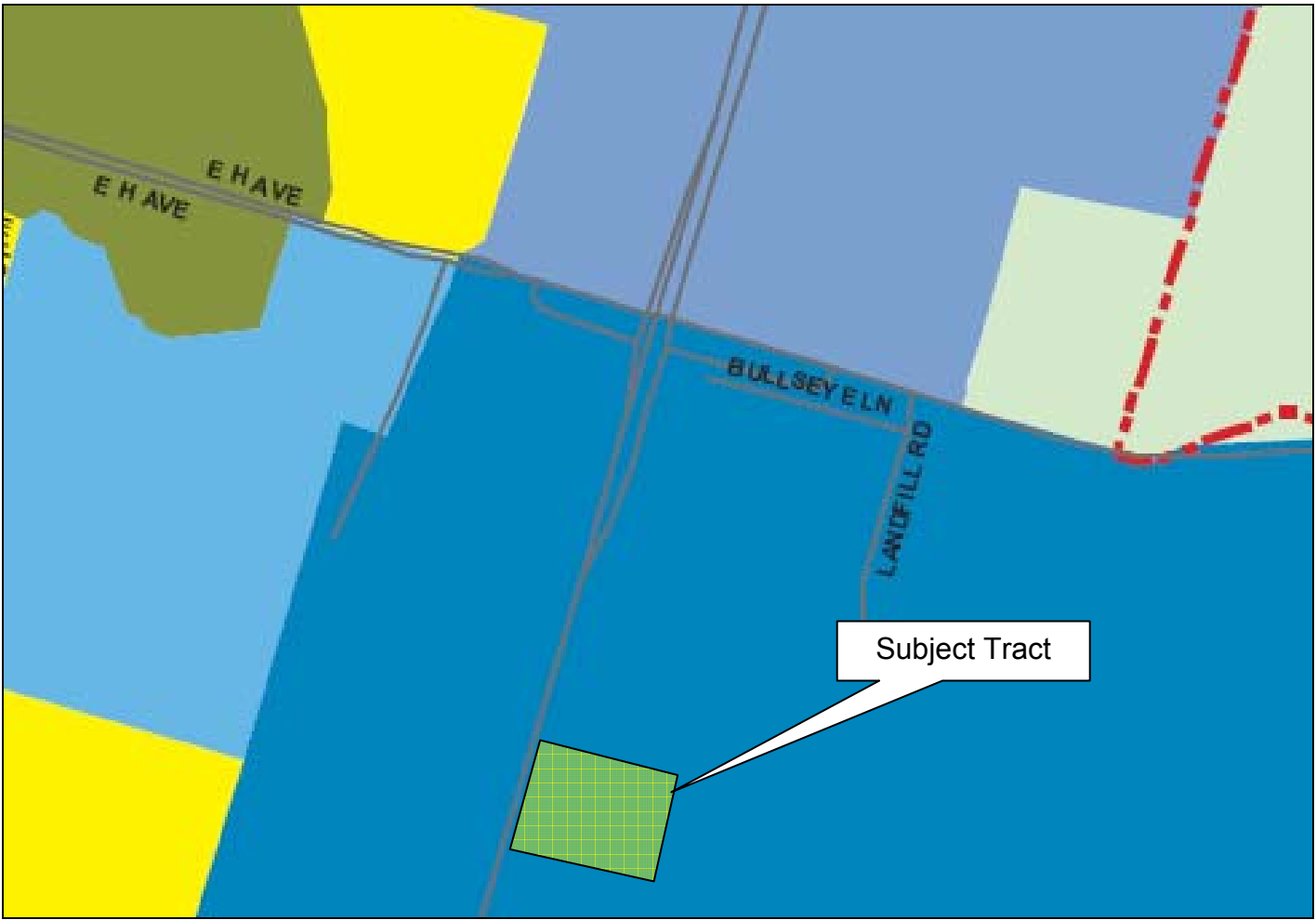
All zoning requests must be compared to the Comprehensive Plan. The request conforms to the Future Land Use Plan for commercial uses; the Thoroughfare Plan designation of Loop 363 as a arterial sized right-of-way; and the Adequacy of Public Facilities for sufficient water and sewer prior to development of the property.

FISCAL IMPACT: None

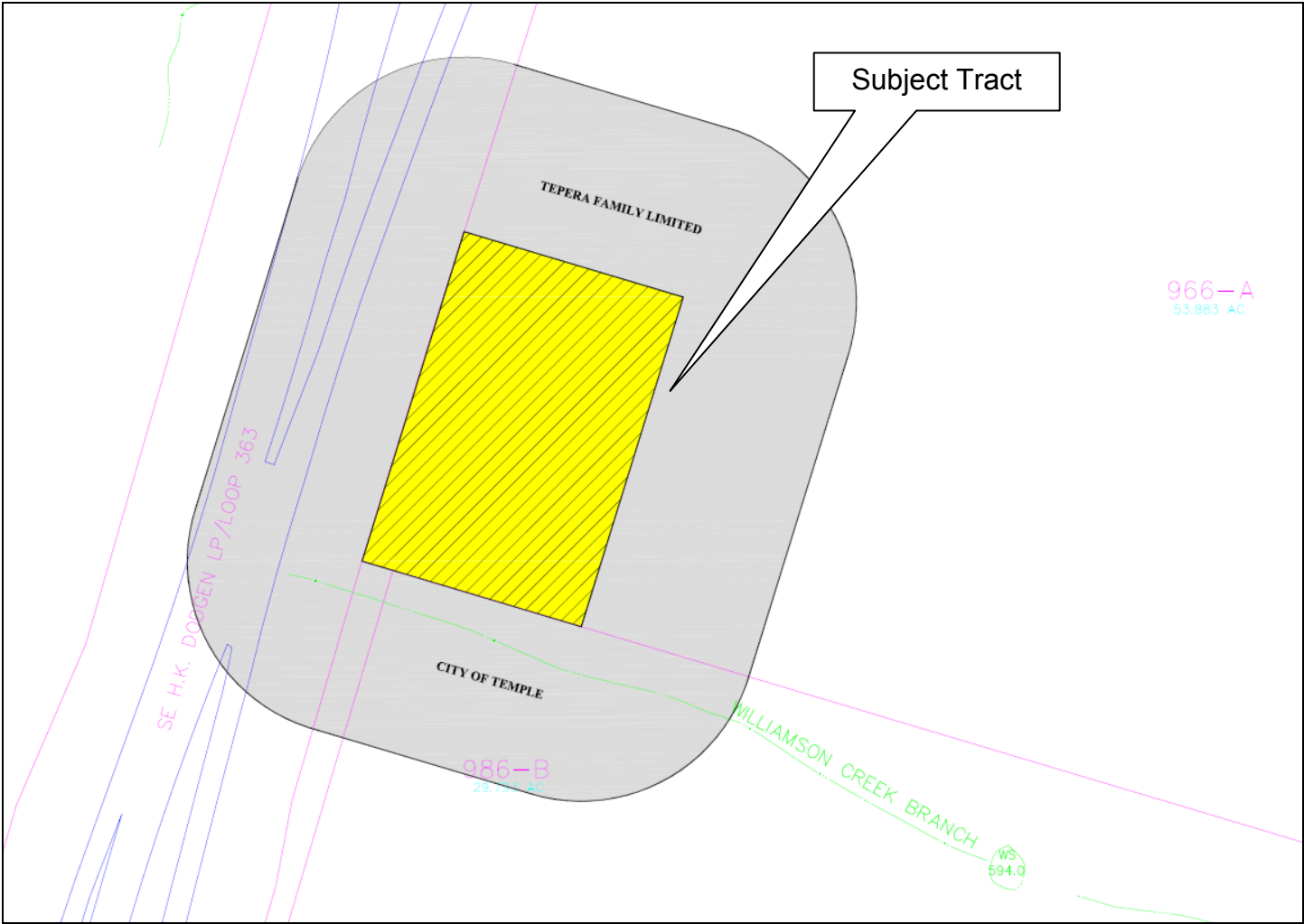
ATTACHMENTS:

Land Use Map
Zoning & Notice Map
Aerial
P&Z Staff Report
P&Z Excerpts
Ordinance











PLANNING AND ZONING COMMISSION AGENDA ITEM

07/07/08
Item #6
Page 1 of 2

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-08-30 Public Hearing – Z-FY-08-30: Discuss and recommend action to consider a zone change from Agricultural District (A) zoning to Commercial (C) on a 5.0± acre tract of land located at the south west corner of the 53.8± acre tract being out of the M. Moreno Survey, Abstract Number 14, in Bell County Texas. Property is located adjacent to the East right of way line of Loop 363 and adjoins the North West property corner of the 29.83 Acre City of Temple Tract. (Applicant: Pechal Cabinets c/o Clark Fuller Engineering, Inc.)

BACKGROUND: The purpose of this city-initiated zone change is to recognize the proper zoning for a proposed cabinet shop to be located on the east side of Loop 363 near the Public Service Department. The proposed building will conform to the masonry standards required by ordinance.

Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	A & Industrial	Vacant
		City of Temple Service Center
East	A	Vacant
South	A	Vacant
West	A	Vacant

A zoning request should be reviewed for compliance with the Comprehensive Plan.

Future Land Use Plan

The Temple Plan designates the subject as Industrial and the request complies with the Plan since it is less intensive. The draft Comprehensive Plan shows the area as suburban commercial.

Thoroughfare Plan

The proposed use gets access from the SE H.K. Dodgen Loop, an Arterial Road. Commercial uses area planned for access to the Arterial Road in this location, and the request complies with the Plan.

Adequacy of Public Facilities

Waterlines are being extended to serve the proposed use with the use of a septic system. Adequate public and private facilities serve the site.

Commercial Development Regulations

This district allows all retail and most commercial land uses including cabinet shops, auto dealerships, building material sales, light manufacturing, and heavy machinery sales and storage. Also, residential uses are allowed, except apartments. The commercial district is intended to serve citywide or regional service areas. This district should be located along major highways and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas, and park within the confines of the facility. This district should also be located at intersection of major thoroughfares or highways. This district should be located away from low and medium density residential development and may be used as a buffer between retail and industrial uses.

Minimum lot area and setback requirements for the C, Commercial district are as follows.

C, Commercial	
Min. Lot Area (sq. ft.)	None
Min. Lot Width (ft.)	None
Min. Lot Depth (ft.)	None
Max. Height (stories)	None
Min. Yard (ft)	
Front	30 from street centerline
Side	10 adjacent to residential district
Rear	10 adjacent to residential district

Public Notice

A total of three notices were sent out. As of Tuesday, July 1, 2008 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on June 28, 2008 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the zone change from A to C for the following reasons:

1. The request complies with the Future Land Use Plan;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public and private facilities serve the site.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use Map
Aerial
Notice Map

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, JULY 7, 2008

Item 7: Public Hearing—Z-FY-08-30: Discuss and recommend action to consider a zone change from AG to C on a 5.0± acre tract of land located at the southwest corner of the 53.8± acre tract being out of the M. Moreno Survey, Abstract No. 14, in Bell County Texas. Property is located adjacent to the East right of way line of Loop 363 and adjoins the North West property corner of the 29.83 acre City of Temple tract. (Applicant: Pechal Cabinets c/o Clark Fuller Engineering, Inc.)

Planning Director Tim Dolan presents this case and mentions that it is to go before City Council on July 17th for the first reading and August 7th for the second reading and final action. He presents with three maps and one aerial view. Letters were mailed and one received back in favor. Staff recommends approval and Mr. Dolan asks for questions or comments.

Chair Luck opens the floor to the public. No one comes forward to speak and Chair Luck closes the public hearing.

Commissioner Martin moves for approval; Commissioner Norman seconds. The vote is unanimously carried. (7/0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-30]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE ZONING OF COMMERCIAL DISTRICT (C) FROM AGRICULTURE DISTRICT (A) ON A 5 ACRE TRACT OF LAND LOCATED AT THE SOUTHWEST CORNER OF THE 53.8 ACRE TRACT BEING OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NUMBER 14, IN BELL COUNTY, TEXAS, LOCATED ADJACENT TO THE EAST RIGHT OF WAY LINE OF LOOP 363 AND ADJOINING THE NORTHWEST PROPERTY CORNER OF THE 29.83 ACRE CITY OF TEMPLE TRACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves the zoning of Commercial District (C) from Agriculture District (A) on a 5 acre tract of land located at the southwest corner of the 53.8 acre tract being out of the Maximo Moreno Survey, Abstract Number 14, in Bell County, Texas, located adjacent to the east right of way line of Loop 363 and adjoining the northwest property corner of the 29.83 acre City of Temple tract, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **July**, 2008.

PASSED AND APPROVED on Second Reading on the **7th** day of **August**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-27: Consider adopting an ordinance authorizing a zoning change from Planned Development (PD) District to General Retail (GR) District, on 0.904 ± acres situated in the George Givens Survey, Abstract No. 345, located on the south side of West Adams Avenue, between Kegley Road and the Wildflower Villa Apartments.

P&Z COMMISSION RECOMMENDATION: The Planning and Zoning Commission voted 7/0 to recommend approval of a zone change from PD to GR at its meeting on July 7, 2008.

STAFF RECOMMENDATION: Staff recommends approval of the zone change from PD to GR for the following reasons:

1. The request complies with the future land use map of the West Temple Plan;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the site.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-27, from the Planning and Zoning meeting, July 7, 2008.

The applicant wishes to establish a Sonic drive-in restaurant on the subject property. The property is currently zoned PD, Planned Development with no underlying base zoning district. No specific standards were established for the property in the PD. If the zone change is approved, the PD designation would be removed from the property and the GR standards would apply.

Minimum lot area and setback requirements for the GR zoning district are as follows.

GR, General Retail	
Min. Lot Area (sq. ft.)	None
Min. Lot Width (ft.)	None
Min. Lot Depth (ft.)	None
Max. Height (stories)	3 stories
Min. Yard (ft)	
Front	30 from street centerline
Side	10 adjacent to residential district
Rear	10 adjacent to residential district

Masonry standards will apply to the building.

Three notices of the Planning and Zoning Commission hearing were sent out. As of Monday, July 7, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 28, 2008 in accordance with state law and local ordinance

FISCAL IMPACT: None

ATTACHMENTS:

[Zoning Map](#)
[Land Use Map](#)
[Aerial](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-08-27\)](#)
[P&Z Minutes \(07/07/08\)](#)
[Ordinance](#)

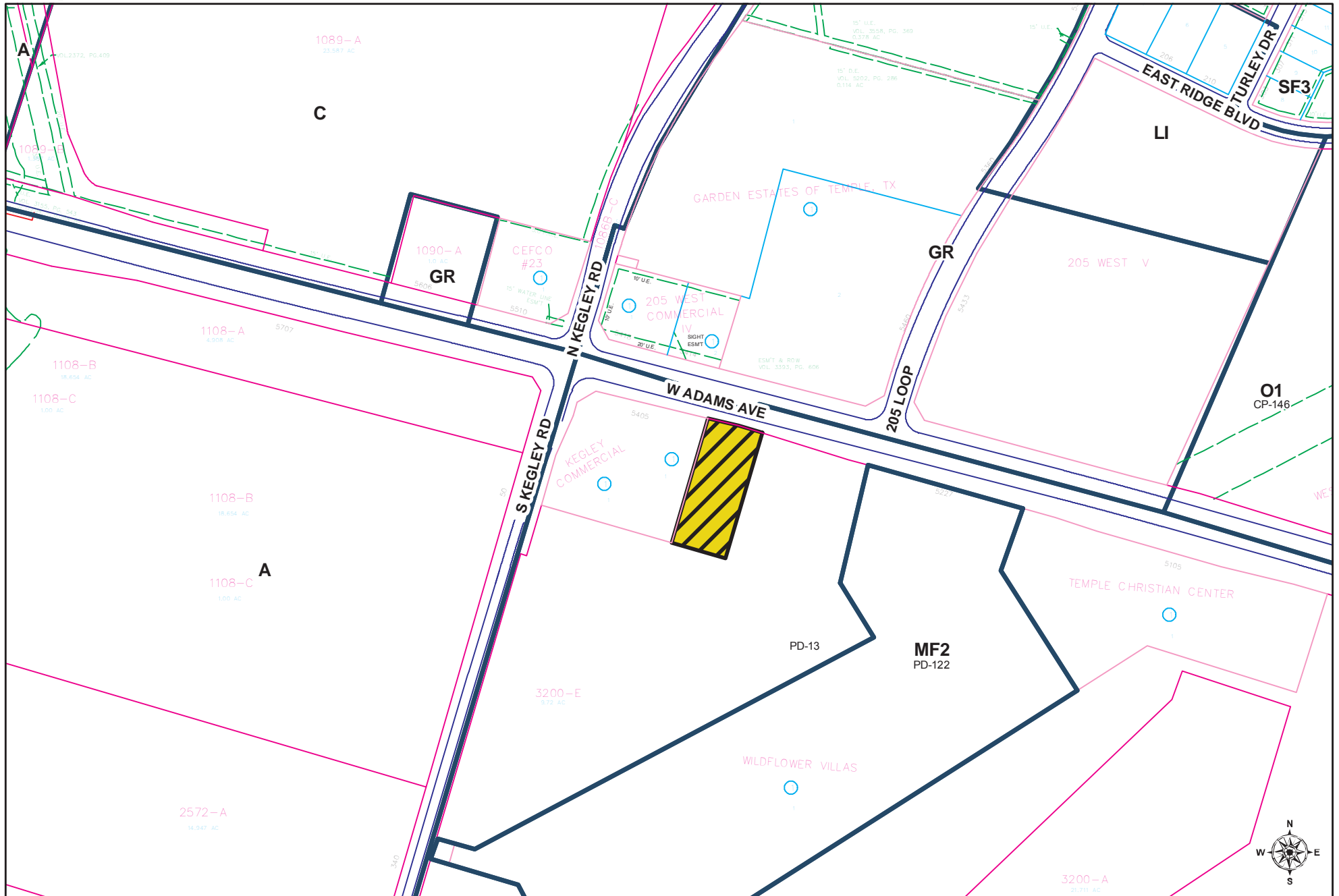


Z-FY-08-27

0.904 Acres

OB#3200-E

Proposed Wildflower Commercial



ZFY0827

PD to GR Zoning

1 inch equals 300 feet
J Stone 06.16.08



Z-FY-08-27

0.904 Acres

OB#3200-E

Proposed Wildflower Commercial

ZFY0827

CLUP

Agricultural

AGRICULTURE

Residential

LOW DENSITY (UE)

MOD DENSITY (SF1, SF2, SF3, MH, 2F)

MED DENSITY (MH, 2F, TH, MF1)

HIGH DENSITY (MF2)

Commercial

OFFICE (O1, O2)

RETAIL (NS, GR)

COMMERCIAL (C, CA)

Mixed Use

MIXEDUSE (MU)

Industrial

INDUSTRIAL (LI, HI)

Warehouse/Distribution

Manufacturing/Distribution

Bio-Science/Technology

Corporate Capus & Office

Aviation Industrial Dvmt

Fwy Com/Tech/Indust

Intermodal

Community Facilities

COMMUNITYFACILITY

CF-E (EDUCATIONAL)

CF-G (GENERAL)

CF-R (RESIDENTIAL)

CF-M (MEDICAL)

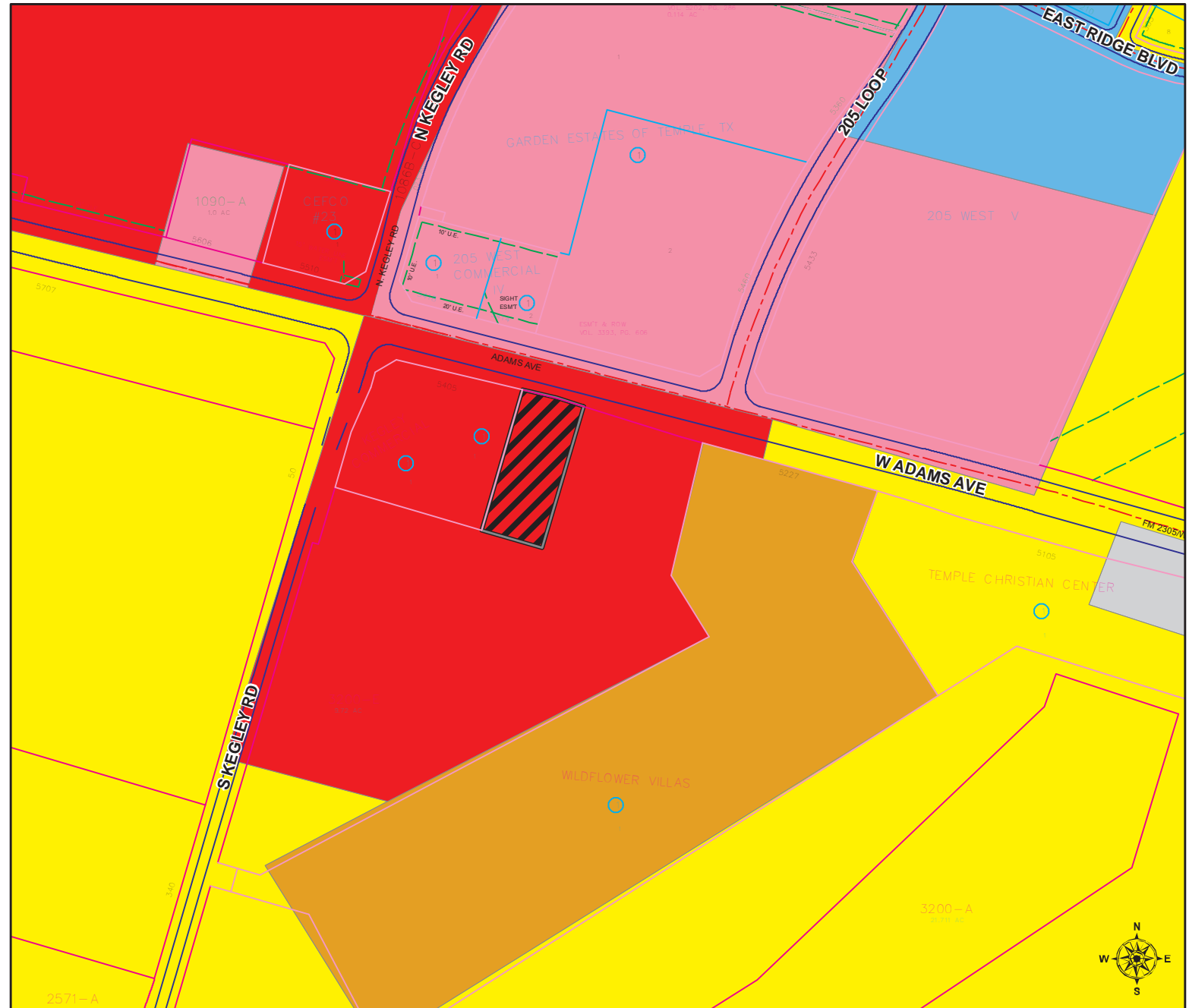
Park Land

PROPOSED FLOATING PARK

PARKS

Downtown

DOWNTOWN



PD to GR Zoning

1 inch equals 300 feet
J Stone 06.16.08



Z-FY-08-27

0.904 Acres

OB#3200-E

Proposed Wildflower Commercial



ZFY0827

PD to GR Zoning

1 inch equals 300 feet
J Stone 06.16.08

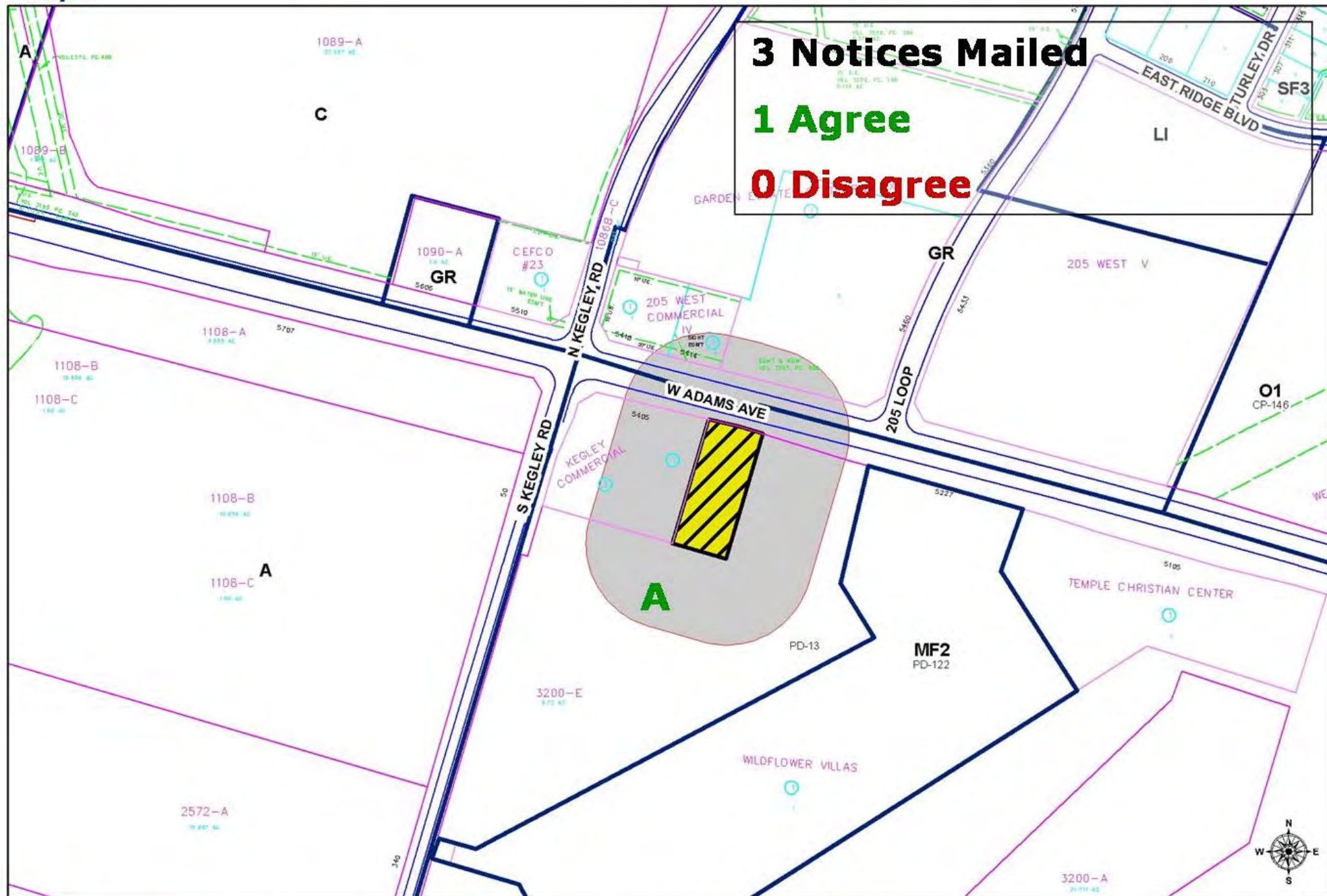


Z-FY-08-27

0.904 Acres

OB#3200-E

Proposed Wildflower Commercial



 ZFY0827  200' Buffer

PD to GR Zoning

1 inch equals 300 feet
J Stone 06.16.08



PLANNING AND ZONING COMMISSION AGENDA ITEM

07/07/08
Item #4
Page 1 of 2

APPLICANT / DEVELOPMENT: Turley Associates for Chris Vonder Hoya

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-08-27 Hold a public hearing to consider the permanent zoning of General Retail District from Planned Development District, on 0.904 ± acres situated in the George Givens Survey, Abstract No. 345, located on the south side of West Adams Avenue, between Kegley Road and the Wildflower Villa Apartments. (Applicant: Turley Associates for Christopher Vonder Hoya)

BACKGROUND: The applicant wishes to establish a Sonic drive-in restaurant on the subject property. The property is currently zoned PD, Planned Development with no underlying base zoning district. The PD was established in 1985 for the Wildflower development. No specific standards were established for the property in the PD. If the zone change is approved, the PD designation would be removed from the property and the GR, General Retail standards would apply.

Case P-FY-08-50 (Item #2 on the P&Z agenda) is the plat for this property.

Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	GR	Car wash
		Vacant
East	PD	Vacant
South	PD	Vacant
West	PD	Vacant

A zoning request should be reviewed for compliance with the Comprehensive Plan.

Future Land Use Plan & Future Trends

The West Temple Plan designates the subject property with the Regional Commercial future land use category. This future land use category allows for the requested GR, General Retail zoning district. The request complies with the Future Land Use Plan.

Thoroughfare Plan

West Adams Avenue is designated a Major Arterial on the Thoroughfare Plan. The zoning request complies with the Thoroughfare Plan.

Adequacy of Public Facilities

Double Sided

A 12" water line runs along West Adams Avenue. A 15" sewer line runs along Kegley Road. A plat for the property that is currently being reviewed for administrative approval shows that the developer will tap into this sewer line. Upon approval of the plat, adequate public facilities will serve the site.

Development Regulations

The purpose of the GR, General Retail district is to serve larger service areas than neighborhoods. This district should be located at the intersection of major arterials and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas, and park within the confines of the retail facility. This is the standard retail district and allows most retail uses including retail sales, fuel sales, restaurants, grocery stores, or offices and residential uses except apartments.

Minimum lot area and setback requirements for the GR, General Retail district are as follows.

GR, General Retail	
Min. Lot Area (sq. ft.)	None
Min. Lot Width (ft.)	None
Min. Lot Depth (ft.)	None
Max. Height (stories)	3 stories
Min. Yard (ft)	
Front	30 from street centerline
Side	10 adjacent to residential district
Rear	10 adjacent to residential district

The masonry standards adopted in April 2008 will apply to all buildings on the subject property.

Public Notice

Three notices were sent out. As of Tuesday, July 1 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on June 28, 2008 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the zone change from PD to GR for the following reasons:

1. The request complies with the future land use map of the West Temple Plan;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will serve the site.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use Map
Aerial
Notice Map

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING**

MONDAY, JULY 7, 2008

Item 4: Public Hearing—Z-FY-08-27: Discuss and recommend action to consider a zone change from PD to GR on a 0.9± acre tract of land situated in the George Givens Survey, Abstract No. 345, located on the south side of West Adams Avenue, between Kegley Road and the Wildflower Villa Apartments. (Applicant: Turley Associates for Christopher Vonda Hoya)

This item is presented by Mr. Brian Mabry, Senior Planner who explains that it is to go before City Council on July 17th for the first reading and August 7th for the second reading and final action. He displays aerial photos, showing the undeveloped land adjacent to the property. He continues by showing photos of the property and the surrounding businesses and residences. He then shows the future land use map for the area, a zoning map and explains the GR zoning. Three notices were mailed out. One returned in favor and zero against. Staff recommends approval of the proposed zoning change. Senior Planner Brian Mabry asks for questions from the board.

Chair Susan Luck opens the floor to the public. Mr. Victor Turly takes the floor to answer any questions. No questions were posed. Chair Luck closes the public hearing.

Vice-Chair Pope moves for approval; Commissioner Derek Martin seconds. The movement is carried. (7/0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-27]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ZONE CHANGE FROM PLANNED DEVELOPMENT DISTRICT (PD) TO GENERAL RETAIL DISTRICT (GR) ON APPROXIMATELY 0.904 ACRES SITUATED IN THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, LOCATED ON THE SOUTH SIDE OF WEST ADAMS AVENUE, BETWEEN KEGLEY ROAD AND THE WILDFLOWER VILLA APARTMENTS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves a zone change from Planned Development District (PD) to General Retail District (GR) on approximately 0.904 acres situated in the George Givens Survey, Abstract No. 345, located on the south side of West Adams Avenue, between Kegley Road and the Wildflower Villa Apartments, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **July**, 2008.

PASSED AND APPROVED on Second Reading on the **7th** day of **August**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office



COUNCIL AGENDA ITEM MEMORANDUM

07/17/08
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-29: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) District to Single Family One (SF-1) District on 55.95 ± acres recorded as Eagle Oaks At The Lake Phases One, Two, Three , Four and Five, located on both sides of Eagle Landing Drive, east of Cen-Tex Sportsman Club Road.

P&Z COMMISSION RECOMMENDATION: The Planning and Zoning Commission voted 6/0 to recommend approval of a zone change from A to SF-1 at its meeting on July 7, 2008. Commissioner Kjelland was absent and Commissioner Carothers abstained.

STAFF RECOMMENDATION: Staff recommends approval of the zone change from A to SF-1 for the following reasons:

1. SF-1 best accommodates these lots that are already platted;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public and private facilities serve the site.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-29, from the Planning and Zoning meeting, July 7, 2008. The purpose of this city-initiated zone change is to make the newly platted lots in the Eagle Oaks at the Lake Subdivision conforming in regard to lot area and front yard setback. The subdivision was platted prior to annexation in January 2008. Now that the subdivision is in the city limits, the appropriate zoning district, SF-1, should be applied to it so that building permits may be issued.

Minimum lot area and setback requirements for the SF-1, General Retail district are as follows.

SF-1, Single-Family Dwelling 1	
Min. Lot Area (sq. ft.)	7,500
Min. Lot Width (ft.)	60
Min. Lot Depth (ft.)	100
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	25
Side	7 ½
Rear	10

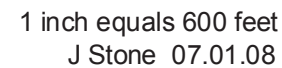
Thirty seven notices of the Planning and Zoning Commission hearing were sent out. As of Monday, July 7, 2008, 1 notice was returned in favor of and 3 notices were returned in opposition to the request. Two of the negative respondents were under the mistaken impression that their own property was being rezoned and the other negative respondent thought that the rezoning should have occurred prior to platting. However, Texas cities are forbidden to zone on the ETJ. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 28, 2008 in accordance with state law and local ordinance

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

FISCAL IMPACT: None

ATTACHMENTS:

[Zoning Map](#)
[Land Use Map](#)
[Aerial](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-08-29\)](#)
[P&Z Minutes \(07/07/08\)](#)
[Ordinance](#)





Z-FY-08-29

55.95 Acres

Eagle Oaks at the Lake Phases One through Five

ZFY0829

CLUP

Agricultural

AGRICULTURE

Residential

LOW DENSITY (UE)

MOD DENSITY (SF1, SF2, SF3, MH, 2F)

MED DENSITY (MH, 2F, TH, MF1)

HIGH DENSITY (MF2)

Commercial

OFFICE (O1, O2)

RETAIL (NS, GR)

COMMERCIAL (C, CA)

Mixed Use

MIXEDUSE (MU)

Industrial

INDUSTRIAL (LI, HI)

Warehouse/Distribution

Manufacturing/Distribution

Bio-Science/Technology

Corporate Capus & Office

Aviation Industrial Dvmt

Fwy Com/Tech/Indust

Intermodal

Community Facilities

COMMUNITYFACILITY

CF-E (EDUCATIONAL)

CF-G (GENERAL)

CF-R (RESIDENTIAL)

CF-M (MEDICAL)

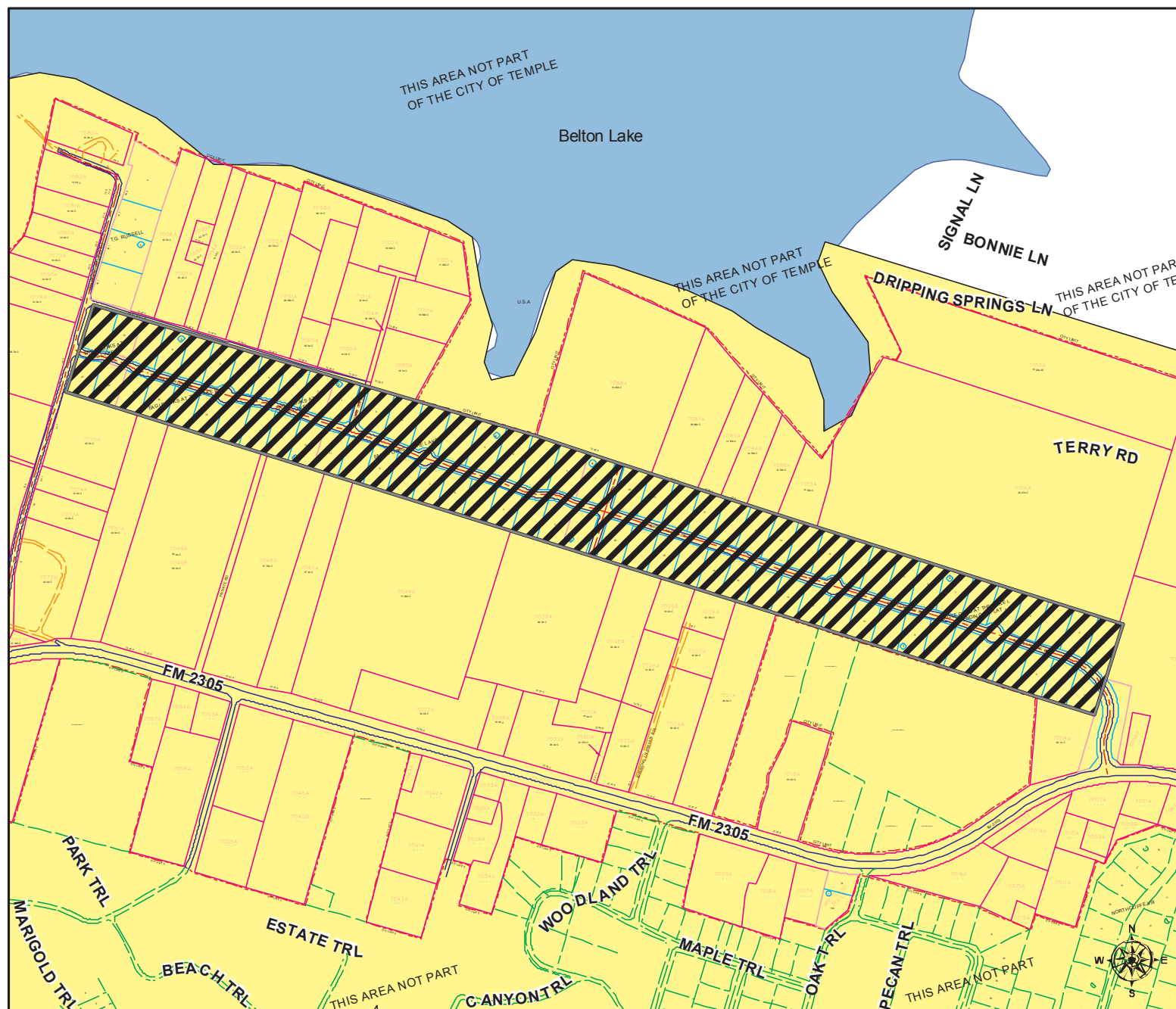
Park Land

PROPOSED FLOATING PARK

PARKS

Downtown

DOWNTOWN



A to SF1 Zoning

1 inch equals 700 feet

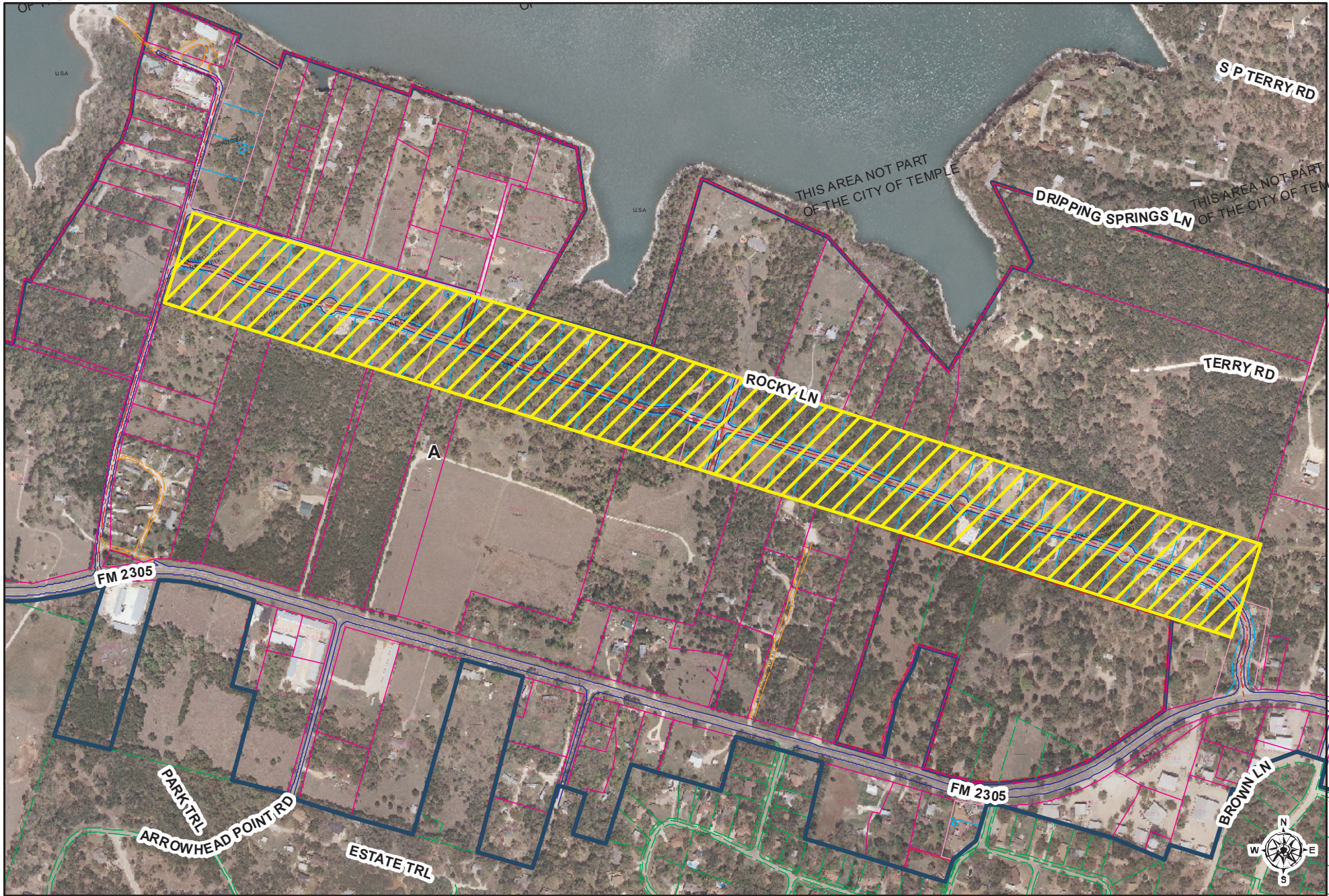
J Stone 07.01.08



Z-FY-08-29

55.95 Acres

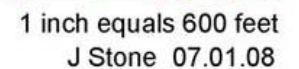
Eagle Oaks at the Lake Phases One through Five



ZFY0829

A to SF1 Zoning

1 inch equals 600 feet
J Stone 07.01.08





PLANNING AND ZONING COMMISSION AGENDA ITEM

07/07/08
Item #6
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APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-08-29 Hold a public hearing to consider a zone change from Agricultural District to Single Family One (SF-1) on 55.95 ± acres recorded as Eagle Oaks At The Lake Phases One, Two, Three, Four and Five, located on both sides of Eagle Landing Drive, east of Cen-Tex Sportsman Club Road. (City of Temple)

BACKGROUND: The purpose of this city-initiated zone change is to make the newly platted lots in the Eagle Oaks at the Lake subdivision conforming in regard to lot area and front yard setback. The lots are currently zoned Agricultural, which requires a minimum lot area of one acre and a minimum front yard setback of 50 feet. The subject lots were platted prior to City annexation in January 2008 and are ½ acre or more in area with a 25' front yard setback. The subdivision is zoned Agricultural because at the time of annexation, all properties automatically receive such zoning designation until they are rezoned. Currently, building permits cannot be issued for the lots in this subdivision because they are too small for the Agricultural zoning district. The Urban Estates (UE) zoning district has a minimum lot area of ½ acre but requires a minimum 30' front yard setback, therefore the SF-1 zoning district is the most appropriate district for this subdivision due to its minimum lot area requirement of 7,500 square feet and minimum front yard setback of 25'.

The lots in this subdivision were platted in three primary phases from January 2005 to December 2007. Phases four and five were administratively approved amending plats that made minor adjustments to road alignment and internal lot lines. A total of 43 houses have been built on the 81 lots that make up this subdivision.

Surrounding Property and Uses

The following table shows the existing zoning and current land uses abutting the subject property:

Direction	Zoning	Current Land Use
North	A	Vacant
		Residential
East	A	Vacant
South	A	Vacant
West	A	Vacant

A zoning request should be reviewed for compliance with the Comprehensive Plan.

Future Land Use Plan

The West Temple Plan designates the subject property with the Low Density Residential future land use category. This future land use category allows does not recommend the requested SF-1 zoning

Double Sided

district. However, this is the least intense district that will accommodate the way that the lots are platted.

Thoroughfare Plan

Eagle Landing Drive is designated a Local Street on the Thoroughfare Plan. The zoning request complies with the Thoroughfare Plan.

Adequacy of Public Facilities

Waterlines 8", 3" and 2" in diameter and septic tanks serve the subdivision. Adequate public and private facilities serve the site.

Development Regulations

The purpose of the SF-1 zoning district is to accommodate average or standard single family lots and should serve as a transition between larger and smaller lot single family districts.

The SF-1 zoning district allows single-family houses and some supporting uses such as a fire station, park, home based child care, church or school.

Minimum lot area and setback requirements for the GR, General Retail district are as follows.

SF-1, Single-Family Dwelling 1	
Min. Lot Area (sq. ft.)	7,500
Min. Lot Width (ft.)	60
Min. Lot Depth (ft.)	100
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	25
Side	7 ½
Rear	10

Public Notice

Thirty seven notices were sent out. As of Tuesday, July 1, 2008 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on June 28, 2008 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the zone change from A to SF-1 for the following reasons:

1. SF-1 best accommodates these lots that are already platted;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public and private facilities serve the site.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use Map
Aerial
Notice Map

EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, JULY 7, 2008

Item 6: Public Hearing—Z-FY-08-29: Discuss and recommend action to consider a zone change from AG to SF-1 on a 55.9± acre tract of land recorded as Eagle Oaks at the lake Phases One, Two, Three, Four and Five, out of the George Lindsay Survey, Abstract No. 513, and the S.P. terry Survey, Abstract No. 812, located on both sides of Eagle Landing Drive, east of Cen-Tex Sportsman Club Road. (Applicant: Planning Department).

Senior Planner Mabry presents this case and mentions that it is to go before City Council on July 17th for the first reading and August 7th for the second reading and final action. He explains that the lots are too small for the AG district zoning and that the setbacks are too small for the current zoning. The rezoning will allow for building permits on the remaining lots. The subdivision is 50% complete at present.

Senior Planner Mabry displays three maps and an aerial view of the area. He explains that SF-1 is the only zoning that could accommodate the current lots. 37 notices were sent out and 3 were returned. 2 were not in favor and 1 was in favor. Staff recommends approval. Senior Planner Mabry asks for questions from the commissioners.

Commissioner Mike Pilkington asks if there is “grandfathering” for this property. Mr. Mabry explains that the City of Temple does not have provisions for lots that were developed before annexation.

Chair Susan Luck opens the floor to the public. No one steps forward and she closes the public hearing. Vice-Chair Pope asks about the 81 lots and the development of the first 43 lots. Mr. Mabry explains that the 43 that have homes on them are in the first 2/3 of the subdivision as the roads are not complete in the area.

Commissioner Secrest moves for approval; Commissioner Pilkington seconds. Commissioner Carothers abstains and the vote is approved. (6/0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-29]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ZONE CHANGE FROM AGRICULTURAL DISTRICT (A) TO SINGLE FAMILY ONE DISTRICT (SF-1) ON APPROXIMATELY 55.95 ACRES PLATTED AS EAGLE OAKS AT THE LAKE PHASES ONE, TWO, THREE, FOUR AND FIVE, LOCATED ON BOTH SIDES OF EAGLE LANDING DRIVE, EAST OF CEN-TEX SPORTSMAN CLUB ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: The City Council approves a zone change from Agricultural District (A) to Single Family One District (SF-1) on approximately 55.95 acres platted as Eagle Oaks at the Lake Phases One, Two, Three, Four and Five, located on both sides of Eagle Landing Drive, east of Cen-Tex Sportsman Club Road, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 3: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 5: It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 17th day of **July**, 2008.

PASSED AND APPROVED on Second Reading on the 7th day of **August**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

City Attorney's Office