



**MEETING OF THE
TEMPLE CITY COUNCIL**

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

THURSDAY, NOVEMBER 6, 2008

3:30 P.M.

3RD FLOOR CONFERENCE ROOM

WORKSHOP AGENDA

1. Discuss solid waste services, to include bulk and brush item services.
2. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the Director of Finance. No final action will be taken.
3. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 6, 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. Presentation of Proclamations:
 - (A) *Alzheimer's Disease Awareness Month* November, 2008
 - (B) *National Hospice Month* November, 2008
 - (C) *Central Texas Scottish Heritage Day* November 6, 2008

III. PRESENTATION

4. Receive presentation from Keep Temple Beautiful on the "Raise the Bar" beautification project on Canyon Creek Drive.

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) [October 16, 2008 Special Called Meeting and Regular Meeting](#)

Contracts, Leases & Bids:

- (B) [2008-5565-R](#): Consider adopting a resolution authorizing a professional services agreement with Bert Pope of Temple for construction administration services related to several capital projects in the estimated amount of \$104,640 and declaring an official intent to reimburse the fire station-related expenditures of \$76,800 made prior to the issuance of tax-exempt obligations for these two projects.
- (C) [2008-5566-R](#): Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$100,776.
- (D) [2008-5567-R](#): Consider adopting a resolution authorizing a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for Phase 1 renovations to the Temple Public Library in the amount of \$140,042.
- (E) [2008-5568-R](#): Consider adopting a resolution authorizing a farm lease with Monique Rincones on approximately 3.7 acres located at the southeast corner of the Service Center property on East Avenue H.

Ordinances – Second Reading

- (F) [2008-4264](#): SECOND READING – Z-FY-08-40: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Urban Estate District (UE) on 2.1± acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513.

Ordinances – First Reading

- (G) [2008-4266](#): FIRST READING – Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.

Misc.

- (H) [2008-5569-R](#): Consider adopting a resolution authorizing the acceptance of a 100% grant with no matching funding from the Department of Homeland Security's Office of Grants and Training through the FY 2008 Commercial Equipment Direct Assistance Program, in the form of a Radiation Detection Kit, valued at approximately \$15,000.
- (I) [2008-5570-R](#): Consider adopting a resolution authorizing the acceptance of a Texas Parks and Wildlife Matching Grant Award for Friar's Creek Nature Trail Phase I in the amount of \$188,720 and committing \$47,180 as the City's match portion of this project for a total project cost of \$235,900.

- (J) [2008-5571-R](#): Consider adopting a resolution conveying a 1.99 acre tract of land out the Nancy Chance Survey, Abstract #5, located west of Old Howard Road, south and east of Hilliard Road, to the abutting property owner for fair market value.
- (K) [2008-5572-R](#): Consider adopting a resolution canceling the January 1, 2009 regular meeting of the Temple City Council.
- (L) [2008-5573-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

VI. REGULAR AGENDA

ORDINANCES

- 6. (A) [2008-4261](#): THIRD & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance authorizing a five year franchise to Scott and White EMS to provide non-emergency ambulance transfer services within the City.
- (B) [2008-4262](#): THIRD & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance authorizing a five year franchise to Central Texas EMS to provide non-emergency ambulance transfer services within the City.
- 7. [2008-4263](#): FIRST READING – PUBLIC HEARING – Z-FY-08-37: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on a 12.2± acre tract of land and a zone change to a Single Family Two District (SF-2) on a 38.5± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.
- 8. [2008-4267](#): FIRST READING – PUBLIC HEARING - Z-FY-08-39: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) District to Commercial (C) District on 1.7 ± acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane.
- 9. [2008-4268](#): FIRST READING – PUBLIC HEARING - Z-FY-08-41: Consider adopting an ordinance authorizing a zoning change from General Retail (GR) District to Commercial (C) District on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive.
- 10. [2008-4269](#): FIRST READING – PUBLIC HEARING - Z-FY-09-01: Consider adopting an ordinance authorizing an amendment to the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips in lieu of distance requirements, to create subdivision access standards, and to relocate these requirements to the City of Temple Design & Development Standards Manual.
- 11. [2008-4270](#): FIRST READING – PUBLIC HEARING - Z-FY-09-02: Consider adopting an ordinance authorizing an amendment to City of Temple Zoning Ordinance Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage outside a Building).

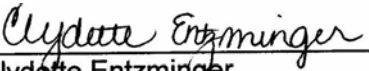
12. [2008-4265](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance abandoning portions of East Barton Avenue and North Second Street rights-of-way for First United Methodist Church and retaining utility easements in a portion of the abandoned rights-of-way.

BOARD APPOINTMENTS

13. [2008-5574-R](#): Consider adopting a resolution appointing one member to the Building & Standards Commission to fill an unexpired term through March 1, 2010.

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 2:50 PM, on October 31, 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

11/06/08
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

- | | | |
|-----|--|------------------|
| (A) | <i>Alzheimer's Disease Awareness Month</i> | November, 2008 |
| (B) | <i>National Hospice Month</i> | November, 2008 |
| (C) | <i>Central Texas Scottish Heritage Day</i> | November 6, 2008 |

STAFF RECOMMENDATION: Present proclamation as presented in item description.

- ITEM SUMMARY:** (A) This proclamation was requested by Mrs. Betty Decker. It will be received by Mrs. Decker and members of the Alzheimer's Disease Family Support Group.
- (B) This proclamation was requested by Ms. Sherry Chapman, Hospice Lighthouse. It will be received by Ms. Kay Burtchell of the Temple office.
- (C) This proclamation was requested by Terri Matthew, Cultural Activity Center. It will be received by a representative from the Central Texas Area Museum.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #4
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Clydetta Entzminger, City Secretary

ITEM DESCRIPTION: Receive presentation from Keep Temple Beautiful on the “Raise the Bar” beautification project on Canyon Creek Drive.

STAFF RECOMMENDATION: Receive presentation as presented in item description.

ITEM SUMMARY: The “Raise the Bar” beautification program was completed on Saturday, October 25th. The City was instrumental in the success of this program. This has been a positive program for the community.

Zoe Rascoe, Keep Temple Beautiful, will be present to discuss this project with the City Council.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) October 16, 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:

[October 16, 2008 Special Called Meeting & Regular Meeting](#)

TEMPLE CITY COUNCIL

OCTOBER 16, 2008

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 16, 2008 at 3:30pm in the 3rd Floor Conference Room, 2 North Main Street.

Present:

Councilmember Tony Jeter
Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider
Mayor Jones

Absent:

Councilmember Marty Janczak

1. Discuss the City's current street hump policy and possible revisions to that policy.

Bruce Butscher, Director of Public Works, began by providing some background information on the development of this policy, the purpose of which is to provide a procedure for the consideration, evaluation and implementation of resident requests for speed humps in our community. Mr. Butscher continued with an overview of the current policy, including eligibility requirements, the application procedure and other guidelines and procedures. He explained the evidence of support contained in the policy, then explained what has been the City's current practice. Instead of requiring the applicant to obtain signatures from two-thirds of the households living within 600 feet of a proposed speed hump, the City staff has been conducting door-to-door surveys along the proposed street to determine if households agree or disagree with installation of the speed humps. Even if a street is eligible for street humps, the installation is subject to availability of funds, contractor work schedules and weather conditions.

The Council discussed the eligibility criteria, particularly the points assigned for locations near schools. Mr. Butscher then showed photographs of some of the seventeen streets in Temple that currently have speed humps in place. He concluded with a review of the staff recommendations, as follows: follow policy in regard to collection and processing of resident signatures/petition; return to Council with more comprehensive approach/plan for speed calming strategies; and develop a communications plan for Council, staff and residents on speed calming strategies and processes.

David Blackburn, City Manager, stated a recent protest received from an Oak Hills resident made us aware of some inadequacies in the current policy and how it is being implemented. We have provided the residents there with the policy and procedures if they wish to initiate the removal of a speed hump.

Councilmember Schneider questioned why the policy would include a provision to remove a speed hump. That should not be necessary.

Councilmember Jeter stated speed humps are a effective method of traffic control in neighborhoods, even more so than stop signs.

Mr. Blackburn stated if the policy is revised in the future it needs to address requests from non-residents, such as agencies, school districts, etc. The City has already received several requests from TISD for speed humps in and around various schools.

2. Discuss proposed amendments to the City's Fire Code and the 2006 International Fire Code.

David Blackburn, City Manager, stated this item will be deferred to the next meeting to allow additional time to work on a few remaining issues.

4. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 16, 2008 as follows:

Mayor Jones asked for discussion regarding this item, before going into executive session under item 3.

Regarding item 8, Councilmember Jeter expressed interest in serving on the I-35 Segment 2 Corridor Committee being established by TxDOT. Councilmember Jeter also asked for a clarification on the budget amendments, item 4(K), as it relates to the Outer Loop funding reallocation and the TEDC funding.

Traci Barnard, Director of Finance discussed right-of-way acquisitions by TxDOT and how they hope to change some processes in the future. The City needs to be better informed by TxDOT during the acquisition process about what is actually being offered, as well paid. Mrs. Barnard also explained the budget amendment relating to funding for Temple Economic Development Corporation (TEDC). She discussed the three funding components of the contract with TEDC, stating this \$53,806 payment is the performance based component.

Mayor Pro Tem Luna asked what will happen if the Oncor rate request is denied, item 4(J).

Jonathan Graham, City Attorney, stated the request will then be reviewed at the next level, the Public Utility Commission.

Councilmember Schneider stated the zoning case on FM 93 and South 5th Street, item 5 on the regular agenda, is located in Councilmember Janczak's district. Three people that reside in that area have asked that the item be tabled on first reading since Councilmember Janczak will not be present at the meeting today.

Mayor Jones stated the public hearing will need to be conducted since it has been advertised. If the Council tables the item on first reading, the public hearing can be

suspended to the next meeting.

Mayor Jones also noted that item 4(E) will need to be removed from the Consent Agenda as Councilmember Schneider as indicated he will need to abstain from the vote because he was a bidder on this project.

Mr. Graham explained that a Councilmember can have a conflict with an item even if they are not being awarded a contract but only bid on the project. They should not discuss or vote on that particular item. It is always the Councilmember's decision as to whether they are conflicted or not.

3. Executive Session: Chapter 551, Government Code, §551.074 - Personnel Matter - The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the City Secretary. No final action will be taken.

Mayor Jones announced the City Council would enter into executive session at this time, stating no action would be taken following the executive session.

Mayor Jones reconvened the regular session at 5:00 p.m. and then adjourned the special meeting.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 16, 2008 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

Absent:

Councilmember Marty Janczak

I. CALL TO ORDER

1. Invocation

Mayor Jones voiced the Invocation.

2. Pledge of Allegiance

Brian Vanicek, President of SPJST, led The Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) Czech Heritage Month October, 2008

Mayor Jones presented this proclamation to Brian Vanicek, President of SPJST, and other members of the SPJST organization.

(B) Community Planning Month October, 2008

Mayor Jones presented this proclamation to the Planning and Zoning Commission members and City Planning Staff.

(C) Recognition of the 125th Anniversary of the Temple Fire Department

Mayor Jones recognized the Temple Fire Department and Chief Lonzo Wallace for the department's 125 years of service to the City of Temple and its citizens.

III. PUBLIC COMMENTS

Wade Boswell, 4712 Stonehaven Drive, stated he recently moved back to Temple. He asked if there was anything being done to bring the bowling alley back into operation. There is a lot of money being lost in this community due to the bowling alley being closed.

David Barteel, 4413 Lowe's Drive, addressed the Council on behalf the residents in his neighborhood, which consists of about 30 or 35 homes. He stated they have been to the Temple Police Department to file complaints about the volume of traffic and number of motorists that are not obeying speed limits in their neighborhood. He has also spoken to their Councilmember and submitted a written statement of concern to the City. It is only a matter of time before a terrible accident happens, Mr. Barteel stated. They still have not seen any patrol officers in their neighborhood. He requested the City close the two roads from their neighborhood or install speed humps and more lighting. Ninety percent of the traffic is through traffic.

IV. CONSENT AGENDA

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

(A) October 2, 2008 Special Called Meeting and Regular Meeting

(B) 2008-5555-R: Consider adopting a resolution authorizing the purchase of two (2) Toro Workman MDX Utility Carts, a Toro Reelmaster 5510 Fairway Mower with cutting units, and a Pro Force Debris Blower from Professional Turf Products of Houston through the BuyBoard in the amount of \$64,995.65.

(C) 2008-5556-R: Consider adopting a resolution authorizing an annual purchase agreement with The Parts Depot of Temple for automotive repair parts for FY08-09 in the estimated amount of \$39,836.07.

(D) 2008-5557-R: Consider adopting a resolution authorizing payment for service and repairs to be completed by United Rotorcraft Solutions of Decatur for the police helicopter in the amount of \$33,139.94.

(E) 2008-5558-R: Consider adopting a resolution authorizing a construction contract with Shallowford Construction Company of Temple for the construction of a multi-use athletic field and parking lot to serve this field In Lions Park in the amount of \$202,050.25.

(F) 2008-5559-R: Consider adopting a resolution authorizing a construction contract with Wall Enterprises of Cleburne for the Elevated Storage Tank and Booster Pump Station Fence Rehabilitation Project in the amount of \$91,725.50.

(G) 2008-5560-R: Consider adopting a resolution authorizing change orders to a construction contract with Dixon Paving, Inc. for construction activities required to build the Wendland Road Improvements between northwest H.K. Dodgen Loop and the future outer loop in an amount not to exceed \$65,208.80.

(H) 2008-4261: SECOND READING - Consider adopting an ordinance authorizing a five year franchise to Scott and White EMS to provide non-emergency ambulance transfer services within the City.

(I) 2008-4262: SECOND READING - Consider adopting an ordinance authorizing a five year franchise to Central Texas EMS to provide non-emergency ambulance transfer services within the City.

(J) 2008-5561-R: Consider adopting a resolution denying the increase to the rates and charges requested by Oncor Electric Delivery Company.

(K) 2008-5562-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2007-2008.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving Consent Agenda, with exception of item 4(E), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

(E) 2008-5558-R: Consider adopting a resolution authorizing a construction contract with Shallowford Construction Company of Temple for the construction of a multi-use athletic field and parking lot to serve this field In Lions Park in the amount of \$202,050.25.

Motion by Councilmember Tony Jeter to adopt resolution, seconded by Mayor Pro Tem Patsy E. Luna.

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

V. REGULAR AGENDA

ORDINANCES

- 5. 2008-4263: FIRST READING - PUBLIC HEARING - Z-FY-08-37: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on a 12.2± acre tract of land and a zone change to a Single Family Two District (SF-2) on a 38.5± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.**

Tim Dolan, Planning Director, presented this zoning case to the Council. He displayed an aerial photo of the property, as well as some photos of buildings in the surrounding area. The future land use map shows retail and moderate density residential uses. Utilities are available in the area and the Thoroughfare Plan shows both South 5th Street and FM 93 as arterials serving the area. Mr. Dolan also reviewed the planned development conditions for the General Retail area. The permitted uses are most retail uses with indoor emphasis. Outdoor uses would generally require a CUP. All residential and associated uses are prohibited within the PD-GR district. Eight notices were mailed to surrounding property owners, with two requesting information at the public hearing and no notices received in disapproval. There has been a number of communications to Council since the public hearing before the Planning and Zoning Commission. Mr. Dolan addressed the questions presented in this correspondence. The Planning and Zoning Commission recommended approval of the zoning request by a vote of 7-0.

Councilmember Jeter requested this item be tabled since Councilmember Janczak, whose district this property is located in, is not present tonight.

Mayor Jones declared the public hearing open with regard to agenda item 5 and asked if anyone wished to address this item.

Tammy Alsum, resident in Echo Village, stated she is a single mother with one child. There is lots of development in this area and she expressed her concern with the traffic level on South 5th Street and the lack of a traffic signal at FM 93 and South 5th Street. Ms. Alsum stated she is concerned about any lowering of their property values.

Councilmember Schneider asked if this is a location that has met the warrants for a traffic signal.

Michael Newman, Assistant Director of Public Works, stated there is enough funding in this year's budget for one signal to be installed in-house. There are currently not enough funds for the signal at South 5th and FM 93. The warrant study has already been done and the location does meet the warrants for a signal.

Mayor Jones asked if apartments are allowed in the SF 2 zoning district.

Mr. Dolan replied no, and all residential uses are prohibited in the retail area.

Janet Sossaman, Coach Stop Drive, stated section 7-109 of the Zoning Ordinance allows quite a few retail uses. She would like to have a more relaxed feel at that intersection and expressed concern with uses such as a discount store, hardware/hobby store, laundromats, mortuary, pawn shop, pet store, and restaurants that sell alcohol. These do not fit with the character of that area. Ms. Sossaman stated they would like to specify what types of businesses they want in that area, those with a suburban character that won't add too much traffic.

Cynthia Bankston stated she is not opposed to general retail zoning at the corner or the residential subdivision. She, too, just wants it to be in character with the general feel of the area. Mrs. Bankston presented some requested changes to the developer's proposal, including a combination of SF 1 and SF 2 zoning. She showed photos of her home and surrounding homes, as well as photos of some communities in Bell County with a look that is not desirable in this area.

Wayne Boswell, resident of Echo Village, asked how hunters can be allowed to shoot dove in this neighborhood with pellets falling into their backyards.

Mayor Jones suggested Mr. Boswell call the Temple Police Department as that address cannot be addressed tonight since it does not relate to the rezoning.

Bob Mitchell, design engineer for the project, addressed the Council. He stated they have made some concessions, working with staff. This will be a nice project and they want to move forward as soon as possible. The

preliminary plat has been submitted and received approval from the Planning and Zoning Commission and he would not want to change the SF-2 zoning because of that.

Mayor Pro Tem Luna questioned the type of buffer being proposed.

Mr. Mitchell stated screening, either masonry or wood along with landscaping, will be installed with the development.

Mayor Jones asked if a homeowner's association will be responsible for the fence.

Mr. Mitchell stated the fence is tied to the general retail area and the businesses that locate there will have more control over maintenance of the fence. They are not proposing a homeowner's association.

Mr. Dolan noted that page three of the proposed ordinance addresses the buffering. The Council discussed the fencing behind homes facing South 5th Street. If there are no requirements the fencing will be inconsistent.

Councilmember Schneider stated he felt this would be an issue and expressed the need for common fences along 5th Street. He also stated the fence should be installed along the general retail area when construction starts, not necessarily when the buildings are occupied. He asked Mr. Mitchell if it would present a problem for him if the item was tabled tonight.

Mr. Mitchell replied that two or three weeks would not kill the project but he would like to proceed as soon as possible.

Mayor Jones stated if the item is tabled, the public hearing will be suspended until the next reading on November 6th.

Mrs. Bankston requested the privacy fence be the first construction item in the residential area to protect the existing property from the construction work. All subdivisions in this area have these types of privacy fences. She asked if the proposed subdivision is proposed for rental property or home ownership.

Gary Bankston showed the exact location of their home in relation to the proposed development. He also asked that the fence be installed before the construction begins.

Tammy Alsum asked what kind of property this will be - governmental or open market? This could affect the property value of homes in this very nice area of the community. She asked that this issue be addressed during the next meeting.

Mr. Mitchell stated these houses will be for sale, similar to what is in the existing neighborhoods. These will be larger lots than the existing subdivisions, with deed restrictions. They will be individually owned and not set up for subsidies.

Nancie Etzel, 329 Big Timber Drive, Windmill Farms Subdivision, stated her subdivision has a homeowner's association that will not fix fences or deal with street lights or other matters. They have no privacy fences there and with the building going on it looks like a dust zone. It is better to put the fence up earlier in process. Ms. Etzel added that crime depends on your neighbors.

There being no further comments at this time, Mayor Jones stated the public hearing would be suspended should the Council decide to table this item.

Motion by Councilmember Tony Jeter to table ordinance on first reading and suspend the public hearing, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 6. 2008-4264: FIRST READING - PUBLIC HEARING -Z-FY-08-40: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Urban Estate District (UE) on 2.1± acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513.**

Tim Dolan, Director of Planning, presented this item to the City Council. He displayed aerial photos of the 2 acres proposed for Urban Estates zoning, which is in compliance with the Comprehensive Plan. One letter was received opposing the requested rezoning, with no reason given. The Planning and Zoning Commission voted 9-0 in favor of the requested rezoning.

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance with second reading set for November 6, 2008, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

BOARD APPOINTMENTS

7. **2008-5563-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

(A) Building & Standards Commission - one regular member to fill an unexpired term through March 1, 2010

It was recommended that this item be tabled.

Motion by Councilmember Tony Jeter to table appointment as recommended, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

(B) Temple Public Safety Advisory Board - two members to fill unexpired terms through September 1, 2010

It was recommended that Warren Cohen and Nancie Etzel be appointed to serve on this board.

Motion by Councilmember Tony Jeter to adopt resolution as recommended, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

(C) Tree Board - one member to fill an unexpired term through March 1, 2011

It was recommended that Doug Smith be appointed to the Tree Board as the Parks and Leisure Services Advisory Board representative on that board.

Motion by Councilmember Tony Jeter to adopt resolution as recommended, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

8. **2008-5564-R: Consider adopting a resolution appointing one member to serve on the I-35 Segment 2 Committee established by the Texas Department of Transportation.**

Mayor Jones stated the City of Temple has been asked to appoint a representative to serve on this committee.

Motion by Councilmember Russell Schneider to adopt resolution appointing Councilmember Tony Jeter to the 1-35 Segment 2 Committee, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(B)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Bert Pope of Temple for construction administration services related to several capital projects in the estimated amount of \$104,640 and declaring an official intent to reimburse the fire station-related expenditures of \$76,800 made prior to the issuance of tax-exempt obligations for these two projects.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City has several construction projects currently underway and each project has a staff person designated as the project manager. To enhance the oversight of these projects, it has been identified that the services of an experienced construction administrator would add value to these projects. Staff has visited with Bert Pope who is an experienced construction administrator, and staff believes that Mr. Pope's experience and skill set will add valuable oversight to the projects. As of late, Mr. Pope has provided construction administration services to Scott & White Hospital in their latest hospital expansion and for the Astros organization in the construction and continuing upgrades to MinuteMaid Stadium in Houston.

Mr. Pope's services will consist of review of construction plans during design development (if the project is still under design), City representation during construction-related meetings, and onsite construction monitoring. Mr. Pope is offering his services based on the actual time incurred at an hourly rate of \$80 per hour. The estimated hours to be incurred on each of the following projects are as follows:

Fire Station No. 1	– 540 hours	\$ 43,200
Fire Station No. 8	– 420 hours	33,600
Municipal Court/Utility Business Office Facility	– 102 hours	8,160
Summit Expansion	– 72 hours	5,760
Lions Junction Family Water Park	– 64 hours	5,120
Sammons Indoor Aquatic Center	– 60 hours	4,800
Library	– 50 hours	4,000

Total	– 1308 hours	\$104,640

Mr. Pope's services will commence immediately and his services will be complete upon the completion of Fire Station No. 1 and 8, which is projected to be in 2010.

FISCAL IMPACT: Funding for these proposed services is available in the funds designated for each project as follows:

<u>Project</u>	<u>Estimated Funding Needed</u>	<u>Account Number</u>
	\$	363-2200-522-6850, Project #100120 (2009
Fire Station No. 1	43,200	GO)
		363-2200-522-6851, Project #100411 (2009
Fire Station No. 8	33,600	GO)
Municipal Court/Utility Business Office		359-8800-525-6779, Project #100240 (2003
Facility	6,040	GO)
Municipal Court/Utility Business Office		561-5800-535-6929, Project #100240 (2008
Facility	2,120	Rev Bond)
		362-3200-551-6841, Project #100359 (2008
Summit Expansion	5,760	GO)
		362-3500-552-6838, Project #100356 (2007
Lions Junction Family Water Park	5,120	GO)
		362-3500-552-6839, Project #100357 (2007
Sammons Indoor Aquatic Center	4,800	GO)
		361-4000-555-6808, Project #100348 (2008
Library	4,000	CO)

This item declares an official intent to reimburse the professional services costs related to the construction of Fire Station No. 1 and Fire Station No. 8 from the 2009 General Obligation bonds to be issued the summer of 2009. The General Obligation bond issue was approved by voters on May 10, 2008.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BERT POPE OF TEMPLE, TEXAS, FOR CONSTRUCTION ADMINISTRATION SERVICES RELATED TO SEVERAL CAPITAL PROJECTS IN THE ESTIMATED AMOUNT OF \$104,640; DECLARING AN OFFICIAL INTENT TO REIMBURSE THE FIRE STATION-RELATED EXPENDITURES OF \$76,800 MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THESE TWO PROJECTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Staff recommends entering into a professional services agreement with Bert Pope of Temple for construction administration services related to several capital projects;

Whereas, Bert Pope submitted a proposal in the estimated amount of \$104,640 and the staff recommends accepting it;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations;

Whereas, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

Whereas, upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; 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 Professional Services Agreement, in the amount of \$104,640, between the City of Temple, Texas, and Bert Pope, after approval as to form by the City Attorney, for construction administration services related to several capital projects.

Part 2: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 3: This Resolution is a declaration of official intent under Section 1.150.2 of the Treasury Regulations by the City that it reasonably expects to reimburse the expenditures described in Part 4 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 4: The following is a general functional description of the Project for which the expenditures to be reimbursed are paid and a statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project.

Project Description

Debt To Be Issued

\$76,800

Fire station-related expenditures for construction administration services

Part 5: The expenditures described in Part 4 is a capital expenditure under general Federal income tax principles or a cost of issuance.

Part 6: Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City or by any member of the same controlled group to pay for the expenditures described in Part 4.

Part 7: 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 on this the 6th day of **November**, 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

11/06/08
Item #5(C)
Consent Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$100,776.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Since 2001, the Parks and Leisure Services Department has contracted with the Temple Veterans Affairs (VA) Hospital for them to provide contract day laborer services to help maintain the park system. The VA has provided temporary workers to conduct a number of duties including: mowing/edging/trimming, restroom cleaning, litter removal, planter bed maintenance, ball field maintenance, painting and carpentry work.

The program has been very successful. We have found that almost every one of the workers the VA assigns to the Parks and Leisure Services Department has worked diligently to do a good job for us and as a result we have chosen to hire a number of them as full-time employees when job opportunities have arisen. We believe this is an excellent program and provides a win-win opportunity for the VA and the Department.

FISCAL IMPACT: \$100,776 – Funds are budgeted in account 110-3500-552-26-23

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH THE DEPARTMENT OF VETERANS AFFAIRS, VETERANS INDUSTRIES/COMPENSATED WORK THERAPY FOR THE PROVISION OF TEMPORARY WORKERS FOR THE PARKS AND LEISURE SERVICES DEPARTMENT, IN AN ANNUAL AMOUNT NOT TO EXCEED \$100,776; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, since 2001, the Parks and Leisure Services Department has utilized the services of the Temple Veterans Affairs (VA) Hospital to provide contract day laborer services to help maintain the park system;

Whereas, the program has been very successful and the Staff recommends authorizing a contract with the Department of Veterans Affairs to continue the compensated work therapy program for the Parks and Leisure Services Department in the approximate amount not to exceed \$100,776;

Whereas, funds are budgeted in Account Nos. 110-3500-552-2623 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, or his designee, to execute a contract for an amount not to exceed \$100,776, with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy, after approval as to form by the City Attorney, for the provision of workers for the Parks and Leisure Services Department.

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 6th day of **November**, 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

11/06/08
Item #5(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Judy Duer, Library Director
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a guaranteed maximum price construction contract with Vanguard Contractors, LP of Temple for Phase 1 renovations to the Temple Public Library in the amount of \$140,042.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On June 5, 2008, Council authorized a construction-manager-at-risk (CMAR) agreement with Vanguard Contractors, LP for renovations to the Library. Renovations to the Library will include incorporating the space that was previously occupied by Bank of America into library and repair of the foundation on the southwest corner of the building.

After evaluating the foundation issues, it was determined that splitting the project into two phases made the most sense. First get the foundation repair completed, and then perform the interior renovations. Accordingly, Vanguard opened bids on October 9, 2008, for the foundation repairs and has presented to the City a Guaranteed Maximum Price (GMP) for the foundation repairs of \$140,042, inclusive of 13.1% of the general conditions and construction services fee (pro-rated based on a total project construction cost limit of \$950,000). Vanguard's proposal and bid tabulation sheet is attached.

It is anticipated that the foundation repairs will take approximately six (6) weeks to complete. Staff anticipates bringing back to Council in January 2009, a GMP for Phase 2 of this project related to the Library interior renovations.

FISCAL IMPACT: Funding for Phase 1 of the construction contract in the amount of \$140,042 is available in account 361-4000-555-6808, project #100348. After funding Phase 1 renovations and the professional services contract for construction administration \$ 728,051 of the 2006 & 2008 CO Bond Funds will remain available for the Phase 2 interior renovations. An additional \$200,000 will be available from the Library Foundation to help fund the library improvements and architectural services. This will bring the total amount available to fund Phase 2 and architectural services to \$928,051.

ATTACHMENTS:

Vanguard GMP Proposal
Vanguard Bid Tabulation
Resolution

VANGUARD

CONTRACTORS, LP

October 14, 2008

RECEIVED

OCT 16 2008

FAX 298-5615

Ms. Belinda Matke
Director of Purchasing
City of Temple
3210 E. Avenue H, Building C
Temple, TX 76501

Purchasing
City of Temple, TX

RE: Foundation Repairs to Temple Public Library
City of Temple, Texas

Dear Ms. Matke:

As discussed, Vanguard Contractors, LP proposes a Guaranteed Maximum Price (GMP) of One Hundred Forty Thousand Forty Two Dollars and No/100...(\$140,042.00) for performing foundation repairs and related demolition. Our proposal is summarized as follows:

Direct Costs	\$123,798.00	(13.1% of CCL of \$950,000)
General Conditions - $\$86,748 \times 13.1\% =$	11,364.00	
Fees - $\$37,250 \times 13.1\% =$	<u>4,880.00</u>	
Total Guaranteed Maximum Price	\$140,042.00	

We have based our calculations on the estimated Construct Cost Limitation of \$950,000.00 as stated in the RFP. The direct costs for the foundation repairs are \$123,798.00 which equals 13.1% of the CCL. We have prorated 13.1% of our fees and General Conditions costs which are stated in our original proposal dated May 20, 2008.

We would propose that the GMP for the foundations be included in the GMP for the entire project, assuming the project is within budget. If, for some unforeseen reason, the entire renovations project does not go forward, the GMP for the foundation repairs will become a "stand alone" price.

Sincerely,

Vanguard Contractors, LP



Jack L. Sims

JLS/nhr

xc: Ms. Judy Duer, Temple Library
Mr. Bill Chamlee, Architect
File

Temple Public Library Foundation Bid Package

10/9/08 @ 2:00 p.m.

	Demolition	Windowwall Removal/Installation	Temporary Partitions	Foundation Stabilization
Vanguard Contractors, LP	\$29,976.00			
M&M Glass & Mirror		\$44,968.00		
Temple Glass & Mirror		\$54,000.00		
Vanguard Contractors, LP			\$17,906.00	
Centex Foundation Repair				\$30,948.00
Pro-Tech Foundation Repair				\$37,600.00
Smart Repair				\$38,250.00
Total of Low Bids				\$123,798.00

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, AUTHORIZING A GUARANTEED MAXIMUM PRICE
CONSTRUCTION CONTRACT WITH VANGUARD CONTRACTORS,
LP, OF TEMPLE FOR PHASE 1 RENOVATIONS TO THE TEMPLE
PUBLIC LIBRARY IN THE AMOUNT OF \$140,042; AND PROVIDING
AN OPEN MEETINGS CLAUSE.

Whereas, on June 5, 2008, the City Council authorized a construction-manager-at-risk agreement with Vanguard Contractors, LP, for renovations to the Temple Public Library;

Whereas, after evaluating the foundation issues, it was determined that splitting the project into two phases would be the most effective approach – the foundation repairs will be completed first;

Whereas, the City opened bids on October 9, 2008, for the foundation repairs and Vanguard presented the City with a guaranteed maximum price for the foundation repairs of \$140,042, and the Staff recommends approving the amount;

Whereas, funds are available for this project in the 2006 and 2008 CO Bond Fund, Account 361-4000-555-6808, project #100348; 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 guaranteed maximum price construction contract with Vanguard Contractors, LP, of Temple, after approval as to form by the City Attorney, for construction of the renovations to the Temple Public Library in the amount of \$140,042.

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 **6th** day of **November**, 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

11/06/08
Item #5(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving a farm lease with Monique Rincones for approximately 3.7 acres at the southeast corner of the Service Center property on East Avenue H.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: For the past 5 years, Monique Rincones has leased the southeast corner of the Service Center property on E Avenue H, east of the drainage channel. She is requesting a new lease for the 2009 calendar year. Ms. Rincones lives on the property to the west and uses the leased area to graze a few horses. She fenced the area at her own expense in 2003. She plans to add several cows if a new lease is approved.

The City does not have immediate plans for using the leased area. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice. In the meantime, the grazing lease reduces the City's mowing burden. The rental fee from 2003 through 2008 was \$10 per acre for approximately 3.7 acres (\$37).

Staff recommends extending the lease under the same terms.

FISCAL IMPACT:

ATTACHMENTS:

[Location map](#)
[Resolution](#)

"A"

REVISED 01-07-03

3

9950-A

1987-AY

CP-134

4

I

985A-A
10.27.50 AC

985-C
JAN 1961

991-A

SE H.K. DODGEN LOOP

8-24

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
AUTHORIZING A FARM LEASE FOR APPROXIMATELY 3.7 ACRES OF CITY-
OWNED LAND LOCATED AT THE SOUTHEAST CORNER OF THE SERVICE
CENTER PROPERTY ON EAST AVENUE H; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, the City has had a request to renew a lease of approximately 3.7 acres of City-owned land located at the southeast corner of the Service Center property on East Avenue H;

Whereas, the lease term will be from January 1, 2009, through December 31, 2009, and the lease will provide that the City can terminate the lease with a 30 day notice;

Whereas, the Staff recommends approval of the lease for \$37 per year for 3.7 acres; 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 farm lease for an annual amount of \$37, between the City of Temple and Monique Rincones, after approval as to form by the City Attorney, for lease of approximately 3.7 acres of City-owned land located at the southeast corner of the Service Center property on East Avenue H.

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 **6th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



CITY COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(F)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-08-40: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Urban Estate District (UE) on 2.1± acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 9/0, upon Staff's recommendation on October 6th to recommend approval of Case Z-FY-08-40 for the following reasons:

1. The request complies with the requested amendment to the Future Land Use Plan for low-density single-family residential uses;
2. The request complies with the Thoroughfare Plan for a rural residential collector roadway; and
3. Water serves the site and the sewer will be extended from previously developed water lines of the subdivision. All lots are served by septic systems.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-40, from the Planning and Zoning meeting, October 6, 2008.

The Commission recognized that the Urban Estates District accommodates large lot single-family detached residential developments, which is rural in character. The Commission also understands that permitted land uses include, but are not limited to, single-family detached dwellings, educational uses and institutional uses. The houses and amenities conform to the existing covenants and restrictions of the home owner association (HOA). The exceptions granted by the Council in 1997 allow the narrow road pavements and the park land dedication funds to the HOA for use in the private park.

This zone change application tracks with case P-FY-08-66 for an approved 9-lot single-family subdivision called Campus at Lakewood Phase VII. The proposed plat approved by the Commission contains the minimum lot area of 22,500 square feet, 80 foot lot width, and 125 foot lot depth. The plat extends to the City Limit and touches the ETJ of Morgan's Point Resort. Future phases extend into the other municipality's ETJ before coming back into the City limits. The developer will need to continue discussion with Morgan's Point for possible relinquishing of ETJ and Certificate of Convenience and Necessity since the developer will request water service from the City of Temple.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

[Aerial](#)

[Land Use Map](#)

[Zoning Map](#)

[Notice Map](#)

[Plat Map](#)

[PZ Staff Report](#)

[PZ Excerpts](#)

[Ordinance](#)



Z-FY-08-40B

2.016 Acres

Outblock 7112-A

Campus at Lakewood Ranch Area



 Area of Proposed Zoning

A to UE Zoning

1 inch = 200 feet
J Stone 09.22.08



















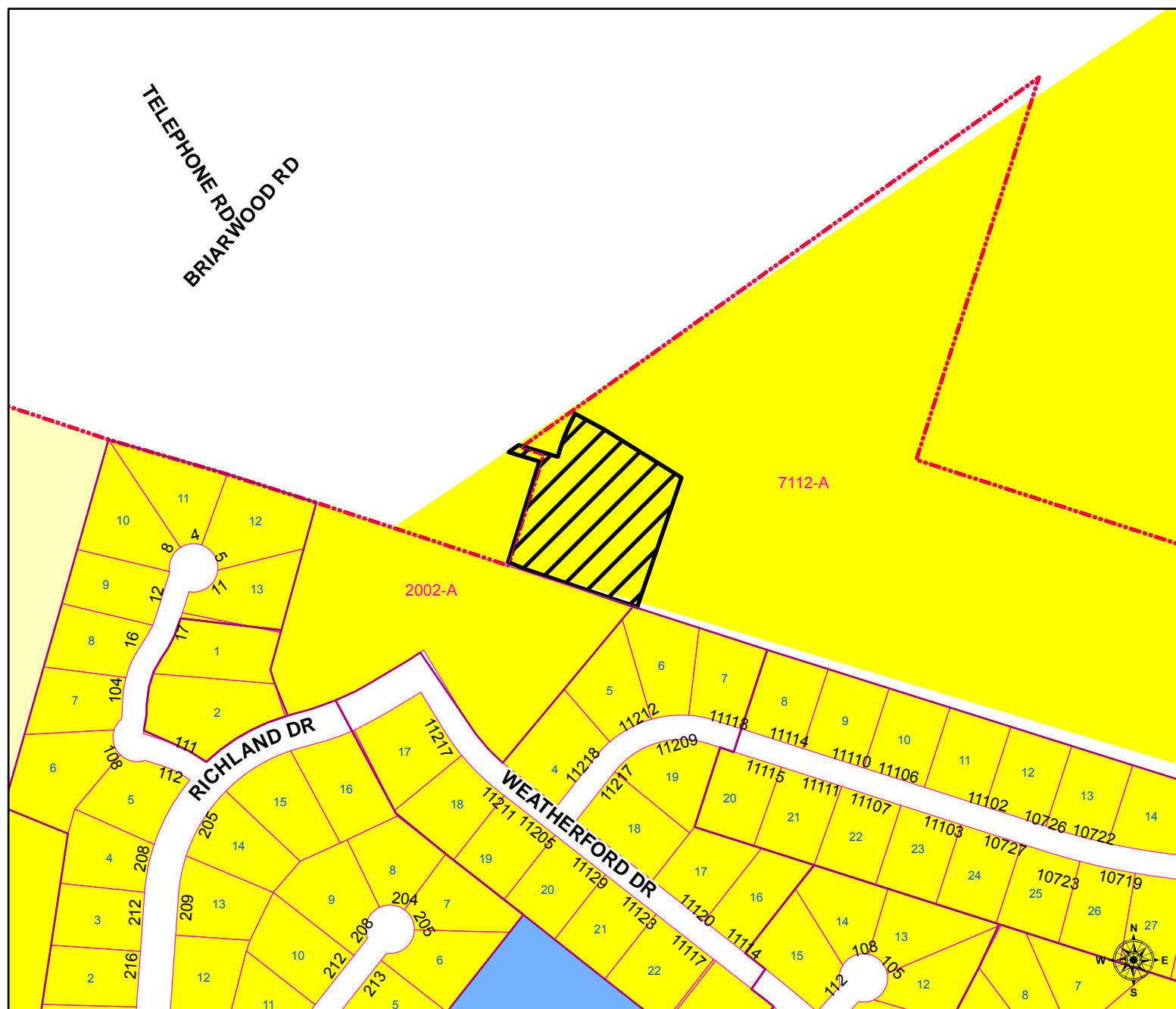
Z-FY-08-40A

2.016 Acres

Outblock 7112-A

Campus at Lakewood Ranch Area

-  Area of Proposed Zoning
-  Neighborhood Conservation
-  Estate Residential
-  Suburban Residential
-  Auto-urban Residential
-  Auto-Urban Multi-Family
-  Auto-Urban Mixed Use
-  Auto-Urban Commercial
-  Suburban Commercial
-  Urban Center
-  Temple Medical Education District
-  Industrial
-  Business park
-  Public/Institutional
-  Parks and Open Space
-  Agricultural/Rural
-  Temple Boundary



1 inch = 300 feet
J Stone 09.22.08

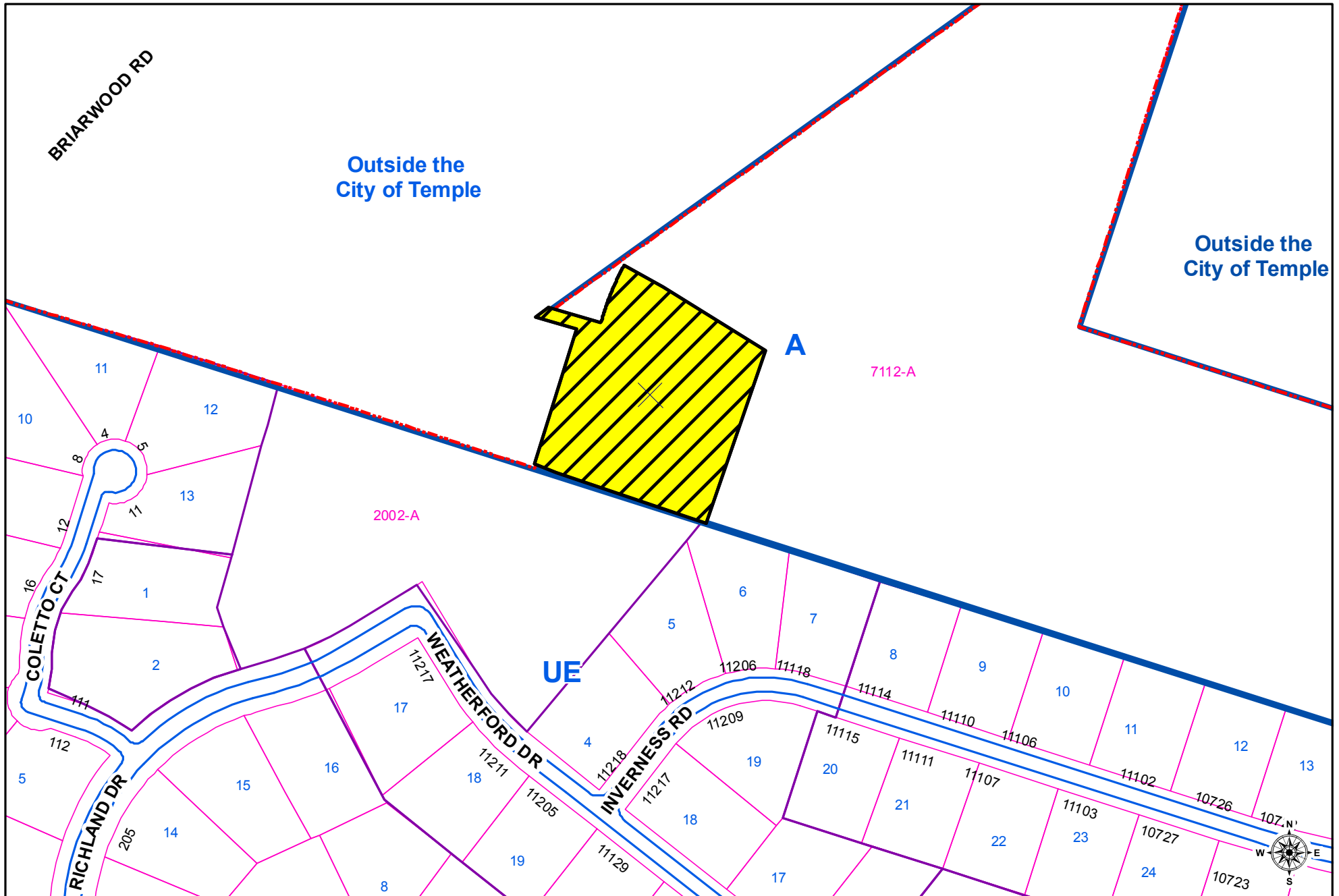


Z-FY-08-40B

2.016 Acres

Outblock 7112-A

Campus at Lakewood Ranch Area



Area of Proposed Zoning

A to UE Zoning

1 inch = 200 feet

J Stone 09.22.08

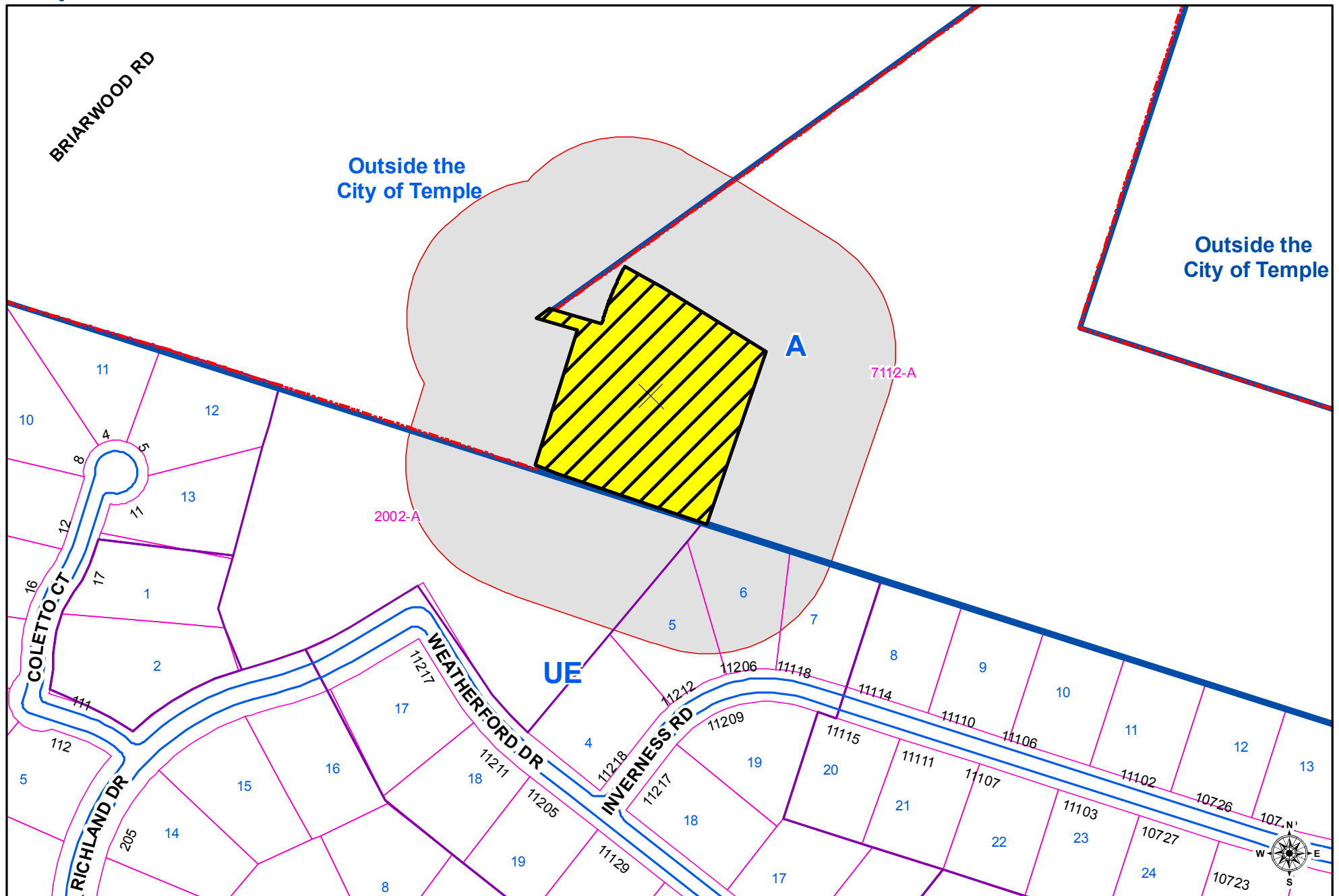


Z-FY-08-40B

2.016 Acres

Outblock 7112-A

Campus at Lakewood Ranch Area



Area of Proposed Zoning

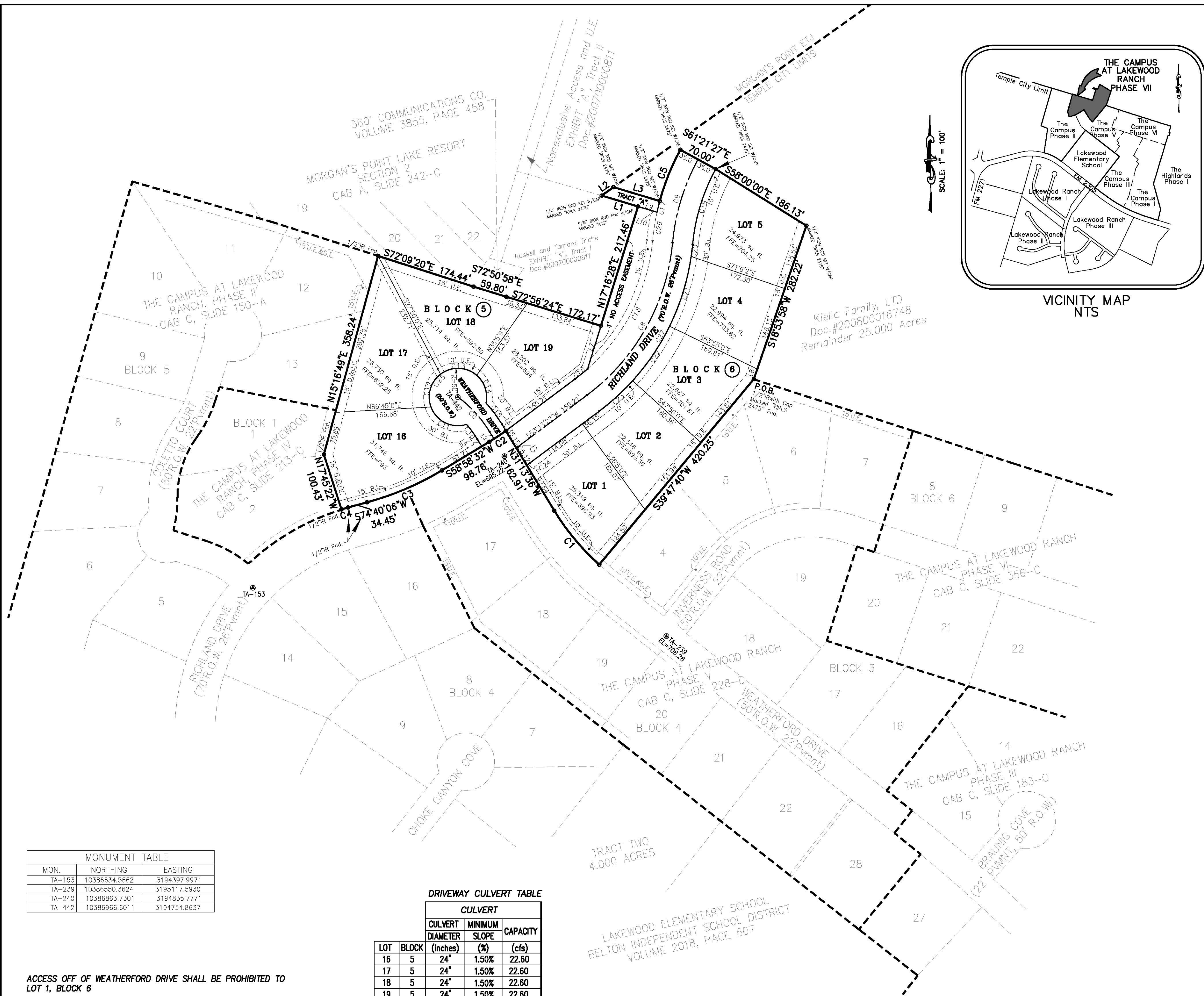


200' Buffer

A to UE Zoning

1 inch = 200 feet

J Stone 09.22.08



MONUMENT TABLE		
MON.	NORTHING	EASTING
TA-153	10386634.5662	3194397.9971
TA-239	10386550.3624	3195117.5930
TA-240	10386863.7301	3194835.7771
TA-442	10386966.6011	3194754.8637

DRIVEWAY CULVERT TABLE				
CULVERT				
LOT	BLOCK	CULVERT DIAMETER (inches)	MINIMUM SLOPE (%)	CAPACITY (cfs)
16	5	24"	1.50%	22.60
17	5	24"	1.50%	22.60
18	5	24"	1.50%	22.60
19	5	24"	1.50%	22.60
1	6	18"	2.33%	9.93
2	6	15"	2.51%	7.45
3	6	15"	2.51%	7.45
4	6	15"	2.51%	7.45
5	6	12"	0.52%	5.08

ACCESS OFF OF WEATHERFORD DRIVE SHALL BE PROHIBITED TO LOT 1, BLOCK 6

ACCESS OFF OF RICHLAND DRIVE SHALL BE PROHIBITED TO LOT 16, BLOCK 5
LOT 19, BLOCK 5

CITY OF TEMPLE MONUMENT EL=706.26
CENTERLINE P.I. ALUM. MONUMENT TA-239 THE CAMPUS AT LAKEWOOD RANCH, PHASE V

BENCHMARK EL=688.72
R.R. SPIKE SET IN NORTHEAST SIDE OF POWER POLE +/- 125' WEST OF CENTERLINE CYPRESS SPRING AND +/- 5' NORTH OF NORTH RIGHT-OF-WAY FM 2305.

THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 506 THE THETA ANGLE AT SAID CITY MONUMENT IS 0129'04" THE COMBINED CORRECTION FACTOR (CCF) IS 0.999852 PUBLISHED CITY COORDINATES ARE X=3,198,199.05 Y=10,383,950.33 THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING IS N43°52'03" W, 4226.39 FEET

CULVERT NOTES:

ALL CULVERTS TO BE RCP, ULTRA-FLO CMP (N=0.012), OR APPROVED EQUAL. ALL ENTRANCE & EXIT FLOWLINE ELEVATIONS SHALL BE COMPLIANT WITH PROFILE ELEVATIONS SHOWN ON "AS-BUILT" CONSTRUCTION DRAWINGS.

NOTES:

TRACT "A" 0.042 ACRES - FUTURE ACCESS & UTILITY EASEMENT

ALL BOUNDARY CORNERS ARE 1/2" IRON ROD WITH CAP MARKED WITH "RPLS 2475" FOUND UNLESS NOTED OTHERWISE

THE CAMPUS AT LAKEWOOD RANCH, PHASE VII IS NOT WITHIN THE 100-YEAR FLOOD BOUNDARY PER F.E.M.A. FEDERAL INSURANCE RATE MAP No. 480706 0095 B

LINE TABLE		
LINE	LENGTH	BEARING
L1	66.11	N 73°16'08" W
L2	25.33	N 54°35'24" E
L3	83.99	S 73°16'08" E
L4	14.69	N 31°11'39" W
L5	14.74	N 31°11'39" W
L6	13.18	N 31°11'39" W
L7	78.55	N 17°16'28" E
L8	18.44	N 18°53'58" E
L9	34.46	N 73°16'08" W
L10	10.03	S 73°16'08" E

CURVE TABLE				
CURVE	LENGTH	RADIUS	CHORD	TANGENT
C1	122.45	409.01	N 39°49'10" W 122.00'	61.69
C2	34.51	340.00	S 56°7'54" W 34.49'	17.27
C3	141.74	509.14	S 66°54'10" W 141.28'	71.33
C4	11.82	410.00	S 73°50'21" W 11.82'	5.91
C5	95.35	410.00	N 21°54'33" E 95.13'	48.40
C6	82.33	210.00	N 42°25'33" W 81.81'	41.70
C7	3.40	375.00	N 53°29'02" E 3.40'	1.70
C8	313.44	375.00	N 29°16'45" E 304.40'	166.53
C9	152.55	375.00	S 16°59'18" W 151.50'	77.35
C10	31.81	185.00	N 36°07'10" W 31.77'	15.94
C11	75.17	50.00	S 63°54'36" E 69.01'	47.68
C12	63.74	50.00	S 16°14'51" W 59.91'	37.02
C13	68.23	50.00	N 88°08'28" W 63.06'	40.62
C14	53.36	50.00	N 18°28'38" W 50.86'	29.53
C15	46.25	235.00	N 36°49'58" W 46.18'	23.20
C16	28.16	340.00	N 50°51'5" E 28.15'	14.09
C17	20.03	410.00	S 13°48'42" W 20.03'	10.02
C18	256.02	340.00	N 28°54'22" E 250.02'	134.42
C19	138.32	340.00	S 16°59'18" W 137.36'	70.13
C20	21.00	410.00	N 06°48'05" E 21.00'	10.50
C21	127.48	410.00	N 17°10'33" E 126.97'	64.26
C22	115.09	410.00	N 34°07'30" E 114.71'	57.93
C23	79.13	410.00	N 47°41'44" E 79.00'	39.69
C24	5.80	410.00	N 53°41'57" E 5.80'	3.40
C25	261.49	50.00	S 42°16'15" W 50.27'	29.08
C26	50.41	410.00	S 08°51'23" W 50.38'	25.24
C27	342.70	410.00	N 29°16'45" E 332.81'	182.07

STATE OF TEXAS
COUNTY OF BELL

KIELLA DEVELOPMENT INC., A TEXAS CORPORATION, OWNER OF THE LAND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS THE CAMPUS AT LAKEWOOD RANCH, PHASE VII, A SUBDIVISION IN THE CITY OF TEMPLE, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATE TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

KIELLA DEVELOPMENT, INC.

JOHN KIELLA, VICE PRESIDENT

STATE OF TEXAS
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE ____ DAY OF ____, 2008 BY JOHN KIELLA, VICE PRESIDENT OF KIELLA DEVELOPMENT, INC., A TEXAS CORPORATION.

NOTARY PUBLIC

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COUNCIL.
DATED THIS ____ DAY OF ____, 2008.

CITY SECRETARY

THIS PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING & ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS ____ DAY OF ____, 2008.

SECRETARY TO PLANNING & ZONING COMMISSION:

THIS FINAL PLAT HAS BEEN SUBMITTED TO AND CONSIDERED BY THE PLANNING AND ZONING COMMISSION OF THE CITY OF TEMPLE, TEXAS, AND IS HEREBY APPROVED BY SUCH COMMISSION.
DATED THIS ____ DAY OF ____, 2008

CHAIRPERSON:

I, THE UNDERSIGNED, A REGISTERED SANITARIAN IN THE STATE OF TEXAS, HEREBY CERTIFY THAT THIS SUBDIVISION, AND ITS WASTEWATER UTILITY SYSTEM HAS BEEN REVIEWED FOR COMPLIANCE WITH APPLICABLE STATE AND OTHER REGULATIONS GOVERNING SUCH SYSTEMS AND IS HEREBY APPROVED FOR INSTALLATION AS INDICATED.

APPROVED: _____ DATE: _____

TITLE: _____ BCHD

TAX CERTIFICATE

THE BELL COUNTY TAX APPRAISAL DISTRICT, THE TAXING AUTHORITY FOR ALL TAXING ENTITIES IN BELL COUNTY, TEXAS, DOES HEREBY CERTIFY THAT THERE ARE CURRENTLY NO DELINQUENT TAXES DUE OR OWING ON THE PROPERTY DESCRIBED BY THIS PLAT.

DATED THIS ____ DAY OF ____, 2008.

BELL COUNTY TAX APPRAISAL DISTRICT

BY: _____

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HEREBY CERTIFY, THAT PROPER ENGINEERING CONSIDERATION HAS BEEN GIVEN TO THIS PLAT:

VICTOR D. TURLEY, P.E.
NO. 32525

STATE OF TEXAS
COUNTY OF BELL

I, THE UNDERSIGNED, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF TEXAS, HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THIS PLAT IS TRUE AND CORRECT, THAT IT WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY MADE UNDER MY SUPERVISION ON THE GROUND, AND THAT ALL NECESSARY SURVEY MONUMENTS ARE CORRECTLY SHOWN THEREON.

MICHAEL E. ALMS, R.P.L.S.
NO. 5402

FINAL PLAT FOR: THE CAMPUS AT LAKEWOOD RANCH PHASE VII

9 Lots, 2 Blocks
LOTS 1-5, BLOCK 6
LOTS 16-19, BLOCK5

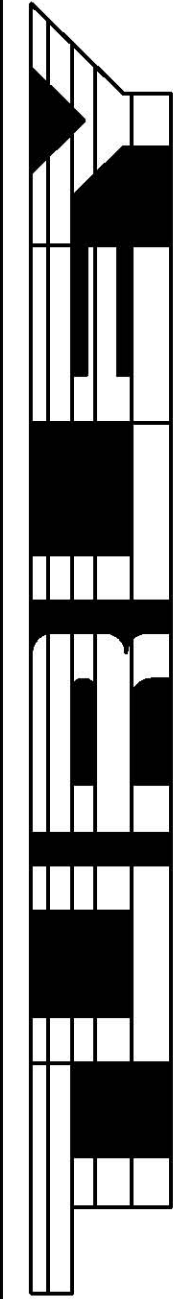
6.793 ACRES

OUT OF AND A PART OF THE GEORGE W. LINDSEY SURVEY, ABSTRACT #513
A SUBDIVISION IN THE CITY OF TEMPLE
BELL COUNTY, TEXAS

6.793 ACRES MORE FULLY DESCRIBED BY METES & BOUNDS BY SEPARATE FIELD NOTES PREPARED AND ATTACHED TO DEDICATION INSTRUMENT

TRACT SURVEYED JULY 11, 2008

FILED FOR RECORD THIS ____ DAY OF ____, 2008, IN CABINET ____, SLIDE ____, PLAT RECORDS OF BELL COUNTY, TEXAS.



ENGINEERING • PLANNING • SURVEYING
CONSTRUCTION MANAGEMENT

TURLEY ASSOCIATES, INC.

(254) 773-2400
FAX NO. (254) 773-3998

TEMPLE, TEXAS 76501

301 N. 3rd ST.
E-MAIL: VDTURLEY@AOL.COM

FINAL PLAT OF:
THE CAMPUS AT LAKEWOOD RANCH
PHASE VII
GEORGE W. LINDSEY SURVEY, ABSTRACT #513
A SUBDIVISION IN THE
CITY OF TEMPLE, BELL COUNTY, TEXAS

DEVELOPED BY:
KIELLA DEVELOPMENT, INC.
P.O. BOX 1344
TEMPLE, TEXAS 76503

REVISIONS

Date: July 31, 2008

Drawn By: JFB

96339,9736-D (Master)
96509,9786-D (Survey)
96642,9818-D (Ph I)
98232,10167-D (Ph II)
99100,10385-D (Ph III)
00376,10696-D (Ph III)
02151,10982-D (Ph VI)

FB/LB: L.B. 541/42

Job Number: 08-382

Sheet 1 of 1

Computer: 08382-fp

11624-D
DRAWING NUMBER



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/06/08
Item 4
Public Hearing
Page 1 of 2

APPLICANT / DEVELOPMENT: Turley Associates for Kiella Development

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-08-40-Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Urban Estate District (UE) on 2.1± acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513.

BACKGROUND: This zone change application tracks with case P-FY-08-86 for a subdivision proposed to be called Campus at Lakewood Ranch Phase VII. The applicant requests UE, Urban Estates zoning for the subject property to be used for single-family houses.

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	NA	Vacant, ETJ Morgan Point Resort
East	UE	Single-family residential subdivision
South	A & UE	Single-family residential subdivision
West	UE	Single-family residential subdivision

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

Future Land Use Plan & Future Trends

The Future Land Use Map shows Low Density Residential as the future land use category for the subject property. This category recommends the UE, Urban Estates District. The zoning request complies with the Future Land Use Plan.

Thoroughfare Plan

Richland Drive is planned as a rural collector road which complies with the Thoroughfare Plan for providing an adequate road for UE zoning.

Adequacy of Public Facilities

The plat for this development establishes an 8" water line to serve the subdivision. Septic systems will be used instead of sewer. Adequate public facilities will serve the development.

Development Regulations

The UE, Urban Estates District accommodates large lot single-family residential developments. This district is suitable for estate development or areas in which it is desirable to permit only low-density development. Projects should typically be rural in character and well buffered from more intensely developed uses.

Permitted land uses include, but are not limited to single-family detached dwellings, educational uses and institutional uses. The UE District prohibits all residential uses other than single-family detached and prohibits most nonresidential uses.

The UE District has the following dimensional requirements for residential uses.

Urban Estates (UE)	
Min. Lot Area (sq. ft.)	22,500
Min. Lot Width (ft.)	80
Min. Lot Depth (ft.)	125
Max. Height (stories)	3
Min. Yard (ft)	
Front	30
Side	15
Rear	10

Public Notice

Sixteen notices were sent out. As of Thursday, October 1st 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 September 26th in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the zoning request from A to UE 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 facilities will service the site.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Land Use Map
Zoning Map
Aerial
Public Notice Map

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

MONDAY, OCTOBER 6, 2008

ACTION ITEMS

4. Z-FY-08-40: Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Urban Estate District (UE) on 2.1± acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513. (Applicant: Turley Associates for Kiella Development)

Mr. Tim Dolan, Planning Director, presented an overview of this zone change request. This is the continuation of The Campus @ Lakewood which contained a homeowners' association and the Development Review Committee reviewed this process and deemed the application complete on September 29, 2008.

Staff has recommended approval for this zone change because the change from Agricultural to Urban Estate conforms to the Future Land Use Plan, the Thoroughfare Plan and adequate public facilities are going to be able to serve the site.

Commissioner Martin made a motion to approve the zone change from AG to UE.

Commissioner Hurd seconded the motion.

Motion passed (9:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-40]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO URBAN ESTATES DISTRICT (UE) ON APPROXIMATELY 2.1 ACRES ON THE NORTH SIDE OF FM 2305, NORTH OF WEATHERFORD DRIVE AND INVERNESS ROAD, OUT OF THE GEORGE W. LINDSEY SURVEY, ABSTRACT #513; 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 zoning change from Agricultural District (A) to Urban Estates (UE) on approximately 2.1 acres on the north side of FM 2305, north of Weatherford Drive and Inverness Road, out of the George W. Lindsey Survey, Abstract #513, 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 **16th** day of **October**, 2008.

PASSED AND APPROVED on Second Reading on the **6th** day of **November**, 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

11/06/08
Item #5(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description on first reading, schedule second reading for November 20th and public hearing and third reading for December 4th 2008.

ITEM SUMMARY: The current franchise agreement with Atmos expires January 19, 2009. Staff is proposing the franchise be renewed for a period of 15 years with the same terms and conditions in existing franchise.

Staff is currently in discussion with Atmos representatives and if changes to the franchise agreement are proposed they will be presented at second reading of the ordinance on November 20th.

FISCAL IMPACT: Franchise fees received from Atmos Energy Corporation in FY 2007-2008 totaled \$819,535. In the FY 2008-2009 operating budget, \$800,000 is budgeted for the receipt of gas franchise fees.

ATTACHMENTS:

Ordinance – to be provided at a later date



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(H)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acceptance of a 100% grant with no matching funding from the Department of Homeland Security's Office of Grants and Training through the FY 2008 Commercial Equipment Direct Assistance Program, in the form of a Radiation Detection Kit, valued at approximately \$15,000.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Radiation Detection Kit includes HDS-100GN Radiation Search and Identification Instrument, RAM R-200 Multi-purpose survey meter, RG-10 Contamination Beta/Gamma Probe, PA-100 Alpha Probe and Pelican protective case for all of these items. The Kit is expected to be delivered no later than February 2009.

The HDS-100GN Radiation Search and Identification Instrument is a portable, ruggedized hand-held device is designed to search for toxic industrial radioactive (TIR) materials and to respond to incidents involving Radiological Dispersal Devices (RDD) and nuclear devices.

The RAM R-200 Multi-purpose survey meter is a portable gamma meter is designed for measuring wide range gamma radiation fields. An external probe for the RAM R-200 survey meter is used to detect beta and gamma contamination. An external air proportional probe for the RAM R-200 survey meter used to detect alpha contamination.

FISCAL IMPACT: The First Responder Kit, valued at approximately \$15,000, is funded 100% through the Department of Homeland Security so there would be no match funding required by the City of Temple. A budget adjustment to recognize the receipt of the kit is submitted for Council approval.

Temple Fire & Rescue would be responsible for annual operating costs after acceptance of the Kit.
Estimated annual operating costs:

- HDS-100 GN Radiation Search and Identification Instrument - \$20/yr for 1 set of batteries (cost varies with use)
- RAM R-200 Multi-purpose Survey Meter and external probes - \$75/yr for calibration after first year and \$3/yr for batteries (1 battery every 100 hours of operation)

ATTACHMENTS:

Budget Adjustment
Resolution

FY **2009****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	
260-2200-522-62-11		Instruments/Special Equipment	\$ 15,000			
260-0000-431-01-63		Federal Grants	15,000			
TOTAL.....			\$ 30,000		\$ -	

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

Appropriate funds to recognize the receipt of a Radiation Detection Kit which includes the HDS-100GN Radiation Search and Identification Instrument, RAM R-200 Multi-purpose Survey Meter, RG-10 Contamination Beta/Gamma Probe, PA-100 Alpha Probe and Pelican Protective Case. The Kit is provided by the Department of Homeland Security's FY 2008 Commercial Equipment Direct Assistance Program (CEDAP).

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

November 6, 2009

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 ACCEPTANCE OF GRANT FUNDS FROM THE DEPARTMENT OF HOMELAND SECURITY'S OFFICE OF GRANTS AND TRAINING THROUGH THE FY 2008 COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM, IN THE FORM OF A RADIATION DETECTION KIT VALUED AT \$15,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Temple Fire & Rescue is eligible to receive grant funds from the Department of Homeland Security's Office of Grants and Training through the FY 2008 Commercial Equipment Direct Assistance Program, in the form of a radiation detection kit valued at \$15,000;

Whereas, the City will not be required to provide a local match;

Whereas, an amendment to the FY2008-09 budget needs to be approved to appropriate funds to recognize the receipt of a Radiation Detection Kit; 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 acceptance of a 100% grant with no matching funding from the Department of Homeland Security's Office of Grants and Training through the FY 2008 Commercial Equipment Direct Assistance Program, in the form of a Radiation Detection Kit, valued at \$15,000.

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 grant.

Part 3: The City Council approves an amendment to the FY2008-09 budget, substantially in the form of the copy attached as Exhibit A, for this purpose.

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 **6th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(I)
Consent Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acceptance of a Texas Parks and Wildlife Matching Grant Award for Friar's Creek Nature Trail Phase I in the amount of \$188,720 and committing \$47,180 as the City's match portion of this project for a total project cost of \$235,900.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In June 2008, the Parks and Leisure Services Department submitted an application to the Texas Parks and Wildlife Department for a Texas Recreational Trails Fund Matching Grant. We were informed this month that we were successful with the application – that a \$235,900 project was approved. We will receive \$188,720 (80% of the project cost) to construct Phase I of the Friar's Creek Nature Trail. This trail is intended to be a water quality interpretive trail as well as a recreational hiking trail along Friar's Creek. The interpretation will be on signage along the trail and creek which will highlight best practices to achieve good water quality within a creek bed.

The trail will begin in South Temple Park and will travel north along Friar's Creek to Marlandwood Road a distance of about 1 mile. This trail will be approximately 8 feet wide pervious concrete construction with benches, directional signage and interpretive signage. Additionally, trees from the City Tree Farm will be planted to enhance shading and help to re-introduce some of the natural vegetation and make the trail experience more enjoyable.

Our partnership with the Agrilife Research staff from Blackland Research will further enhance our ability to educate the public on the creek habitat and water quality issues that face creek and water sheds at large.

We are requesting City Council approval for funding the City's match for the grant of \$47,180.

FISCAL IMPACT: City funding on this project will be \$47,180.00. This will be our 20% matching funds for the grant. Funds have been identified from FY 2005 CIP monies in the amount of \$30,000 originally set aside to purchase south Temple neighborhood park land and \$17,180 from funds that are remaining from CIP Parks projects. The City has been unsuccessful in finding land to purchase in

south Temple for a neighborhood park. Since this project is in south Temple, we are requesting to reallocate these funds for part of the grant match.

A budget adjustment is presented for Council's approval designating the City's 20% grant match in the amount of \$47,180.

ATTACHMENTS:

[Map](#)
[Budget Adjustment](#)
[Resolution](#)



Friar's Creek Nature Trail



FY 2009

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
110-0000-352-13-45		Des Capital Proj-Friar's Ck Grant Match	\$ 47,180		
110-0000-352-13-45		Des Capital Proj-Purchase S. Temple park land			30,000
110-9100-591-81-51		Transfer out-Designated Capital Projects			17,180
351-0000-490-25-82		Transfer in-General Fund			17,180
351-3500-552-23-24	350009	Parks Deferred Maintenance			17,180
TOTAL.....			\$ 47,180		\$ 81,540

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

To designate funds for the 20% grant match required for the Friar's Creek Nature Trail Phase I project. City's match is \$47,180 with grant funds to be received in the amount of \$188,720. Total project costs = \$235,900.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

November 6, 2009

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 ACCEPTANCE OF A TEXAS PARKS AND WILDLIFE MATCHING GRANT AWARD FOR FRIAR'S CREEK NATURE TRAIL PHASE I IN THE AMOUNT OF \$188,720, AND COMMITTING \$47,180 AS THE CITY'S MATCH PORTION OF THIS PROJECT, FOR A TOTAL PROJECT COST OF \$235,900; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Parks and Leisure Services Department has been accepted to receive a Texas Parks and Wildlife Grant Award for Friar's Creek Nature Trail Phase in the amount of \$188,720;

Whereas, the City will be required to commit to a 20% match in the amount of \$47,180 – the total project cost will be \$235,900;

Whereas, an amendment to the FY2008-09 budget needs to be approved to appropriate the grant 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 acceptance of a Texas Parks and Wildlife Matching Grant Award for Friar's Creek Nature Trail Phase I in the amount of \$188,720, and commits \$47,180 as the City's match portion of this project, for a total project cost of \$235,900.

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 grant.

Part 3: The City Council approves an amendment to the FY2008-2009 budget, substantially in the form of the copy attached as Exhibit A, for this grant.

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 **6th** day of **November**, 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

11/06/08
Item #5(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution conveying a 1.99 acre tract of land out the Nancy Chance Survey, Abstract #5, located west of Old Howard Road, south and east of Hilliard Road, to the abutting property owner for fair market value.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the conveyance of a 1.99 acre tract to the adjoining property owner, Kiella Development, Inc.

Under Chapter 272 of the Local Government Code, cities wishing to sell real property must typically go through a formal process of advertising for two weeks and then selling the property to highest bidder at or above fair market value. Chapter 272 does, however, allow the sale of certain property to abutting property owners for fair market value when it falls within certain exceptions. One of those exceptions allows the sale to an abutting property owner when the property is unlikely to develop otherwise because of its size, shape or lack of access to public streets.

The 1.99 acre triangle-shaped tract we propose to sell to the adjoining property owner meets several of these criteria: 1) While it is 1.99 acres in size, because of its location adjacent to Phase 2 of the Outer Loop, Stone Hollow Drive and Hilliard Road much of the property is subject to setback requirements on all three sides of the property reducing the area that can be effectively built on; 2) the triangle shape of the property renders much of it undevelopable; and 3) because of the property's location on the Outer Loop and high speed of traffic near the intersection of Stone Hollow Drive, it is unlikely that the property will have access to the Outer Loop or Hilliard Road on the west side, which was abandoned on July 3, 2008. Given the tract's location at the intersection of Stone Hollow and the Outer Loop, the property is likely too close to the intersection of those roads to have access to Stone Hollow. For these reasons, the staff believes the property should be sold at fair market value to the adjoining property owner and combined with the lot to the west of the 1.99 acres.

The City of Temple recently acquired a 43-acre tract north of the 1.99 acre tract for economic development purposes at \$16,000 per acre. The City has also acquired property to the southwest of the 1.99 acre tract for the Westfield detention pond and drainage channel, also for \$16,000 per acre and feels that \$16,000 per acre is a fair appraisal for this 1.99 acre tract.

Staff recommends the City Council adopt a resolution finding that the tract in question should be conveyed to the abutting property owner because of its unusual shape, small size and building area, and lack of access, and that the staff be authorized to convey the 1.99 acre tract to the abutting property owner for \$16,000 per acre.

FISCAL IMPACT: This land was originally purchased by the Reinvestment Zone No. 1 as part of the right of way acquisition for the Outer Loop Phase 2. The revenue to be received will be deposited in the Reinvestment Zone No. 1's account 795-0000-461-0423. The amount to be received of \$31,840 is based upon the fair market value of \$16,000 per acre multiplied by 1.99 acres.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, CONVEYING A 1.99 ACRE TRACT OF LAND OUT OF THE NANCY CHANCE SURVEY, ABSTRACT #5, LOCATED WEST OF OLD HOWARD ROAD, SOUTH AND EAST OF HILLIARD ROAD, TO THE ABUTTING PROPERTY OWNER FOR FAIR MARKET VALUE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Chapter 272 of the Local Government Code authorizes cities to sell real property to abutting property owners for fair market value when it falls within certain exceptions – one of the exceptions is when property is unlikely to develop otherwise because of size, shape, or lack of access to public streets;

Whereas, Kiella Development, Inc., requested to purchase a City-owned 1.99 acre triangle-shaped tract of land located west of Old Howard Road and south and east of Hilliard Road which meets several of these criteria: 1) while it is 1.99 acres in size, because of its location adjacent to Phase 2 of the Outer Loop, Stone Hollow Drive and Hilliard Road much of the property is subject to setback requirements on all three sides of the property reducing the area that can be effectively built on; 2) the triangle shape of the property renders much of it undevelopable; and 3) because of the property's location on the Outer Loop and high speed of traffic near the intersection of Stone Hollow Drive, it is unlikely that the property will have access to the Outer Loop or Hilliard Road on the west side;

Whereas, the City of Temple recently acquired a 43-acre tract north of the 1.99 acre tract for economic development purposes at \$16,000 per acre – the City has also acquired property to the southwest of the 1.99 acre tract for the Westfield detention pond and drainage channel, also for \$16,000 per acre, and therefore feels that \$16,000 per acre is a fair appraisal for the 1.99 acre tract;

Whereas, the amount to be received for the 1.99 acre tract is \$31,840 and it will be deposited in the Reinvestment Zone No. One's account 795-0000-461-0423 since the land was originally purchased by the Reinvestment Zone No. One as part of the right of way acquisition for the Outer Loop Phase 2; 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 conveyance of a 1.99 acre tract of land out of the Nancy Chance Survey, Abstract #5, located west of Old Howard Road, south and east of Hilliard Road, more fully described by metes and bounds contained in field notes and surveyor's drawing attached as Exhibit "A," to the abutting property owner for fair market value of \$16,000 per acre.

Part 2: The City Council authorizes the Mayor to execute a Deed Without Warranty, after approval as to form by the City Attorney, conveying the land described above.

Part 3: The statements contained in the preamble of this resolution are true and correct and are adopted as findings of fact hereby.

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 6th day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #5(K)
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DEPT./DIVISION SUBMISSION & REVIEW:

David A. Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution canceling the January 1, 2009 regular meeting of the Temple City Council.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The first City Council meeting in January 2009 falls on January 1st, the New Year's holiday. We are recommending the City Council cancel this meeting. A special meeting can be called, with the required 72-hour notice, if an urgent matter requires Council consideration before the second meeting in January, which will be January 15th.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS,
CANCELING THE JANUARY 1, 2009, CITY COUNCIL MEETING DUE TO THE
NEW YEAR'S HOLIDAY; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, the first City Council meeting of 2009 occurs on January 1, 2009, New Year's Day;

Whereas, the Staff recommends canceling this meeting since there are historically few items for Council consideration between Christmas and New Year's;

Whereas, the City Charter requires only one regular meeting be conducted each month, but if necessary pending Council business occurs, a special meeting can be called, with the required 72 hour notice, in addition to the regular Council meeting on January 15, 2009; 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 approves canceling the January 1, 2009, City Council meeting due to the New Year's holiday.

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 6th day of **November**, 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

11/06/08
Item #5(L)
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 2008-2009.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2008-2009 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$43,297.

ATTACHMENTS:

Budget amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
November 6, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2000-521-2516		Judgments & Damages (Police Dept.)	\$ 2,222	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 2,222
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.				
110-2200-522-2513		Special Services (Fire Dept.)	\$ 365	
110-0000-442-1629		Fire Donations/Gifts		\$ 365
This budget adjustment recognizes donations received from CERT and appropriates these funds to the Special Services expenditure account to be used to purchase equipment and supplies. The CERT organization will use these funds to support the citizens and community of Temple.				
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 4,626	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 4,626
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City seeking reimbursement for damage to a vehicle and personal injuries to the driver/passenger when the vehicle was struck by a Solid Waste Dept. vehicle on May 21, 2008.				
110-2360-540-2516		Judgments & Damages (Solid Waste - Sideload)	\$ 1,050	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,050
Settlement of claim filed against the City by the Temple Housing Authority seeking reimbursement for damage to an aluminum light pole and a concrete ledge by a garbage truck on July 8, 2008, in the alley at 100 North 7th Street.				
110-3110-551-2516		Judgments & Damages (Golf Course)	\$ 1,831	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,831
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Richard Erickson seeking reimbursement for damage to his vehicle after it was struck by a golf cart driven by an employee at Sammons Golf Course on August 3, 2008.				
110-3200-551-2516		Judgments & Damages (Recreation)	\$ 179	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 179
Settlement of a claim filed against City by Vanessa Vargas seeking reimbursement for the loss of an ipod at the Summit Recreation Center on May 31, 2008.				
110-3200-551-2120		Education/Recreation (Recreation)	\$ 7,850	
110-0000-445-1590		Special Events/Classes		\$ 7,850
This budget adjustment appropriates funds for the purpose of increasing holiday activities in and around the parade area. The expenditures are offset by revenues from admission fees and sponsorships of such activities.				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
November 6, 2008

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
240-4400-551-2129		Advertising/Marketing (Mayborn Center)	\$ 3,000	
240-0000-445-1246		Visitor Center Store Sales		\$ 3,000
This budget adjustment appropriates funds for the purpose of selling Temple souvenirs to patrons of the visitor center. The expenditures are offset by revenues from souvenir sales.				
240-4400-551-2510		Contributions/Prizes	\$ 750	
240-4400-551-2129		Advertising/Marketing	\$ 750	
240-0000-445-1226		Historic Markers		\$ 1,500
This budget adjustment appropriates funds for the purpose of the Temple Historic Marker Program to recognize historically significant structures within the City while encouraging historic preservation. The expenditures are offset by revenues from application fees to apply for the historic markers.				
351-6100-571-2661		Afford Housing - Temple Housing Authority (THA)	\$ 10,337	
351-0000-490-2582		Transfer In - General Fund		\$ 10,337
110-9100-591-8151		Transfer Out - Designated Capital Projects	\$ 10,337	
110-0000-352-1345		Designated Capital Projects - Unallocated		\$ 10,337
To appropriate funding for the Temple Housing Authority's Workforce Housing Program. The funding will be used for down payment assistance.				
TOTAL AMENDMENTS			\$ 43,297	\$ 43,297
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			\$	(9,908)
Net Balance of Judgments & Damages Contingency Account			\$	60,092
Beginning SAFER Grant Match Contingency			\$	46,821
Added to Master Plan Implementation Contingency			\$	-
Taken From Master Plan Implementation Contingency			\$	-
Net Balance of Master Plan Implementation Contingency Account			\$	46,821
Beginning Compensation Contingency			\$	184,700
Added to Compensation Contingency			\$	-
Taken From Compensation Contingency			\$	-
Net Balance of Compensation Contingency Account			\$	184,700
Net Balance Council Contingency			\$	291,613
Beginning Balance Budget Sweep Contingency			\$	-
Added to Budget Sweep Contingency			\$	-
Taken From Budget Sweep			\$	-
Net Balance of Budget Sweep Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2009 BUDGET
November 6, 2008

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	174,121
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	174,121
		Beginning Compensation Contingency	\$	34,334
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	34,334
		Beginning Approach Mains Contingency	\$	500,000
		Added to Approach Mains Contingency	\$	-
		Taken From Approach Mains Contingency	\$	-
		Net Balance of Approach Mains Contingency Account	\$	500,000
		Beginning T-BRSS Future Plant Expansion Contingency	\$	450,000
		Added to T-BRSS Future Plant Expansion Contingency	\$	-
		Taken From T-BRSS Future Plant Expansion Contingency	\$	-
		Net Balance of T-BRSS Future Plant Expansion Contingency	\$	450,000
		Net Balance Water & Sewer Fund Contingency	\$	1,158,455
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	75,221
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	75,221
		Beginning Compensation Contingency	\$	5,401
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	5,401
		Net Balance Hotel/Motel Tax Fund Contingency	\$	80,622
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning Compensation Contingency	\$	4,631
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	4,631
		Net Balance Drainage Fund Contingency	\$	4,631
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	7,962
		Carry forward from Prior Year	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	7,962

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2008-2009
CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.**

Whereas, on the 28th day of August, 2008, the City Council approved a budget for the 2008-2009 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2008-2009 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 2008-2009 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 6th day of **November**, 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

11/06/07
Item #6(A)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: THIRD READING – PUBLIC HEARING: Consider adopting an ordinance authorizing a five year franchise to Scott and White EMS to provide non-emergency ambulance transfer services within the City.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description on third and final reading.

ITEM SUMMARY: On October 3, 2002, the City Council authorized a five year franchise to Scott and White Memorial Hospital to provide non-emergency ambulance transfer services within the City. In October of 2007, the City Council extended that franchise for one year. Scott & White is one of two current non-emergency ambulance transfer service franchisees—the other being Central Texas EMS. S&W provides this service through a joint venture with a third party provider, with the joint venture doing business as “Scott & White EMS.”

The Staff recommends authorizing a five year renewal of the franchise. Five years is the normal franchise term by City ordinance. Franchise renewals require three readings, a public hearing, and publication of a summary of the franchise ordinance in the Temple Daily Telegram. Because we have to publish a summary of the franchise ordinance in the Telegram, we are proposing that the first two readings of the franchise ordinance be consent agenda items and that the third reading of the ordinance be on the regular agenda with a public hearing. This will give everyone a chance to read the published summary and make informed comments at the public hearing.

FISCAL IMPACT: Franchisees pay the City 3½ % of the total amount billed per year. In the most recent full reported year (FY 2007), Scott & White paid the City \$42,047.96 in non-emergency ambulance transfer service franchise fees.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING TO SCOTT AND WHITE MEMORIAL HOSPITAL AND THE SCOTT, SHERWOOD, AND BRINDLEY FOUNDATION, A NON-EXCLUSIVE FRANCHISE FOR ONE YEAR TO OPERATE AND MAINTAIN A NON-EMERGENCY AMBULANCE TRANSFER SERVICE UPON THE PUBLIC STREETS AND HIGHWAYS OF THE CITY OF TEMPLE, TEXAS PURSUANT TO THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE CHARTER OF THE CITY OF TEMPLE, AND CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, Article III, Chapter 5 of the City Code, requires that a person or persons desiring to provide non-emergency ambulance transfer services on the streets of the City of Temple obtain a franchise, under conditions set out therein;

WHEREAS, Scott and White Memorial Hospital has requested a franchise for a non-exclusive, non-emergency transfer service within the City of Temple; and

WHEREAS, Scott and White Memorial Hospital has established to the satisfaction of the City Council by clear, cogent and convincing evidence that public convenience and necessity will be served by the granting of said franchise.

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

PART 1: A non-exclusive franchise is granted to Scott and White Memorial Hospital and the Scott, Sherwood and Brindley Foundation, pursuant to Chapter 5 of the Code of Ordinances of the City of Temple, as amended, and the Charter of the City of Temple, as provided herein.

PART 2: Definitions.

As used in this ordinance, the following words and phrases shall have the meaning ascribed in this section:

(a) ***City*** shall mean the City of Temple, a municipal corporation of the State of Texas, situated in Bell County; the words *in the City* or any similar reference to the territorial limits

of the City of Temple, Texas, shall mean the area within the corporate limits of the City of Temple, Texas, as they now exist or as they may hereafter be lawfully modified or extended.

(b) ***Company, Transfer Service Franchise Holder***, as used herein, unless the context clearly indicates otherwise, shall mean Scott and White Memorial Hospital, or its legally approved successors and assigns.

(c) ***Ambulance*** or ***Transfer Service*** shall mean any motor vehicle used, designed, redesigned or constructed and equipped for the transportation of sick or injured persons, which vehicles for the purposes of this ordinance shall be of the classification of basic life support vehicle or higher, according to the definitions and standards of the City of Temple, Texas or the Bureau of Emergency Management of the Texas Department of Health.

(d) ***Transfer Service*** or ***Non-Emergency Ambulance Transfer Service*** means a response made by a transfer vehicle or ambulance for the transportation of individuals to or from a medical facility, a nursing home or residence under circumstances which do not constitute an emergency.

(e) ***Emergency*** is any circumstance that calls for an immediate action and which the element of time in transporting the sick, wounded or injured for medical treatment is essential to the health or life of any person. Such circumstances include, but are not limited to, general accidents, traffic accidents and acts of violence resulting in personal injury, and sudden illness.

(f) All other words, terms or phrases shall have the meaning assigned to them by Chapter 5 of the City Code, to the extent that such words, terms or phrases have not been assigned other meanings by Chapter 773 of the Texas Health and Safety Code; as amended, or the Bureau of Emergency Management of the Texas Department of Health, in which case those assigned meanings shall prevail. In the absence of an assigned meaning by the above-referenced ordinance, statute, or regulations of the Bureau, the meanings of such words, terms and phrases shall have the ordinary meanings applied at law generally or by common usage in the English language.

PART 3: Notice and Extent of Grant.

The City grants the non-exclusive right and authority to operate and maintain ambulances solely for non-emergency ambulance transfer service of persons upon the public streets and highways of the City of Temple, Texas, for a term ending on **November 7, 2013**, to Company in consideration of the payment of a franchise fee as provided in Part 4 of this ordinance.

PART 4: Standards and Requirements for Personnel, Vehicles and Equipment.

The Company shall comply with all standards and requirements for personnel, vehicles and equipment as enumerated in Chapter 5 of the Code of Ordinances of the City of Temple.

PART 5: Payment to the City Required; Franchise Fee.

(a) The transfer service franchise holder shall, during the life of said franchise, pay to the City of Temple at the Office of the Director of Finance in lawful money of the United States, three and one-half (3 ½%) percent of the total amount billed for the transfer service fees and other income derived from the operation of the transfer service, which said remittance shall be made monthly on or before the tenth day of each calendar month for the preceding calendar month. The compensation provided for in this section shall be in lieu of any other fees or charges imposed by any other ordinance now or hereafter in force during the life hereof, but shall not release the grantee from the payment of ad valorem taxes levied, or to be levied, on property of its own.

(b) It shall be the duty of the grantee to file with the Director of Finance a sworn statement for each calendar quarter showing the total amount billed for the preceding three (3) months which statement shall be filed within ten (10) days following the end of the third month. The grantee herein shall be required to install and adequately keep a system of bookkeeping to be approved by the Director of Finance, which books shall be subject to inspections of the governing body of the City of Temple and such person or persons as the City may designate, or either of them, so as to enable the City of Temple to check the correctness of the accounts kept and to compute fairly and accurately the amount billed that may be due to the City.

PART 6: Rates.

- (a) The City Council hereby expressly reserves the right, power, and authority to fully regulate and fix, by resolution, the rates and charges for the services of the Company to its customers, fully reserving to the City Council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the constitution, the laws of the State, and the Charter confer upon the City.
- (b) Company may from time to time propose changes in the general rates by filing an application with the City Secretary for consideration of the City Council. Within a reasonable time consistent with law, the City Council shall afford Company a fair hearing with reference to the application and shall either approve or disapprove the proposed changes or make such order as may be reasonable.

PART 7: Liability Insurance Required.

No transfer vehicle shall be operated on the public streets of the City, unless the applicant provides evidence to the City that he has in full force and effect a public liability insurance policy on that transfer vehicle, such insurance policy to be issued by an insurance company licensed to do business in the State of Texas. Such insurance policy shall:

- (a) provide liability coverage for each vehicle of not less than two hundred and fifty thousand dollars (\$250,000) per person, or five hundred thousand dollars (\$500,000) per

occurrence for personal injury or death, and one hundred thousand dollars (\$100,000) for property damage;

(b) name the City of Temple as an additional insured, and provide a waiver of subrogation in favor of the City;

(c) not contain a passenger liability exclusion; and

(d) provide for at least thirty (30) days prior written notice of cancellation to the City.

PART 8: Conditions of Franchise Granted.

The rights, powers and authority herein granted are granted subject to the Constitution and laws of the State of Texas, the Charter of the City of Temple, and where not provided herein, the ordinances and codes of the City of Temple as same now exist or may hereafter be amended so as to constitute reasonable regulations protecting the health, safety and welfare to insure safe, efficient and continuous non-emergency ambulance transfer service, all of which enumerated provisions are incorporated herein by reference and made a part hereof as fully as though the same had been copied herein verbatim.

PART 9: Manner of Giving Notice.

Notice to Company may be given by leaving a written copy thereof at the principal office of Company during ordinary business hours. Notice to the City may be given by leaving a written copy thereof at the Office of the Director of Finance during ordinary business hours.

PART 10: Public Convenience and Necessity.

Company has established by clear, cogent and convincing evidence and the City Council has so found and determined that the present and future public convenience and necessity require the operations here authorized to be performed by Company and the public convenience and necessity will be served by the granting of this franchise.

PART 11: Performance Bond and Revocation Clause.

(a) The transfer service franchise holder shall establish a Ten Thousand Dollar (\$10,000) performance bond. The purpose of this bond is to recover costs to the City of Temple for accepting and administering the applications for a transfer service franchise in the event the franchise is revoked.

(b) If the transfer service franchise holder violates any provision or standard of this ordinance the franchise will be subject to revocation by the City Council of the City of Temple.

PART 12: This franchise shall become effective as provided in Article 10, Section 10.3 of the Charter of the City of Temple, if Company shall have filed its written acceptance of the franchise within thirty (30) days after the final passage and approval of this ordinance.

PART 13: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

PART 14: 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 15: 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 on the **2nd** day of **October**, 2008.

PASSED AND APPROVED on Second Reading on the **16th** day of **October**, 2008.

PASSED AND APPROVED on Third and Final Reading and Public Hearing on the **6th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Agreement of Franchisee

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS:

The franchisee, Scott and White Memorial Hospital and the Scott, Sherwood and Brindley Foundation, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. _____ granting a non-exclusive franchise to operate and maintain a non-emergency ambulance transfer service upon the public streets and highways of the City of Temple.

SIGNED this _____ day of November, 2008.

SCOTT AND WHITE MEMORIAL HOSPITAL
AND THE SCOTT, SHERWOOD AND
BRINDLEY FOUNDATION

By: _____



COUNCIL AGENDA ITEM MEMORANDUM

11/06/07
Item #6(B)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: THIRD READING – PUBLIC HEARING: Consider adopting an ordinance authorizing a five year franchise to Central Texas EMS to provide non-emergency ambulance transfer services within the City.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description on third and final reading.

ITEM SUMMARY: The City has previously given Central Texas EMS two one year franchises to provide non-emergency ambulance transfer services within the City. While five years is the normal term of a non-emergency ambulance transfer service franchise by City ordinance, the City Council gave two one year franchises to Central Texas EMS to give itself time to receive the 2007 Master Plan Report on Fire, Rescue and EMS services that it had commissioned from a consultant and to review and implement that report's recommendations.

Central Texas EMS has performed well the past two years under its franchise agreement and the Staff recommends authorizing a five year renewal of the franchise with Central Texas EMS. Franchise renewals require three readings, a public hearing, and publication of a summary of the franchise ordinance in the Temple Daily Telegram. Central Texas EMS is one of two current non-emergency ambulance transfer service franchisees—the other being Scott & White EMS (a franchise is also under consideration for them on this same agenda).

Because we have to publish a summary of the franchise ordinance in the Telegram, we are proposing that the first two readings of the franchise ordinance be consent agenda items and that the third reading of the ordinance be on the regular agenda with a public hearing. This will give everyone a chance to read the published summary and make informed comments at the public hearing.

FISCAL IMPACT: Franchisees pay the City 3½ % of the total amount billed per year. In the most recent full reported year (FY 2007), Central Texas paid the City \$31,960.43 in non-emergency ambulance transfer service franchise fees.

ATTACHMENTS:

[Ordinance](#)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING TO CENTRAL TEXAS REGIONAL EMS, A NON-EXCLUSIVE FRANCHISE FOR ONE YEAR TO OPERATE AND MAINTAIN A NON-EMERGENCY AMBULANCE TRANSFER SERVICE UPON THE PUBLIC STREETS AND HIGHWAYS OF THE CITY OF TEMPLE, TEXAS PURSUANT TO THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE CHARTER OF THE CITY OF TEMPLE, AND CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, Article III, Chapter 5 of the City Code, requires that a person or persons desiring to provide non-emergency ambulance transfer services on the streets of the City of Temple obtain a franchise, under conditions set out therein;

WHEREAS, Central Texas Regional EMS has requested a franchise for a non-exclusive, non-emergency transfer service within the City of Temple; and

WHEREAS, Central Texas EMS has established to the satisfaction of the City Council by clear, cogent and convincing evidence that public convenience and necessity will be served by the granting of said franchise.

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

PART 1: A non-exclusive franchise is granted to Central Texas Regional EMS, pursuant to Chapter 5 of the Code of Ordinances of the City of Temple, as amended, and the Charter of the City of Temple, as provided herein.

PART 2: Definitions.

As used in this ordinance, the following words and phrases shall have the meaning ascribed in this section:

(a) ***City*** shall mean the City of Temple, a municipal corporation of the State of Texas, situated in Bell County; the words *in the City* or any similar reference to the territorial limits of the City of Temple, Texas, shall mean the area within the corporate limits of the City of Temple, Texas, as they now exist or as they may hereafter be lawfully modified or extended.

(b) ***Company, Transfer Service Franchise Holder***, as used herein, unless the context clearly indicates otherwise, shall mean Central Texas Regional EMS, or its legally approved successors and assigns.

(c) ***Ambulance*** or ***Transfer Service*** shall mean any motor vehicle used, designed, redesigned or constructed and equipped for the transportation of sick or injured persons, which vehicles for the purposes of this ordinance shall be of the classification of basic life support vehicle or higher, according to the definitions and standards of the City of Temple, Texas or the Bureau of Emergency Management of the Texas Department of Health.

(d) ***Transfer Service*** or ***Non-Emergency Ambulance Transfer Service*** means a response made by a transfer vehicle or ambulance for the transportation of individuals to or from a medical facility, a nursing home or residence under circumstances which do not constitute an emergency.

(e) ***Emergency*** is any circumstance that calls for an immediate action and which the element of time in transporting the sick, wounded or injured for medical treatment is essential to the health or life of any person. Such circumstances include, but are not limited to, general accidents, traffic accidents and acts of violence resulting in personal injury, and sudden illness.

(f) All other words, terms or phrases shall have the meaning assigned to them by Chapter 5 of the City Code, to the extent that such words, terms or phrases have not been assigned other meanings by Chapter 773 of the Texas Health and Safety Code; as amended, or the Bureau of Emergency Management of the Texas Department of Health, in which case those assigned meanings shall prevail. In the absence of an assigned meaning by the above-referenced ordinance, statute, or regulations of the Bureau, the meanings of such words, terms and phrases shall have the ordinary meanings applied at law generally or by common usage in the English language.

PART 3: Notice and Extent of Grant.

The City grants the non-exclusive right and authority to operate and maintain ambulances solely for non-emergency ambulance transfer service of persons upon the public streets and highways of the City of Temple, Texas, for a term ending on **November 7, 2013**, to Company in consideration of the payment of a franchise fee as provided in Part 4 of this ordinance.

PART 4: Standards and Requirements for Personnel, Vehicles and Equipment.

The Company shall comply with all standards and requirements for personnel, vehicles and equipment as enumerated in Chapter 5 of the Code of Ordinances of the City of Temple.

PART 5: Payment to the City Required; Franchise Fee.

(a) The transfer service franchise holder shall, during the life of said franchise, pay to the City of Temple at the Office of the Director of Finance in lawful money of the United States, three and one-half (3 ½%) percent of the total amount billed for the transfer service fees and other income derived from the operation of the transfer service, which said remittance shall be made monthly on or before the tenth day of each calendar month for the preceding

calendar month. The compensation provided for in this section shall be in lieu of any other fees or charges imposed by any other ordinance now or hereafter in force during the life hereof, but shall not release the grantee from the payment of ad valorem taxes levied, or to be levied, on property of its own.

(b) It shall be the duty of the grantee to file with the Director of Finance a sworn statement for each calendar quarter showing the total amount billed for the preceding three (3) months which statement shall be filed within ten (10) days following the end of the third month. The grantee herein shall be required to install and adequately keep a system of bookkeeping to be approved by the Director of Finance, which books shall be subject to inspections of the governing body of the City of Temple and such person or persons as the City may designate, or either of them, so as to enable the City of Temple to check the correctness of the accounts kept and to compute fairly and accurately the amount billed that may be due to the City.

PART 6: Rates.

- (a) The City Council hereby expressly reserves the right, power, and authority to fully regulate and fix, by resolution, the rates and charges for the services of the Company to its customers, fully reserving to the City Council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the constitution, the laws of the State, and the Charter confer upon the City.
- (b) Company may from time to time propose changes in the general rates by filing an application with the City Secretary for consideration of the City Council. Within a reasonable time consistent with law, the City Council shall afford Company a fair hearing with reference to the application and shall either approve or disapprove the proposed changes or make such order as may be reasonable.

PART 7: Liability Insurance Required.

No transfer vehicle shall be operated on the public streets of the City, unless the applicant provides evidence to the City that he has in full force and effect a public liability insurance policy on that transfer vehicle, such insurance policy to be issued by an insurance company licensed to do business in the State of Texas. Such insurance policy shall:

- (a) provide liability coverage for each vehicle of not less than two hundred and fifty thousand dollars (\$250,000) per person, or five hundred thousand dollars (\$500,000) per occurrence for personal injury or death, and one hundred thousand dollars (\$100,000) for property damage;
- (b) **name the City of Temple as an additional insured, and provide a waiver of subrogation in favor of the City;**
- (c) not contain a passenger liability exclusion; and

(d) **provide for at least thirty (30) days prior written notice** of cancellation to the City.

PART 8: Conditions of Franchise Granted.

The rights, powers and authority herein granted are granted subject to the Constitution and laws of the State of Texas, the Charter of the City of Temple, and where not provided herein, the ordinances and codes of the City of Temple as same now exist or may hereafter be amended so as to constitute reasonable regulations protecting the health, safety and welfare to insure safe, efficient and continuous non-emergency ambulance transfer service, all of which enumerated provisions are incorporated herein by reference and made a part hereof as fully as though the same had been copied herein verbatim.

PART 9: Manner of Giving Notice.

Notice to Company may be given by leaving a written copy thereof at the principal office of Company during ordinary business hours. Notice to the City may be given by leaving a written copy thereof at the Office of the Director of Finance during ordinary business hours.

PART 10: Public Convenience and Necessity.

Company has established by clear, cogent and convincing evidence and the City Council has so found and determined that the present and future public convenience and necessity require the operations here authorized to be performed by Company and the public convenience and necessity will be served by the granting of this franchise.

PART 11: Performance Bond and Revocation Clause.

(a) The transfer service franchise holder shall establish a Ten Thousand Dollar (\$10,000) performance bond. The purpose of this bond is to recover costs to the City of Temple for accepting and administering the applications for a transfer service franchise in the event the franchise is revoked.

(b) If the transfer service franchise holder violates any provision or standard of this ordinance the franchise will be subject to revocation by the City Council of the City of Temple.

PART 12: This franchise shall become effective as provided in Article 10, Section 10.3 of the Charter of the City of Temple, if Company shall have filed its written acceptance of the franchise within thirty (30) days after the final passage and approval of this ordinance.

PART 13: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

PART 14: 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 15: 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 on the **2nd** day of **October**, 2008.

PASSED AND APPROVED on Second Reading on the **16th** day of **October**, 2008.

PASSED AND APPROVED on Third and Final Reading and Public Hearing on the **6th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Agreement of Franchisee

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS:

The franchisee, Central Texas Regional EMS, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. _____ granting a non-exclusive franchise to operate and maintain a non-emergency ambulance transfer service upon the public streets and highways of the City of Temple.

SIGNED this _____ day of _____, 2008.

CENTRAL TEXAS REGIONAL EMS

By:



CITY COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #7
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Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-08-37: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on a 12.2± acre tract of land and a zone change to a Single Family Two District (SF-2) on a 38.5± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: The Planning and Zoning Commission voted 8/0, upon Staff's recommendation, recommending approval of Case Z-FY-08-37 for the following reasons:

1. The request complies with the requested amendment to the Future Land Use Plan of the West Temple Plan for a planned development general retail and single-family residential uses;
2. The request complies with the Thoroughfare Plan for Arterial Roadways of access to South 5th Street and FM 93; and
3. Water serves the site and the sewer will be extended southward from South Temple Park as part of the engineering plans associated with a Preliminary Plat.

The Planning & Zoning Commission recommended a PD-GR for allowed uses, uses requiring a CUP, and prohibited uses. The staff is recommending both a PD-GR and a PD-SF-2 to address the responsibility of installing and maintaining screening walls, as discussed at the October 16th City Council meeting.

ITEM SUMMARY: The City Council tabled this item on first reading and continued the public hearing at its meeting on October 16, 2008. The Council directed Staff to continue working with the applicant to create Planned Development standards for the exterior screening of the future single family lots adjacent to South 5th Street and backing to FM 93, through the use of a home owner association (HOA). The Council also directed Staff to work with the applicant to draft the timing or a 'trigger' to pull when the commercial screening of a wall/fence and landscaping is to be installed on the north and east sides of the Planned Development-General Retail (PD-GR).

Staff has met with the applicant and requested revisions are included in the ordinance. A wood screening fence with masonry columns will be installed next to South 5th Street and behind the lots parallel to FM 93 and maintained by an HOA. The commercial screening will be installed after the applicant installs the water, sewer and storm drainage infrastructure for the PD-GR area. All landscaping on the outside of the commercial screening will be installed prior to a certificate of occupancy for the first building permit for the PD-GR area, subject to the PD requirements.

Please refer to the Staff Report and draft minutes of case Z-FY-08-37, from the Planning and Zoning meeting, September 15, 2008. The proposed ordinance contains the regulations for the Planned Development General Retail District (PD-GR).

The Commission recommended a Planned Development General Retail (PD-GR) district allowing almost all the retail uses which are conducive to the planned single family neighborhood, eliminating all residential uses (which are allowed in the GR zoning district and needs to be fixed), and requiring a conditional use permit (CUP) for retail uses which affect the outdoors similar to a florist or garden shop, greenhouse or plant nursery (retail sales) a drive-in restaurant or tool rental store with outside storage. The CUP process requires site plan approval by the Planning & Zoning Commission, with final authority of the City Council. This PD is similar to one approved in 2004 for the commercial area south of FM 93 and on both sides of Dubose Road, associated with the Valley Ranch Subdivision.

FISCAL IMPACT: None

ATTACHMENTS:

[Aerial](#)
[Land Use Map](#)
[Zoning Map](#)
[Notice Map](#)
[Planned Development Concept Plan](#)
[PZ Staff Report](#)
[PZ Excerpts](#)
[Letters from property owners](#)
[Ordinance](#)

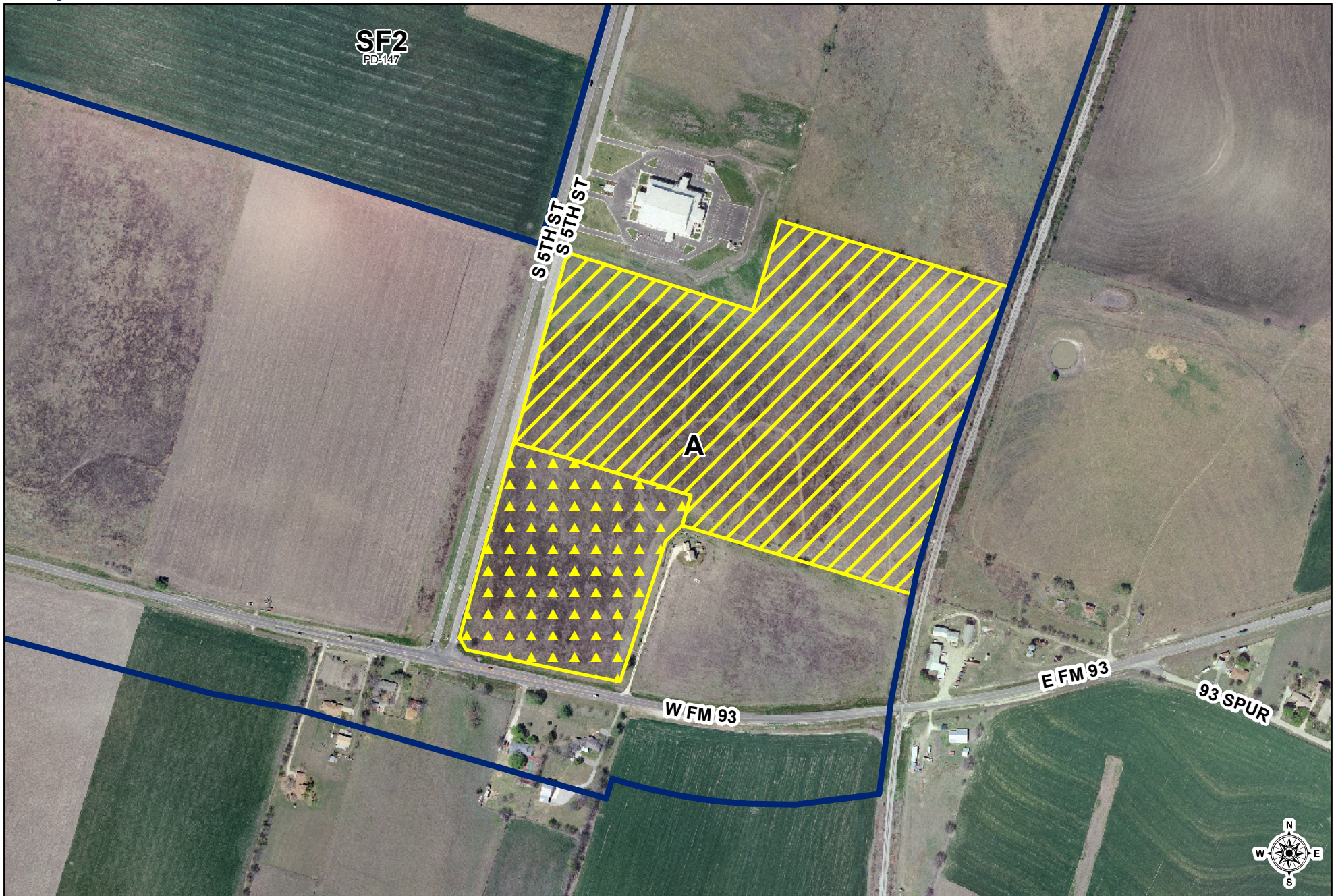


Z-FY-08-37

50.69 Acres

OB#6070-A

Proposed Aberdeen Heights Addtn.



Proposed SF2



Proposed GR

A to SF2 & GR Zoning

1 inch = 500 feet
J Stone 08.12.08



Z-FY-08-37

50.69 Acres

OB#6070-A

Proposed Aberdeen Heights Addtn.

Area of Proposed Zoning



- Proposed SF2
- Proposed GR

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

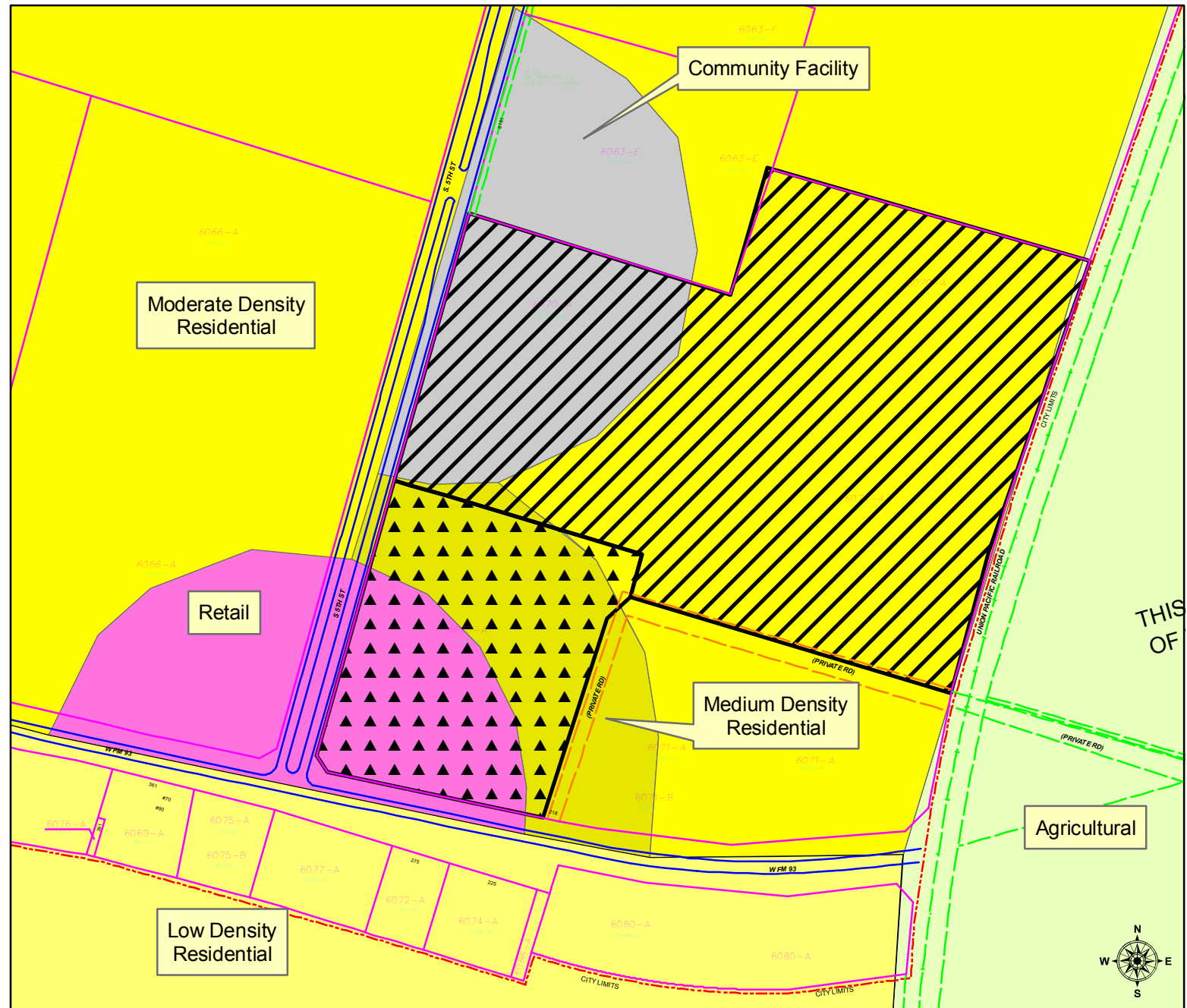
- COMMUNITYFACILITY
- CF-E (EDUCATIONAL)
- CF-G (GENERAL)
- CF-R (RESIDENTIAL)
- CF-M (MEDICAL)

Park Land

- PROPOSED FLOATING PARK
- PARKS

Downtown

- DOWNTOWN



A to SF2 & GR Zoning

1 inch = 400 feet
J Stone 08.12.08

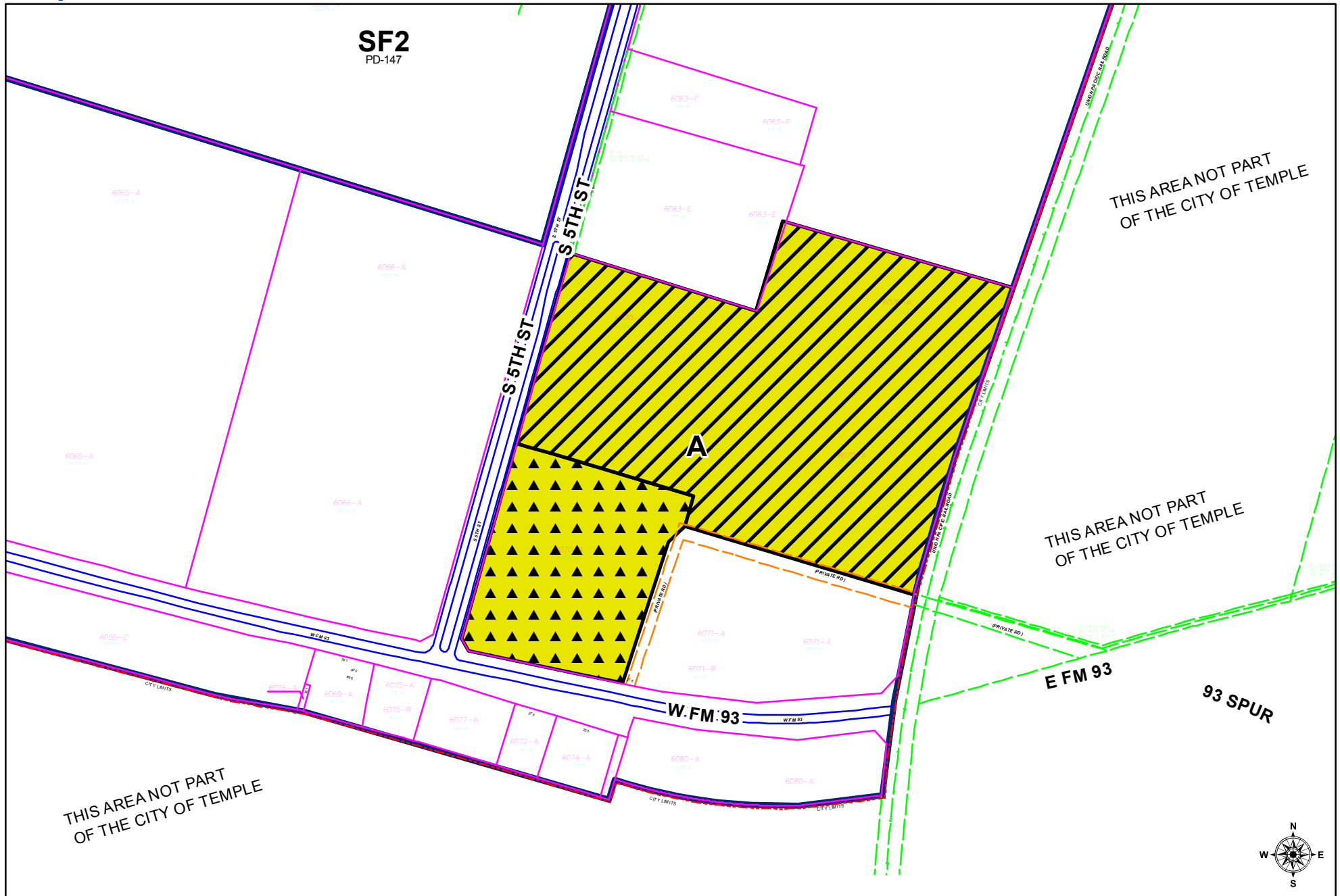


Z-FY-08-37

50.69 Acres

OB#6070-A

Proposed Aberdeen Heights Addtn.



Proposed SF2



Proposed GR

A to SF2 & GR Zoning

1 inch = 500 feet
J Stone 08.12.08

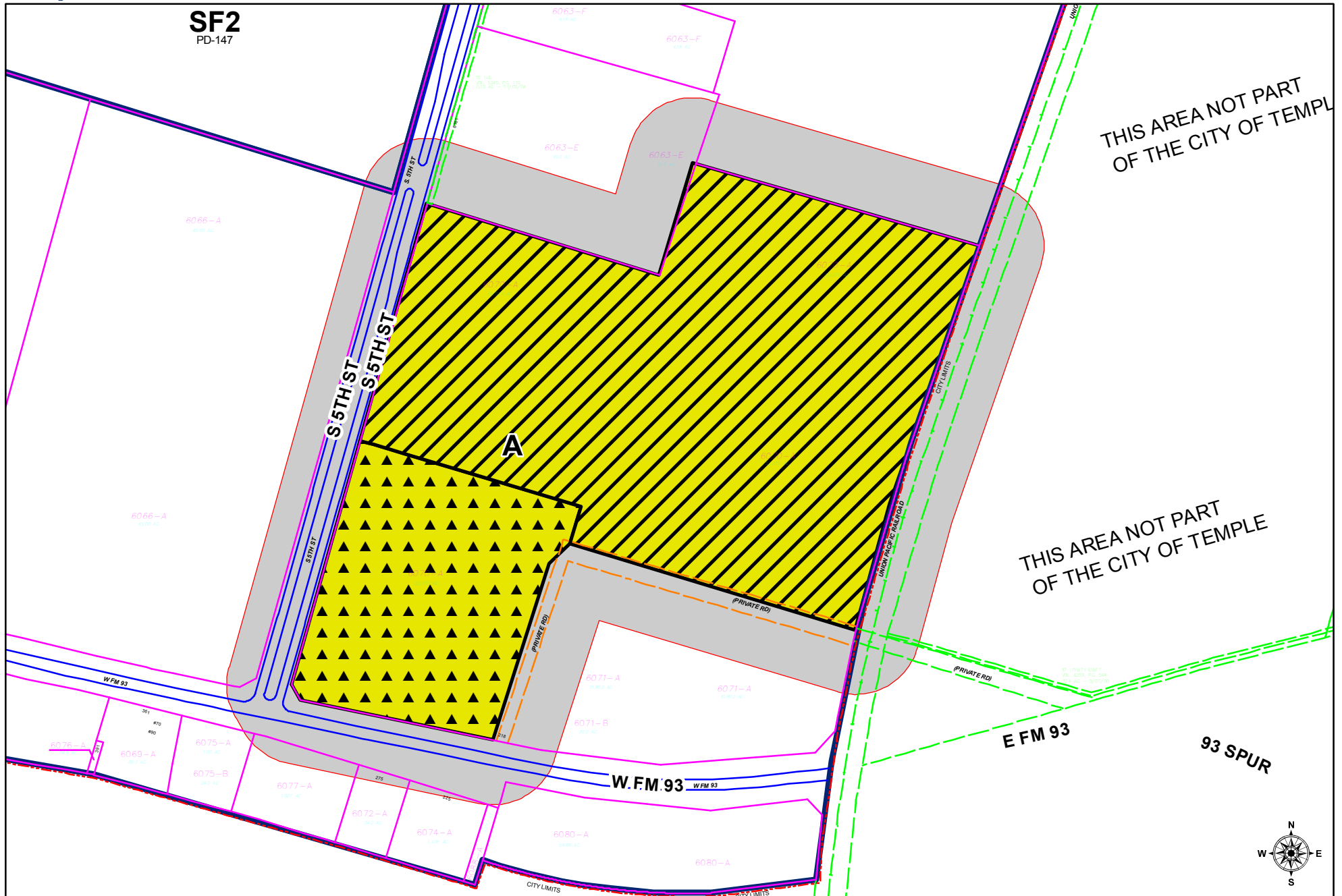


Z-FY-08-37

50.69 Acres

OB#6070-A

Proposed Aberdeen Heights Addtn.



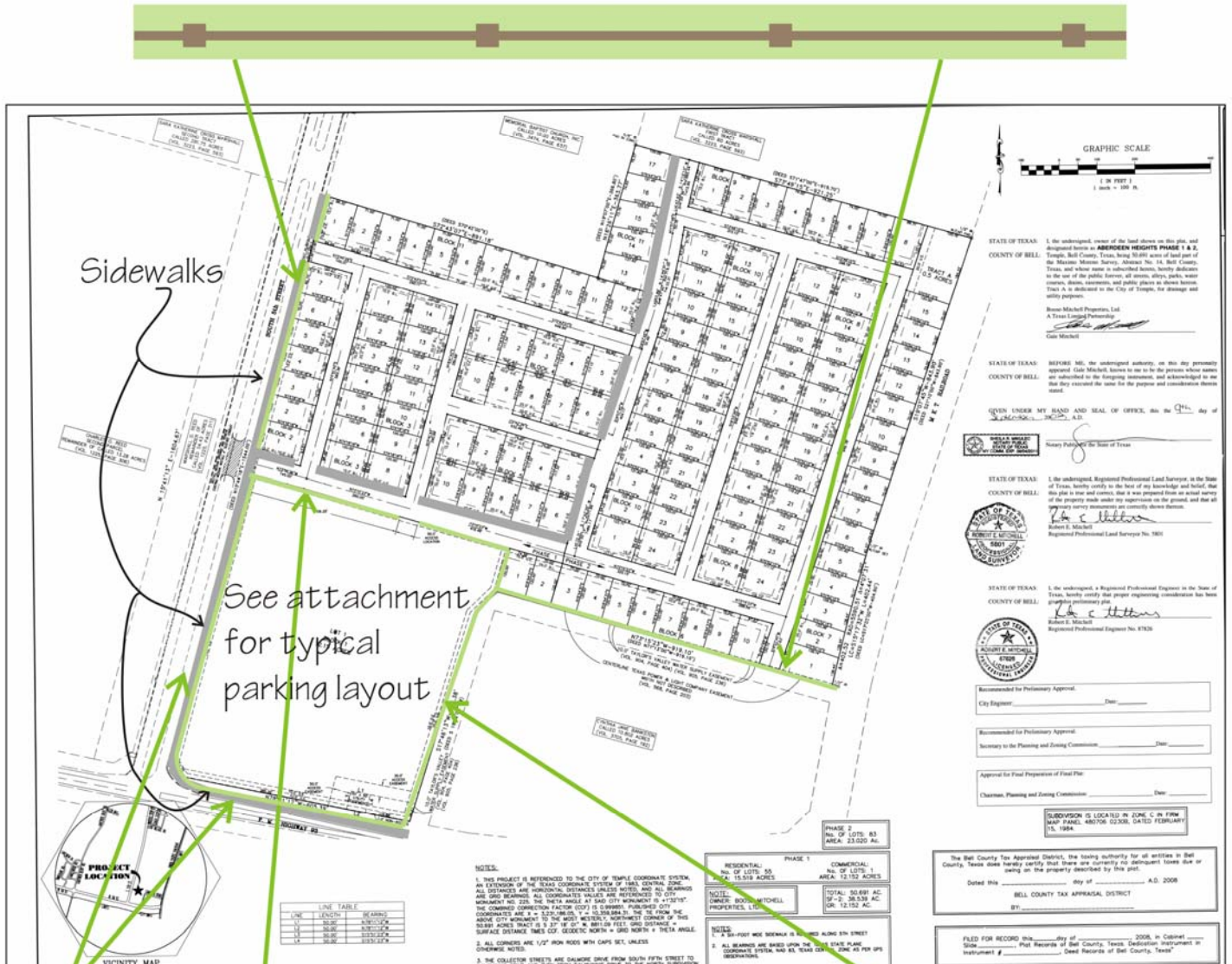
Proposed SF2 Proposed GR 200' Buffer

A to SF2 & GR Zoning

1 inch = 400 feet
J Stone 08.12.08

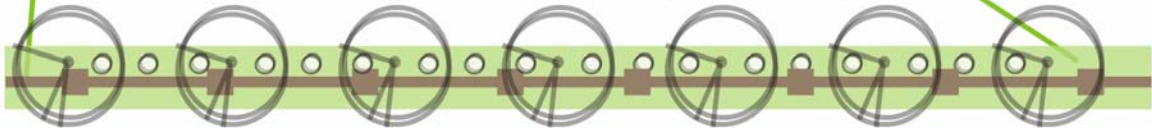
Aberdeen Heights Concept Plan

6' to 8' stained wood fence
with brick or rock columns with capstones
50' to 75' apart
Maintained by Home Owners Association



Min. 5% landscape area with hardwood trees 25' & shrubs 5' on center with living groundcover

6' to 8' wall with brick or rock columns interspersed with wood plank fencing

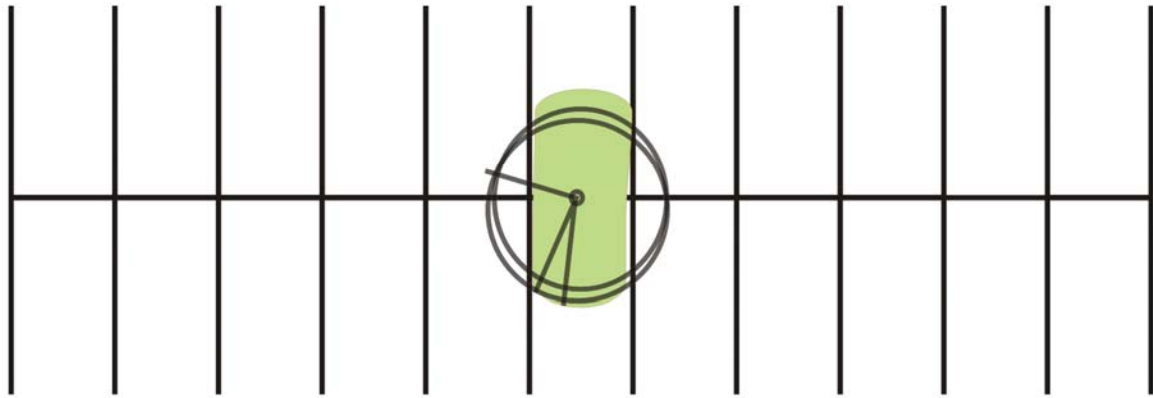


Hardwood trees 25' on center with shrubs 5' on center
Maintained by Property Owners Assoc.

Note: In addition to improvements noted on this Concept Plan, development must meet Landscaping Regulations of the Zoning Ordinance

Aberdeen Heights Concept Plan

Typical Parking Layout



20 spaces maximum
with 128 sq. ft. island and 1 tree



PLANNING AND ZONING COMMISSION AGENDA ITEM

09/15/08

Item 4

Regular Agenda

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APPLICANT / DEVELOPMENT: Boose-Mitchell Properties Inc. c/o Mitchell & Associates, Inc.

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION:

Z-FY-08-37: Hold a public hearing to discuss and recommend action on a zone change from Agricultural District to Planned Development General Retail District on a 12.2 ± acre tract of land and a zone change to Single Family Two District on a 38.5 ± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.

HISTORY:

The applicant withdrew Z-FY-08-26, July 21st, which contained a smaller retail request (7.5 acres with duplex on the eastern edge) and two-family (duplex) residential development.

BACKGROUND:

The applicant requests the PD-GR zoning for 12.2± acres for a planned retail center which will have one point of access from SH 93 and receive access from two points on South 5th. The masonry standards adopted in April 2008 will apply to all buildings on the subject property. The applicant will be required to receive approval from TXDOT for access to FM 93 as part of the subdivision process. The applicant also requests for Single Family-2 (SF-2) single family residential development for the 38.5± acre tract, which would yield 138 single family residential lots. (See Agenda Item 5 – Preliminary Plat).

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	AG	Church
East	ETJ-MKT Railroad	Vacant
South	AG	Rural Residential
West	AG	Rural Residential

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

Future Land Use Plan & Future Trends

The Future Land Use Plan shows the area as a combination of retail, of which a shopping center is allowed and moderate density residential, which allows the SF-2, single family residential. Both requests conform to the Future Land Use Plan.

Thoroughfare Plan

Both FM 93 and South 5th Street are shown as Arterial Roads, which will provide access to the future shopping center and residential subdivision. The request conforms to the Thoroughfare Plan. Access from SH 93 will require approval of a TXDOT permit.

Adequacy of Public Facilities

Adequate water and sewer are available to serve the subject tract.

Development Regulations

Single Family 2 (SF-2) and Traffic Generation

The SF-2 district allows single family-residential development only, with approximately three and one half (3.5) units net per acre, and a maximum building height of 2 ½ stories. The SF-2 dwelling district is designed to accommodate single family. The minimum lot area for SF-2 is 5,000 square foot with setbacks for 25 feet in the front yard, 5 feet in the side yard and 10 feet in the rear yard. The lot yield for the 38.5± acres would yield 138 residential lots.

The trip generation for a residential subdivision is 10 trips per lot. For 138 dwelling units, the trip generation would create 1,380 vehicular trips, requiring two points of access. Staff has been working with Design Standard Advisory Board to use a ratio of one point of ingress for each 75 lots. The applicant will provide two points of access to a proposed subdivision (See Agenda Item 4 – Preliminary Plat).

Planned Development General Retail (PD-GR)

The General Retail District is the standard retail district and allows most retail sales, restaurants, grocery store, department store, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 30' from the street centerline, and 10' adjacent to a residential district with a screening fence to separate the commercial from the residential use.

The use of a Planned Development provides flexibility for development standards because of proximity of other development, topography, road access and the environment. Here the planned GR is across the street from a proposed single family subdivision. Staff recommends a PD approach for land uses, the required screening and buffering and landscaping to prohibit some incompatible uses when located next to single family residential, ensures separation from loading and service areas from the retail to the residential area and to ensure the recommended landscape standards.

Staff has discussed the following PD-GR requirements with applicant which is in agreement. The purpose of the PD is to recommend those base GR district uses allowed by right, requiring a conditional use permit (which requires site plan approval by the Planning & Zoning Commission and the City Council) and prohibited uses. (Staff is working on revised Land Use Tables which will eliminate the possible single family use types in the GR District as part of its work for a modified Unified Development Ordinance).

1. The following uses shall be permitted within the said PD-GR district:

- Antique shop
- Art supply store
- Retail bakery

- Bank or saving and loans office
 - Barber or beauty shop
 - Book or stationery shop
 - Cleaning and pressing small shop and pick up
 - Customer personal service shop
 - Discount or department store
 - Drug store or pharmacy
 - Florist or garden shop
 - Food beverage sales store with gasoline pumps
 - Food beverage sales store without gasoline pumps
 - Furniture and appliance store
 - Greenhouse or plant nursery (retail sales)
 - Handcraft shop and art objects
 - Hardware store or hobby shop
 - Key shop
 - Laboratory, Medical or Dental
 - Laundry and cleaning
 - Medical appliances, fitting, sales or rental
 - Offices, general business and professional
 - Pet shop
 - Restaurant or cafeteria (not drive-in type)
 - Retail shop, gift, apparel, accessory and similar items
 - Retail shop other than listed
 - Photographer studio
 - Studio, music, dance or drama
 - Tool rental (inside only)
 - Travel bureau or consultant
 - Veterinarian office only (no animal hospital, no inside pens)
2. The following uses require a conditional use permit within the said (PD-GR) district:
- Restaurant or eating place (drive-in service)
 - Health and reducing or similar service studio
 - Veterinarian hospital (inside pens)
 - Tool rental (outside equipment storage)
3. The following uses are prohibited within the said (PD-GR) district:
- Single family detached residential
 - Single family attached dwelling
 - Townhouse
 - Two family dwelling (duplex)
 - Industrialized housing
 - Single family dwelling attached 3
 - Family home
 - Accessory dwelling
 - Accessory building (residential)

- Backyard compost operation
- Home occupation
- Hotel or motel
- Stable (private)
- Electrical substation (high voltage bulk power)
- Electrical transmission line (high voltage)
- Gasoline and regulation station
- Cleaning Plant (Commercial)
- Household appliance service or repair
- Pawn Shop
- Radio or television tower
- Radio, television transmitting station
- Telephone Exchange Switch-relay or transmitting equipment
- Public building shop yard of local, state or federal government
- Water Treatment Plant
- Playfield or stadium (public)
- Roller or ice rink
- Child Care: small home facility
- Fraternity or sorority
- Helistop
- Railroad track or right-of-way
- Veterinarian Hospital (outside pens only)
- Farm, ranch orchard or garden
- Flea market (indoors)
- Plumbing shop
- Warehouse office

Required Buffering – PD-GR

The required buffer is a minimum of a six foot fence made of masonry, wood or 'other suitable materials' to separate the non-residential area from a residential area. Landscaping may be used in lieu of a screening fence but no criterion is provided in the Zoning Ordinance. Staff has discussed the following PD buffering requirements with applicant which is in agreement.

The following buffering standards shall apply.

A. North and east side of the said PDD-GR tract -

1. Design. Buffering must meet the following design standards:

- a) Buffering landscaping shall consist of a five-foot wide (5.0') landscape edge consisting of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees located outside of the buffering wall adjacent to Dalmore Drive and the eastern property line.

- b) Buffering walls shall consist of fences or walls constructed of wood, masonry, stone or pre-cast concrete, with integrated color to the primary buildings, texture and pattern, with a minimum 6' vertical height and a maximum 8' vertical height.
- c) Openings in fence or wall buffering must not contain openings constituting more than 40 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.

Required Landscaping –PD-GR

The required landscaping for non-residential uses is to cover 5% of the site but excepting driveways, parking lots and loading areas, with trees spaced 40' on center, or to use three shrubs in lieu of trees. No specification of shrub size is required. Essentially, only the building counts towards the landscape requirements. Staff has worked with City Council and received recommendation to consider 5% of the entire site with trees spaced every 25' on center with 5-gallon shrubs to be interspersed between the trees, plus to consider parking lot trees for every 20 spaces. These standards apply here.

4. Landscaping Standards on FM 93 and South Fifth Street and interior parking areas

- a) FM 93: Five percent of the lot area along FM 93 shall consist of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees.
- b) South Fifth Street: Five percent of the lot area along South 5th Street shall consist of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees.
- c) Dalmore Drive: Five percent of the lot area along South 5th Street shall consist of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees.
- d) One hardwood trees shall be required in a landscape island in the parking lot for every 20 parking spaces.

5. Development or redevelopment of the property shall be through the building permit process.

Public Notice

A total of eight notices were sent out to property owners within 200 feet of the subject property August 22, 2008. As of September 12th at 5 PM, one notice was received which stated the project is a step in the right direction and requests additional information at today's hearing. The newspaper printed notice of the public hearing on August 22, 2008 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval subject to the Commission finding approval for Z-FY-08-37 subject to:

- 1. The approval for a Planned Development General Retail (PD-GR) with the following land uses allowed by right, requiring a conditional use permit review and prohibited uses, buffering requirements, landscape requirements and the use of a building permit to monitor development for a Planned Development District –General Retail (PD-GR) on 12.15 acres of land at the northeast corner of FM 93 and South Fifth Street out of the Maximo Moreno Survey, Abstract No. 14.

A. The following uses shall be permitted within the said PD-GR district:

1. Antique shop
2. Art supply store
3. Retail bakery
4. Bank or saving and loans office
5. Barber or beauty shop
6. Book or stationery shop
7. Cleaning and pressing small shop and pick up
8. Customer personal service shop
9. Discount or department store
10. Drug store or pharmacy
11. Florist or garden shop
12. Food beverage sales store with gasoline pumps
13. Food beverage sales store without gasoline pumps
14. Furniture and appliance store
15. Greenhouse or plant nursery (retail sales)
16. Handcraft shop and art objects
17. Hardware store or hobby shop
18. Key shop
19. Laboratory, Medical or Dental
20. Laundry and cleaning (self-service)
21. Medical appliances, fitting, sales or rental
22. Offices, general business and professional
23. Pet shop
24. Restaurant or cafeteria (not drive-in type)
25. Retail shop, gift, apparel, accessory and similar items
26. Retail shop other than listed
27. Photographer studio
28. Studio, music, dance or drama
29. Tool rental (inside only)
30. Travel bureau or consultant
31. Veterinarian office only (no animal hospital, no inside pens)

B. The following uses require a conditional use permit within the said (PD-GR) district:

1. Restaurant or eating place (drive-in service)
2. Health and reducing or similar service studio
3. Veterinarian hospital (inside pens)
4. Tool rental (outside equipment storage)

C. The following uses are prohibited within the said (PD-GR) district:

1. Single family detached residential
2. Single family attached dwelling
3. Townhouse
4. Two family dwelling (duplex)
5. Industrialized housing
6. Single family dwelling attached 3

7. Family home

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8. Accessory dwelling
9. Accessory building (residential)
10. Backyard compost operation
11. Home occupation
12. Hotel or motel
13. Stable (private)
14. Electrical substation (high voltage bulk power)
15. Electrical transmission line (high voltage)
16. Gasoline and regulation station
17. Cleaning Plant (Commercial)
18. Household appliance service or repair
19. Pawn Shop
20. Radio or television tower
21. Radio, television transmitting station
22. Telephone Exchange Switch-relay or transmitting equipment
23. Public building shop yard of local, state or federal government
24. Water Treatment Plant
25. Playfield or stadium (public)
26. Roller or ice rink
27. Child Care: small home facility
28. Fraternity or sorority
29. Helistop
30. Railroad track or right-of-way
31. Veterinarian Hospital (outside pens only)
32. Farm, ranch orchard or garden
33. Flea market (indoors)
34. Plumbing shop
35. Warehouse office

D. The approval of the required buffering standards for the north and east side of the said PDD-GR:

1. Design. Buffering must meet one or a combination of the following design standards:
 - a) Buffering shall consist of a ten-foot wide (10.0') landscape edge consisting of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees wall located outside of the buffering wall adjacent to Dalmore Drive and the eastern property line.
 - b) Buffering walls shall consist of fences or walls constructed of wood, masonry, stone or pre-cast concrete, with integrated color to the primary buildings, texture and pattern, with a minimum 6' vertical height and a maximum 8' vertical height.
 - c) Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.

- E. The approval of the required landscape standards on FM 93 and South Fifth Street and interior parking areas of the said PD-GR:
- a) FM 93: Five percent of the lot area along FM 93 shall consist of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees.
 - b) South Fifth Street: Five percent of the lot area along South 5th Street shall consist of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees.
 - c) One hardwood trees shall be required in a landscape island in the parking lot for every 20 parking spaces.
- F. Development or redevelopment of the property shall be through the building permit process.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial Photograph
Land Use Map
Zoning Map
Buffer Map

Planned Development General Retail (PDD-GR) requirements:

The Planned Development General Retail (PD-GR) allows following land uses allowed by right, requires a conditional use permit review for some land uses and prohibits other land uses, contains buffering requirements, landscape requirements and the use of a building permit to monitor development for a Planned Development District –General Retail (PD-GR) on 12.15 acres of land at the northeast corner of FM 93 and South Fifth Street out of the Maximo Moreno Survey, Abstract No. 14.

A. Allowed uses in PD-GR:

The following uses are permitted by right within the said PD-GR district:

1. Antique shop
2. Art supply store
3. Retail bakery
4. Bank or saving and loans office
5. Barber or beauty shop
6. Book or stationery shop
7. Cleaning and pressing small shop and pick up
8. Customer personal service shop
9. Discount or department store
10. Drug store or pharmacy
11. Food beverage sales store with gasoline pumps
12. Food beverage sales store without gasoline pumps
13. Furniture and appliance store
14. Handcraft shop and art objects
15. Hardware store or hobby shop
16. Key shop
17. Laboratory, Medical or Dental
18. Laundry and cleaning
19. Medical appliances, fitting, sales or rental
20. Offices, general business and professional
21. Pet shop
22. Restaurant or cafeteria (not drive-in type)
23. Retail shop, gift, apparel, accessory and similar items
24. Retail shop other than listed
25. Photographer studio
26. Studio, music, dance or drama
27. Tool rental (inside only)
28. Travel bureau or consultant
29. Veterinarian office only (no animal hospital, no inside pens)

B. Conditional Use Permit Required

The following uses require a conditional use permit within the said (PD-GR) district:

1. Florist or garden shop
2. Restaurant or eating place (drive-in service)
3. Health and reducing or similar service studio
4. Veterinarian hospital (inside pens)
5. Tool rental (outside equipment storage)

C. Prohibited Uses

The following uses are prohibited within the said (PD-GR) district:

1. Single family detached residential
2. Single family attached dwelling

3. Townhouse
4. Two family dwelling (duplex)
5. Industrialized housing
6. Single family dwelling attached 3
7. Multiple Family
8. Family home
9. Accessory dwelling
10. Accessory building (residential)
11. Backyard compost operation
12. Home occupation
13. Hotel or motel
14. Stable (private)
15. Electrical substation (high voltage bulk power)
16. Electrical transmission line (high voltage)
17. Gasoline and regulation station
18. Cleaning Plant (Commercial)
19. Household appliance service or repair
20. Pawn Shop
21. Radio or television tower
22. Radio, television transmitting station
23. Telephone Exchange Switch-relay or transmitting equipment
24. Public building shop yard of local, state or federal government
25. Water Treatment Plant
26. Playfield or stadium (public)
27. Roller or ice rink
28. Child Care: small home facility
29. Fraternity or sorority
30. Helistop
31. Railroad track or right-of-way
32. Veterinarian Hospital (outside pens only)
33. Farm, ranch orchard or garden
34. Flea market (indoors)
35. Plumbing shop
36. Warehouse office

D. Required Buffering Standards

The following buffering standards for the north and east side of the said PD-GR district shall apply:

1. Design. Buffering must meet the following design standards between the PD-GR and the planned single family subdivision to the north and the eastern property line:
 - a) Buffering shall consist of a ten-foot wide (10.0') edge consisting of hardwood trees on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon shrubs placed five feet on center between trees wall located outside of the buffering wall adjacent to Dalmore Drive and the eastern property line.
 - b) Buffering fences or walls shall be constructed of wood, masonry, stone or pre-cast concrete, with integrated color to the primary buildings, texture and pattern, with a minimum 6' vertical height and a maximum 8' vertical height.
 - c) Openings in a fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.

E. Landscape Standards

The following landscaping standards for the said PDD-GR district shall apply:

1. The developer of each lot or tract is required to provide a minimum landscaped area of 5% to be utilized including:
 - a) The required landscaped area must be located in the front and/or side yards, and the required landscaping shall be provided between the main building(s) and the street(s) to which the building(s) is (are) oriented for the area along FM 93 and South 5th Street, and Dalmore Drive, and
 - b) One tree for every 20 parking spaces for each lot or tract.
2. All planting material shall consist of hardwood trees from the elm, oak, pistache or walnut species on 25' centers, a minimum 2" caliper and five foot planted height, with five gallon indigenous shrubs placed three feet on center between trees.
3. The required number of trees and shrubs need not be placed uniformly, but may be clustered in groups.
4. All plant material required by this Section shall be maintained at all times in a living and growing condition. All required landscaping shall be irrigated by an automatic sprinkling system.

F. Development of Land

Development or redevelopment of the property shall be through the building permit process.

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

MONDAY, SEPTEMBER 15, 2008

ACTION ITEMS

4. Z-FY-08-37: Hold a public hearing to discuss and recommend action on a zone change from Agricultural District to Planned Development General Retail District on a 12.2 ± acre tract of land and a zone change to Single Family Two District on a 38.5 ± acre tract of land for a total 50.7± acres on the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14. (Applicant: Mitchell Engineering c/o Boose-Mitchell Properties, Inc.)

Mr. Tim Dolan, Planning Director, presented an extensive overview of this zone change request. The purpose of the Planned Development District on the General Retail is to try to eliminate residential uses, add some retail uses and some buffering and landscaping requirements City Council has recommended.

Staff has recommended approval for this zone change because it complies with the Future Land Use Plan, the Thoroughfare Plan and adequate public facilities are going to be able to serve the site.

Commissioner Talley made a motion to approve the zone change from AG to PD GR, including the SF2 request, and excluding self-service laundry cleaning/laundromat.

Commissioner Pilkington seconded the motion.

Motion passed (7:0)

Due to the nature of this request and the lack of developed designs for both the general retail and single family area. I have a few general concerns to express at this point:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes to reduce the total unit count to 'Moderate Density' would be desired.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyntham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others.

Concern #3: Parks and Green Space

The development plat, provided with the zoning application, appears to have no provision for parks or green space. While the developer may be required to pay a City park fee, a project of this size with its lack of open and recreational space, will negatively impact the surrounding homes and neighborhoods.

Concern #4: City Gateway

The South 5th Street 'Gateway' at FM 93 has been designated for median upgrades including irrigation systems by the City and landscaping by 'Keep Temple Beautiful'. The proposed project will surely be occupied by homeowners who would care primarily for their lots, fostering concern that the boulevard entrances will be less than desirable as a City gateway if a plan and upkeep is not furnished by the Developer.

Concern #5: Traffic

The recent edition of the Institute of Traffic Engineers, 'Trip Generation Manual', sets 10 as the 'average daily (vehicle) trips' per day, per household. One hundred thirty nine units will generate an additional 1390 vehicle trips per day for the area.

Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible.

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation.

Don't make our AREA look like 31st St

CUT HERE AND USE LETTER BELOW

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

SEP 3 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Emmett Lewis
EMMETT LEWIS

(95th)

5403 Whistler St PDR
TEMPLE, TX 76502

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this point:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes to reduce the total unit count to 'Moderate Density' would be desired.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyndham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others.

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Concern #5: Traffic

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Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible.

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation.

over →

I'm concerned about the value of my house decreasing due to the single family living. As prior situations show, single living families have an issue with maintaining their areas & I don't want trash for neighbors.

Thanks,
Marcie Turner

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Marcie A. Turner
Marcie A. Turner

212 Arkshire Ln
Temple, TX 76502

RECEIVED

OCT 1-2008

CITY OF TEMPLE, TX
CITY SECRETARY

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

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Sincerely,

Allen + Paula Israel

2116 Avrshire Lane

Temple, TX 76502

RECEIVED

OCT 1 - 2008

**CITY OF TEMPLE, TX
CITY SECRETARY**

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

RECEIVED

OCT 3 - 2008

Dear Mr. Mayor and Council Members,

CITY OF TEMPLE
CITY SECRETARY

This letter is in reference to Application #2FY-08-37,
on land commonly known as Outblock 6070-A, located at the
northeast corner of the intersection of South Fifth Street and
West FM 93.

As a resident living very near to the above-mentioned
location, I am aware that the changes proposed in the application
will impact the safety, accessibility, and value of my property.
To that end, I have listed some of my greatest concerns, which
you will find attached to this sheet.

As you discuss the aforementioned proposal during the City
Council meeting on October 16, please understand that
my neighbors and I are trusting that you will give careful
considerations to our concerns. While some of us will be able
to attend the October 16 meeting in person, those of us whose
work schedules do not permit our attendance will be monitoring
your actions closely, and we will all be hoping that your
decisions will be in the best interest of our community and
the City of Temple as a whole.

Sincerely,

Eunice Robinson

6105 Southern Cross

Ing. Dr
Temple, TX 76502

Eunice Robinson

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this point:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes to reduce the total unit count to 'Moderate Density' would be desired.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyndham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others.

Concern #3: Parks and Green Space

The development plat, provided with the zoning application, appears to have no provision for parks or green space. While the developer may be required to pay a City park fee, a project of this size with its lack of open and recreational space, will negatively impact the surrounding homes and neighborhoods.

Concern #4: City Gateway

The South 5th Street 'Gateway' at FM 93 has been designated for median upgrades including irrigation systems by the City and landscaping by 'Keep Temple Beautiful'. The proposed project will surely be occupied by homeowners who would care primarily for their lots, fostering concern that the boulevard entrances will be less than desirable as a City gateway if a plan and upkeep is not furnished by the Developer.

Concern #5: Traffic

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Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible.

AND/OR ADD ACCESS FROM FM 93!

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation.

CUT HERE AND USE LETTER BELOW

RECEIVED

OCT 6 - 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

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As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,



CHRIS FOSTER

WYNDHAM HILL NEIGHBORHOOD

406 WYNDHAM HILL PKWY
ZIP: 76502

RECEIVED

OCT 6 - 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

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As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Caprice & Sean Eulenfeld

CAPRICE + SEAN EULENFELD

5619 FAIRHILL DR.

Temple 76502

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

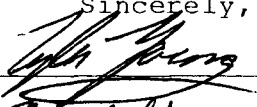
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As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,



Michelle Young

29 McGugan Ln
Temple, TX 76502

10-7-08

RECEIVED

OCT 9 - 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

This letter is in reference to Application ~~WZY-08-37~~, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

~~In addition to the attached list, an additional concern is present with many area residents.~~ Its nature lies in the history of the developer, and in the nature of his original zoning change request for the residential section of the property in question. Specifically, he has built many rental communities in the Killeen area, and in June 2008 he filed a zoning application No. Z-FY-08-37, which requested that the property in question be rezoned for "Two Family Duplex" dwellings. Quite frankly, myself and many homeowners in my community do not favor having a huge, low-rent subdivision being built so near to our residences, and we are seriously questioning the judgement of this developer. If he thought a duplex community was a good idea for our neighborhood, what other "good ideas" for this project might he be entertaining?

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Cynthia + Gary Bankston
Cynthia + Gary Bankston

Res. address: 218 W. FM 93
Temple, TX 76502

* Our only mailing address is:

P.O. BOX 5072
Temple, TX 76505

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this point:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes to reduce the total unit count to 'Moderate Density' would be desired.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyndham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others.

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The development plat, provided with the zoning application, appears to have no provision for parks or green space. While the developer may be required to pay a City park fee, a project of this size with its lack of open and recreational space, will negatively impact the surrounding homes and neighborhoods.

Concern #4: City Gateway

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Concern #5: Traffic

The recent edition of the Institute of Traffic Engineers, 'Trip Generation Manual', sets 10 as the 'average daily (vehicle) trips' per day, per household. One hundred thirty nine units will generate an additional 1390 vehicle trips per day for the area.

Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible.

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation.

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

RECEIVED

OCT 9 - 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Cynthia Wooddell
4602 Stonehaven DR.
Temple TX 76500



RECEIVED

OCT 9 - 2008

CITY OF TEMPLE, TX
CITY CLERK

October 7, 2008

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members:


We are writing in reference to proposed Aberdeen Heights Addition, 2-FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

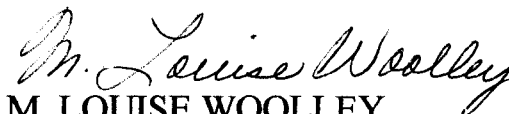
As residents living very near to the above-mentioned location, we are aware that the changes proposed in the application will impact the safety, accessibility, and value of our property. Because of this, enclosed is a listing of some of our greatest concerns, as well as questions concerning the proposed addition. It is our request that you and other members of the City Council discuss these items during the scheduled meeting on Thursday, October 16, understanding that these concerns and questions are of intense interest to us.

Some of us will be able to attend that meeting, but for various reasons, some will not. Our non-attendance is not due to disinterest, and we will be contacting those who do attend to learn of any decisions made during that time so we will remain aware of the situation. Our neighbors and we have total confidence that you will give careful consideration to our concerns during your discussion of the application during your meeting on Thursday, October 16.

Thank you for your attention to this matter.

Sincerely,


JOE W. WOOLLEY, SR.
391 W. FM 93
Temple, Texas 76502-7619


M. LOUISE WOOLLEY
391 W. FM 93
Temple, Texas 76502-7619

Encl.

CONCERNS/COMMENTS RE PROPOSED ABERDEEN HEIGHTS ADDITION,
2-FY-08-37

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for "Moderate Density" residencies, and an area for general retail use at the FM 93 intersection for this property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality "High Density." Larger lot sizes to re-reduce the total unit count to "Moderate Density" would be desired.

Questions concerning use of property, if request is approved:

Would there be minimum and maximum requirements established in square footage for the houses built?

How big would the lots be... 1/2 acre, 1/8 acre, etc., or minimum to maximum?

How much of the 38.5 acres allowed for housing would be used by streets?

Would mobile homes be allowed in this addition?

Would city sewer lines be available to any houses built?

Concern #2: Traffic

The recent edition of the Institute of Traffic Engineers' "Trip Generation Manual" sets 10 as the average daily (vehicle) trips per day, per household. One hundred thirty nine units would generate an additional 1390 vehicle trips per day for the area. It's our opinion that this amount of increased traffic would necessitate a red light at the intersection of South Fifth Street and FM 93.

Concern #3: Street Access

Because of the safety involved, if this plan is approved, it is our strong opinion that no access for the General Retail acreage should be allowed from FM 93, but access only from South Fifth Street as far north of the intersection of FM 93 as possible.

Comment #4: Retail Units

Selected business opportunities for the General Retail area should be reputable and established companies that would enhance the image sought by the City and contribute to the safety and well-being of people living in the community and traveling through the area.

FW Zoning Change for 5th St. and FM 93 concerns.txt
From: Clydette Entzminger
Sent: Friday, October 10, 2008 8:34 AM
To: Lacy Borgeson
Subject: FW: Zoning Change for 5th St. and FM 93 concerns

Clydette Entzminger
City Secretary
P O Box 207
Temple, TX 76503-0207
centz@ci.temple.tx.us
254-298-5301 telephone
254-298-5637 fax

-----Original Message-----
From: Sossamon, Janet Mrs ARMY GUEST
[mailto:janet.sossamon@us.army.mil]
Sent: Thursday, October 09, 2008 7:03 PM
To: Bill Jones
Subject: Zoning Change for 5th St. and FM 93 concerns

Dear Mayor Jones,

Please allow me to introduce myself. My name is Janet Sossamon, and I live in the Echo Village subdivision off of S. 5th Street in Temple, TX. I have been to the last two public hearings for the P&Z committee regarding a zoning change proposal by Boose-Mitchell Properties for the corner of 5th St. and FM 93. At the first hearing, the developer withdrew the request "due to heavy community disapproval." I have had the opportunity to speak with Gale Mitchell on three occasions, and each time I was talked "down to" and not taken seriously when voicing legitimate concerns of Temple citizens affected by this change. The first time he told me, "Well, I could change the 70-ft. wide lots to single family 35-ft. wide lots if what you want is single family." That would have been the same higher density that we were opposed to in the first place (traffic/safety concerns). Then, the third time he told me, "Yep, single family 35-ft. wide lots," in a joking manner when these changes happen to be a very serious matter for the nearby homeowners. The original plan was for duplexes, which has now been changed to Single Family 2. I am particularly concerned that this developer does not share our clear 30-year vision for Temple, making the southeast gateway a "suburban character." I am aware that the zoning laws are flexible; however, I am concerned that this would be used to put in apartments or other residential structures in the General Retail zone. We are proud of our community, and we would like to keep the suburban feel by making the General Retail just that with only certain types of businesses allowed that would enable new visitors entering that part of the city to experience the relaxed, less busy feel that attracted us, the homeowners, to this area in the first place. We do not want

*FW Zoning Change for 5th St. and FM 93 concerns.txt
the flexible laws to become "loopholes" for this developer. I plan
to be at the upcoming meeting to voice these concerns, but I felt a
need to make you aware of our newest concerns before the meeting date
arrives so that the discussion thread is begun. I can be reached at
979-549-6383 (cell) if you would like to speak to me over the phone.*

*Thank you for your time,
Janet Sossamon*

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

RECEIVED

OCT 10 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,

Melissa Poteet
Melissa Poteet

4904 Stonehaven Dr
Temple TX 76502

RECEIVED

OCT 10 2008

CITY OF TEMPLE, TX
CITY SECRETARY

October 7, 2008

Mayor William Jones and Council

PO Box 207

Temple TX 76503

Dear Mr. Mayor and Council Members:

I am writing in regards to the application #2FY-08-37 or proposed Aberdeen Heights Addition. I live in the Echo Village subdivision off Fifth Street. My husband and I moved from Killeen in April. I am happy to be in our first home in a nice neighborhood. We were driving down Fifth Street recently towards FM 93, and I thought out loud how I hoped the area would stay peaceful and quiet. My husband then tells me someone had dropped off information regarding the land purchase and rezoning plans.

My first thought was how this will affect my fellow cyclists and joggers with the increased traffic. The stretch of Fifth Street between Echo Village and FM 93 is a relatively less traveled road. Many cyclists ride their bikes right on the road. I enjoy the scenery and quietness. I am afraid that would be impossible with increased traffic due to more homes and businesses. I would hope that a bike trail or park would be included somewhere in the plans.

Other than traffic and safety for cyclists and pedestrians, I am concerned with how these changes will affect our home value and neighborhood characteristics. I cannot petition the building of more single family residences, because I am happy to be in ours. My husband and I hope that the land would be used for single family homes and not apartment complexes or duplexes based on the fact it would be incongruous to the neighborhood makeup and create more traffic among other social changes.

As far as the general retail aspect of the proposal, I would wish that there would not be any disruptive businesses such as bars, liquor stores, tattoo parlors, pornography shops etc because they can bring traffic at all hours and an increased possibility of intoxicated drivers. I would have no objection to a Coffee Beanery though! Also, with the obvious traffic increase due to rezoning for homes and retail purposes, I can only assume that traffic will be managed by whatever means necessary such as stop signs or stoplights as needed. I work at Scott and White and enjoy my convenient commute up Fifth Street. I would hope that would not dramatically change due to congestion on the roads. Thank you for your time and consideration of my thoughts on this matter.

Sincerely,



Melissa Poteet

10/07/08

RECEIVED

OCT 10 2008

CITY OF TALLAHASSEE, FL
CITY SECRETARY

Mayor William Jones & Council,

Since we received the information on this proposal, we have noticed that the field next to the elementary school seems to be under development as well. We live behind the school so this new project hits a little closer to home. I left a voicemail for councilman Marty Janczak out of curiosity wondering what may soon be adjacent to our back yard. I hope they leave the trees in place to act as any barrier. I love our back yard atmosphere. I guess in time I shall see what takes the place of the field, but if you were to respond to my phonecall or letter it would be appreciated, thanks!

Melissa Bleet

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

RECEIVED

OCT 13 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet. *ALL of ATTACHED LIST.*

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole. P.S. ALSO we have been

Sincerely,

*ANNEXED IN City Limits FOR 10YRS
AND NOTHING HAS BEEN DONE ABOUT
GETTING CITY SEWER IN OUR AREA*

Bernard Bartek
107 Oakwood St.
Temple, TX 76502

BERNARD BARTek

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this point:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes to reduce the total unit count to 'Moderate Density' would be desired.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyndham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others.

Concern #3: Parks and Green Space

The development plat, provided with the zoning application, appears to have no provision for parks or green space. While the developer may be required to pay a City park fee, a project of this size with its lack of open and recreational space, will negatively impact the surrounding homes and neighborhoods.

Concern #4: City Gateway

The South 5th Street 'Gateway' at FM 93 has been designated for median upgrades including irrigation systems by the City and landscaping by 'Keep Temple Beautiful'. The proposed project will surely be occupied by homeowners who would care primarily for their lots, fostering concern that the boulevard entrances will be less than desirable as a City gateway if a plan and upkeep is not furnished by the Developer.

Concern #5: Traffic

The recent edition of the Institute of Traffic Engineers, 'Trip Generation Manual', sets 10 as the 'average daily (vehicle) trips' per day, per household. One hundred thirty nine units will generate an additional 1390 vehicle trips per day for the area.

Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible.

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City"

341 W. FM 93
Temple, TX 76502
October 11, 2008

Mayor William Jones and Council
P.O. Box 267
Temple, TX 76503

RE: Application #2FY-08-37, on land commonly known as outblock 6079-A, located at the northeast corner of the intersection of S. 5th Street and W. FM 93.

Dear Mr. Mayor and Council Members,

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. I am satisfied that the developers have chosen to request a zoning change that reflects their intent to develop a nice single family residential community on approximately 38 plus acres supported by approximately 12 plus acres of general retail.

I am told that the currently requested zoning would prohibit any type of multi-family dwellings including apartment complexes. I would like to emphasize that I do strongly object to any portion of the General Retail 12 plus/minus acres or the 38 plus/minus being utilized for any/all types of multi-family dwellings to include duplexes, four-plexes, etc. or any/all types of one or more story apartment complexes.

As you discuss the proposed zoning request change, I hope that you will give careful consideration to these concerns and that your decisions will continue to promote the southeast gateway into Temple as a quality area in keeping with the numerous existing, newly developed, and future single-family developments in this area.

Sincerely,


Carol Rainer

RECEIVED
OCT 13 2008
CITY OF TEMPLE, TX
CITY SECRETARY

October 7, 2008

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members:

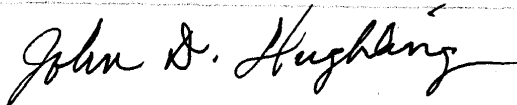
We are writing in reference to proposed Aberdeen Heights Addition, 2-FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As residents living very near to the above-mentioned location, we are aware that the changes proposed in the application will impact the safety, accessibility, and value of our property. Because of this, enclosed is a listing of some of our greatest concerns, as well as questions concerning the proposed addition. It is our request that you and other members of the City Council discuss these items during the scheduled meeting on Thursday, October 16, understanding that these concerns and questions are of intense interest to us.

Some of us will be able to attend that meeting, but for various reasons, some will not. Our non-attendance is not due to disinterest, and we will be contacting those who do attend to learn of any decisions made during that time so we will remain aware of the situation. Our neighbors and we have total confidence that you will give careful consideration to our concerns during your discussion of the application during your meeting on Thursday, October 16.

Thank you for your attention to this matter.

Sincerely,



John D. Hughling
225 W FM 93
Temple, Tx 76502-7619

RECEIVED

OCT 13 2008

CITY OF TEMPLE, TX
CITY SECRETARY

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this time:

Concern #1: High Density

The "South Temple Comprehensive Plan" indicates a plan for 'Moderate Density' residential with commercial & the FM 93 intersection for the property. While single family units are generally acceptable in moderate density, 139 house units compared to 143 units in the duplex plan on this property is in reality 'High Density'. Larger lot sizes such as 80' to 100' or larger to reduce the total unit count to 'Moderate Density' would be desired. Also the developer could mix in a percentage of single family one homes with larger lots to diversify and enhance the community which would lower the density count.

Concern #2: Single Family Residential

Allowing any rental units to penetrate a primarily owner-occupied single family area would be inconsistent with the character and harmony of other area communities such as Springwood Creek, Misty Creek, Las Colinas, Wyndham Hill, Stonegate, Silverstone, Echo Village, Canyon Ridge and others. Please consider not allowing any other use for this section other than nice single family homes with brick faces on all four sides. Rentals, duplexes or multi-family units are not desired.

Concern #3: Parks and Green Space

The development plat, provided with the zoning application, appears to have no provision for parks or green space. While the developer may be required to pay a City park fee, a project of this size with its lack of open and recreational space, will negatively impact the surrounding homes and neighborhoods. We feel a small park area would be desired due to the concentration & density of houses on this property.

Concern #4: City Gateway

The South 5th Street 'Gateway' at FM 93 has been designated for median upgrades including irrigation systems by the City and landscaping by 'Keep Temple Beautiful'. The proposed project will surely be occupied by homeowners who would care primarily for their lots, fostering concern that the boulevard entrances will be less than desirable as a City gateway if a plan and upkeep is not furnished by the Developer.

Concern #5: Traffic

The recent edition of the Institute of Traffic Engineers, 'Trip Generation Manual', sets 10 as the 'average daily (vehicle) trips' per day, per household. One hundred thirty nine units will generate an additional 1390 vehicle trips per day for the area. With this additional traffic exiting onto South 5th street road, a traffic light might be considered by TxDOT for the intersection of FM 93 & 5th Street road.

Concern #6: Street Access

Due to TxDOT limitations for FM 93, no access for the GR acreage should be allowed from FM 93 but only accessed from 5th street as far north of the intersection of FM 93 & 5th Street as possible. The close proximity of the general retail space to this intersection and considering the high speed traffic on FM 93 should preclude any other driveway or entrances to the retail space from Hwy 93.

Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation. Examples of retail businesses that are not desired are: Tattoo shops, coin operated laundry, car wash, truck stop, wrecking yard, any business selling alcohol products, flea market, day care, plant nursery, auto repair shop, bar & tavern, cattle sales, cabinet shop, car alarm company, animal hospital, clothing resale outlet, cocktail lounge, consignment service, animal boarding, adult entertainment, funeral home, industrial gas distributor, gun dealer, kennels, laboratories, motorcycle dealer, night club, recycling center, pawn shop, portable toilet company, salvage company, and wrecker service.

TO: Tim Dolan

RE: Aberdeen Heights Addition, City Council Meeting 10/16 @ 5:00 PM

Please review questions regarding Aberdeen Heights Addition

Thank you.

3 pages

Neely Jones

email: njones@fctinsurance.com

4815 S 31st ST

Temple, TX 76502

ph 254.913.5064

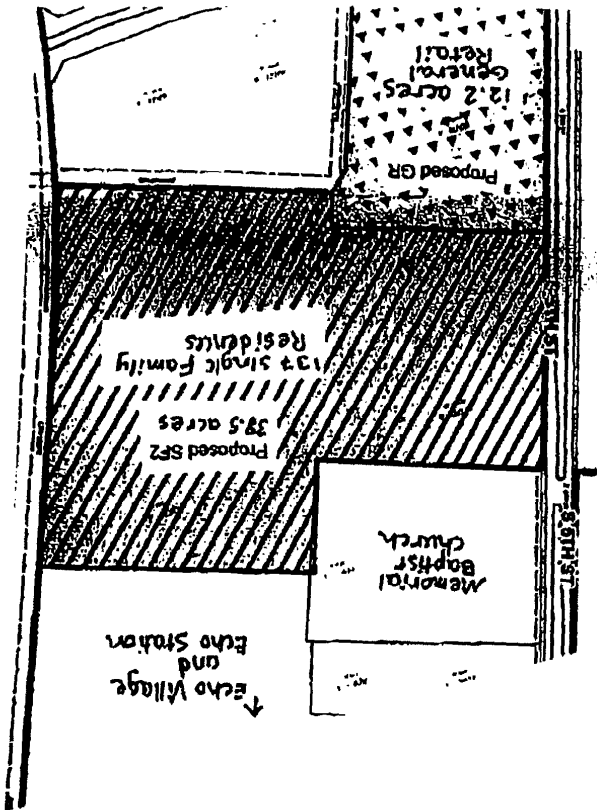
fx 254.773.1120

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OCT 16 2008

**CITY OF TEMPLE, TX
CITY SECRETARY**

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CUT HERE AND USE LETTER

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

Dear Mr. Mayor and Council Members,

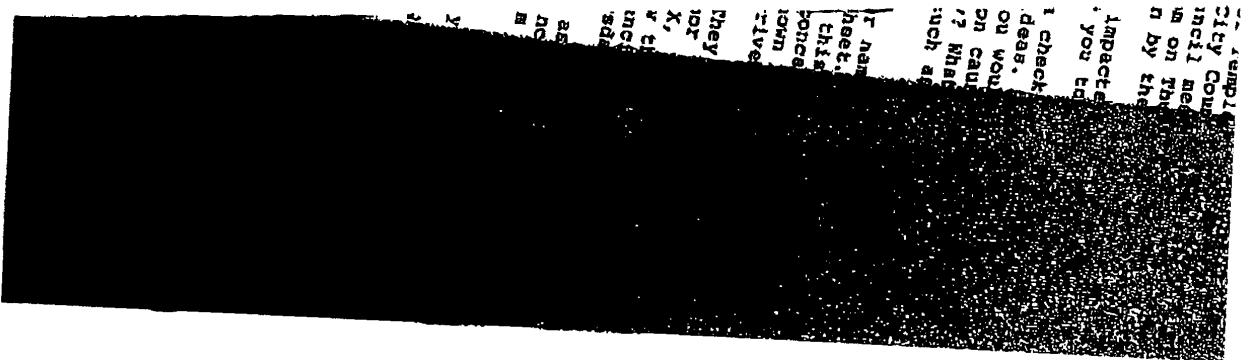
This letter is in reference to the land commonly known as Outblock 6070 northeast corner of the intersection of West FM 93.

As a resident living very near to location, I am aware that the changes will impact the safety, accessibility. To that end, I have listed some of my concerns you will find attached to this sheet.

As you discuss the aforementioned Council meeting on October 16, please let my neighbors and I are trusting that you will take our considerations to our concerns. While we are unable to attend the October 16 meeting in person, our work schedules do not permit our attendance. We will follow your actions closely, and we will all hope that the decisions will be in the best interest of the City of Temple as a whole.

Sincerely,

Paul Jones (Neely Jones)
100 Tanglewood Rd., Temple, TX



Neely Jones
100 Tanglewood Rd; Temple, 76502 (corner of FM 93 & Tanglewood)

Proposed Aberdeen Heights Addition

Concern#1 – High Density: Opposed to so many duplexes built in the project.

Concern#2 – Single Family Residential: Duplexes are not in harmony with the new residential construction & existing residential on FM 93 and surrounding areas. What is the brick / veneer ratio of the homes/duplexes being built? What is the average square footage? What is the average cost of duplexes and single family dwelling? Single Family “ownership” has more “pride in ownership” appearance than duplex “rentals.”

Concern#3 – Parks and Green Space: There should be a neighborhood park for High Density Single dwelling / Duplexes.

**Concern#4 – City Gateway: Some one besides the City & Keep Temple Beautiful should maintain the city gateway.
(homeowners association, etc)**

Concern#5 – Traffic: Will FM 93 become four lanes? If so, what plan has been established for the additional lanes? Proper drainage from my corner lot requires (93 & Tanglewood) the current frontage.

Concern#6 – Street Access: How will traffic be diverted, how many openings will there be for traffic in the new division to 93, 5th, Water's Dairy, & 1741? Will this put more traffic on Hartrick Bluff which is over populated now with vehicles?

Concern#7 – Retail Units: No bars, no nightclubs, no tire shops, no adult video stores, no dollar/general stores, no service stations, no carwashes.

*** RX REPORT ***

RECEPTION OK

TX/RX NO	7090
CONNECTION TEL	
SUBADDRESS	
CONNECTION ID	
ST. TIME	10/15 16:23
USAGE T	01'12
PGS.	3
RESULT	OK

Due to the nature of this request and the lack of developed designs for both the general retail and single family area, I have a few general concerns to express at this point:

Concern #1: High Density

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Concern #7: Retail Units

Selected business opportunities for the G.R. area should be reputable and established companies that would enhance the image sought by the City and promote the "Gateway to the City" expectation.

Mayor William Jones and Council
P.O. Box 207
Temple, TX 76503

RECEIVED

OCT 16 2008

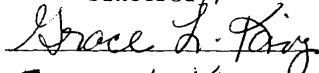
Dear Mr. Mayor and Council Members, CITY OF TEMPLE, TX

This letter is in reference to CITY SECRETARY 2FY-08-37, on land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93.

As a resident living very near to the above-mentioned location, I am aware that the changes proposed in the application will impact the safety, accessibility, and value of my property. To that end, I have listed some of my greatest concerns, which you will find attached to this sheet.

As you discuss the aforementioned proposal during the City Council meeting on October 16, please understand that my neighbors and I are trusting that you will give careful considerations to our concerns. While some of us will be able to attend the October 16 meeting in person, those of us whose work schedules do not permit our attendance will be monitoring your actions closely, and we will all be hoping that your decisions will be in the best interest of our community and the City of Temple as a whole.

Sincerely,


GRACE L. KING

5106 Whistle Stop Dr.
Temple, TX 76503

Mayor William Jones and Council
P.O. Box 207
Temple, Texas 76503

RECEIVED
OCT 16 2008
CITY OF TEMPLE, TX
CITY SECRETARY

Dear Mr. Mayor and Council Members,

This letter is in reference to Application #2FY-08-37, on the land commonly known as Outblock 6070-A, located at the northeast corner of the intersection of South Fifth Street and West FM 93. As a homeowner living near this location, I am aware of the proposed changes. These possible changes cause my family a great amount of concern.

I just graduated with my medical degree in May, 2008 and began my first year of residency at Scott and White. My wife and I decided to plant roots in Temple and bought a house near the property in question. Being a young couple just starting our lives together, we are of course worried about what the proposed changes will do to the value of our property. Buying our first home together was a big decision, and we are worried about our financial investment.

Perhaps the biggest concern we have is for the safety of our family. My wife and I would like to have children soon. One of the reasons we bought our house in the location we did was because of the zoning of the vacant lots. The thought of having people being able to move in and out of rental units as they please is an unsettling thought. In addition to these rental units, adding retail units as well seems inconceivable. Why in the world do we need another retail unit in this area when we are already mere minutes away from many gas stations, drug stores, grocery stores, and retail stores? The traffic on our streets would go up exponentially by bringing such rental and retail units to our neighborhood. This would also increase the number of strangers that would be coming and going in the surrounding area of my family.

This new development proposal leaves no room for parks or green space. With a project of this size, having no open or recreational space would negatively impact our neighborhood. The city has a slogan that states "Keep Temple Beautiful." By carrying out this proposed application, how is the city following its own slogan?

As you discuss the above-mentioned proposal during the City Council meeting on October 16, please keep my family in mind. We love temple. We chose to move to this city because of the small-town feel. We knew we could raise children here safely. There are many more families just like us. My neighbors and I are trusting that you will give careful thought to our concerns. Unfortunately, my wife's and my work schedules do not allow for either of us to attend the meeting, but we will be monitoring your actions closely. We hope that your decision will be in the best interest of our neighborhood and the City of Temple as a whole.

Sincerely,

Dr. & Mrs. Jonathan Ramirez

Dr. and Mrs. Jonathan Ramirez
(254) 598-2610

ORDINANCE NO. 2008-4263

[PLANNING NO. Z-FY-08-37]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT GENERAL RETAIL DISTRICT (PD-GR) ON AN APPROXIMATELY 12.2 ACRE TRACT OF LAND AND A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT SINGLE FAMILY TWO DISTRICT (PD-SF2) ON AN APPROXIMATELY 38.5 ACRE TRACT OF LAND, FOR A TOTAL REZONING OF APPROXIMATELY 50.7 ACRES OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, ON THE NORTHEAST CORNER OF FM 93 AND SOUTH 5TH STREET, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of an approximately 50.7 acres out of the Maximo Moreno Survey, Abstract No. 14, on the corner of FM 93 and South 5th Street, requested a zoning change from Agricultural District (A) to Planned Development General Retail District (PD-GR) on approximately 12.2 acres and a zoning change from Agricultural District (A) to Planned Development Single Family Two District (PD-SF2) on approximately 38.5 acres; and

Whereas, the City Council, after notice and a public hearing, finds that it is in the public interest to authorize this action.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on an approximately 12.2 acre tract of land and a zoning change from Agricultural District (A) to Planned Development Single Family Two District (PD-SF2) on an approximately 38.5 acre tract of land, for a total rezoning of approximately 50.7 acres out of the Maximo Moreno Survey, Abstract No. 14, on the northeast corner of FM93 and South 5th Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101 is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development (General Retail) District and Planned Development (Single Family Two)

District. Development of the property shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- A. The following uses shall be permitted within the PD-GR District:
 - 1. Antique shop
 - 2. Art supply store
 - 3. Retail bakery
 - 4. Bank or saving and loans office
 - 5. Barber or beauty shop
 - 6. Book or stationery shop
 - 7. Cleaning and pressing small shop and pick up
 - 8. Customer personal service shop
 - 9. Discount or department store
 - 10. Drug store or pharmacy
 - 11. Florist or garden shop
 - 12. Food beverage sales store with gasoline pumps
 - 13. Food beverage sales store without gasoline pumps
 - 14. Furniture and appliance store
 - 15. Greenhouse or plant nursery (retail sales)
 - 16. Handcraft shop and art objects
 - 17. Hardware store or hobby shop
 - 18. Key shop
 - 19. Laboratory, Medical or Dental
 - 20. Laundry and cleaning (self-service)
 - 21. Medical appliances, fitting, sales or rental
 - 22. Offices, general business and professional
 - 23. Pet shop
 - 24. Restaurant or cafeteria (not drive-in type)
 - 25. Retail shop, gift, apparel, accessory and similar items
 - 26. Retail shop other than listed
 - 27. Photographer studio
 - 28. Studio, music, dance or drama
 - 29. Tool rental (inside only)
 - 30. Travel bureau or consultant
 - 31. Veterinarian office only (no animal hospital, no inside pens)
- B. The following uses require a conditional use permit within the PD-GR District:
 - 1. Florist or garden shop
 - 2. Restaurant or eating place (drive-in service)
 - 3. Health and reducing or similar service studio
 - 4. Veterinarian hospital (inside pens)
 - 5. Tool rental (outside equipment storage)
- C. The following uses are prohibited within the PD-GR District:
 - 1. Single family detached residential
 - 2. Single family attached dwelling
 - 3. Townhouse

4. Two family dwelling (duplex)
5. Industrialized housing
6. Single family dwelling attached 3
7. Family home
8. Accessory dwelling
9. Accessory building (residential)
10. Backyard compost operation
11. Home occupation
12. Hotel or motel
13. Stable (private)
14. Electrical substation (high voltage bulk power)
15. Electrical transmission line (high voltage)
16. Gasoline and regulation station
17. Cleaning Plant (Commercial)
18. Household appliance service or repair
19. Pawn Shop
20. Radio or television tower
21. Radio, television transmitting station
22. Telephone Exchange Switch-relay or transmitting equipment
23. Public building shop yard of local, state or federal government
24. Water Treatment Plant
25. Playfield or stadium (public)
26. Roller or ice rink
27. Child Care: small home facility
28. Fraternity or sorority
29. Helistop
30. Railroad track or right-of-way
31. Veterinarian Hospital (outside pens only)
32. Farm, ranch orchard or garden
33. Flea market (indoors)
34. Plumbing shop
35. Warehouse office

D. The following buffering standards apply to the PD-GR District:

1. Landscape and wall buffers between retail and residential uses. A landscape and wall buffer must be installed along the north and east boundaries of the PD-GR District, excluding the curb cut for street access and the intersection visibility triangles.
 - a. The landscape buffers must be 10 feet wide and consist of hardwood trees on 25 foot centers, with a minimum 2 inch caliper and 5 foot planted height, with 5 gallon shrubs placed 5 feet on center between trees located outside of the buffering wall.
 - b. The buffering walls must consist of fences or walls constructed of brick or rock columns, supported by a capstone, placed on 50-75 foot centers, interspersed with wood plank fencing supported by a rot board and stained a compatible color to the brick or rock columns, with a minimum 6 foot vertical height and a maximum 8 foot vertical height.

- c. Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.
2. Landscaping along highways. A landscape buffer must be installed along the south and west sides of the PD-GR District (adjoining FM 93 and South Fifth Street), consisting of hardwood trees on 25 foot centers, with a minimum 2 inch caliper and 5 foot planted height, and 5 gallon shrubs placed 5 feet on center between the hardwood trees.
3. Landscape islands in parking lot. One hardwood tree with a minimum 2 inch caliper and 5 foot planted height shall be installed in a landscape island in the parking lot for every 20 parking spaces. Landscape islands shall be a minimum of 128 square feet.
4. Total landscaped area. The total area of landscaping on private property within the PD-GR District must equal or exceed 5 percent of the aggregate lot area.
5. Time of installation. Buffering walls must be installed after the City of Temple's acceptance of infrastructure installed for water, sewer and storm drainage, and prior to the issuance of any building permit. Landscaping must be installed prior to issuance of a certificate of occupancy.
6. Maintenance. If the PD-GR District is divided into two or more lots, the developer must establish a property owners' association (POA) and record covenants so that every lot in the subdivision is sold subject to covenants that require the POA to perpetually maintain buffering and landscaping in compliance with the standards for the PD-SF2 District.

E. The following buffering standards apply to the PD-SF2 District:

1. Buffering walls. Buffering walls must be installed on the western edge of the lots next to South 5th Street and the southern edge of the southernmost lots (abutting the abandoned road parallel to FM 93).
 - a. The buffering walls must consist of fences or walls constructed of brick or rock columns, supported by a capstone, placed on 20-25 foot centers, interspersed with wood plank fencing supported by a rot board and stained a compatible color to the brick or rock columns, with a minimum 6 foot vertical height and a maximum 8 foot vertical height.
 - b. Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.
2. Time of installation. The buffering walls must be installed after the infrastructure of water, sewer, paving and drainage is accepted by the City of Temple and prior to the issuance of any building permit.
3. Maintenance. The developer must establish a homeowners' association and record covenants so that every lot in the subdivision is sold subject to covenants that require the HOA to perpetually maintain buffering in compliance with the standards for the PD-SF2 District.

F. Development or redevelopment of the property shall be through the building permit process, in accordance with the Aberdeen Heights Concept Plan, which is attached

hereto as Exhibit B.

These conditions shall be expressed conditions of any building permit issued for construction on the property which may be enforced by the City of Temple by an action either at law or in equity, including the right to specifically enforce the requirements of the ordinance, and these requirements shall run with the land.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 5: 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 6: 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 7: 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 **6th** day of **November**, 2008.

PASSED AND APPROVED on Second Reading on the **20th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-39: Consider adopting an ordinance authorizing a zoning change from Agricultural (A) District to Commercial (C) District on 1.7 ± acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: At its October 20, 2008 meeting, the Planning and Zoning Commission voted 9/0 in accordance with staff recommendation to recommend approval of a zoning change from the A, Agricultural zoning district to the GR, General Retail, zoning district instead of the originally requested Commercial district for the following reasons:

1. The subject property is in close proximity to a residential area;
2. Adequate public facilities do not sufficiently serve the property for the Commercial zoning district; and
3. The request complies with the Thoroughfare Plan

Although the applicant originally requested commercial zoning, they do approve of the general retail zoning recommended by the Planning and Zoning Commission and staff.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-39, from the Planning and Zoning meeting, October 20, 2008.

The applicant originally requested C, Commercial zoning, for unspecified use. However, due to the reasons listed in the Staff and Planning and Zoning Commission recommendation above, the Planning and Zoning Commission unanimously recommends the GR, General Retail zoning district.

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

Public Notice

Nine notices for the P&Z meeting were sent out. As of Wednesday, October 15 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the P&Z public hearing on October 11, 2008 in accordance with state law and local ordinance

FISCAL IMPACT: None

ATTACHMENTS:

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Notice Map](#)

[P&Z Staff Report \(Z-FY-08-39\)](#)

[P&Z Minutes](#)

[Ordinance](#)



Z-FY-08-39

Part of Lot 2, Block 4, Green Acres Addition

3411 Dogwood Ln



 Area of Proposed Zoning

A to C Zoning

1 inch = 200 feet
J Stone 09.22.08



Z-FY-08-39

Part of Lot 2, Block 4, Green Acres Addition

3411 Dogwood Ln

- Area of Proposed Zoning
- Neighborhood Conservation
- Estate Residential
- Suburban Residential
- Auto-urban Residential
- Auto-Urban Multi-Family
- Auto-Urban Mixed Use
- Auto-Urban Commercial
- Suburban Commercial
- Urban Center
- Temple Medical Education District
- Industrial
- Business park
- Public/Institutional
- Parks and Open Space
- Agricultural/Rural
- Temple Boundary



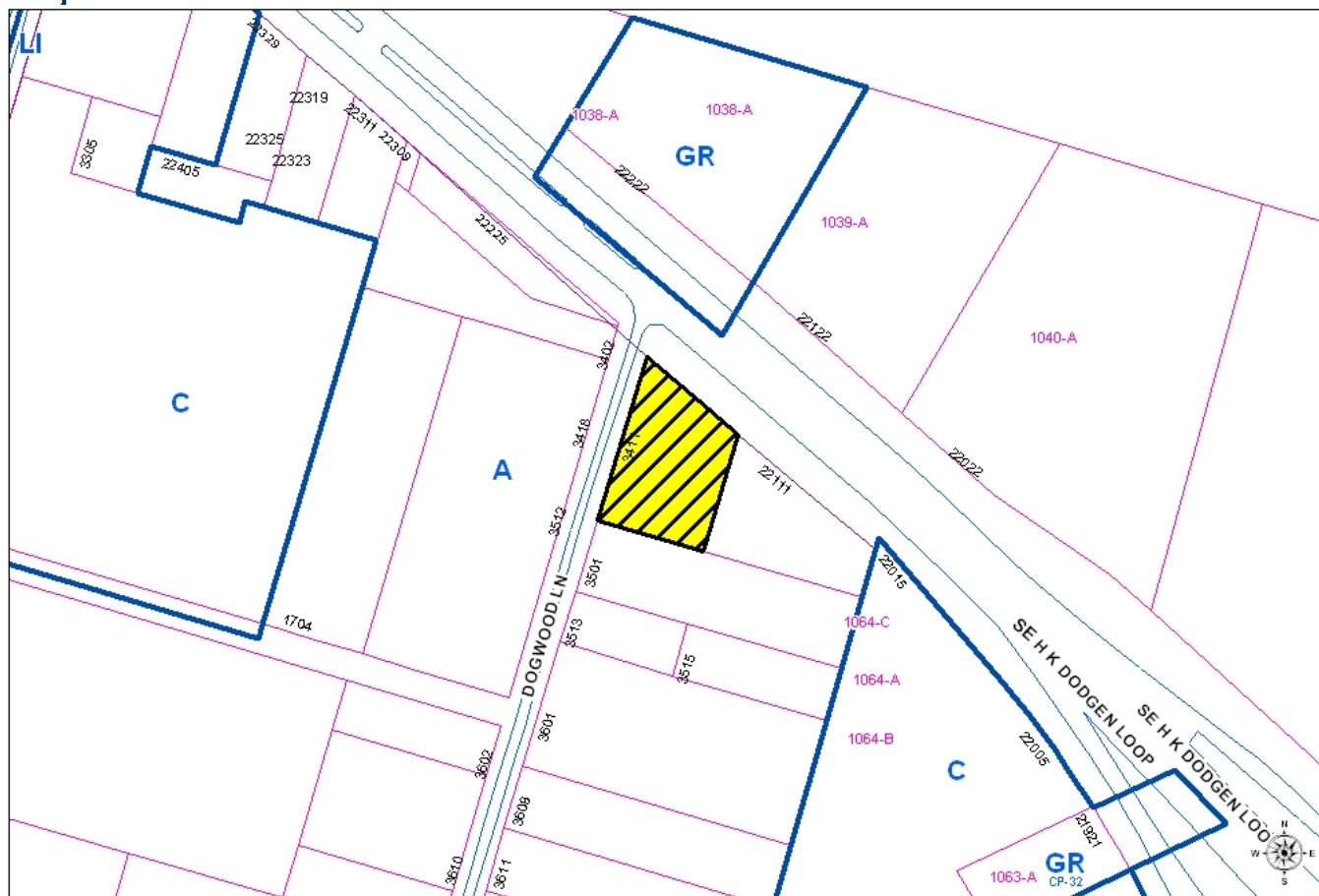
1 inch = 300 feet
J Stone 09.22.08



Z-FY-08-39

Part of Lot 2, Block 4, Green Acres Addition

3411 Dogwood Ln



 Area of Proposed Zoning

A to C Zoning

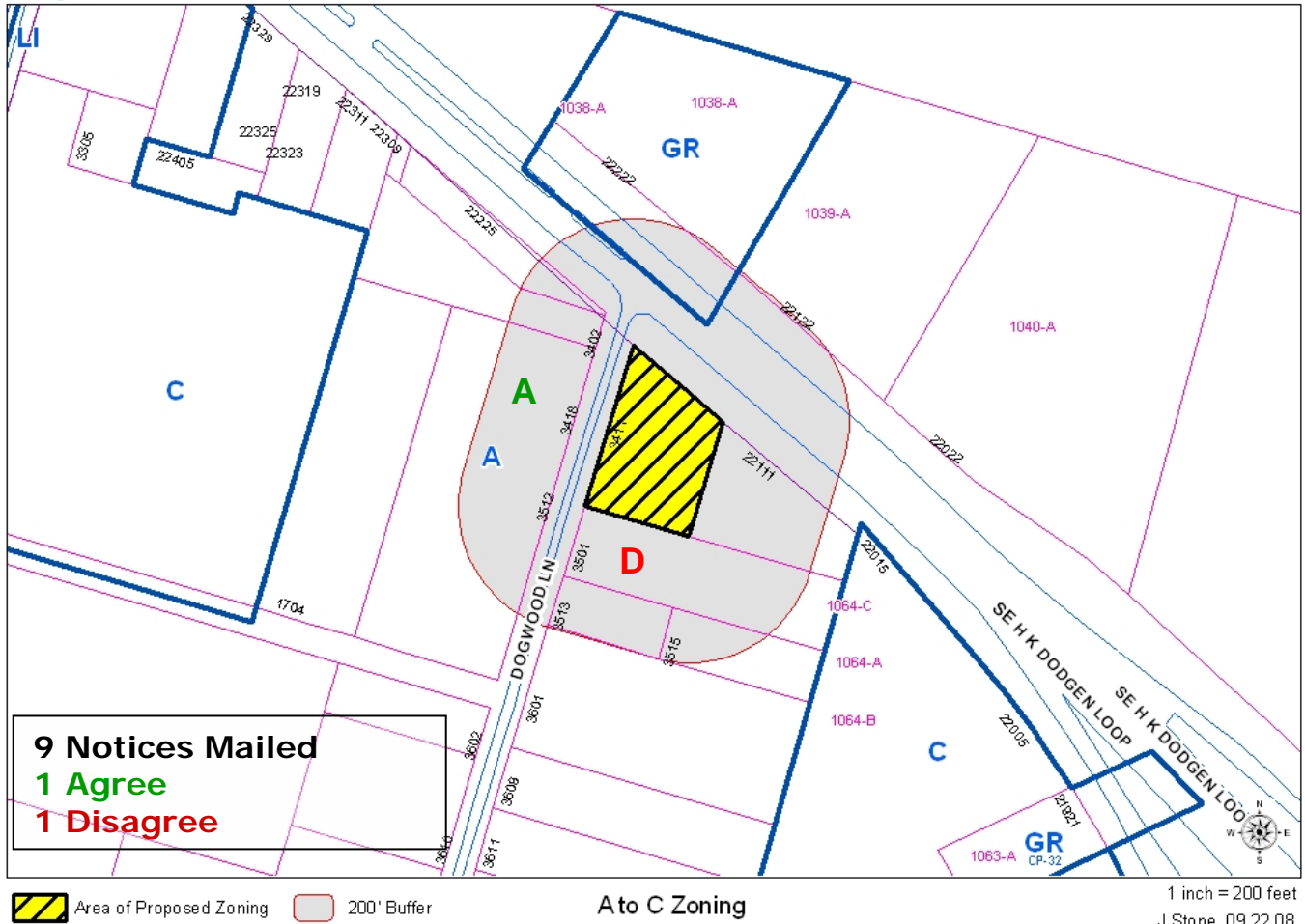
1 inch = 200 feet
J Stone 09.22.08



Z-FY-08-39

Part of Lot 2, Block 4, Green Acres Addition

3411 Dogwood Ln





PLANNING AND ZONING COMMISSION AGENDA ITEM

10/20/08
Item #6
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Deborah Tubbs

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-08-39 Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Commercial District (C) on 1.7 ± acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane. (Deborah Tubbs)

BACKGROUND: The applicant requests a zone change from the A, Agricultural zoning district to the C, Commercial zoning district for unspecified uses.

The property is at the corner of HK Dodgen Loop 363 and Dogwood Lane.

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	HK Dodgen Loop 363
	A	Bus and RV parking
	GR	Gas station
East	A	Vacant
South	A	Single-family subdivision
West	A	Agriculture

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

Future Land Use and Character

The Future Land Use and Character map designates the property suburban residential. The Plan states that the suburban residential character district is for mid-size single family lots, allowing for greater separation between dwellings and more emphasis on green spaces versus the streets and driveways that predominate in an auto-urban setting. However, the property is located along HK Dodgen Loop 363 which is designated as an Expressway on the Thoroughfare Plan map. This frontage makes the property suitable for nonresidential development. In the future, the Future Land Use and Character map should be amended so that the entire frontage of HK Dodgen Loop 363 in the area of the subject property has the auto urban character designation.

Thoroughfare Plan

HK Dodgen Loop 363 is designated as an Expressway on the Thoroughfare Plan map and Dogwood is a local street. Due to the proximity to the Loop, the request complies with the Thoroughfare Plan.

Double Sided

Adequacy of Public Facilities

A 6" water line and no sewer serve the property. The nearest sewer line serves the old Action World bowling alley 1/3rd of a mile to the northwest. The Assistant City Engineer estimates that the City will upgrade the water line to 8" and build a sewer line in the vicinity in the 2011-2013 timeframe. Adequate public facilities do not serve the site.

Development Regulations – C, Commercial

The purpose of the C, Commercial zoning district is 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 the 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. The subject property does not meet some of these criteria: it is not located along a major highway or at an intersection and it is not located away from low and medium residential development.

Permitted uses include all retail and most commercial land uses including auto dealerships with complete servicing facilities, building material sales, light industrial uses and heavy machinery sales. Prohibited uses include, but are not limited to, apartments, heavy industrial uses, sexually oriented businesses, shooting ranges, and wrecker and salvage yards.

Minimum lot area and setback requirements are as follow:

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

However, as stated in the Staff Recommendation below, due to the close proximity of the property to existing residential uses, staff recommends the GR, General Retail zoning district for the property. The even less intense NS, Neighborhood Services zoning district would not be appropriate for property fronting an expressway.

Development Regulations – GR, General Retail

The purpose of the GR, General Retail zoning 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. Uses prohibited in GR that are permitted in C include: Auto storage or auction, major vehicle repair, auto sales, pawn shop, tool rental, and several light industrial uses.

The dimensional standards for the GR zoning district are the same as those for the C zoning district as shown in the table above.

Public Notice

Nine notices were sent out. As of Wednesday, October 15 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the public hearing on October 11, 2008 in accordance with state law and local ordinance

STAFF RECOMMENDATION:

Staff recommends approval of the zone change request from A, Agricultural to GR, General Retail rather than C, Commercial because:

1. The subject property is in close proximity to a residential area;
2. Adequate public facilities do not serve the property; and
3. The request complies with the Thoroughfare Plan.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Land Use and Character Map
Aerial
Notice Map
Response Letters

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

MONDAY, OCTOBER 20, 2008

ACTION ITEMS

6. Z-FY-08-39: Public Hearing - Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Commercial District (C) on 1.7 ± acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane. (Deborah Tubbs)

Brian Mabry, Senior Planner, presented the background on this zone change request. The Staff recommended the GR designation rather than the Commercial designation originally requested, since most retail uses are permitted in GR, such as gas stations, restaurants, grocery stores, offices and minor vehicle repair.

Staff recommended approval of this zoning change request from A to GR due to the subject's proximity to residential areas, the South and across Dogwood Lane, and the lack of adequate public facilities being in place to serve the property (no sewer). This request also complied with the Thoroughfare Plan.

Commissioner Luck made a motion to approve the zone change from A to GR.

Commissioner Martin seconded the motion.

Motion passed (9:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-39]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO GENERAL RETAIL DISTRICT (GR) ON APPROXIMATELY 1.7 ACRES OF LOT 2, BLOCK 4, GREEN ACRES ADDITION, LOCATED AT 3411 DOGWOOD LANE; 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 zoning change from Agricultural District (A) to General Retail District (GR) on approximately 1.7 acres of Lot 2, Block 4, Green Acres Addition, located at 3411 Dogwood Lane, 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 6th day of November, 2008.

PASSED AND APPROVED on Second Reading on the **20th** day of **November**, 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

11/06/08
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-08-41: Consider adopting an ordinance authorizing a zoning change from General Retail (GR) District to Commercial (C) District on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: At its October 20, 2008 meeting, the Planning and Zoning Commission voted 9/0 in accordance with staff recommendation to recommend approval of a zoning change from the GR, General Retail zoning district to the PD-C, Planned Development-Commercial zoning district, instead of the straight Commercial zoning as originally requested by the applicant. The following uses shall be permitted in the PD-C zoning district:

1. All uses permitted in the GR, General Retail zoning district; and
2. Off-premise sign.

Staff and P&Z make the recommendation for the following reasons:

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

The applicant originally requested “straight” Commercial zoning. Staff met with the applicant a few days prior to the Planning and Zoning Commission meeting and explained the need to avoid including additional potentially unattractive light industrial uses allowed in the Commercial zoning district to the I-35 corridor. **The applicant then approved of the Planned Development-Commercial recommendation that would** allow all of the uses permitted in the current GR zoning district, plan an off-premise sign.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-08-41, from the Planning and Zoning meeting, October 20, 2008.

A gas station currently occupies the subject property. The applicant requests the PD-C, Planned Development-Commercial zoning district in order to build an off-premise sign (billboard) on the property.

Concerns of the Planning and Zoning Commission are shown in the draft minutes. The Commission did not raise any issues requiring additional staff attention.

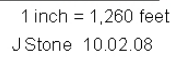
Public Notice

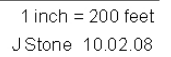
Seven notices of the P&Z meeting were sent out. As of Wednesday, October 16 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the P&Z public hearing on October 11, 2008 in accordance with state law and local ordinance

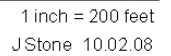
FISCAL IMPACT: None

ATTACHMENTS:

Off-Premise Sign Separation Aerial
Zoning Map
Notice Map
P&Z Staff Report (Z-FY-08-41)
P&Z Minutes
Ordinance









PLANNING AND ZONING COMMISSION AGENDA ITEM

10/20/08
Item #5
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Jared Westmoreland

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-08-41 Hold a public hearing to discuss and recommend action on a zone change from General Retail District to Commercial District on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive. (Applicant: Jared Westmoreland)

BACKGROUND: A gas station currently occupies the subject property. The applicant requests the C, Commercial zoning district in order to build an off-premise sign (billboard) on the property. Off-premise signs are only permitted in the C, Commercial; LI, Light Industrial and HI, Heavy Industrial zoning districts along General Bruce Drive and HK Dodgen Loop 363.

The Zoning Ordinance requires a minimum separation distance of 1,500 feet between off-premise signs along General Bruce Drive. As shown in the attached aerial, existing off-premise signs are 2,150 to the north and 4,355 feet to the south.

According to the off-premise sign standards in the Zoning Ordinance, the dimensions of an off-premise sign erected on property fronting General Bruce Drive must be 14 feet by 48 feet, for a total surface display area per face of 672 square feet. An off-premise sign must be 42.5 feet in height and an off-premise sign must be set back at least 20 feet from any road or street right-of-way line, measured from the closest part of the sign. Compliance with these standards will be checked at the time of administrative building permit review.

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	Motel
	GR-CUP	Private club
East	GR	Motel
South	GR	Motel
West	GR	S. General Bruce Drive
	LI	S. General Bruce Drive
	LI	Hotel
	LI-CUP	Private Club

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

Double Sided

Future Land Use and Character Map

The Future Land Use and Character map designates the subject property as Auto-Urban Commercial, which the Comprehensive Plan states is for the majority of the areas identified for commercial use. The request complies with the Future Land Use and Character map.

Thoroughfare Plan

South General Bruce Drive is designated as an Expressway on the Thoroughfare Plan map. The request complies with the Thoroughfare Plan.

Adequacy of Public Facilities

The property is served by a 6" water line and 6" sewer line. Adequate public facilities serve the property.

Development Regulations

The purpose of the C, Commercial zoning district is 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 the 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. The subject property does not meet some of these criteria: it is not located along a major highway or at an intersection and it is not located away from low and medium residential development.

Permitted uses include all retail and most commercial land uses including auto dealerships with complete servicing facilities, building material sales, light industrial uses and heavy machinery sales and storage. Prohibited uses include, but are not limited to, apartments, heavy industrial uses, sexually oriented businesses, shooting ranges, and wrecker and salvage yards.

Minimum lot area and setback requirements are as follow:

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

The setback and height standards for off-premise signs described on the previous page supersede the general district requirements in the table above. The dimensional standards for the existing GR zoning district are the same as those for the requested C zoning district as shown in the table above.

Public Notice

Seven notices were sent out. As of Wednesday, October 16 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 October 11, 2008 in accordance with state law and local ordinance

STAFF RECOMMENDATION: In order to avoid the intense uses allowed in the C, Commercial zoning district along the I-35 corridor, staff recommends approval of the zone change from GR, General Retail to PD-C, Planned Development-Commercial zoning district. The following uses shall be permitted in the PD-C zoning district:

1. All uses permitted in the GR, General Retail zoning district in Section 7 of the Zoning Ordinance; and
2. Off-premise sign.

Staff makes the recommendation for the following reasons:

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

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Zoning Map
Off-Premise Sign Separation Aerial
Notice Map
Response Letters

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

MONDAY, OCTOBER 20, 2008

ACTION ITEMS

5. Z-FY-08-41: Public Hearing - Hold a public hearing to discuss and recommend action on a zone change from General Retail District (GR) to a Planned Development Commercial District (PD-C) on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive. (Applicant: Jared Westmoreland)

Brian Mabry, Senior Planner, stated this request was originally submitted for Commerical zoning but Staff recommended PD-C. The requested zone change was in order to erect an off-premise sign, a/k/a a billboard.

Staff recommended that the PD allow for all the uses that are allowed in GR which is the current zoning district for the property, plus an all premises sign which is the billboard so Staff recommended approval of this zone change from GR to PD-C since the request also complied with the Future Land Use map and character map, character plan and adequate public facilities are available to serve the site.

Commissioner Hurd made a motion to approve the zone change from GR to PD-C allowing the one commercial use of an off-premises sign.

Commissioner Martin seconded the motion.

Motion passed (9:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-08-41]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT TO PLANNED DEVELOPMENT (COMMERCIAL) DISTRICT ON PART OF LOTS 1 AND 2, BLOCK 4, KEATON ADDITION, LOCATED AT 919 NORTH GENERAL BRUCE DRIVE, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive, has requested that the property be rezoned from General Retail District to Planned Development (Commercial) District; and

Whereas, the City Council, after notice and a public hearing, finds that it is in the public interest to authorize this action.

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

Part 1: The City Council approves a zoning change from General Retail District to Planned Development (Commercial) District on part of Lots 1 and 2, Block 4, Keaton Addition, located at 919 North General Bruce Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101, is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development (Commercial) District, and shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- (a) The use and development standards of the property shall conform to the requirements of the General Retail District; and
- (b) Off-premise sign is allowed.

These conditions shall be expressed conditions of any building permit issued for construction on the property which may be enforced by the City of Temple by an action either at law or in

equity, including the right to specifically enforce the requirements of the ordinance, and these requirements shall run with the land.

Part 4: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 5: 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 6: 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 7: 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 **6th** day of **November**, 2008.

PASSED AND APPROVED on Second Reading on the **20th** day of **November**, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #10
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-09-01: Consider adopting an ordinance authorizing an amendment to the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips in lieu of distance requirements, and to create subdivision access standards, and to relocate these requirements to the City of Temple Design & Development Standard Manual.

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: Conduct a public hearing as presented in item description, and set second reading and final adoption for November 20, 2008.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-01, from the Planning and Zoning meeting, October 20, 2008, which the Commission recommended approval 9/0.

The Fire Department is in the process of adopting a 2006 Uniform Fire Code which contains a provision requiring a 48' radius with a paved diameter of 96'. (Current regulations for a cul-de-sac radius are 40' with a paved diameter of 80').

The Design Standards Advisory Board (DSAB) has worked for more than one year with the Fire Department, plus the Public Works and the Planning Department, to look at various sized radii for cul-de-sacs. Both Public Works and Planning introduced the idea of using maximum number of vehicular average daily trips (ADT) for various sized cul-de-sacs. The idea of using vehicular trips is one used in Texas and nation-wide, focusing on the impact of vehicular trips in determining street design. The different sized cul-de-sacs would measure from a maximum of 250 ADTS to a minimum of 70 ADTS, and a residential block a maximum of 300 vehicular trips.

FISCAL IMPACT: None

ATTACHMENTS:

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

**48' RADIUS STANDARD
CUL-DE-SAC
(ROUND OR OFFSET TERMINAL)
250 MAXIMUM ADT
(25 DWELLING UNITS)**

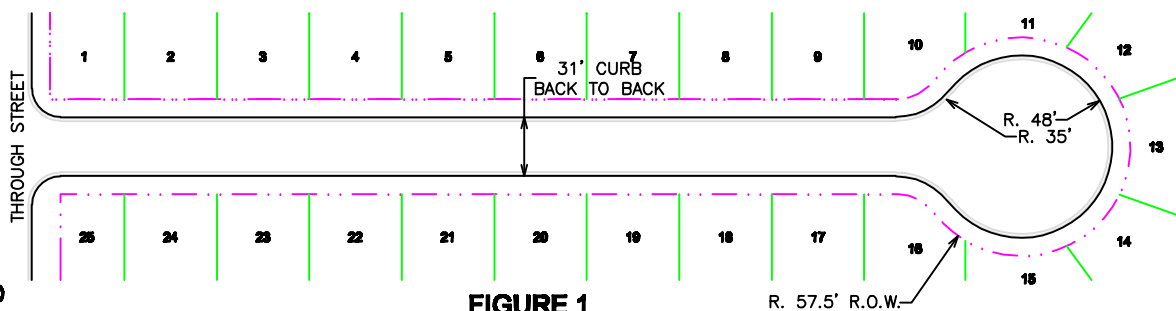


FIGURE 1

**44' RADIUS TEARDROP
CUL-DE-SAC
(TEARDROP TERMINAL)
210 MAXIMUM ADT
(21 DWELLING UNITS)**

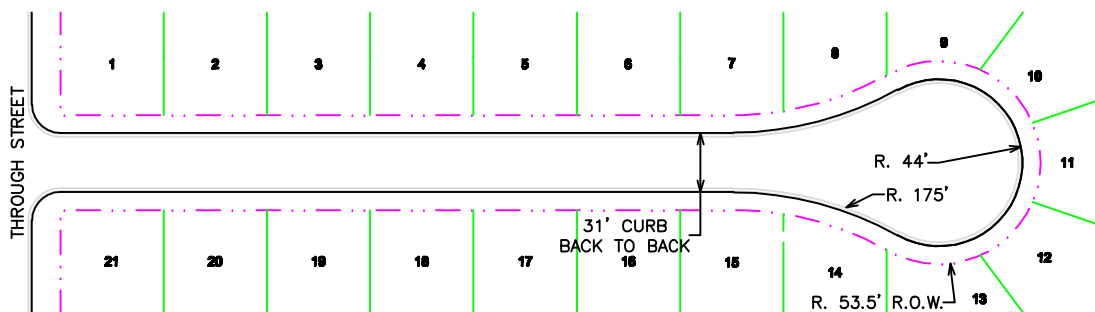


FIGURE 2

**42' RADIUS TEARDROP
CUL-DE-SAC
(TEARDROP TERMINAL)
170 MAXIMUM ADT
(17 DWELLING UNITS)**

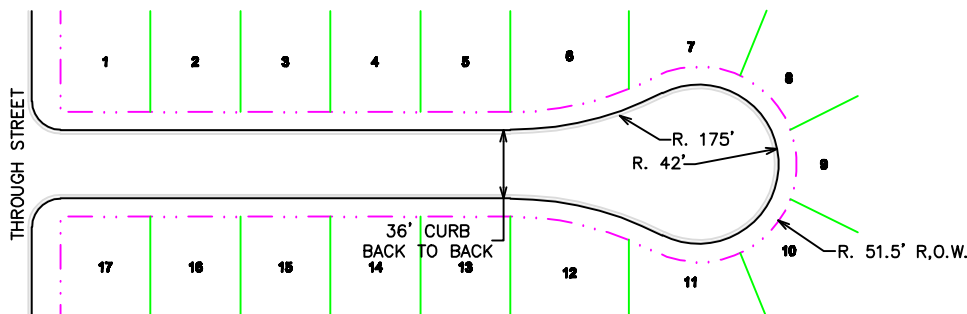


FIGURE 3

**42' RADIUS OFFSET
CUL-DE-SAC
(ROUND OR TEARDROP OFFSET TERMINAL)
120 MAXIMUM ADT
(12 DWELLING UNITS)**

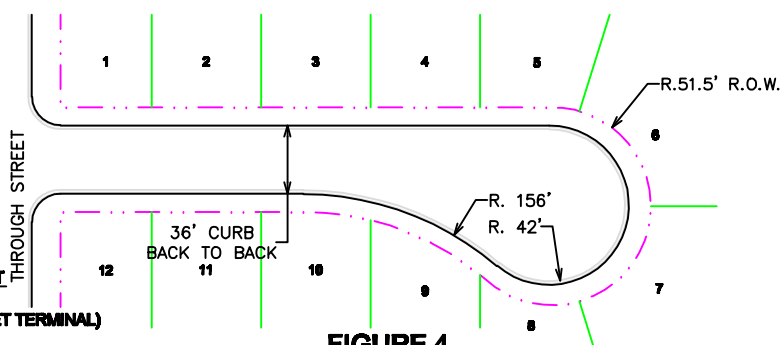


FIGURE 4

**40' RADIUS LOW DENSITY
CUL-DE-SAC
(ROUND OR TEARDROP TERMINAL)
70 MAXIMUM ADT
(7 DWELLING UNITS)**

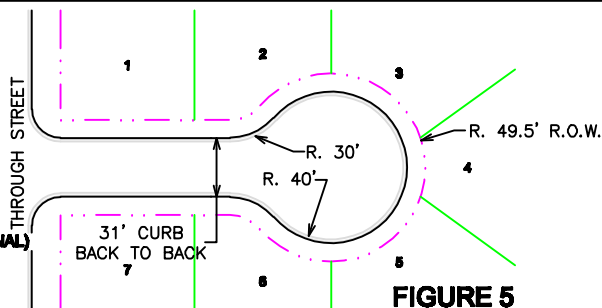


FIGURE 5

SHEET 1 OF 2



**CITY OF TEMPLE
ENGINEERING DEPARTMENT**

3210 E. Avenue H, Bldg. A

TEMPLE, TX 76701-0402

APPROVED BY: Michael C. Newman, P.E.

DESIGN APPROVED DATE: 1 OCTOBER 2008

DRAWN BY: Chris Paul

FILE NAME: CULDESAC08.dwg

DESIGN CRITERIA-CUL-DE-SACS

**SCALE:
1"=100'**

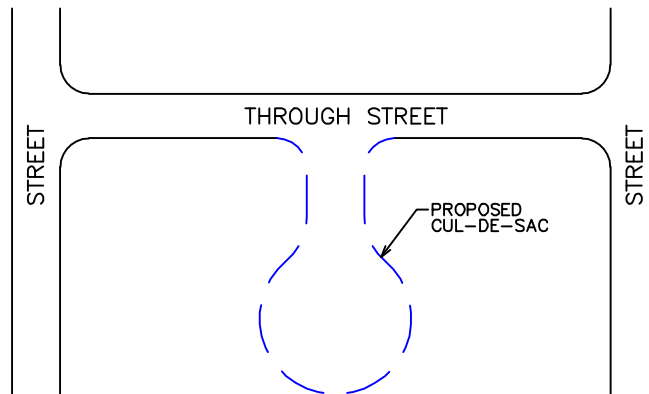


FIGURE 6
THROUGH STREET DIAGRAM

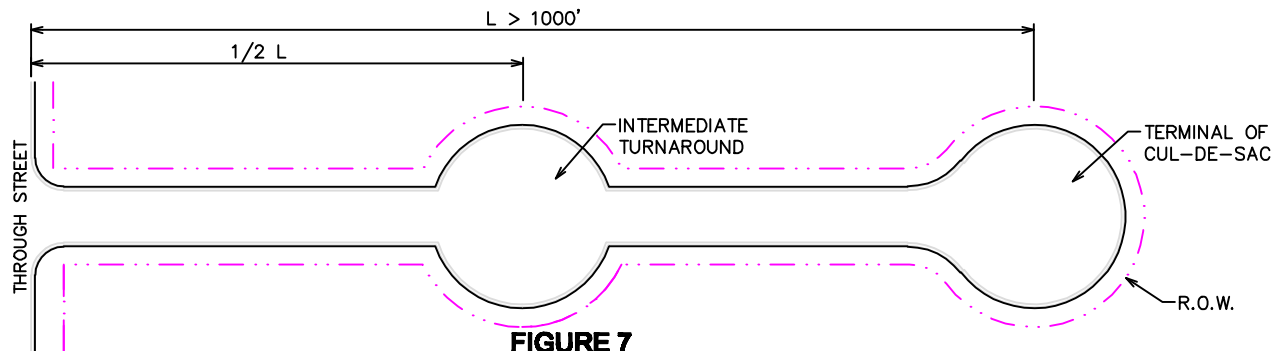


FIGURE 7
INTERMEDIATE TURNAROUND

GENERAL NOTES FOR ALL CUL-DE-SACS

1. A THROUGH STREET IS DEFINED AS A STREET THAT EXTENDS CONTINUOUSLY BETWEEN TWO OR MORE STREETS. (SEE FIG. 6)
2. PARKING SHALL NOT BE PERMITTED IN THE TERMINAL OF A CUL-DE-SAC WHEN DESIGNED PER FIGURES 2,3, OR 4 UNLESS SUCH CUL-DE-SACS ARE ALSO SERVED BY ALLEYS OR DWELLINGS ARE PROTECTED WITH AN APPROVED, OPERATIONAL FIRE SPRINKLER SYSTEM.
3. WHEN EACH DWELLING ON A CUL-DE-SAC IS PROTECTED WITH AN APPROVED, OPERATIONAL FIRE SPRINKLER SYSTEM, THE CUL-DE-SAC MAY BE DESIGNED WITH A MINIMUM TERMINAL RADIUS OF 40'.
4. COMMERCIAL CUL-DE-SACS SHALL HAVE A MINIMUM 50' RADIUS AND 60' OF RIGHT OF WAY.
5. CUL-DE-SAC LOTS THAT ARE ACCESSIBLE BY ALLEYS MAY BE DESIGNED WITH A MINIMUM 40' TERMINAL RADIUS WITH EITHER A ROUND, TEARDROP, OR OFFSET TERMINAL.
6. INTERMEDIATE TURNAROUNDS ARE REQUIRED WHEN THE LENGTH OF A CUL-DE-SAC IS GREATER THAN 1000'. CONSIDERATION OF THE NUMBER OF INTERMEDIATE TURNAROUNDS SHALL BE BASED ON THE OVERALL LENGTH. (SEE FIG. 7)
7. THE PLANNING DIRECTOR MAY APPROVE UP TO A 15% INCREASE IN ADT WHEN OVERALL SUBDIVISION STREET DESIGN INCLUDES TRAFFIC ENHANCING DESIGN FEATURES SUCH AS: 1) STREET LAYOUT THAT PROMOTES ORDERLY AND CONVENIENT TRAFFIC FLOW 2) TRAFFIC CALMING FEATURES, OR 3) SUBDIVISION ENTRANCE DESIGN THAT FACILITATES EASE OF TRAFFIC FLOW AND ACCESS.
8. A FUTURE INTERSECTING STREET THAT IS NOT A CUL-DE-SAC MAY BE USED IN CALCULATING ADT's FOR A CUL-DE-SAC, PROVIDED SUCH A FUTURE INTERSECTING STREET IS PART OF AN APPROVED PRELIMINARY OR FINAL PLAT.
9. CUL-DE-SACS DESIGNED TO COLLECTOR STREET WIDTH STANDARDS MAY BE DESIGNED WITH A MINIMUM 40' TURNAROUND RADIUS AND MAY BE EITHER ROUND, TEARDROP, OR OFFSET TERMINAL.
10. CONSIDERATION TO REDUCE RIGHT OF WAY IN CUL-DE-SAC WILL BE SUBJECT TO APPROVAL OF ENGINEERING DEPARTMENT. CITY STAFF MAY APPROVE ALTERNATIVE CUL-DE-SAC TERMINAL RIGHT OF WAY DESIGN TO PARTIALLY MITIGATE LOSS OF LAND RESULTING FROM INCREASED CUL-DE-SAC RADIUS REQUIREMENTS. ALTERNATIVE DESIGNS MUST PROVIDE CITY RIGHT OF WAY AT WATER AND WASTEWATER SERVICE POINTS ADEQUATE FOR CITY SERVICE ACCESS.
11. RADIUS ON INTERMEDIATE TURNAROUNDS SHALL BE THE SAME SIZE AS THE TERMINAL.

SHEET 2 OF 2

APPROVED BY: Michael C. Newman, P.E.

DESIGN APPROVED DATE: 1 OCTOBER 2008

DRAWN BY: Chris Peel

FILE NAME: CULDESACBldg.dwg



**CITY OF TEMPLE
ENGINEERING DEPARTMENT**

3210 E. Avenue H, Bldg. A

TEMPLE, TX 76801-8402

DESIGN CRITERIA-CUL-DE-SACS

**SCALE:
1"=100'**

THE FOLLOWING 'STANDARD' AND 'ALTERNATE' ENTRANCE STREET DESIGNS ARE TO BE USED WHEN DESIGNING TEMPLE RESIDENTIAL SUBDIVISIONS. ALTERNATE DESIGNS AFFORD INCREASED FLEXIBILITY AND MAY BE UTILIZED TO INCREASE THE RATIO OF LOTS TO ENTRANCE.

RESIDENTIAL SUBDIVISION ENTRANCE/ACCESS DESIGN STANDARDS

NUMBER OF LOTS	STANDARD DESIGN MINIMUM ENTRANCES (LOCAL OR COLLECTOR STREET) (FIGURES 1,2,3,or4)	ALTERNATE DESIGNS MINIMUM ENTRANCES (MINIMUM CUMULATIVE STREET WIDTH 41' CB/CB) (FIGURES 2,3,4,&5or6)
1-75	1	
76-150	2(b)	1(d)
151-300	3(b&c)	2(b,c,&d)
301+	N/A	3(a,b,c,&d)

Subdivision Street Entrance/Access Design Requirements maybe satisfied with a combination of standard or alternate designs in combination with access to other subdivisions, in accordance with the table above and figures 1-7.

Fire Sprinkler Subdivisions. When all dwelling units within a subdivision are served by approved fire sprinkler systems, multiple entrance access is not required to meet fire safety requirements

Street Width and Curb Radii are determined by respective street classifications.

(a) Subdivisions with more than 300 residential lots may be required to have more than three entrance/access streets (or provision for future street connections with adjacent property) to facilitate adequate traffic flow and safety.
The Planning Director may waive the requirement for more than three entrance access street design includes traffic-enhancing features such as: 1) street layout that promotes orderly and convenient traffic flow with local street to collector street to subdivision entrance/access 2) traffic calming features, 3) continuous left and right turn exit traffic lanes, 4) direct access to a multi-lane arterial street, arterial with center turn lane, boulevard, or acceleration/deceleration lanes to/from the entrance, 5) increased radii at entrance corners.

b) Second or Third Entrance Access required under this standard may be temporarily satisfied by the execution of a development agreement between the City and the developer and the subsequent dedication and construction of a "Temporary Emergency Vehicle Access" across a public lot or easement if the "access" is constructed in accordance with Figure 7.
The development agreement must, in addition to addressing construction standards for the "Temporary Emergency Vehicle Access" provide that the City shall maintain the temporary access paving and retain the right to access until such time as the "Temporary Emergency Vehicle Access" is replaced by a permanent subdivision entrance/access constructed in accordance with these standards and accepted by the City. The development agreement shall also provide that as a condition of acceptance of a "Temporary Emergency Vehicle Access" by the City, that the developer shall create a home owners association with responsibility for maintaining vegetation adjacent to the "Temporary Emergency Vehicle Access" or shall provide financial guaranty acceptable to the City Attorney.


(c) Future Street Access may satisfy additional entrance access requirements when a future street access is a component of an approved Preliminary or Final Plat.

(d) Residential Driveway access to Entrance Streets is not permitted.

NOTES:

1. ADT IS A REFERENCED TERM FROM THE TRIP GENERATION MANUAL PUBLISHED BY THE INSTITUTE OF TRANSPORTATION ENGINEERS. RESIDENTIAL LOT IS ASSUMED AT 10 ADT/DWELLING UNIT.
2. AN ENTRANCE ACCESS STREET IS A STREET THAT EXTENDS CONTINUOUSLY BETWEEN TWO OR MORE STREETS. WHEN THE ACCESS OF A PROPOSED SUBDIVISION IS FROM AN EXISTING LOCAL STREET, THE AVERAGE DAILY TRIPS ("ADT's") OF THE EXISTING SUBDIVISION MUST BE INCLUDED IN THE ADT CALCULATION FOR THE PROPOSED SUBDIVISION.

SHEET 1 OF 3

		CITY OF TEMPLE ENGINEERING DEPARTMENT	
		2210 E. Avenue H, Bldg. A TEMPLE, TX 76701-0402	
APPROVED BY: Michael C. Newman, P.E.	D&B APPROVED DATE: 1 OCTOBER 2008	DESIGN CRITERIA- RESIDENTIAL SUBDIVISION ENTRANCES	
DRAWN BY: Chris Peel	FILE NAME: SUBDIVENTRY.dwg	SCALE: 1"=100'	

NOTE:
THIS ALTERNATIVE IS THE
EQUIVALENT OF TWO
ENTRANCES.

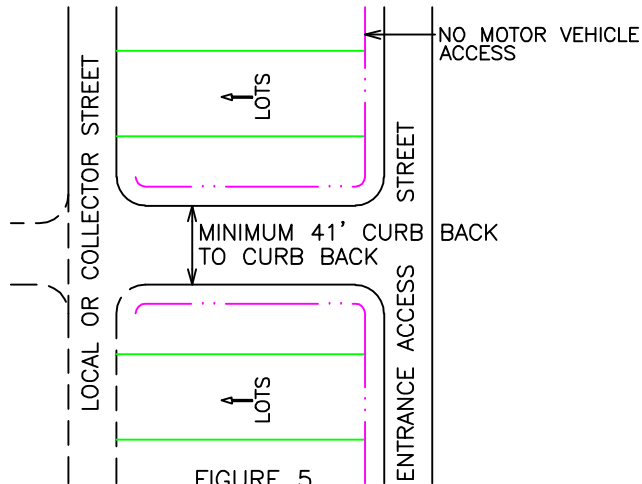


FIGURE 5

ALTERNATE ENTRANCE
MINIMUM 41' CB/CB

(LOTS DO NOT FACE ENTRANCE STREET)

-----LINES DEPICT OPTIONAL STREET DESIGNS THAT
MAY WORK, SUBJECT TO OVERALL DESIGN COMPLIANCE
WITH CITY ORDINANCE OR DEVELOPMENT STANDARDS

NOTE:
THIS ALTERNATIVE IS THE
EQUIVALENT OF TWO
ENTRANCES.

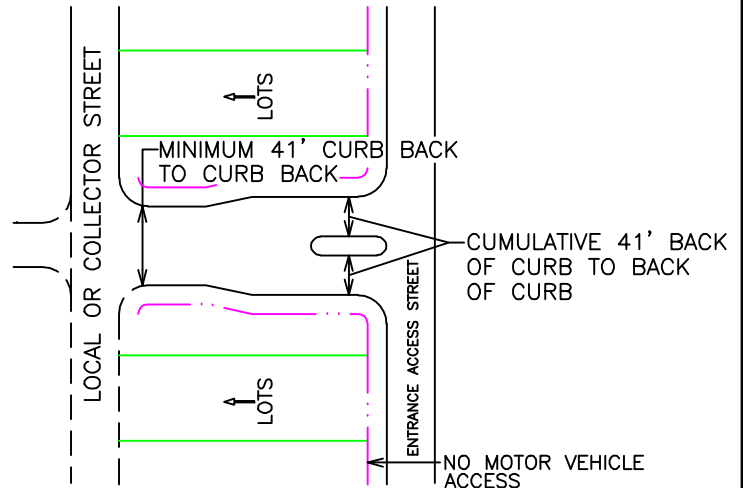


FIGURE 6

ALTERNATE ENTRANCE (BOULEVARD)
MINIMUM 41' CB/CB

(LOTS DO NOT FACE ENTRANCE STREET)

-----LINES DEPICT OPTIONAL STREET DESIGNS THAT
MAY WORK, SUBJECT TO OVERALL DESIGN COMPLIANCE
WITH CITY ORDINANCE OR DEVELOPMENT STANDARDS

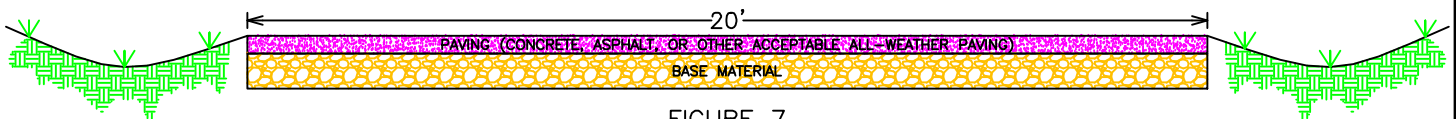


FIGURE 7

TEMPORARY EMERGENCY VEHICLE ACCESS DESIGN

MINIMUM PAVEMENT DESIGN BASED ON A GEOTECHNICAL REPORT RECOMMENDATION, MUST BE CAPABLE OF SUPPORTING THE IMPOSED LOAD OF FIRE APPARATUS WEIGHING AT LEAST 70,000 POUNDS, AND MEET STREET GRADE REQUIREMENTS OF THE MOVEABLE BARRICADES OR GATES, TO RESTRICT USE TO EMERGENCY VEHICLES, MAY BE INSTALLED WITH "NO PARKING FIRE LANE" SIGNS PER THE TEMPLE FIRE CODE.

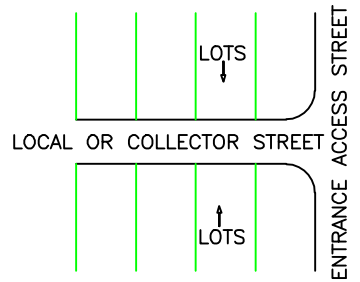


FIGURE 1
STANDARD ENTRANCE
(LOTS FACE ENTRANCE STREET)

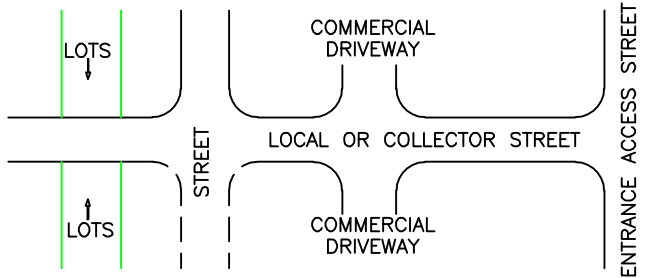


FIGURE 2
STANDARD ENTRANCE
(LOTS FACE ENTRANCE STREET AFTER INTERSECTION)

-----LINES DEPICT OPTIONAL STREET DESIGNS THAT
MAY WORK, SUBJECT TO OVERALL DESIGN COMPLIANCE
WITH CITY ORDINANCE OR DEVELOPMENT STANDARDS

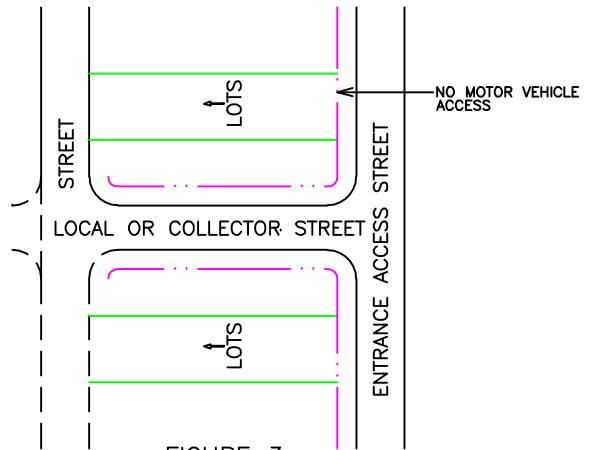


FIGURE 3
STANDARD ENTRANCE
(LOTS DO NOT FACE ENTRANCE STREET)

-----LINES DEPICT OPTIONAL STREET DESIGNS THAT
MAY WORK, SUBJECT TO OVERALL DESIGN COMPLIANCE
WITH CITY ORDINANCE OR DEVELOPMENT STANDARDS

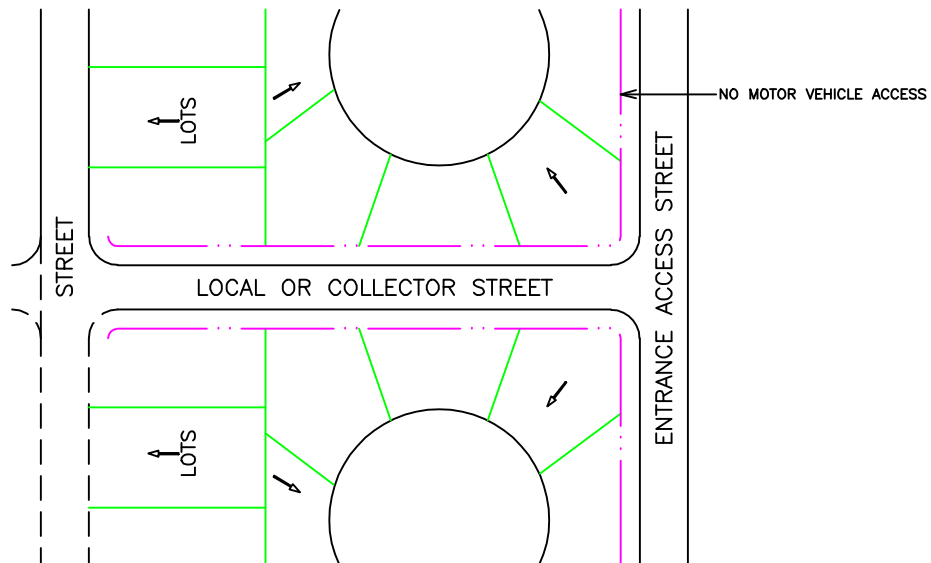


FIGURE 4
STANDARD ENTRANCE
(LOTS DO NOT FACE ENTRANCE STREET)

-----LINES DEPICT OPTIONAL STREET DESIGNS THAT
MAY WORK, SUBJECT TO OVERALL DESIGN COMPLIANCE
WITH CITY ORDINANCE OR DEVELOPMENT STANDARDS





PLANNING AND ZONING COMMISSION AGENDA ITEM

10/20/08
Regular Agenda
Item 7
Page 1 of 2

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

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-09-01: Hold a public hearing to discuss and recommend action to approve amendments for the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips (ADT) in lieu of distance requirements, and to create subdivision access standards and to relocate these requirements to the City of Temple Design & Development Standard Manual.

BACKGROUND: At the meeting October 6th, the Commission called a hearing for today's meeting. The proposed amendment was advertised in Temple Daily Telegram as required by state law and local ordinance.

From the discussion item October 6th, Staff explained the current ordinance requires cul-de-sacs to be shorter in length than 500' and for block length to be shorter than 1,000' without an intersecting street. Lengths longer than these dimensions require exceptions by the City Council. The cul-de-sac radius is 40' with a paved diameter of 80'.

Cul-de Sac – Use average daily trips versus length

The Fire Department is in the process of adopting a 2006 Uniform Fire Code which contains a provision requiring a 48' radius with a paved diameter of 96'. The Design Standards Advisory Board (DSAB) has worked with the Department, plus the Public Works and the Planning Department to look at various sized radii for cul-de-sacs. Both Public Works and Planning introduced the idea of using maximum number of vehicular average daily trips (ADT) for various sized cul-de-sacs. The idea of using vehicular trips is one used nation wide and focuses on the impact of vehicular trips in determining street design. The different sized cul-de-sacs would measure from allowing a maximum of 250 ADTS to a minimum of 70 ADTS.

Blocks - Use average daily trips versus length

The same principle will be applied to residential blocks. Now the Subdivision Ordinance allows a 1,000 linear foot maximum length. Staff recommends using the same ADT principle and allow a maximum of 300 vehicular trips (15 lots on both sides of a street @ 30 lots x 10 trips daily = 300 ADTS) with the allowance of up to 15% more when either natural or man-made influences affect the block design.

Subdivision Entrances

Both groups also recommend a specific ratio for subdivision entrances, minimizing the run-on streets for subdivisions with few entrances. The ratio is once access point for each 75 single family lots.

The Design Standards Advisory Board (DSAB) passed a number of new standards this including streets (cul-de-sac, entrance design, and block length).

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval to the amendments for the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips (ADT) in lieu of distance requirements, and to create subdivision access standards and to relocate these requirements to the City of Temple Design & Development Standard Manual.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Proposed charts for cul-de-sacs, blocks and subdivision entrances

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

MONDAY, OCTOBER 20, 2008

ACTION ITEMS

7. Z-FY-09-01: Public Hearing - Hold a public hearing to discuss and recommend action to approve amendments for the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating access subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips (ADT) in lieu of distance requirements and to relocate these requirements to the City of Temple Design & Development Standard Manual. (Applicant: City Staff)

Mr. Tim Dolan, Planning Director, gave an overview of the previously discussed Sections 33-91 (block) and 33-93 (cul-de-sacs) to the Commission. Mr. Dolan stated Staff recommended the Commission approve amending Sections 33-91 and 93, the Subdivision Ordinance which addresses blocks, streets and cul-de-sacs, and also to create the standards for the residential subdivisions regarding adequate points of access and to request locating all of these standards in the City of Temple Design and Development Standards Manual.

Commissioner Talley made a motion to approve the amendments for the City of Temple Subdivision Ordinance, Sections 33-91 (blocks) and 33-93 (cul-de-sacs), creating access subdivision standards for cul-de-sacs and residential blocks to consider using the average daily trips (ADT) in lieu of distance requirements and to relocate these requirements to the City of Temple Design & Development Standard Manual.

Commissioner Martin seconded the motion.

Motion passed. (9:0)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 33, "SUBDIVISIONS," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, SECTION 33-91, "BLOCKS," AND SECTION 33-93, "STREETS," SUBSECTION (h), "CUL-DE-SACS," CREATING SUBDIVISION STANDARDS FOR CUL-DE-SACS AND RESIDENTIAL BLOCKS TO CONSIDER USING THE AVERAGE DAILY TRIPS IN LIEU OF DISTANCE REQUIREMENTS, TO CREATE SUBDIVISION ACCESS STANDARDS, AND TO RELOCATE THESE REQUIREMENTS TO THE CITY OF TEMPLE DESIGN & DEVELOPMENT STANDARDS MANUAL; 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 amends Chapter 33, "Subdivisions," of the Code of Ordinances of the City of Temple, Texas, by amending Section 33-91, "Blocks," to read as follows:

Sec. 33-91. Blocks.

(a) In general, intersecting streets determining block lengths shall be provided at such intervals as to serve cross traffic adequately and to meet existing streets or contemporary and accepted subdivision practices.

(b) ~~Blocks shall be not more than one thousand (1,000) feet in length, and shall be bounded on either end of the long axis by a local street (thirty one (31) feet back to back). Block length, up to twelve hundred (1,200) feet, may be approved by the administrator for good and sufficient reasons (example: curvilinear streets or paved alleys).~~ **Blocks shall be designed with the standards in the adopted City of Temple Design and Development Standards Manual.**

(c) Industrial and commercial subdivisions may under appropriate circumstances include blocks longer than one thousand (1,000) feet. A master plan or preliminary plat of the subdivision depicting proposed land use shall demonstrate reasonable provisions in the street layout for the public health and safety, particularly the circulation of emergency vehicles and

anticipated truck traffic.

Part 2: The City Council amends Chapter 33, "Subdivisions," of the Code of Ordinances of the City of Temple, Texas, by amending Section 33-93, "Streets," subsection (h), "Cul-de-Sacs," to read as follows:

Sec. 33-93. Streets.

...

(h) *Cul-de-sacs*:

(1) ~~Streets ending in a cul-de-sac shall generally not exceed five hundred (500) feet in length, except two hundred (200) feet in the case of a residential lane.~~ Streets ending in a cul-de-sac shall be designed with the standards in the adopted City of Temple Design and Development Standards Manual.

(2) Minimum cul-de-sac dimensions shall be as follows:

<i>Area</i>	<i>Pavement Radius</i> (feet)	<i>Right of Way Radius</i> (feet)
Residential	40	50
Commercial/industrial	50	60

For commercial and industrial subdivisions, the dimensions for cul-de-sacs measure 50 feet pavement width and 60 feet right-of-way radius.

...

Part 3: If any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portions or sets of circumstances shall not be affected hereby, it being the intent of the City Council in adopting this Ordinance that no portion thereof or provisions or regulation contained herein shall become inoperative or fail by reason of an unconstitutionality and all provisions of this Ordinance are declared to be reasonable.

Part 4: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

Part 5: This ordinance shall take effect immediately after the date of its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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 **6th** day of **November**, 2008.

PASSED AND APPROVED on Second Reading on the **20th** day of **November**, 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

11/06/08
Item #11
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-09-02: Consider adopting an ordinance authorizing an amendment to City of Temple Zoning Ordinance Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage outside a Building).

PLANNING & ZONING COMMISSION & STAFF RECOMMENDATION: Conduct a public hearing as presented in item description, and set second reading and final adoption for November 20, 2008.

In addition to Stakeholder input, the Commission recommended requiring evergreen plantings at a minimum of 6-foot planted height on 36" centers, plus the screening of outdoor storage in the C and LI districts.

Staff also recommends adding auto rental use with the new or used automobile dealer facilities and exempting business parks from the screening for outdoor storage, allowing the codes, covenants and restrictions used by TEDC to manage the areas. Staff is asking to include commercial screening when next to agriculture zoned (A) areas since commercial centers have been built next to A areas without screening. Many of these areas are planned for residential uses, creating a conflict with future residential to centers potentially without exterior screening.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-09-02, from the Planning and Zoning meeting, October 20, 2008, which the Commission recommended approval 9/0.

In a September work session, the Council directed Staff to revise the fence and screening regulations to clarify the regulations for fence materials, screening for dumpsters, etc.

Staff worked with area stakeholders including fence contractors, a local manufacturer representative for portable storage containers and TABA. The goal was to clear up inadequacies and prohibit materials not manufactured for fencing.

FISCAL IMPACT: None

ATTACHMENTS:

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



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/20/08
Item 8
Page 1 of 1

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

CASE MANAGER: Tim Dolan, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-09-02: Hold a public hearing to discuss and recommend action to approve amendments to Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage Outside a Building) of the City of Temple Zoning Ordinance.

BACKGROUND: At the meeting October 6th, Staff explained to the Commission that the City Council asked Staff to create clearer standards for fences, screening walls, dumpster enclosures, outside display for sale, and the storage of commodities. The proposed ordinance contains those standards with struck-through language for deletion and the shaded language for addition.

Staff worked with area stakeholders including fence contractors, a local manufactured representative for portable storage containers and TABA. The goal was to clear up inadequacies, and prohibit materials not manufactured for fencing. The Council was concerned with fiberglass or corrugated steel or metal appearing as fence materials. The current ordinance allows wood, masonry 'or other suitable' materials.

STAFF RECOMMENDATION:

Staff requests the Commission recommend approval to approve amendments to Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage outside a Building) of the City of Temple Zoning Ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Proposed ordinance

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

MONDAY, OCTOBER 20, 2008

ACTION ITEMS

8. Z-FY-09-02: Public Hearing - Hold a public hearing to discuss and recommend action to approve amendments to Section 7-632 (Major Vehicle Repair), Section 21 (Definitions) and Section 13-102 (Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage Outside a Building) of the City of Temple Zoning Ordinance. (Applicant: Staff)

Mr. Tim Dolan, Planning Director, gave the Commission a brief overview of the amendments previously discussed.

Commissioner Secrest made the motion to approve this item and move forward to City Council.

Commissioner Barton seconded the motion.

Commissioner Luck made a motion to amend Commissioner Secrest's motion to approve this item with the inclusion of amending Section 13 and 13-102 to include minimum 5 gallon containers with 6 to 8 feet plant height on No. 3 design, Part A.

Commissioner Barton seconded the motion.

Motion passed (9:0)

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 7-632, “MAJOR VEHICLE REPAIR,” SUBSECTION 2 (c); SECTION 13, “FENCE AND WALL REGULATIONS, DISPLAY FOR SALE, OPEN STORAGE, METAL FAÇADE RESIDENTIAL BUILDING REGULATIONS, AND MASONRY STANDARDS,” AND SECTION 21, “DEFINITIONS,” “YARD;” 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 7-632, “Major Vehicle Repair,” subsection 2(c), to read as follows:

7-632. MAJOR VEHICLE REPAIR

...

2. MAJOR VEHICLE REPAIR DEVELOPMENT STANDARDS

- (c) vehicle parts and wrecked vehicles may be stored outside of a building if screened from public view at any street, residentially developed or zoned property, or adjacent or opposite public property such as a school or park. Such storage shall never occupy more than 20% of the lot or tract; screening standards shall conform to provisions specified in Section ~~13-102-4~~ **13-106**;

Part 2: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, Section 13, “Fence and Wall Regulations, Display for Sale, Open Storage, Metal Façade Residential Building Regulations, and Masonry Standards,” to read as follows:

SECTION 13

FENCE AND WALL REGULATIONS, **SCREENED REFUSE AREA**, DISPLAY FOR SALE, OPEN STORAGE, METAL FACADE RESIDENTIAL BUILDING REGULATIONS, AND MASONRY STANDARDS

~~13-100 In any residential district or along the common boundary between any residential or nonresidential district w~~Where a **fence**, wall, fence, or screening separation, **buffer or enclosure** is erected, the following standards for height and design **apply** shall be observed.

13-101 **Height and Location of Fence, or Wall, Screen, or Enclosure**

1. **Maximum Height for SF and 2F.**

a) **Front yard.** A fence, wall, screen, enclosure, or similar barrier erected in the front yard of a single or two family dwelling must not exceed 48 inches in height above the adjacent grade. A barrier that does not exceed 36 inches in height may be made of a solid allowed material. A barrier that is higher than 36 inches must have an open design, with a minimum of 50 percent openness, so as not to impose a visual barrier within 10 feet from the back of curb or edge of pavement on a street.

~~**Mixed Use District.** In MU a fence erected between the front of a dwelling and the front property line must not exceed 4 feet in height above the adjacent grade or impose a visual barrier within 10 feet from the back of curb or edge of pavement on a street. Only openly designed fences with a minimum of 50 percent openness or visibility are permitted.~~

b) **Behind front building line.** Any fence or wall erected on the property line and located to the rear of the minimum required front yard line, as determined by the provision of 8-401 shall not exceed eight (8) feet in height above the adjacent grade. A fence, wall, screen, enclosure or similar barrier behind the front building line of a single or two family dwelling must not exceed 8 feet in height above the adjacent grade.

2. **Intersection visibility triangle.**

a) ~~No vehicles shall be parked and no~~ **No** fence, wall, screen, or view obstruction or foliage or hedges, trees, bushes, or shrubs are allowed to be erected, planted or maintained within the "intersection visibility triangle" so as to obstruct within the sight line at elevations between ~~three (3) feet~~ and ~~eight (8) feet~~ above the average street grade. Obstructions of this nature are declared to be a public traffic nuisance.

b) In connection with regulations provided herein, "intersection visibility triangle" means a triangle sight area, at all intersections where the streets, avenues, alleys and public or private drives, intersect. It includes that portion of public right of way and any corner lot in the triangular area formed by extending the curb lines of the intersecting streets to their imaginary point of intersection for the first point of the triangle, then proceeding back from this imaginary point of intersection ~~fifteen (15) feet~~ along the curb lines of the intersecting streets to establish the ~~two (2)~~ remaining points of the triangle. These points must then be connected with imaginary lines, thereby forming a triangle. If there are no curbs existing, the triangular area must be formed by extending the pavement edges to the

imaginary point of intersection of the streets and then proceeding in the same manner described above.

- c) ~~Any fence, wall, screen, enclosure, hedge, tree, bush, shrub, erected, planted or maintained in violation of these paragraphs must be removed within ten (10) days upon written notice from the city to the owners of the affected or adjacent property.~~ Obstruction of an intersection visibility triangle must be abated within 10 days after written notice.

~~13-102 — Screening Walls/Fences, Screened Refuse Areas, Display for Sale, and Open Storage Outside a Building~~

~~1. Screening Wall/Fences~~

~~Any screening wall or fence required under the provisions of the planned development district shall be constructed of masonry or wood or other suitable materials, or with a concrete or metal frame supporting a permanent type wall or fence material which does not contain openings constituting more than forty (40) square inches in each one (1) square foot of wall or fence surface, and the surface of such wall or fence must constitute a visual barrier. All wall or fence openings shall be equipped with gates equal in height and screening characteristics to the wall or fence. The planned development ordinance shall address required fencing.~~

~~All nonresidential and multiple family uses, excluding duplex or two-family dwellings, shall provide a 6 ft. fence and/or masonry fence and/or a natural landscape screen which achieves this screening objective at the property line where abutting a single family or duplex residential use, or where abutting a single family or Two Family Dwelling district. However, when these uses are separated from the single family or duplex residential uses or zoning districts by a public street this screening requirement will not be applicable.~~

13-102 Buffering

1. Location. Nonresidential and multiple family uses must provide continuous buffering along the common boundary with an agricultural or residential district or use, except where buffering is provided by a public street. Buffering is also required along the perimeter of a nonresidential or multiple family use located across an alley from a residential district or use.

2. Design. Buffering must meet one or a combination of the following design standards:

- a) Buffering may consist of evergreen hedges composed of plants purchased in 5-gallon or larger containers, with a minimum planted height of 6 feet, placed on 36-inch centers.
- b) Buffering may consist of fences or walls constructed of wood, masonry, stone or pre-cast concrete, with integrated color, texture and pattern. Structural buffering must be from 6 to 8 feet in height above the adjacent grade. Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. Gates must be equal in height and screening characteristics to the fence or wall. The objective is to create a visual barrier.

13-103 Allowed Materials for Fences, Walls, Screens and Enclosures

1. **Allowed Materials.** Fences, walls, screens, enclosures and gates must be constructed of one or a combination of the following materials:

- a) Plain or coated chain link (installed as manufactured, without affixing materials such as slats and tarps)
- b) Exterior Insulation and finish systems (EIFS)
- c) Fiberglass composite (manufactured for fencing)
- d) Fired brick
- e) Latticework that does not exceed 2 feet in height and is anchored as a design element at the top of a 6-foot tall fence
- f) Natural stone
- g) Pre-cast concrete
- h) Split faced block
- i) Smooth faced block
- j) Support poles made of metal or wood
- k) Stucco
- l) Tubular aluminum
- m) Tubular steel
- n) Wood planks
- o) Wrought iron

2. **Prohibited Materials.** Permits must not be issued for materials not manufactured specifically for fencing, such as fibrous masonry products, landscape timbers, railroad ties, latticework panels, plywood, corrugated steel panels, or fiberglass panels.

3. **Electric fences.** An electrically charged fence is allowed only in the Agricultural District, with proof submitted to the electrical inspector that the fence will be designed to retain animals, inaccessible to the general public, and not hazardous to life.

4. **Barbed and razor wire fences.** Barbed and razor wire fences and other structures composed or partially composed of barbed or razor wire are allowed only in the Agricultural, Light Industrial and Heavy Industrial districts. A permit is required. The barbed or razor wire must not be closer than 6 feet to the ground. Security fencing for utility facilities such as electrical substations and water and sewer pumping stations may be topped with barbed wire that is not closer than 6 feet to the ground.

5. **Razor wire fences.** Razor wire fences are allowed only in the Light Industrial and Heavy Industrial Districts. A permit is required. The razor wire must not be closer than 6 feet to the ground.

13-104 Screened Refuse Area

1. Refuse container storage areas ~~are encouraged~~ **must be located** in a rear service area, or alley where available, for all uses other than single family and two family dwellings.

2. Refuse container storage areas located within ~~fifty (50)~~ feet of the curb line of a public street ~~and~~ **or** visible from the public street must be visually screened from public view by a ~~minimum six (6) foot high~~ solid wooden **or masonry** fence, **that is at**

least 1 foot higher than the refuse container or suitable alternate, on all sides except the side used for servicing the container. ~~At all times maintenance of fencing for the screened refuse area shall be the responsibility of the property owner.~~

3. Refuse container storage areas must allow maneuvering room to avoid backing into a street or other traffic area.

4. Refuse container storage areas and gates must be built in accordance with specifications established by the Director of Public Works.

~~Standards for screened refuse are shall include:~~

- ~~(1) clear opening of 8' width;~~
- ~~(2) gates must allow truck to pull alongside within 6" of enclosure;~~
- ~~(3) enclosure must allow maneuvering room to avoid backing into street or other traffic area;~~
- ~~(4) concrete required for area in front of the pickup service opening.~~

~~The Board of Adjustments will consider variance requests to these requirements.~~

13-105 Display for Sale or Lease

1. **Display consistent with classification.** No commodities, materials, or equipment may be displayed for sale or lease in a zoning district where such sale or lease is not an allowed land use.

2. **MU, O, NS, GR, CA, C.** No commodities, materials, or equipment may be displayed for sale or lease outside a building in any Residential, Mixed Use, Office, Neighborhood Service, or General Retail, Central Area, or Commercial district, except as exempted below:

- a) ~~Garage sales as regulated by Section 22.71 of the Municipal Code~~
- b) New or used automobile dealer facilities and auto rental leasing;
- c) Motorcycle, boat, recreational vehicle, and other motorized vehicle/sales facility;
- d) Retail plant nursery and produce stand;
- e) Farm and garden equipment;
- f) ~~Tires, batteries, etc. in conjunction with a full service gasoline service station only~~
- g) For areas zoned O, NS, C and GR: Temporary display for a sidewalk sale that does not extend more than 10 feet from front façade and reserves at least 5 feet of sidewalk or walkway for pedestrian use
- h) For areas zoned CA: Temporary display for a sidewalk sale
- i) that does not extend more than 5 feet from front façade and reserves at least 5 feet of sidewalk or walkway for pedestrian use
- j) Other uses not listed above where the display for sale area is situated adjacent and/or behind the principal business building and does not exceed a maximum of ~~twenty (20%)~~ 10 percent of the building floor area of the business.

3. **C, LI, HI.** Commodities, materials, and equipment may be displayed for sale or lease with a CUP in the Commercial districts, Central Area, and by right in Light Industrial and Heavy Industrial districts if not otherwise prohibited or restricted by other provisions of this ordinance.

13-106 Open Storage Outside a Building

1. Open storage of commodities, materials, and equipment outside a building is permitted as an accessory use in Commercial, Light Industrial, and Heavy Industrial districts if not otherwise prohibited or restricted by other provision of this ordinance. Such open storage must be screened from public view by a solid wooden or masonry, or other suitable fence of adequate height, to provide an effective screen when located adjacent to or across the street from, any residentially zoned or developed property.

1. C, LI, HI. Open storage of commodities, materials, and equipment outside a building is permitted only in Commercial, Light Industrial, and Heavy Industrial districts.

2. Screening in C and LI. In Commercial and Light Industrial districts, open storage must be screened from public view by a solid wooden or masonry fence at least one foot higher than the stored material.

3. Screening in HI. In Heavy Industrial districts, open storage adjacent to or across the street from a residential district or use must be screened from public view by a solid wooden or masonry fence at least one foot higher than the stored material.

4. Business park exception. Screening of open storage outside a building is not required on land located in a public or quasi-public business park in existence before November 20, 2008.

13-107. Maintenance

The maintenance of items permitted under this Section is the responsibility of the property owner, and must be maintained in the condition upon receipt of the original building permit.

Part 3: The City Council approves an amendment to Ordinance No. 91-2101, the Zoning Ordinance of the City of Temple, by amending Section 21, “Definitions,” “Yard,” to read as follows:

SECTION 21 DEFINITIONS

...

YARD - An open space other than a court, on the lot in which a building is situated and which is not obstructed from a point forty (40) 48 inches above the general ground level of the graded lot to the sky, except as provided for roof overhang and similar special architectural features and plant material.

...

Part 4: 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 5: 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 6: 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 7: 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 **6th** day of **November**, 2008.

PASSED AND APPROVED on Second Reading on the **20th** day of **November**, 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

11/06/08
Item #12
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance abandoning portions of East Barton Avenue and North Second Street rights-of-way for First United Methodist Church and retaining utility easements in a portion of the abandoned rights-of-way.

STAFF RECOMMENDATION: Conduct a public hearing as presented in item description, and set second reading and final adoption for November 20, 2008.

ITEM SUMMARY: This ordinance corrects some of the boundary text and drawings when the City Council abandoned other rights-of-way along North 2nd Street, Calhoun and Barton. The church requested the areas to be abandoned to allow expansion of the church and improve pedestrian safety between existing and future buildings. The church has submitted a building permit and has paid the fees for the abandoned right-of-way.

FISCAL IMPACT: None

ATTACHMENTS:

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

Surveyor's Sketch showing a 1.660 acre tract, being part of the
Maximo Moreno Survey, Abstract No. 14, Bell County, Texas.

This sketch is to accompany a metes and bounds
description of the herein shown 1.660 acre tract.

CALHOUN AVENUE
PUBLIC MAINTAINED ROADWAY

S 73°19'31" E

80.49'

1/2" IRON
ROD FOUND

150.01'

N 16°03'25" E

149.94'

1-1/4" METAL
PIPE FOUND

150.65'

N 16°07'48" E

150.00'

5/8" IRON ROD
with cap FOUND

S 73°50'00" E

80.53'

N 16°05'01" E

109.99'

5/8" IRON ROD
with cap FOUND

N 73°44'05" W

110.13'

N 73°44'05" W

S 15°52'42" W

81.05'

S 73°44'05" E

20.02'

5/8" IRON ROD
with cap FOUND

N 73°44'05" W

80.00'

CUT "X" FOUND

N 73°44'05" W

POINT OF BEGINNING

ADAMS AVENUE

PUBLIC MAINTAINED ROADWAY

2ND STREET

Street Abandonment by the City of Temple

BARTON AVENUE

Street Abandonment by the City of Temple

4TH STREET

PUBLIC MAINTAINED ROADWAY

FIRST UNITED
METHODIST CHURCH
VOL. 5491, PG. 557

FIRST UNITED
METHODIST CHURCH
VOL. 1957, PG. 716

BLOCK 6
MOORE'S ADDITION
VOL. 113, PG. 416

FIRST UNITED
METHODIST CHURCH
VOL. 1957, PG. 749

TRACT IV
FIRST UNITED
METHODIST CHURCH
VOL. 2378, PG. 215

TRACT III
FIRST UNITED
METHODIST CHURCH
VOL. 2378, PG. 215

METAL CONC. NAIL
with washer FOUND

FIRST UNITED
METHODIST CHURCH
VOL. 941, PG. 73

PARCEL NO. ONE
FIRST UNITED
METHODIST CHURCH
VOL. 941, PG. 89

BLOCK 7
MOORE'S ADDITION
VOL. 113, PG. 416

PARCEL NO. TWO
FIRST UNITED
METHODIST CHURCH
VOL. 941, PG. 89

TRACT II
FIRST UNITED
METHODIST CHURCH
VOL. 2378, PG. 215

TRACT I
FIRST UNITED
METHODIST CHURCH
VOL. 2378, PG. 215

EL DIVINO SALVADOR
METHODIST CHURCH
VOL. 993, PG. 631

FIRST UNITED
METHODIST CHURCH
VOL. 1551, PG. 43

FIRST UNITED
METHODIST CHURCH
VOL. 87, PG. 517

BLOCK 6
ORIGINAL TOWN OF TEMPLE
VOL. 36, PG. 640

FIRST UNITED
METHODIST CHURCH
VOL. 1459, PG. 815

BLOCK 7
ORIGINAL TOWN OF TEMPLE
VOL. 36, PG. 640

FIRST UNITED
METHODIST CHURCH
VOL. 941, PG. 200

FIRST UNITED
METHODIST CHURCH
VOL. 2991, PG. 62

FIRST UNITED
METHODIST CHURCH
VOL. 2354, PG. 296

FIRST UNITED
METHODIST CHURCH
VOL. 2433, PG. 533

FIRST UNITED
METHODIST CHURCH
VOL. 2871, PG. 727

ODIS LEROY ERVIN
VOL. 2840, PG. 283

⊙ DENOTES 3/4" METAL PIPE FOUND

▲ DENOTES CALCULATED POINT

ADAMS AVENUE
PUBLIC MAINTAINED ROADWAY

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1923 Central Zone. All distances are horizontal surface distances and all bearings are grid bearings. All coordinates are referenced to City Monument No. 46. The theta angle of City Monument No. 46 is 01°52'23". The combined correction factor (CCF) is 0.000045. Grid distance = Surface distance x CCF. Spheroidal north = Grid north + theta angle. Published City coordinates for City Monument No. 46 are N = 10,575,404.33 E = 5,223,943.70. Reference is from City Monument No. 46 to the southeast corner of said 1.660 acre tract is N 15°41'16" E, 77.27 feet.

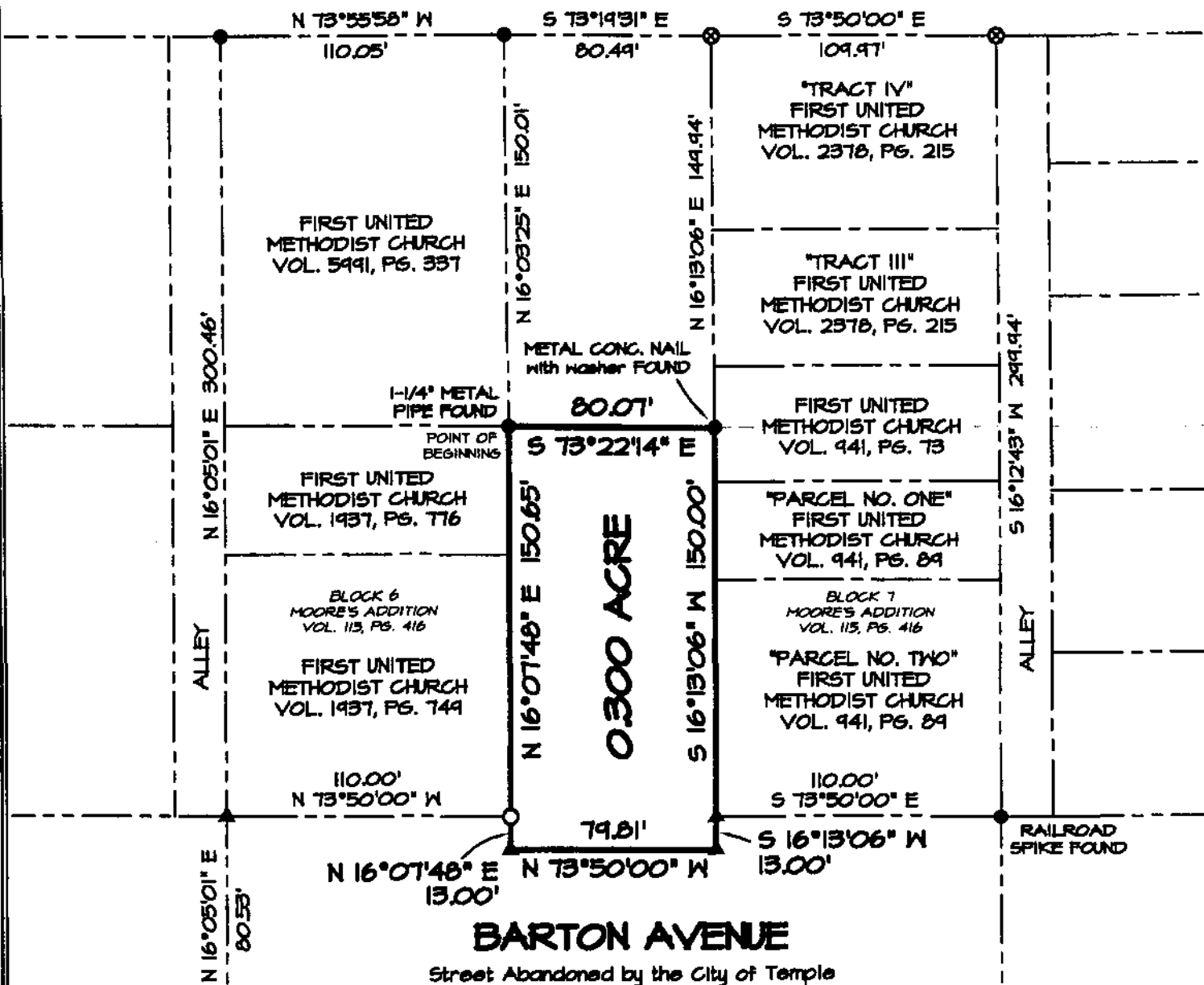
Surveyor's Sketch showing a 0.300 acre tract, being part of the
Maximo Moreno Survey, Abstract No. 14, Bell County, Texas.

This sketch is to accompany a metes and bounds description
of the herein shown 0.300 acre tract.



CALHOUN AVENUE

PUBLIC MAINTAINED ROADWAY



This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances and all bearings are grid bearings. All coordinates are referenced to City Monument No. 46. The theta angle at City Monument No. 46 is 01°32'31". The combined correction factor (CCF) is 0.999848. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for City Monument No. 46 are N = 10375,404.33 E = 3,233,343.70. Reference tie from City Monument No. 46 to the northwest corner of said 0.300 acre tract is N 08°32'29" E, 614.11 feet.

DENOTES 5/8" IRON ROD WITH

ORDINANCE NO. 2008-4265

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING PORTIONS OF EAST BARTON AVENUE AND NORTH SECOND STREET RIGHTS-OF-WAY FOR FIRST UNITED METHODIST CHURCH; RETAINING UTILITY EASEMENTS IN A PORTION OF THE ABANDONED RIGHTS-OF-WAY; 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, the City Council passed Ordinance No. 2005-4006 and Ordinance No. 2008-4231 for the purpose of abandoning portions of the right-of-way for North 2nd Street and East Barton Avenue at the request of the First United Methodist Church;

Whereas, it is necessary to correct errors in land descriptions in said ordinances;

Whereas, the previous ordinances retained public drainage and utility easements throughout the abandoned street rights-of-way, but the extent of easements may be decreased now in concert with approval of the Church's site plan and subdivision plat;

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 portions of the right-of-way of North Second Street and East Barton Avenue described by metes and bounds in the field notes and surveyor's drawing attached as Exhibit A to this ordinance.

Part 2: The City Council reserves a public utility easement for the installation, operation, maintenance, repair, use and replacement of public utilities, including but not limited to electric power, water, sewer, gas, and telecommunications, over the entire area abandoned for public street purposes, save and except the 0.300 acre tract described in the field notes and surveyor's drawing attached as Exhibit B to this ordinance.

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.

Part 4: As consideration for the conveyance described in Part 1 hereof, the abutting property owner shall pay \$50,153.30, the appraised fair market value.

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 **6th** day of **November**, 2008.

PASSED AND APPROVED on Second Reading the **20th** day of **November**, 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 _____, 2008,
by WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

11/06/08
Item #13
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one member to the Building & Standards Commission to fill an unexpired term through March 1, 2010.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Bishop John Tolbert has forfeited his position on the Building & Standards Commission due to non-attendance. This term expires March 1, 2010.

The Board summary form, which lists current board members, purpose, membership requirements, term and meeting time/place for the board is being provided in hard-copy form, as well as board applications received from those requesting service on these particular boards, and a summary listing of these applications.

FISCAL IMPACT: N/A

ATTACHMENTS:

Board Application Summary w/
Board Summary Forms – hard copy