



**MEETING OF THE  
TEMPLE CITY COUNCIL**

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

**THURSDAY, JANUARY 15, 2009**

**3:00 P.M.**

**3<sup>RD</sup> FLOOR CONFERENCE ROOM**

**WORKSHOP AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, January 15, 2009.

2. Discuss proposed locations for the new Fire Station No. 8.

Executive Session – Pursuant to Chapter 551, Government Code, §551.072 – Real Property – The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to the location of Fire Station No. 8, the public discussion of which would have a detrimental effect on negotiations with a third party.

3. Discuss ordinance relating to the submission of applications and permits under the state vested rights statute.
4. Discuss process for amending the City of Temple Charter and potential proposed amendments to the current City of Temple Charter.
5. Receive update regarding the Temple Medical Education District (TMED).

**5:00 P.M.**  
**CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**TEMPLE CITY COUNCIL**  
**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. 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.

**III. 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.

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

**Minutes:**

- (A) [December 18, 2008 Special Called Meeting and Regular Meeting](#)

**Contracts, Leases & Bids:**

- (B) [2009-5623-R](#): Consider adopting a resolution authorizing an out of scope contract with CH2MHill/OMI of Englewood, Colorado for replacement of the belt press feed pump #2 in the not to exceed amount of \$48,571.15.
- (C) [2009-5624-R](#): Consider adopting a resolution authorizing a construction contract with Excel Construction Services, LLC, of Leander, for the construction and installation of new chemical bulk tanks at the Membrane Water Treatment Plant in the amount of \$593,900.

- (D) [2009-5625-R](#): Consider adopting a resolution authorizing the purchase agreement with L3 Communications Mobile-Vision, Inc from Boonton, New Jersey for six (6) motorcycle based video recording systems in the amount of \$26,670.

#### **Misc.**

- (E) [2009-5626-R](#): Consider adopting a resolution supporting the TEX-21 2009 Legislative Agenda.
- (F) [2009-5627-R](#): Consider adopting a resolution accepting the 2007-2008 Risk Management Annual Report.
- (G) [2009-5628-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.

### **IV. REGULAR AGENDA**

#### **Ordinances**

4. [2009-4276](#): FIRST READING – PUBLIC HEARING - Z-FY-09-12: Consider adopting an ordinance authorizing the zoning change from Light Industrial District (LI) to Central Area District (CA) on the West 25 Feet of Lot 11, the East 25 Feet of the West 50 Feet of Lot 12, and 17, Block 34, Original Town, located at 11, 13 and 17 East Avenue B.
5. [2009-4277](#): FIRST READING – PUBLIC HEARING - Z-FY-09-06: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of beer and wine on Lot 11, Block 34 of Original Town Addition, located at 13 East Avenue B.
6. [2009-4278](#): FIRST READING – PUBLIC HEARING - Z-FY-09-07: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 62.87 ± acres of land out of the Maximo Moreno Survey, Abstract Number 14, located on the east side of South 5<sup>th</sup> Street, south of Echo Village Phase I and Echo Vista Subdivisions.
7. [2009-4279](#): FIRST READING – PUBLIC HEARING - Z-FY-09-08: Consider adopting an ordinance authorizing a Conditional Use Permit for a warehouse addition on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue.
8. [2009-4280](#): FIRST READING – PUBLIC HEARING - Z-FY-09-10: Consider adopting an ordinance authorizing the zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 95.6 ± acres of land being part of the John J. Simmons Survey, Abstract Number 737 and described as Windmill Farms Phases II & III.
9. [2009-4281](#): FIRST READING – PUBLIC HEARING – Z-FY-09-11: Consider adopting an ordinance authorizing the zoning change from Two Family District (2F) and Light Industrial District (LI) to Commercial District (C) on Lots 2 and 3, Block 13, Addition, located at 707 South 6<sup>th</sup> Street and 704 South Martin Luther King Jr. Drive.

## **Board Appointments**

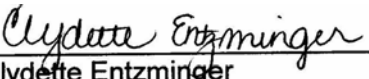
10. **2009-5629-R:** Consider adopting a resolution appointing members to the Killeen-Temple Urban Transportation Study Policy Board.

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

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 9:35 AM, on January 9, 2009.

  
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 \_\_\_\_\_ 2009. \_\_\_\_\_





## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #3(A)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) December 18, 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:**

[December 18, 2008 Special Called Meeting & Regular Meeting](#)

# TEMPLE CITY COUNCIL

**DECEMBER 18, 2008**

The City Council of the City of Temple, Texas Conducted a Special Meeting on Thursday, December 18, 2008 at 3:00 pm in the 3rd Floor Conference Room, 2 North Main Street.

**Present:**

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

**1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 18, 2008.**

The following items were discussed:

Item 4(M) - Councilmember Schneider stated Harry Macey would like to purchase this property as it adjoins his.

Ken Cicora, Director of Parks and Leisure Services, stated he is not interested in selling the property at this time. Also, the sale of park land requires voter approval. Mr. Cicora stated he would contact Mr. Macey to discuss.

Item 5 - Jonathan Graham, City Attorney, stated Doug Hill, Atmos Energy Corporation, has requested action on this item be tabled to allow their continued review of the proposed ordinance.

Item 6 - Mr. Graham stated several modifications are being proposed to this ordinance, which will be discussed in detail at the regular meeting. He did explain some of the requirements being proposed for homeowners installing their own irrigation systems.

Councilmember Schneider stated he felt all systems should be installed by licensed installers, without exception, since this affects the City's potable water supply.

Councilmember Jeter stated submission of an irrigation plan by a homeowner will not necessarily protect the water supply. It is the backflow prevention device that is important.

Councilmember Janczak stated he felt the City should not impose any more costs than normal on homeowners to comply with this unfunded mandate from the Texas Commission on Environmental Quality (TCEQ).

Item 7 - David Blackburn, City Manager, stated this item is the first appeal the City has received to the masonry ordinance adopted in April 2008. A revised proposal was received today from MW Builders and this will be presented during the regular meeting.

**2. Receive the preliminary engineering report for the Birdcreek Wastewater Interceptor Project.**

Nicole Torralva, Assistant Director of Public Works, provided the City Council with an overview of this project and why it is needed.

Mr. Drew Hardin, Jacobs Carter Burgess, presented an overview and results of the preliminary engineering study. He discussed the scope of the study, the capabilities of the Bird Creek Wastewater System to properly convey flows to the BRA Wastewater Treatment Plant, as well as recommended improvements including phasing and costs. This project included the evaluation of 5.3 miles of 15-30" interceptor, the BRA and Hickory lift stations, flow metering, field survey and inspection and hydraulic modeling. The conclusion of the study is that inflow entering the wastewater system is extremely high and the inflow sources are spread out fairly evenly across the basin. Mr. Hardin reviewed the capacity analysis based on both existing and future flows and the two lift stations, both of which cannot handle the flows.

The design criteria is for the ultimate build out of Bird Creek, which is expected in the next 10 to 20 years, Mr. Hardin stated. Another criteria is that there will be no reduction of inflow and infiltration as this does not help avoid any improvements. The interceptor will be designed to handle a 5-year, 1-hour design storm, which has received acceptance from TCEQ in the past.

Mr. Hardin continued with an explanation of the required interceptor improvements. Three routes were evaluated with the primary goals in selection being least cost, least community impact, least environmental impact and least project risk. Alternative A is being recommended because of the cost differential, it will allow for phasing, has limited direct impact and the indirect impacts are temporary. Final recommendations of the preliminary engineering study performed by Jacobs Carter Burgess are to begin the final design of the Bird Creek interceptor improvements immediately, develop and implement a public education/input plan, construct the interceptor in four phases and obtain easements for phases 2 and 3 while phase 1 is under construction.

**3. Discuss adoption of a local ordinance protecting the City by requiring the submission of complete applications under the state vested rights statute.**

Mayor Jones stated discussion of this item will be deferred to a future meeting.

**4. 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 Municipal Court Judge. No final action will be taken.**

Mayor Jones announced the City Council would enter into executive session at this time, approximately 4:00 p.m.

The regular work session was reconvened at approximately 5:00 p.m. with no action being taken.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, December 18, 2008 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

**Present:**

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

## **I. CALL TO ORDER**

### **1. Invocation**

Pastor Pat Dietrich, First Lutheran Church, voiced the Invocation.

### **2. Pledge of Allegiance**

Bell County Judge Jon Burrows led the Pledge of Allegiance.

## **II. PUBLIC COMMENTS**

There were no public comments.

## **III. PRESENTATION**

### **3. (A) Presentation to outgoing Parks Foundation members.**

Ken Cicora, Director of Parks and Leisure Services, discussed some of the projects undertaken by the Parks Foundation. Dr. Allen Einboden discussed the mission of the Temple Parks Foundation. He recognized outgoing members, Charlie Kimmey and Dr. Don Wilson, with a gift of gratitude from the Foundation and the community for their service.

**(B) Presentation by Jon Burrows, Bell County Judge, and Sharon Long, Tax Assessor/Collector, of Child Safety Funds collected in the amount of \$73,754.06.**

Bell County Judge Jon Burrows, Commissioner Eddy Lange, and Sharon Long presented the City of Temple with a check in the amount of \$73,754.06, which represents the City's share of Child Safety fees collected by the County during the year on the City's behalf.

## **IV. CONSENT AGENDA**

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

**(A) December 4, 2008 Special Called Meeting and Regular Meeting**

**(B) 2008-5604-R: Consider adopting a resolution authorizing continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$175,000.**

**(C) 2008-5605-R: Consider adopting a resolution authorizing Change Order #1 for the Temple Family Aquatics Center parks bond project construction contract with Chaney-Cox Construction, Inc. of Temple for the installation of a metal roof on the main bath house, replacing an asphalt shingle roof, and restroom partition upgrades in the amount of \$38,642.**

**(D) 2008-5606-R: Consider adopting a resolution authorizing Change Order #1 for the Summit expansion parks bond project construction contract with Chaney-Cox Construction, Inc. of Temple for the safety repairs to swimming pool drains at the Summit Swimming Pool, Summit Hot Tubs, Summit Tot Pool, Clark Swimming Pool and Walker Swimming Pool in the amount of \$33,600.**

**(E) 2008-5607-R: Consider adopting a resolution authorizing a construction contract with Austin Engineering Company, Inc., of Austin for construction activities required to build the sewer lines and 835' pressure plane water lines as part of the Expansion of West Temple Water & Wastewater Utilities North of FM 2305, Phases 1 & 2, in an amount not to exceed \$1,501,147.**

**(F) 2008-5608-R: Consider adopting a resolution authorizing a services agreement with BBI Tennis Group, Brit Coleman, for Tennis Pro services at the Summit Recreation Center in the annual amount of \$60,000, with the City of Temple earning 20% of total revenues and \$2 per tournament participant.**

**(G) 2008-5609-R: Consider adopting a resolution authorizing an agreement with Specialized Public Finance Inc. (SPFI) for financial advisory services.**

**(H) 2008-5610-R: Consider adopting a resolution authorizing the renewal of an interlocal agreement with the Temple Housing Authority for the use of offices and the hiring of officers for overtime patrol on and around Housing Authority property.**

**(I) 2008-5611-R: Consider adopting a resolution authorizing an agreement with the Texas State Library and Archives Commission for the Loan Star Libraries Grant in the amount of \$19,468.**

**(J) 2008-5612-R: Consider adopting a resolution authorizing the renewal of the Emergency Management Performance Grant (EMPG) for FY 2009 which funds a portion of the administration cost for Emergency Management for the City of Temple.**

**(K) 2008-5613-R: Consider adopting a resolution authorizing an upgrade of the City's Intergraph's I/LEADS Records Management Software (RMS) with Intergraph Public Safety in the amount of \$46,850.**

**(L) 2008-5614-R: Consider adopting a resolution authorizing the purchase of a 28.735 acre tract of land required for the runway extension grant project from Carl Grisham in the amount of \$459,760 with the City share being approximately \$75,532.**

**(M) 2008-5615-R: Consider adopting a resolution authorizing a farm lease with**

**Harry Macey for approximately 4 acres of land located on an unused corner of Lions Park, across Bird Creek to the southwest from the main part of the park.**

**(N) 2008-4272: SECOND READING - Z-FY-09-03: Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Two Family District (2F) on 15.6 ± acres of land situated partly in the R.M. Williamson Survey, Abstract No. 905 and partly in the George Givens Survey, Abstract No. 345, located along the north side of 205 Loop, east of Duke and Turley Drives.**

**(O) 2008-4274: SECOND READING - Z-FY-09-05: Consider adopting an ordinance authorizing a zoning change from Multiple Family Two District (MF-2) to Office One District (O-1) on the West 92 Feet of Lot 2, Block, Barnes Addition, located at 601 North Main Street.**

**(P) 2008-5616-R: Consider adopting a resolution abandoning an existing 10-foot wide utility easement located between Lots 1-3 and 7-9, Block 2, Southland Subdivision, at 2006 Veterans Memorial Drive/South 1st Street.**

**(Q) 2008-5617-R: Consider adopting a resolution accepting the annual Child Care Standards report from the Parks and Leisure Services Department.**

**(R) 2008-5618-R: Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone Number One for fiscal year 2007-2008.**

**(S) 2008-5619-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2008-2009.**

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

Motion passed unanimously.

## **V. REGULAR AGENDA**

### **5. 2008-4266: FOURTH READING - PUBLIC HEARING - Consider adopting an ordinance renewing the franchise agreement with Atmos Energy Corporation.**

Jonathan Graham, City Attorney, presented this item to the City Council. He asked that the public hearing be conducted, left open and action on this item tabled to the next meeting to allow additional review time by Atmos. If approved by the Council at the January 15, 2009 Council meeting, the franchise ordinance would be retroactive to January 1, 2009.

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

Doug Hill, Atmos Energy Corporation, addressed the Council. He expressed his appreciation for their working relationship with Mr. Graham and respectfully requested

action on the franchise ordinance be tabled at this time.

There being no further comments, Mayor Jones stated the public hearing would remain open until this item is considered again.

Motion by Mayor Pro Tem Patsy E. Luna to table ordinance on fourth reading, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**6. 2008-4275: SECOND READING - Consider adopting an ordinance amending Chapter 7, "Buildings," of the Code of Ordinances, to add Landscape Irrigation Ordinance as Article VII consistent with ordinance language complying with Texas Commission on Environmental Quality requirements and City of Temple water protection goals.**

Jonathan Graham, City Attorney, presented this item to the City Council. He stated meetings have been held with stakeholders, irrigation installers and TABA since the first reading of this ordinance. Staff has also consulted with TCEQ personnel and attended a meeting in Killeen with TCEQ representatives.

Robin Houston, Deputy City Attorney, stated this ordinance is mandated by state law and TCEQ regulations. She reviewed a few areas discussed with stakeholders including installation of irrigation systems by homeowners and what those requirements should be. The recommended ordinance requires homeowners to get a permit and submit a system plan, although this is not required by TCEQ. A landscape irrigator, installer, or landscape technician must connect the backflow prevention device. Mrs. Houston read the suggested language to be added to Section 7-101 regarding exemptions.

Next, Mrs. Houston discussed Section 7-103, backflow prevention. She explained approved devices, and compared RPZs to double-check valves. RPZs are recommended because they allow water to drain out of the bottom of the assembly and not into the potable water system. The RPZs cost about \$100 more per system and are more visible as they are above ground.

Nicole Torralva, Assistant Director of Public Works, addressed the issue of water pressure as it relates to RPZs. She explained that RPZs require more water pressure than double check valve assemblies. One solution would be to increase the meter size to 1" (from 5/8" and 3/4"). This is a policy decision for the Council to decide whether the City will waive the costs associated with resizing meters for existing systems.

Mrs. Houston continued by discussing the inspections and fees. The recommendation is to charge \$25 for irrigation permits, an increase from the current \$5.00 fee. Any fees would be approved by resolution of the City Council in the future. She recommended a combination of self reporting and spot check inspections. Mrs. Houston also explained the recommendations regarding upgrading requirements and what would trigger an upgrade. She summarized the suggested changes to the proposed ordinance, including the optional language relating to homeowner installations.

Ms. Torralva explained self reporting is now in effect but spot inspections could be done. Staff can continue to work out these details with the stakeholders.

Councilmember Schneider stated we are talking about the City's potable water. He felt the City should require a licensed irrigator to install all systems in Temple. That would be less complicated than what is being proposed.

Councilmember Jeter stated homeowners already have the right to do electrical, plumbing, and other work on their homes. A right of the homeowner should not be taken away as long as the backflow prevention device is required to be installed by a licensed person.

Councilmember Janczak stated the tap is coming off the main. He asked if they were all the same size.

Ms. Torralva stated they are usually 3/4", 1" for irrigation systems, and 2" for commercial. Homeowners can have separate systems for irrigation alone.

Eric Wright, Public Works Department, addressed the Council's questions regarding irrigation plans that must be submitted by a licensed irrigation installer.

Councilmember Jeter stated the goal should be to insure water quality on the irrigation system. We can address other issues as they arise.

Mayor Jones asked for public comments regarding this item.

Tony Gallagher, Heart of Texas Landscape, addressed the City Council. He agreed with the need to protect the water supply. There are pros and cons with everything. Hopefully, the new devices coming out will be better than what currently exist.

Ms. Torralva and Mr. Wright showed both the double check valve and the RPZ, explaining the differences between the two.

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

Motion by Councilmember Tony Jeter to adopt ordinance on second and final reading, as recommended by staff, including homeowner exemptions in Section 7-101, seconded by Mayor Pro Tem Patsy E. Luna.

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

7. **2008-5620-R: Consider adopting a resolution regarding an appeal from MW Builders for an exception to Section 13-300, "Masonry Standards", City of Temple Zoning Ordinance, regarding the 70% masonry requirement for the future MW Builders Office Building at 1701 North General Bruce Drive.**

Tim Dolan, Planning Director, presented this item to the City Council. This is the first appeal the City has received since the adoption of the masonry ordinance on April 17, 2008. This proposed facility is located on a strategic corridor, IH-35, in which the



ordinance applies. Mr. Dolan discussed the ordinance requirements, the administrator's proposal, MW Builder's initial proposal and their revised proposal, which increased the percentage of masonry being proposed. Mr. Dolan presented the building elevations for each proposal. He presented the options that are being presented for consideration. Mr. Dolan also discussed the criteria the Council should consider when approving exceptions to the masonry standards.

Councilmember Jeter asked about the timeframe of this project. He asked why the plan was developed when it did not meet the masonry standards.

Tim Chadwick, President of MW Builders, addressed the Council. He provided some background information about his firm. Tanya Mikeska, Architectural Edge, showed the plans she designed for this building, which began about one year ago. Mr. Chadwick stated he is reluctant to purchase the property from Mr. Goolsby unless they can continue to grow in this location. They are not interested in building the other elevations being proposed. The proposed building design looks professional and meets the intent of the masonry ordinance. There is no additional cost to replace the metal with EFIS. The EFIS will fade in 5 years and is susceptible to moisture. Metal has a longer life and warranty.

Ms. Mikeska stated they were aware during the design process that they would need to request an exception to the masonry ordinance. Their reason for continuing with the proposed design is they feel they have a superior product.

Councilmember Jeter stated the Council anticipated appeals when the ordinance was adopted. This is a good looking building that has been designed and he agreed with the Mayor's comments that it would be a shame to cover it up with landscaping.

Ms. Mikeska stated they have followed the exception process that was established in the ordinance and they feel they have met the intent of the ordinance. This is a conventionally framed facility, not pre-engineered.

Councilmember Schneider asked if the Council can make a determination about what can be built on the back of the property.

Mr. Graham replied it cannot be discussed tonight under the item that is posted on this agenda.

Mr. Dolan stated staff can look at the eastern end of property. It may or may not require Council action in the future.

Mr. Blackburn asked if the masonry ordinance even has application to the back of the property. He agreed a decision on the back of the property should not be considered tonight.

Mayor Jones stated this area along I-35 is likely to be included in an overlay district. He asked if the standards will be raised even higher regarding aesthetics in this area.

Mr. Dolan replied yes, the standards could be higher in some areas.

Motion by Councilmember Tony Jeter to adopt resolution, allowing requested exceptions of 59% on front and rear elevations to meet minimum

standards, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**8. 2008-5621-R: Consider adopting a resolution designating the Chair of the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors for 2009.**

Mayor Jones stated state law requires the Council to appoint the Chair of this board in December each year for the upcoming calendar year. Perry Cloud has served as the Chair since 2005 and because of that, he also serves on the TEDC Board. Mr. Cloud's term on the Reinvestment Zone No. 1 Board of Directors expires September 1, 2009 and he will not be eligible for reappointment to that board.

Motion by Councilmember Tony Jeter to adopt resolution reappointing Perry Cloud as Chair of the Reinvestment Zone No. 1 Board of Directors, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**9. 2008-5622-R: Consider adopting a resolution nominating one person to serve as a Community Director on the Ida Olliffe Foundation for Animal Care.**

Mayor Jones stated Lou Ann Anderson has been serving as a community director on the Ida Olliffe Foundation Board of Directors. Her term has expired but she desires to be reappointed at this time.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution nominating Lou Ann Anderson as a community director on the Ida Olliffe Foundation for Animal Care, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #3(B)  
Consent Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an out of scope contract with CH2MHill/OMI of Englewood, Colorado for replacement of the belt press feed pump #2 in the not to exceed amount of \$48,571.15.

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

**ITEM SUMMARY:** Major upgrades of the Doshier Wastewater Treatment Plant were completed in 1994. Since that time, only minor maintenance has occurred at the facility. The plant utilizes two existing belt press feed pumps which supply chemical to the belt press for pressing sludge. Last fall, the belt press feed pump #1 was replaced utilizing project savings from other recent wastewater treatment projects. The second feed pump has been non operational since last summer and also requires replacement.

CH2MHill/OMI (contract operators of the Doshier WWTP facility) have prepared the attached out of scope letter proposal to replace this second feed pump. Without replacement of this second pump, no backup is available. Specific information for tasks to be performed related to replacement of the pump is described in detail in the attached documentation.

Per the existing operational contract with OMI, Article 2.8.1 (Financing) states that when requested by the City, OMI shall finance capital improvement projects relating to Doshier WWTP that have been requested or authorized by the City, subject to mutually agreeable terms and conditions of repayment. Additionally, Article 2.9 (Incidental Services) states that OMI shall perform other services that are incidental to the performance by OMI of the services required as directed by the City at OMI's cost plus not more than 15%. Public Works staff recommends that this work be performed utilizing the services of CH2MHill through the attached out of scope contract proposal.

**FISCAL IMPACT:** Funding in the amount of \$120,000 is currently appropriated in account 520-5500-535-6310, Project # 100457 for completion of this work. This contract includes all professional and construction fees associated with the project.

**ATTACHMENTS:**

[OMI Proposal](#)  
[Resolution](#)



CH2M HILL OMI  
9193 S. Jamaica Street  
Suite 400  
Englewood, CO 80112  
P.O. Box 6607  
Englewood, CO 80155  
Tel 303.740.0019  
Fax 303.740.7061

10/22/2008

Mrs. Nicole Torralva, P.E.  
City of Temple  
3210 East Ave H, Bldg A  
Temple, Texas 76501

Subject: Out-of-Scope Letter Agreement

Dear Mrs. Torralva,

CH2M HILL OMI is pleased to present you pricing for the replacement of the Belt Press feed pump #2 to identically match the pump recently installed by us for pump #1. This is dependant upon council approval.

What is being provided:

**Double Disc Pump:**

- (1) 6 – inch Double Disc Pump, Model # 6DDSX76, side motor mount build with 15 HP, 1200 rpm Baldor Premium Efficient, Severe Duty, Inverter Ready Electric Motor
- Suction and Discharge Pulsation Dampeners
- 304SS Pump Frame, Belt and Pulley Cover and Drive Guard
- Belt and Pulley System to achieve 300 RPM Pump Speed
- Model PVP420PS Pressure Guage Switch Assembly in 316SS
- Model PVP420VS, Vacuum Guage Switch Assembly in 316SS
- Red Epoxy on pump exterior
- Electrical will be piped new to the pump with demolition of the old controls
- Mounting, wiring and programming of VFD
- Two year warranty on material and workmanship
- Freight to jobsite

When it is being provided: *All work to be completed by contract year end (September 30, 2009).*

Price of services: *According to article 2.9 Incidental Services, OMI shall perform other services required that are incidental to the performance by OMI of the services required by this Article as directed by City. Such services will be invoiced to City at OMI's cost plus not more than fifteen percent.*

Estimate of Costs: *\$48,571.15*

Payment terms:

*According to Article 5.2 Other Payments, All other compensation to OMI is due on receipt of OMI's invoice and payable within thirty days.*

All other terms and conditions of the Agreement dated September 30<sup>th</sup>, 2004 between OMI and the City of Temple remains in full force and effect.

If these terms are agreeable to you, please sign both copies of this letter. We will return one fully executed original for your files.

CH2M HILL OMI appreciates the opportunity to provide these additional services to the City of Temple.

Sincerely,

*Christopher S. Parker*  
CH2M HILL OMI Project Manager

Both parties indicate their approval of the above described services by their signature below.

Authorized CH2M HILL OMI:

Authorized City of Temple:

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN OUT OF SCOPE CONTRACT WITH CH2M HILL/OMI OF ENGLEWOOD, COLORADO, FOR REPLACEMENT OF THE BELT PRESS FEED PUMP #2 AT THE DOSHIER FARM WASTEWATER TREATMENT PLANT IN AN AMOUNT NOT TO EXCEED \$48,571.15; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Doshier Wastewater Treatment Plant utilizes two existing belt press feed pumps which supply chemical to the belt press for pressing sludge – last fall, the belt press pump #1 was replaced utilizing project savings from other recent wastewater treatment projects, but the second feed pump has been non-operational since last summer and also requires replacement;

**Whereas**, CH2M Hill/OMI, the contract operators at the Doshier Farm Wastewater Treatment Plant, have submitted a proposal to replace belt press feed pump #2 at the facility since no backup is available;

**Whereas**, the Staff recommends approval of an out of scope contract with OMI for an amount not to exceed \$48,571.15;

**Whereas**, funds are available for this project in Account No. 520-5500-535-6310, Project #100457; 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 an out of scope contract with CH2M Hill/OMI of Englewood, Colorado, after approval as to form by the City Attorney, for replacement of the belt press feed pump #2 at the Doshier Farm Wastewater Treatment Plant, for a cost not to exceed \$48,571.15.

**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 15<sup>th</sup> day of **January**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

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

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Excel Construction Services, LLC, of Leander, for the construction and installation of new chemical bulk tanks at the Membrane Water Treatment Plant in the amount of \$593,900.

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

**ITEM SUMMARY:** In October, 2007, a professional services agreement with KPA was executed for engineering and design services required to determine the cause of and offer solutions to current solids handling problems associated with the Membrane Water Treatment Plant (MWTP). Since the MWTP was placed into operation in 2004, raw water changes in the Leon River have adversely affected the MWTP's ability to produce the plant's rated capacity of 11.6 MGD. The changes in raw water quality have altered the type and increased the amount of sediment removed during the treatment process.

During fall 2008, KPA (in cooperation with their sub-consultant Carollo Engineers) completed the preliminary design phase of this project which included developing recommendations for restoring the MWTP to its original capacity. It was determined that the capacity problems are due to a build up of inorganic matter on the membrane surface which has not allowed the current cleaning sequence (recommended by the membrane manufacturer during the treatment plant design process) to effectively clean the membrane.

On January 6, 2009, three bids were received for the first phase of the project. This construction contract will expand the existing bulk chemical storage tanks and pumping units at the MWTP to allow for the proper implementation of a strong clean in place (CIP) sequence. Per the attached bid tabulation, Excel Construction Services, LLC, submitted the low bid in the amount of \$593,900. KPA's opinion of probable construction cost for the project was approximately \$431,000.

The third lowest bidder, Matous Construction, is located in Temple. Their bid exceeds the low bid amount by \$21,100 (\$615,000) which is 3.6% higher than the low bid.

Consistent with administrative policy, staff is recommending award of the project to the lowest responsible bidder meeting specifications, Excel Construction in the amount of \$593,900.

Also consistent with administrative policy, the City Council has the ability to award the work to a local contractor if the bid is within 5% of the low bid through the local preference legislation adopted by the State of Texas and the City of Temple.

**FISCAL IMPACT:** Funding in the amount of \$3,665,000 is designated in account 561-5100-535-6921, project #100229 for this project from the 2006 & 2008 Utility Revenue Bond Issues. After funding engineering related services in the amount of \$607,188 from the 2006 Utility Revenue Bonds, other miscellaneous costs including the purchase of module units in the amount of \$6,166 and this construction contract in the amount of \$593,900 a balance of \$2,457,746 remains available to complete this project.

**ATTACHMENTS:**

[Engineer's Letter of Recommendation](#)  
[Bid Tabulation](#)  
[Resolution](#)



**KASBERG, PATRICK & ASSOCIATES, LP**

CONSULTING ENGINEERS

mail@kpaengineers.com

RICK N. KASBERG, P.E.

R. DAVID PATRICK, P.E., C.F.M.

THOMAS D. VALLE, P.E.

Temple  
One South Main Street  
Temple, Texas 76501  
(254) 773-3731

Georgetown  
3613 Williams Drive, Suite 406  
Georgetown, Texas 78628  
(512) 819-9478

January 6, 2009

Mrs. Nicole Torralva, P.E.  
Assistant Director of Public Works - Operations  
3210 E. Avenue H  
Building A  
Temple, Texas 76501

Re: City of Temple, Texas  
Membrane Water Treatment Plant  
Chemical Clean-In-Place Modifications

Dear Mrs. Torralva:

On January 6, 2009, the City of Temple received competitive bids from three (3) qualified contractors for the referenced project. A Bid Tabulation is provided for your reference.

The attached Bid Tabulation shows Excel Construction Services, LLC of Leander, Texas as the low bidder with a total project bid of \$593,900.00. Our Opinion of Probable Cost (OPC) for this project was \$431,000. The difference between our OPC and the actual bids can be found predominantly in the bid items for the peristaltic pumps, fiberglass tanks and electrical work. Our OPC was based off of verbal and written budget quotes from suppliers and general installation costs experienced on past similar projects. However, as we conveyed in previous discussions with you and noted in our OPC breakdown, we had concerns that actual bids could be significantly higher due to the specialized nature of this project.

We have reviewed Excel Construction Services, LLC's bid, current work load, similar projects and spoken with engineers for whom they have constructed projects. Therefore, we recommend that a contract in the amount of \$593,900.00 be awarded to Excel Construction Services, LLC for this project.

Sincerely,

Thomas D. Valle, P.E.

TDV/

xc: Ms. Belinda Mattke, City of Temple (1 copy with Original Bid Documents)  
2007-135-41

# BID TABULATION

2007-135-40

## MEMBRANE WATER TREATMENT PLANT - CHEMICAL C.I.P. MODIFICATIONS

January 6, 2009; 10 AM  
3210 E Ave H, Bldg C, Temple TX 76501

BIDDER INFORMATION									
Excel Construction Services, LLC 1202 Leander Drive Leander, TX 78641		Bryan Construction Company Box 4087 Bryan, TX 77805		Matous Construction 8602 North Hwy 317 Belton, TX 76513					
Item No.	Estimated Quantity	Unit	Bid Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
1	100%	LS	Mobilization, Bonds & Insurance, not-to-exceed 5% of the Bid Amount	\$ 27,000.00	\$ 27,000.00	\$ 25,200.00	\$ 25,200.00	\$ 30,000.00	\$ 30,000.00
2	100%	LS	Furnish & Install Six (6) Peristaltic Pumps, including 1" tubing, adaptors, suction piping from Bulk Storage Tanks, Calibration Assemblies, one (1) Concrete Housekeeping Pad & 36" x 11'-6" Fiberglass Surface & Legs	141,900.00	141,900.00	112,700.00	112,700.00	120,000.00	120,000.00
3	100%	LS	Furnish & Install Four (4) Chemical Storage Tanks, including Concrete Housekeeping Pads, Removable Pipe Bollards, Fiberglass Grating & associated Instrumentation	165,000.00	165,000.00	202,500.00	202,500.00	180,000.00	180,000.00
4	100%	LS	Furnish & Install Water Softener, including Housekeeping Pad, Drain Lines & associated Piping between Units	29,000.00	29,000.00	30,400.00	30,400.00	35,000.00	35,000.00
5	100%	LS	Furnish & Install Interconnect Piping, including valves, actuators, air piping, pipe supports, wall cores, heat tracing, miscellaneous items shown on the plans (not specifically listed here) & removal of existing piping/pipe supports & hangers that are no longer required	40,000.00	40,000.00	66,200.00	66,200.00	60,000.00	60,000.00
6	100%	LS	For Electrical, Instrumentation Modifications as shown on the Electrical Sheets, including addition of Modicon I/O modules, programming City of Temple PLC's & making configuration changes to HMI database by T. Morales Company to accommodate the new bulk storage work & Controls work required to integrate the proposed improvements into the existing PLC ; & coordination with Pall Corporation to modify PLC for proposed CIP process	115,000.00	115,000.00	101,400.00	101,400.00	114,000.00	114,000.00
7	100%	LS	An Allowance (to be paid based on submitted invoices) for Programming to update existing PLC & Graphic Screens to the modified CIP sequence & orientation & I/O Modifications to the existing CIP Panel, to be completed by Pall Corporation personnel	75,000.00	75,000.00	75,000.00	75,000.00	75,000.00	75,000.00
8	100%	LS	Provide Project Record Drawings (As Builts)	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00	1,000.00
TOTAL BID AMOUNT (ITEMS 1-8)					\$ 593,900.00	\$ 614,400.00	\$ 615,000.00		

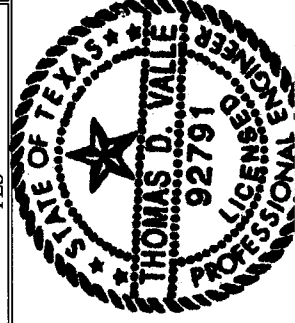
Did Bidder Acknowledge Addenda No. 1?	YES	YES	YES
Did Bidder Acknowledge Addenda No. 2?	YES	YES	YES
Did Bidder provide Bid Security?	YES	YES	YES

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

*Thomas D. Valle*

Thomas D. Valle, P.E.  
Kasberg, Patrick & Associates, LP

January 6, 2009  
Date



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH EXCEL CONSTRUCTION SERVICES, LLC, OF LEANDER, TEXAS, FOR THE CONSTRUCTION AND INSTALLATION OF NEW CHEMICAL BULK TANKS AT THE MEMBRANE WATER TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED \$593,900; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on January 6, 2009, the City received 3 bids for the first phase of the construction and installation of new chemical bulk tanks at the Membrane Water Treatment Plant;

**Whereas**, the Staff recommends accepting the bid (\$593,900) from Excel Construction Services, LLC, of Leander, Texas, for this project;

**Whereas**, funds are available for this project in Account No. 561-5100-535-6921, Project #100229; 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 construction contract, in an amount not to exceed \$593,900, with Excel Construction Services, LLC, of Leander, Texas, after approval as to form by the City Attorney, for the first phase of the construction and installation of new chemical bulk tanks at the Membrane Water Treatment Plant.

**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 15<sup>th</sup> day of **January**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #3(D)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Gary O. Smith, Chief of Police

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase agreement with L3 Communications Mobile-Vision, Inc from Boonton, New Jersey for six (6) motorcycle based video recording systems in the amount of \$26,670.

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

**ITEM SUMMARY:** The Police Department is asking for authorization to purchase six (6) motorcycle video recording systems to meet the requirements of the Law Enforcement Policy on Racial Profiling, Article 2.132 in the Code of Criminal Procedures. These video recording systems will also aide in gathering evidence for the prosecution of violators.

Over the past several months, the traffic enforcement unit has researched several different manufacturers of video cameras for police motorcycles and identified only three companies that have systems made for police motorcycles: Kustom Signals, ICOP, and L3 Communications. The video systems are unique as they must be waterproof.

In working with the three identified companies, the traffic enforcement unit learned that Kustom Signal's system is still in the research and development stage and learned that the ICOP system must be kept in a saddle bag instead of being installed on the cycle for efficient use. The L3 Communications unit had all of the features desired by the traffic enforcement unit: weatherproof, removable flash based memory, and controls that can be mounted on the console of each motorcycle.

Per a letter provided by L3 Communications, their products are only sourced through their corporate office. Accordingly, this purchase is being recommended as a single source purchase.

**FISCAL IMPACT:** Funds in the amount \$24,564 are designated for this purchase in account 110-2000-521-2211, Instruments/Special Equipment. Sufficient funds are available to cover the balance of this purchase from other line item designations in this same account.

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 6 MOTORCYCLE BASED VIDEO RECORDING SYSTEMS FROM L3 COMMUNICATIONS MOBILE-VISION, INC., OF BOONTON, NEW JERSEY, IN THE AMOUNT OF \$26,670; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** the Police Department needs to purchase 6 motorcycle based video recording systems in order to meet the requirements of the Law Enforcement Policy on Racial Profiling, Article 2.132 in the Code of Criminal Procedures;

**Whereas,** the L3 Communications Mobile-Vision, Inc., has the only waterproof system available – accordingly, this purchase is deemed a single source as allowed under Local Government Code 252.022;

**Whereas,** the purchase price for the video systems is \$26,670, and funds are available for this purchase in Account 110-2000-521-2211; 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 purchase of 6 motorcycle based video recording systems from L3 Communications Mobile-Vision, Inc., of Boonton, New Jersey, for a cost not to exceed \$26,670.

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

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

PASSED AND APPROVED this the 15<sup>th</sup> day of **January**, 2009.



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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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Item #3(E)  
Consent Agenda  
Page 1 of 1

### **DEPT./DIVISION SUBMISSION & REVIEW:**

D. Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution supporting the TEX-21 2009 Legislative Agenda.

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

**ITEM SUMMARY:** The City of Temple is a member of TEX-21, a non-profit group comprised of Texas cities, counties, trade association and resource agencies whose purpose is to improve multi-modal transportation opportunities for the State and Nation.

TEX-21 is comprised of four standing committees: Federal, State, Regional and Local, and Transit. Each year TEX-21 adopts a series of resolutions or 'position statements' that, collectively, form the legislative agenda for the organization. Members then use these resolutions and/or position statements to help our elected representatives know where the membership stands with regard to the matter or item addressed in the resolution. TEX-21's 2009 Federal and State legislative package is attached.

TEX-21 is asking its membership to formally adopt a resolution supporting their legislative agenda.

**FISCAL IMPACT:** No direct impact. The City of Temple is a member of TEX-21 and membership dues are budgeted on an annual basis (FY 2008-09 dues are \$10,000).

### **ATTACHMENTS:**

[TEX-21 Legislative Program  
Resolution](#)

# TEX-21 LEGISLATIVE PROGRAM

## DECEMBER 11, 2008

TEX-21 is a non-profit group comprised of Texas cities, counties, trade associations, and resource agencies whose purpose is to improve multi-modal transportation opportunities for the State and Nation. Improving transportation infrastructure is one of the most essential factors in keeping the overall economy moving, and it is essential that various levels of government appropriately invest in improving all aspects of multi-modal transportation. TEX-21 has attempted to put together a Legislative program that is cognizant of the urban and rural issues as well as the overall economic environment that the country and state are currently facing. The overriding principal for our State and Federal elected officials is to ensure that the multi-modal transportation systems are funded sufficiently and that the various levels of government take their respective lead roles in accomplishing that task. TEX-21 is comprised of four standing committees: Federal, State, Regional & Local, and Transit. The following is the adopted program to be presented to our State and Federal elected officials and trade associations for their consideration.

### **FEDERAL**

#### OVERALL PRINCIPLES

1. Strengthen working relationships with members, trade associations, and the TEX-21 Congressional Caucus to analyze, study, and provide solutions to the State's infrastructure needs.
2. Establish a National Multi-modal Transportation Infrastructure Needs Assessment Commission, comprised of appointed representatives from the Legislative Branch and Executive Branch, as well as select members of the private sector to regularly assess the needs of the nation's transportation infrastructure.
3. Ensure that the multi-modal transportation system is adequately funded. It is essential that the federal government take the lead role in funding multi-modal transportation needs to accommodate the rising population and increased movement of people, freight and goods.

#### HIGHWAYS AND BRIDGES

1. Pursue new and expand existing revenue sources for multi-modal transportation including the Federal Motor Fuels Tax, tolling, and the use of technology to more appropriately assess fees to users.
2. Index federal motor fuel tax to federal CPI beginning in 2010.
3. Pursue an increase of Texas' return of Federal Motor Fuels Tax to a minimum of 95%.

## TRANSIT

1. Encourage improved multi-modal connectivity to transit systems and airport systems.
2. Support initiatives that mitigate highway congestion by incorporating bus rapid transit (BRT) corridors into the highway projects.
3. Encourage streamlining of New Starts and Small Starts application procedures.

## FREIGHT RAIL

1. Support the creation of a National Freight Trust Fund that will provide a stable, sustainable revenue source for the expansion and rehabilitation of the nation's freight movement infrastructure.
2. Pursue federal money to be allocated to the Texas Rail Relocation and Improvement Fund to aid the efficient movement of rail and passenger traffic through and within Texas.
3. Support additional funding of quiet zoning for freight rail.
4. Pursue federal funding to improve or eliminate the most critical at-grade rail crossings.

## PASSENGER RAIL

1. Support initiatives to mitigate congestion through the development of high speed rail, defined as intercity passenger rail capable of speeds in excess of 200 mph.
2. Support measures that supply sufficient funding to increase the capacity, efficiency, and accessibility to passenger rail service.
3. Support additional funding of quiet zoning for passenger rail.

## AVIATION

1. Support the expedited reauthorization of the FAA.
2. Support the Essential Air Service Program and the Small Community Air Service Program.
3. Support for the timely adoption of measures that will modernize and fully fund the air traffic control system.

## PORTS

1. Pursue initiatives that would facilitate greater velocity and throughput of goods and passengers through and near ports.
2. Ensure effective and cooperative implementation of federal port security programs while minimizing the impact to the flow of commerce.
3. Support adequate federal appropriations for operation and maintenance dredging of Texas ports through the U.S. Army Corps of Engineers.

## OTHER

1. Increase the number of Customs and Border Protection (CBP) and U.S. Department of Agriculture (USDA) officers in Texas to increase security and efficiency.
2. Support increased federal investment in multi-modal transportation infrastructure to encourage job creation and positive economic growth.

## **STATE**

### OVERALL PRINCIPLES

1. Strengthen working relationships with members, trade associations, and the Legislative Caucus to analyze, study, and provide solutions to the state's infrastructure needs.
2. Create a Center for Strategic Multi-modal Transportation Solutions housed at the Texas Transportation Institute, College Station, Texas whose objective is to analyze current and future multi-modal transportation problems, identify best practices and potential solutions, and assist in the formulation of long-range, strategic multi-modal transportation alternatives.
3. Urge the Legislature to ensure that all current sources of transportation revenue are being used fully, appropriately, and efficiently before considering any additional taxes or user fees.
4. Ensure that the multi-modal transportation system is adequately funded. It is essential to ensure that sufficient revenue is generated and allocated to address the State's growing transportation needs to encourage positive economic growth, replace aging infrastructure, prepare for a rising population, and the increased efficiency of movement of freight and goods.

### HIGHWAYS AND BRIDGES

1. Pursue ending or reducing diversions, starting with funding DPS out of general revenues and not transportation revenues.
2. Pursue the issuance of the full amount of debt already authorized by the State of Texas.
3. Support indexing of the State Motor Fuels Tax to the State CPI, but not to exceed 5% annually.
4. Pursue the establishment of reasonable standards for private investment that allow public-private partnerships for transportation infrastructure projects at the discretion of local communities.
5. Support increasing the State Motor Fuels Tax to fund additional roads as an alternative to the construction of additional toll roads.

## TRANSIT

1. Support transit exemption for transit buses and related transit equipment from motor fuel tax.
2. Monitor legislation that empowers metropolitan regions to enact a local option transportation tax with voter approval.
3. Support initiatives that mitigate highway congestion by incorporating bus rapid transit (BRT) corridors into the highway projects.

## FREIGHT RAIL

1. Pursue appropriation of funds to the Texas Rail Relocation and Improvement Fund.
2. Support the allocation of State funding to improve or eliminate the most critical at-grade rail crossings.
3. Support funding of quiet zoning for freight rail.

## PASSENGER RAIL

1. Support measures that supply sufficient funding to increase the capacity, efficiency, and accessibility to passenger rail service.
2. Support additional funding for quiet zoning for passenger rail.
3. Monitor the State's role in complying in federal high speed rail initiatives.

## AVIATION

1. Support using a portion of existing sales tax revenues to match incoming federal revenues that will go into a Texas Airport Revenue Fund.

## PORTS

1. Pursue initiatives that would facilitate greater velocity and throughput of goods and passengers through and near ports.
2. Support measures that will provide for the improvement of port safety and security.
3. Ensure connectivity of seaports with major land transportation corridors.

# **REGIONAL & LOCAL**

## OVERALL PRINCIPLES

1. Strengthen working relationships with members, trade associations, and both the TEX-21 Congressional and Legislative Caucuses in order to better analyze, study, and provide solutions to the states infrastructure needs.

2. Create a Center for Strategic Multi-modal Transportation Solutions housed at the Texas Transportation Institute, College Station, Texas whose objective is to analyze current and future multi-modal transportation problems, identify best practices and potential solutions, and assist in the formulation of long-range, strategic multi-modal transportation alternatives.
3. Ensure that the multi-modal transportation system is adequately funded. It is essential to ensure that sufficient revenue is generated and allocated to address the State's growing transportation needs to encourage positive economic growth, replace aging infrastructure, prepare for a rising population, and the increased efficiency of movement of freight and goods.

## FREIGHT RAIL

1. Support funding of quiet zoning for railroads
2. Support allocation of State funding to improve or eliminate the most critical at-grade rail crossings.
3. Pursue appropriations of funds to the Texas Rail Relocation & Improvement Fund.

## PASSENGER RAIL

1. Support regional rail initiatives.
2. Support measures that supply sufficient funding to increase the capacity, efficiency, and accessibility to passenger rail service.
3. Support funding for quiet zoning for railroads.

## OTHER PRIORITIES

1. Appropriate to the Texas Emissions Reduction Plan Program, all funds collected for TERP, including those funds designated for program administration, verification, air quality research, and technology development, and authorize their use for improving air quality in nonattainment and affected counties.

# **TRANSIT**

## OVERALL PRINCIPLES

1. Strengthen working relationships with members, trade associations, and both the TEX-21 Congressional and Legislative Caucuses in order to better analyze, study, and provide solutions to the states infrastructure needs.
2. Establish a National Multi-modal Transportation Infrastructure Needs Assessment Commission, comprised of appointed representatives from the Legislative Branch and Executive Branch, as well as select members of the

private sector to regularly assess the needs of the nation's multi-modal transportation infrastructure.

3. Ensure that the multi-modal transportation system is adequately funded. It is essential to ensure that sufficient revenue is generated and allocated to address the State's growing transportation needs to encourage positive economic growth, replace aging infrastructure, prepare for a rising population, and the increased efficiency of movement of freight and goods.
4. Create a Center for Strategic Multi-modal Transportation Solutions housed at the Texas Transportation Institute, College Station, Texas whose objective is to analyze current and future multi-modal transportation problems, identify best practices and potential solutions, and assist in the formulation of long-range, strategic multi-modal transportation alternatives.

### FREIGHT RAIL

1. Support funding of quiet zoning for railroads.
2. Pursue federal funding to improve or eliminate the most critical at-grade rail crossings.

### PASSENGER RAIL

1. Support transit exemption for transit buses and related transit equipment from motor fuel tax.
2. Monitor legislation to empower metropolitan regions to enact a local option transportation tax with voter approval.
3. Support regional rail initiatives.
4. Support increased funding for transit.



## SENATOR CARONA'S PROPOSED TRANSPORTATION LEGISLATIVE PRIORITIES

1. End or reduce diversions, starting with funding DPS out of general revenue, not transportation revenues. (in RTC, NTTA & TRTC package)
2. Issue the full amount of debt already authorized.
3. Index the motor fuels tax. Cap at less than or equal to 5% annually. (in RTC & NTTA package)
4. Develop reasonable standards for private investment that allows PPPs for infrastructure at the discretion of local communities. (in RTC package)
5. Support a consensus funding mechanism for regional rail transit implementations
6. Appropriate funds for the Rail Relocation and Improvement Fund (in RTC package)
7. Consider raising the motor fuels tax as an alternative to more toll roads

## DART State Legislative Agenda For the 81<sup>st</sup> Session of the Texas Legislature

### ACTIVELY PURSUE:

- Amend Chapter 452 of the Texas Transportation Code to allow DART to pledge its sales and use taxes and other revenues, such as farebox revenues, as a first pledge to pay back bonds. The statute currently only allows DART to issue “junior” or “subordinate” lien pledges for bonds.
- Amend Chapter 452 to provide DART the statutory authority to charge differential rates for parking.

### WORK WITH OTHER METROPOLITAN TRANSIT AUTHORITIES TO:

- Exempt Transportation Authorities from the payment of the state motor fuels tax.

### ACTIVELY MONITOR:

- Legislation filed relating to the Regional transportation Council’s “Rail North Texas” initiative toward achieving a possible menu of funding options to expand passenger rail service in the region.



STATE OF TEXAS

DAVID DEWHURST  
LIEUTENANT GOVERNOR  
P.O. Box 12068  
Austin, Texas 78711-2068  
(512) 463-0001

RICK PERRY  
GOVERNOR  
P.O. Box 12428  
Austin, Texas 78711-2428  
(512) 463-2000

TOM CRADDICK  
SPEAKER OF THE HOUSE  
P.O. Box 2910  
Austin, Texas 78768-2910  
(512) 463-3000

August 19, 2008

Ms. Deirdre Delisi  
Chairman  
Texas Transportation Commission  
125 East 11<sup>th</sup> Street  
Austin, Texas 78701

Dear Chairman Delisi:

As you are well aware, our state faces significant transportation funding challenges. Due to a variety of factors including the steady population growth of our state, inflation in the construction industry, rescissions in the federal highway funding program, and the Texas Mobility Fund reaching its bond capacity, our ability to fund needed transportation projects in the future is limited.

Recognizing this, we, as the elected leadership of this state, have been in a consistent dialogue to identify solutions to these ongoing challenges. We have agreed to work together to implement the following solutions in the 81<sup>st</sup> Legislative Session:

- Implement a plan that sets a definitive course to end the practice of funding the Department of Public Safety (DPS) with gas taxes that are needed for road construction, and return to funding the DPS with general revenue.
- Create a Transportation Finance Corporation or similar entity that will allow public Texas-based investment funds to invest directly in Texas transportation projects that offer a potential solid long-term return.
- Pass authorizing legislation and appropriation for the Proposition 12 bonds approved by voters in the November 2007 constitutional election.

We believe these measures to be a good start to addressing the long-term challenges of financing a world-class transportation system. However, we believe the ten-year priority needs assessment you are working on will show that more is needed, and we intend to keep working toward consensus on additional solutions to further ensure that this state and its communities have access to the necessary funding tools to meet our transportation needs.


Additionally, we believe that immediate funds are needed and strongly urge you to take advantage of the Proposition 14 highway fund bonding authority approved by voters in 2003 and increased by the legislature in 2007. The immediate sale of up to \$1.5 billion in voter and statutorily authorized Proposition 14 bonds will ensure that greater road funding levels are maintained through the fall and spring until we can work with other elected officials to provide additional solutions. Please prepare your staff for an August 29 Bond Review Board Meeting and September sale of Proposition 14 bonds.

Sincerely,

Handwritten signature of Rick Perry in black ink.

Rick Perry  
Governor

David Dewhurst  
Lieutenant Governor

Handwritten signature of Tom Craddick in black ink.

Tom Craddick  
Speaker of the House

cc: The Honorable Steve Odgen  
The Honorable John Carona  
The Honorable Warren Chisum  
The Honorable Mike Krusee

## transportation Legislative Program – 81<sup>st</sup> Texas Legislature

Below is a copy of the legislative policy positions of the RTC and the NTTA. While there is considerable commonality, some work remains to achieve consistency. We don't want to go to Austin in January with North Texas transportation interest groups advocating against one another. We need to be on the same page if we want to succeed.

### DRAFT Regional Multi-modal transportation Council Legislative Program for the 81<sup>st</sup> Texas Legislature

#### Legislation to Actively Pursue

1. Support the Rail North Texas initiative to provide options to fund regional commuter rail. Authorize metropolitan regions to enact a local option transportation tax with voter approval for roadways and transit. Advancing passenger rail continues to be the primary focus of the legislative program.
2. Address the transportation funding crisis:
  - Constitutionally protect all revenues in Fund 006 for roadway maintenance and capacity improvements;
  - Discontinue the diversion of transportation resources;
  - Increase and index transportation taxes, such as the motor fuels tax;
  - Provide funding for the Proposition 12 General Obligation bonds; and,
  - Reallocate highway user fee revenues from the General Revenue Fund to the Texas Mobility Fund.
3. Capitalize the Rail Relocation Improvement Fund.
4. Revise provisions of SB 792:
  - Create a regional option to replace the market valuation process.
    - This option will allow for a regional system of toll road and managed lane projects and provide for the local toll authority and TxDOT to jointly agree to project allocation.
    - If they do not agree, the Metropolitan Planning Organization would recommend the appropriate agency for finance and construction.
    - That agency would have 180 days to accept or reject the project.
    - This approach is consistent with the schedule requirements in the Metropolitan transportation Plan and Air Quality Conformity.
  - Provide for revenue sharing agreements when public toll road authorities construct toll projects, rather than requiring an upfront payment. Revenue should be sent to the Metropolitan Planning Organization.

- Continue to allow private-sector Comprehensive Development Agreements with upfront payments. These initiatives could be implemented by TxDOT or the local toll authority. Payments made by the private sector should be sent to the Metropolitan Planning Organization.
- Revise section 366.409(b), Texas transportation Code, to distribute funds received through Comprehensive Development Agreements procured by the local toll authority to the Metropolitan Planning Organization.
- Oppose primacy and replace with the policy outlined above and discussed in the footnote.<sup>1</sup>

## NTTA Legislative Goals for the 81<sup>st</sup> Texas Legislature Adopted August 20, 2008

### 1. LOCAL PRIMACY AND DEVELOPMENT AND FINANCE AUTHORITY

- SB 792, passed in the 2007 legislative session, established a framework for local toll authorities and TxDOT to allocate, and undertake the development of, toll projects. This framework, among other things, gave the local toll authorities the first option to develop a proposed toll project in their respective service areas, and specifically granted the NTTA additional contracting and procurement authority. Consider legislative amendments consistent with this framework to maintain and, as appropriate, enhance the development, financing, procurement, and contracting authority granted to the NTTA during the 80<sup>th</sup> Texas Legislature.
- Consider modifying statutory provisions relating to the issuance of bonds or other obligations for the financing of toll projects to provide for a maximum maturity of 50 years.

### 2. MARKET VALUATION ALTERNATIVES AND REVISIONS

- Evaluate possible alternatives to improve the existing market valuation process.

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<sup>1</sup> Background and Context.

In 1991, the federal funding process radically changed with the implementation of the Intermodal Surface transportation Efficiency Act (ISTEA). In this process, Congress increased the project funding responsibility of Metropolitan Planning Organizations (MPO) and argued that State monopolies in transportation decision-making restrained innovation. Since that time, "competition" has led to innovative partnerships between MPOs and State Departments of transportation leading to freeway management, Intelligent transportation Systems, innovative finance, management and operations, high occupancy vehicle lanes and managed lanes to name a few. This has evolved in North Central Texas to involve transportation authorities, cities and counties in off-system construction leading to a federated project delivery system, reducing the implications of inflation on project delivery. More projects are being built sooner, at a lower cost, in a coordinated partnership.

Now the State is reviewing the best approach to deliver toll road projects. "Primacy" for the toll provider seems inconsistent with this recent success. Requiring the State Department of transportation and toll providers to coordinate project delivery, creating a federated approach, reducing the time implication of inflation seems in the customers' best interests. Maintaining the local toll provider as the toll collection entity and requiring partnerships for decisions in project delivery should lead to more projects being built sooner. "Primacy" unchecked leads to county specific toll providers or inefficient methods of project delivery.

Congress required a collaborative process between MPOs and State DOTs. The Texas Legislature should require the same for toll providers. Maximizing the public sector's ability to build projects through bonding capacity, revenue sharing, and private sector upfront concession payments should be explored at the same time. The approach that delivers multi-model investments sooner should be chosen. An integrated partnership is better than "primacy."

- In any such alternative process, consider features that:
  - o Eliminate any existing statutory or other provisions that favor a full-concession CDA model over the public-sector finance model;
  - o In order to avoid unnecessary delay, allow a local toll authority to advance the environmental clearance and other project development tasks for a proposed toll project within its service area prior to the determination of whether it or another entity will be the ultimate developer;
  - o Allow local toll authorities the use of state right-of-way and access to the state highway system in the development of their projects; and
  - o Clarify the allocation of funding responsibilities for project development costs, such as mainlane (local toll authority) and interchange (TxDOT) costs.

### 3. MANDATORY TOLL OPERATIONS AND ADMINISTRATION

- Consider modifying the statutory requirement that the NTTA provide toll operations to all developers of toll projects in its service area so as to authorize performance collateral that, unlike a letter of credit, neither diminishes payments to the region nor the NTTA's capacity to undertake future projects.
- To facilitate the enforcement of toll violations and better harmonize the varying statutory enforcement processes provided the different Texas toll authorities, consider legislative amendments to (i) specifically enable the NTTA to utilize the most-favorable enforcement features in state law and (ii) establish an administrative court process to supplement the current overtaxed justice of the peace process.
- To (i) reconcile the inconsistent conflicts of interest laws, drawn from varying sources at different times, currently applicable to the NTTA board of directors and (ii) better administer those rules to ensure compliance, simplify, harmonize, and make those conflicts provisions consistent with state law requirements applicable to other governmental entities in the transportation field.

### 4. TRANSPORTATION FUNDING

- Support additional legislative funding for TxDOT and transportation projects through the indexing of the motor fuels tax.
- Support statutory authority that would prohibit the diversion of transportation funds to non-transportation purposes.
- Support legislative amendments that expedite the distribution of transportation funding to this region generated by the approximately \$730 million SH 121 accelerated annual

payments made by the NTTA, as well as similar upfront and contract payments and “surplus revenue” to be expended in this region.

#### Highways, Constitutions and Trips Behind Enemy Lines

State government's top three officials say they'll work to take state police funding out of the gasoline tax account that's also used to pay for highways and other roads, that they'll create a transportation finance operation allowing state investment funds to help finance highways, and that they'll put highway bonds approved by voters into the state budget. That's all in a letter to the transportation Commission, and it includes instructions to get ready to sell \$1.5 billion in bonds also approved by voters to get some money into the highway pipeline. The signatures at the bottom of that letter belong to Gov. Rick Perry, Lt. Gov. David Dewhurst and House Speaker Tom Craddick.

### *DALLAS MORNING NEWS ARTICLE*

#### *TRANSPORTATION*

*12:00 AM CDT on Monday, October 6, 2008*

By MICHAEL A. LINDENBERGER / The Dallas Morning News

State transportation officials are poised to issue billions of dollars in debt to help speed road construction, a move that will keep Dallas-area projects on schedule for now but will do little to shore up the state's long-term road-funding crisis.

The Texas Department of transportation will likely begin issuing \$1.5 billion in bonds within 60 days, pending the recovery of the nation's upended credit markets, and is taking steps to borrow another \$6.4 billion over the next few years.

Historic turmoil in the credit markets is already costing the department hundreds of thousands of dollars in extra interest payments each week on some of its smaller loans, and any efforts to borrow much more will be complicated – and likely delayed – if the markets do not improve.

Credit worries aside, the decision to borrow billions enables TxDOT to end months of hand-wringing over whether it will have the money to complete projects local officials throughout Texas have been depending on. Late last year, the agency announced it was going broke and would have to delay some of those projects.

The new borrowing will allow the state to keep projects on schedule. But the big debt will do nothing to reduce the state's long-term shortage of road funds and could make paying for future projects more difficult as interest costs grow.

"Borrowing money does have the benefit of building projects faster," said Michael Morris, North Central Texas Council of Governments' transportation director. "Borrowing money does nothing for building more projects [in the long term]. Some people will be confused that building projects faster solves the problem, but it doesn't address the total funding need."



Mr. Morris says North Texas' transportation needs are \$50 billion ahead of expected tax revenues between now and 2030. Some critics call those numbers too pessimistic, but everyone agrees that the number is big. Conservative estimates have said statewide needs will outpace funding by \$50 billion to \$60 billion.

Meeting last week in Austin, Texas transportation Commission members said the bond program won't fix a basically busted system – and could make things worse if the Legislature doesn't eventually provide new tax funds.

"The system for funding TxDOT is fatally flawed," said Ned Holmes of Houston, one of five members of the Texas transportation Commission that runs the department.

### A political problem

Few leaders in Austin disagree with Mr. Holmes.

But while lawmakers, the governor and TxDOT all seem to agree Texas needs more money for roads, consensus on a solution beyond more borrowing has proven devilishly difficult to reach.

One camp argues that of course TxDOT is going broke, given that state gasoline taxes have remained flat since 1991, at 20 cents per gallon. However, efforts to raise the tax rate have been dead in the water for years.

"As far as the gas tax goes, there is simply no appetite in the Legislature for that. None at all," said Allison Castle, press secretary for Gov. Rick Perry, said. "To make a real difference, you'd have to raise it 50 to 55 cents per gallon. Raising it a nickel or two would be just giving false hope."

But even simply indexing the 20-cent-per-gallon rate to inflation would have a huge impact over time, said Senate transportation Chairman John Carona, R-Dallas. He said he is going to press for that this session.

"If we had had the courage to do that two years ago, we'd be in a substantially better place already," Mr. Carona said.

### Tolls

For the past five years, the governor has pushed instead to build more toll roads and then to borrow heavily against future revenue.

"Toll roads are fair, as they are essentially user fees, and drivers can decide whether to use them or not," said his spokeswoman.

Opposition to tolls, especially private toll roads, was a powerful force during the 2007 session, and even lawmakers who say some tolls are helpful also argue that Mr. Perry has pushed too hard for tolls.

"We have 15 major highways proposed in Dallas-Fort Worth, and all 15 are planned as toll roads," Mr. Carona said. "In that situation, you can no longer say tolls are an option for motorists. If they are all built, you won't be able to drive anywhere in Dallas without using a toll road."

Mr. Holmes, too, acknowledged the governor and the agency under former chairman Ric Williamson had been too focused on tolls as the solution.

"They came up with a solution that did not require TxDOT to go to the Legislature to ask for new funds," he said. "But tolling was never going to work by itself."

### Ready to borrow

For now, the only solution lawmakers and the governor have agreed on is to borrow another \$8 billion.

It's not a new direction. From 2002 to 2007, the department first went on a borrowing spree – and then a building spree, much to the delight of traffic-clogged regions like North Texas. In those years, the department spent as much as \$5 billion a year in construction contracts.

But by 2007 TxDOT had spent the money and was left with flat revenues, rising costs and hefty interest payments. TxDOT says it has about \$2.5 billion in tax money to spend on major road contracts annually, about half what it was spending in recent years. It also warns that soaring maintenance costs could soon eat up as much as \$2 billion a year.

"We're fast going to be at a place where we simply have to tell the locals, we're out of the business of building new roads," said Commissioner Ted Houghton of El Paso.

To delay that, TxDOT is ready to borrow again. But those new dollars will only delay, not solve, the department's long-term funding crisis.

More time may be what TxDOT needs most of all, said Mr. Holmes, who reluctantly supported the new borrowing.

"It's going to take some time – this next session, the next one and maybe one more after that – before we reach a real solution," he said.

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TEMPLE, TEXAS, SUPPORTING THE TEX-21 2009 LEGISLATIVE  
AGENDA; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** Transportation Excellence for the 21<sup>st</sup> Century (TEX-21) is a statewide coalition of cities, counties, private businesses, and other interested groups, collectively representing almost 70 percent of the population of the State of Texas and organized as a private not for profit corporation in Texas;

**Whereas,** additional funding is urgently needed for investment in transportation infrastructure to reduce urban roadway congestion, to improve highway safety, and to provide, maintain and expand Texas' transportation system;

**Whereas,** good public policy dictates that elected and appointed officials reach a consensus and adopt a policy agenda to ensure for an adequate and equitable funding strategy;

**Whereas,** TEX-21 Committees have researched appropriate policy changes and needs for local, regional, and state concerns and developed a legislative agenda that will serve the purpose of TEX-21 to improvement transportation in Texas; 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 unanimously supports the adoption of the Legislative agenda for the 81<sup>st</sup> Texas Legislative Session.

**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 15<sup>th</sup> day of **January**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #3(F)  
Consent Agenda  
Page 1 of 1

**DEPT./DIVISION SUBMISSION & REVIEW:**

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution accepting the 2007-2008 Risk Management Annual Report.

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

**ITEM SUMMARY:** The 2007-2008 (10-01-07 through 09-30-08) Risk Management Annual Report discusses the City's Risk Management Program; breaks down the total numbers of claims, accidents, and employee injuries, and reviews the City's premiums for insurance coverage.

**FISCAL IMPACT:** None.

**ATTACHMENTS:**

Risk Management 2007-08 Annual Report – Hard Copy  
[Resolution](#)

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ACCEPTING THE FY2007-2008 RISK MANAGEMENT ANNUAL REPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the FY2007-2008 Risk Management Annual Report (10-01-07 through 09-30-08) breaks down the total number of claims, accidents, and employee injuries, and reviews the City's premiums for insurance coverage;

**Whereas**, the report needs to be accepted by the City Council; 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 accepts the FY2007-2008 Risk Management Annual Report, substantially in the form of the copy attached as Exhibit A.

**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 15<sup>th</sup> day of **January**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #3(G)  
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 \$37,558.

**ATTACHMENTS:**

Budget amendments  
Resolution

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**January 15, 2009**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
110-2000-521-2211		Instruments/Special Equipment (Police Dept)	\$ 13,475	
110-0000-313-0330		<b>State Seized Funds</b>		<b>\$ 13,475</b>
<p>Use State Seized Funds to purchase 21 radars. There is a state bid, #2008-124.  Total costs for all radars will be \$24,675. \$11,200 was already budgeted in FY 2009.</p>				
110-2000-521-2136		Public Safety Expenditures (Police Dept)	\$ 14,152	
110-0000-313-0331		<b>Reserve for Public Safety</b>		<b>\$ 14,152</b>
<p>Appropriate funds for purchases from the CPR Anytime Project fund. Funds have been donated to the Public Safety Advisory Board to cover some of the costs and the units will be sold to the public for \$15-\$20 each to cover the remaining costs of the units. The initial purchase was for 840 individual CPR units. This purchase will be for 660 individual CPR units. The Public Safety Advisory Board set a goal of 1,500 units. This purchase will allow them to meet their goal.</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 1,103	
110-1500-515-6531		<b>Contingency - Judgments &amp; Damages</b>		<b>\$ 1,103</b>
<p>Attorney fees for lawsuit filed against the City by Leah Martinson</p>				
110-4000-555-2225		Books & Periodicals (Library)	\$ 3,000	
110-0000-314-1917		<b>Reserved for Library</b>		<b>\$ 3,000</b>
<p>Purchase history books with MacGregor Trust funds</p>				
351-0000-461-0841		Donations/Gifts (PALS - CIP)	\$ 5,828	
351-3500-552-2324	350009	Repair & Maintenance - Parks Deferred Maintenance		\$ 5,828
<p>Anticipated donation from Keep Temple Beautiful (KTB) for trees and seeding will not be received. KTB performed the work directly and will not need to reimburse the City for these cost. This budget adjustment reduces the expenditure accordingly.</p>				
<b>TOTAL AMENDMENTS</b>			<b>\$ 37,558</b>	<b>\$ 37,558</b>
<b>GENERAL FUND</b>				
Beginning <b>Contingency</b> Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning <b>Judgments &amp; Damages</b> Contingency			\$	70,000
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	(19,454)
Net Balance of Judgments & Damages Contingency Account			\$	50,546
Beginning <b>SAFER Grant Match</b> 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



**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**January 15, 2009**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
		Beginning <b>Compensation</b> Contingency	\$	184,700
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	184,700
		<b>Net Balance Council Contingency</b>	\$	<b>282,067</b>
		Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		<b>WATER &amp; SEWER FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	174,121
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(3,000)
		Net Balance of Contingency Account	\$	171,121
		Beginning <b>Compensation</b> Contingency	\$	34,334
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	34,334
		Beginning <b>Approach Mains</b> Contingency	\$	500,000
		Added to Approach Mains Contingency	\$	-
		Taken From Approach Mains Contingency	\$	(11,730)
		Net Balance of Approach Mains Contingency Account	\$	488,270
		Beginning <b>T-BRSS Future Plant Expansion</b> 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
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	\$	<b>1,143,725</b>
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	75,221
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	75,221
		Beginning <b>Compensation</b> Contingency	\$	5,401
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	5,401
		<b>Net Balance Hotel/Motel Tax Fund Contingency</b>	\$	<b>80,622</b>
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		Beginning <b>Compensation</b> Contingency	\$	4,631
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	-
		Net Balance of Compensation Contingency Account	\$	4,631
		<b>Net Balance Drainage Fund Contingency</b>	\$	<b>4,631</b>

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2009 BUDGET**  
**January 15, 2009**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	7,962
		Carry forward from Prior Year	\$	99,254
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	<b>\$</b>	<b>107,216</b>

**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.**

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**Whereas**, on the 28<sup>th</sup> 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 15<sup>th</sup> day of **January**, 2009.

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

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01/15/09  
Item #4  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-12: Consider adopting an ordinance authorizing the zoning change from Light Industrial District (LI) to Central Area District (CA) on the West 25 Feet of Lot 11, the East 25 Feet of the West 50 Feet of Lot 12, and 17, Block 34, Original Town, located at 11, 13 and 17 East Avenue B.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its January 5, 2009 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zoning change from LI to CA 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 property.

Commissioners Barton and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-12, from the Planning and Zoning Commission meeting, January 5, 2009. The applicant's request is for a zoning change to accommodate a beer and wine bar in downtown Temple and to bring the applied area into compliance with the Comprehensive Plan.

At its December 2, 2008 meeting, the Planning and Zoning Commission heard and unanimously approved the applicant's request for a Conditional Use Permit (CUP) for the beer and wine bar that is proposed to be established on the subject property (see staff report for case Z-FY-09-06). However, further research from Staff revealed that when the applicant applies for a building permit for the bar, he will be required to provide off-street parking in the ratio of one space per three seats, making it difficult since the building containing the proposed bar takes up the entire lot.

The applicant chose to apply for a zoning change to the CA zoning district, which has mutual benefit both to him and to the City. The CA zoning district benefits the applicant because the Zoning Ordinance exempts this zoning district from off-street parking requirements. It benefits the City

because the granting of the rezoning would remove the LI, Light Industrial, zoning designation from the subject property, thus removing potentially incompatible industrial uses from the downtown area.

The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Aerial](#)

[Zoning Map](#)

[Land Use and Character Map](#)

[Notice Map](#)

[P&Z Staff Report \(Z-FY-09-12\)](#)

[P&Z Minutes \(January 5, 2009\)](#)

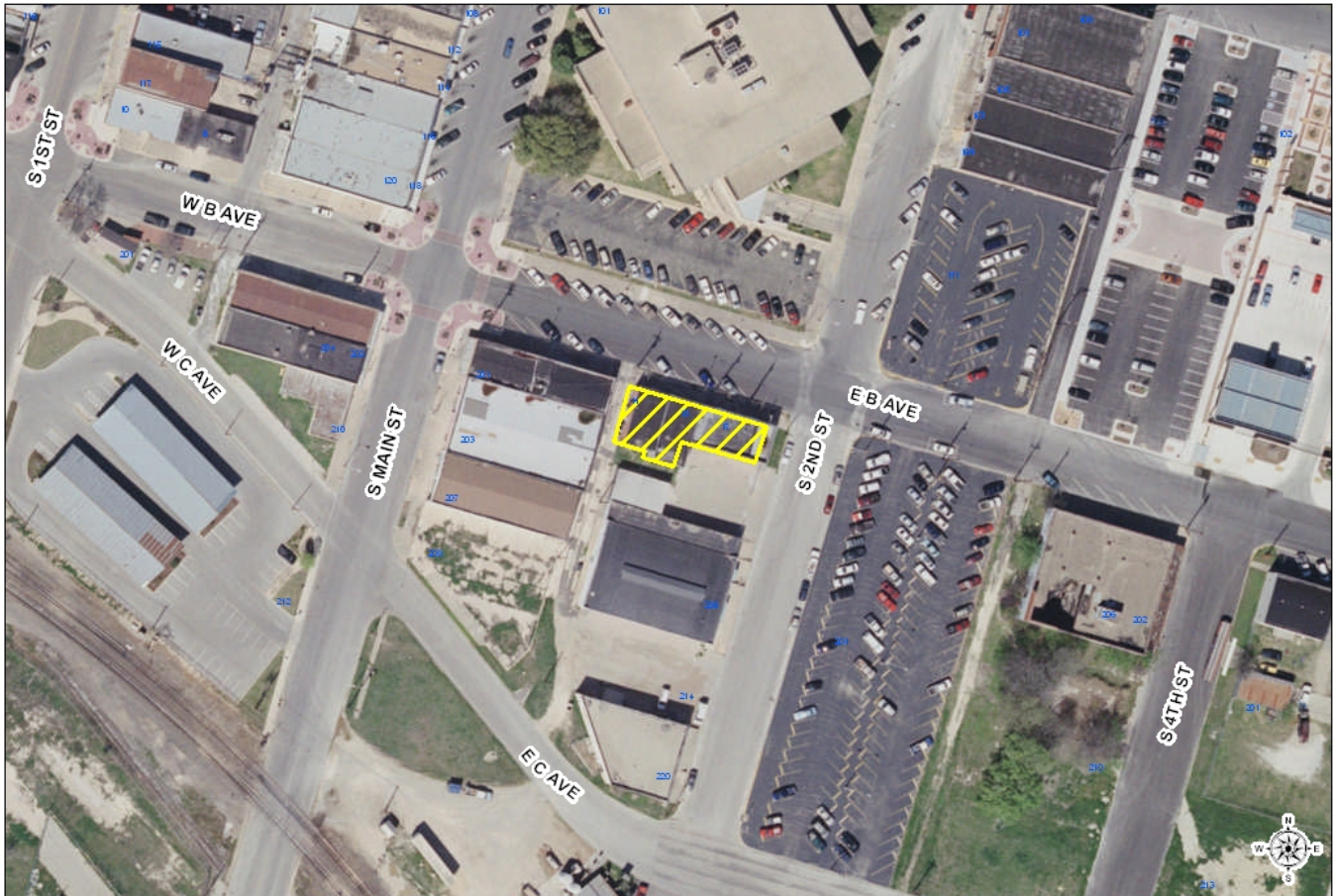
[Ordinance](#)




**Z-FY-09-12**

Part of Lot 11 & 12, Blk 34, Original Town

11 through 17 E Ave B



 Area of Proposed Zoning

LI to CA

1 inch = 100 feet  
J Stone 12.15.08

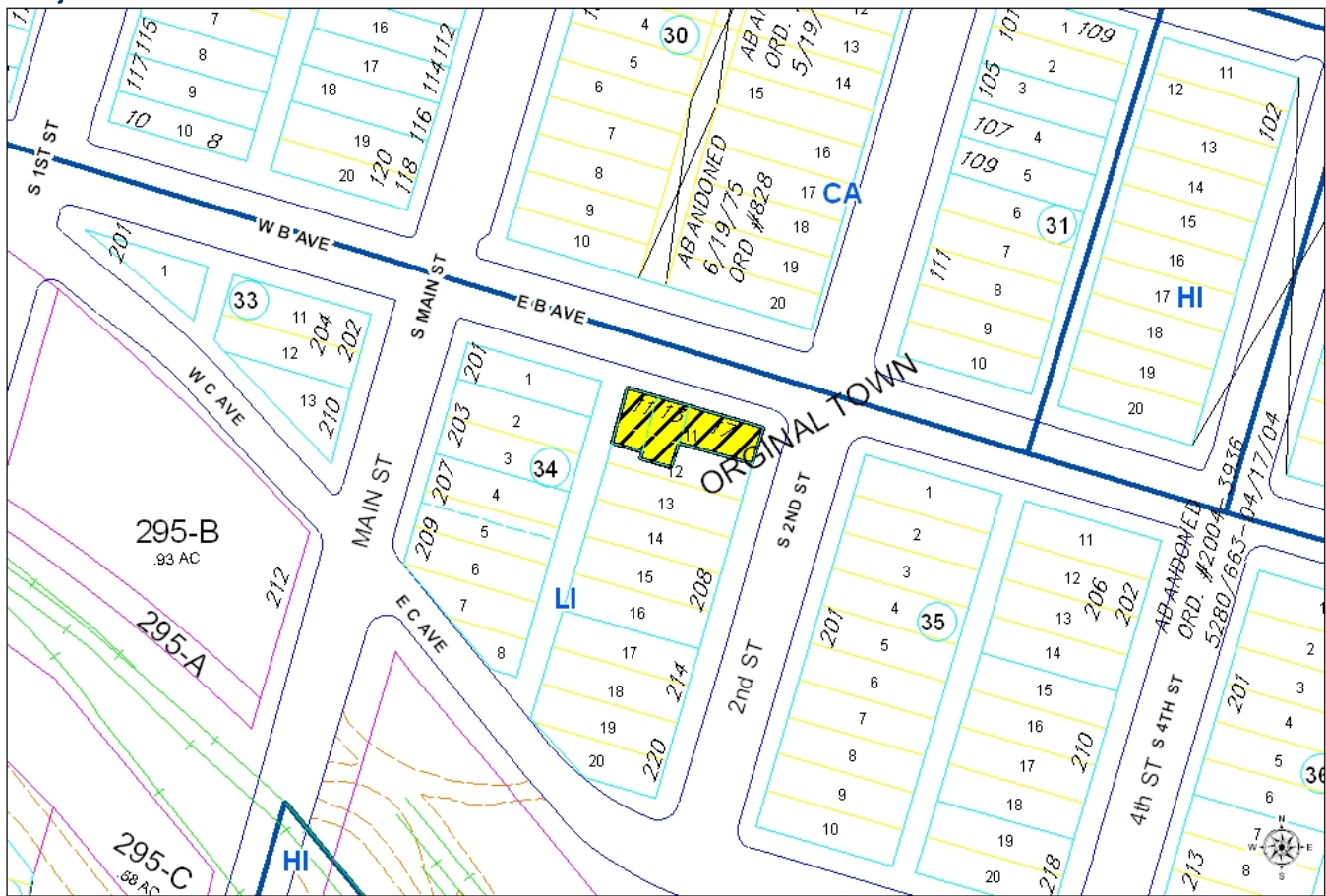




**Z-FY-09-12**

Part of Lot 11 & 12, Blk 34, Original Town

11 through 17 E Ave B



Area of Proposed Zoning

LI to CA

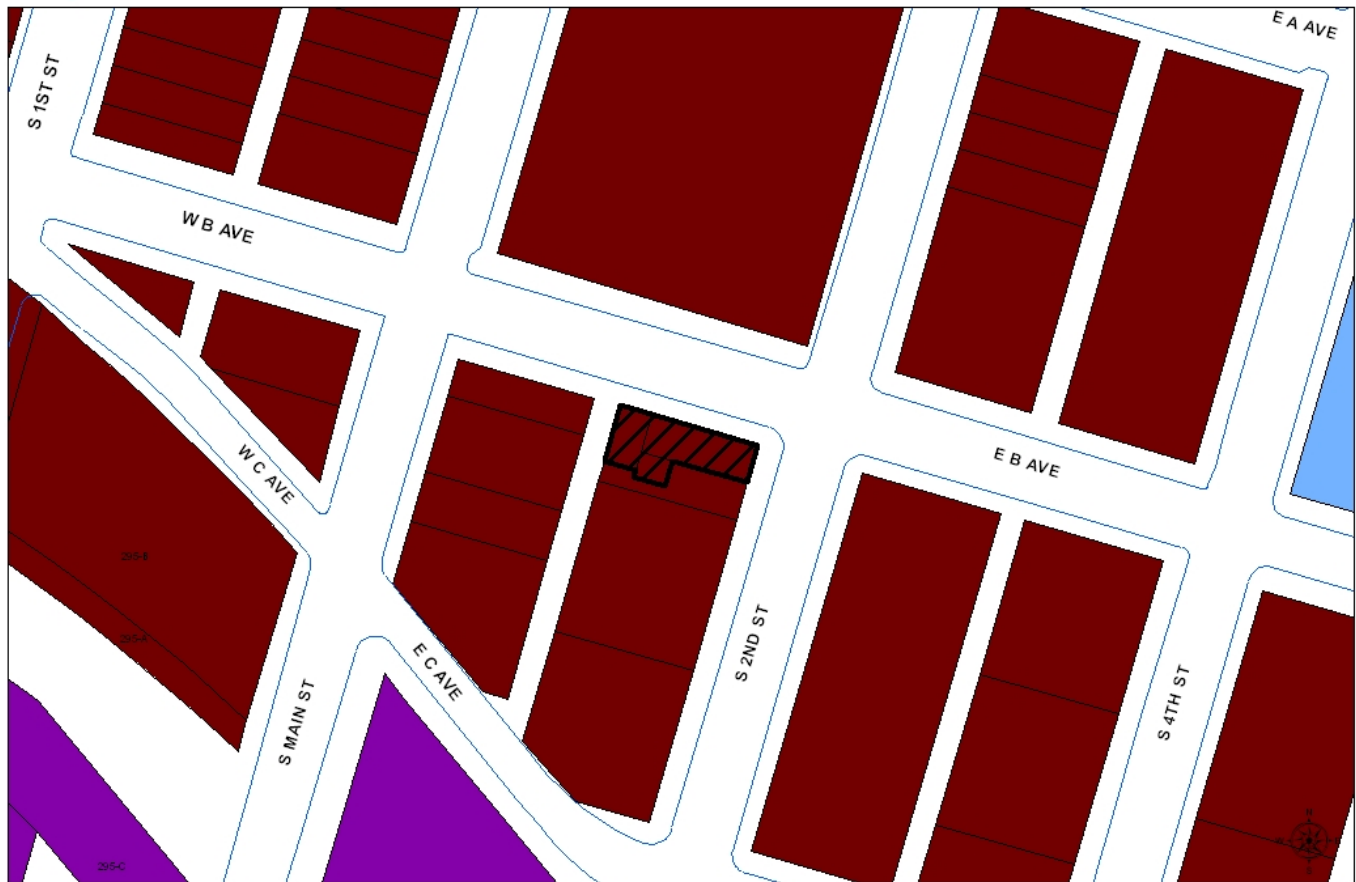
1 inch = 100 feet  
J Stone 12.15.08



Z-FY-09-12

Part of Lot 11 & 12, Blk 34, Original Town

11 through 17 E Ave B



ZFY0912



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

1 inch = 100 feet

J Stone 12.11.08

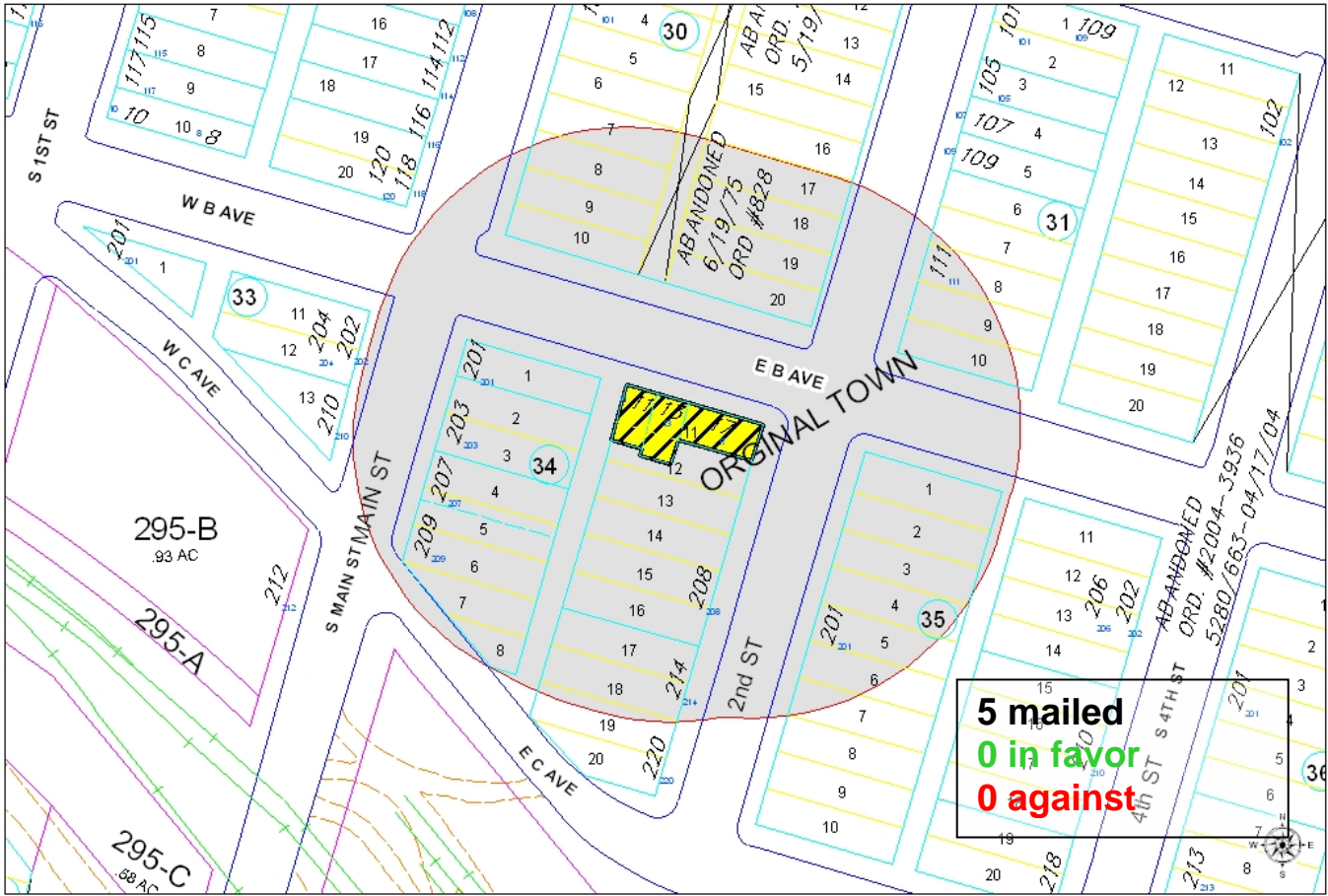




**Z-FY-09-12**

Part of Lot 11 & 12, Blk 34, Original Town

11 through 17 E Ave B



Area of Proposed Zoning



200' Buffer

LI to CA

1 inch = 100 feet  
J Stone 12.15.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

01/05/08  
Item #8  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** Isaac Fleener for Louie Flores

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION: Z-FY-09-12:** Hold a public hearing to discuss and recommend action on a zone change from Light Industrial District (LI) to Central Area District (CA) on part of Lots 11 and 12, Block 34, Original Town, located at 11, 13 and 17 East Avenue B. Zoned LI.

**BACKGROUND:** The applicant's request is for a zone change to accommodate a beer and wine bar in downtown Temple and to bring the applied area into compliance with the Comprehensive Plan. At its December 2, 2008 meeting, the Planning and Zoning Commission heard and unanimously approved the applicant's request for a Conditional Use Permit (CUP) for the bar. However, further research from Staff revealed that when the applicant applies for a building permit for the bar, he will be required to provide off-street parking in the ratio of one space per three seats, making it difficult since the building containing the proposed bar takes up the entire lot.

Staff informed the applicant that he would either need to:

- 1) Execute a parking agreement with one of the surrounding parking lot owners; or
- 2) Apply for a rezoning to the CA, Central Area zoning district.

The applicant chose the second option, which has mutual benefit both to him and to the City. The CA zoning district benefits the applicant because the Zoning Ordinance exempts this zoning district from off-street parking requirements. It benefits the City because the granting of the rezoning would remove the LI, Light Industrial zoning designation from the subject property, thus removing potentially incompatible industrial uses from the downtown area.

In contrast to the previously approved CUP application, which only applied to the lease space for the proposed bar, this rezoning is for the entire block face on the south side of E. Ave. B between S. 2<sup>nd</sup> St. and S. Main St.

## 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	CA	E. Ave B / Government Office
East	LI	S. 2 <sup>nd</sup> St. / Parking Lot
South	LI	Vacant
West	LI	Vacant

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 subject property Urban Center. The zone change request complies with the Future Land Use and Character Map.

Thoroughfare Plan – This request conforms to the Thoroughfare Plan.

Adequacy of Public Facilities – Adequate public facilities serve this site.

Development Regulations

The purpose of the CA zoning district is to address development in the Central Business District of the City, allowing most retail and office uses. Typical prohibited uses include industrial uses and heavy commercial uses such as mini-warehouses.

Public Notice

Five notices were sent out. As of Wednesday, December 30 at 5 PM, only one notice was returned in favor of the request. The newspaper printed notice of the public hearing on December 6, 2008 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from LI, Light Industrial zoning district to CA, Central Area zoning district because:

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 property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map

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

**MONDAY, JANUARY 5, 2009**

**ACTION ITEMS**

- 8. Z-FY-09-12:** Hold a public hearing to discuss and recommend action on a zone change from Light Industrial District (LI) to Central Area District (CA) on part of Lots 11 and 12, Block 34, Original Town, located at 11, 13 and 17 East Avenue B. Zoned LI. (Applicant: Isaac Fleener for Louie Flores.)

Mr. Brian Mabry, Senior Planner presented the request to the Commission and stated this request is for a zone change to accommodate a beer and wine bar in downtown Temple and to bring the applied area into compliance with the Comprehensive Plan. At the December 2, 2008 meeting, the Planning and Zoning Commission heard and unanimously approved the applicant's request for a Conditional Use Permit for the bar. Further research revealed that when the applicant applied for a building permit for the bar, he would be required to provide off-street parking in the ratio of one space per three seats, making it difficult since the building containing the proposed bar took up the entire lot.

Staff informed applicant he would either need to execute a parking agreement with one of the surrounding parking lot owners or apply for a rezoning to the CA, (Central Area) zoning district and the applicant chose to rezone.

Staff recommended approval of this zone change from LI (Light Industrial) to CA (Central Area) zoning because the request complies with the Future Land Use and Character map, the Thoroughfare Plan and adequate public facilities serve the property.

Commissioner Luck made a motion to approve the zone change from LI (Light Industrial) to CA (Central Area District), and Commissioner Martin seconded the motion.

Motion approved. (7:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-12]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM LIGHT INDUSTRIAL DISTRICT (LI) TO CENTRAL AREA DISTRICT (CA) ON THE WEST 25 FEET OF LOT 11, THE EAST 25 FEET OF THE WEST 50 FEET OF LOT 12 AND 17, BLOCK 34, ORIGINAL TOWN, LOCATED AT 11, 13 AND 17 EAST AVENUE B; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Light Industrial District (LI) to Central Area District (CA) on the west 25 feet of Lot 11, the east 25 feet of the west 50 feet of Lot 12 and 17, Block 34, Original Town, located at 11, 13 and 17 East Avenue B, 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 **15<sup>th</sup>** day of **January**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #5  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-06: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of beer and wine on Lot 11, Block 34 of Original Town Addition, located at 13 East Avenue B.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its December 2, 2008 meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of a Conditional Use Permit (CUP) for a beer and wine bar, subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code.
3. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
4. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
5. The establishment must provide adequate parking spaces to accommodate its members and their guests provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
6. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
7. The City Council may deny or revoke this conditional use permit if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
8. The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.

9. The conditional use permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
10. The applicant's site plan and application are exhibits to the conditional use permit.

Commissioners Pilkington and Secrest were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-06, from the Planning and Zoning Commission meeting, December 2, 2008. This CUP request is to allow the sale and on-premise consumption of alcoholic beverages in a future wine and beer bar to be located on the property.

Section 7-611(b) of the Zoning ordinance places 10 conditions on CUPs allowing the on-premise consumption of alcohol. The Planning & Zoning Commission Recommendation section above lists these conditions. No CUP may be granted if the establishment for which a permit is sought is within 300 feet of a church, school, public hospital, publicly owned park, or any residentially zoned or developed lot. The property is more than 300 feet away from any of these uses.

The applicant has submitted a zoning change request from the LI, Light Industrial zoning district to the CA, Central Area zoning district for the block face on which the proposed bar is located (please see the staff report for case Z-FY-09-12). The bar may be established in the LI or CA zoning district. The applicant requests the zoning change in order to be exempted from off-street parking requirements and to bring the block face in conformance with the Future Land Use and Character Map.

The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Aerial](#)  
[Zoning Map](#)  
[Land Use and Character Map](#)  
[CUP Site Plan](#)  
[Notice Map](#)  
[P&Z Staff Report \(Z-FY-09-06\)](#)  
[P&Z Minutes \(December 2, 2008\)](#)  
[Ordinance](#)

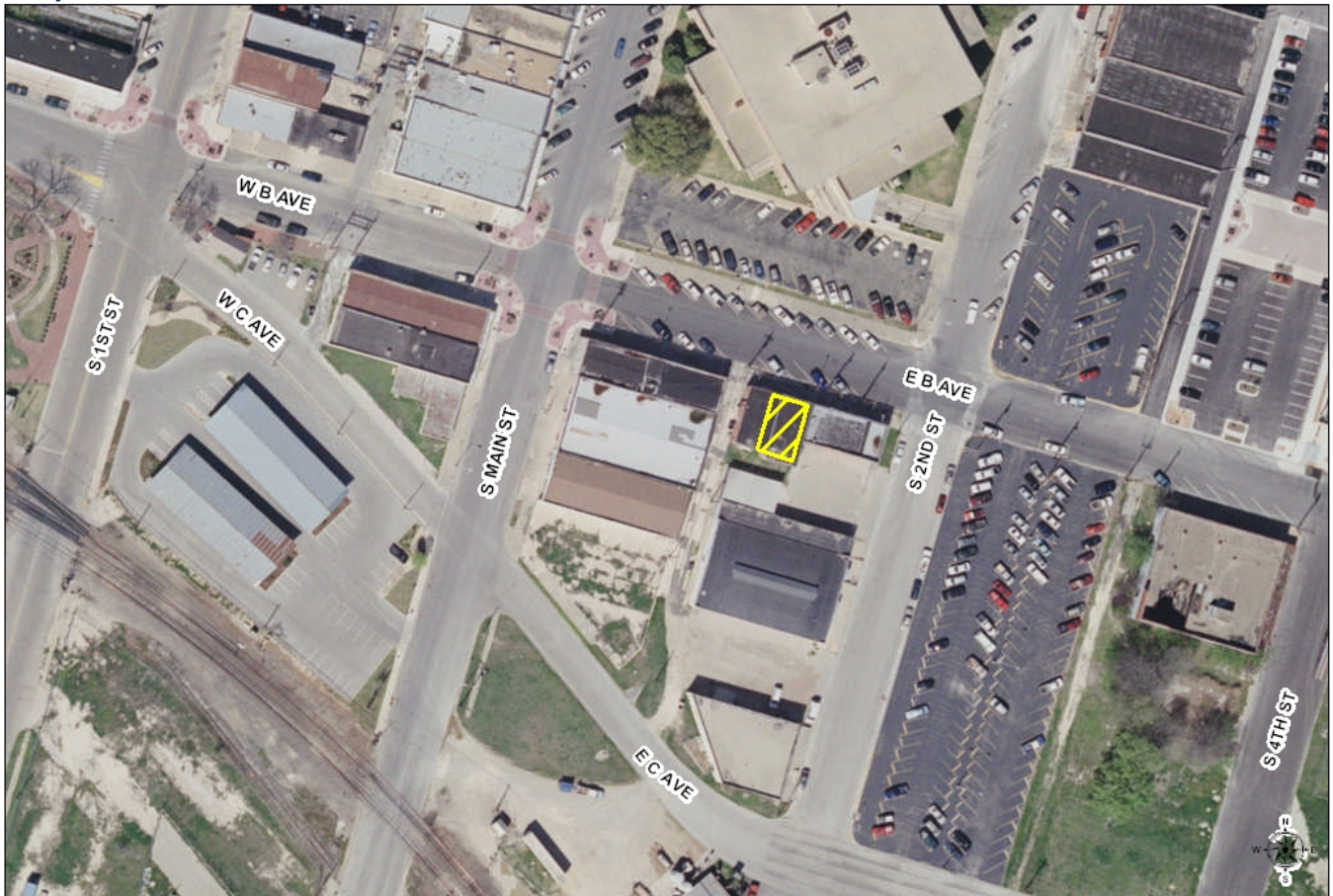




**Z-FY-09-06**

Part of Lot 11 & 12, Blk 34, Original Town

13 E Ave B



 Area of Proposed Zoning

LI with CUP for On-Premise Alcohol

1 inch = 100 feet  
J Stone 11.04.08



Z-FY-09-06

Part of Lot 11 & 12, Blk 34, Original Town

13 E Ave B



Area of Proposed Zoning

LI with CUP for On-Premise Alcohol

1 inch = 100 feet  
J Stone 11.04.08



Z-FY-09-06

Part of Lot 11 & 12, Blk 34, Original Town

13 E Ave B



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

1 inch = 100 feet  
J Stone 11.04.08

FEDERAL  
BUILDING

On-Street Parking

AVE B

On-Street Parking

Vacant

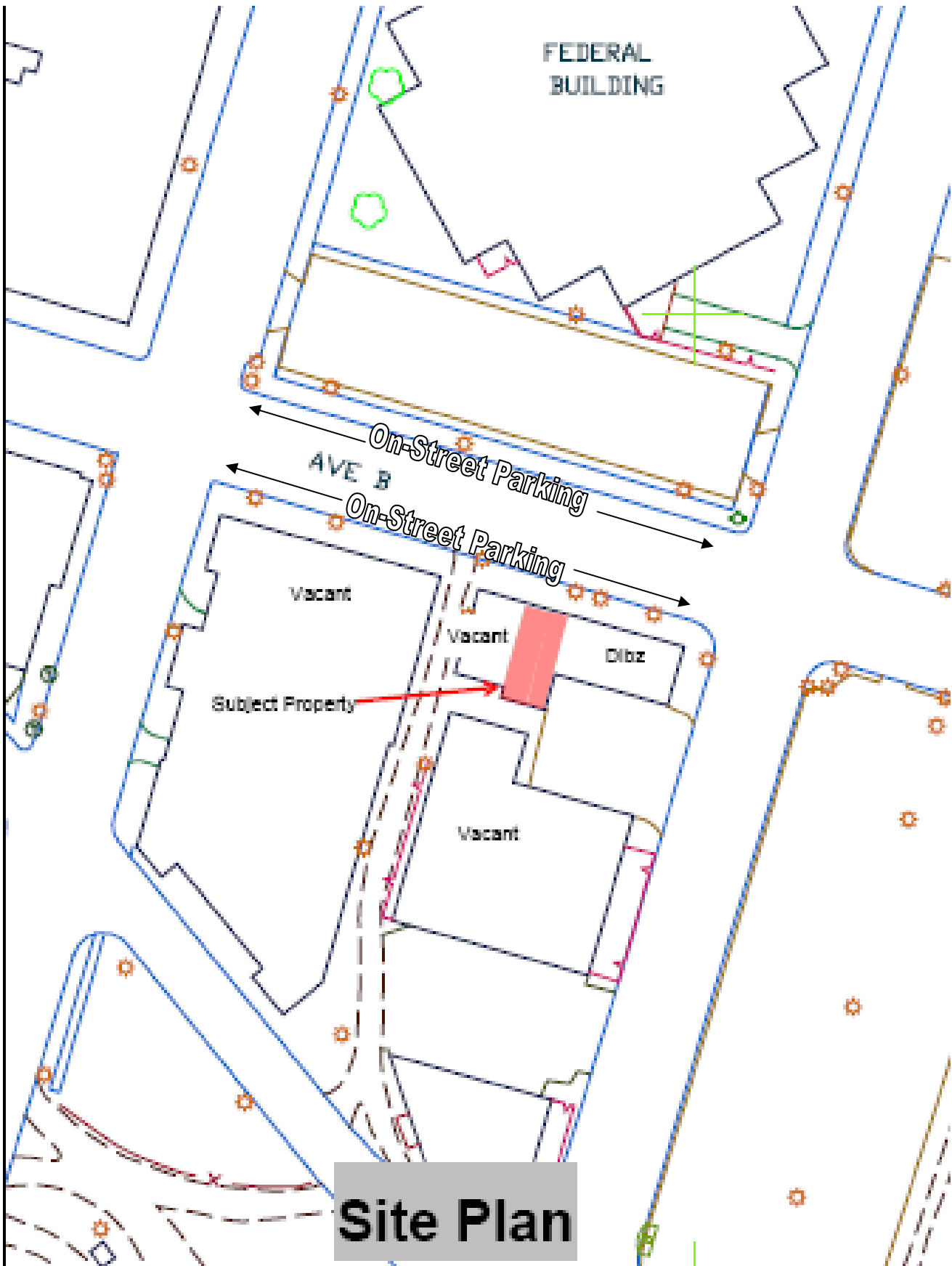
Vacant

Dibz

Subject Property

Vacant

Site Plan



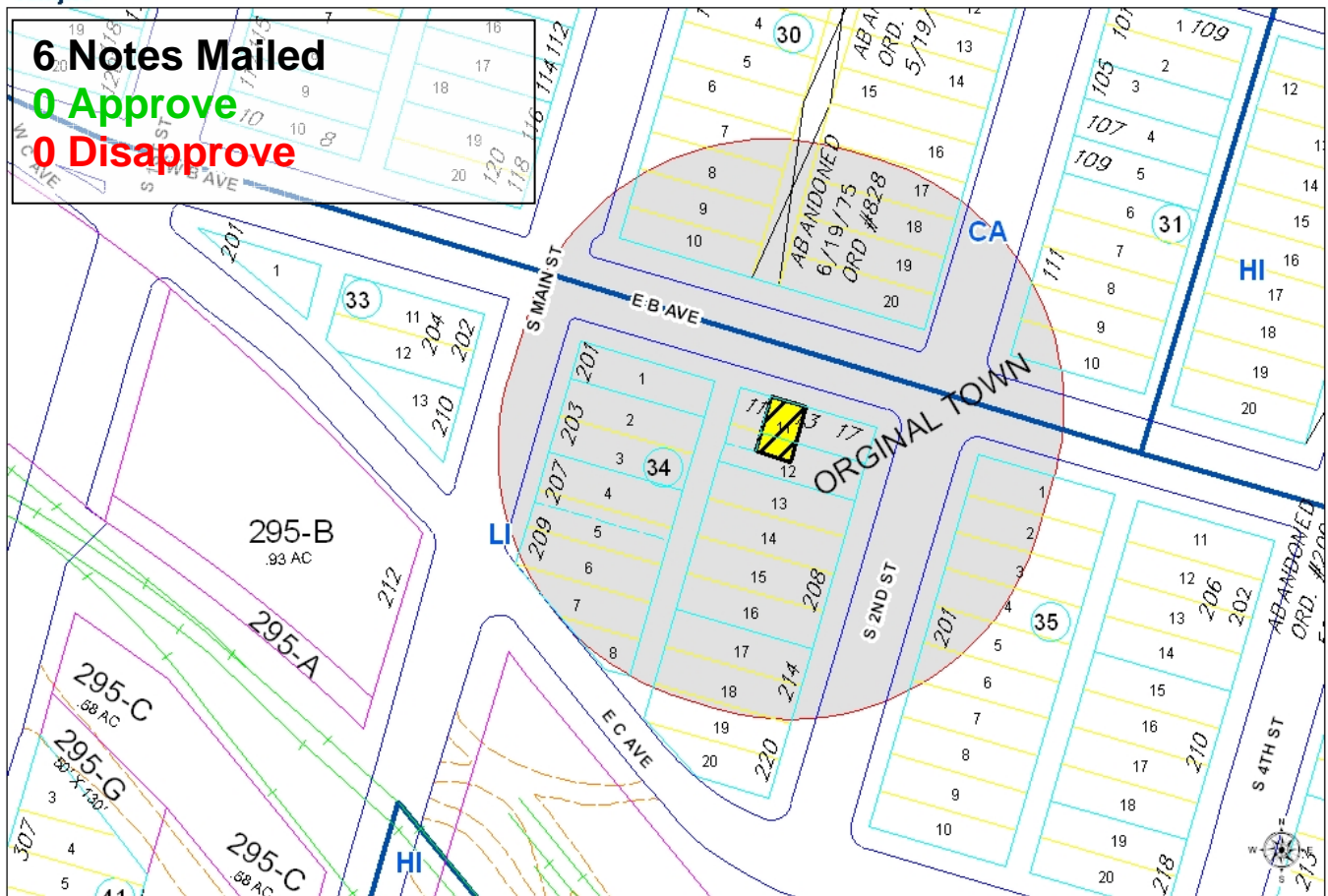




Z-FY-09-06

Part of Lot 11 & 12, Blk 34, Original Town

13 E Ave B



6 Notes Mailed

0 Approve

0 Disapprove



Area of Proposed Zoning



200' Buffer

LI with CUP for On-Premise Alcohol

1 inch = 100 feet  
J Stone 11.04.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

12/02/08  
Item #2  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** Isaac Fleener for Louie Flores

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-09-06 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of beer and wine on Lot 11, Block 34 of Original Town Addition located at 13 East Avenue B. Zoned LI. (Applicant: Isaac Fleener for Louie Flores)

**BACKGROUND:** This Conditional Use Permit (CUP) request is to allow the sale and on-premise consumption of alcoholic beverages in a future wine and beer bar to be located on the property.

**Surrounding Property and Uses** - The subject property is zoned LI, Light Industrial. The LI zoning district permits on-premise alcoholic beverage sales or consumption in a bar or club with a CUP. This proposed use is compatible with the surrounding uses.

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

Direction	Zoning	Current Land Use
North	CA	Ave B / Government Office
East	LI	Restaurant
South	LI	Vacant Building
West	LI	Vacant Building

**Surrounding Property and Uses**

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

**Future Land Use Plan and Character Map**– The CUP request conforms with the Future Land Use and Character Map which designates the property as Urban Center.

**Thoroughfare Plan** – This request conforms to the Thoroughfare Plan.

**Adequacy of Public Facilities** – Adequate public facilities serve this site.

**Development Regulations**

This application conforms to the area requirements and uses permitted in the LI District. Section 7-611(b) of the Zoning ordinance places 10 conditions on CUPs allowing the on-premise consumption of alcohol. The Staff Recommendation section below lists these conditions. Condition #11 is based on Section 7-604 providing for the site plan and application to become part of the CUP.

No CUP may be granted if the establishment for which a permit is sought is within 300 feet of a church, school, public hospital, publicly owned park, or any residentially zoned or developed lot. The property is more than 300 feet away from any of these uses.

**Double Sided**

### Public Notice

Six notices were sent out. As of Monday, November 24 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 November 22, 2008 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the CUP with the following conditions in accordance with Section 7-611 of the Zoning Ordinance:

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
6. The establishment must provide adequate parking spaces to accommodate its members and their guests provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny or revoke this conditional use permit if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
10. The conditional use permit may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
11. The applicant's site plan and application are exhibits to the conditional use permit.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning Map

Land Use and Character Map

Aerial

CUP Site Plan

Notice Map

Response Letters (if any)

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
DECEMBER 2, 2008**

**Z-FY-09-06:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of beer and wine on Lot 11, Block 34 of Original Town Addition located at 13 East Avenue B. Zoned LI. (Applicant: Isaac Fleener for Louie Flores)

Mr. Brian Mabry, Senior Planner presented this item and stated this request was for a beer and wine bar without the sale of hard liquor. Mr. Mabry also stated that the review of the Planning & Zoning Commission and approval of City Council is required for any Conditional Use Permit (CUP).

Staff recommended approval of this CUP along with the 11 standard conditions stated in the presentation.

Mr. Mabry also stated that the Commission and Council may make recommendations related to standards not in the Zoning Ordinance such as hours of operation.

Chair Pope opened the public hearing and Mr. Thomas Preston, representative of the property, approached the Commission.

Mr. Preston stated his hours of operation ran from 4:00p.m. to 12 midnight. Mr. Preston also stated he has been proactively involved in promoting revitalization of downtown growth and local business and has worked to transform downtown into a more prominent area for businesses, entertainment, tourism, cultural and family activities, and preserving the historic look of downtown and the buildings as much as possible.

Commissioner Luck asked for clarity on Condition No. 3 regarding not to exceed the limitations in gross receipts on the sale of alcoholic beverages under a CUP. Mr. Mabry stated that this applied more to a restaurant, not a beer and wine bar.

Commissioner Martin made a motion to grant the CUP, excluding Condition No. 3 and Commissioner Luck seconded the motion.  
Motion approved. (7:0)



ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-06]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF BEER AND WINE ON LOT 11, BLOCK 34 OF ORIGINAL TOWN ADDITION LOCATED AT 13 EAST AVENUE B; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Comprehensive Zoning Ordinance of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

**Whereas**, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; and

**Whereas**, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 13 East Avenue B, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit to allow the sale of beer and wine on Lot 11, Block 34 of Original Town, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** The owners/applicants, their employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- A. The sale and consumption of beer and wine shall occur only within the bar area, in accordance with the site plan attached as Exhibit B.
- B. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- C. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code.
- D. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- E. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- F. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- G. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- H. The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- I. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

- J. All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

**Part 3:** 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 4:** 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 5:** 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 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 **15<sup>th</sup>** day of **January**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #6  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-07: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 62.87 ± acres of land out of the Maximo Moreno Survey, Abstract Number 14, located on the east side of South 5<sup>th</sup> Street, south of Echo Village Phase I and Echo Vista Subdivisions.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its January 5, 2009 meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of a zoning change from A to SF-2 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 will serve the property.

Commissioners Barton and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-07, from the Planning and Zoning Commission meeting, January 5, 2009. The applicant's request is for a zone change to accommodate a single-family subdivision to be known as Echo Vista Phase II. Land to the north of the subject property was rezoned from the A zoning district to the SF-2 zoning district in March 2001 (for the Echo Village Subdivision) and June of 2005 (for the Echo Vista Phase 1 Subdivision). The subject property currently serves as pasture land.

The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

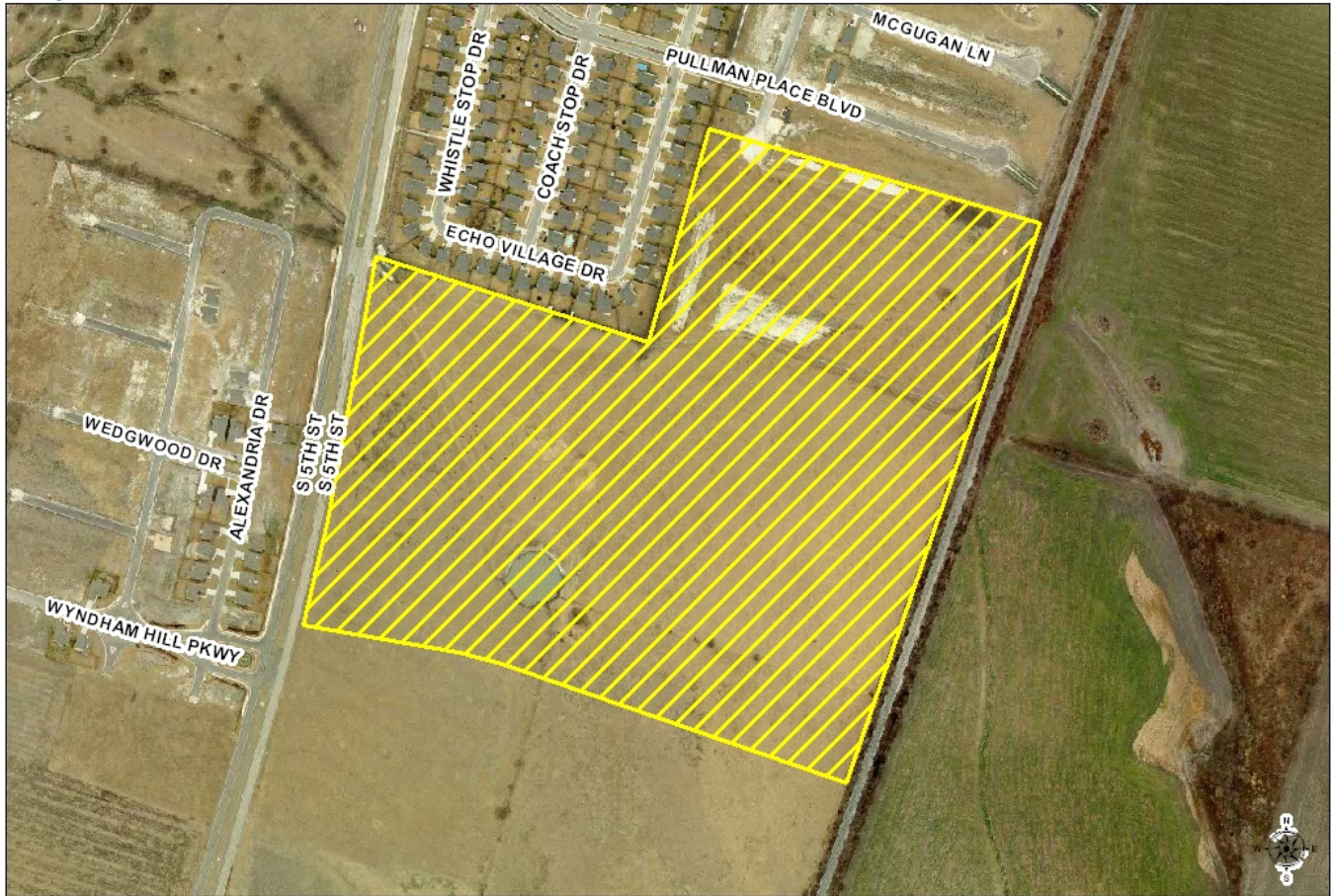
Aerial  
Zoning Map  
Land Use and Character Map  
Notice Map  
P&Z Staff Report (Z-FY-09-07)  
P&Z Minutes (01/05/09)  
Ordinance



**Z-FY-09-07**

Part of 6063-A

5500 Block of S 5th Street



 Area of Proposed Zoning

**A to SF2**

1 inch = 400 feet  
J Stone 11.18.08

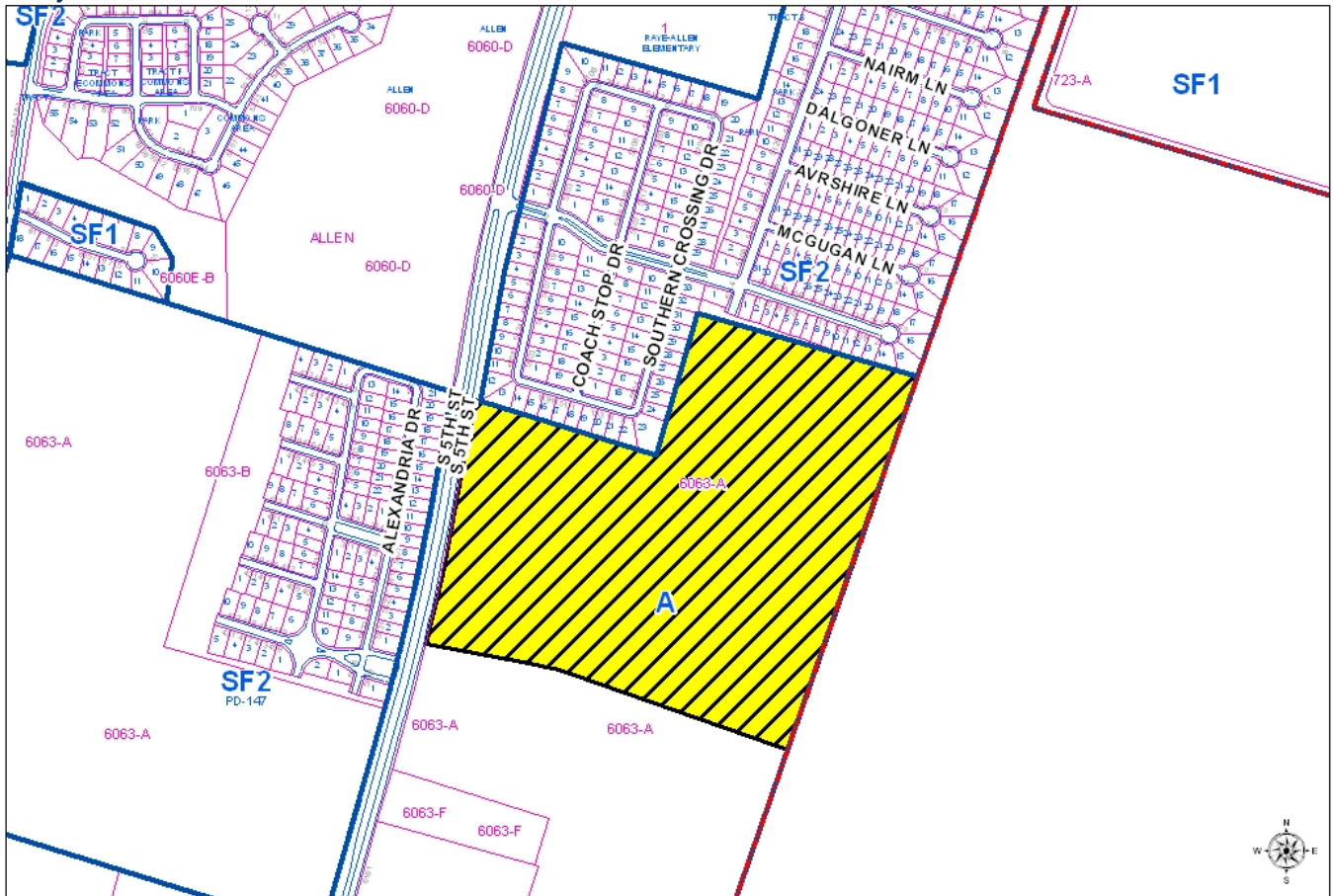





**Z-FY-09-07**

Part of 6063-A

5500 Block of S 5th Street



 Area of Proposed Zoning

**A to SF2**

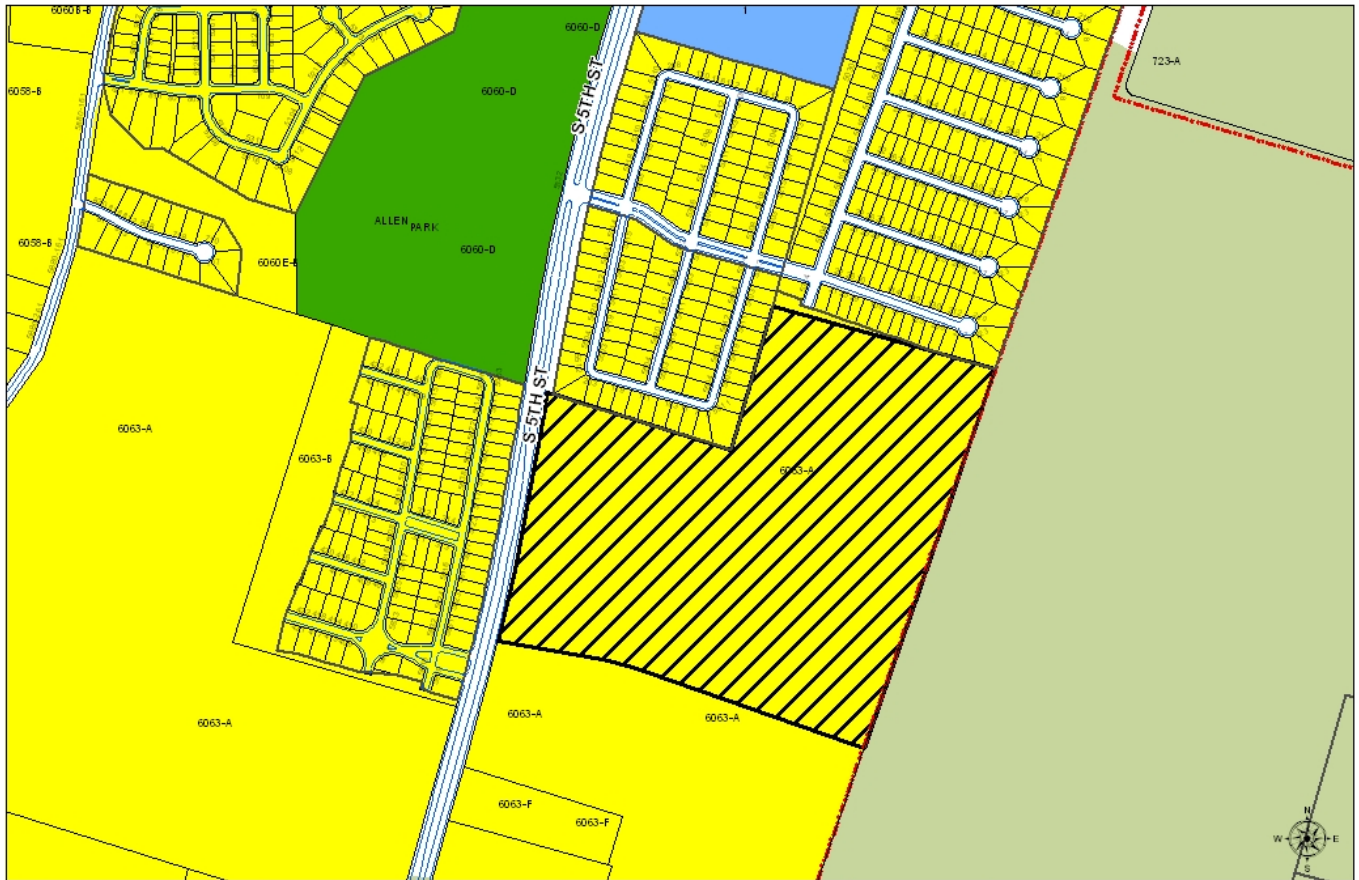
1 inch = 600 feet  
J Stone 11.18.08



Z-FY-09-07

Part of 6063-A

5500 Block of S 5th Street



Temple Boundary  
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  
A to SF2

1 inch = 600 feet  
J Stone 11.18.08

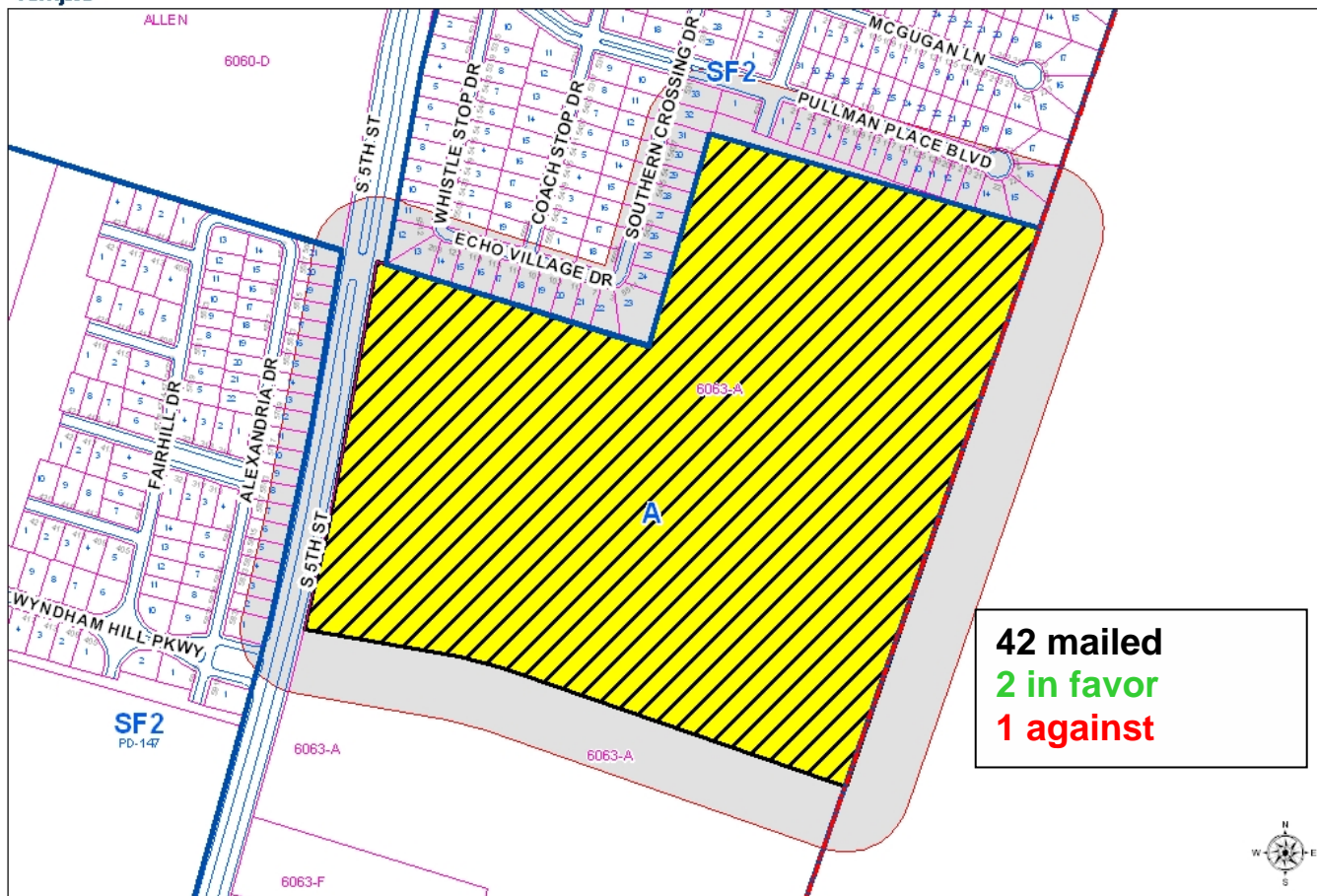




Z-FY-09-07

Part of 6063-A

5500 Block of S 5th Street



42 mailed  
2 in favor  
1 against



Area of Proposed Zoning 200' Buffer

A to SF2

1 inch = 400 feet  
J Stone 11.18.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

01/05/09  
Item #2  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** Garrett Nordyke for Bruce Whitis

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION:** **Z-FY-09-07:** Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Single Family Two District (SF-2) on 62.9± acres of land, out of the Maximo Moreno Survey, Abstract Number 14, located on the east side of South 5th Street, south of Echo Village Phase I and Echo Vista Subdivisions. Zoned A. (Applicant: Garrett Nordyke for Bruce Whitis).

**BACKGROUND:** The applicant's request is for a zone change to accommodate a single-family subdivision to be known as Echo Vista Phase II. The applicant will submit a preliminary plat for the Commission's review in the future. Land to the north of the subject property was rezoned from the A, Agricultural zoning district to the SF-2, Single-Family 2 zoning district in March 2001 (for the Echo Village Subdivision) and June of 2005 (for the Echo Vista Phase 1 Subdivision). The subject property currently serves as pasture land.

## 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	SF-2	Single-Family Subdivisions
East	A	Railroad and Vacant
South	A	Vacant
West	SF-2	Single-Family Subdivision

This proposed use is compatible with the surrounding uses. A zoning request should be reviewed for compliance with the Comprehensive Plan.

## Future Land Use and Character

The Future Land Use and Character Map designate the subject property as suburban residential. The request complies with the Future Land Use and Character Map.

## Thoroughfare Plan

The street abutting the subject property, South 5<sup>th</sup> Street, is a major arterial road on the Thoroughfare Plan map. It is adequately sized to accommodate traffic from the subdivision. The request complies with the Thoroughfare Plan.

## Adequacy of Public Facilities

Upon approval of a Preliminary Plat for Echo Vista Phase 2, adequate public facilities including water and sewer will be scheduled to be extended to the property.

### Development Regulations

The purpose of the SF-2 is to provide for smaller single-family lots than allowed in the SF-1, Single-Family 1 zoning district which allows lot sizes a minimum of 7,500 square feet. This district may also be used as a zone of transition from the more restrictive single family district to lesser restrictive or denser residential districts.

Typical permitted uses include but are not limited to single-family homes and nonresidential support uses such as schools and places of worship.

The following table shows the dimensional requirements for the SF-2 zoning district for a residential use.

<b>SF-2, Single-Family 2</b>	
<b>Min. Lot Area (sq. ft.)</b>	5,000
<b>Min. Lot Width (ft.)</b>	50
<b>Min. Lot Depth (ft.)</b>	100
<b>Max. Height (stories)</b>	2 ½
<b>Min. Yard (ft)</b>	
Front	25
Side	5
Side (street)	15
Rear	10

All of the lots on the corresponding Preliminary Plat for Echo Village Phase 2 are in compliance with the dimensional requirements for SF-2.

### Public Notice

Forty two notices were sent out. As of Wednesday, December 30 at 5 PM, two notices were returned in favor of and one was returned in opposition to the request. The newspaper printed notice of the public hearing on December 6, 2008 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from A, Agricultural zoning district to SF-2, Single-Family 2 zoning district 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 will serve the property.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning Map

Land Use and Character Map

Aerial

Notice Map

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

**MONDAY, JANUARY 5, 2009**

**ACTION ITEMS**

- 2. Z-FY-09-07:** Hold a public hearing to discuss and recommend action on a zone change from Agricultural District (A) to Single Family Two District (SF-2) on 62.9± acres of land, out of the Maximo Moreno Survey, Abstract Number 14, located on the east side of South 5th Street, south of Echo Village Phase I and Echo Vista Subdivisions. Zoned A. (Applicant: Garrett Nordyke for Bruce Whitis)

Mr. Brian Mabry, Senior Planner presented this item and stated this request was for a zone change to accommodate a single-family subdivision to be known as Echo Vista Phase II. The subject property currently served as pasture land.

Staff recommended approval of this zone change from Agricultural District (A) to Single Family Two District (SF-2) because the request complied with the Future Land Use and Character Map; the Thoroughfare Plan; and adequate public facilities will serve the property.

Commissioner Pilkington made a motion to approve the zone change, and Commissioner Martin seconded the motion.

Motion approved. (7:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-07]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO SINGLE FAMILY TWO DISTRICT (SF-2) ON APPROXIMATELY 62.87 ACRES OF LAND OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED ON THE EAST SIDE OF SOUTH 5<sup>TH</sup> STREET, SOUTH OF ECHO VILLAGE PHASE I AND ECHO VISTA SUBDIVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**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 Single Family Two District (SF-2) on approximately 62.87 acres of land out of the Maximo Moreno Survey, Abstract No. 14, located on the east side of South 5<sup>th</sup> Street, south of Echo Village Phase I and Echo Vista Subdivisions, 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 **15<sup>th</sup>** day of **January**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #7  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-08: Consider adopting an ordinance authorizing a Conditional Use Permit for a warehouse addition on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its January 5, 2009 meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of a Conditional Use Permit (CUP) for a warehouse addition provided that one evergreen tree, a minimum of five feet in height and two inches in caliper, is planted per 40 linear feet of fencing along the east side of the property, while allowing a chain link fence with vinyl slats topped by barbed wire on the proposed security fence.

Commissioners Barton and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-08, from the Planning and Zoning Commission meeting, January 5, 2009. The Temple Housing Authority (THA) submitted the CUP application for the warehouse two days before the second reading and adoption of the new fencing and screening standards, making it vested under the old standards. **Staff originally recommended that the THA provide a wood or masonry fence as required in the current fencing and screening standards as a condition of the CUP. However, the P&Z recommended the chain link fence, supplemented by vinyl slats and topped by barbed wire.** This fence type is prohibited under the current screening and fencing standards. The Planning & Zoning Commission did agree with Staff's request to screen the fence with the recommended landscaping from the apartments along the east property line.

The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial

Zoning Map

CUP Site Plan

Notice Map

P&Z Staff Report (Z-FY-08-08)

P&Z Minutes (January 5, 2008)

Ordinance





**Z-FY-09-08**

Moore's Railroad Addition, Lot 1, Block 1

810 W Calhoun Ave



 ZFY0908

CUP for Addition to Warehouse

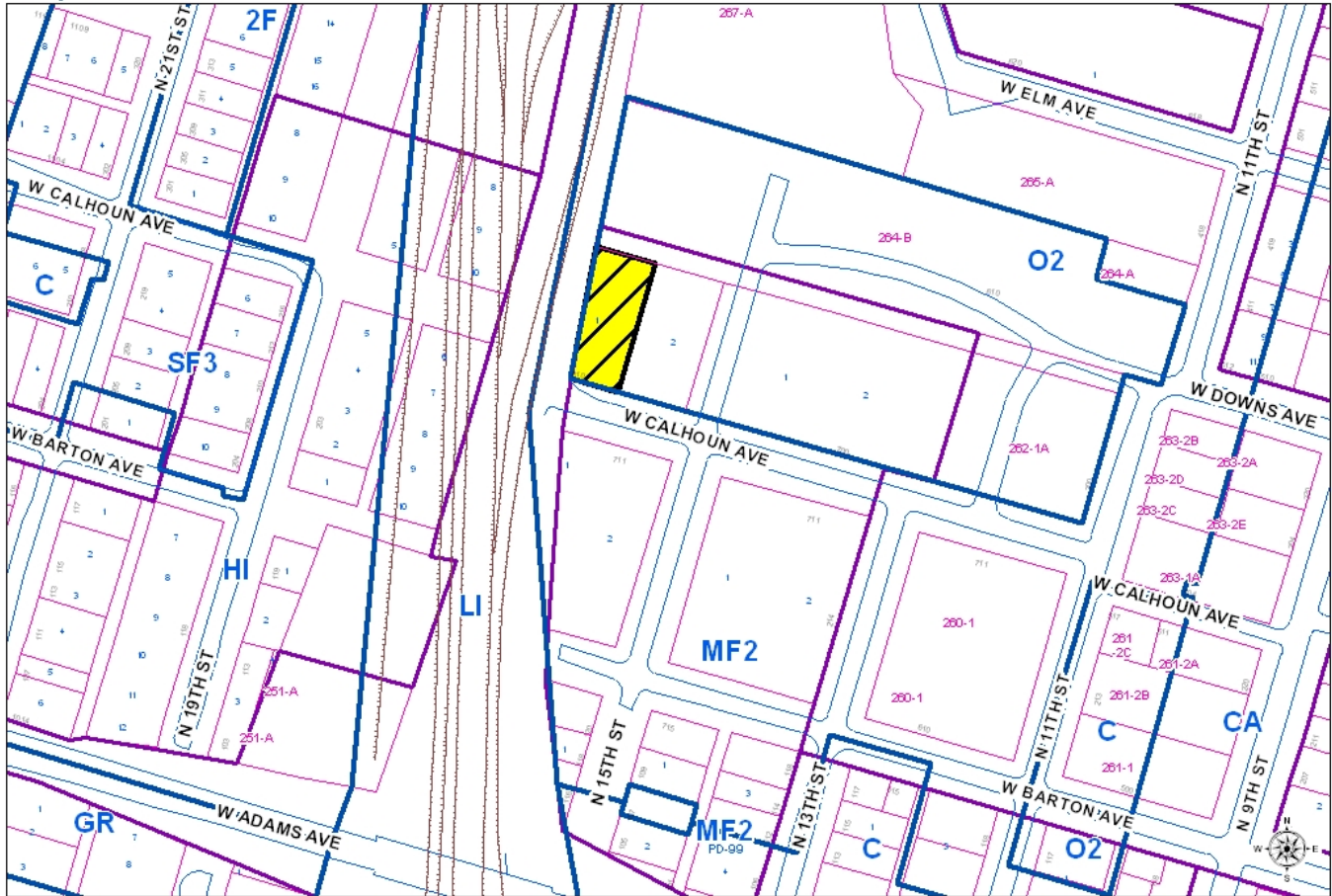
1 inch = 150 feet  
J Stone 12.08.08



Z-FY-09-08

Moore's Railroad Addition, Lot 1, Block 1

810 W Calhoun Ave



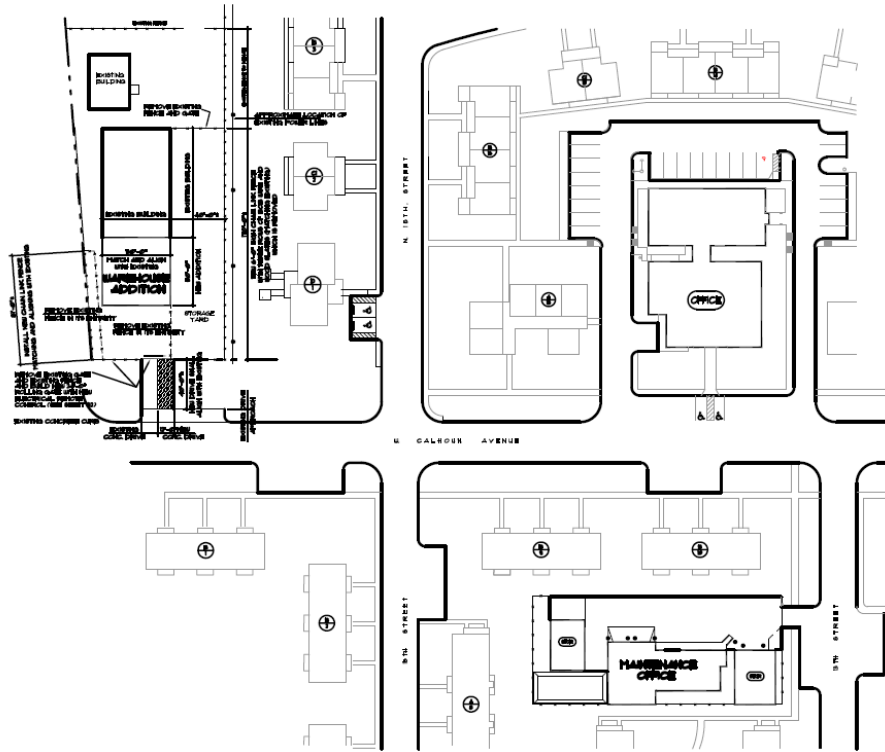
 ZFY0908

CUP for Addition to Warehouse

1 inch = 200 feet  
J Stone 12.08.08

WORK TO START WITH THE WAREHOUSE  
AND BE COMPLETED BEFORE WORK  
BEGINS ON PHASE TWO

ALLOW TWO WEEKS BETWEEN PHASES



WILSON JONES  
CA

**JOB No. 0747**

**CAMERON ALREAD, ARCHITECT INC.**  
MEMBER • AMERICAN INSTITUTE OF ARCHITECTS  
200 W. GARDNER ST. PORT WORTH, TEXAS 76102  
PHONE (817) 332-0225 FAX (817) 332-0885



HOOPERIZATION OF EXISTING FACILITIES  
PROJECT TX 030-04  
HOUSTON AUTHORITY OF THE CITY OF  
TEMPLE, TEXAS

**JULY 2, 2008**  
**AUG 11, 2008**

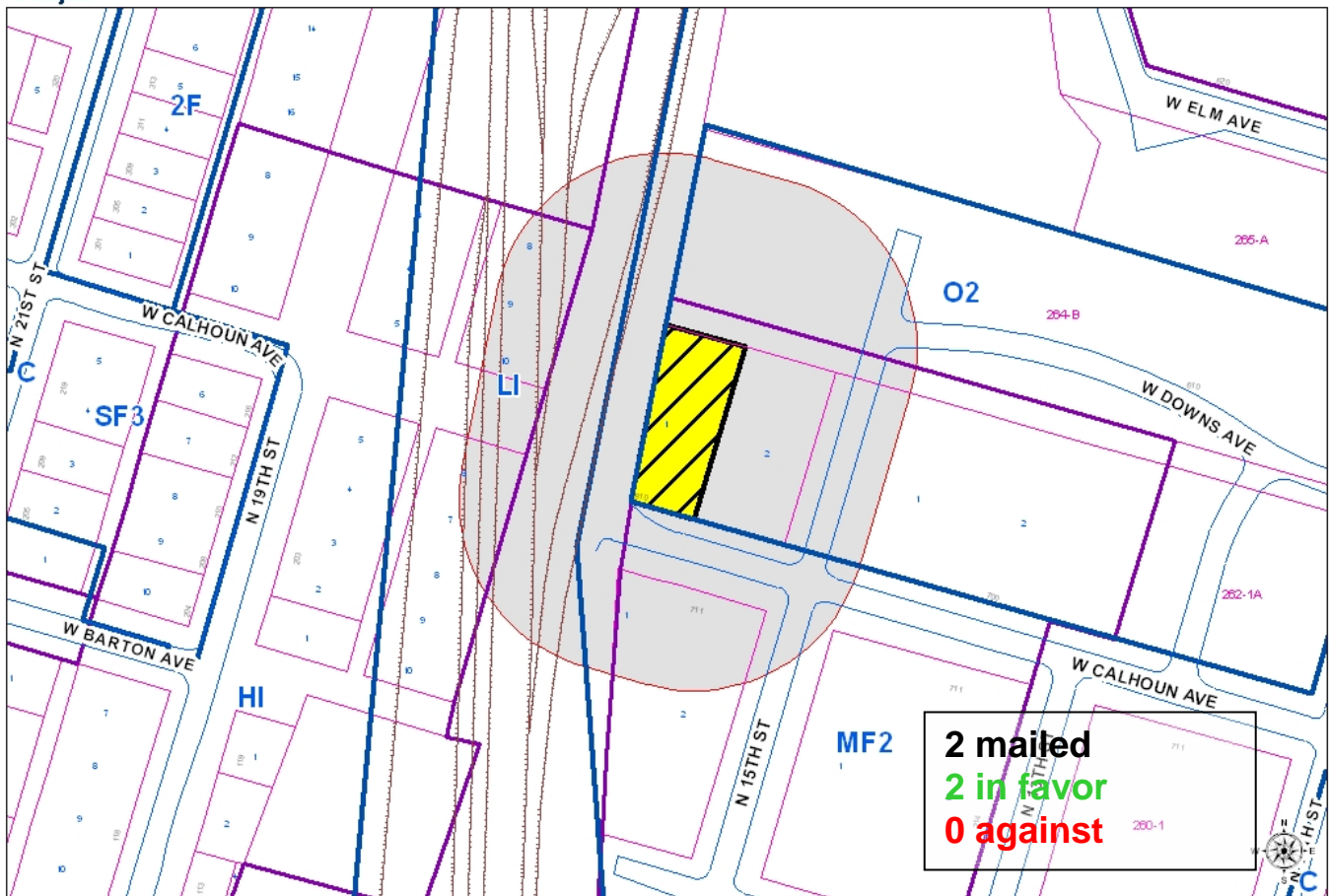
SPI



**Z-FY-09-08**

Moore's Railroad Addition, Lot 1, Block 1

810 W Calhoun Ave



ZFY0908



200' Buffer

CUP for Addition to Warehouse

1 inch = 150 feet

J Stone 12.08.08



**APPLICANT / DEVELOPMENT:** Temple Housing Authority

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION: Z-FY-09-08:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit for a warehouse on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue. Zoned Office Two (O-2). (Applicant: Temple Housing Authority)

**BACKGROUND:** The subject property is zoned O-2, Office 2. The applicant's request is for a zone change to accommodate an addition onto a warehouse on the subject property. Such use requires a conditional use permit (CUP) in the O-1 zoning district. The use is allowed by right in the GR, General Retail; CA, Central Area; C, Commercial; LI, Light Industrial; and HI, Heavy Industrial zoning districts.

The purpose of a CUP is to allow uses that generally have unusual nuisance characteristics or are of a public or semi-public character often essential or desirable for the general convenience and welfare of the community. Because, however, of the nature of the use or possible adverse impact on neighboring properties, Planning and Zoning Commission and City Council review of the associated site plan is required.

The subject property and its surroundings were originally zoned O-2 in 1999. The proposed addition to the warehouse is a total of 2,500 square feet. Masonry is not required on the exterior of the warehouse since it is an addition. The applicant proposes a new chain link fence between six and eight feet in height with vinyl slats (shown below) to match the type of fence that was there before, but that has since been removed.



The fence standards in Section 13-102 of the zoning ordinance prohibits barbed wire fencing outside of the Agricultural zoning district and it prohibits slats in a chain link fence. These standards were adopted on December 3, 2008. The application for this CUP was submitted just two days prior so the

application is vested under the old standards. However, due to the fence's close proximity to the surrounding apartments, Staff recommends a wood or masonry fence in along the south and east sides of the building.

#### 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	O-2	Service area for warehouse
East	O-2	Apartments
South	MF-2	Apartments
West	MF-2	Railroad tracks

With proper mitigation as suggested above and in the staff recommendation below, this proposed use is compatible with the surrounding uses.

#### Public Notice

Two notices were sent out. As of Wednesday, December 30 at 5 PM, two notices were returned in favor. The newspaper printed notice of the public hearing on December 27, 2008 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the conditional use permit for a warehouse provided that:

1. A wood or masonry fence is installed along the south and east sides of the property.

**FISCAL IMPACT:** Not Applicable

#### **ATTACHMENTS:**

Zoning Map  
Aerial  
CUP Site Plan  
Notice Map  
Response Letters (if any)

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

**MONDAY, JANUARY 5, 2009**

**ACTION ITEMS**

- 3. Z-FY-09-08:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit for a warehouse on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue. Zoned Office Two (O-2). (Applicant: Temple Housing Authority).

Mr. Brian Mabry, Senior Planner presented this case to the Commission and stated the subject property is currently zoned Office Two (O2). The request is to accommodate an addition onto a warehouse on the subject property and such use requires a CUP in the O1 zoning district. The use is allowed by right in the GR (General Retail); CA (Central); C (Commercial); LI (Light Industrial); and HI (Heavy industrial) zoning districts.

Staff recommended approval of this CUP for a warehouse provided that a wood or masonry fence is installed along the south and east sides of the property.

Commissioner Martin made a motion to grant the CUP to the Texas Housing Authority with the exception to a masonry/wood fence, and to allow the current fencing to remain in place, to include barb wire on top for security purposes, on the east side fencing facing apartments, along with landscaping requirements of one planting every 40 feet along the east side fencing, and Commissioner Pilkington seconded the motion.

Motion approved. (7:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-08]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR A WAREHOUSE ADDITION ON LOT 1, BLOCK 1, MOORES RAILROAD ADDITION, LOCATED AT 810 WEST CALHOUN AVENUE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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WHEREAS, the Comprehensive Zoning Ordinance of the City of Temple, Texas, provides for the issuance of conditional use permits under certain conditions and authorizes the City Council to impose such developmental standards and safeguards as the conditions and locations indicate to be important to the welfare or protection of adjacent property and for the protection of adjacent property from excessive noise, vibration, dust, dirt, smoke, fumes, gas, odor, explosion, glare, offensive view or other undesirable or hazardous conditions, and for the establishment of conditions of operation, time limits, location, arrangement and construction for any use for which a permit is authorized;

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of land commonly known as 810 West Calhoun Avenue, recommends that the City Council approve the application for this Conditional Use Permit for a warehouse extension; and

WHEREAS, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted by the applicant concerning the proposed plans for operation of said establishment and has heard the comments and evidence presented by all persons supporting or opposing this application at said public hearing, and after examining the conditions, operation and the location of said establishment, finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit for a warehouse addition on Lot 1, Block 1, Moores Railroad Addition, located at 810 West Calhoun Avenue, said location being more fully shown on Exhibit A, attached hereto and made a part hereof for all purposes.



**Part 2:** The owner/applicant, his employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- A. The permittee is required to plant one evergreen tree of a minimum of 5 feet in height and 2 inches in caliper per 40 linear feet of fencing along the east side of the property while allowing a chain link fence with vinyl slats topped by barbed wire on the proposed security fence.
- B. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter, and odors on the establishment or in the surrounding area and shall operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- C. The conditional use permit runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- D. The City Council may revoke, suspend or modify a conditional use permit after notice to property owner and hearing before the City Council if the City Council finds evidence of fraud or deception, violation of conditions of the conditional use permit, or as provided in Sections 7-609 and 7-610 of the Zoning Ordinance.

**Part 3:** The Director of Planning is hereby directed to make the necessary changes to the City Zoning Map accordingly.

**Part 4:** 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 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 **15<sup>th</sup>** day of **January**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #8  
Regular Agenda  
Page 1 of 2

### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-09-10: Consider adopting an ordinance authorizing the zoning change from Agricultural District (A) to Single Family Two District (SF-2) on 95.6 ± acres of land being part of the John J. Simmons Survey, Abstract Number 737 and described as Windmill Farms Phases II & III.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its January 5, 2009 meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of a zoning change from A to SF-2 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 property.

Commissioners Barton and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-10, from the Planning and Zoning Commission meeting, January 5, 2009. The applicant's request is for a zoning change to accommodate a single-family subdivision known as Windmill Farms Phases 2 and 3. The final plat for Phase 2 was approved in February 2008 and the final plat for Phase 3 was approved in May 2008. When building permit applications began to be submitted in November 2008, it was discovered that some of the property contains the A zoning district. The platted lots of the two phases meet the minimum requirements of the requested zoning district, SF-2. Staff requests rezoning the entire area to match the submitted field notes.

The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Aerial](#)

[Zoning Map](#)

[Land Use and Character Map](#)

[Notice Map](#)

[P&Z Staff Report \(Z-FY-09-10\)](#)

[P&Z Minutes \(01/05/09\)](#)

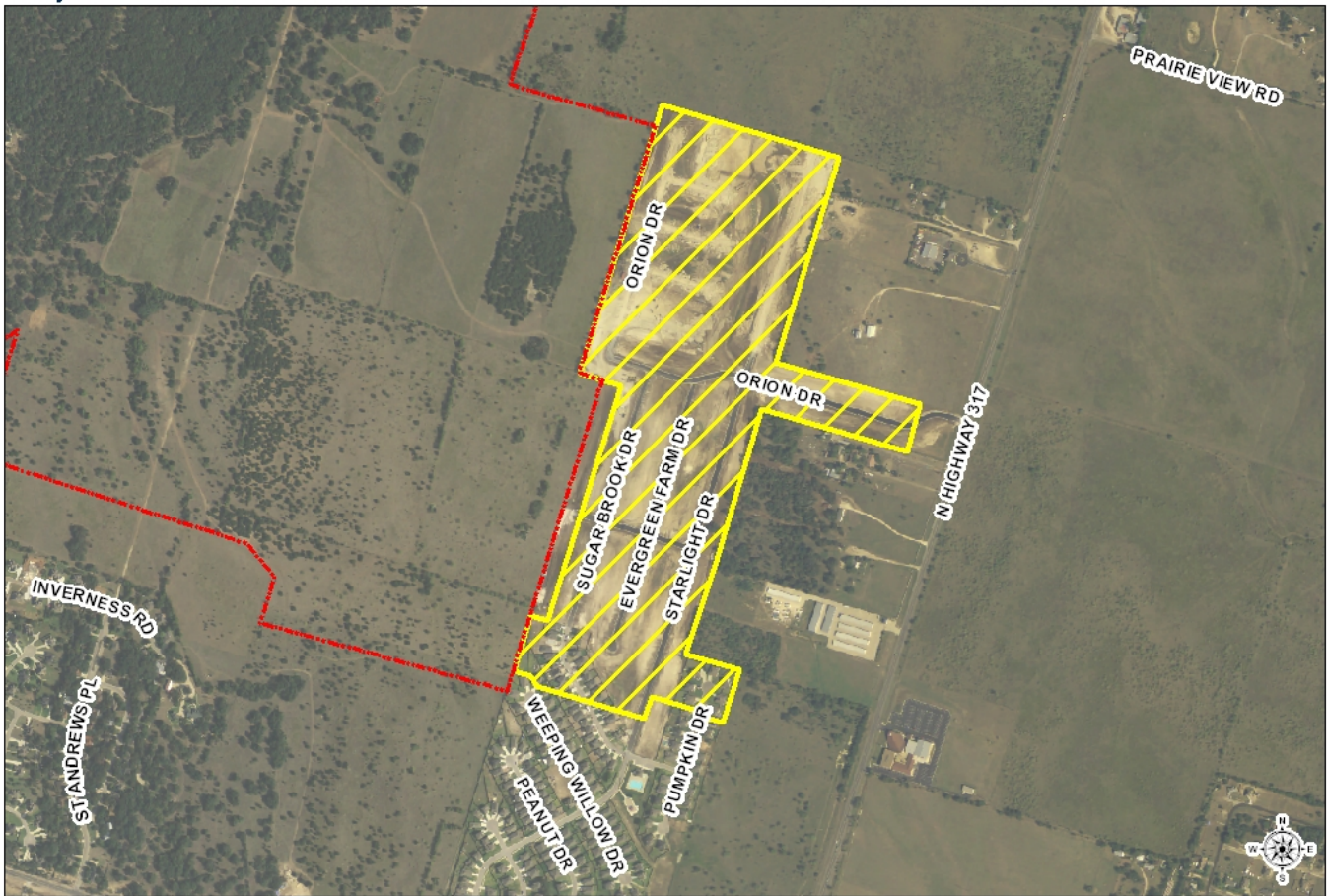
[Ordinance](#)



**Z-FY-09-10**

Windmill Farms

Phase III & Part of Phase II



 ZFY0910

A to SF2

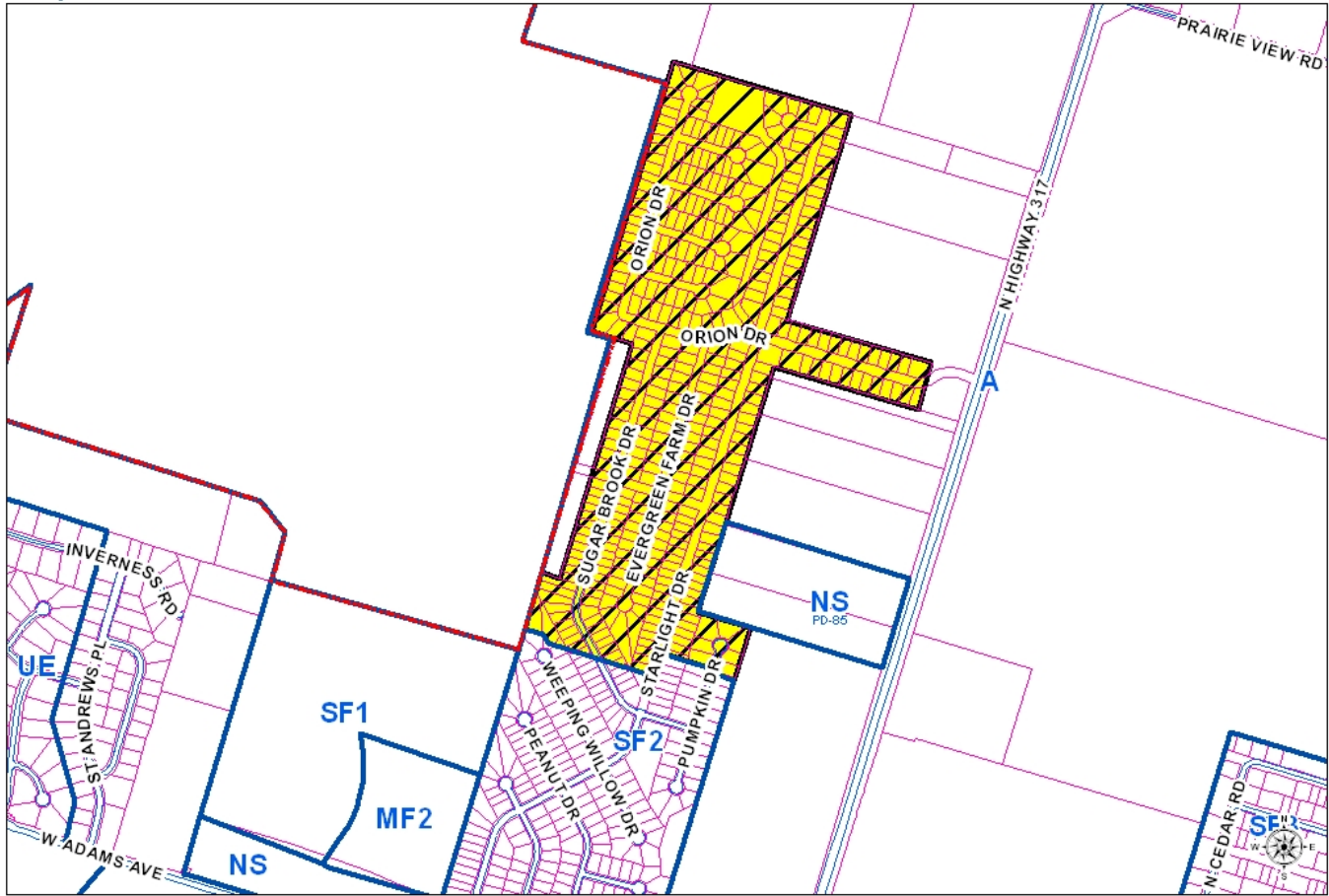
1 inch = 800 feet  
J Stone 12.08.08



Z-FY-09-10

Windmill Farms

Phase III & Part of Phase II



 ZFY0910

A to SF2

1 inch = 800 feet  
J Stone 12.08.08



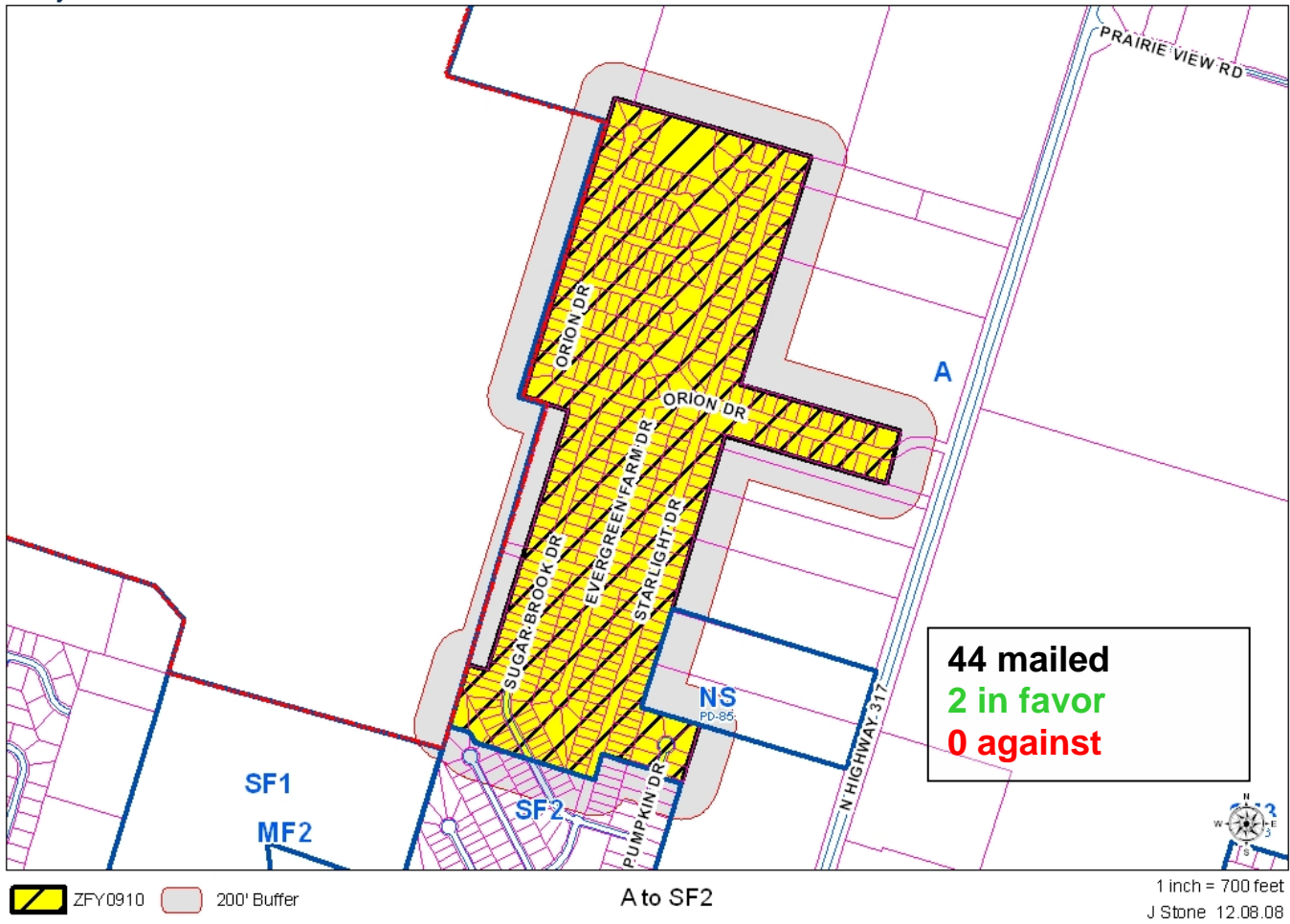




**Z-FY-09-10**

Windmill Farms

Phase III & Part of Phase II







# PLANNING AND ZONING COMMISSION AGENDA ITEM

01/05/09  
Item #6  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION: Z-FY-09-10:** Hold a public hearing to discuss and recommend action from Agricultural District (A) to Single Family Two District (SF-2) on 95.6± acres of land being part of the John J. Simmons Survey, Abstract Number 737 and described as Windmill Farms Phases II & III, located west of SH 317 and north of FM 2305.

**BACKGROUND:** The applicant's request is for a zone change to accommodate a single-family subdivision known as Windmill Farms Phases 2 and 3. The final plat for Phase 2 was approved in February 2008 and the final plat for Phase 3 was approved in May 2008. When building permit applications began to be submitted in November 2008, it was discovered that the majority of the property contains Agriculture (A) zoning. The platted lots of the two phases meet the minimum requirements of the requested zoning district, SF-2.

## Surrounding Property and Uses

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

Direction	Zoning	Current Land Use
North	A	Vacant
East	A	Large lot residential
	PD-NS	Mini-storage facility
South	SF-2	Single-family subdivision
West	A	Vacant

The existing mini-storage facility faces State Highway 317. While no application is being contemplated, if the facility were proposed to be expanded to the rear, closer to the subject property, the owner would need to submit an application to amend the approved Planned Development - Neighborhood Service (PD-NS). The Planning and Zoning Commission and City Council could require increased buffering and screening on the mini-storage property. The proposed SF-2 use is compatible with the surrounding uses.

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

## Future Land Use and Character

The Future Land Use and Character Map designate the subject property as suburban residential. The request complies with the Future Land Use and Character Map.

## Thoroughfare Plan

The street abutting the subject property, State Highway 317, is a major arterial road on the Thoroughfare Plan map. It is adequately sized to accommodate traffic from the subdivision. The request complies with the Thoroughfare Plan.

### Adequacy of Public Facilities

Adequate public facilities including water and wastewater serve the site.

### Development Regulations

The purpose of the SF-2 is to provide for smaller single-family lots than allowed in the SF-1, Single-Family 1 zoning district which allows lot sizes a minimum of 7,500 square feet. This district may also be used as a zone of transition from the more restrictive single family district to lesser restrictive or denser residential districts. Typical permitted uses include but are not limited to single-family homes and nonresidential support uses such as schools and places of worship.

The following table shows the residential dimensional requirements for the SF-2 zoning district:

<b>SF-2, Single-Family 2</b>	
<b>Min. Lot Area (sq. ft.)</b>	5,000
<b>Min. Lot Width (ft.)</b>	50
<b>Min. Lot Depth (ft.)</b>	100
<b>Max. Height (stories)</b>	2 ½
<b>Min. Yard (ft)</b>	
Front	25
Side	5
Side (street)	15
Rear	10

All of the lots in the Windmill Farms Phases 2 and 3 subdivisions are in compliance with the dimensional requirements for SF-2. The applicant has no objections to the city-initiated rezoning.

### Public Notice

Forty four notices were sent out. As of Wednesday, December 30 at 5 PM, two notices were returned in favor of the request. The newspaper printed notice of the public hearing on December 6, 2008 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from A, Agricultural zoning district to SF-2, Single-Family 2 zoning because:

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 property.

**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map

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

**MONDAY, JANUARY 5, 2009**

**ACTION ITEMS**

- 6. Z-FY-09-10:** Hold a public hearing to discuss and recommend action from Agricultural District (A) to Single Family Two District (SF-2) on 95.6± acres of land being part of the John J. Simmons Survey, Abstract Number 737 and described as Windmill Farms Phases II & III, located west of SH 317 and north of FM 2305. (Applicant: City-Initiated)

Mr. Brian Mabry, Senior Planner presented the request to the Commission and stated this zone change is to accommodate a single-family subdivision known as Windmill Farms Phases II and III. The final plat for Phase 2 was approved in February 2008 and the final plat for Phase 3 was approved in May 2008. When building permit applications began in November 2008, it was discovered that some of the property contained Agricultural (A) zoning. The plotted lots of the two phases meet the minimum requirements of the requested zoning district, SF-2. Staff recommends rezoning the entire area SF-2.

Staff recommended approval of this zone change from A (Agricultural) to SF-2 (Single Family 2) because the request complied with the Future Land Use and Character Map, the Thoroughfare Plan and adequate public facilities will serve the property.

Commissioner Martin made a motion to approve the zone change, and Commissioner Hurd seconded the motion.

Motion approved. (7:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-10]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURE DISTRICT (A) TO SINGLE FAMILY TWO DISTRICT (SF-2) ON APPROXIMATELY 95.6 ACRES OF LAND BEING PART OF THE JOHN J. SIMMONS SURVEY, ABSTRACT NO. 737 AND DESCRIBED AS WINDMILL FARMS PHASES II AND III; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**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 Single Family Two District (SF-2) on approximately 95.6 acres of land being part of the John J. Simmons Survey, Abstract No. 737, and described as Windmill Farms Phases II and III, 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 **15<sup>th</sup>** day of **January**, 2009.

PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – Z-FY-09-11: Consider adopting an ordinance authorizing the zoning change from Two Family District (2F) and Light Industrial District (LI) to Commercial District (C) on Lots 2 and 3, Block 13, Addition, located at 707 South 6<sup>th</sup> Street and 704 South Martin Luther King Jr. Drive.

**PLANNING & ZONING COMMISSION RECOMMENDATION:** At its January 5, 2009 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zoning change from 2F and LI to C 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 property.

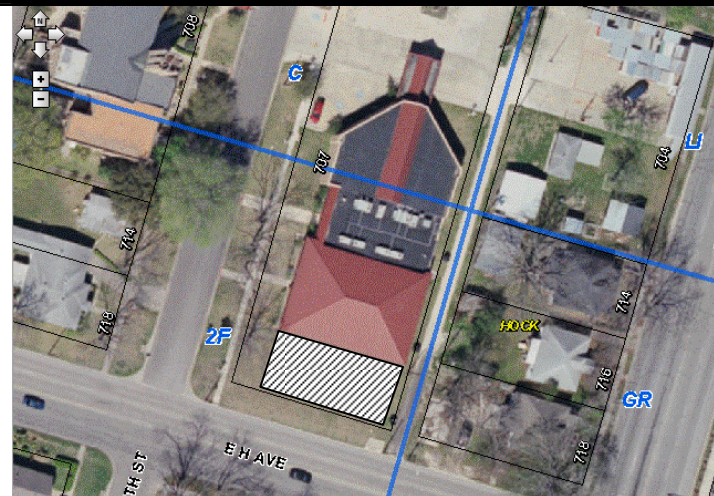
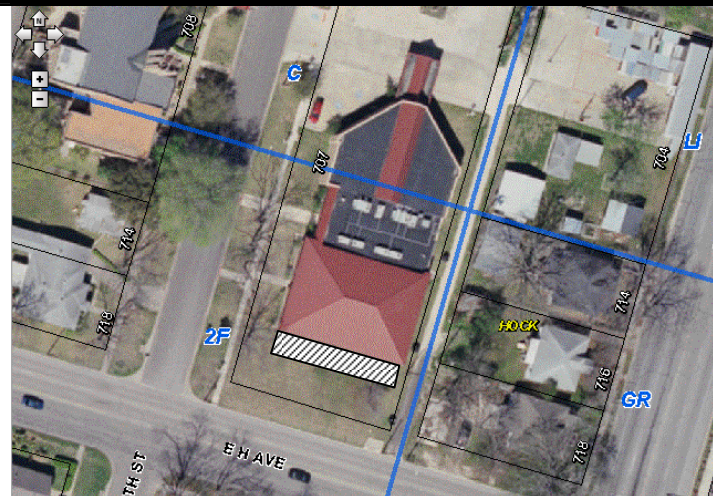
Commissioners Barton and Talley were absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for February 5, 2009.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-09-11, from the Planning and Zoning Commission meeting, January 5, 2009. The applicant's request is for a zoning change to allow the addition of classrooms in the church fellowship hall. The proposed classroom addition will have the effect of extending the building façade along East Avenue H toward the street. The existing zoning for this part of the fellowship hall, 2F, would require a 25' setback from the street right-of-way/property line, thus making expansion impractical. The requested C zoning district has a minimum front setback of 30' from the center of the street, thus allowing enough room for the expansion. The property on which the hall and associated fairgrounds sit has three different zoning districts: 2F, C and LI as shown in the table below.

**Approximate Buildable Area with 2F Zoning**

**Approximate Buildable Area with C Zoning**



The Commission did not raise any issues requiring additional staff attention.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Aerial](#)  
[Zoning Map](#)  
[Land Use and Character Map](#)  
[Notice Map](#)  
[P&Z Staff Report \(Z-FY-09-11\)](#)  
[P&Z Minutes \(01/05/09\)](#)  
[Ordinance](#)





**Z-FY-09-11**

Hock Addition, Blk 13, Lots 2 & 3

707 S 6th Street



ZFY0911

2F & LI to C

1 inch = 200 feet  
J Stone 12.08.08

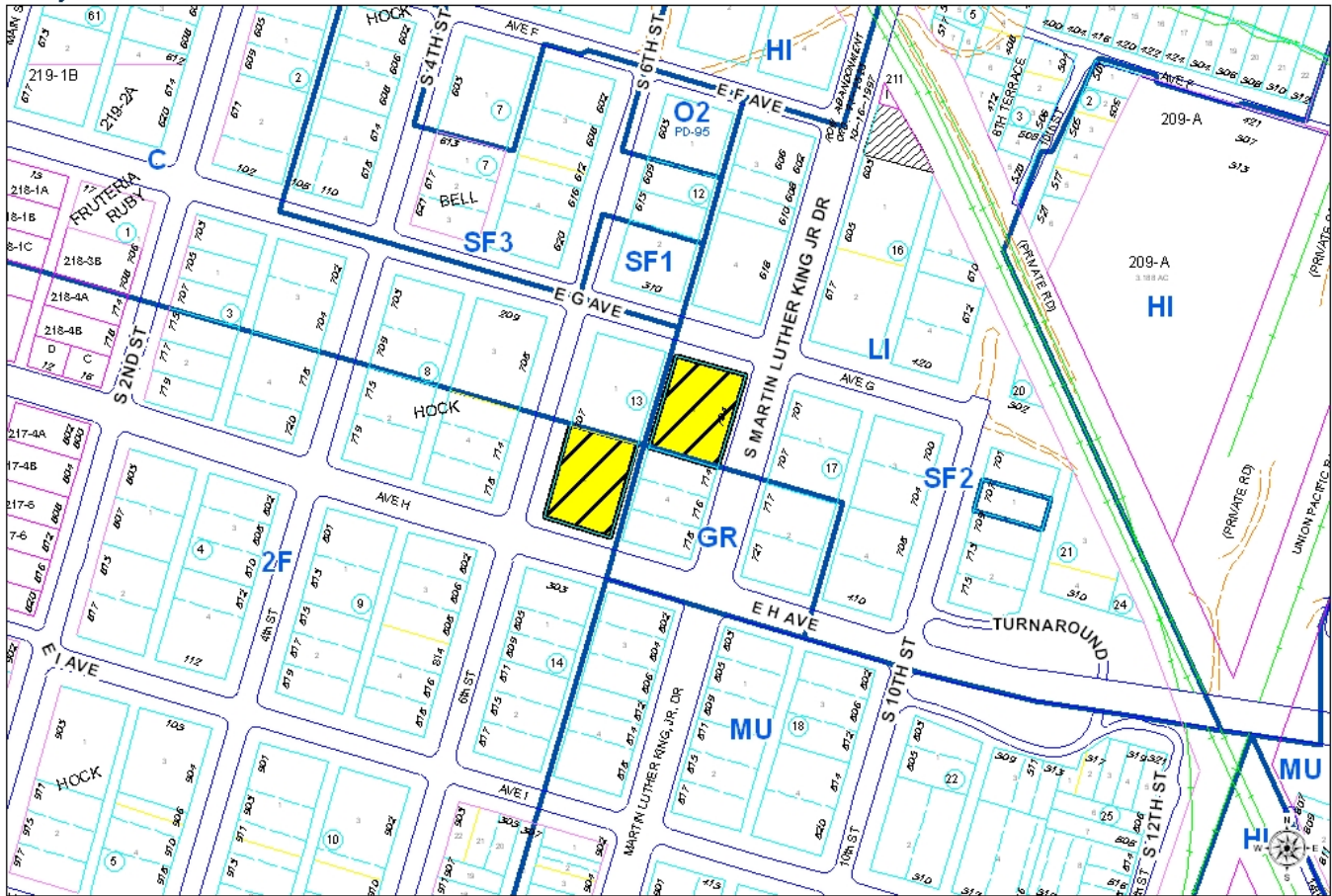




Z-FY-09-11

Hock Addition, Blk 13, Lots 2 & 3

707 S 6th Street



 ZFY0911

2F & LI to C

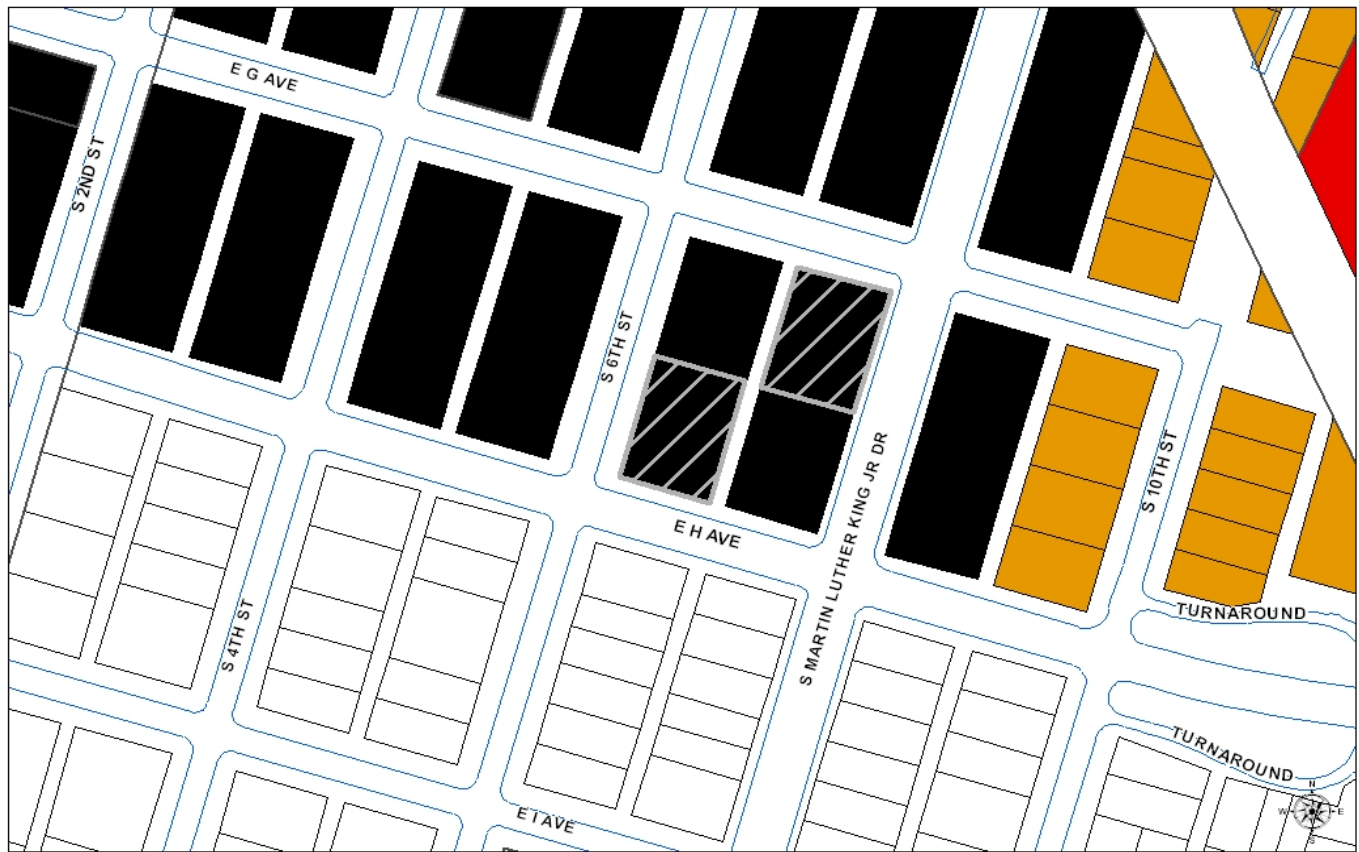
1 inch = 200 feet  
J Stone 12.08.08



Z-FY-09-11

Hock Addition, Blk 13, Lots 2 & 3

707 S 6th Street



ZFY0911

Temple Boundary

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

2F & LI to C

1 inch = 150 feet

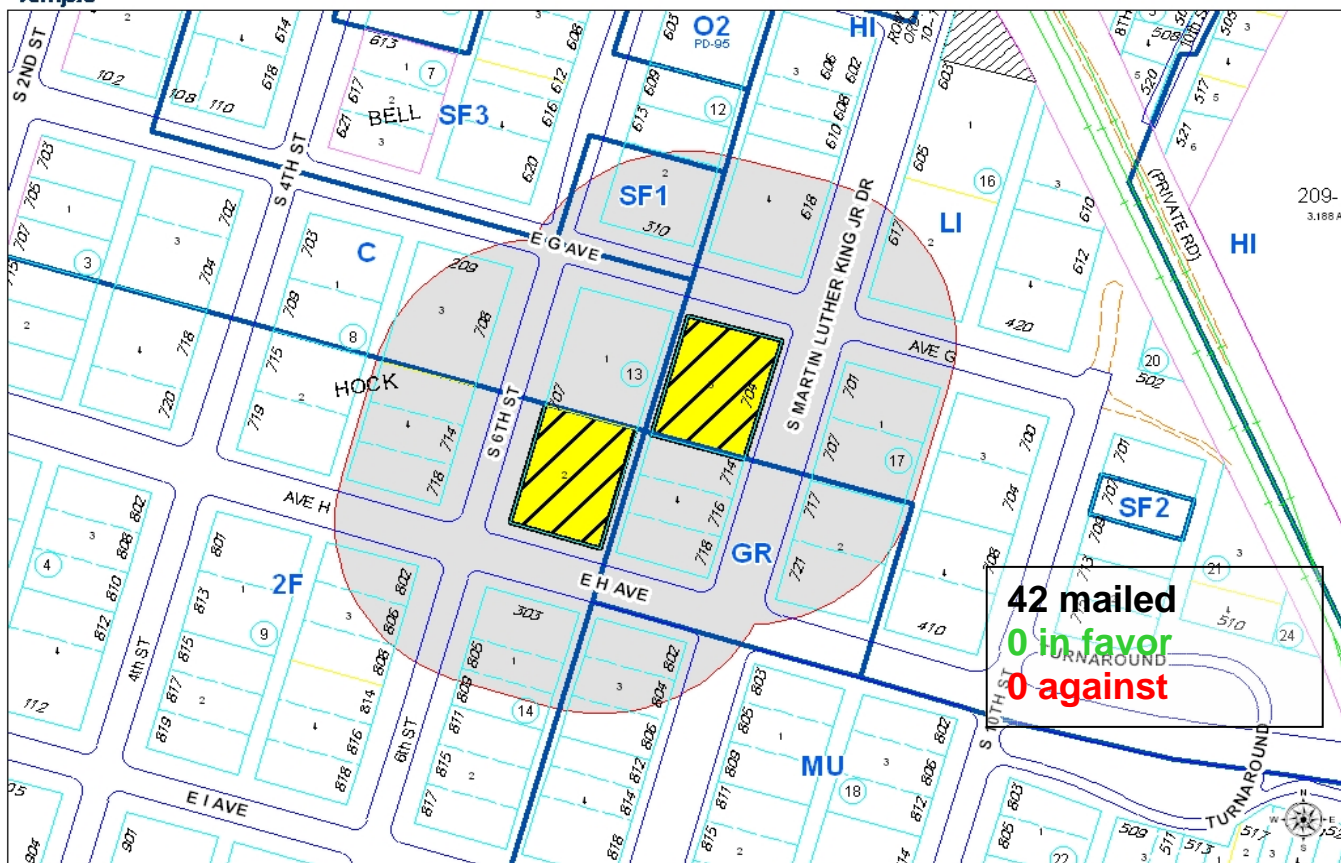
J Stone 11.08.08



Z-FY-09-11

Hock Addition, Blk 13, Lots 2 & 3

707 S 6th Street



 ZFY0911  200' Buffer

2F & LI to C

1 inch = 150 feet  
J Stone 12.08.08



# PLANNING AND ZONING COMMISSION AGENDA ITEM

01/05/08  
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**APPLICANT / DEVELOPMENT:** Fr. Tom Chamberlain, Pastor, Our Lady of Guadalupe Church

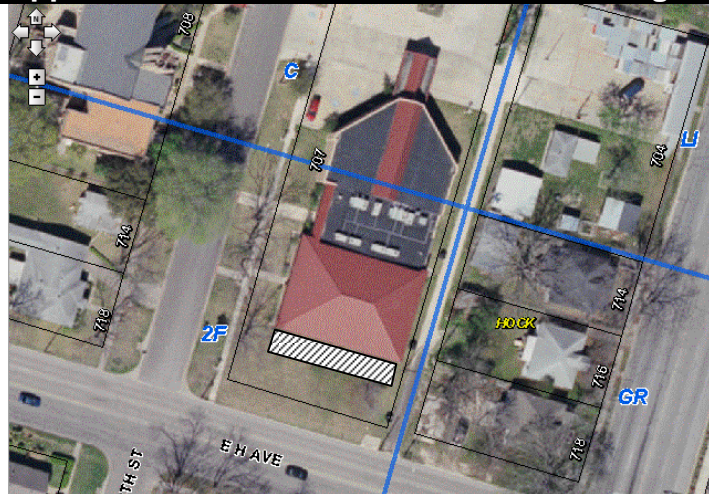
**CASE MANAGER:** Brian Mabry, AICP, Senior Planner

**ITEM DESCRIPTION: Z-FY-09-11:** Hold a public hearing to discuss and recommend action on a zone change from Two Family District (2F) and Light Industrial District (LI) to Commercial District on Lots 2 and 3, Block 13, Hock Addition, located at 707 South 6th Street and 704 South Martin Luther King Jr. Drive. Zoned 2F and LI.

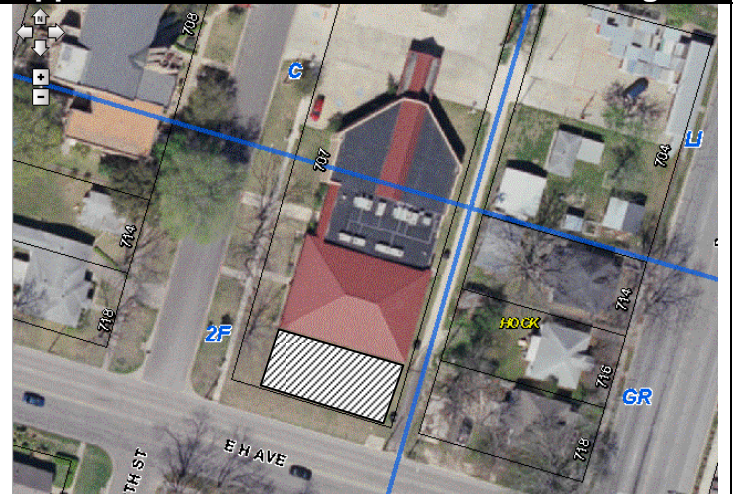
**BACKGROUND:** The applicant's request is for a zone change to allow for the addition of classrooms in the fellowship hall of Our Lady of Guadalupe Catholic Church. The property on which the hall and associated fairgrounds sit has three different zoning districts: 2F, Two-Family; C, Commercial and LI, Light Industrial. This zone change would remove the 2F and LI designations and make all of the church's property on the block have the C zoning district designation.

The proposed classroom addition will have the effect of extending the building façade along E. Ave. H toward the street. The existing zoning for this part of the building, 2F, would require a 25' setback from the street right-of-way/property line, thus making expansion impractical. The requested C zoning district has a minimum front setback of 30' from the center of the street, thus allowing enough room for the expansion.

**Approximate Buildable Area with 2F Zoning**



**Approximate Buildable Area with C Zoning**



**Double Sided**



### 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	C	Fellowship hall
	LI	E. Ave. G / Vacant
East	GR	Single-family dwelling
	LI	S. MLK Dr. / Vacant
South	2F	E. Ave. H / Single-family dwelling
	GR	Single-family dwelling
West	2F	Church
	C	Church

This proposed use is compatible with the surrounding uses. A zoning request should be reviewed for compliance with the Comprehensive Plan.

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

### Future Land Use and Character

The Future Land Use and Character Map designate the subject property as Auto-Urban Mixed Use. The request complies with the Future Land Use and Character Map.

### Thoroughfare Plan

The following table shows the streets abutting the subject property and their classifications on the Thoroughfare Plan Map.

Street	Thoroughfare Plan Map Classification
E. Ave. H	Major Arterial
S. MLK Dr.	Minor Arterial
E. Ave. G	Local Street
S. 6 <sup>th</sup> St.	Local Street

The request complies with the Thoroughfare Plan.

### Adequacy of Public Facilities

Adequate public facilities serve the site.

### Development Regulations

The purpose of the C, Commercial zoning district is to serve citywide or regional service areas. This district should also be located at the intersection of major thoroughfares. 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:

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

Public Notice

Eighteen notices were sent out. As of Wednesday, December 30, at 5 PM, no notices were returned. The newspaper printed notice of the public hearing on December 6, 2008 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the zone change from 2F, Two-Family zoning district and LI, Light Industrial zoning district to C, Commercial zoning district because:

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 property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Zoning Map  
Land Use and Character Map  
Aerial  
Notice Map

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

**MONDAY, JANUARY 5, 2009**

**ACTION ITEMS**

- 7. Z-FY-09-11:** Hold a public hearing to discuss and recommend action on a zone change from Two Family District (2F) and Light Industrial District (LI) to Commercial District on Lots 2 and 3, Block 13, Hock Addition, located at 707 South 6th Street and 704 South Martin Luther King Jr. Drive. Zoned 2F and LI. (Applicant: Fr. Tom Chamberlain)

Mr. Brian Mabry, Senior Planner presented the request to the Commission and stated this request is to allow for the addition of classrooms in the fellowship hall of Our Lady of Guadalupe Catholic Church. The property on which the hall and associated fairgrounds sit have three different zoning districts: 2F (Two Family), C (Commercial) and LI (Light Industrial). This zone change would remove the 2F and LI designations and make all of the church's property on the block have the Commercial zoning district designation.

Staff recommended approval of this zone change from 2F (Two Family) and LI (Light Industrial) to C (Commercial) because the request complied with the Future Land Use and Character Map, the Thoroughfare Plan and adequate public facilities will serve the property.

Commissioner Secrest asked if the purpose of the zone change could be accomplished with the GR (General Retail) zoning district. Mr. Mabry replied that no, the GR district has the same setback along a street as the existing 2F district.

Commissioner Secrest made a motion to approve the zone change, and Commissioner Pilkington seconded the motion.

Motion approved. (7:0)

ORDINANCE NO. \_\_\_\_\_

[PLANNING NO. Z-FY-09-11]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM TWO FAMILY DISTRICT (2F) AND LIGHT INDUSTRIAL DISTRICT (LI) TO COMMERCIAL DISTRICT (C) ON LOTS 2 AND 3, BLOCK 13, HOCK ADDITION, LOCATED AT 707 SOUTH 6<sup>TH</sup> STREET AND 704 SOUTH MARTIN LUTHER KING, JR. DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Two Family District (2F) and Light Industrial District (LI) to Commercial District (C) on Lots 2 and 3, Block 13, Hock Addition, located at 707 South 6<sup>th</sup> Street and 704 South Martin Luther King, Jr. Drive, 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 **15<sup>th</sup>** day of **January**, 2009.



PASSED AND APPROVED on Second Reading on the **5<sup>th</sup>** day of **February**, 2009.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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01/15/09  
Item #10  
Regular Agenda  
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**DEPT./DIVISION SUBMISSION & REVIEW:**

David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution appointing members to the Killeen-Temple Urban Transportation Study Policy Board.

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

**ITEM SUMMARY:** Mayor Jones and Councilmember Schneider serve as members of the K-TUTS Policy Board. Councilmember Janczak and David Blackburn serve as alternate members.

Councilmember Schneider has indicated he would like to step down from the board at this time due to other commitments. Therefore, we recommend another Councilmember be appointed to the K-TUTS Policy Board to fill Councilmember Schneider's position.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

None