



**MEETING OF THE  
TEMPLE CITY COUNCIL  
MUNICIPAL BUILDING  
2 NORTH MAIN STREET  
THURSDAY, DECEMBER 17, 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, December 17, 2009.
2. Discuss the implementation of Phase 1 of the Unified Development Ordinance.
3. Discuss the proposed contract with Georgetown Railroad for the purchase of approximately 6.2 miles of railroad right of way located in southeast Temple.

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 City projects, the public discussion of which would have a detrimental effect on negotiations with a third party

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 City Manager. No final action will be taken.

5:00 P.M.

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET  
CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**

**TEMPLE, TX**

**TEMPLE CITY COUNCIL**

**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. PRESENTATIONS & REPORTS**

3. (A) Presentation by representatives from Temple Mall to The City of Temple - CPR Task Force regarding proceeds collected from the Temple Mall's [Save A Life Day](#) Silent Auction and 5K Save a Life Race.  
  
(B) Presentation of the [Cen-Tex Cup](#)
4. Receive annual report on the operations of the [Temple Economic Development Corporation](#) from Mr. Lee Peterson, President.

**III. 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.

**IV. CONSENT AGENDA**

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



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

**Minutes:**

- (A) [December 3, 2009 Special Called Meeting and Regular Meeting](#)

**Contracts, Leases & Bids:**

- (B) [2009-5898-R](#): Consider adopting a resolution authorizing the purchase of seven (7) Filter Trak 660 units for the Membrane Water Treatment Plant from Water Utility Chemicals of Caldwell in the amount of \$31,304.70.
- (C) [2009-5899-R](#): Consider adopting a resolution authorizing Temple Heat & Air L.L.C., under an existing annual contract, to replace four chilled water air handlers and to clean the air ducts connected to these air handlers in the Temple Municipal Building in the estimated amount of \$75,000.
- (D) [2009-5900-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.
- (E) [2009-5901-R](#): Consider adopting a resolution authorizing a two-year renewal to the purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links and the Draughon-Miller Central Texas Regional Airport in the estimated annual amount of \$37,000.
- (F) [2009-5902-R](#): Consider adopting a resolution authorizing the purchase of sewer line chemical root control services for FY 09-10 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.
- (G) [2009-5903-R](#): Consider adopting a resolution authorizing a contract and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2010.
- (H) [2009-5904-R](#): Consider adopting a resolution authorizing a professional services agreement with Bury + Partners Engineering Solutions to provide engineering services for the design of a Department of Energy grant funded trail in the amount not to exceed \$45,100.

**Ordinance – Second & Final Reading:**

- (I) [2009-4332](#): SECOND READING – Z-FY-10-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Planned Development Neighborhood Services (PD-NS) on 5.6+ acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, 3,500+ feet north of the West Adams/SH 317 intersection.

- (J) [2009-4333](#): SECOND READING – Z-FY-10-05: Consider adopting an ordinance authorizing a zoning change from a Planned Development District (PDD) to General Retail District (GR) at the Wildflower Commercial Subdivision Lot 1, Block 2, at the southeast corner of Bright Lane and West Adams Avenue.
- (K) [2009-4334](#): SECOND READING — Consider adopting an ordinance amending Chapter 10, “Electrical Code,” of the Code of Ordinances of the City of Temple, Texas, to incorporate the adoption of the 2008 National Electric Code (NEC).

**Misc.**

- (L) 1. [2009-5905-R](#): Consider adopting a resolution granting a petition to institute voluntary annexation proceedings, known as the Barge Voluntary Annexation, for a 10.8± acre tract of land located west of FM 2271, south of FM 2305, on the south side of Northcliffe Drive, out of the G.W. Lindsey Survey, Abstract 513.  
  
2. [2009-5906-R](#): Consider adopting a resolution directing the Staff to develop a municipal services plan and calling public hearings to consider the petition.
- (M) [2009-5907-R](#): Consider adopting a resolution declaring an official intent to reimburse certain expenditures in an amount not to exceed \$2,250,000 designated for the City’s share of the Temple-Belton Regional Sewerage System (TBRSS) plant expansion made prior to the issuance of tax-exempt Utility Revenue Bonds.
- (N) [2009-5908-R](#): Consider adopting a resolution authorizing payment of an invoice to the Texas Commission on Environmental Quality (TCEQ) for a TCEQ Water System Fee in the amount of \$64,265.65.
- (O) [2009-5909-R](#): Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone Number One for fiscal year 2008-2009.
- (P) [2009-5910-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.
- (Q) [2009-5911-R](#): Consider adopting a resolution making single family property located within the City of Temple eligible for financing by bonds issued by the Central Texas Housing Finance Corporation.

**V. REGULAR AGENDA**

- 6. [2009-4335](#): FIRST READING – PUBLIC HEARING - Z-FY-10-08: Consider adopting an ordinance authorizing a zoning change request from General Retail District (GR) to Planned Development General Retail District (PD-GR) on the South 50 Feet of Lot 1, Block 2, Keaton Addition, located at 803 North General Bruce Drive.

7. [2009-4336](#): FIRST READING – PUBLIC HEARING - Z-FY-10-10: Consider adopting an ordinance authorizing a Conditional Use Permit request for an off-premise consumption package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182, a 15,723 square foot lease area.
8. [2009-5912-R](#): Consider adopting a resolution authorizing the execution of a contract with Georgetown Railroad for the purchase of approximately 6.2 miles of railroad right of way located in southeast Temple.

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 City projects, the public discussion of which would have a detrimental effect on negotiations with a third party.

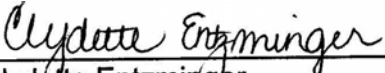
9. [2009-5913-R](#): Consider adopting a resolution designating the Chair of the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors for 2010.
10. [2009-4337](#): FIRST READING – PUBLIC HEARING - Z-FY-10-06-A: Consider adopting an ordinance authorizing a zoning change request from the Agricultural District (A) to Light Industrial District (LI) on 19.5± acres, situated in the McCampbell Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835, Bell County, located in the vicinity of State Highway 36 and North State Highway 317 intersection.
11. [2009-4338](#): FIRST READING – PUBLIC HEARING – Z-FY-10-06-B: Consider adopting an ordinance for a Conditional Use Permit (CUP) for mining and mining storage on a 123.2 ± acre tract of land located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529, the Daniel Meador Survey, Abstract No. 577, and the Elias Tuttle Survey, Abstract No. 835, Bell County, Texas.

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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 4:50 PM, on December 14, 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 at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2009. \_\_\_\_\_



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #3(A) & (B)  
Regular Agenda  
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**DEPT./DIVISION SUBMISSION & REVIEW:**

Clydetta Entzminger, City Secretary

**ITEM DESCRIPTION:** (A) Presentation by representatives from Temple Mall to The City of Temple - CPR Task Force regarding proceeds collected from the Temple Mall's Save A Life Day Silent Auction and 5K Save a Life Race.

(B) Presentation of Cen-Tex Cup.

**STAFF RECOMMENDATION:** Accept presentation as presented in item description.

**ITEM SUMMARY:** This presentation was requested by Dr. Rob Smith, Temple CPR Save A Life Task Force.

Connie Green, City Manager City of Killeen, will make this presentation to the City of Temple Staff.

**FISCAL IMPACT:** None

**ATTACHMENTS:** None



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #4  
Consent Agenda  
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**DEPT./DIVISION SUBMISSION & REVIEW:**

Mayor William A. Jones, III

**ITEM DESCRIPTION:** Receive an annual report on the operations of the Temple Economic Development Corporation from Mr. Lee Peterson, President.

**STAFF RECOMMENDATION:** Receive report as presented in item description.

**ITEM SUMMARY:** Mr. Lee Peterson will present this annual report on the operations of the Temple Economic Development Corporation.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

None



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(A)  
Consent Agenda  
Page 1 of 1

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

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

- (A) December 3, 2009 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 3, 2009 Special Called Meeting & Regular Meeting](#)

## TEMPLE CITY COUNCIL

DECEMBER 3, 2009

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, December 3, 2009, at 3:00 PM in the 3rd Floor Conference Room, 2 North Main Street.

**Present:**

Councilmember Tony Jeter  
Councilmember Marty Janczak  
Mayor Pro Tem Patsy E. 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 3, 2009.**

There was no discussion of regular agenda items.

2. **Receive update on the Strategic Investment Zones (SIZ) projects.**

Mayor Jones stated this item will be presented at a future Council meeting.

3. **Discuss proposed amendments to the City's Code of Ordinances, as follows:**

**(A) Chapter 10, "Electrical Code"**

Sarah Gardner-Cox, Deputy City Attorney, presented this item to the City Council. This item is scheduled for first reading of the ordinance and a public hearing on the agenda for today's regular City Council meeting. If approved, this ordinance will update the Temple Electrical Code to incorporate the 2008 National Electrical Code (NEC), with some amendments. The City's Electrical Board and subcommittees, as well as members of the Temple Area Builders Association, have reviewed the 2008 NEC and are recommending it be adopted by Council.

Mrs. Gardner-Cox explained Chapter 10 has been revised for consistency with terms and formatting. It also contains cites to the National Electrical Code in each section where amendments were made. Mrs. Gardner-Cox reviewed some of the more significant residential changes in the 2008 NEC which include the requirement for GFCI protection, arc-fault circuit interrupters, and tamper-resistant receptacles. Commercial changes in the 2008 NEC include the requirement that all multiwire branch circuits have a means to simultaneously disconnect all ungrounded conductors, all outdoor receptacles must have GFCI protection and in new construction a minimum of one communication outlet shall be installed within the dwelling and cabled to the service provider point.

Councilmember Janczak asked what the potential cost increase is to a new home for these new requirements.

Richard Therriault, Construction Safety and Services, stated it is approximately a

\$300 - \$400 increase. For a commercial property it is less, about \$100 for a \$100,000 structure.

Councilmember Janczak asked if the City is obliged to adopt the 2008 NEC.

Jonathan Graham, City Attorney, replied no. However, many of the amendments are already being done in the industry. The Electrical Board is recommending the City Council adopt the 2008 NEC with the proposed amendments.

## **(B) Chapter 23, "Minimum Housing Standards"**

Mrs. Gardner-Cox stated this item is not scheduled for City Council action at this time but will be coming forward soon. The reason this chapter is being amended is to eliminate the confusion that exists when establishing a timeline for the Building and Standards Commission. Staff will also recommend some general clean-up amendments for consistency.

Mrs. Gardner-Cox reviewed the current timeline followed by the Construction Safety and Services staff and the Building and Standards Commission before reaching a final decision. The new timeline being proposed would save approximately 75 days in the overall process.

Mr. Therriault stated the department handles about 50 cases per year through this process but many are voluntary demolitions and don't go to the Building and Standards Commission.

- 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 and City Secretary. No final action will be taken.**

Mayor Jones announced the City Council would enter into executive session at this time, approximately 3:30 p.m., to conduct work plan reviews with the Municipal Court Judge first, then the City Secretary.

Mayor Jones reconvened the work session at approximately 5:00 p.m. stating no final action would be taken.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, December 3, 2009 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 Patricia Dietrich, Immanuel Lutheran Church, voiced the Invocation.

**2. Pledge of Allegiance**

Bell County Judge Jon Burrows led the Pledge of Allegiance.

**II. SPECIAL PRESENTATIONS**

**3. Receive presentation by Jon Burrows, Bell County Judge, and Sharon Long, Tax Assessor/Collector, of Child Safety Funds collected in the amount of \$75,580.08.**

Bell County Judge Jon Burrows, County Commissioner Eddy Lange, and Sharon Long, Bell County Tax Assessor/Collector, presented the City of Temple with a check for the Child Safety Funds collected during the past year in the amount of \$75,580.08. Since this program began in 2001, Bell County has distributed \$581,236.67 to the City of Temple.

**III. PUBLIC COMMENTS**

There were no public comments made at this meeting.

**IV. CONSENT AGENDA**

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

**(A) November 19, 2009 Special Called Meeting and Regular Meeting**

**(B) 2009-5893-R: Consider adopting a resolution authorizing a contract with Wheeler Coating Asphalt, LP of Belton for milling and resurfacing East Avenue H from South 10th Street to South 1st Street in the amount of \$116,155.**

**(C) 2009-5894-R: Consider adopting a resolution authorizing a contract with K&S Backhoe Services, Inc., of Gatesville for construction services required to construct the Lilac Lane Sewer Extension in southwest Temple in an amount not to exceed \$76,468.10.**

**(D) 2009-4331: SECOND READING - Consider adopting an ordinance dual naming a portion of the planned Outer Loop (new portion of Old Howard Road and the portion from McLane Parkway through the Bioscience Park to FM 2305) as Old Howard Road/ Research Parkway.**

**(E) 2009-4328: SECOND READING - Z-FY-10-07: Consider adopting an ordinance authorizing amendments to the Choices '08 City of Temple Comprehensive Plan, 2030 Future Land Use and Character Plan Map, Figure 3.1 of the Plan.**

**(F) 2009-5895-R: Consider adopting a resolution authorizing the submission of**

**a grant application for the Staffing for Adequate Fire and Emergency Response (SAFER) grant through the Federal Emergency Management Agency's (FEMA) Assistance to Firefighters Grants (AFG) Program Office.**

**(G) 2009-5896-R: Consider adopting a resolution authorizing submission of an application for funding through the Texas Department of Transportation, Transportation Enhancement Program, in the amount of \$2,750,000 with \$2,062,500 reimbursed to the City through federal funding, to develop lighted and landscaped linear trails, and median improvements in the Temple Medical and Education District.**

**(H) 2009-5897-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.**

Motion by Councilmember Marty Janczak to adopt resolution approving Consent Agenda, with the exception of item (G), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

**(G) 2009-5896-R: Consider adopting a resolution authorizing submission of an application for funding through the Texas Department of Transportation, Transportation Enhancement Program, in the amount of \$2,750,000 with \$2,062,500 reimbursed to the City through federal funding, to develop lighted and landscaped linear trails, and median improvements in the Temple Medical and Education District.**

Kim Foutz, Assistant City Manager, stated this project is in support of the Temple Medical and Education District (TMED). She described the project, which totals \$2,750,000, and displayed a map showing the alignment and connectivity of this project. The project furthers the TMED and trails master plan, assists with the redevelopment of this area, grows transportation infrastructure and community enhancements, facilitates wellness, provides economic development and quality of place. The design for the project is complete and ready to bid. The local match will be 25%, a total of \$687,500. TxDOT administrative costs are 10%, \$250,000, and are required to be included in the project costs. Engineering costs were \$268,000.

Councilmember Jeter expressed his concern with the uncertainty of fund balance at year end. Sales tax will not be known until after the grant application has to be submitted.

Traci Barnard, Director of Finance, stated the funds being used for this grant, Designated Capital Projects - Unallocated, would not be used to supplement operations if sales taxes are low. The discussion continued regarding sales tax revenues and trends for the upcoming year.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving Consent Agenda Item (G), seconded by Councilmember Russell Schneider.

Councilmember Tony Jeter voted nay. The other Councilmembers voted aye. The motion passed.

## V. REGULAR AGENDA

### ORDINANCES

5. **2009-4332: FIRST READING - PUBLIC HEARING - Z-FY-10-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Planned Development Neighborhood Services (PD-NS) on 5.6+ acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, 3,500+ feet north of the West Adams/SH 317 intersection.**

Brian Mabry, Senior Planner, presented this zoning case to the City Council. The proposed use for this property is for a boat/rv storage facility. The structure will be a pole barn type with no internal walls. Mr. Mabry showed an aerial of the subject property, as well as current surrounding properties. The Future Land Use and Character Map and zoning maps were also displayed. Mr. Mabry presented the binding site plan which will be part of this ordinance, noting the various elements of the development. Eighteen notices were mailed to surrounding property owners, with one being returned in support and none in opposition of this request. Mr. Mabry presented the recommendation of the Planning & Zoning Commission for approval of the binding site plan development.

Councilmembers Jeter and Schneider stated they saw no need for the restriction for boat parking in the back 28 units. They asked that this restriction be removed.

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

Mr. David Hansen, 1093 Martha's Drive, Austin, the applicant in this request, addressed the Council.

Councilmember Jeter asked Mr. Hansen if the restriction from parking boats on the back 28 units will hurt this development.

Mr. Hansen stated that does restrict his development somewhat but he did agree to that condition.

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

Motion by Councilmember Russell Schneider to adopt ordinance, with removal of boat storage restriction on 28 units on the west side, with second reading set for December 17, 2009, seconded by Councilmember Tony Jeter.

Motion passed unanimously.

6. **2009-4333: FIRST READING - PUBLIC HEARING - Z-FY-10-05: Consider adopting an ordinance authorizing a zoning change from a Planned**

**Development District (PDD) to General Retail District (GR) at the Wildflower Commercial Subdivision Lot 1, Block 2, at the southeast corner of Bright Lane and West Adams Avenue.**

Tim Dolan, Planning Director, presented this zoning case to the City Council. He showed the location of the property along Kegley, which is proposed for development of a sit-down restaurant with the possibility of a drive through lane. Mr. Dolan displayed photos of the surrounding uses in the area and the Wildflower Country Club Masterplan. This request conforms to the Future Land Use and Character Map and utilities are in place to serve the tract. The tract is also served by West Adams Avenue, a major arterial, and Bright Lane, a collector. The Planning and Zoning Commission unanimously recommended approval of the requested rezoning.

Mayor Jones declared the public hearing open with regard to agenda item 6 and asked if anyone wished to address this item.

Mr. Larry Guess, 504 Mitchell, Belton, addressed the Council as the builder/developer for this project.

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

Motion by Councilmember Marty Janczak to adopt ordinance, with second reading set for December 17, 2009, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**7. 2009-4334: FIRST READING— PUBLIC HEARING - Consider adopting an ordinance amending Chapter 10, "Electrical Code," of the Code of Ordinances of the City of Temple, Texas, to incorporate the adoption of the 2008 National Electric Code (NEC).**

Jonathan Graham, City Attorney, presented this item to the City Council. The primary change is to adopt the 2008 version of the National Electrical Code. This process is similar to the recent adoption of the Fire Code. The City's Electrical Board and subcommittees have worked on this item and are recommending adoption of the code, with some amendments. Some changes are being proposed for consistency in terms and formatting. Mr. Graham reviewed the significant changes impacting residential and commercial construction in the City. He also displayed a listing of cities in the surrounding area that have adopted the 2008 National Electrical Code. The potential cost is \$300-\$400 for a residential home and somewhat less for commercial structures.

Mayor Jones declared the public hearing open with regard to agenda item 7 and asked if anyone wished to address this item.

Troy Glasson, Temple Area Builders Association, stated he has visited with City staff regarding these proposed changes. Some changes will increase the cost of new homes. Mr. Glasson reminded the Council of recent cost increases associated with other requirements, such as sprinkler installations. He asked

that Council help keep home costs down wherever possible. These changes will affect all homes in Temple and are taken very seriously as they deal with safety issues.

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, with second reading set for December 17, 2009, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

## RESOLUTIONS

8. **2009-5892-R: Consider adopting a resolution authorizing a contract with EMJ Corporation of Irving for the construction of a new Central Fire Station in the amount of \$3,406,125.**

Belinda Mattke, Purchasing Director, presented this item to the City Council. The citizens approved the GO bonds in May 2008 with \$7,175,000 being allocated for a new central fire station and administrative offices. Mrs. Mattke described the design of the new facility which will meet the department's needs for at least 20 years.

Four alternates and four allowances were provided for in the Competitive Sealed Proposals. The low bid received was \$3,527,000 from EMJ Corporation and Mrs. Mattke explained the proposal evaluation criteria used to evaluate the bids. All four firms interviewed were well qualified so the decision came down to price, with the recommendation was to award the contract to the low bidder, EMJ. This project will be a 11-month construction period. Only one alternate is being recommended, so the final contract price is \$3,406,125, which is a per square foot price of \$152.25. The project should be complete in November 2010.

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

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

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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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12/17/09  
Item #5(B)  
Consent Agenda  
Page 1 of 1

### **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 the purchase of seven (7) Filter Trak 660 units for the Membrane Water Treatment Plant from Water Utility Chemicals of Caldwell in the amount of \$31,304.70.

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

**ITEM SUMMARY:** The Membrane Water Treatment Plant utilizes a series of filter units to measure outgoing turbidity levels before sending potable water into the distribution system. To adequately prepare for and maintain TCEQ regulatory requirements related to the water system, properly calibrated turbidity units must be operational. There are 14 filter units that used to perform this function. In FY2009 seven (7) of the 14 filters were replaced, and included in the FY2010 budget is funding to replace the other seven (7) filters. The existing units are no longer able to be calibrated and parts for the units are obsolete.

On December 8, 2009, two bids were received. Per the attached bid tabulation, Water Utility Chemicals submitted the low bid on the project in the amount of \$31,304.70. Water Utility Chemicals provided these filters previously and staff found them to be a responsible vendor.

**FISCAL IMPACT:** Funding in the amount of \$35,000 is available in account 520-5100-535-63-10, project #100570, for the installation of Filter Trak Sensor Units at the Membrane Plant in the FY 2010 operating budget.

### **ATTACHMENTS:**

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

Tabulation of Bids Received  
on December 8, 2009 at 2:00 p.m.  
Filter Trak Sensors for Membrane Plant

		BIDDERS			
		Water Utility Chemicals Caldwell, TX		Scientific Sales Oak Ridge, TN	
Description	Qty	Unit Price	Total Price	Unit Price	Total Price
Filter Trak Sensors	7	\$4,472.10	\$31,304.70	\$4,839.00	\$33,873.00
Delivery		Yes		Yes	
Local Preference		No		No	
Exceptions?		No		No	
Credit Check Authorization		Yes		Yes	

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

***Belinda Mattke***

Belinda Mattke, Director of Purchasing

**8-Dec-09**

Date

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

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 7 FILTER TRAK 660 UNITS FOR THE MEMBRANE WATER TREATMENT PLANT FROM WATER UTILITY CHEMICALS OF CALDWELL, TEXAS, IN THE AMOUNT OF \$31,304.70; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on December 8, 2009, 2 bids were received for new filter units at the Membrane Water Treatment Plant, to replace existing obsolete filter units;

**Whereas**, the Staff recommends accepting the bid (\$31,304.70) from Water Utility Chemicals, Inc., of Caldwell, Texas, for this purchase;

**Whereas**, funds are available in Account 520-5100-535-6310, Project #100570, for this project; 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 7 Filter Trak 660 units for the Membrane Water Treatment Plant from Water Utility Chemicals of Caldwell, Texas, in the amount of \$31,304.70.

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(C)  
Consent Agenda  
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### **DEPT./DIVISION SUBMISSION & REVIEW:**

Ken Cicora, Director of Parks and Leisure Services

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing Temple Heat & Air L.L.C., under an existing annual contract, to replace four chilled water air handlers and to clean the air ducts connected to these air handlers in the Temple Municipal Building in the estimated amount of \$75,000.

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

**ITEM SUMMARY:** This 90 day project will replace all four of the aging chilled water air handlers and all of the motors, thermostats, filters, valves and actuators associated with these air handlers that control the conditioning of the air on mainly the first floor at the Municipal Building. Also, during this process Temple Heat & Air will be cleaning all of the air ducts that are connected to these air handlers.

Since these air handlers control both heating and cooling of the air they will be replaced one at a time beginning in March 2010 to minimize the impact to the staff at the Municipal Building and to keep the working conditions as pleasant as possible. Temple Heat & Air estimates that it will take approximately one week to replace each air handler.

The City of Temple currently has an annual service contract with Temple Heat & Air to provide these types of services. The existing contract states that the City has the option to bid projects greater than \$10,000. Due to Temple Heat & Air's familiarity with the City Hall HVAC system and staff's desire to stage this project in phases, staff is recommending that the project be completed under the existing contract. Temple Heat & Air is estimating the cost of the project to be approximately \$75,000 based on the established rates within the annual contract.

This project was funded through the FY 2009 operating budget.

**FISCAL IMPACT:** Funding in the amount of \$20,000 was appropriated in the FY 2009 operating budget in account #110-5924-519-6310, project #100419, to fund this project. The amount originally allocated to fund this project was under estimated. A budget adjustment is present for Council's approval in the amount of \$55,004 to fund the amount needed for the construction contract. These additional funds are available from project savings of various completed projects.

**ATTACHMENTS:**

Temple Heat & Air Estimates  
Budget Adjustment  
Resolution

**From:** Temple Heat and Air [templeheatair@hotmail.com]  
**Sent:** Monday, August 31, 2009 11:57 AM  
**To:** Val Roming  
**Subject:** estimate onCity Hall air handlers/Temple Heat & Air

## Temple Heat & Air L.L.C

P.O. Box 1725, Temple, TX. 76503  
Phone 254-771-1012, Fax 254-771-5926  
E-Mail [templeheatair@hotmail.com](mailto:templeheatair@hotmail.com)  
Lic.# TACLAO19453C

August 31, 2009

City of Temple  
3210 E. Ave H. Bldg. C  
Temple, TX 76501  
Attn: Val Roming  
RE: New chiller air handlers

We are pleased to offer the following estimate to replace to the air handlers at City Hall. This estimate consists of removing the existing chill water air handlers and install (4) four new chiller water air handlers. Included in this estimate will be the following:

- (1) One CARRIER Air Handler (M# 40RMS012)
- (2) Two CARRIER Air Handlers (M# 39LF06)
- (1) One CARRIER Air Handler (M# 39LF10)
- Sloped, cleanable PVC drain pans
- Factory installed fan motor contactor and low voltage terminal block
- Cleanable insulation with EPA registered anti-microbial agent
- CW & HW valve and Actuator
- 2" Flat Filter section
- (4) Programmable/proportional control digital thermostats
- (4) Four Motor controllers
- Demolition of existing Air Handlers
- Install new CW & HW shut off valves
- Metal duct connections
- All control wiring (24 Volts)
- Labor
- Startup & Test

Estimated Cost\*\*\*\*\*\$70,804.00

Final invoice will be completed per City contract pricing. Estimated price is subject to change depending on materials and labor needed to complete job.

**ALL WORK TO BE DONE IN A TIMELY AND PROFESSIONAL MANNER**  
**Please feel free to call me if you have any questions or concerns @ 254-771-1012**

Respectfully,

Approved By: \_\_\_\_\_  
Date: \_\_\_\_\_

Michael Vansa  
Vice President

**From:** Temple Heat and Air [templeheatair@hotmail.com]  
**Sent:** Monday, December 07, 2009 1:16 PM  
**To:** Val Roming  
**Subject:** City Hall duct cleaning

## Temple Heat & Air L.L.C

P.O. Box 1725, Temple, TX. 76503  
Phone 254-771-1012, Fax 254-771-5926  
E-Mail [templeheatair@hotmail.com](mailto:templeheatair@hotmail.com)  
Lic.# TACLA019453C

November 16, 2009

City of Temple  
3210 E. Ave H. Bldg. C  
Temple, TX 76501  
**RE: Duct Cleaning at City Hall**  
**Attn: Val Roming**

We are pleased to offer the following estimate to clean all ducts, and registers on the first floor of City Hall.

Estimate Cost of Cleaning\*\*\*\*\*\$4,200.00

Cost is subject to change. All work will be performed to City Contract.

**ALL WORK TO BE DONE IN A TIMELY AND PROFESSIONAL MANNER**  
Please feel free to call me if you have any questions or concerns @ 254-771-1012

Respectively,

Approved By:\_\_\_\_\_  
Date:\_\_\_\_\_

Michael Vansa  
Vice President

FY **2010****BUDGET ADJUSTMENT FORM**

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

**Adjustments should be rounded to the nearest \$1.**

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-

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-5924-519-63-10	100419	Municipal Building Air Handlers	\$ 55,004			
110-5924-519-63-10	100407	Project Savings			5,150	
110-5924-519-63-10	100422	City Hall Replace Boiler			11,012	
110-5924-519-63-10	100420	Replace Floor			313	
110-5924-519-63-10	100429	Replace Roof			17,240	
110-5924-519-63-10	100428	Reseal Joints			16,077	
110-5924-519-63-10	100430	PALS CMRC Replace Boiler			3,465	
110-5924-519-63-10	100425	Jeff Hamilton A/C			1,747	
<b>TOTAL.....</b>			<b>\$ 55,004</b>		<b>\$ 55,004</b>	

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

This budget adjustment appropriates additional funding from project savings to fund the replacement of the air handlers at City Hall. Total project cost is \$75,004. \$20,000 was included in the FY 2009 operating budget to fund this project. The project cost was under estimated by City staff.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

December 17, 2009

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING TEMPLE HEAT & AIR, L.L.C., UNDER AN EXISTING CONTRACT, TO REPLACE 4 CHILLED WATER AIR HANDLERS AND TO CLEAN THE AIR DUCTS CONNECTED TO THESE AIR HANDLERS IN THE TEMPLE MUNICIPAL BUILDING, IN THE ESTIMATED AMOUNT OF \$75,000.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** the City currently has an annual contract with Temple Heat & Air, L.L.C., for HVAC services;

**Whereas,** the Staff recommends a project to replace 4 chilled water air handlers and clean the air ducts connected to these air handlers in the Temple Municipal Building;

**Whereas,** the existing annual contract states that the City has the option to bid projects greater than \$10,000 – since Temple Heat & Air, L.L.C., is familiar with this HVAC system and is able to stage the project in phases to keep the working conditions as pleasant as possible in the Municipal Building, the Staff recommends that the project be completed under the existing contract;

**Whereas,** funds are available in Account # 110-5924-519-6310, project #100419, for this project; 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 Temple Heat & Air, L.L.C., under an existing annual contract, to replace four chilled water air handlers and to clean the air ducts connected to these air handlers in the Temple Municipal Building, in the estimated amount of \$75,000.00.

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(D)  
Consent Agenda  
Page 1 of 2

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

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** 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.

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

**ITEM SUMMARY:** Mr. Brit Coleman, BBI Tennis Group, has provided tennis pro services at the Summit Recreation Center since 2004. Over the past five years there has been substantial growth in both the youth and adult tennis program. The Parks and Leisure Services Department is very pleased with the work of Mr. Coleman and his efforts to grow tennis in Temple.

Under this proposed agreement, BBI will be responsible for the following:

- All instructors to include hiring and payment
- Scheduling of lessons and tournaments
- All pro shop employees
- Monthly attendance reports and class rosters
- Assisting with community events such as TISD events that take place at the Summit, local & regional tournaments, and programs developed by the Summit staff

The City will be responsible for:

- Collecting all user fees
- Disbursing stipend of \$500 per month and 90% usage fees from leagues and lessons on a monthly basis
- All court maintenance
- Preparing the courts for initial play on a daily basis to include filling water jugs and blowing off the courts

The City of Temple will retain 10% of all user fees as well as \$2.50 per player from tournament entry fees –estimated to be \$2,250.



We believe that BBI has directly contributed to the increased popularity of tennis in the area as well as impacted the economy through tournaments and special events.

**FISCAL IMPACT:** Funds are budgeted in account 110-3200-551-2513, Special Services, to fund the services agreement for tennis pro services at the Summit Recreation Center.

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND BBI TENNIS GROUP, BRIT COLEMAN, FOR TENNIS PRO SERVICES AT THE SUMMIT RECREATION CENTER, IN AN ESTIMATED ANNUAL AMOUNT OF \$60,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, Brit Coleman, BBI Tennis Group, has provided tennis pro services at the Summit Recreation Center since 2004 – over the past five years there has been substantial growth in both the youth and adult tennis program;

**Whereas**, BBI has directly contributed to the increased popularity of tennis in the area as well as impacting the economy through tournaments and special events;

**Whereas**, the Staff recommends entering into a services agreement with BBI Tennis Group for continued tennis pro services at the Summit Recreation Center in an estimated annual amount of \$60,000, with the City Temple retaining 10% of all user fees as well as \$2.50 per player from tournament entry fees;

**Whereas**, funds are budgeted in Account # 110-3200-551-2513 to fund these services; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a services agreement in an estimated annual amount of \$60,000 between the City of Temple, Texas, and BBI Tennis Group, Brit Coleman, after approval as to form by the City Attorney, for tennis pro services at the Summit Recreation Center.

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(E)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a two-year renewal to the purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport in the estimated annual amount of \$37,000.

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

**ITEM SUMMARY:** On May 1, 2008, the City Council authorized a 20-month purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport. Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport each have two fuel tanks, one tank of unleaded fuel and one tank of diesel. The inter-local agreement with Bell County for the purchase of fuel from Texas Fleet Fuel does not cover transported fuel.

The bid prices are based on the OPIS price (Oil Price Information Service) per actual unbranded rack price for that day's delivery. Unleaded is priced at 18 cents above OPIS and diesel is priced at 20 cents above OPIS. This price does not include the state mandated petroleum product delivery fee which is billed at .0015 cents per gallon.

The original bid allowed for two (2) additional two-year renewals. The City has been pleased with the products and service received from Triple S Petroleum. Therefore, staff recommends renewal of the purchase agreement. The renewed purchase contract will commence on January 1, 2010 and continue through December 31, 2011.

### **FISCAL IMPACT:**

FY 2010 Airport budgeted auto supplies: 110-3600-560-2115 -- \$12,450.00

FY 2010 Golf Links Operations budgeted auto supplies: 110-3110-551-2115 -- \$13,325.00

FY 2010 Golf Links Maintenance budgeted auto supplies: 110-3120-551-2115 -- \$12,201.00

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A 2-YEAR RENEWAL TO THE PURCHASE AGREEMENT WITH TRIPLE S PETROLEUM OF AUSTIN, TEXAS, FOR THE PURCHASE OF ON-SITE FUEL FOR SAMMONS GOLF LINKS AND THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, IN THE ESTIMATED ANNUAL AMOUNT OF \$37,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on May 1, 2008, the City Council authorized a purchase agreement with Triple S Petroleum of Austin, Texas, for the purchase of on-site fuel for Sammons Golf Links and the Draughon-Miller Central Texas Regional Airport;

**Whereas**, the original bid allowed for 2 additional 2-year renewals – the Staff has been pleased with the products and services received from Triple S Petroleum and recommends extending the agreement for a 2-year term;

**Whereas**, funds are available in Account Nos. 110-3600-5560-2115, 110-3110-551-2115, and 110-3120-551-2115 for this service; and

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

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

**Part 1:** The City Council authorizes a 2-year renewal to the purchase agreement with Triple S Petroleum of Austin, Texas, for the purchase of on-site fuel for Sammons Golf Links and the Draughon-Miller Central Texas Regional Airport, in the estimated annual amount of \$37,000.

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

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(F)  
Consent Agenda  
Page 1 of 1

**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 the purchase of sewer line chemical root control services for FY 09-10 from Duke's Root Control, Inc. of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.

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

**ITEM SUMMARY:** For many years, the City of Temple has utilized chemical root control to manage and minimize the growth of roots in the sanitary sewer system. In older sanitary sewer systems, roots from trees and vegetation enter the system through cracks in the pipes in an attempt to find a source of water. These roots grow, eventually making any existing cracks in the system bigger which in turn results in further deterioration of the lines and blockages in the system. Chemical root control, when applied in targeted areas, can substantially reduce roots from blocking the system and help keep lines open.

Public Works is requesting to purchase these services utilizing a BuyBoard contract at prices established in the attached price schedule. It is known that the chemicals utilized by Duke's Root Control do not impact either wastewater treatment plant. Staff has been pleased with the services provided by Duke's Root Control and recommends purchase through the BuyBoard this year for this service.

**FISCAL IMPACT:** Funding in the amount of \$65,000 has been appropriated in account 520-5400-535-2616, for this service.

**ATTACHMENTS:**

[BuyBoard Price Schedule](#)  
[Resolution](#)

**Search Results: All Commodities**[Help](#)**Narrow Search by Keyword(s):**[Search](#)[Back](#)

Part #/ Vendor	Description	Qty	Unit	Price		
Root Control <a href="#">Duke's Root Cont</a>	Jet Power II Grease Liquefier; \$32.00 per gallon, for 5-115 gallons.		EA	\$32.00	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Jet Power II Grease Liquefier; \$25.00 per gallon, for 120 plus gallons.		EA	\$25.00	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Razeroooter II, 6" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole.		EA	\$1.59	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Razeroooter II, 8" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole.		EA	\$1.59	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Razeroooter II, 10" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole.		EA	\$1.76	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Razeroooter II, 12" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole.		EA	\$1.92	<a href="#">Add</a>	<a href="#">Info</a>
Root Control <a href="#">Duke's Root Cont</a>	Razeroooter II, 15" Diameter Pipe, Sewer Line Chemical Root Control Services, Manhole to Manhole.		EA	\$2.73	<a href="#">Add</a>	<a href="#">Info</a>

1-7 of 7 items

**Search Criteria:****Vendor: Duke's Root Control, Inc**[\[ Log Out \]](#)©1996 - 2009 TASB  
ALL RIGHTS RESERVED



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF SEWER LINE CHEMICAL ROOT CONTROL SERVICES FOR FY 2009-10 FROM DUKE'S ROOT CONTROL, INC., OF SYRACUSE, NEW YORK, UTILIZING A BUYBOARD CONTRACT IN THE ESTIMATED ANNUAL AMOUNT OF \$65,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, for many years, the City of Temple has utilized chemical root control to manage and minimize the growth of roots in the sanitary sewer system – for the past 5 years the City has contracted with Duke's Root Control, Inc., of Syracuse, New York through an annual contract with one year extensions;

**Whereas**, this year, that contract has expired and Staff recommends purchasing these services utilizing a BuyBoard contract with Dukes's Root Control, Inc.;

**Whereas**, funds are budgeted in Account No. 520-5400-535-2616 for this service; 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 sewer line chemical root control services for FY2009-10 from Duke's Root Control, Inc., of Syracuse, New York, utilizing a BuyBoard contract in the estimated annual amount of \$65,000.

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

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(G)  
Consent Agenda  
Page 1 of 3

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

Amy M. House, Director of Human Resources/Civil Service

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a contract with Scott & White Health Plan and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2010.

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

**ITEM SUMMARY:** Previously the trustees of the City of Temple Employee Benefits Trust adopted rates for health and dental insurance for all active employees and retirees not eligible for Medicare. City policy requires that when retirees turn 65, if they are eligible, they must enroll in the substitute Medicare supplement plan(s) offered through the City in order to receive the City's contribution. These rates are not available until the late Fall of each year, so at this time Council needs to adopt substitute Medicare supplement rates for retirees for 2010. The rates for substitute Medicare supplement insurance run from January 1<sup>st</sup> through December 31<sup>st</sup> of each year while rates for our active employees and non Medicare eligible retirees run from October 1<sup>st</sup> through September 30<sup>th</sup> of each year.

The Personnel Policies and Procedures Manual states that the City will pay 50% of the substitute Medicare Supplement rates adopted by Council for Medicare eligible retirees who have at least twenty-five (25) years of actual service with the City of Temple. On December 15, 2009, the City received 3 proposals. The proposals were received from Magna Benefits, Hartford and Scott & White Health Plan. The City's consultant, Terry Hale of City-County Benefit Services, reviewed the proposals received and recommends the Scott & White Health Plan proposal. Both Magna and Hartford will require that the City select one of the plans proposed and offer only that plan to the retirees. Scott & White Health Plan allows us to offer all proposed plans.

Scott & White Health Plan, the recommended carrier, offers Senior Care as their substitute Medicare supplement. In 2007, 2008 and 2009, retirees were offered twelve medicare supplement plans through the City. Staff has determined that Plan 11 is the package that most closely reflects the plan the City contributed 50% to in the past. Staff recommends that Council authorize a contribution of 50% toward all plans up to a maximum contribution of \$96.10 (50% of the cost of Plan 11).

The new monthly premium recommendations for 2010 are as follows:

<b>Plan</b>	<b>Description</b>	<b>Monthly Premium</b>	<b>City's Contribution</b>	<b>Retiree's Contribution</b>
1	Senior Care Select without Rx	\$35.00	\$17.50	\$17.50
2	Senior Care Selection with Value Rx	\$59.60	\$29.80	\$29.80
3	Senior Care Select with Basic Rx	\$72.10	\$36.05	\$36.05
4	Senior Care Select with Enhanced Rx	\$127.90	\$63.95	\$63.95
5	Senior Care Preferred without Rx	\$97.00	\$48.50	\$48.50
6	Senior Care Preferred with Value Rx	\$121.60	\$60.80	\$60.80
7	Senior Care Preferred with Basic Rx	\$134.20	\$67.10	\$67.10
8	Senior Care Preferred with Enhanced Rx	\$189.80	\$94.90	\$94.90
9	Senior Care Preferred Plus without Rx	\$155.00	\$77.50	\$77.50
10	Senior Care Preferred Plus with Value Rx	\$179.60	\$89.80	\$89.80
11	Senior Care Preferred Plus with Basic Rx	\$192.20	\$96.10	\$96.10
12	Senior Care Preferred Plus with Enhanced Rx	\$247.80	\$96.10	\$151.70

According to the consultant, this insurance should be awarded by the Council and not the Trust because it is considered an individual plan instead of a group plan and is not eligible for the tax credit.

**FISCAL IMPACT:** Budgeted amount: \$185,450 in account 110-2700-515-1231\*  
Estimated amount for FY09-10: \$41,515.20\*\*

\* Budget includes all retirees' insurance

\*\* Maximum contribution of \$96.10 x 48 # Medicare eligible retirees (currently enrolled) x 9 months (Jan - Sept) = \$41,515.20; the number of retirees could change over the course of the year.

**ATTACHMENTS:**

[Medicare Supplement Proposal Analysis  
Resolution](#)

**City of Temple Employee Benefits Trust**  
**Medicare Supplement**  
**2010 RFP Analysis**

Retiree Pays									
	Medicare Pays 2009	SWHP SeniorCare Preferred Plus	SWHP SeniorCare Preferred	SWHP SeniorCare Select	Hartford PI 3139	Hartford PI 3137	Magna Benefits Plan F	Magna Benefits Plan D	Magna Benefits Plan F(1)
<b>Medicare Part A</b>									
Room and Board First 60 Days	100% After \$1,100 Deductible	\$0.00	\$450.00	\$700.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Room and Board Days 61-90	100% After \$275/Day Co-pay	\$0.00	\$450.00	\$700.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Room and Board Days 91+ Days While Using Reserve	100% After \$550/Day Co-pay	\$0.00	\$450.00	\$550/Day	\$0.00	100% Billed Charges	\$0.00	\$0.00	\$0.00
Room and Board After Using Reserve	Not Covered	\$0.00	\$450.00	100% Billed Charges	\$0.00	100% Billed Charges	\$0.00	\$0.00	\$0.00
Skilled Nursing Facility First 20 Days	100%	\$0.00	\$0.00	\$0.00	\$0.00	100% Billed Charges	\$0.00	\$0.00	\$0.00
Skilled Nursing Facility Days 21-100	100% After \$137.50 /Day Co-pay	\$15/Day	\$35/Day	\$100/Day	\$0.00	100% Billed Charges	\$0.00	\$0.00	\$0.00
Blood 1-3 Pints	Not Covered	\$0.00	\$0.00	Not Covered	\$0.00	Not Covered	\$0.00	\$0.00	\$0.00
Blood 4+ Pints	100%	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Medicare Part B</b>									
Deductible \$155	Not Covered	\$0.00	\$15.00	\$30 or 20%	\$0.00	\$155.00	\$0.00	\$155.00	\$155.00
Benefit % After Deductible	80%	0%	0%	0%	20%	20%	20%	20%	20%
Blood 1-3 Pints	Not Covered	0%	0%	100%	0%	0%	0%	0%	0%
<b>Monthly Premium</b>		<b>\$155.00</b>	<b>\$97.00</b>	<b>\$35.00</b>	<b>\$176.23</b>	<b>\$146.21</b>	<b>\$204.00</b>	<b>\$191.00</b>	<b>\$164.00</b>
<b><u>Other Considerations</u></b>									
Geographical Area		Central TX	Central TX	Central TX	Nation Wide	Nation Wide	Nation Wide	Nation Wide	Nation Wide
Employer List Bill		Yes	Yes	Yes	<b>No</b>	<b>No</b>	Yes	Yes	Yes
Direct Bill Retiree Portion		No	No	No	No	No	No	No	No
Rate Guarantee		12 Mo.	12 Mo.	12 Mo.	12 Mo.	12 Mo.	12 Mo.	12 Mo.	12 Mo.
Rx Only With Senior Care Plan		Yes	Yes	Yes	No	No	No	No	No
Multiple Plans		Yes	Yes	Yes	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>	<b>No</b>

**City of Temple Employee Benefits Trust**  
**Medicare Part D**  
**2010 RFP Analysis**

	<b>SWPS Value</b>	<b>SWPS Basic</b>	<b>SWPS Enhanced</b>	<b>Hartford</b>	<b>Magna Benefits Plan 1</b>	<b>Magna Benefits Plan 2</b>	<b>Magna Benefits Plan 3</b>
Deductible	\$310.00	\$0.00	\$0.00	\$0.00	\$250.00	\$100.00	\$0.00
<u>Retail</u>							
Generic	\$5.00	\$7.00	\$0.00	\$7.50	\$10.00	\$10.00	\$10.00
Preferred Brand	\$30.00	\$35.00	\$35.00	\$39.00	\$30.00	\$30.00	\$30.00
Non Preferred Brand or Generic	\$60.00	\$64.00	\$65.00	\$98.00	\$50.00	\$50.00	\$50.00
<u>Mail Order</u>							
Generic	\$10.00	\$14.00	\$0.00	\$22.50	\$20.00	\$20.00	\$20.00
Preferred Brand	\$60.00	\$70.00	\$70.00	\$117.00	\$60.00	\$60.00	\$60.00
Non Preferred Brand or Generic	\$120.00	\$128.00	\$130.00	\$294.00	\$100.00	\$100.00	\$100.00
Specialty	25%	33%	33%	33%	33%	33%	25%
Donut Hole Coverage \$2,830- \$4,550	N/A	N/A	\$4.00 Generic Only	\$2.50 Generic Only	\$10 Generic Only	\$10 Generic Only	\$10 Generic Only
Above \$4,550	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand	\$2.50 Generic & > of \$6.30 or 5% Brand
<b>Monthly Premium</b>	<b>\$24.60</b>	<b>\$37.20</b>	<b>\$92.80</b>	<b>\$81.90</b>	<b>\$59.21</b>	<b>\$69.27</b>	<b>\$88.32</b>
Rx <u>Only</u> With Senior Care Plan	Yes	Yes	Yes	No	No	No	No

**City of Temple Employee Benefits Trust**  
**Medicare Supplement**  
**Rates 1/1/10-12/31/10**

Enrolled 2009	Plan	SWHP	Monthly	City Pays	Retiree Pays	Magna Benefits	Monthly	City Pays	Retiree Pays
	1	Senior Care Select without Rx	\$35.00	\$17.50	\$17.50	Plan F(1) without Rx	\$164.00	\$82.00	\$82.00
	2	Senior Care Select with Value Rx	\$59.60	\$29.80	\$29.80	Plan F(1) with Rx 1	\$223.21	\$111.61	\$111.61
	3	Senior Care Select with Basic Rx	\$72.10	\$36.05	\$36.05	Plan F(1) with Rx 2	\$233.72	\$116.86	\$116.86
	4	Senior Care Select with Enhanced Rx	\$127.90	\$63.95	\$63.95	Plan F(1) with Rx 3	\$252.32	\$126.16	\$126.16
3	5	Senior Care Preferred without Rx	\$97.00	\$48.50	\$48.50	Plan D without Rx	\$191.00	\$95.50	\$95.50
	6	Senior Care Preferred with Value Rx	\$121.60	\$60.80	\$60.80	Plan D with Rx 1	\$250.21	\$125.11	\$125.11
	7	Senior Care Preferred with Basic Rx	\$134.20	\$67.10	\$67.10	Plan D with Rx 2	\$260.72	\$130.36	\$130.36
	8	Senior Care Preferred with Enhanced Rx	\$189.80	\$94.90	\$94.90	Plan D with Rx 3	\$279.32	\$139.66	\$139.66
2	9	Senior Care Preferred Plus without Rx	\$155.00	\$77.50	\$77.50	Plan F without Rx	\$204.00	\$102.00	\$102.00
	10	Senior Care Preferred Plus with Value Rx	\$179.60	\$89.80	\$89.80	Plan F with Rx 1	\$263.21	\$131.61	\$131.61
26	11	Senior Care Preferred Plus with Basic Rx	\$192.20	\$96.10	\$96.10	Plan F with Rx 2	\$273.72	\$136.86	\$136.86
17	12	Senior Care Preferred Plus with Enhanced Rx	\$247.80	\$96.10	\$151.70	Plan F with Rx 3	\$292.32	\$136.86	\$155.46
Plan 11 is Plan City currently pays @ 50%						Can Offer Only <u>One</u> Plan			
Can Offer <u>All</u> Plans									

Plan	Hartford	Monthly Cost	City Pays	Retiree Pays
1	Plan 3137 <u>W/O</u> Rx	\$146.21	\$73.11	\$73.11
2	Plan 3139 <u>W/O</u> Rx	\$176.23	\$88.12	\$88.12
3	Plan 3137 <u>With</u> Rx	\$228.11	\$114.06	\$114.06
4	Plan 3139 <u>With</u> Rx	\$258.13	\$129.07	\$129.07
Can Only Offer <u>One</u> Plan				



RESOLUTION NO. 2009-5903-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH SCOTT AND WHITE HEALTH PLAN AND ESTABLISHING RATES FOR SUBSTITUTE MEDICARE SUPPLEMENT INSURANCE FOR CITY OF TEMPLE RETIREES AND THE CITY'S CONTRIBUTION THERETO FOR CALENDAR YEAR 2010; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** on December 15, 2009, the City received 3 proposals for substitute Medicare supplement insurance for retirees for calendar year 2010;

**Whereas,** the proposals were reviewed by the City's consultant with City-County Benefits Service who recommends accepting the proposal received from Scott and White Health Plan;

**Whereas,** the City's Personnel Policies & Procedure Manual provides that the City will pay 50% of the substitute Medicare Supplement rates adopted by the City Council for Medicare eligible retirees who have at least 25 years of actual service with the City of Temple;

**Whereas,** the estimated expenditure for 2010 is \$41,515.20, and funds for retirees' insurance are budgeted in Account No. 110-2700-515-1231; 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 agreement with Scott and White Health Plan, after approval as to form by the City Attorney, for substitute Medicare supplement insurance for City of Temple retirees for calendar year 2010 at the following rates:

Plan	Description	Monthly Premium	City's Contribution	Retiree's Contribution
1	Senior Care Select without Rx	\$35.00	\$17.50	\$17.50

2	Senior Care Selection with Value Rx	\$59.60	\$29.80	\$29.80
3	Senior Care Select with Basic Rx	\$72.10	\$36.05	\$36.05
4	Senior Care Select with Enhanced Rx	\$127.90	\$63.95	\$63.95
5	Senior Care Preferred without Rx	\$97.00	\$48.50	\$48.50
6	Senior Care Preferred with Value Rx	\$121.60	\$60.80	\$60.80
7	Senior Care Preferred with Basic Rx	\$134.20	\$67.10	\$67.10
8	Senior Care Preferred with Enhanced Rx	\$189.80	\$94.90	\$94.90
9	Senior Care Preferred Plus without Rx	\$155.00	\$77.50	\$77.50
10	Senior Care Preferred Plus with Value Rx	\$179.60	\$89.80	\$89.80
11	Senior Care Preferred Plus with Basic Rx	\$192.20	\$96.10	\$96.10
12	Senior Care Preferred Plus with Enhanced Rx	\$247.80	\$96.10	\$151.70

**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 17<sup>th</sup> day of **December**, 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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12/17/09  
Item #5(H)  
Consent Agenda  
Page 1 of 2

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

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a professional services agreement with Bury + Partners Engineering Solutions to provide engineering services for the design of a Department of Energy grant funded trail in the amount not to exceed \$45,100.

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

**ITEM SUMMARY:** The City has been awarded a Department of Energy (DOE) grant through its Energy Efficiency and Conservation Block Grant Program. This program is intended to provide funding to municipalities for: 1) reducing fossil fuel emissions in a manner that is environmentally sustainable, and maximizes benefits for local and regional communities; 2) reduce the total energy use of eligible entities; and 3) improve energy efficiency in the building sector, the transportation sector, and other appropriate sectors.

This project will create a pedestrian and bike trail within the Temple Medical and Education District. The proposed path of the trail will connect South 5<sup>th</sup> Street with Scott & White Boulevard and travel along Friar's Creek. The trail will be designed as 10' wide concrete and will be approximately 3,615' in length with one bridge to cross Friar's Creek.

Bury + Partners Engineering Solutions conducted the initial pre-engineering necessary to submit the grant applications, therefore it is recommended that they continue with the final engineering plans and survey for this project. Their scope of services includes: Concept Refinement, Construction Documents, Bid Phase Services, Construction Administration, TCEQ Storm water Management Plan, Reimbursable expenses/Reproductions, Surveys (to include boundary and easement preparation), Texas Architectural Barriers Project Registration and. Geotechnical engineering.

**FISCAL IMPACT:** The professional services agreement will be funded from account 361-3400-531-6834, project # 100332. Currently, there is \$214,200 remaining of the original allocation of \$470,000 from the 2008 Certificate of Obligation bonds. Of the remaining \$214,200, \$166,000 has been designated for a portion of the City's 25% grant match for the Texas Department of Transportation, Transportation Enhancement Program grant, leaving a balance available to fund this agreement of \$48,200.

**ATTACHMENTS:**

Professional Engineering Proposal  
Proposed Trail Route Map  
Resolution

October 22, 2009  
*Revised December 8, 2009*  
*Revised December 9, 2009*

Proposal No. 09-342B

Ms. Kim Foutz  
Assistant City Manager  
City of Temple  
2 North Main, Suite 306  
Temple, Texas 76501

RE: Proposal for Professional Engineering, Landscape Architecture and Surveying Services  
Temple Medical Education District  
Department of Energy Grant Hike and Bike Trail  
Fryer's Creek, connecting 5<sup>th</sup> Street to Scott & White Boulevard  
Temple, Bell County, Texas

Dear Ms. Foutz:

We appreciate the opportunity to submit this proposal for professional engineering, landscape architecture and surveying services associated with the hike and bike trail located along Fryer's Creek and Avenue T connecting 5<sup>th</sup> Street to Scott & White Boulevard. Based upon our meetings and the documents we previously prepared along with the Department of Energy grant application, we understand that the project will consist of a hike and bike trail (10-foot wide and  $\pm 3,615$  linear feet long) along with a pedestrian bridge spanning Fryer's Creek and associated amenities.

Based on our understanding of your needs at this time and the current status of this project, Bury+Partners, Inc. and Land Design Partners (LDP), propose to provide the following specific services:

**A. Concept Refinement**

1. Bury+Partners, Inc. and LDP will meet with the City of Temple to refine the grant concept plan. A revised concept AutoCAD drawing will be provided as required.

This phase includes two (2) meetings with the City of Temple and one (1) Concept Plan.

BURY+PARTNERS, INC.  
221 West Sixth Street, Suite 600  
Austin, Texas 78701

TEL (512) 328-0011  
FAX (512) 328-0325

**B. Construction Documents**

1. Site layout plans at a 1" = 100' scale with dimensional control information to construct a ten (10)-foot wide concrete or asphalt trail (and amenities) approximately 3,615 feet long with one (1) ten (10)-foot wide bridge will be provided.
2. LDP and Bury+Partners, Inc. will provide the City of Temple with a final Issue for Bid/Proposal Plan and a final opinion of probable cost for site improvements at the 100% plan completion stage. Technical specifications will also be provided on the construction plans and separate specifications will be provided as necessary.
3. We will coordinate with the bridge manufacturer to provide the necessary drawings and details for the construction of one (1) ten (10)-foot wide bridge crossing.
4. Stormwater drainage across the proposed trail will be accounted for in our design. We anticipate that culverts will be required to convey storm runoff under the trail in a few areas. We will design these culverts to convey flows in accordance with generally accepted criteria. The pipes will be designed based off visual observations in the field of the upstream watershed and record drawings from the City of Temple.
5. Based on our preliminary review, we expect the trail and bridge will have an insignificant affect on the flood plain. However, we will coordinate with the City of Temple Engineering Department and the Flood Plain Manager to determine appropriate measures to address potential impact concerns. We have assumed that a formal drainage study (hydrologic or hydraulic) will not be required on this project, but have included it as an optional additional service.
6. We will prepare a Floodplain Development Permit application with appropriate attachments and submit it to the Public Works Engineering Services Division for review.
7. Once the Floodplain Development Permit application is submitted, we will address comments generated by the City of Temple.
8. Portions of the Fryer's Creek stream bank along the proposed trail exhibit high soil erosion potential. Therefore, we will prepare an erosion and sedimentation control plan that meets the current City of Temple criteria. This plan will specify streambank stabilization techniques to reduce erosion potential along the stream bank.

This phase includes four (4) meetings with the City of Temple.

**C. Bid Phase Services**

Bury+Partners, Inc. will assist the client by preparing contract bid documents and overseeing the bidding process, to include the following phases:

1. Preparation of the bid package, including:
  - Preparation of construction documents (plans and specifications).
  - Preparation of bid schedule to be included in “front-end” documents to be furnished by the Owner.
  - Ongoing communication with the contractors.
2. Conduct a pre-bid conference to answer Contractor questions about the construction documents.
3. Tabulation of the bids, including resolution of discrepancies.
4. Attend bid opening and provide Owner with Contractor recommendation.
5. Handle final contract document preparation, reproduction, and distribution. Our contract scope excludes review by legal parties.

**D. Construction Administration**

1. Bury+Partners, Inc. and LDP will provide assistance to the Contractor in laying out the exact location of the trail system on-site with staking prior to the start of construction.
2. We will also provide assistance during the construction phase by reviewing Contractor shop drawings when appropriate and visiting the project site at appropriate intervals to observe the progress and quality of the Work completed by the Contractor. Such visits and observations are not intended to be an exhaustive check or a detailed inspection of the Contractor’s work. Observations are to allow LDP or its assigns, as experienced professionals, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.
3. Based on our inspections, we will review pay applications from the Contractor and make recommendations for payment to the City.
4. Bury+Partners, Inc. and LDP shall not be responsible for any acts or omissions by the Contractor, Sub-contractor, any entity performing any portions of the Work, or any agents or employees of any of them. We do not guarantee the performance of the Contractor and shall not be responsible for the Contractor’s failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.



5. The design team will recommend to the City of Temple that the Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, we believe that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
6. The Design Team will issue necessary clarifications and interpretations of the Contract Documents, as appropriate, to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents.
7. A final walk-through of the construction site with City staff and the Contractor prior to the preparation of a final punch list will also be conducted.
8. During construction, minor changes may be made to the Project. We will incorporate these changes into the design documents. Upon project completion we will issue two (2) sets (one (1) mylar and one (1) bond) of these "Record Drawings" to the City for your use.

This phase includes five (5) site visits and associated meetings.

**E. Texas Commission on Environmental Quality Stormwater Management Plan**

For limits of construction areas 1.0 acres or greater, the Texas Pollutant Discharge Elimination System (TPDES) program implements the federal National Pollutant Discharge Elimination System program in the State of Texas. On March 5, 2003, Texas Commission on Environmental Quality (TCEQ) became the permitting authority for these discharges.

Since the limits of construction of this project encompass approximately two (2) acres, a Stormwater Management Plan is required. We will assist you as follows:

1. We will prepare the Stormwater Management Plan. The Contractor must prominently display the Notice of Intent (NOI) and other TCEQ required notices, phone numbers, etc., at the job site. The Contractor must also have the Plan available for review at the construction trailer. The Contractor must follow the plan and make the various submittals directly to TCEQ.
2. We will prepare the NOI required by the TPDES permit. Once you have signed the NOI, return it to us and we will forward the original directly to TCEQ.
3. By law, this is a separate plan from the Erosion and Sedimentation Control Plan contained in the construction drawings. This is a compliance document, which both you and the Contractor are required by Federal and State laws to follow.

**F. Reimbursables/Reproductions**

1. Reproduction, courier and delivery services will be provided for this project and billed in accordance to our Standard Rate Schedule. In addition, minor out-of-pocket expenses for outside reproduction, courier and review agency fees, etc. incurred will be billed at Cost + 10%.

**G. Surveys**

Development of this project requires boundary surveys in order to dedicate easements for the proposed trail. Unless surveys of the required accuracy and in the required electronic format are provided to Bury+Partners, Inc. by the City of Temple for our use in this project, we will perform the following surveys to the requirements of the local governmental review agencies.

**1. Boundary**

We will perform an on-the-ground boundary survey of portions of properties crossed by the trail, consisting of the necessary number of ownership deeds. We will recover and set survey control and recover and locate existing boundary corners in the field.

**2. Easement Preparation**

As discussed, this project may require the preparation of three (3) easements to be dedicated by a separate instrument. It is assumed that the legal description (fieldnotes) will be sealed by a Registered Professional Land Surveyor. A sketch will accompany each legal description.

Based upon boundary title survey work to be performed above, we will prepare fieldnote description(s) and exhibit(s) for hike and bike trail as directed by you or as required by the appropriate reviewing authority.

We will forward the document(s) to you for your use. We will assist you in obtaining review agency approval and recording of the signed instrument with the County Clerk's office.

**H. Texas Architectural Barriers Project Registration**

The project will require plans to be reviewed in accordance with Texas Architectural Barriers Project Registration (TABPR) guidelines. Since our plans are not routinely submitted with the architectural/building plans and we often do not receive back the reviewers written comments, we will submit the site development drawings directly to a state licensed reviewer for review and approval.

1. We will prepare the TABPR application and estimate the review fee. The review fee is based on the construction cost of the project but is approximately \$500.

2. We will submit the completed application and a set of construction drawings to the reviewer for review and approval.
3. We will coordinate with the reviewer to address comments. Once all comments have been cleared, the project will be registered with the Texas Department of Licensing and Regulations.

#### **I. Site Related Sub-consultant Services**

The nature of this project requires professional services from several sub-consultants. While we will coordinate with all the design team consultants, we have included the following sub-consultants under our contract in order to simplify the design process. Their fees are included in this proposal.

##### **1. Geotechnical Engineering**

This project proposes a pedestrian bridge that will be designed to span across Fryer's Creek. The bridge design will need recommendations from a geotechnical engineer for foundation design of the bridge. We will retain a geotechnical engineering firm familiar with local soil conditions who will be responsible for all aspects of their work. We will attach their drawings to our construction documents.

#### **OPTIONAL ADDITIONAL SERVICES**

#### **J. Drainage Study**

In order to develop the property, the City of Temple has determined that a drainage study of Fryer's Creek may be required. If required, this study must utilize the currently acceptable hydrologic and hydraulic techniques and computer programs. The design, analysis and findings of the drainage study must be submitted in a written report format for review and approval by the City. The purpose of the drainage study is to ensure that upstream, adjacent and downstream properties are not adversely impacted by the proposed development. We will:

1. Utilize a HEC-HMS hydrologic model to develop the required stormwater hydrograph(s) to be routed using the HEC-RAS model.
2. Utilize existing City of Temple topographic maps to develop channel cross-section information needed for input to run a HEC-RAS model.
3. Perform limited topographic surveys of Fryer's Creek to develop channel cross-section and related information needed for input to run a HEC-RAS model.
4. Prepare a preliminary HEC-RAS hydraulic analysis of this tract, its tributaries and downstream conveyances to determine the flood plain limits on this tract.

5. Determine the impact, if any, that the proposed trail and pedestrian bridge has on the Fryer's Creek flood plain. If there is adverse impact to the floodplain created by the proposed development, we will develop options to minimize or eliminate these impacts.
6. Submit this preliminary study to the City of Temple for review and comment.
7. Coordinate with the City of Temple Public Works Engineering Services Division, address their comments and seek approval of the drainage study.

## **FEE SCHEDULE**

We propose to provide the specific services described above on a lump sum fee basis as follows:

<u>Item</u>	<u>Fee Basis</u>	<u>BPI Fee</u>	<u>BPI Phase</u>
<b>A. Concept Refinement</b>	Lump Sum	\$ 2,000	.00
<b>B. Construction Documents</b> 1-8	Lump Sum	\$ 15,000	.30
<b>C. Bid Phase Services</b> 1-5	Lump Sum	\$ 3,000	.71
<b>D. Construction Administration</b> 1-8	Lump Sum	\$ 7,500	.70
<b>E. TCEQ Stormwater Management Plan</b> 1-3	Lump Sum	\$ 1,300	.60
<b>F. Reimbursables/Reproductions</b> 1	Lump Sum	\$ 2,000	.89
<b>G. Surveys</b> 1. Boundary	Lump Sum	\$ 5,800	.91
2. Easement Preparation	Lump Sum	\$ 3,000	.912
<b>H. Texas Architectural Barriers Project Registration</b> 1-3	Lump Sum	\$ 1,500	.31
<b>I. Site Related Sub-consultant Services</b> 1. Geotechnical Engineering	Lump Sum	\$ 4,000	.87
<b>OPTIONAL ADDITIONAL SERVICES</b>			
<b>J. Drainage Study</b> 1-7	Lump Sum	\$ 12,000	.32
<b>Total (not to exceed)</b>		<b>\$ 57,100</b>	

Please note that the above fees are based on a smooth project implementation and have assumed no major changes to the City of Temple-approved site plan after out work has started. Work provided outside the above scope of services will be billed as an additional service once approved in writing by your office.

## **ASSUMPTIONS**

In preparing this proposal, we have made the following assumptions:

- No tree or topography survey services are included.
- No construction phase surveying services are included.
- We will rely upon two (2)-foot contours received from the City of Temple for topographic survey information and have assumed this information to be true and correct.
- Stormwater management (detention and water quality) will not be required
- No variance requests or waivers are required.
- Changes to an approved FEMA Flood Study are not included in this contract.
- Review and permitting by the U.S. Corps of Engineers and U.S. Fish and Wildlife Department is not included.
- No County applications are included.
- The floodplain note will be based on the current flood insurance rate maps prepared by Federal Emergency Management Agency or City approved drainage study only.
- Any covenants, restrictions or any other similar documents will be prepared by your attorney.
- Unless specifically listed above, this proposal excludes fees for services other than coordination of structural, electrical, traffic, geologic, environmental, etc.

The following services are excluded unless specifically included in this proposal.

- Structural design of retaining walls, stormwater splitter boxes or detention ponds, bridges, culverts and similar structures.
- Environmental site assessments, wetlands, endangered species and KARST feature investigations.
- Preparation of traffic safety, sign or signalization plans.
- Design franchise utility services for electricity, gas, cable, telephone, etc.

If you agree with the above scope of services and associated fees, send us your contract for review and signature. A fully executed copy will be returned for your records.

We appreciate the opportunity to submit this proposal and look forward to assisting you in the development of this project. Upon your review of this proposal, please call if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Silas", with a long horizontal flourish extending to the right.

Silas S. Jones, P.E., LEED®AP  
Project Engineer

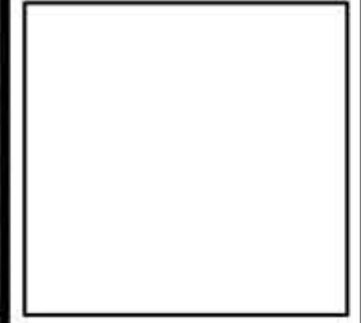
A handwritten signature in blue ink, appearing to read "Joseph A. Isaja", with a stylized, looped structure.

Joseph A. Isaja, P.E.  
Senior Vice President





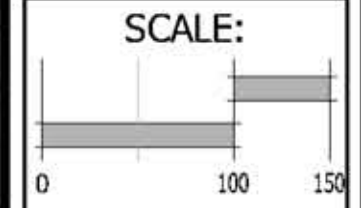
REVISIONS	
DATE	COMMENTS



# 5TH STREET TO SCOTT & WHITE BLVD. TRAIL

CITY OF TEMPLE, TEXAS

CONCEPT PLAN



DATE:  
06/12/09

LANDSCAPE ARCHITECTS  
PLANNERS

221 West Sixth Street, Suite 600  
Austin, Texas 78701  
Phone 512.328.0325  
Fax 512.328.0325



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND BURY + PARTNERS ENGINEERING SOLUTIONS FOR ENGINEERING SERVICES FOR THE DESIGN OF A DEPARTMENT OF ENERGY GRANT FUNDED TRAIL, IN AN AMOUNT NOT TO EXCEED \$45,100.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City has been awarded a Department of Energy grant through its Energy Efficiency and Conservation Block Grant Program which will be used to create a pedestrian and bike trail within the Temple Medical Education District;

**Whereas**, the proposed path of the trail will connect South 5<sup>th</sup> Street with Scott and White Boulevard and travel along Friar's Creek;

**Whereas**, Bury + Partners Engineering Solutions submitted a proposal in the amount of \$45,100 for engineering services required to design the trail, and the Staff recommends accepting it;

**Whereas**, funds are available for this project in Account No. 361-3400-531-6834, project #100332; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a professional services agreement, not to exceed \$45,100, between the City of Temple, Texas, and Bury + Partners Engineering Solutions, after approval as to form by the City Attorney, for engineering services for the design of a Department of Energy Grant funded trail.

**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 17<sup>th</sup> day of **December**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(I)  
Consent Agenda  
Page 1 of 3

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Planned Development Neighborhood Services (PD-NS) on 5.6+ acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, 3,500+ feet north of the West Adams/SH 317 intersection.

**P&Z COMMISSION RECOMMENDATION:** At its November 16, 2009 meeting, the Planning and Zoning Commission voted 9/0 in accordance with staff recommendation to recommend approval of a zoning change from A to PD-NS with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the Neighborhood Service zoning district.
2. Boat and RV storage is allowed.
3. In the event of a conflict between the site development plan and the text of the Planned Development District ordinance, the stricter standard applies.
4. All standards of the Zoning Ordinance apply unless the site development plan or the text of the Planned Development District ordinance specifically modifies such standards.
5. Muted, subdued masonry required on storage units walls (if applicable) visible from SH 317 or residentially zoned or used property, as indicated on the binding site development plan.
6. Sloped roofs are required on all storage units.
7. The proposed sign may be a maximum of 8 feet in height and a maximum of 80 square feet in area.
8. Lighting must be housed in cut-off and shielded fixtures and must not spill over onto or be directed toward residentially zoned or used property.
9. The 28 storage units proposed at the western end of the property must not be used for boat storage.
10. Boats and RVs must only be stored inside the storage units and are not permitted to be stored outside such units.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-03, from the Planning and Zoning meeting, November 16, 2009. The applicant proposes a boat and recreational vehicle storage facility and agrees with all of the staff's recommendations. The Planned Development District allows a boat and RV storage facility in addition to the smaller scale uses allowed in NS. In an effort to avoid any negative impact on the single-family residential use to the rear of the property (Windmill Farms Subdivision), the binding site development plan requires tree preservation, tree plantings and a masonry wall along the west property line. In addition, the plan shows a 20' separation from the closest storage unit wall to the residential property line at the front and rear.

#### **REQUESTED FLEXIBILITY AND ENHANCED SITE DESIGN ELEMENTS**

The applicant agreed to provide additional landscaping and screening and a masonry wall next to the residential subdivision.

##### **Landscaping and Screening**

- The applicant will preserve trees that are three-inch caliper and greater along the rear and at the front of the property.
- Along the rear property line, the applicant will install evergreen hedges a minimum of six feet in height (such as red-tipped photinias) on 36" centers to fill in the spaces where no preserved trees exist.
- Along the front property line, the applicant proposes to preserve three-inch caliper trees and greater and to install palm trees as a decorative feature.

##### **Masonry**

- The storage unit closest to the rear property line will have a solid masonry wall, with wood privacy fence "wings" on each side, facing the adjacent single-family dwellings.
- The storage unit closest to the front property line will have the same type of wall, with wrought iron fence "wings" on each side

##### **Noise Mitigation**

When meeting with the applicant, staff was concerned that early morning boaters and anglers would disturb the adjacent residences. For that reason, the rear set of units will only be used for RV storage.

As reflected in the minutes, a Commissioner asked the applicant if the proposed fire hydrant would be attached to an adequately sized water line and the applicant responded that it would be attached to a six-inch water line, which meets Fire Code standards. The Planning and Zoning Commission raised no other issues requiring further staff attention.

##### **Public Notice**

Eighteen notices of the Planning and Zoning Commission public hearing were sent out. As of November 12, 2009 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 6, 2009 in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Binding Site Development Plan  
Notice Map  
P&Z Staff Report (Z-FY-10-03)  
P&Z Minutes (11/16/09)  
Ordinance




Z-FY-10-03

Outblock 2006-A & B

8020 N Highway 317



 Z-FY-10-03

Feet 0 70 140 210 280  
J Stone 10.19.9

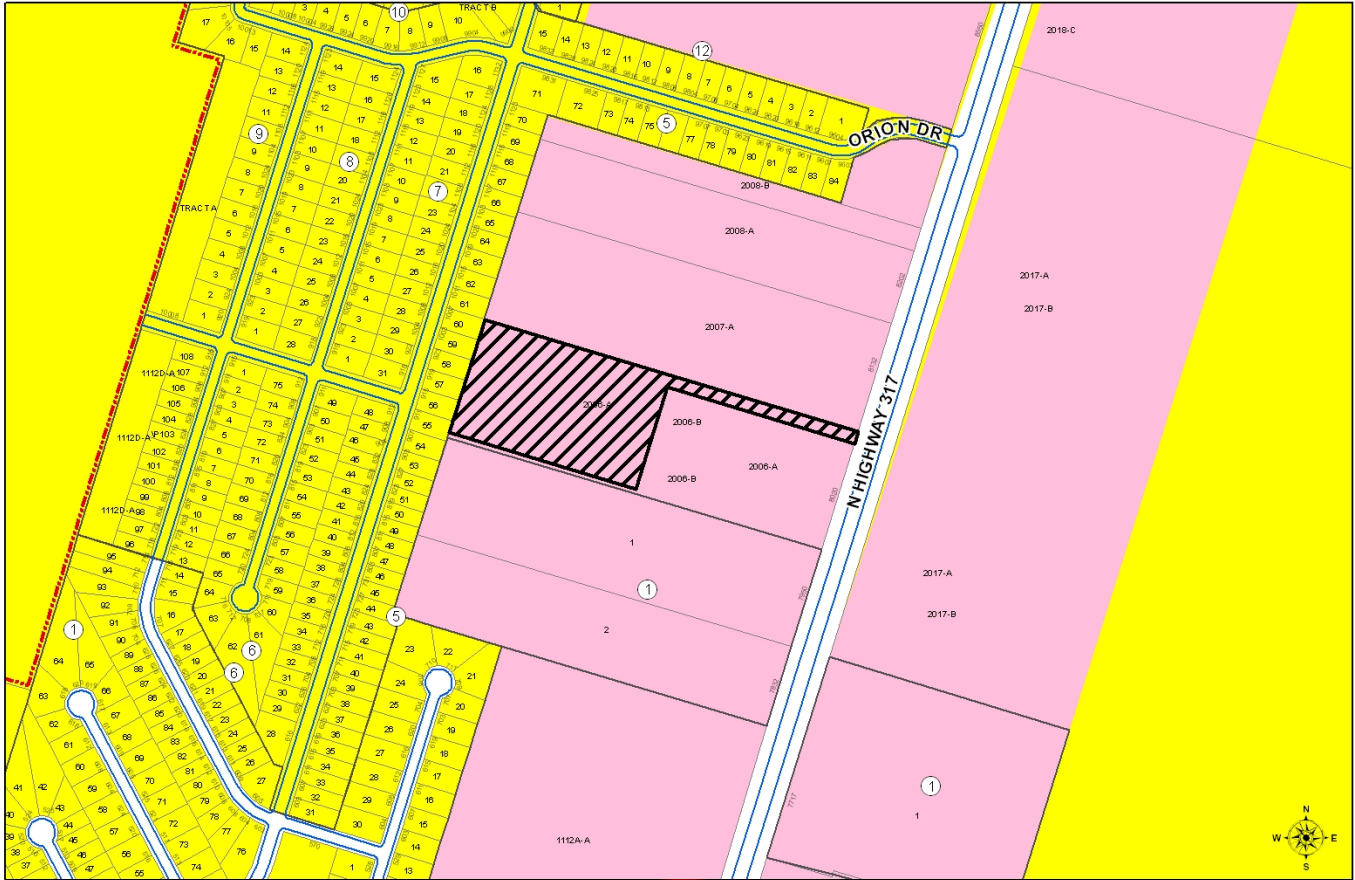


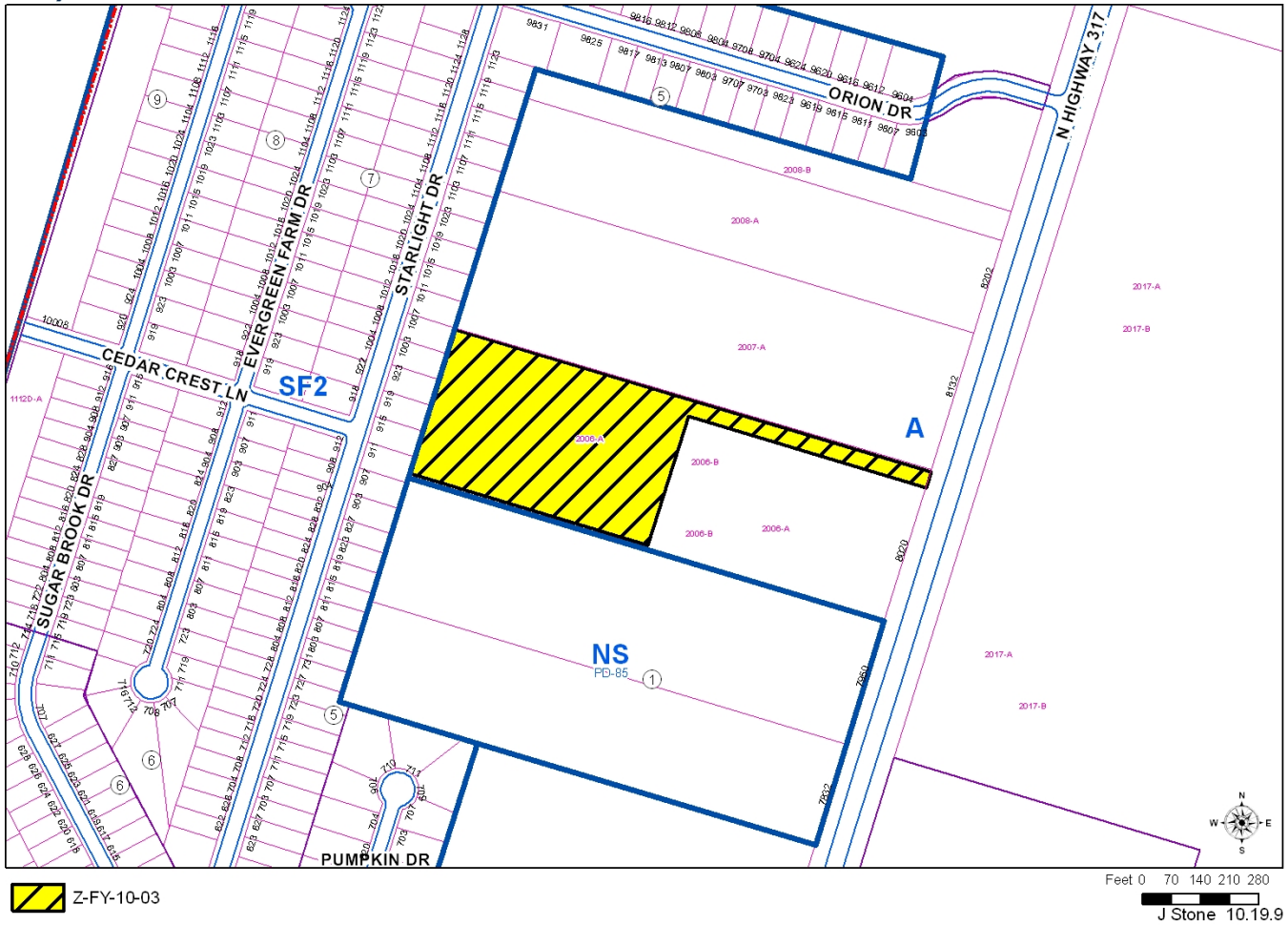


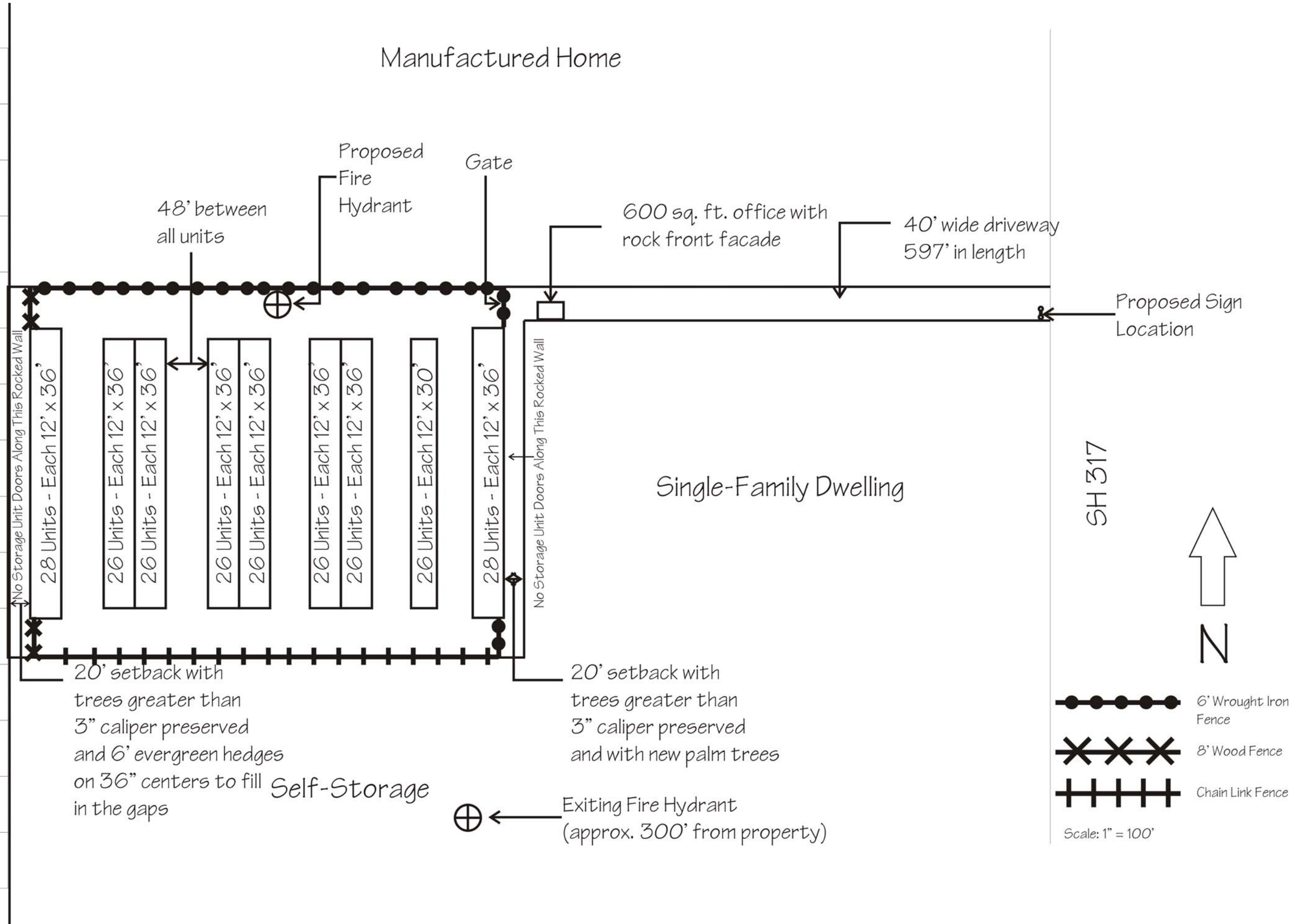
Z-FY-10-03

Outblock 2006-A & B

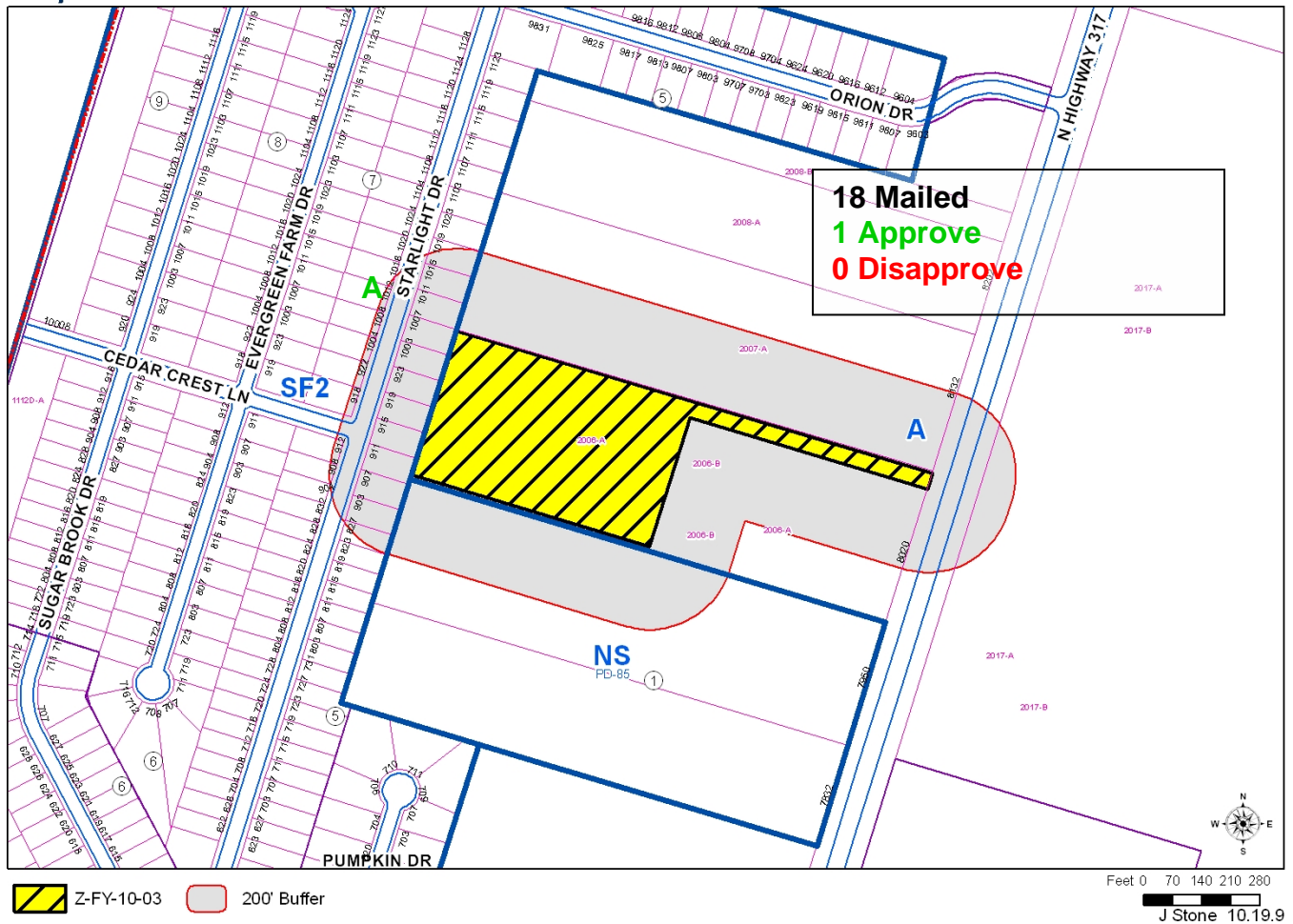
8020 N Highway 317













# PLANNING AND ZONING COMMISSION AGENDA ITEM

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11/16/09  
Item #2  
Regular Agenda  
Page 1 of 4

**APPLICANT / DEVELOPMENT:** David Hansen c/o Corrina McDaniel

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

**ITEM DESCRIPTION: Public Hearing, Discussion and Action Z-FY-10-03:** Recommend action on a zoning district change from Agricultural District (A) to Planned Development District Neighborhood Services (PDD-NS) on 5.6± acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, 3,500± feet north of the West Adams/SH 317 intersection.

**BACKGROUND:** The applicant proposes a boat and recreational vehicle storage facility. Such use is allowed with a Conditional Use Permit in the Commercial (C) zoning district and is allowed by right in the Light Industrial (LI) and Heavy Industrial (HI) zoning districts. Since the subject property is designated Auto Suburban Commercial on the Future Land Use and Character Map, none of these zoning districts are appropriate. Reviewing the previous zoning case from 2006 with the mini-storage facility to the south, staff has worked with the applicant to design a Planned Development District with Neighborhood Services (NS) as the base zoning district. The NS zoning district conforms to the Future Land Use and Character Plan. The Planned Development District allows a boat and RV storage facility in addition to the smaller scale uses allowed in NS. In an effort to avoid any negative impact on the single-family residential use to the rear of the property (Windmill Farms Subdivision), the binding site development plan requires tree preservation, tree plantings and a masonry wall along the west property line. In addition, the plan shows a 20' separation from the closest storage unit wall to the residential property line at the front and rear.

The purpose of a Planned Development District is to grant flexibility to an applicant in regard to site and building design, land use and setbacks in exchange for enhanced site design elements. The review process includes City staff and the applicant. Planning staff has had several conversations and meetings with the applicant in order to strike a balance between the applicant's needs and those of the adjacent residential properties. Any modification to the approved binding site development plan, or Planned Development District conditions would require a recommendation from the Planning and Zoning Commission and approval from the City Council.

## **REQUESTED FLEXIBILITY AND ENHANCED SITE DESIGN ELEMENTS**

The applicant agreed to provide additional landscaping and screening and a masonry wall next to the residential subdivision.

### **Landscaping and Screening**

The attached binding site development plan shows that the applicant will preserve trees that are three-inch caliper and greater along the rear and at the front of the property. Planning staff confirms that there are numerous three-inch caliper and greater trees at the front and rear of the property.

**Double Sided**

Along the rear property line, the applicant will also install evergreen hedges a minimum of six feet in height (such as red-tipped photinias) on 36” centers to fill in the spaces where no preserved trees exist. Along the front property line, the applicant proposes to preserve three-inch caliper trees and greater and to install palm trees as a decorative feature.

### Masonry


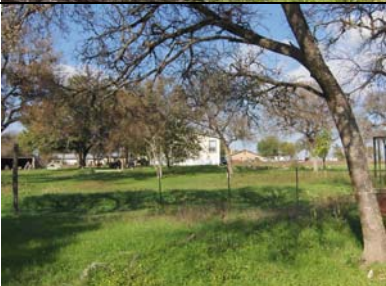

The attached binding site development plan shows that the storage unit closest to the rear property line will have a solid masonry wall, with wood privacy fence “wings” on each side, facing the adjacent single-family dwellings. Similarly, the storage unit closest to the front property line will have the same type of wall, with wrought iron fence “wings” on each side, facing the existing vacant single-family dwelling fronting on SH 317, which is planned for Auto Suburban Commercial use and character.



### Noise Mitigation

When meeting with the applicant, staff was concerned that early morning boaters and anglers would disturb the adjacent residences. For that reason, the rear set of units will only be used for RV storage.

### Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	A (current) PD-NS (proposed)	Vacant	
North	A	Manufactured home	
East	A	Vacant	

Direction	Zoning	Current Land Use	Photo
South	PD-NS	Mini-storage	
West	SF-2	Single-family dwellings	

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

#### Future Land Use and Character

The Future Land Use and Character Map designates the property as Auto Suburban Commercial. The development of the property with the features of the binding site development plan complies with the Future Land Use and Character Map.

#### Thoroughfare Plan

The Thoroughfare Plan designates SH 317 as a major arterial. The Planned Development District request complies with the Thoroughfare Plan.

#### Availability of Public Facilities

A six-inch water line serves the subject property. The site is large enough for on-site sewage facilities, subject to approval from the Bell County Sanitarian. Public facilities are available.

#### Public Notice

Eighteen notices of the Planning and Zoning Commission hearing were sent out. As of November 12, 2009 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the public hearing on November 6, 2009 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of Planned Development application Z-FY-10-03, including the binding site development plan, with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the Neighborhood Service zoning district.
2. Boat and RV storage is allowed.
3. In the event of a conflict between the site development plan and the text of the Planned Development District ordinance, the stricter standard applies.
4. All standards of the Zoning Ordinance apply unless the site development plan or the text of the Planned Development District ordinance specifically modifies such standards.
5. Muted, subdued masonry required on storage units walls (if applicable) visible from SH 317 or residentially zoned or used property, as indicated on the binding site development plan.
6. Sloped roofs are required on all storage units.

7. The proposed sign may be a maximum of 8 feet in height and a maximum of 80 square feet in area.
8. Lighting must be housed in cut-off and shielded fixtures and must not spill over onto or be directed toward residentially zoned or used property.
9. The 28 storage units proposed at the western end of the property must not be used for boat storage.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Binding Site Development Plan  
Notice Map  
Response Letters

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

**MONDAY, NOVEMBER 16, 2009**

**ACTION ITEMS**

**Item 2: Z-FY-10-03:** Public Hearing, Discussion and Action: Recommend action on a zoning district change from Agricultural District (A) to Planned Development District Neighborhood Services (PDD-NS) on 5.6+ acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, 3,500+ feet north of the West Adams/SH 317 intersection. (Applicant: David Hansen for Corrina McDaniel)

Mr. Brian Mabry, Senior Planner, presented this item to the Commissioners and stated this case would go to City Council for first and second reading on December 3rd and December 17th, respectively. Mr. Mabry stated the purpose of this Planned Development (PD) was to have a Neighborhood Service (NS) based zoning district and in addition to the uses already allowed in NS would also allow boat and RV storage on the subject property. Mr. Mabry stated this zone request would allow the applicant's desired use without modifying the other uses that are allowed in Commercial, Light Industrial and Heavy Industrial districts which are normally required to allow RV storage.

Mr. Mabry stated the purpose of this PD is to protect the Single Family (SF) subdivision to the west—Windmill Farms Subdivision. This property's western rear lot line shares the common lot line with the rear yards of the Windmill Farms Subdivision along Starlight Avenue.

Mr. Mabry stated the proposed structures on the property are to be pole barn style. This subject property is located on north 317 and there are a few homes and several empty lots along Starlight Avenue. A manufactured home sits to the north of the subject property, there is a vacant property across 317 to the east, a mini-storage facility to the south and the SF subdivision to the west.

Mr. Mabry stated the entire area along 317 had been designated as suburban/commercial on the Future Land Use and Character Map so commercial uses will be in place in the foreseeable future. Windmill Farms is designated as suburban/residential on the Future Land Use and Character Map.

Mr. Mabry stated the mini-storage to the south of the subject property set the tone for what was being requested for this property. The surrounding properties are still Agricultural (A) and then SF2 for Windmill Farms.

Mr. Mabry stated there was a 6" water line and 2" private water line serving the site. The site is large enough for on-site sewage facilities or septic systems subject to approval from Bell County Sanitarium and State Highway 317 is designated as a major arterial which allowed the request to conform to the Thoroughfare Plan.

Mr. Mabry stated there was a 20 foot distance from the rear property line and the nearest storage unit building. Normally under NS or Commercial zoning there would only be a 10 foot setback but this PD established a 20 foot separation. For this 20 foot setback there is a commitment from the applicant and developer to preserve 3" caliper or greater trees in the rear since there are quite a few throughout the property. Mr. Mabry stated the trees in the rear would contribute to the screening. Any gaps would require vegetative screening in the form of evergreen 6 foot shrubs such as Red Tip Photinias.

Mr. Mabry stated other screening aspects along the rear of the property would be no storage bay doors along the rear wall—it would just be a solid rock wall. Mr. Mabry stated the front property line area would also have a 20 foot setback with preserved trees over 3" caliper size. The 28 unit storage building would not have walls along the side closest to the front property line; it would also be rock wall to screen the storage activity from the residential properties along 317.

Mr. Mabry stated wing fences would be on both sides of the storage units in the form of 6' wrought iron fences. The south property line would have a chain link fence since it abuts an existing mini-storage facility and screening was not as needed or necessary. Staff also recommended a wrought iron fence along the north side where the manufactured home is located. The rear 28 units would also be limited to not having boat storage activities in order to preserve the quiet for the residential usage to the rear.

Mr. Mabry stated 18 notices were mailed out and only one was returned in favor of the request and none were received in opposition.

Mr. Mabry stated Staff recommended approval of PD including the final site development plan with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the Neighborhood Service zoning district;
2. Boat and RV storage is allowed;



3. In the event of a conflict between the site development plan and the text of the Planned Development District ordinance, the stricter standard applies;
4. All standards of the Zoning Ordinance apply unless the site development plan or the text of the Planned Development District ordinance specifically modifies such standards;
5. Muted, subdued masonry required on storage units walls (if applicable) visible from SH 317 or residentially zoned or used property, as indicated on the binding site development plan;
6. Sloped roofs are required on all storage units;
7. The proposed sign may be a maximum of 8 feet in height and a maximum of 80 square feet in area;
8. Lighting must be housed in cut-off and shielded fixtures and must not spill over onto or be directed toward residentially zoned or used property; and
9. The 28 storage units proposed at the western end of the property must not be used for boat storage.

Commissioner Staats asked if all of the units were closed and Mr. Mabry stated no, since the units did not have internal walls. The only enclosed units would be located on the ends in order to accommodate the requested screening. The units are designed for boats and RVs.

Commissioner Staats asked about the paving materials and Mr. Mabry stated it would be asphalt and concrete to meet standard fire requirements to support fire apparatus.

Commissioner Staats asked about runoff and where it would go and Mr. Mabry said that would be addressed at the time of platting; the applicant's surveyor/engineer would address that when platting.

Chair Pilkington opened the public hearing and Mr. David Hansen of 9013 Martha's Drive, Austin, Texas approached the Commission. Mr. Hansen wanted to be available to answer any questions the Commission had.

Commissioner Pope asked Mr. Hansen about the fire hydrant on the property and was he planning to install a 6" line or larger to serve the property. Mr. Hansen responded yes, that a 6" minimum would be required and a plug every 300 feet.

Commissioner Martin asked Mr. Hansen if he had any objections to any of the stipulations Staff recommended and Mr. Hansen responded no.



There being no further speakers Chair Pilkington closed the public hearing.

Commissioner Barton made a motion to approve the PD zone request including the Staff stipulations 1 through 9 as stated and Commissioner Martin made a second.

*Motion passed:* (9:0)

ORDINANCE NO. 2009-4332

[PLANNING NO. Z-FY-10-03]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT NEIGHBORHOOD SERVICES (PD-NS) ON APPROXIMATELY 5.6 ACRES, BEING A PORTION OF A 10 ACRE TRACT OF LAND DESCRIBED IN A DEED TO CORRINA MCDANIEL IN VOLUME 4500, PAGE 779 OF THE OFFICIAL PUBLIC RECORDS OF REAL PROPERTY IN BELL COUNTY, TEXAS, LOCATED ON THE WEST SIDE OF NORTH STATE HIGHWAY 317, APPROXIMATELY 3,500 FEET NORTH OF THE WEST ADAMS/SH 317 INTERSECTION, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the owner of the property consisting of approximately 5.6 acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, approximately 3,500 feet north of the West Adams/SH 317 intersection, has requested that the property be rezoned from Agricultural District (A) to Planned Development Neighborhood Services (PD-NS); and

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

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

**Part 1:** The City Council approves a zoning change from Agricultural District (A) to Planned Development Neighborhood Services (PD-NS) on approximately 5.6 acres, being a portion of a 10 acre tract of land described in a deed to Corrina McDaniel in Volume 4500, Page 779 of the Official Public Records of Real Property in Bell County, Texas, located on the west side of North State Highway 317, approximately 3,500 feet north of the West Adams/SH 317 intersection, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

- (a) The use and development standards of the property shall conform to the requirements of the Neighborhood Service zoning district;
- (b) Boat and RV storage is allowed.
- (c) In the event of a conflict between the development plan and the text of the Planned Development ordinance, the stricter standard applies.
- (d) All standards of the Zoning Ordinance apply unless the development plan or the text of the Planned Development ordinance specifically modifies such standards.
- (e) Muted, earth-tone masonry is required on the west wall of the westernmost storage unit adjacent to the Windmill Farms subdivision, as indicated on the binding site development plan.
- (f) Muted, earth-tone masonry is required on the east wall of the easternmost storage unit, as indicated on the binding site development plan.
- (g) Sloped roofs are required on all storage units.
- (h) The proposed sign may be a maximum of 8 feet in height and a maximum of 80 square feet in area.
- (i) Lighting must be housed in cut-off and shielded fixtures and must not spill over onto or be directed toward residentially zoned or used property.
- (j) Security lighting fixtures may be attached to the west wall of the westernmost storage unit, but the overall height of such fixtures must not exceed six feet.
- (k) Boats and recreational vehicles may only be stored outside of the storage units on a temporary basis during the construction of additional units and in no case may the boats or recreational vehicles be stored in a location visible from a residential use or zoning district or from State Highway 317.

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

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

**Part 5:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

**Part 6:** This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

**Part 7:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **3<sup>rd</sup>** day of **December**, 2009.

PASSED AND APPROVED on Second Reading on the **17<sup>th</sup>** day of **December**, 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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12/17/09  
Item #5(J)  
Consent Agenda  
Page 1 of 2

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-05: Consider adopting an ordinance authorizing a zoning change from a Planned Development District (PDD) to the General Retail District (GR) at the Wildflower Commercial Subdivision Lot 1, Block 2 at the southeast corner of Bright Lane and West Adams Avenue.

**P&Z COMMISSION RECOMMENDATION:** At its November 16, 2009 meeting, the Planning and Zoning Commission voted 9/0 in accordance with the staff recommendation to recommend approval of a zoning change from Planned Development District (PDD) to the General Retail District (GR) for the following reasons:

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

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-05, from the Planning and Zoning meeting, November 16, 2009. The applicant proposes a restaurant with the possibility of a drive-through window, which is allowable in the GR zoning district. The base zoning is a Planned Development District (PDD) with no base zoning district, established in 1985 for the Wildflower development. The Council approved the same zoning in 2008 for the Sonic Drive-In, west of the subject area.

### **Public Notice**

Three notices were sent out. As of Friday, November 20 at Noon, no notices were returned. The newspaper printed notice of the public hearing on November 5, 2009, in accordance with state law and local ordinance.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Notice Map

Wildflower Plan

P&Z Staff Report (Z-FY-10-05)

P&Z Minutes (11/16/09)

Ordinance




**Z-FY-10-05**

Lot 1, Block 1, Wildflower Commercial

51 Bright Ln



 Z-FY-10-05

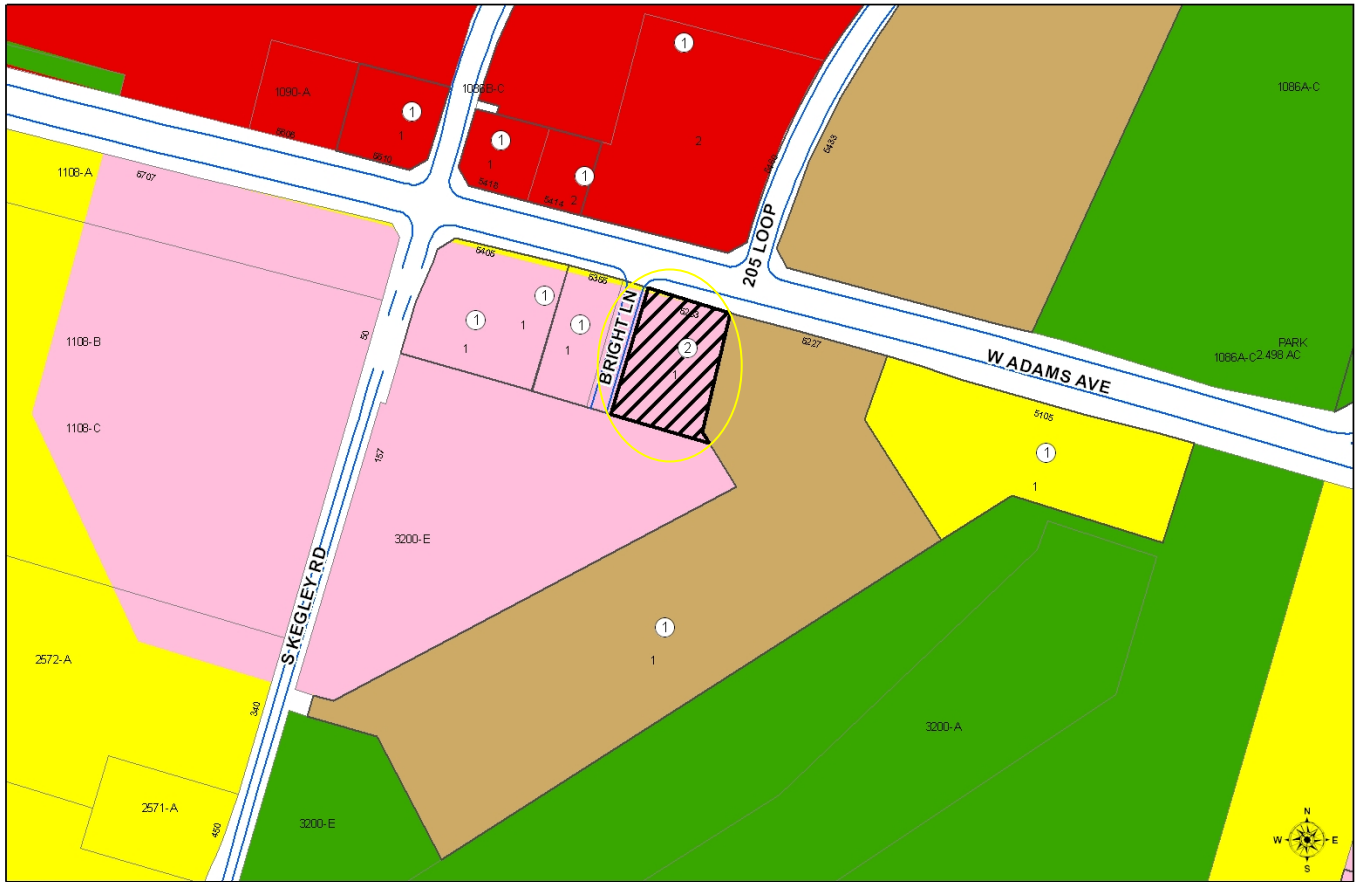
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J Stone 10.19.9



Z-FY-10-05

Lot 1, Block 1, Wildflower Commercial

51 Bright Ln



Temple Boundary



ZFY1005



Neighborhood Conservation



Estate Residential



Suburban Residential



Auto-urban Residential



Auto-Urban Multi-Family



Auto-Urban Mixed Use



Auto-Urban Commercial



Urban Center



Temple Medical Education District



Public/Institutional



Industrial



Business park



Parks and Open Space



Agricultural/Rural

1 inch = 300 feet

J Stone 10.19.9

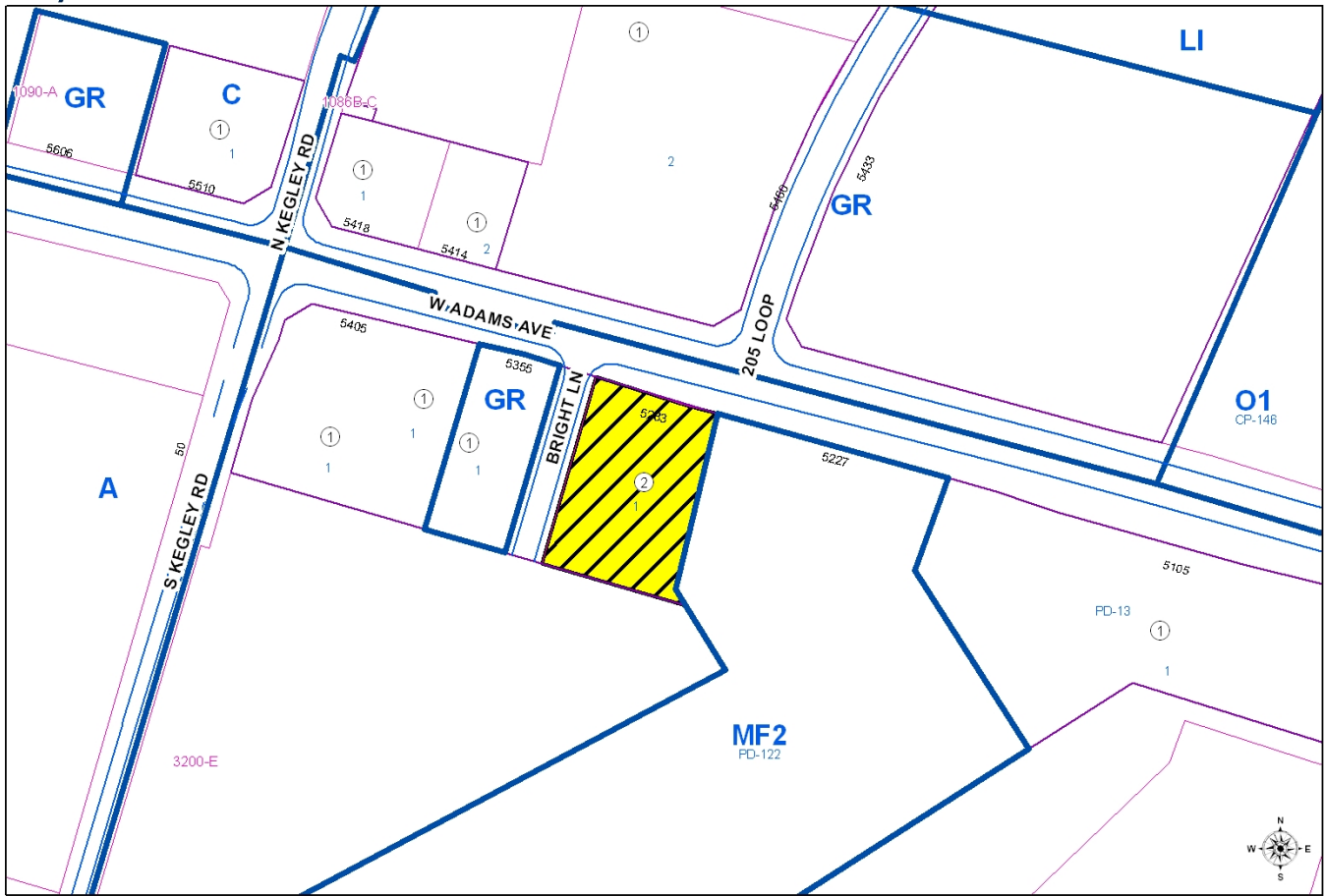





**Z-FY-10-05**

Lot 1, Block 1, Wildflower Commercial

51 Bright Ln



 Z-FY-10-05

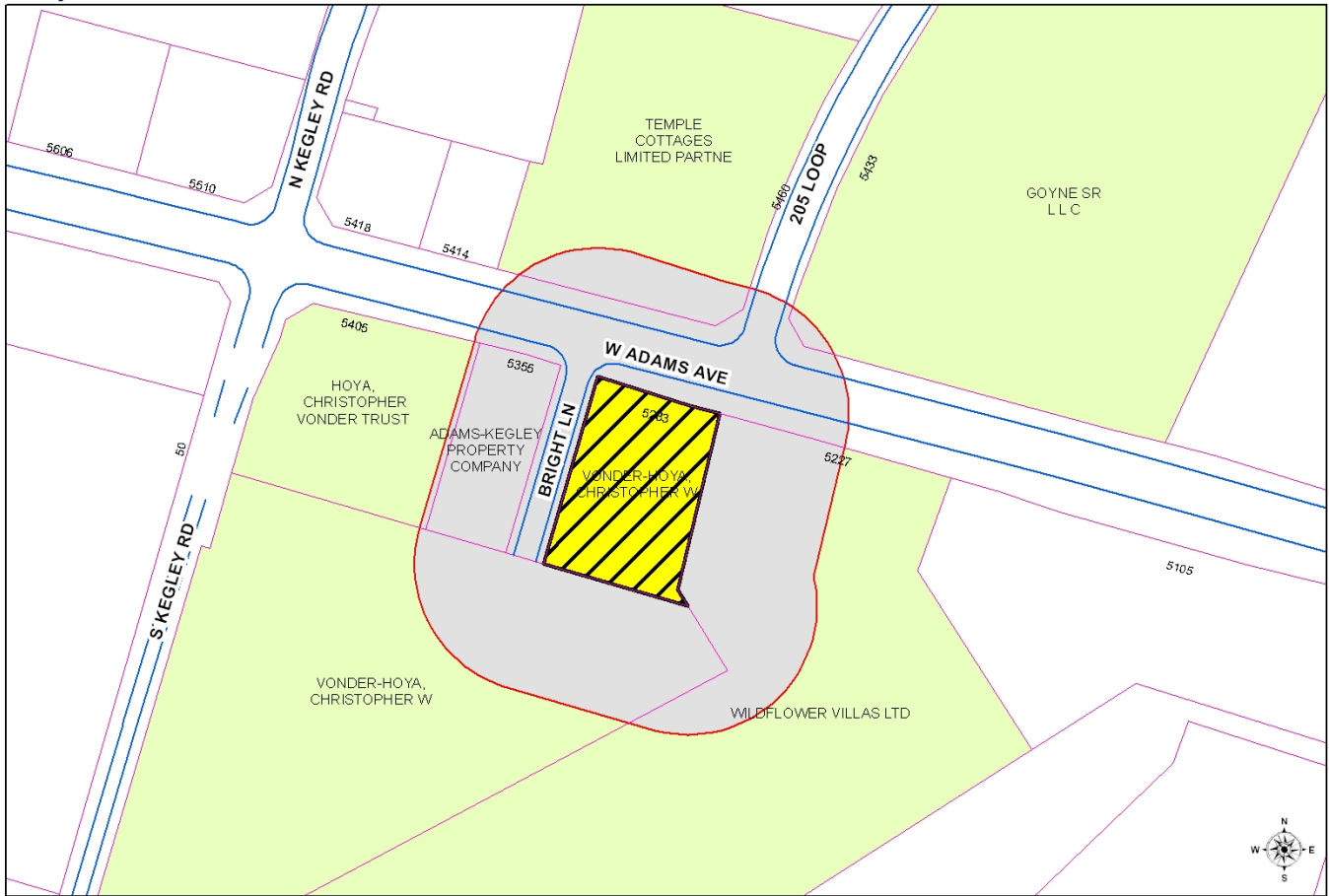
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J Stone 10.19.9



**Z-FY-10-05**

Lot 1, Block 1, Wildflower Commercial

51 Bright Ln



Feet 0 50 100 150 200

J Stone 10.19.9



Z-FY-10-05



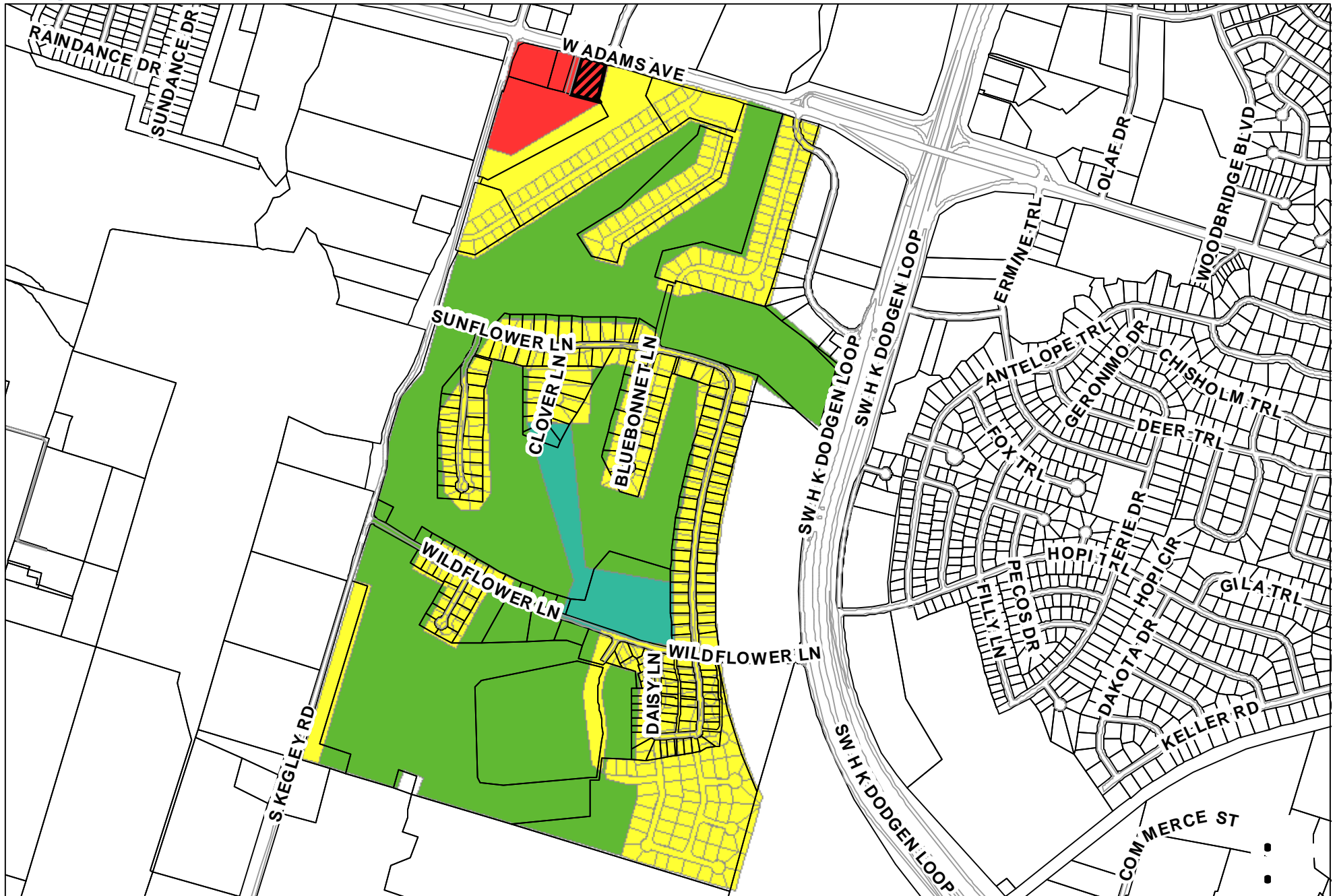
200' Buffer



**Z-FY-10-05**

Wildflower Country Club Masterplan

(Ord #1688, reflecting February 1988 revisions)



**Z-FY-10-05 PD-13 FLUP:** Commercial Clubhouse & Practice Range Golf Course Single Family

Feet 0 250 500 750 1,000  
J Stone 11.24.9

**APPLICANT / DEVELOPMENT:** Larry Guess for Christopher Vonder Hoya





**CASE MANAGER:** Tim Dolan, AICP, Planning Director

**ITEM DESCRIPTION: Public Hearing, Discussion and Action Z-FY-10-05:** Recommend action on a zoning district change from a Planned Development District (PDD) to the General Retail District (GR) at the Wildflower Commercial Subdivision Lot 1, Block 2 at the southeast corner of Bright Lane and West Adams Avenue.

**BACKGROUND:** The applicant requests a change to the General Retail (GR) zoning district to establish a restaurant which may have drive-in pick up window on the subject property. The base zoning is a Planned Development District (PDD) with no base zoning district, established in 1985 for the Wildflower development.

**Surrounding Property and Uses**

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

Direction	Zoning	Current Land Use	Photograph
North	GR	Car Wash	
South	PDD	Undeveloped	
East	MF2	Apartments	
West	GR	Drive-In Restaurant	

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

Future Land Use & Character Plan The Future Land Use & Character Plan designates Suburban Commercial future land use category, for the subject tract, and it allows for the requested General Retail (GR) zoning district. The request complies with the Future Land Use Plan.

Thoroughfare Plan

West Adams Avenue is designated a Major Arterial and Bright Lane is developed as a collector street on the Thoroughfare Plan. The zoning request complies with the Thoroughfare Plan.

Availability of Public Facilities

A 6" water line runs along Bright Lane. An 8" sewer line runs along the rear of the Lot. The zoning request complies with the Availability of Public Facilities.

Development Regulations

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

<b>GR, General Retail</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>	3 stories
<b>Min. Yard (ft)</b>	
Front	30 from street centerline
Side	10 adjacent to residential district
Rear	10 adjacent to residential district

Public Notice

Three notices were sent out. As of Friday, November 13 at Noon, no notices were returned. The newspaper printed notice of the public hearing on November 5, 2009, in accordance with state law and local ordinance.

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

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

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use & Character Map  
Zoning Map  
Notice Map

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

**MONDAY, NOVEMBER 16, 2009**

**ACTION ITEMS**

**Item 3: Z-FY-10-05:** Public Hearing, Discussion and Action Z-FY-10-05: Recommend action on a zoning district change from Planned Development District (PDD) to General Retail District (GR) on Lot 1, Block 2, Wildflower Commercial Subdivision, located at the southeast corner of Bright Lane and West Adams Avenue. (Applicant: Larry Guess for Christopher Vonder Hoya)

Mr. Tim Dolan, Planning Director, stated the same schedule previously mentioned would apply for City Council's first and second reading, December 3rd and December 17th, respectively.

Mr. Dolan stated the purpose of this request was to eliminate a Planned Development District (PDD) and zone the property to General Retail (GR) to allow for a sit-down restaurant with a possible drive-through window. The Wildflower area was established in 1985 but did not create any base zoning district for the area.

Mr. Dolan stated the surrounding properties contained a car wash to the north, apartments to the east, a vacant tract to the south, and an existing drive-in restaurant to the west and the property was planned for suburban/commercial uses.

Mr. Dolan stated the zoning map showed the property surrounded by General Retail areas (GR) to the north and west and the PDD to the south. The public facilities and Thoroughfare Plan showed the availability of a 6" water line to serve the property along Bright Lane and an 8" sewer line runs along the rear of the lot.

Mr. Dolan stated the Thoroughfare Plan showed West Adams as a major arterial and Bright Lane as a collector road so it conformed with the Thoroughfare Plan. The Thoroughfare Plan showed West Adams as a major arterial and Bright Lane as a collector road so the request conformed to the Thoroughfare Plan.

Mr. Dolan stated six notices were mailed out and no responses had been received back.

Mr. Dolan stated the Staff recommendation was to approve the zone change from PD to GR because the request complied with the Future Land Use &

Character Plan, complied with the Thoroughfare Plan, and Available Public Facilities served the site.

Chair Pilkington opened the public hearing. There being no speakers, Chair Pilkington closed the public hearing.

Commissioner Pope made a motion to approve this zone request from PDD to GR as Staff presented and Commissioner Staats made a second.

*Motion approved: (9:0)*

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

[PLANNING NO. Z-FY-10-05]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM PLANNED DEVELOPMENT DISTRICT (PDD) TO THE GENERAL RETAIL DISTRICT (GR) AT THE WILDFLOWER COMMERCIAL SUBDIVISION LOT 1, BLOCK 2 AT THE SOUTHEAST CORNER OF BRIGHT LANE AND WEST ADAMS AVENUE; 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 Planned Development District (PDD) to the General Retail District (GR) at the Wildflower Commercial Subdivision Lot 1, Block 2 at the southeast corner of Bright Lane and West Adams Avenue, 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 3<sup>rd</sup> day of December, 2009.



PASSED AND APPROVED on Second Reading on the **17<sup>th</sup>** day of **December**, 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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12/17/09  
Item #5(K)  
Consent Agenda  
Page 1 of 1

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

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** SECOND READING - Consider adopting an ordinance which amending Chapter 10, "Electrical Code," of the Code of Ordinances of the City of Temple, Texas, to incorporate the adoption of the 2008 National Electric Code (NEC).

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

**ITEM SUMMARY:** The ordinance presented primarily represents the adoption of the 2008 National Electric Code 2008 and some house cleaning of the chapter to improve clarity. The adoption of the ordinance has been recommended by the City's Electric Board.

**FISCAL IMPACT:** None

**ATTACHMENTS:**

[Ordinance](#)

## Chapter 10 TEMPLE ELECTRICAL CODE

### ARTICLE I - GENERAL PROVISIONS

#### Sec. 10-1. Short title.

This ordinance shall be known as the "*Temple Electrical Code*," hereafter referred to as "code" or "this code."

#### Sec. 10-2. Purpose.

This code is hereby declared to be remedial, and shall be construed to secure the beneficial interest and purpose thereof, which are the public safety, health, and general welfare, through proper and safe electrical construction and repair and safety to life and property from fire and other hazards incident to faulty electrical construction, alteration and repair which occurs within the city limits.

#### Sec. 10-3. Electrical Code adoption.

There is hereby adopted by the city, the National Fire Protection Association, National Electrical Code, NFPA No. 70, 2008, except such portions as are hereinafter modified and amended, of which not less than three (3) copies are filed in the office of the chief building official and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this article shall take effect, the provisions thereof shall be controlling within the city limits.

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#### Sec. 10-4. Definitions.

Electrical work shall mean any labor or material used in installing, maintaining, or extending an electrical wiring system and the appurtenances, apparatus, or equipment used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property, or premises. The term includes service entrance conductors as defined by the National Electrical Code.

Comment: Moved from licensing section

*Feeder panel or sub panel* is any panel located after the main service disconnect consisting of circuit breakers or fuses which provide protection for the branch circuits.

*Mobile home* is a movable or portable dwelling constructed to be towed by a motor vehicle on its chassis over Texas roads and highways under special permit, connected to utilities, and designed without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit.

NEC means the National Electrical Code published by the National Fire Protection Association as adopted by the city in section 10-3.

Deleted: *Occupancy* shall mean every new and existing building, structure or part thereof, and shall be classified according to its use as a building or structure as outlined in the 2006 International Building Code.

*Prefabricated home* is a structure intended for residential occupancy which is connected as a whole or in sections at a point other than its final location and which is moved from such point to a site where it is placed on a foundation as a whole or in sections and when finished constitutes an entire structure intended for residential use, and which is neither a residence constructed in a place, a mobile home or a house which is moved.

*Residential wiring* is the wiring of any dwelling, whether single or two family within the limits of the city.

TDLR is the Texas Department of Licensing and Regulation, or a successor agency.

## ARTICLE II - ELECTRICAL OFFICIAL

### Sec. 10-5. Designated officials.

Within this code when reference is made to the duties of certain officials named herein, that designated official of the city who has duties corresponding to those of the named official in this code shall be deemed to be the responsible official insofar as enforcing the provisions of this code is concerned.

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### Sec. 10-6. Qualifications and appointment of the electrical official.

(a) The office of electrical official is hereby created to administer and enforce this code. The chief building official shall appoint the electrical official and any assistants necessary to aid him in the discharge of his duties. The person chosen to fill this office shall have the following qualifications:

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- 1) Good moral character;
- 2) Ability, training and experience as is required for the performance of his duties in the enforcement of this code;
- 3) Have thorough knowledge of electrical materials approved by the Underwriter's Laboratories, Inc., and the methods used in the installation of electrical equipment;
- 4) Be well versed in approved electrical construction for safety to persons and property, and the NEC; and
- 5) Have at least five (5) years of experience as a journeyman; be a graduate in electrical or mechanical engineering from a recognized university or college; have two (2) years study in college level electrical courses and three (3) years experience as a journeyman; or be a certified electrical inspector with three (3) years practical experience.

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(b) The electrical official shall execute and deliver to the city a surety bond in the principal amount of One Thousand and No/100ths (\$1,000.00) Dollars conditioned upon the diligent and honest performance of the duties required by this code, or any other ordinance or law. The bond premium shall be paid by the city and the bond shall be satisfactory to the city attorney.

Deleted: to the governing body

(c) Where used in this article, the term authority having jurisdiction shall refer to the electrical official.

**Sec. 10-7. Authority of electrical official.**

**Comment:** No new language, just moved around

(a) *In General.*

1. The authority having jurisdiction shall be permitted to investigate the cause, origin, and circumstances of any fire, explosion, or other hazardous condition.
2. The authority having jurisdiction shall be permitted to require plans and specifications to ensure compliance with this code.

(b) *Authority to waive specific requirements.*

1. The authority having jurisdiction shall be permitted to waive specific requirements in this code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency and that the system, method, or device is approved for the intended purpose.
2. Each application for a waiver of a specific electrical requirement shall be filed with the authority having jurisdiction and shall be accompanied by such evidence, letters, statements, results of tests, or other supporting information as required to justify the request. The authority having jurisdiction shall keep a record of actions on such applications, and a signed copy of the authority having jurisdiction's decision shall be provided for the applicant.

### ARTICLE III ADMINISTRATION OF CODE

**Sec. 10-8. Application of code.**

**Comment:** Moved

(a) *New Installations.* ~~Buildings with construction permits dated after the adoption of this code shall comply with its requirements.~~

**Deleted:** This Code applies to new installations.

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(b) *Existing Installations.* Existing electrical installations that do not comply with the provisions of this ~~code~~ shall be permitted to be continued in use unless a certified electrical inspector determines that the existing installations are damaged or if the lack of conformity with this ~~code~~ presents an imminent danger to occupants of the structure or surrounding property. Where changes are required for correction of hazards, a reasonable amount of time shall be given for compliance, depending on the degree of the hazard. Any damaged wiring must be removed and replaced with wiring which meet standards for new work.

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(c) *Additions, Alterations, or Repairs.* Additions, alterations, or repairs to any

building, structure, or premises shall conform to that required of a new building without requiring the existing building to comply with all the requirements of this ~~code~~. Additions, alterations, installations, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as determined by ~~a~~ certified electrical inspector. Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the ~~code~~ in force at the time the additions are made. On any structure which is renovated, remodeled or relocated, a certified electrical inspector shall have the right of inspection as set out elsewhere herein, and if, upon inspection, a certified electrical inspector shall discover electrical conditions hazardous to health, safety or welfare, he may cause corrections to be made.

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(d) *Changes in Building Occupancy*. Electrical systems and equipment that are part of any building or structure undergoing a change in use or occupancy, as defined in the International Building Code, shall comply with all requirements of this code that may be applicable to the new use or occupancy.

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(e) *Moved Building*. Electrical systems and equipment that are a part of buildings or structures moved into or within the city shall comply with the provisions of this code for new installations.

(f) *Abandoned Electrical Equipment*. All unused electrical equipment such as panel boards, service equipment, raceways, boxes or other devices within or on public or private building premises shall be removed if any such equipment, in the opinion of ~~a~~ certified electrical inspector, constitutes a hazard or danger to life or property.

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(g) *Abandoned wiring*. Whenever new wiring is replacing old wiring, the old wiring shall be completely removed where possible. Abandoned wiring that cannot be removed shall be rendered unusable for future use before final approval shall be given for the new wiring.

## **Sec. 10-9. Standards and requirements.**

Comment: Merged former Art II with Art I

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(a) *Compliance*. All electrical construction and all materials and appliances used in connection with the installation, maintenance, and operation of electrical wiring, apparatus or equipment for the utilization of electrical energy for light, heat or power, inside the city, shall conform to the rules and regulations of the this code, the NEC, and the meter installation specifications of the electrical utility company, and as they may be revised from time to time.

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Deleted: Temple Electrical Code

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(b) *Governing Regulations*. Where, in any specific case, different sections of the this code, the International Building Code, the NEC, Energy Delivery Company Specifications and UL-Listings and manufacture's specifications specify different materials, methods of construction or other requirements, the most restrictive, as determined by the electrical official, shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Deleted: City of Temple Electrical Code

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(c) Fees. No person, firm or corporation shall install or cause to be installed electrical conductors/equipment including the installation of electric signs unless they have complied with in Article VIII of this code.

**Deleted:** Exception: 90-2(b) National Electrical Code

(d) Violations. Violations of this code by any owner(s), lessee or renters may be charged with violating this code and that charge could result in penalties set forth.

**Deleted:** In the event any of the requirements are violated the owner, owners, lessee or renters shall be held responsible and be guilty of violating the aforementioned sections of this code and subject to the penalties set forth.

**Sec. 10-10. Electrical inspectors.**

(a) This code shall be administered and enforced by all certified electrical inspectors, who shall have the authority to:

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(c) Additions to existing wiring. Where additions or extensions are made, and part of the existing wiring remains in use, ¶

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1. Render interpretations of this code in order to provide clarification to its requirements, as permitted by NEC 90.4 "Enforcement." In the event of a difference in interpretation, a final decision shall be rendered by the building official after consultation with the electrical officer;

2. Order the immediate evacuation of any occupied building deemed unsafe when such building has hazardous conditions that present imminent danger to building occupants;

3. To have the premises disconnected from its source of electric supply when the use of any electrical equipment or its installations is found to be dangerous to human life or property. Once such equipment or installation has been so condemned or disconnected, the certified electrical inspector shall place thereon a listing of the causes for the condemnation, the disconnection, or both. Within 24 hours, the certified electrical inspector shall give written notice of such condemnation or disconnection and the causes therefore to the owners, the occupant, or both, of such building, structure, or premises. It shall be unlawful for any person to remove said notice, to reconnect the electric equipment to its source of electric supply, or to use or permit to be used electric power in any such electric equipment until such causes for the condemnation or disconnection have been remedied to the satisfaction of the inspection authorities;

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4. When conditions hazardous to life and property exist, he or she shall be permitted to require that such hazardous conditions in violation of this code be corrected;

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5. To delegate to other qualified individuals such powers as necessary for the proper administration and enforcement of this code; and

6. Police, fire, and other enforcement agencies shall have authority to render necessary assistance in the enforcement of this code when requested to do so by the authority having jurisdiction.

**Deleted:** <#>The authority having jurisdiction shall be permitted to investigate the cause, origin, and circumstances of any fire, explosion, or other hazardous condition.¶

¶  
<#>The authority having jurisdiction shall be permitted to require plans and specifications to ensure compliance with this Code.¶

**Sec. 10-11. Authority to inspect.**

**Comment:** Deletions due to repetition.

(a) To the full extent permitted by law, any certified electrical inspector engaged in inspection work shall be authorized at all reasonable times to enter and examine any building, structure, or premises for the purpose of making electrical inspections.

(b) Before entering premises, a certified electrical inspector shall obtain the consent of the occupant thereof or obtain a court warrant authorizing entry for the purpose of inspection, except in those instances where an emergency exists. As used in this section, emergency means circumstances that the certified electrical inspector knows, or has reason to believe, exist and that reasonably can constitute immediate danger to persons or property. In an emergency a certified electrical inspector may enter a home without consent or warrant.

(c) The certified electrical inspector may order any person(s) to remove or remedy such dangerous or hazardous condition or equipment. Any person(s) failing to comply with such order shall be in violation of this code.

(d) A certified electrical inspector shall identify themselves with proper credentials issued by this governing authority before entering and inspecting a building. It is a violation of this chapter to impersonate a city employee by using a badge, uniform, or other credentials.

(e) It is a violation of this chapter for persons to interfere with certified electrical inspector carrying out any duties or functions prescribed by this code.

(f) A certified electrical inspector is permitted to require that whenever any installation subject to inspection prior to use is covered or concealed without having first been inspected, that such work be exposed for inspection. Once notified the installation is ready for inspection, a certified electrical inspector shall conduct the inspection within 72 hours.

#### **Sec. 10-12. Appeals; Interpretation of code.**

(a) *Review of Decisions.* Any person aggrieved by any final decision of any official responsible for administration, interpretation, or enforcement of this ordinance may appeal to the electrical board. An appeal may be filed within fifteen (15) days after the electrical official's final decision. The electrical official shall transmit all papers dealing with his action to the electrical board. The board shall hold a public hearing within fifteen (15) days after receipt of the appeal, proceed to determine whether the action complies with this law and, shall make a timely decision in accordance with its findings.

(b) *Conditions for appeal.* Any person may appeal a decision of the authority having jurisdiction to the board when any one or more of the following conditions exist:

1. An incorrect interpretation of the code's true intent;
2. The provisions of the codes or ordinances do not fully apply; or
3. A decision is unreasonable or arbitrary as it applies to alternatives or new

**Deleted:** The authority having jurisdiction shall be authorized to inspect, at all reasonable times, any building or premises for dangerous or hazardous conditions or equipment as set forth in this Code.

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<#>The authority having jurisdiction shall be permitted to waive specific requirements in this Code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency and that the system, method, or device is approved for the intended purpose.¶

<#>Each application for a waiver ( ... [1]

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## ARTICLE IV AMENDMENTS TO NATIONAL ELECTRIC CODE 2008

### Sec. 10-13. Conductors.

(a) *Conductor material and size.* NEC, Section 110.5, “Conductors,” is amended by deleting the section in its entirety and replacing with the following:

1. Copper conductors required.
  - a. Conductors used to carry current shall be of copper, and all references to other conductor materials throughout the NEC shall be deleted.
  - b. Exception. Conductors of aluminum or copper clad aluminum #1 AWG and larger may be used for the following and the conductors sizes shall be changed accordingly:
    - i. Service entrance conductors where they terminate in approved service equipment. (REF. NEC, Sec. 230, “Services” and Article 338, “Service-Entrance Cable.”)
    - ii. Feeder conductors where they terminate in approved panel boards and or service equipment. (REF. NEC, Article 215, “Feeders.”)

The conductors shall be terminated according to manufacturer's recommendations and have a coating of oxidation inhibitor applied: (REF. NEC, Sec. 310-14, “Aluminum Conductor Material.”)

Fine Print Note: For aluminum and copper-clad aluminum conductors, see NEC, Section 310.15, “Ampacities for Conductors Rated 0-2000 Volts.”

2. All conductors shall be size number Twelve (12) AWG or Larger, except in the following situations:
  - a. For dwelling units only, number Fourteen (14) AWG conductors may be used for lighting switch legs if the branch circuit is protected with a 15 amp breaker.
  - b. For dwelling units only, number Fourteen (14) AWG conductors may be used for smoke detector circuits if the branch circuit is protected with a 15 amp breaker.
  - c. Control circuits operating line voltage contactors, relay and the like.
  - d. Fixture wires in UL or other listed fixtures.

**Deleted:** <#>Submission of Appeals. A written appeal, outlining the Code provision from which relief is sought and the remedy proposed, shall be submitted to the authority having jurisdiction within 15 calendar days of notification of violation.¶

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(b) Color coding of conductors. Colors shall be consistent throughout each system and shall be as follows:

1. Single phase 120/240 volt wiring systems.  
(A) (B) (N)  
Black Red White
2. Three phase four wire 120/208 volt wiring systems.  
(A) (B) (C) (N)  
Black Red Blue White
3. Three phase three and four wire 120/240 volt delta wiring systems.  
(A) (B) (C) (N)  
Black Orange Blue White
4. 277-480 wye or 480 volt delta wiring systems.  
(A) (B) (C) (N)  
Brown Orange Yellow Gray

#### **Sec. 10-14 Wiring methods.**

(a) *Fixed wiring methods.* In addition to the minimum standards found in the NEC, Articles 320 through 402, the following shall apply:

1. The fixed wiring methods for **commercial buildings** shall be enclosed in an approved raceway, MC Cable when installed per 10-14(b) of this code, power and Control Tray Cable (TC) or Flat conductor cable (FCC);
2. The fixed wiring methods for **residential buildings over 3-stories tall** shall be enclosed in an approved raceway or MC Cable when installed per 10-14(b) of this code;
3. The fixed wiring methods for **residential buildings 3-stories or less** shall be Nonmetallic-sheathed cable, SE cable, Type UF, MC Cable when installed per 10-14(b) of this code, or in an approved raceway; and
4. The fixed wiring methods for **industrial** shall be enclosed in an approved raceway or cable tray system.

(b) *MC Cable.*

1. Must be concealed within walls, ceilings and c-channel. NEC, Section 310.10, "Uses Permitted," Subsection (4), is amended by deleting the reference to "Exposed," except in the following situations:
  - a. When fixture whips not over 6 foot.
  - b. When hanging equipment and fixture whips over 6 foot when pre-approved.
  - c. When supported under and within counters and cabinets where not subject to physical damage.

2. Equipment grounding conductor. NEC, Section 330.108, "Equipment Grounding Conductor," is amended by deleting the section in its entirety and replacing with the following:

Type MC Cable shall have an insulated copper grounding conductor of a size equivalent to the other conductors in the assembly.

3. Special installation requirements. NEC, Article 330, "Metal-Clad Cable: Type MC," is amended by adding the following Section:

(4) Special Installation Requirements.

- a. Type MC Cable outer jacket shall only be cut with an approved rotary-type cutting tool that is calibrated to the manufacture's specifications.
- b. An approved anti-short shall be used with MC Cable connectors or be manufactured with anti-short as an integral part of the connector.
- c. The end of MC Cable where it terminates in approved connectors shall not be taped or painted.

(c) *Cable Connectors.* The number of NM cables (romex) installed per connector shall be calculated per the UL-listing or manufacture's instructions. If there is no requirement, the number of cables per connector shall be as follows:

1. Quantity of 14/2, 14/3, 12/2, 12/3, 10/2 and 10/3 NM Cables (romex) per connector.
  - a. 3/8"- one 14 AWG through 12 AWG.
  - b. 1/2"- two 14 AWG through 12 AWG, or one 10 AWG.
  - c. 3/4"- three 14 AWG through 12 AWG, or two 10 AWG.
2. 8 AWG and larger cables shall be installed one per an appropriate sized cable connector.
3. Service Entrance Cable shall be installed with an appropriate sized cable connector and there shall be no other cables installed in the connector.

**Sec. 10-15. Receptacles and switches.**

(a) *Receptacle ratings.* NEC, Section 210.21, "Outlet Devices," Subsection (B), "Receptacles, Part (3), "Receptacle Ratings," is amended by deleting the section in its entirety and replacing with the following:

1. Receptacles in commercial buildings shall be rated at 20 ampere or greater.
2. The following areas in a dwelling unit shall have receptacles rated at 20 Ampere or greater:

- a. Kitchen, pantry, breakfast room, dining room or similar areas.
  - b. Laundry, garage, bath and utility rooms.
3. All other receptacles shall conform to the values listed in Table 210.21(B)(3), or where larger than 50 amperes, the receptacle rating shall not be less than the branch circuit rating.

(b) *Individual appliance branch circuits required.* NEC, Section 210.52, "Dwelling Unit Receptacle Outlets," Subsection (B), "Small Appliances," is amended by adding the following subsection:

(4) Separate 20 ampere circuit required.

For dwelling units, an individual 20 ampere branch circuit is required for each refrigerator, freezer, dishwasher, disposal, trash compactor, built in microwave, vent hood or any other fixed appliance. The individual branch circuits shall be provided with a single receptacle rated 20 ampere or greater.

(c) *Washing machine receptacle.* NEC, Section 210.52, "Dwelling Unit Receptacle Outlets," Subsection (F), "Laundry Areas," is amended to include the following sentence:

The washing machine shall be provided with a single receptacle rated 20 ampere or greater.

(d) *Individual 20 ampere circuits required.* Section 210.52, "Dwelling Unit Receptacle Outlets," is amended by adding the following subsection:

(I) Other locations.

A separate 20 ampere circuit provided with a single receptacle rated 20 ampere or greater is required for all other fixed appliances with loads that exceed six (6) amperes. This requirement excludes garage door opener receptacles. The single receptacle is not required when a GFCI duplex is installed.

(e) *Maximum number of receptacles in a branch circuit.* NEC, Section 220.14, "Other Loads-All Occupancies," Subsection (J), "Dwelling Occupancies," is amended by adding the following subsection:

(4) The number of receptacles in a residential branch circuit shall be limited as follows:

1. No more than 8 receptacles in a single general purpose branch circuit; provided, however, in no case shall a general purpose branch circuit exceed 80 percent of the over-current protection (OCP) device rating.

Exception: On rewire of one and two family dwellings, general purpose branch circuits shall have a maximum of ten (10) receptacles; provided,

however, in no case shall a general purpose branch circuit exceed 80 percent of the over-current protection (OCP) device rating.

2. No more than 4 receptacles in a single kitchen, pantry, breakfast room, dining room or similar area branch circuit.

(f) *Receptacles in a wet location.* NEC, Section 406.8, "Receptacles in Damp or Wet Locations," Subsection (B), "Wet Locations," Part (1), "15- and 20- Ampere Receptacles in a Wet location," is amended by deleting the section in its entirety and replacing with the following:

15- and 20- Ampere Receptacles Installed in a Wet Location.

15- and 20- Ampere, 125- and 250- volt receptacles installed in a wet location, including under porches, shall have an enclosure that is weatherproof whether or not the attachment plug cap is inserted. All 15- and 20- ampere, 125- and 250- volt nonlocking receptacles installed in wet locations, including under porches, shall be listed weather-resistant type.

(g) *GFCI protection required.* NEC, Section 210.8, "Ground-Fault Circuit-Interrupter Protection for Personnel," Subsection (B), "Other Than Dwelling Units," is amended by adding the following subsection:

(6) Other Fixtures with Standing or Running Water.

In other than dwelling units, all 125- volt, single phase, 15- and 20- ampere receptacles installed within 6 foot of the outside edge of a fixture with standing or running water shall have ground-fault circuit-interrupter protection for personnel.

(h) *GFCI receptacle identification.* The following NEC, Section 210.8, "Ground-Fault Circuit-Interrupter Protection for Personnel," is amended by adding the following subsection:

(D) Identification.

All receptacles protected by one (1) or more ground-fault circuit-interrupter (GFCI) devices shall be identified with the manufactures labels.

(i) *Attic light switch location.* Switches for residential attic lighting shall be located at the nearest point of entry to the attic.

(j) *Garage Door Opener Receptacles.* NEC Section 210.8(A)(2), "Garages," is amended to include the following sentences:

A garage door opener receptacle(s) shall be protected by a dead front GFCI that is located next to the garage door opener. This dead front GFCI shall be permanently labeled "garage door". The garage door receptacle(s) shall be a single 20 amp rated receptacle.

**Sec. 10-16. Fireplaces with electric blowers.** Prior to the electrical rough-in inspection, instillation and connection of fireplaces with blower motors shall occur.

**Sec. 10-17. Grounding electrode system**

(a) *Minimum of two grounding electrodes.* NEC, Section 250.50, "Grounding Electrode System and Grounding Electrode Conductor," is amended to include the following sentence:

All new buildings or structures, service upgrades and repairs, shall have a minimum of two grounding electrodes.

(b) *Concrete-encased electrode.*

1. NEC, Section 250.52, "Grounding Electrodes," Subsection (A), "Electrodes Permitted for Grounding," Part (3), "Concrete-encased Electrode," is amended by deleting the section in its entirety and replacing with the following:

Concrete-encased Electrode.

All new buildings or structures having a concrete footing or foundation shall have a concrete encased electrode as the primary grounding system, and shall comply with all the requirements of NEC, Article 250, "Grounding and Bonding." The concrete encased electrode shall be installed by the electrical contractor prior to the foundation inspection. The electrode shall conform to one or more of the following:

- a. A minimum of 20 feet of bare copper conductor sized in accordance with NEC, Table 250.66, "Size of Alternating-Current Grounding Electrode Conductors" and not smaller than #4 AWG, encased by at least 2" of concrete, and located within and near the bottom of a concrete footing (primary location) or foundation (location where there is no footing) that is in direct contact (no plastic below or above grounding electrode conductor) with the earth. The grounding electrode conductor shall not be allowed to lie in the dirt on the bottom of a beam or foundation. A non-metallic sleeve shall protect a grounding conductor where it exits the concrete. If steel reinforcing bar is present in a footing or foundation, the copper grounding electrode conductor shall be bonded to the reinforcing bar. Connection shall be made using listed and approved clamps; or
- b. Reinforcing bar that is at least ½" in diameter, twenty feet in length, encased by at least 2" of concrete and located within and near the bottom of a concrete footing (primary location) or foundation (location where there is no footing) that is in direct contact (no plastic below or above grounding electrode conductor) with the earth that is present in a foundation, this portion of the reinforcing bar is

permitted to replace the required minimum 20 feet of bare #4 or larger copper conductor. The reinforcing bar shall not be allowed to lie in the dirt on the bottom of a beam or slab. A non-metallic sleeve shall protect a grounding electrode conductor where it exits the concrete.

A ½" or larger steel reinforcing bar in addition to the required 20 foot can be turned up (90 degree bend) where it will be within a wall if the following requirements are met:

- i. The reinforcing bars shall overlap each other a minimum of 2 feet.
- ii. The reinforcing bars shall be permitted to be bonded together by the usual steel tie wires or other effective means where they create a tight connection.
- iii. The connection point of the stubbed up reinforcing bar and the grounding electrode conductor shall be accessible.
- iv. The stubbed up portion of the bar shall be painted fluorescent orange at the time of installation for identification purposes. The connection point shall have the paint removed.
- v. The copper grounding electrode conductor sized in accordance with NEC, Table 250.66, "Size of Alternating-Current Grounding Electrode Conductors" and NEC, Section 250.66, "Size of Alternating-Current Grounding Electrode Conductor," Subsection (B), "Connections to Concrete-Encased Electrodes," shall be connected to the bar using listed and approved clamps.

2. *Requirements if the concrete encased electrode was not installed.*

- a. If reinforcing bar was installed in the footing or foundation of a non-post tension slab, the slab shall be busted and the reinforcing bar in the footing (primary location) or foundation (location where there is no footing) shall be bonded to a copper conductor sized in accordance with NEC, Table 250.66, "Size of Alternating-Current Grounding Electrode Conductors" and NEC, Section 250.66, "Size of Alternating-Current Grounding Electrode Conductor," Subsection (B) "Connections to Concrete-Encased Electrodes." Connection shall be made using listed and approved clamps.
- b. In addition to the requirement above, a plate electrode shall be installed and shall comply with all the requirements of NEC, Article 250, "Grounding and Bonding."
- c. These requirements must be completed before a rough-in inspection, and shall be inspected at the same time as the rough-in inspection.

(c) *Rod and pipe electrode*. NEC, Section 250.53 (G), “Rod and Pipe Electrodes,” is amended to include the following sentence:

A rod or pipe electrode shall be installed in the general vicinity of the service equipment.

(d) *Splicing of a grounding electrode conductor*. NEC, Section 250.64, “Grounding Electrode Conductor Installation,” Subsection (C), “Continuous,” Part (1) is amended by deleting the section in its entirety and replacing with the following:

Grounding electrode conductor splicing shall be permitted only by installing a split-bolt in conjunction with an irreversible compression type C- crimp, line tap or equivalent. Splicing components shall be installed per their UL-Listing and manufacturer’s instructions.

(e) *Bonding and grounding conductors*. NEC, 250.4, “General Requirements for Grounding and Bonding,” Subsection (A), “Grounded Systems,” Fine Print Note, an important consideration for limiting the imposed voltage is the routing of bonding and grounding conductors so that they are not any longer than necessary to complete the connection without disturbing the permanent parts of the installation and so that unnecessary bends and loops are avoided.

**Sec. 10-18. Grounding.** In addition to the minimum standards found in the NEC, Article 250, “Grounding and Bonding,” the following shall apply:

(a) All raceways shall have an insulated wire, sized and installed per the requirements of NEC, Article 250, “Grounding and Bonding,” to satisfy grounding requirements.

(b) Exception: Service entrance and feeder raceways that are rigid metallic conduit that have threaded fittings and made wrench tight are permitted to be used as a grounding device when installed per the requirements of NEC, Article 250, “Grounding and Bonding.”

## **Sec. 10-19. Service requirements.**

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(a) *Number of services*. NEC, Section 230.2, “Number of Services,” is amended by deleting the section in its entirety and replacing with the following:

Number of services.

A building or other structure served shall be supplied by only one electrical service unless permitted in the NEC, Section 230.2, “Number of Services,” Subsections (A) through (D). For clarification the code **does not** accept the portion of 230.2 of the NEC which states: “*For the purpose of 230.40, Exception No. 2 only, underground sets of conductors, 1/0 AWG and larger, running to the same location and connected together at their supply end but not connected at their load end shall be considered to be supplying one service.*”



Note: All buildings or structures shall consist of not more than six switches or sets of circuit breakers, or a combination of not more than six switches and sets of circuit breakers, mounted in a single enclosure, in a group of separate enclosures, or in or on a switchboard. There shall be not more than six sets of disconnects per service grouped in any one location. (REF. NEC, Section 230.71, "Maximum Number of Disconnects.")

(b) *Minimum building service.* In addition to the minimum standards found in the NEC, Article 230, "Services," and Article 220, "Branch-Circuit, Feeder, and Service Calculations," the city requires that all non-dwelling buildings shall have a minimum of a two hundred (200) ampere service, or be pre-approved by the electrical official.

(c) *Main exterior disconnecting means.*

1. NEC, Section 230.70, "General," is amended by adding the following subsection:

(D) All new buildings, service upgrades, renovations, etc shall require a main exterior disconnect, manual shunt-trip device, or knox box located outside the building or structure, and shall be pre-approved by the Electrical Official.

2. Exception. A single family residential occupancy does not require a main exterior disconnecting means if the main panel and meter enclosure are back to back.

Note: Please review Section 10-21 Fusible Disconnects, of this code.

(d) *Shunt-trip button.* In addition to the minimum standards found in the NEC, Section 230.70, "General," Subsection (A), "Location," Part (3) "Remote Control," the city requires that when a remote shunt-trip button is installed, it shall be located on the exterior of the building or structure and shall have a visual indication that the service has been disconnected when the trip has been activated. The shunt-trip button shall be in a sturdy, exterior cabinet that can be secured with a padlock. The cabinet shall be permanently marked on the exterior, stating "shunt-trip disconnect."

(e) *Service conductor size.* In addition to the minimum standards found in the NEC, Article 220, "Branch-Circuit, Feeder, and Service Calculations," single family residential service conductors (riser) shall be sized based on the main breaker size or service size and not the calculated load.

(f) *Service mast.* In addition to the minimum standards found in the NEC, Section 230-28, "Services Masts as Supports," a minimum size of two (2) inches rigid conduit shall be used for service mast. E.M.T. and I.M.C are not acceptable for service masts supports.

(g) *Flexible raceways not permitted at service locations.*

1. The following NEC sections are amended by adding the following subsections:
  - a. Section 350.12, "Uses Not Permitted," is amended by adding the following subsection: (3) shall not be used at services.
  - b. Section 356.12, "Uses Not Permitted," is amended by adding the following subsection: (6) shall not be used at services.
  - c. Section 360.12, "Uses Not Permitted," is amended by adding the following subsection: (7) shall not be used at services.
  - d. Section 362.12, "Uses Not Permitted," is amended by adding the following subsection: (11) shall not be used at services.
2. Exceptions.
  - a. Connection of transformers.
  - b. Temporary services.
  - c. Pre-approved by the electrical official.

(h) *Electrical service upgrade required.* The electrical service shall be upgraded on a building or structure when electrical power is disconnected for any of the following conditions:

1. Dangerous or unsafe electrical hazards;
2. Substantial damage over 50%; or
3. Change in the occupancy classification of the building.

(i) Plaque or Directory. A plaque or directory is required for the following:

1. NEC Section 230.2, "Number of Services," Subsection E, "Identification," is amended by deleting the section in its entirety and replacing with the following:

Identification. Where a building or structure is supplied by more than one service, or any combination of branch circuits, feeders, and services, a permanent plaque or directory that is of contrasting in color and a minimum of eight inches square shall be installed at each service disconnect location denoting all other services, feeders, and branch circuits supplying that building or structure and the area served by each.
2. In addition to the minimum standards found in the NEC, Article 700 "Emergency Systems," Part III, Section 700.12, "General Requirements," the city requires that when a building or structure is supplied by an alternative power source such as generator sets, storage batteries, fuel cells,

uninterruptible power supplies, solar power, wind turbines, a permanent plaque or directory that is of contrasting in color and a minimum of eight inches square shall be installed at each service disconnect location and alternative power source location denoting all other services and alternative power sources. The plaque or directory shall include the following information:

- a. Number and location of other services,
- b. Number, location and description of other alternative power sources,  
and
- c. Any special disconnecting requirements.

#### **Sec. 10-20. Lighting and appliance panel boards.**

(a) *Spare conduit riser.* In addition to the minimum standards found in the NEC, Article 408, "Switchboards and Panelboards," lighting and appliance panelboards installed in one and two family dwellings shall have a one inch conduit riser installed from the panel into an accessible space above the panel. (The intent here is to make it possible to add a circuit at a later date.)

(b) *Spare poles.* In addition to the minimum standards found in the NEC, Article 408, "Switchboards and Panelboards," new lighting and appliance panel boards shall have two (2) spare poles for future use in one and two family dwellings.

**Sec. 10-21. Fusible disconnects.** Fusible disconnects that are installed in locations that are accessible to the public or unqualified persons, the fusible disconnects shall be of the heavy duty type,

**Sec. 10-22. Swimming pools, fountains and similar installations.** NEC, Section 680.26 (B)(1)(a), "Structural Reinforcing Steel," is amended by deleting the section in its entirety and replacing with the following:

Structural Reinforcing Steel. Unencapsulated structural reinforcing steel shall be bonded together by steel tie wires or the equivalent. A solid, bare, copper conductor, 8 AWG or larger, shall be installed continuously around the pool perimeter approximately two foot from the top and at least once down the center of the bottom. The copper conductor shall be bonded to the rebar grid at a minimum of every fifteen feet and shall be bonded to the parts specified in NEC, Section 680.26(B)(2) through (B)(7). Where structural reinforcing steel is encapsulated in a nonconductive compound, a copper conductor grid shall be installed in accordance with 680.26(B)(1)(b).

### **ARTICLE V – LICENSES**

#### **Sec. 10-23. Licenses required.**

(a) *State of Texas issued license required.* Except those persons who perform the type of electrical work that is exempt from the requirement for licensure in this state, a person

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<#>Heavy duty type, or¶

<#>General duty type when equipped with dual door interlocks. The dual interlocks must prevent the door from being opened when the switch is on, and prevent the switch from being turned on when the door is opened.¶

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<#>Chapter 1305 of the Texas Occupation Code (The Texas Electrical Safety Licensing Act); and ¶

<#>Texas Administrative Code, Chapter 73 (Administrative Rules of the Texas Department of Licensing and Regulation).¶

may not perform electrical work in this city unless the person holds an appropriate license issued or recognized by the State of Texas. Such license shall be on file in the electrical official's office, together with the firm's address, telephone number and copy of insurance, before proceeding with any work. All persons performing electrical work shall obtain the necessary permits for such work and shall have all work inspected by the city in accordance with this code. This section shall not apply to a person to whom a homeowner's permit has been issued in accordance with Section 10-32(b).

(b) Unlicensed electricians. Any person, firm or corporation who knowingly employs or allows an unlicensed contractor or electrician to perform work or install electrical conductors/equipment or apparatus shall be guilty of violation of this chapter and subject to the penalties set forth.

## ARTICLE VI TYPES OF LICENSES AND REQUIREMENTS.

### Sec. 10-24. Electrical contractor.

(a) *Authority.* An electrical contractor's license shall entitle the holder thereof to contract for and engage in the business of designing, installing, erecting, repairing or altering electrical wires or conductors to be used for light, heat, power, or signaling purposes. The term installation includes the installation or repair of ducts, raceways, or conduits for the reception or protection of wires or conductors and the installation or repair of any electrical machinery, apparatus, or system used for electrical light, heat, power, or signaling.

(b) *Duties.*

1. To provide licensed supervision of construction, installation, maintenance and repair of electrical conductors and equipment installed within or on public or private buildings or other structures.
2. To employ licensed master, journeyman, residential wireman and apprentice electricians only to perform electrical work, unless an exception is granted by the Electrical Board.

3. An electrical contractor may not work more than ~~four (4)~~ apprentices for each journeyman or residential wireman on a job.

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4. The electrical contractor must employee each person he assigns work to, meaning that he must pay their wages, deduct the required social security and federal income taxes from their pay. An employee may be full time, part time or seasonal.

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5. An electrical contractor may not sub-contract or assign any electrical work or contract to any person, firm or corporation except in the following situations:

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- i. When trenching and other dirt work, or
- ii. When wiring methods associated with Chapter 6, Chapter 7, and Chapter 8 of the 2008 NEC.

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6. An electrical contractor MAY sub-contract or assign any electrical work to other state-licensed electrical contractors

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**Sec. 10-25. Electrical sign contractor.**

(a) *Authority.* An electrical sign contractor's license shall entitle the holder thereof to engage in the business of designing, manufacturing, installing, connecting, reconnecting, or servicing an electric sign, cold cathode, neon gas tubing, or altering electric sign wiring or conductors either inside or outside a building.

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<#>Exception 3: When approved by the electrical official.¶  
<#>Re-inspection fees shall be paid in-person by the master electrician when requested by the City of Temple.¶

(b) *Duties.*

1. To provide licensed supervision of the manufacture, maintenance, installation, wiring of signs or outline lighting.
2. To employ licensed master or master sign, journeyman or journeyman sign and apprentice sign electricians only to perform electrical work, unless an exception is granted by the Electrical Board.
3. To install the conductors for the electrical circuits to the sign or outline lighting. Existing circuits may be used for signs or outline lighting only with approval of the electrical official.
4. An electrical sign contractor may not work more than an average of four (4) apprentices for each sign journeyman.

5. The electrical contractor must employee each person he assigns work to, meaning that he must pay their wages, deduct the required social security and federal income taxes from their pay. An employee may be full time, part time or seasonal.

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6. An electrical sign contractor may not subcontract or assign any electrical work or contract to any person, firm or corporation except that an electrical sign contractors may sub-contract to other state-licensed electrical sign contractors, and when trenching or performing other dirt work.

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<#>Exception 2: When approved by the electrical official.¶  
Re-inspection fees shall be paid in-person by the master electrician when requested by the City of Temple.

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**Sec. 10-26. Master electrician.**

(a) *Authority.* The master electrician's license shall entitle the holder thereof to, on behalf of an electrical contractor, to supervise and perform all electrical work.

(b) *Duties.*

- i. To personally supervise the electrical work performed by an electrical contractor within the city. The master electrician shall be personally responsible for all electrical code violations.

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ii. To pay all re-inspection fees in-person when requested by the city.

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(c) *License required.* A master electrician must have a current license on his/her person at all times while performing electrical work.

#### Sec. 10-27. Master sign electrician.

(a) *Authority.* The master sign electrician's license shall entitle the holder thereof to supervise all electrical sign installations under the holder of an electrical sign contractor's license according to the provisions of this article. The holder of a master sign electrician's license shall be entitled to be in general charge and supervision of the business of designing, manufacturing, installing, connecting, reconnecting, or servicing an electric sign, cold cathode, neon gas tubing, or outline gals tubing, or altering electric sign wiring or conductors either inside or outside of a building.

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(b) *Duties.*

i. To personally supervise of the electrical work performed by an electrical sign contractor within the city. The master sign electrician shall be personally responsible for all electrical code violations.

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ii. To pay all re-inspection fees in-person when requested by the city.

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(c) *License required.* A master sign electrician must have a current license on his/her person at all times while performing electrical work.

#### Sec. 10-28. Journeyman electrician.

(a) *Authority.* A journeyman electrician's license shall entitle the holder to do work as an electrician for and under the general supervision of the holder of a responsible master electrician's license, on behalf of an electrical contractor, according to the provisions of this article.

(b) *License required.* A journeyman electrician must have a current license on his/her person at all times while performing electrical work.

#### Sec. 10-29. Journeyman sign electrician.

(a) *Authority.* A journeyman sign electrician's license shall entitle the holder thereof to do work as a sign electrician for and under the general supervision of the holder of a responsible master sign electrician's license, on behalf of a master sign electrician according to the provisions of this article.

(b) *License requirement.* A journeyman sign electrician must have a current license on his/her person at all times while performing electrical work.

#### Sec. 10-30. Residential wireman.

(a) *Authority.* The holder of a residential wireman license shall be entitled to perform electrical installations in single-family, two-family, three-family, and four-family dwellings under the general supervision of the holder of a responsible master electrician's license, on behalf of an electrical contractor, according to the provisions of this article.

(b) *License requirement.* A residential wireman must have a current license on his/her person at all times while performing electrical work.

#### **Sec. 10-31. Apprentice electrician.**

(a) *Authority.* An apprentice electrician's license shall entitle the holder thereof to work under the direct supervision of a master electrician, a journeyman electrician, or a residential wireman, on behalf of an electrical contractor performing electrical work as defined by this article. The phrase "direct supervision" when used herein shall mean that the apprentice electrician shall work under the direct authority of a master electrician, journeyman electrician, residential wireman who will be on the job site at all times directly supervising the apprentice electrician's work.

(b) *License requirement.* An apprentice electrician must have a current license on his/her person at all times while performing electrical work.

#### **Sec. 10-32. Maintenance electrician.**

(a) *Authority.* The holder of a maintenance electrician's license, who works under the general supervision of a master electrician, on behalf of an electrical contractor shall be entitled to engage in the business of replacing, repairing, calibrating, inspecting, or testing of existing electrical appurtenances, apparatus, equipment, machinery, or controls used in connection with the use of electrical energy in, on, outside, or attached to a building, residence, structure, property, or premises. All replacements or repairs must be of the same rating and type as the existing installation. No improvements may be made that are necessary to comply with applicable codes under Texas Occupations Code, Chapter 1305.

(b) *License required.* A maintenance electrician must have a current license on his/her person at all times while performing electrical work.

(c) *Prohibited work.* "Electrical maintenance work" does not include the replacement of any raceways, conductors, disconnecting means, or service feeder components. It also does not include the installation of any new electrical appurtenances, apparatus, equipment, machinery, or controls beyond the scope of any existing electrical installation. The term does not include work exempted by Texas Occupations Code, Chapter 1305.003.

### **ARTICLE VII - PERMITS AND INSPECTIONS**

#### **Sec. 10-33. Permits Required.**

(a) Generally. No electrical wiring/equipment shall be installed, including the installation of signs, or electrical work done within or on any building, structure or premises, public or private, nor shall any alterations or additions be made to any such existing equipment or electrical system without a permit first being secured from the construction safety department except in the following situations:

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1. Minor repair work such as repairing or replacing flush and snap switches, receptacles and lamp sockets, or minor repairs on permanently connected electrical equipment, apparatus, appliances, lighting fixtures;
2. The installation, maintenance, or alteration of wiring apparatus, devices, appliances or equipment for telegraph, telephone, signal service or central station protective service used in conveying signals or intelligence, except where electrical work is done on the primary side of the source of power at a voltage exceeding fifty (50) volts AC; and
3. In case of an extensive project, the code in effect at the date of building/electric permit shall prevail until completion.

Note: Even though no permit is required under Exception 1 and 2, such installations or repairs shall be performed in conformity with the provisions of this code, if applicable.

(b) Homeowner exception. Nothing herein contained shall prohibit the owner of a dwelling in which he resides or will reside and is his homestead by Texas law from personally performing electrical work within or on such home; provided that the owner shall apply to the construction safety department for homeowner's electrical permit and file approved plans and specifications that satisfy the electrical official as to his/her ability to satisfactorily perform the work in accordance with this code. The homeowner shall not pay anyone to assist him/her in such work. However, he shall indicate all persons who will help with wiring on the application and apply for and receive a certificate of approval.

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(c) Compliance. Activity authorized by a permit issued under this code shall be conducted by the permittee or the permittee's agents or employees in compliance with all requirements of this code applicable thereto and in accordance with the approved plans and specifications. No permit issued under this code shall be interpreted to justify a violation of any provision of this code or any other applicable law or regulation. Any addition or alteration of approved plans or specifications shall be approved in advance by the authority having jurisdiction, as evidenced by the issuance of a new or amended permit.

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## Sec. 10-34. Application requirements.

(a) Generally. Applications for permits or inspections required by this article shall be made to the construction safety department by a master electrician or his designated representative, in the name of an electrical contractor, electrical sign contractor, or a homeowner, as the case may be.

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(b) Description of work. The application shall include a general description of the work to be done, and such plans, specifications and schedules as may be necessary to determine whether or not the work will be in conformity with the requirements of this code.

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Deleted: (2) Applications for permits shall be made to the authority having jurisdiction on forms provided by the jurisdiction and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as required by the authority having jurisdiction, such as plans and specifications, location, and so forth. Fees shall be determined as required by local laws.¶

(c) Issuance of permit. If it is found that the installations as described will conform to the requirements of this code, a permit for such installation shall be issued; provided, however, that the issuance of a permit will not be construed as permission or a license to violate any of the requirements of this code or any other ordinance of the city.

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(d) Rejection of application. If an application for a permit is rejected by the authority having jurisdiction, the applicant shall be advised of the reasons for such rejection.

Deleted: (3) The authority having jurisdiction shall review all applications submitted and issue permits as required.

(e) Insurance. Permits shall not be issued unless proof of insurance, as required by the Texas Department of Licensing and Regulating, is furnished

**Sec. 10-35. Cancellation of permit.** Permits may be canceled by the master electrician upon written request to the construction safety department for a terminating inspection.

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<#>Permits for activities requiring evidence of financial responsibility by the jurisdiction shall not be issued unless proof of required financial responsibility is furnished.¶

**Sec. 10-36. Permits not transferable.** Each permit issued under this code shall be personal to the permittee, whether person, firm or corporation. No such permit shall be assigned or transferred to another person, firm, or corporation, and no person shall allow another person to obtain a permit in his name, or allow any electrical work to be performed under his permit by any person other than a person authorized to do the same.

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#### **Sec. 10-37. Revocation of permit.**

(a) Generally. Any attempt to defraud or otherwise deliberately or knowingly design, install, service, maintain, operate, sell, represent for sale, falsify records, reports, or applications, or other related activity in violation of the requirements prescribed by this code shall be a violation of this code. Such violations shall be cause for immediate suspension or revocation of any related licenses, certificates, or permits issued by this jurisdiction. In addition, any such violation shall be subject to any other criminal or civil penalties as available by the laws of this jurisdiction.

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(b) Notification of revocation. Revocation shall be constituted when the permittee is duly notified by the authority having jurisdiction.

(c) Continuation of work after revocation. Any person who engages in any business, operation, or occupation, or uses any premises, after the permit issued therefore has been suspended or revoked pursuant to the provisions of this code, and before such suspended permit has been reinstated or a new permit issued, shall be in violation of this code.

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**Sec. 10-38. Duration of permit.** Every permit issued under the provisions of this code shall expire ninety (90) days after the date thereof unless the work authorized by such permit shall have commenced within such time; and every permit shall expire if the work authorized by such permit is suspended or abandoned for as long as ninety (90) days after

it has been commenced. In every case where a permit is permitted to expire, a new permit shall be obtained before any work is resumed.

**Sec. 10-39. Extension of time.** The authority having jurisdiction shall be permitted to grant an extension of the permit time period upon presentation by the permittee of a satisfactory reason for failure to start or complete the work or activity authorized by the permit

**Sec. 10-40. Certificate of approval.**

(a) Upon inspection. When any electrical wiring, apparatus or fixtures covered by a permit shall be found on inspection by a certified electrical inspector to conform with the rules and regulations set out in this code, the certified electrical inspector shall issue a final certificate of inspection that the wiring, apparatus or fixtures have been found to comply with this code. However, a certificate of approval shall not constitute a waiver of responsibility for or approval of defective workmanship or installation.

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(b) Temporary certificate. A certified electrical inspector may also, before the final certificate of approval is issued, give thirty (30) days temporary permission to connect and furnish electric current to any wiring, apparatus or fixture if, in the inspector's opinion, such wiring, apparatus or fixture is in such condition that current may be safely connected therewith. Valid extensions will be granted upon request by the Master Electrician.

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**Sec. 10-41. Issuance of permit not allowed.** Any person or firm who violates this code and who refuses to correct such violations within five (5) days after notice shall not be issued a permit for other work at that location until the violation is corrected.

**Sec. 10-42. Type of inspections.**

(a) Mandatory inspections. The following are the mandatory inspections:

1. TBM: Temporary Building Meter (Electric power service for construction purposes only);

2. Concrete encased electrode and under slab raceways. This inspection is usually performed during the slab inspection;

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3. Rough-In, wall and above Ceiling: Inspection made prior to covering or concealment (including insulation) of electric equipment/wiring. One siding of walls shall be pre-approved by a certified electrical inspector;

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4. Temporary final (power release). The electrical installation shall be 100 percent completed before a temporary final, except in the following situations:

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i. Residential-when approved by a certified electrical inspector.

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- ii. Commercial- when approved by a certified electrical inspector and when the following are met:

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- a. Electrical distribution equipment shall be protected from unqualified individuals by the installation of fencing with a locked gate, wooden walls with a locked door, electrical rooms with a locked door, etc, and the following shall apply:
  1. Doors and gates shall be locked at all times when qualified personnel are not present and protecting the entry of unqualified personnel.
  2. The electrician responsible for the project shall be the only individual with the key to the locks.
  3. If a violation of 10-40(a)(4)(ii)(a.) or other unsafe conditions exist, the electrical official may have the electrical service disconnected.
- b. A letter of liability shall be signed by the general contractor.

5. Shop inspection. All work performed and all material, apparatus, devices, appliances, fixtures or equipment used shall conform to the requirements of this code. Any electrical sign or portable building which has not be inspected by the state which is to be installed within the city shall be subject to inspection by the electrical official before the sign is installed; and
6. Final: Inspection made after the electrical installation is completed, hot checked and the building is ready to be occupied.

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Comment: Moved from Electrical sign contractor section

## ARTICLE VIII – FEES

### Sec. 10-43. Permit Fees.

The city council shall adopt by resolution a schedule of the permit and inspection fees required or authorized by this code, a copy of which shall be maintained in the construction safety department.

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### Sec. 10-44. Investigation fee.

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When electrical work requiring a permit is found to be in progress or completed and no permit has been issued for such work, an Investigation Fee of double the amount of the Inspection Fee shall be charged to the master electrician doing all or part of the work in addition to such fees as are required by this code.

## ARTICLE IX - ELECTRICAL BOARD

### Sec. 10-45. In general.

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- (a) *Created.* There is hereby created an electrical board, which shall consist of seven

(7) members appointed by the city council. The board shall be composed of two (2) masters and one journeyman electrician licensed by the state, one representative of the electric distributor, one person from the construction industry, and one member who is either an architect, engineer, or from the insurance industry, and one attorney. The quorum shall consist of four (4) members. The city council shall appoint all members for a three (3) year period. At no time shall any two (2) members be members of the same firm or business organization. Any member of the board shall be subject to removal at the will of the city council and shall not receive compensation for their services. Members of the electrical board shall be selected from the businesses and professions in the proportion stated above. If it is not possible to obtain the exact balance from the above professions as indicated, the city council shall appoint members to the board from the following businesses and professions, insofar as is practicable: building trade, insurance, legal, electrical contractors, architects, master electricians, journeyman electricians, representatives of the electric distributor, and engineers. Members that require licenses (such as legal, architects, engineers, journeyman, master, and electrical contractors) shall be licensed within the state.

(b) Meetings of the board. The Board shall meet as needed to resolve business requirements scheduled on the agenda. When requirements permit, these meetings will be scheduled on the first Tuesday of each month. If there are no items on the agenda, a meeting will not be called. If there is a board meeting time more appropriate than the first Tuesday of each month, as dictated by business requirements, then the board meeting will be scheduled at that time. Appropriate items may be placed on the agenda for resolution by contacting the construction safety department.

#### Sec. 10-46. Suspension or revocation of permit and permitting privileges.

(a) Generally. Any permit or permitting privileges may be suspended or revoked, or a fine may be imposed by the electrical board should the holder violate any provisions of this code.

(b) Opportunity to appear before electrical board. No permit or permitting privileges shall be suspended or revoked until the permittee shall have been given an opportunity to appear at a meeting of the electrical board and be heard, of which meeting the permittee must have had at least ten (10) days written notice by certified mail at the address provided per 10-22(a) Any such revocation or suspension shall not affect any criminal prosecution hereunder or prevent punishment by fine for violation hereof.

(c) Length of revocation. Any person whose permit or permitting privileges has been revoked shall not again be permitted within a period of one (1) year from the date of such action, and then only be re-examined where such is required by this code.

#### Sec. 10-47. Decision in writing.

A decision of the electrical board to vary the application of any provision of this code, or to reverse or modify an order of a certified electrical inspector, shall specify in writing in what manner such variation or modification is made, the conditions upon which it is made, and the reasons therefore.

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(b) Termination of Office. When any member of the Board has been absent from the regular meeting of such Board for three (3) or more consecutive meetings, without just cause as determined by the Electrical Board or City Council, the member's office shall become vacant and the chairman or acting chairman of this Board shall certify such record of absence and vacancy to the City Council which shall appoint a new member to fill the vacancy.¶

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Section 10-703. Variance.¶

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## Sec. 10-48. Decision to be prompt.

The electrical board shall, in every case, reach a decision without unreasonable or unnecessary delay. Every decision of the electrical board shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the construction safety department and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the applicant and a copy shall be kept publicly posted in the construction safety department.

## Sec. 10-49. Action in accordance with decision.

Comment: DISCUSS

If a decision of the electrical board reverses or modifies a refusal, order or disallowance of a certified electric inspector or varies the application of any provision of this code, the certified electric inspector shall take action immediately in accordance with such decision or may promptly appeal the decision to the city council.

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## Sec. 10-50. Electrical board may propose amendments.

The electrical board may propose to the city council, amendments, alterations, changes, additions to, or deletions from this code.

## Sec. 10-51. Appeal from board action.

Any person aggrieved by action of the electrical board may within fifteen (15) days after such action, file an appeal in writing for a review by the city manager's office. The decision of the electrical board shall remain effective until a decision is made by the city manager's office.

## ARTICLE X - MISCELLANEOUS PROVISIONS

### Sec. 10-52. Mobile homes.

All electrical systems installed in mobile homes constructed after March 1, 1970, and used for residential office purposes within the limits of the city shall meet the electrical standards for mobile homes set out in Tex. Rev. Civ. Stat. Ann. art. 221f, being those "standards approved by the United States of America Standards Institute" for installation of electrical systems in mobile homes in Book A-119.1 - 1963, approved March 12, 1963, for mobile homes, and as may be from time to time changed by the Bureau of Labor Statistics, or as may be changed, amended, or modified by the State Legislature from time to time. On all other mobile homes, a certified electrical inspector shall have the right of inspection as set out elsewhere herein, and if, upon inspection, a certified electrical inspector shall discover electrical conditions hazardous to health, safety or welfare, he may cause corrections to be made.

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### Section 10-53. Prefabricated buildings.

(a) For prefabricated buildings constructed outside the city limits, before final

assembly of the prefabricated building at its final location, ~~a certified electric inspector~~ shall inspect the electrical installations of such building, which inspections shall be as complete as is allowed by the methods of construction without disassembly of the unit or any of its component parts. In addition, the owner of the prefabricated structure shall furnish the ~~electrical official~~ a manufacturer's certificate that the wiring and electrical components of the prefabricated structure meet the requirements of the ~~NEC~~.

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(b) The electrical installations of the prefabricated buildings constructed within the ~~city~~ limits shall meet the standards set out for residential construction ~~in the city~~. Manufacturers shall afford ~~a certified electrical inspector~~ an opportunity to make a "rough-in" inspection and a final inspection.

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#### Section 10-54. Liability for damages.

This ordinance shall not be construed to affect the responsibility or liability of any party owning, designing, operating, controlling, or installing any electric equipment for damages to persons or property caused by a defect therein, nor shall the ~~city~~ or any of its employees be held as assuming any such liability by reason of the inspection, re-inspection, or other examination authorized.

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Part 2: *Criminal penalty.* Any person or persons, firm or corporation which violates any of the provisions of this chapter ~~may~~ be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty (\$50.00) dollars nor more than two thousand (\$2000.00) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

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The authority having jurisdiction shall be permitted to waive specific requirements in this Code or permit alternative methods where it is assured that equivalent objectives can be achieved by establishing and maintaining effective safety. Technical documentation shall be submitted to the authority having jurisdiction to demonstrate equivalency and that the system, method, or device is approved for the intended purpose.

Each application for a waiver of a specific electrical requirement shall be filed with the authority having jurisdiction and shall be accompanied by such evidence, letters, statements, results of tests, or other supporting information as required to justify the request. The authority having jurisdiction shall keep a record of actions on such applications, and a signed copy of the authority having jurisdiction's decision shall be provided for the applicant.

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Upon receipt of such appeal, said

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, if requested by the person making the appeal,

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of the Chief Electrical Inspector, electrical official or of the electrical inspector

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within fifteen (15) days after receipt of the appeal or after holding the hearing,

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of the codes or ordinances described in this Code has been incorrectly interpreted

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### **Section 10-703. Variance.**

Upon written request and public hearing, the Electrical Board may vary the application of any provision of this code and National Electrical Code, then in effect within the City of Temple to any particular case. Prior to the granting of any such variance, the Electrical Board must find from the evidence presented, that such variance will not work a detriment to the public health, safety or welfare, that the enforcement thereof would be an injustice, and contrary to the spirit and purpose of this code, and that the public interest will be served by granting said variance.

(b) The Electrical Board may, upon written request and public hearing, modify or reverse any decision of the Chief Electrical Inspector, electrical official

or of any electrical inspector when it finds, from the evidence, that the provisions of 10-704(a) are applicable, or that the Chief Electrical Inspector, electrical official or of any electrical inspector has misinterpreted the Electrical Code.

electrical official or of any electrical inspector,





## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(L)  
Consent Agenda  
Page 1 of 2

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

Tim Dolan, AICP, Planning Director

**ITEM DESCRIPTION:** 1. Consider adopting a resolution granting a petition to institute voluntary annexation proceedings, known as the Barge Voluntary Annexation, for a 10.8± acre tract of land located west of FM 2271, south of FM 2305, on the south side of Northcliffe Drive, out of the G.W. Lindsey Survey, Abstract 513.

2. Consider adopting a resolution directing the Staff to develop a municipal services plan and calling public hearings to consider the petition.

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

**ITEM SUMMARY:** V.W. Barge filed a petition on December 2, 2009, seeking voluntary annexation of approximately 10.8± acre acres into the City of Temple. Voluntary annexation is governed by Section 43.028 of the Texas Local Government Code and applies only to the annexation of an area that is:

1. Less than one-half mile in width,
2. Contiguous to the annexing municipality, and
3. Vacant and without residents or on which fewer than three qualified voters reside.

The landowner's petition meets the statutory requirements and is recommended to be granted.

The proposed dates for initial public hearings are **(January 6, 2010 (special meeting, 8:00 a.m., Council Chambers) and January 7, 2010 (regular meeting))**. The resolution sets the time and place for these special meetings. No on-site hearing will be necessary, as there are no residents on the land proposed to be annexed. Planning staff will present a Municipal Services Plan at the hearing as required by state law, showing how the City will serve the area proposed to be annexed into the City. The proposed schedule anticipates completion of annexation proceedings February 18, 2010. The Planning and Zoning Commission will make a recommendation to the Council for the applicant's requested zoning of a Planned Development SF-2 to be part of the annexation and zoning ordinance readings, February 4 and February 18, 2010.

**FISCAL IMPACT:** Future tax revenue.

**ATTACHMENTS:**

Petition and Map  
Annexation schedule  
Resolutions



VOLUNTARY PETITION FOR ANNEXATION


November 19, 2009

To the City Council of the City of Temple:

I am the owner of an approximately 10.833 acre tract of land (hereinafter the Tract), more particularly described as follows:

Exhibit 'A', consisting of two parts, Part 1, a sketch plan of this tract, and Part 2, a metes and bounds description, is attached hereto and made a part hereof by references for all pertinent purposes.

Said tract of land varies in width and is contiguous to the current limits of the City of Temple. There are no residents within this property. I am petitioning the City Council to take appropriate action to annex said Tract pursuant to Section 43.028 of the Local Government Code.


  
\_\_\_\_\_  
V.W. Barge, III, Owner

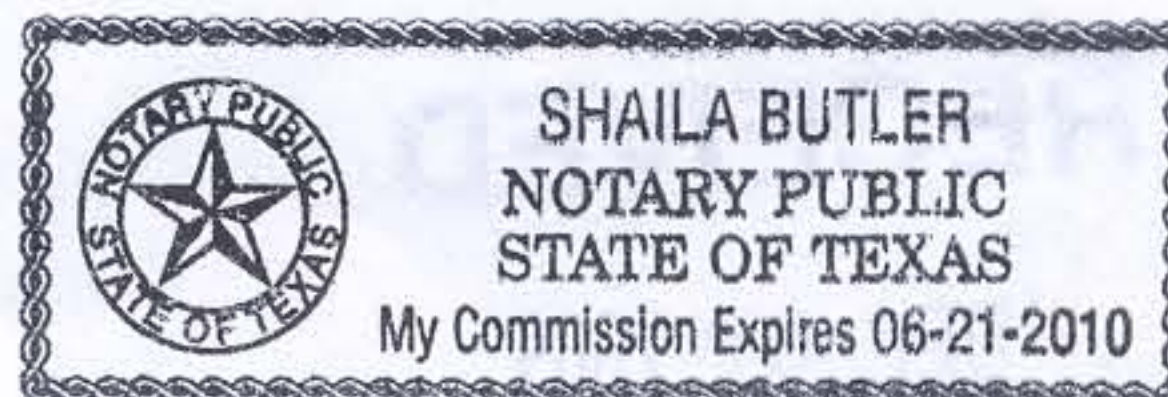
STATE OF TEXAS

COUNTY OF BELL

BEFORE ME, The undersigned authority, personally appeared V.W. Barge, III, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same, for the purpose and consideration therein expressed.

WITNESS MY HAND AND SEAL OF OFFICE this 24<sup>th</sup> day of November, 2009

  
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Notary Public, State of Texas



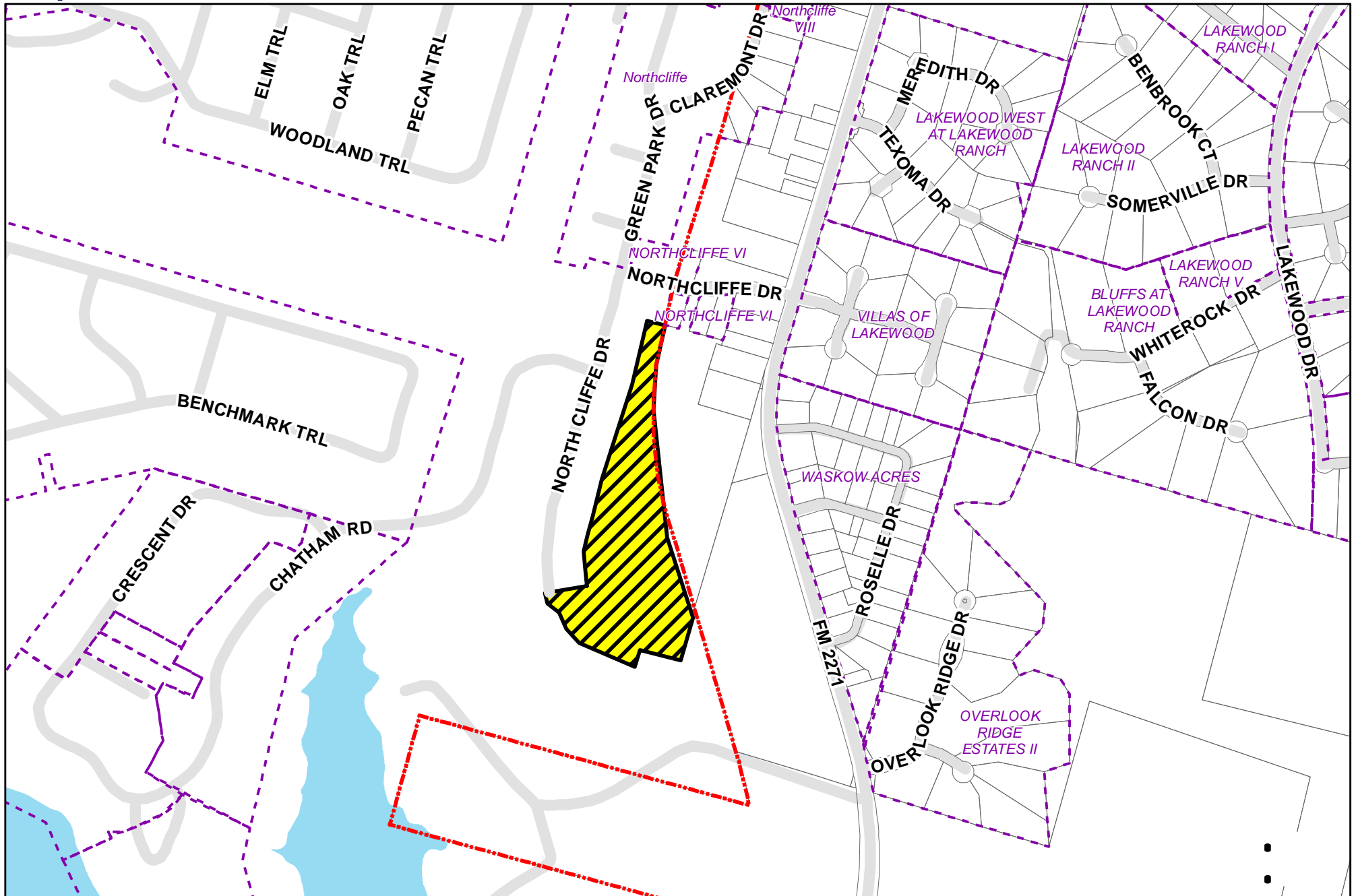




Z-FY-10-13

Voluntary Annexation: Proposed Northcliffe Phase IX

10.933ac



Proposed Annexation

Feet 0 150 300 450 600



J Stone 12.01.09

Schedule  
Petition for Voluntary Annexation  
V.W. Barge Property -10.833 Acres

DATE	ACTION	TIME LIMIT
December 2, 2009	<b>CITY RECEIVES PETITION</b> of landowner to annex unoccupied area adjacent to city limits	NA
December 17, 2009 Thursday Regular Meeting	<b>COUNCIL GRANTS PETITION</b>  <i>15th day after petition filed</i>	Hear and grant or deny petition after the 5 <sup>th</sup> day, but on or before the 30 <sup>th</sup> day after petition is filed §43.028(d) LGC
	<b>COUNCIL ADOPTS RESOLUTION</b> Directing staff to develop service plan Calling public hearings on Jan. 6 <sup>th</sup> & Jan. 7 <sup>th</sup>	Before publication of notice of First hearing required under §43.065 LGC.
December 20, 2009 Sunday	<b>CITY SECRETARY PUBLISHES NOTICES FOR PUBLIC HEARINGS ON ANNEXATION</b> Post notice on City web site Publish notice in Telegram Send notice to affected railroads by certified mail  <i>17<sup>th</sup> day before 1<sup>st</sup> public hearing</i> <i>18<sup>th</sup> day before 2<sup>nd</sup> public hearing</i>	Publish hearing notice on or after the 20 <sup>th</sup> day but before the 10 <sup>th</sup> day before the date of the hearing required under §43.063(c) LGC
January 6, 2010 Wednesday Special Meeting	<b>COUNCIL HOLDS 1<sup>ST</sup> PUBLIC HEARING</b> Staff presents service plan  <i>29th day before 1<sup>st</sup> reading of the ordinance</i>	Hold hearings on or after the 40 <sup>th</sup> day but before the 20 <sup>th</sup> day before the date of institution of annexation proceedings with 1 <sup>st</sup> reading of ordinance. §43.063(a) LGC
January 7, 2010 Thursday Regular Meeting	<b>COUNCIL HOLDS 2<sup>ND</sup> PUBLIC HEARING</b> Staff presents service plan  <i>28th day before 1<sup>st</sup> reading of the ordinance</i>	
January 18, 2010 Monday	<b>PLANNING &amp; ZONING COMMISSION MEETING TO CONSIDER REZONING OF PROPERTY</b>	Receive recommendation for rezoning from PZC prior to 1 <sup>st</sup> reading of annexation/rezoning Ordinance by Council (Feb. 4)
February 4, 2010 Thursday Regular Meeting	<b>COUNCIL CONSIDERS ANNEXATION/REZONING ORDINANCE ON 1<sup>ST</sup> READING &amp; HOLDS PUBLIC HEARING</b>	First reading institutes proceedings for purposes of statutory time limits.
February 18, 2010 Thursday Regular Meeting	<b>COUNCIL CONSIDERS ANNEXATION/REZONING ORDINANCE ON 2<sup>ND</sup> READING</b>  <i>14<sup>th</sup> day after 1<sup>st</sup> reading of ordinance</i>	Complete annexation proceedings within 90 days from first reading. §43.064(A) LGC

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ACCEPTING THE PETITION TO INSTITUTE VOLUNTARY ANNEXATION PROCEEDINGS, KNOWN AS THE *BARGE VOLUNTARY ANNEXATION*, FOR A TRACT OF LAND CONSISTING OF APPROXIMATELY 10.8 ACRES LOCATED WEST OF FM 2271, SOUTH OF FM 2305, ON THE SOUTH SIDE OF NORTHCLIFFE DRIVE, OUT OF THE G.W. LINDSEY SURVEY, ABSTRACT 513, PURSUANT TO SECTION 43.028 OF THE LOCAL GOVERNMENT CODE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the owner of a tract of land consisting of approximately 10.8 acres located west of FM 2271, south of FM 2305, on the south side of Northcliffe Drive, out of the G.W. Lindsey Survey, Abstract 513, petitioned the City to annex the tract;

**Whereas**, Section 43.028 of the Texas Local Government Code authorizes municipalities to annex a sparsely occupied area on petition of area landowners;

**Whereas**, the landowner's petition meets the requirements of Section 43.028 that the petition be made in writing, describe the area by metes and bounds, and be acknowledged in the manner required for deeds by each person having an interest in the area;

**Whereas**, the area requested to be annexed meets the conditions in Section 43.028, that is, the area is (1) one-half mile or less in width; (2) contiguous to the annexing municipality; and (3) vacant and without residents or on which fewer than three qualified voters reside; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to accept the landowner's petition for voluntary annexation.

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

**Part 1:** The City Council accepts the petition for voluntary annexation, a copy of which is attached hereto as Exhibit A, for approximately 10.8 acres located west of FM 2271, south of FM 2305, on the south side of Northcliffe Drive, out of the G.W. Lindsey Survey, Abstract 513, pursuant to Section 43.028 of the Local Government Code.

**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 17<sup>th</sup> day of **December**, 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

**RESOLUTION NO. 2009-5906-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DIRECTING THE STAFF TO DEVELOP A MUNICIPAL SERVICES PLAN AND CALLING PUBLIC HEARINGS FOR JANUARY 6, 2010, AND JANUARY 7, 2010, TO CONSIDER A PETITION FOR VOLUNTARY ANNEXATION, KNOWN AS THE *BARGE VOLUNTARY ANNEXATION*, FOR A TRACT OF LAND CONSISTING OF APPROXIMATELY 10.8 ACRES LOCATED WEST OF FM 2271, SOUTH OF FM 2305, ON THE SOUTH SIDE OF NORTHCLIFFE DRIVE, OUT OF THE G.W. LINDSEY SURVEY, ABSTRACT 513; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on December 17, 2009, the City Council accepted a petition to voluntarily annex a tract of land consisting of 10.8 acres to the city limits of Temple;

**Whereas**, the Staff recommends that the City prepare a municipal services plan to indicate the level of commitment to be made in conjunction with the annexation, and to identify public improvements necessary to serve the area proposed for annexation and how it plans to provide those services within specified time periods; and

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

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

**Part 1:** The schedule for the voluntary annexation, which is more fully described herein, attached hereto and made a part hereof for all purposes, as Exhibit A, is adopted.

**Part 2:** The Staff is hereby directed to prepare a municipal services plan for the annexation area as follows:

a tract of land consisting of approximately 10.8 acres located west of FM 2271, south of FM 2305, on the south side of Northcliffe Drive, out of the G.W. Lindsey Survey, Abstract 513

The above tract is more fully described by metes and bounds contained in field notes which are attached hereto and made a part of this Resolution for all purposes as Exhibit B.

**Part 3:** The City Council hereby calls two public hearings to gather comment concerning the proposed annexation described in Section 2 above, with the first public hearing scheduled for the Special Called City Council Meeting on January 6, 2010, at 8:00 AM, and the second public hearing at a Regular City Council Meeting on January 7, 2010, at



5:00 PM, both public hearings to be held in the City Council Chambers on the 2nd floor of the Municipal Building located at Main and Central in Temple, Bell County, Texas.

**Part 4:** The City Staff is hereby authorized to relocate the second public hearing to a suitable location within the area to be annexed in the event of protest.

**Part 5:** 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 **17<sup>th</sup>** day of **December**, 2010.

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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12/17/09  
Item #5(M)  
Consent Agenda  
Page 1 of 1

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

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** Consider adopting a resolution declaring an official intent to reimburse certain expenditures in an amount not to exceed \$2,250,000 designated for the City's share of the Temple-Belton Regional Sewerage System (TBRSS) plant expansion made prior to the issuance of tax-exempt Utility Revenue Bonds.

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

**ITEM SUMMARY:** On November 19, 2009, the City Council approved a Capital Improvement Plan, which included \$2,250,000 for the City's share of the TBRSS plant expansion (land and design) costs. The City has not incurred any cost to date, but anticipates bringing forth a recommendation for engineering services in the near future. There are minor costs associated with this project that do not require Council approval, but the costs need to have the official intent to reimburse declared for expenditures related to the project. These costs include, but are not limited to, direct labor, surveying and geotechnical testing.

This action will ensure the City is in compliance with IRS regulations concerning the obligation of bond proceeds prior to their actual sale.

**FISCAL IMPACT:** Council approved the FY 2010 Capital Improvement Plan, which included \$2,250,000 designated for the City's share of the TBRSS plant expansion land and design costs. It is anticipated that the costs to be incurred prior to the issuance of the bonds will be minimal. The issuance of bonds is typically aligned with the construction timelines of the projects. We anticipate issuing the bonds in the summer of 2010. A budget adjustment will be prepared at that time to reimburse expenditures incurred prior to the sale of bonds.

### **ATTACHMENTS:**

[Resolution](#)

RESOLUTION NO. 2009-5907-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DECLARING AN OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES IN AN AMOUNT NOT TO EXCEED \$2,250,000 DESIGNATED FOR THE CITY'S SHARE OF THE TEMPLE-BELTON REGIONAL SEWERAGE SYSTEM (TBRSS) PLANT EXPANSION MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT UTILITY REVENUE BONDS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the City of Temple, Texas, (the "City") expects to pay expenditures in an amount not to exceed \$2,250,000 designated for the City's share of the Temple-Belton Regional Sewerage System (TBRSS) plant expansion (the "Project") made prior to the issuance of tax-exempt Utility Revenue Bonds; and

**Whereas**, the City finds, considers and declares that the reimbursement of the City for the payment of such expenditures will be appropriate and consistent with the lawful objectives of the City and, as such, chooses to declare its intention, in accordance with the provisions of Section 1.150-2 of the Treasury Regulations, to reimburse itself for such payments at such time as it issues obligations to finance the Project.

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

**Part 1:** The City reasonably expects to incur debt, as one or more separate series of various types of obligations, with an aggregate maximum principal amount not to exceed \$2,250,000 designated for the City's share of the Temple-Belton Regional Sewerage System (TBRSS) plant expansion.

**Part 2:** All costs to be reimbursed pursuant hereto will be capital expenditures. No tax-exempt obligations will be issued by the City in furtherance of this Resolution after a date which is later than 18 months after the later of (1) the date the expenditures are paid or (2) the date on which the property, with respect to which such expenditures were made, is placed in service.

**Part 3:** The foregoing notwithstanding, no tax-exempt obligation will be issued pursuant to this Resolution more than three years after the date any expenditure which is to be reimbursed is paid.

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

PASSED AND APPROVED this the **17<sup>th</sup>** day of **December**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(N)  
Consent Agenda  
Page 1 of 1

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

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

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

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing payment of an invoice to the Texas Commission on Environmental Quality (TCEQ) for a TCEQ Water System Fee in the amount of \$64,265.65.

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

**ITEM SUMMARY:** In November 2009, City staff received an invoice from the TCEQ for the TCEQ Water System Fee. This fee has traditionally included expenses directly related to the inspection of the water treatment facility and has been on the order of \$14,000 per year. However, with recent legislative changes made late in the 81<sup>st</sup> Legislative Session, lawmakers changed the way this fee had been calculated to a cost per connection, essentially expanding the fee from a treatment expense to a system-wide expense.

HB 1433 increased the statutory cap set in the Texas Water Code for the Water Use Assessment Fee and the Consolidated Water Quality Fee, and also provided for annual adjustments based on the Consumer Price Index up to a maximum of \$150,000. This change results in the costs to regulate utilities being more directly borne by the systems that are being regulated, and is a substantial increase to utilities throughout the state. For the City of Temple, this change more than quadruples our annual inspection fee. Since this regulatory change was enacted after the budget process was substantially complete, budgeted expenses for this inspection are not immediately available in the line item identified.

**FISCAL IMPACT:** Currently, there is \$123,430 budgeted in account 520-5100-535-2616 for Professional Services. Only \$14,000 is identified for this TCEQ Inspection Fee. Staff recommends paying the TCEQ invoice due at this time from other budgeted professional services dollars, and to identify an alternate funding source for other necessary professional services when the time comes.

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING PAYMENT OF AN INVOICE TO THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) FOR A TCEQ WATER SYSTEM FEE IN THE AMOUNT OF \$64,265.65; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** the City is required by the TCEQ to pay an annual water system fee which has traditionally included expenses directly related to the inspection of the water treatment facility and has been on the order of \$14,000 per year;

**Whereas,** recent legislative changes changed the way this fee had been calculated to a cost per connection, essentially expanding the fee from a treatment expense to a system-wide expense;

**Whereas,** in November, 2009, the City received an invoice from the TCEQ for a TCEQ Water System Fee for \$64,265.65, and the Staff recommends paying the invoice which is due at this time;

**Whereas,** funds are available for this expenditure but an amendment to the FY2009-2010 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes payment of an invoice to the Texas Commission on Environmental Quality (TCEQ) for a TCEQ Water System Fee in the amount of \$64,265.65.

**Part 2:** The City Council approves an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, for this expenditure.

**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 17<sup>th</sup> day of **December**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

---

Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(O)  
Consent Agenda  
Page 1 of 1

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

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone Number One for fiscal year 2008-2009.

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

**ITEM SUMMARY:** This item is to comply with the State law requiring submission of annual reports to the taxing units within the Reinvestment Zone Number One (Zone).

The attached report recaps the financial condition of the Zone as of 9/30/2009, as well as the tax collections by taxing entity.

The financial information contained in this report was reviewed with the Reinvestment Zone No. 1 Board at their December 9, 2009, meeting. The annual report will be mailed to the taxing units as required by state law, with copies sent to the State Comptroller.

**FISCAL IMPACT:** There is no fiscal impact related to this item.

**ATTACHMENTS:**

[Annual Report  
Resolution](#)



**City of Temple, Texas**

***REINVESTMENT ZONE NO. 1  
ANNUAL REPORT***

**For the year ended  
September 30, 2009**

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## **Supplemental Schedules:**

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TIF Reinvestment Zone No. 1 Summary Financing Plan with Detailed Project Plan as of 09/30/09	8

**CITY OF TEMPLE, TEXAS**  
**REINVESTMENT ZONE NO. 1**  
**BALANCE SHEET**  
**September 30, 2009 and 2008**

	<u>2009</u>	<u>2008</u>
<b>ASSETS</b>		
<b>Current assets:</b>		
Investments	\$ 6,192,125	\$ 6,954,410
Receivables (net of allowance for estimated uncollectible):		
Accounts receivable	271,157	414,840
Ad valorem taxes	171,914	153,294
<b>Total current assets</b>	<u>6,635,196</u>	<u>7,522,544</u>
<b>Restricted cash and investments:</b>		
Reserve for debt service	880,371	873,237
Bond proceeds	3,416,938	20,187,867
<b>Total restricted assets</b>	<u>4,297,309</u>	<u>21,061,104</u>
<b>Total assets</b>	<u>\$ 10,932,505</u>	<u>\$ 28,583,648</u>
 <b>LIABILITIES AND FUND BALANCES</b>		
<b>Current liabilities:</b>		
Vouchers and contracts payable	\$ 676,721	\$ 1,247,718
Retainage payable	223,087	-
Deposits	700	700
Deferred revenues	171,914	153,294
<b>Total current liabilities</b>	<u>1,072,422</u>	<u>1,401,712</u>
<b>Liabilities from restricted assets:</b>		
Vouchers and contracts payable	966,293	2,825,110
Retainage payable	947,175	358,180
<b>Total liabilities from restricted assets</b>	<u>1,913,468</u>	<u>3,183,290</u>
<b>Total liabilities</b>	<u>2,985,890</u>	<u>4,585,002</u>
 <b>Fund Balance:</b>		
Reserved for encumbrances	374,465	2,931,514
Reserved for encumbrances - bond proceeds	1,000,494	16,441,296
Reserved for debt service	880,371	873,237
Reserved for future expenditures	1,352,325	3,214,937
Unreserved:		
Undesignated	4,338,960	537,662
<b>Total fund balance</b>	<u>7,946,615</u>	<u>23,998,646</u>
<b>Total liabilities and fund balances</b>	<u>\$ 10,932,505</u>	<u>\$ 28,583,648</u>

CITY OF TEMPLE, TEXAS  
REINVESTMENT ZONE #1  
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES  
IN FUND BALANCE - ACTUAL AND BUDGET  
For the year ended September 30, 2009  
(With comparative amounts for the year ended September 30, 2008)

	2009			2008	Analytical
	Actual	Budget	Variance Favorable (Unfavorable)	Actual	Increase (Decrease) Prior yr.
<b>REVENUES:</b>					
Taxes	\$ 4,015,304	\$ 3,942,932	\$ 72,372	\$ 3,657,573	\$ 357,731
Interest	46,343	40,000	6,343	189,525	(143,182)
Interest -bonds	110,587	-	110,587	167,130	(56,543)
Miscellaneous reimbursements	45,955	45,955	-	796,590	(750,635)
Proceeds on sale of land	1,280,566	-	1,280,566	-	1,280,566
Lease	-	-	-	2,730	(2,730)
<b>Total revenues</b>	<u>5,498,755</u>	<u>4,028,887</u>	<u>1,469,868</u>	<u>4,813,548</u>	<u>685,207</u>
<b>EXPENDITURES:</b>					
<b>Administrative</b>					
Professional	61,001	128,652	67,651	98,561	(37,560)
Other contracted services	104,470	105,000	530	75,000	29,470
Contractual obligation - TEDC	100,000	100,000	-	100,000	-
Intergovernmental:					
Joint use facilities	-	129,709	129,709	-	-
Bio-Science District	-	-	-	625,000	(625,000)
Total administrative expenditures	<u>265,471</u>	<u>463,361</u>	<u>197,890</u>	<u>898,561</u>	<u>(633,090)</u>
<b>Capital Improvements</b>					
North Zone	12,427,801	13,604,434	1,176,633	6,973,827	5,453,974
Western Aviation Zone	22,808	124,471	101,663	2,966,384	(2,943,576)
Western Bio-Science & Medical Zone	6,760,022	7,369,186	609,164	3,221,529	3,538,493
General Roadway Improvements	-	250,111	250,111	-	-
Downtown improvements	7,604	204,260	196,656	-	7,604
Southeast Industrial Park	27,500	1,273,500	1,246,000	-	27,500
Gateway Entrance Projects	-	400,000	400,000	-	-
Loop 363 Improvements (TxDot)	-	905,410	905,410	-	-
Contingency	-	176,730	176,730	-	-
Total capital improvements	<u>19,245,735</u>	<u>24,308,102</u>	<u>5,062,367</u>	<u>13,161,740</u>	<u>6,083,995</u>
<b>Debt Service</b>					
Bond principal	535,000	535,000	-	1,175,000	(640,000)
Bond interest	1,503,780	1,503,780	-	743,079	760,701
Fiscal agent fees	800	1,200	400	300	500
Total debt service	<u>2,039,580</u>	<u>2,039,980</u>	<u>400</u>	<u>1,918,379</u>	<u>121,201</u>
<b>Total expenditures</b>	<u>21,550,786</u>	<u>26,811,443</u>	<u>5,260,657</u>	<u>15,978,680</u>	<u>5,572,106</u>
Excess (deficiency) of revenues over expenditures	<u>(16,052,031)</u>	<u>(22,782,556)</u>	<u>6,730,525</u>	<u>(11,165,132)</u>	<u>(4,886,899)</u>
Other financing sources:					
Bond proceeds	-	-	-	26,375,000	(26,375,000)
Total other financing sources	<u>-</u>	<u>-</u>	<u>-</u>	<u>26,375,000</u>	<u>(26,375,000)</u>
Excess (deficiency) of revenues and other financing sources over expenditures	<u>(16,052,031)</u>	<u>(22,782,556)</u>	<u>6,730,525</u>	<u>15,209,868</u>	<u>(31,261,899)</u>
Fund balance, beginning of period	<u>23,998,646</u>	<u>23,998,646</u>	<u>-</u>	<u>8,788,778</u>	<u>15,209,868</u>
Fund balance, end of period	<u>\$ 7,946,615</u>	<u>\$ 1,216,090</u>	<u>\$ 6,730,525</u>	<u>\$ 23,998,646</u>	<u>\$ (16,052,031)</u>

**CITY OF TEMPLE, TEXAS**  
**REINVESTMENT ZONE NO. 1**  
**SCHEDULE OF DEBT SERVICE BY SERIES**

---

<b>Fiscal Year</b>	<b>Percent of Debt Retired</b>		<b>Combo Tax &amp; Revenue Bonds Series 2003</b>	<b>Certificates of Obligation Bonds Series 2008</b>	<b>TIRZ Revenue Bonds, Taxable Series 2008</b>	<b>Total</b>
	<b>Annual %</b>	<b>Cummulative %</b>				
<b>2004</b>	<b>1.60%</b>	<b>1.60%</b>	\$ 868,719	\$ -	\$ -	\$ 868,719
<b>2005</b>	<b>1.60%</b>	<b>3.20%</b>	866,216	-	-	866,216
<b>2006</b>	<b>1.60%</b>	<b>4.80%</b>	866,416	-	-	866,416
<b>2007</b>	<b>1.61%</b>	<b>6.41%</b>	870,166	-	-	870,166
<b>2008</b>	<b>3.25%</b>	<b>9.66%</b>	867,935	623,705	271,354	1,762,994
<b>2009</b>	<b>3.76%</b>	<b>13.42%</b>	866,385	635,460	536,935	2,038,780
<b>2010</b>	<b>3.77%</b>	<b>17.19%</b>	868,545	635,460	536,935	2,040,940
<b>2011</b>	<b>3.77%</b>	<b>20.95%</b>	868,420	635,460	536,935	2,040,815
<b>2012</b>	<b>7.19%</b>	<b>28.14%</b>	867,035	1,785,460	1,241,935	3,894,430
<b>2013</b>	<b>7.19%</b>	<b>35.33%</b>	869,055	1,788,540	1,239,640	3,897,235
<b>2014</b>	<b>7.19%</b>	<b>42.52%</b>	869,855	1,784,580	1,240,495	3,894,930
<b>2015</b>	<b>7.18%</b>	<b>49.70%</b>	868,930	1,783,784	1,239,232	3,891,946
<b>2016</b>	<b>7.18%</b>	<b>56.88%</b>	866,530	1,785,948	1,240,855	3,893,333
<b>2017</b>	<b>7.18%</b>	<b>64.06%</b>	867,440	1,785,868	1,240,096	3,893,404
<b>2018</b>	<b>7.18%</b>	<b>71.25%</b>	866,753	1,783,544	1,241,957	3,892,254
<b>2019</b>	<b>7.19%</b>	<b>78.43%</b>	869,240	1,783,976	1,241,173	3,894,389
<b>2020</b>	<b>7.19%</b>	<b>85.62%</b>	869,640	1,786,960	1,237,744	3,894,344
<b>2021</b>	<b>7.19%</b>	<b>92.81%</b>	868,070	1,787,292	1,241,670	3,897,032
<b>2022</b>	<b>7.19%</b>	<b>100.00%</b>	870,070	1,784,972	1,242,422	3,897,464
<b>Total:</b>			<b>\$ 16,495,420</b>	<b>\$ 22,171,009</b>	<b>\$ 15,529,378</b>	<b>\$ 54,195,807</b>

**CITY OF TEMPLE REINVESTMENT ZONE NO. 1**

**SCHEDULE OF TAX INCREMENT BASE AND INCREMENTAL VALUES**

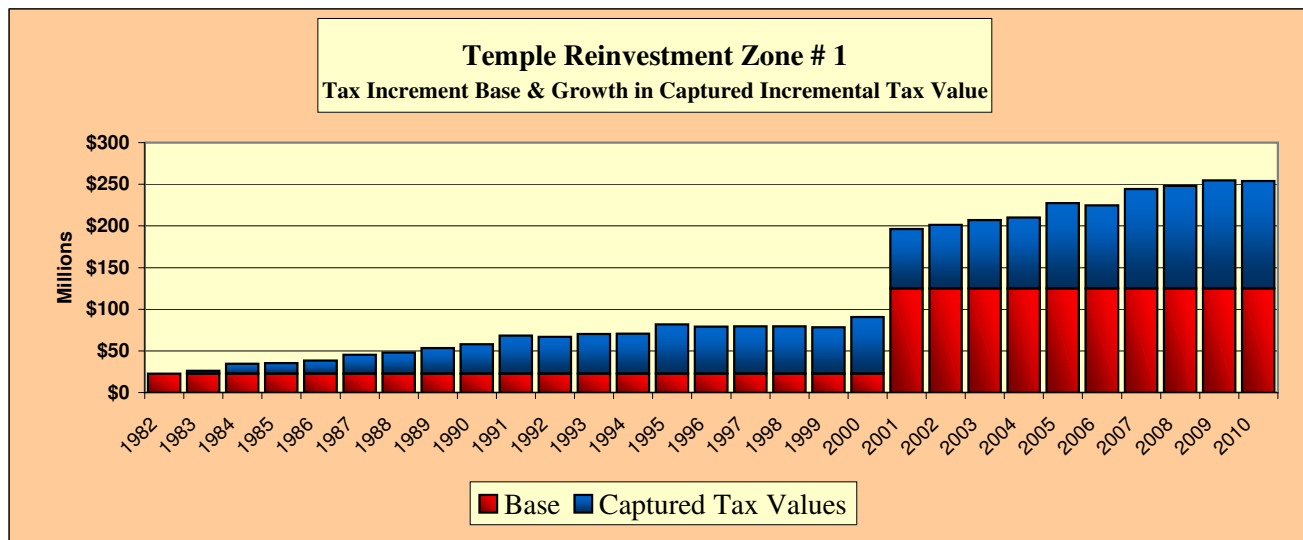
**SHARED BY ZONE AND TAXING UNITS**

<b>Fiscal Year</b>	<b>Tax Increment Base (1)</b>	<b>Increased Incremental Value (2)</b>	<b>Tax Increment Base and Increased Incremental Values</b>	<b>Incremental Changes From Base</b>
1982	\$22,817,648	\$ -	\$22,817,648	BASE
1983	22,817,648	3,129,203	25,946,851	13.71%
1984	22,817,648	11,715,246	34,532,894	51.34%
1985	22,817,648	12,555,542	35,373,190	55.03%
1986	22,817,648	15,449,444	38,267,092	67.71%
1987	22,817,648	22,389,155	45,206,803	98.12%
1988	22,817,648	25,209,130	48,026,778	110.48%
1989	22,817,648	30,384,003	53,201,651	133.16%
1990	22,817,648	35,219,441	58,037,089	154.35%
1991	22,817,648	45,724,856	68,542,504	200.39%
1992	22,817,648	44,134,806	66,952,454	193.42%
1993	22,817,648	47,505,880	70,323,528	208.20%
1994	22,817,648	47,845,535	70,663,183	209.69%
1995	22,817,648	58,967,199	81,784,847	258.43%
1996	22,817,648	56,354,520	79,172,168	246.98%
1997	22,817,648	56,654,892	79,472,540	248.29%
1998	22,817,648	56,654,892	79,472,540	248.29%
1999	22,817,648	55,605,489	78,423,137	243.70%
2000	22,817,648	67,709,091	90,526,739	296.74%
2001	124,712,922	71,424,038	196,136,960	57.27%
2002	124,712,922	76,676,449	201,389,371	61.48%
2003	124,712,922	82,216,093	206,929,015	65.92%
2004	124,712,922	85,417,297	210,130,219	68.49%
2005	124,712,922	102,827,565	227,540,487	82.45%
2006	124,712,922	100,118,015	224,830,937	80.28%
2007	124,712,922	119,486,508	244,199,430	95.81%
2008	124,712,922	123,405,421	248,118,343	98.95%
2009	124,712,922	129,930,079	254,643,001	104.18%
2010	124,712,922	129,278,361	253,991,283	103.66%

(1) Restated to reflect current information provided by Tax Appraisal District of Bell County.

(2) Incremental values for the applicable taxing entities may vary due to the difference in abatements/boundaries.

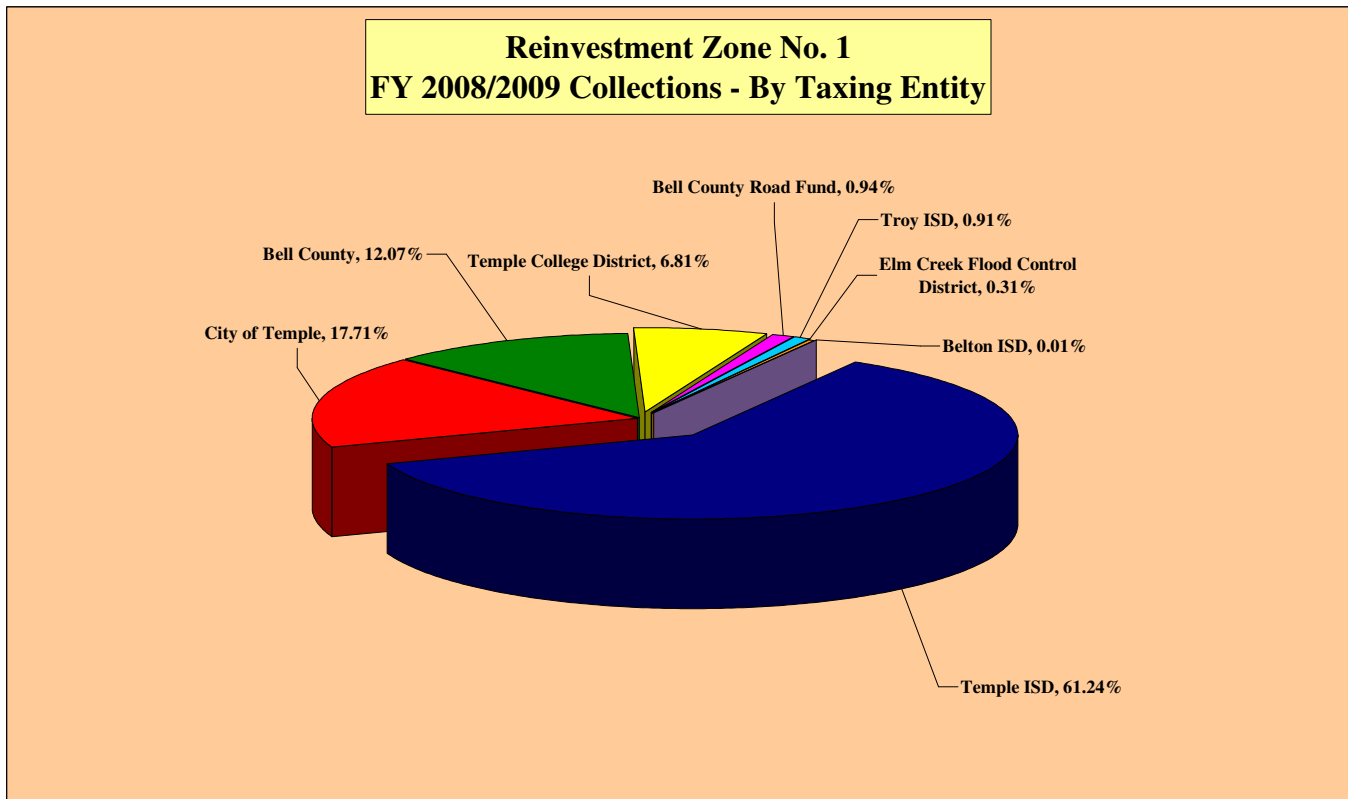
For the purpose of this schedule, the values presented are the values applicable to the City of Temple.



**CITY OF TEMPLE, TEXAS - REINVESTMENT ZONE NO. 1**  
**SCHEDULE OF APPRAISED TAXABLE VALUE, TAX LEVY & TAX COLLECTIONS BY TAXING ENTITY**  
**For the Tax Year 2008/Fiscal Year Ending September 30, 2009**

<b>Taxing Jurisdiction</b>	<b>Appraised Taxable Value</b>	<b>Tax Levy</b>	<b>Tax Collections <sup>(1)</sup></b>	<b>% Collected</b>
Temple ISD	\$ 148,323,394	\$ 2,417,671	\$2,459,150	101.72%
City of Temple	129,930,079	726,959	711,075	97.82%
Bell County	131,091,509	495,395	484,506	97.80%
Temple College District	129,950,079	272,895	273,242	100.13%
Bell County Road Fund	131,091,509	38,672	37,808	97.77%
Troy ISD	2,168,792	36,273	36,719	101.23%
Elm Creek Flood Control District	43,319,590	12,259	12,297	100.31%
Belton ISD	29,485	507	507	100.00%
		<b>\$ 4,000,631</b>	<b>\$ 4,015,304</b>	<b>100.37%</b>

<sup>(1)</sup> Tax collections include the amount collected from the current year levy and any amount collected from prior years.



## **Supplemental Schedules**



DESCRIPTION	Y/E 9/30/09		Y/E 9/30/10	Y/E 9/30/11	Y/E 9/30/12	Y/E 9/30/13	Y/E 9/30/14	Y/E 9/30/15	Y/E 9/30/16	Y/E 9/30/17	Y/E 9/30/18	Y/E 9/30/19	Y/E 9/30/20	Y/E 9/30/21	Y/E 9/30/22
	PLAN	ACTUAL	Year 28	Year 29	Year 30	Year 31	Year 32	Year 33	Year 34	Year 35	Year 36	Year 37	Year 38	Year 39	Year 40
1 Appraised Value	\$ 131,160,668	\$ 131,160,668	\$ 140,238,368	\$ 144,626,499	\$ 212,822,764	\$ 233,450,991	\$ 235,785,501	\$ 238,143,356	\$ 240,524,790	\$ 242,930,038	\$ 245,359,338	\$ 314,562,931	\$ 336,208,561	\$ 339,570,646	\$ 342,966,353
5 FUND BALANCE, Begin	\$ 23,998,646	\$ 23,998,646	\$ 7,946,615	\$ 3,730,514	\$ 3,690,085	\$ 2,831,643	\$ 2,759,407	\$ 3,151,576	\$ 3,109,428	\$ 3,129,204	\$ 2,712,730	\$ 2,561,944	\$ 2,809,447	\$ 3,050,793	\$ 3,365,614
SOURCES OF CASH:															
10 Tax Revenues	4,051,439	4,015,304	4,592,298	4,679,594	6,271,181	6,789,596	6,857,023	6,925,124	6,993,906	7,063,376	7,133,540	8,749,666	9,249,246	9,341,269	9,434,212
15 Allowance for Uncoll. Taxes	(108,507)	-	(112,341)	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
20 Interest Income-Bonds	-	110,587	-	-	-	-	-	-	-	-	-	-	-	-	-
25 Interest Income-Other	40,000	46,343	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
30 Other-Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
33 Miscellaneous Reimbursements (GST)	45,955	45,955	-	-	-	-	-	-	-	-	-	-	-	-	-
34 Sale of Land	-	1,280,566	-	-	-	-	-	-	-	-	-	-	-	-	-
35 Grant Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
35 Miscellaneous Income	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
40 TOTAL SOURCES	4,028,887	5,498,755	4,529,957	4,615,077	6,205,526	6,722,795	6,789,062	6,855,992	6,923,592	6,991,867	7,060,825	8,665,732	9,164,081	9,244,861	9,316,549
USES OF CASH:															
Operating Expenses															
50 Prof Svcs/Proj Mgmt	127,552	59,630	159,657	93,847	95,724	97,638	99,591	101,583	103,615	105,687	107,801	109,957	112,156	114,399	116,687
51 Legal/Audit	1,100	1,371	1,100	1,100	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
55 Zone Mtc	75,000	75,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
60 TEDC	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
62 Other Contracted Services	30,000	29,470	-	-	-	-	-	-	-	-	-	-	-	-	-
65 TISD-Joint Use facilities	129,709	-	152,132	22,647	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
90 Subtotal-Operating Expenses	463,361	265,471	587,889	392,594	394,797	396,940	399,124	401,350	403,617	406,027	408,382	410,780	413,225	415,715	418,354
Projects (2)															
199 North Zone (3)	13,604,434	12,427,801	1,338,183	-	-	800,000	-	-	-	-	2,700,000	-	-	-	-
299 Western Aviation Zone (3)	133,342	22,808	401,662	1,225,150	2,175,850	1,100,000	-	-	-	-	-	-	-	-	-
399 Western Bio-Science & Medical Zone (3)	7,369,186	6,760,022	609,164	-	-	-	-	-	-	-	-	-	-	-	-
400 Southeast Industrial Park Zone (3)	1,273,500	27,500	1,246,000	-	-	-	-	-	-	-	-	-	-	-	-
405 General Roadway Improvements	250,111	-	250,111	-	-	-	-	-	-	-	-	-	-	-	-
410 Major Gateway Entrances	400,000	-	400,000	400,000	-	-	-	-	-	-	-	-	-	-	-
415 Downtown Improvements	204,260	7,604	388,769	195,747	197,691	199,655	201,639	203,643	205,667	207,710	209,775	211,860	213,966	216,093	218,241
420 Loop 363 Improvements	905,410	-	905,410	-	-	-	-	-	-	-	-	-	-	-	-
500 Zone Projects - Bond Contingency	176,730	-	176,730	-	-	-	-	-	-	-	-	-	-	-	-
500 Zone Projects - Public Improvements	-	-	400,000	400,000	400,000	400,000	1,900,000	2,400,000	2,400,000	2,900,000	-	3,900,000	4,400,000	4,400,000	6,788,783
600 Subtotal-Projects	24,316,973	19,245,735	6,116,029	2,220,897	2,773,541	2,499,655	2,101,639	2,603,643	2,605,667	3,107,710	2,909,775	4,111,860	4,613,966	4,616,093	7,007,024
Debt Service															
625 2003 Bond Issue	866,385	866,385	868,545	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
626 2008 Bond Issue-Nontaxable (\$16.010 mil)	635,460	635,460	635,460	635,460	1,785,460	1,788,540	1,784,580	1,783,784	1,785,948	1,785,868	1,783,544	1,783,976	1,786,960	1,787,292	1,784,972
627 2008 Bond Issue-Taxable (\$10.365 mil)	536,935	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
628 Issuance Costs	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
630 Paying Agent Services	1,200	800	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
635 Subtotal-Debt Service	2,039,980	2,039,580	2,042,140	2,042,015	3,895,630	3,898,436	3,896,130	3,893,147	3,894,532	3,894,604	3,893,454	3,895,589	3,895,544	3,898,232	3,898,664
650 TOTAL USES	26,820,314	21,550,786	8,746,058	4,655,506	7,063,968	6,795,031	6,396,893	6,898,140	6,903,816	7,408,341	7,211,611	8,418,229	8,922,735	8,930,040	11,324,042
660 FUND BALANCE, End	1,207,219	7,946,615	3,730,514	3,690,085	2,831,643	2,759,407	3,151,576	3,109,428	3,129,204	2,712,730	2,561,944	2,809,447	3,050,793	3,365,614	1,358,121
670 Required Debt Reserve	(873,237)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	-
700 AVAILABLE FUND BALANCE	\$ 333,982	\$ 7,066,244	\$ 2,850,143	\$ 2,809,714	\$ 1,951,272	\$ 1,879,036	\$ 2,271,205	\$ 2,229,057	\$ 2,248,833	\$ 1,832,359	\$ 1,681,573	\$ 1,929,076	\$ 2,170,422	\$ 2,485,243	\$ 1,358,121
800 FUND BALANCE, Begin	23,998,646	23,998,646	7,946,615	3,730,514	3,690,085	2,831,643	2,759,407	3,151,576	3,109,428	3,129,204	2,712,730	2,561,944	2,809,447	3,050,793	3,365,614
805 Revenue over/(under)expense	(22,791,427)	(16,052,031)	(4,216,101)	(40,429)	(858,442)	(72,236)	392,169	(42,148)	19,776	(416,474)	(150,786)	247,503	241,346	314,821	(2,007,493)
810 FUND BALANCE, End	\$ 1,207,219	\$ 7,946,615	\$ 3,730,514	\$ 3,690,085	\$ 2,831,643	\$ 2,759,407	\$ 3,151,576	\$ 3,109,428	\$ 3,129,204	\$ 2,712,730	\$ 2,561,944	\$ 2,809,447	\$ 3,050,793	\$ 3,365,614	\$ 1,358,121

## Summary Financing Plan with Detailed Project Plan

Project Plan - 09/23/09 - to Zone Board

SUMMARY FINANCING PLAN								
	FY 2009	FY 09 Actual	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
5 Beginning Available Fund Balance, Oct	\$ 23,998,646	\$ 23,998,646	7,946,615	3,730,514	3,690,085	2,831,643	2,759,407	3,151,576
40 Total Sources (Revenue & Bonds)	4,028,887	5,498,755	4,529,957	4,615,077	6,205,526	6,722,795	6,789,062	6,855,992
45 Less Required Debt Reserve				-	-	-	-	-
49 Net Available for Appropriation	28,027,533	29,497,401	12,476,572	8,345,591	9,895,611	9,554,438	9,548,469	10,007,568
50 General Administrative Expenditures	128,652	61,001	160,757	94,947	96,924	98,838	100,791	102,783
55 Zone Maintenance	75,000	75,000	175,000	175,000	175,000	175,000	175,000	175,000
60 Contractual Payments (TEDC)	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
62 Other Contracted Services	30,000	29,470	-	-	-	-	-	-
65 TISD - Joint Use Facilities	129,709	-	152,132	22,647	22,873	23,102	23,333	23,567
70 Debt Service - 2003 Issue	867,585	867,185	869,745	869,620	868,235	870,255	871,055	870,130
71 Debt Service - 2008 Issue (\$16.010 mil)	635,460	635,460	635,460	635,460	1,785,460	1,788,540	1,784,580	1,783,784
72 Debt Service - 2008 Taxable Issue (\$10.365 mil)	536,935	536,935	536,935	536,935	1,241,935	1,239,641	1,240,495	1,239,233
73 Issuance Costs	-	-	-	-	-	-	-	-
75 Total Operating & Committed Expenditures	2,503,341	2,305,051	2,630,029	2,434,609	4,290,427	4,295,376	4,295,254	4,294,497
99 Net Available for Projects	\$ 25,524,192	\$ 27,192,350	\$ 9,846,543	\$ 5,910,982	\$ 5,605,184	\$ 5,259,062	\$ 5,253,215	\$ 5,713,071

PROJECT PLAN								
	FY 2009	FY 09 Actual	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b><u>NORTH ZONE (including Enterprise Park):</u></b>								
100 Railroad Spur Improvements	9,234,785	8,567,619	667,166	-	-	-	-	-
105 Elm Creek Detention Pond	1,005,157	906,930	98,227	-	-	-	-	-
110 Railroad Improvements Engineering Analysis	-	-	-	-	-	-	-	-
115 Railroad Repairs/Maintenance based on Analysis	243,469	28,576	254,893	-	-	-	-	-
120 Enterprise Park Water Tank	-	-	-	-	-	800,000	-	-
121 ROW Acquisition - Public Improvements	3,661	-	3,661	-	-	-	-	-
122 Land Acq-Wendland property (approx 355 acres)	-	-	-	-	-	-	-	-
125 Wendland Road Improvements	3,117,362	2,924,676	192,686	-	-	-	-	-
130 Extension of Rail Service	-	-	121,550	-	-	-	-	-
199 Total North Zone (including Enterprise Park)	13,604,434	12,427,801	1,338,183	-	-	800,000	-	-
<b><u>WESTERN AVIATION ZONE:</u></b>								
200 Detention Pond #2 including W 1-A	-	-	-	-	-	-	-	-
205 Old Howard Road from Ind Blvd to SH36	-	-	-	-	-	-	-	-
210 Old Howard Road Gateway Entrance Project	8,872	-	-	-	-	-	-	-
215 WWI--Waste Water Ext SH36 to Ind Blvd	-	-	-	-	-	-	-	-
220 R I-B, W I-B--Industrial Blvd Extension	2,100	2,100	-	-	-	-	-	-
221 Airport Park Infrastructure Construction	122,370	20,708	101,662	-	-	-	-	-
225 Airport Study	-	-	-	-	-	-	-	-
230 Airport Trail Roadway-Ind Blvd to Pepper Crk (R III)	-	-	-	115,500	654,500	-	-	-
235 Airport Trail Utilities (W-V, W II, W III)	-	-	-	109,650	621,350	-	-	-
240 Old Howard North (R II)	-	-	300,000	1,000,000	700,000	-	-	-
245 Airport Trail Roadway-Pepper Crk to Mouser (R V)	-	-	-	-	200,000	1,100,000	-	-
299 Total Western Aviation Zone	133,342	22,808	401,662	1,225,150	2,175,850	1,100,000	-	-
<b><u>WESTERN BIO-SCIENCE &amp; MEDICAL ZONE:</u></b>								
300 Greenbelt Development along Pepper Creek	2,376,428	2,054,705	321,723	-	-	-	-	-
305 Outer Loop Phase 2	4,482,463	4,237,143	245,320	-	-	-	-	-
306 Bio-Science Park Phase 1	510,295	468,174	42,121	-	-	-	-	-
310 Bio-Science Institute	-	-	-	-	-	-	-	-
399 Total Western Bio-Science & Medical Zone	7,369,186	6,760,022	609,164	-	-	-	-	-
<b><u>OTHER PROJECTS:</u></b>								
400 Southeast Ind Park (Lorraine Drive)	1,273,500	27,500	1,246,000	-	-	-	-	-
405 Roadway Maintenance/Improvements	250,111	-	250,111	-	-	-	-	-
410 Gateway Entrance Projects (after Old Howard)	400,000	-	400,000	400,000	-	-	-	-
415 Downtown Improvements	204,260	7,604	388,769	195,747	197,691	199,655	201,639	203,643
420 Loop 363 Improvements (TxDOT commitment)	905,410	-	905,410	-	-	-	-	-
430 Reserve for Acer facility	-	-	-	-	-	-	-	-
499 Total Other Projects	3,033,281	35,104	3,190,290	595,747	197,691	199,655	201,639	203,643
500 Undesignated Funding-Public Impr-nontaxable bonds	176,730	-	176,730	-	-	-	-	-
500 Undesignated Funding-Public Impr	-	-	400,000	400,000	400,000	400,000	1,900,000	2,400,000
600 Total Planned Project Expenditures	24,316,973	19,245,735	6,116,029	2,220,897	2,773,541	2,499,655	2,101,639	2,603,643
660 Fund Balance at Year End	\$ 1,207,219	\$ 7,946,615	\$ 3,730,514	\$ 3,690,085	\$ 2,831,643	\$ 2,759,407	\$ 3,151,576	\$ 3,109,428
670 Required Debt Reserve	(873,237)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)	(880,371)
700 AVAILABLE FUND BALANCE	\$ 333,982	\$ 7,066,244	\$ 2,850,143	\$ 2,809,714	\$ 1,951,272	\$ 1,879,036	\$ 2,271,205	\$ 2,229,057

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,  
TEXAS, APPROVING THE SUBMISSION OF A TAX INCREMENT  
FINANCING REINVESTMENT ZONE NUMBER ONE ANNUAL REPORT  
FOR FISCAL YEAR 2008-2009 TO EACH TAXING ENTITY IN THE  
REINVESTMENT ZONE; AND PROVIDING AN OPEN MEETINGS  
CLAUSE.

---

**Whereas**, Section 311.016 of the Tax Increment Financing Act requires that the governing body of a municipality submit to the chief executive officer of each taxing unit that levies property tax on real property in a reinvestment zone created by the municipality a report on the status of the zone on or before the 90th day following the end of the fiscal year of the municipality;

**Whereas**, a copy of the report must also be sent to the Texas Attorney General and State Comptroller;

**Whereas**, the Staff recommends approval of the Tax Increment Financing Reinvestment Zone Number One Annual Report for 2008-2009 which meets all the mandated requirements for submission, including a balance sheet and income statement of September 30, 2009; debt service retirement schedules; and a schedule of tax increment base and captured appraised values; and

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

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

**Part 1:** The City Council approves the Tax Increment Financing Reinvestment Zone Number One Annual Report for the fiscal year 2008-2009, a copy of which is attached hereto and made a part of this Resolution for all purposes as Exhibit A, and the Director of Finance is hereby directed to submit the report to the chief executive officer of each taxing unit that levies property tax on real property in Tax Increment Financing Reinvestment Zone Number One. A copy of the report shall also be sent to the Attorney General.

**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 **17<sup>th</sup>** day of **December**, 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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12/17/09  
Item #5(P)  
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 2009-2010.

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

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2009-2010 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$32,915.

**ATTACHMENTS:**

[Budget amendments  
Resolution](#)

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
December 17, 2009

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
<b>110-2000-521-2516</b>		<b>Judgments &amp; Damages (Police Dept.)</b>	\$ 3,985	
<b>110-1500-515-6531</b>		<b>Contingency - Judgments &amp; Damages</b>		\$ 3,985
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Martin Santellano seeking reimbursement for damage to a vehicle after it was involved in an accident with a Police vehicle on October 10, 2008.				
<b>110-2370-540-2516</b>		<b>Judgments &amp; Damages (Solid Waste - Rolloff)</b>	\$ 195	
<b>110-1500-515-6531</b>		<b>Contingency - Judgments &amp; Damages</b>		\$ 195
Deductible reimbursement to the Texas Municipal League for settlement of a claim filed against the City by Toni Fishbourne seeking reimbursement for damage to her vehicle after it was struck by a Solid Waste Dept. rolloff truck on September 14, 2009, behind 3122 South 31st Street.				
<b>351-0000-315-1116</b>		<b>Reserved for Future Exp</b>	\$ 3,474	
<b>351-1600-512-2515</b>		Dues & Subscriptions		\$ 224
<b>351-3500-552-2311</b>	<b>350009</b>	Buildings & Grounds - Deferred Maintenance		\$ 3,250
<b>351-3500-552-2311</b>	<b>350009</b>	Buildings & Grounds - Deferred Maintenance	\$ 1	
<b>351-0000-315-1116</b>		<b>Reserved for Future Exp</b>		\$ 1
To correct amounts carried forward from FY 2009 to FY 2010. The amount carried forward was overstated and needs to be reduced to the appropriate amount.				
<b>520-5500-535-2616</b>		Professional (Sewer Treatment)	\$ 19,500	
<b>520-5700-580-7120</b>		Water & Sewer Rebates		\$ 19,500
Funding to cover the costs associated with required EPA Streamlining of our current Pre-treatment ordinance. This will include changes required as a result of the recent TCEQ audit received in September, as well as additional EPA and TCEQ regulations that are now in effect. OMI will be providing this service as allowed under their current contract.				
<b>520-5800-535-2610</b>		Telephone/Communications (Utility Business Office)	\$ 5,760	
<b>520-5700-580-7120</b>		Water & Sewer Rebates		\$ 5,760
To appropriate funding in FY 2010 for the costs associated with the monthly fiber service at the new Utility Business Office facility.				
<b>TOTAL AMENDMENTS</b>			<b>\$ 32,915</b>	<b>\$ 32,915</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			\$	-

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
**December 17, 2009**

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
		Beginning <b>Judgments &amp; Damages</b> Contingency	\$	77,833
		Added to Contingency Judgments & Damages from Council Contingency	\$	-
		Taken From Judgments & Damages	\$	(17,409)
		Net Balance of Judgments & Damages Contingency Account	\$	60,424
		Beginning <b>Fuel</b> Contingency	\$	125,000
		Added to Fuel Contingency	\$	-
		Taken From Fuel Contingency	\$	-
		Net Balance of Fuel Contingency Account	\$	125,000
		Beginning <b>Solid Waste - Future Capital Replacement</b> Contingency	\$	48,400
		Added to Solid Waste - Future Capital Replacement Contingency	\$	-
		Taken From Solid Waste - Future Capital Replacement Contingency	\$	-
		Net Balance of Solid Waste - Future Capital Replacement Contingency Account	\$	48,400
		<b>Net Balance Council Contingency</b>	\$	233,824
		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	\$	247,423
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	247,423
		Beginning <b>Approach Mains</b> Contingency	\$	-
		Added to Approach Mains Contingency	\$	488,270
		Taken From Approach Mains Contingency	\$	(488,270)
		Net Balance of Approach Mains Contingency Account	\$	-
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	\$	247,423
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	26,336
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(19,000)
		Net Balance of Contingency Account	\$	7,336
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	15,243
		Carry forward from Prior Year	\$	51,505
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	66,748

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE  
2009-2010 CITY BUDGET; AND PROVIDING AN OPEN  
MEETINGS CLAUSE.

---

**Whereas**, on the 3<sup>rd</sup> day of September, 2009, the City Council approved a  
budget for the 2009-2010 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain  
amendments to the 2009-2010 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 2009-2010 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 17<sup>th</sup> day of **December**, 2009.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #5(Q)  
Regular Agenda  
Page 1 of 2

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

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution making single family property located within the City of Temple eligible for financing by bonds issued by the Central Texas Housing Finance Corporation.

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

**ITEM SUMMARY:** The Central Texas Housing Corporation wishes to issue its bonds for the purpose of making single family property located within the City of Temple eligible for financing. Bell County is the sponsoring local government for the Central Texas Housing Finance Corporation. The City will not be responsible for sponsoring or administering any part of the program.

The reason the City is being asked to approve the bond program is because a Texas statute requires such approval for cities within the eligible area having a population of 20,000 or more. If a city does not approve the bond program, the bonds can still be issued but the proceeds cannot be loaned to persons living within its city limits. There is no liability on the bonds for any political entity (i.e., payments which are guaranteed by the VA, the FHA [Federal Housing Administration], and the Government National Mortgage Association [GNMA]).

The City passed similar resolutions authorizing the Corporation's low and moderate income, single-family home loan programs in 1980, 1982, 1989, 19991, 1995, 1999, 2002, and 2006.

The Staff recommends your approval of this resolution making single family home loans available to qualified homebuyers in the City. Should circumstances change in the future, the City Council could revoke its approval.

**FISCAL IMPACT:** N/A

### **ATTACHMENTS:**

[Letter from Dan Pleitz](#)  
[Resolution](#)





**NAMAN HOWELL  
SMITH & LEE<sup>PLLC</sup>**  
ATTORNEYS AT LAW

*MEMORANDUM*  
*from*  
**Dan Pleitz**

(254) 755-4100  
Fax (254) 754-6331  
E-mail: [pleitz@namanhowell.com](mailto:pleitz@namanhowell.com)

TO: City of Temple

DATE: December 7, 2009

RE: Bond Program of The Central Texas Housing Finance Corporation

The Central Texas Housing Finance Corporation ("CTHFC") is in the process of participation in a new federal bond program designed to fund mortgage loans for single family home buyers.

The federal program is a two step process where the CTHFC would issue interim financing by the end of 2009, and then take it out with permanent tax exempt bonds in the first part of 2010. The federal program has extremely tight timelines (the reason we have to get an interim debt issuance in place before the end of the year) but it provides a very low fixed interest rate over the life of the bonds. This will allow us to provide a favorable mortgage rate to persons who qualify for the program (normally first time home buyers who meet certain income limits, all of whom have to live in the Central Texas COG counties).

Chapter 394 of the *Texas Local Government Code* governs housing finance corporations. Section 394.005 states that we cannot use the bond program in a city with more than 20,000 inhabitants without the approval of the local city council. Since this program will be very favorable to first time home buyers in your city, we are asking that the city give its approval by adopting the enclosed resolution. We need to get this approval in December to stay in the federal program.

There is absolutely no liability or cost whatsoever to the city from this program. All the costs are paid either by The Central Texas Housing Finance Corporation or by other participants in the transaction. The bonds expressly state on their face that they are not a liability of any Texas city or Texas county, but are payable solely from specific sources including the mortgage payments and certain other payments specifically targeted to the repayment of the bonds.

We appreciate your kind consideration of this important matter.

Best regards.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE APPLICATION OF CHAPTER 394 (THE TEXAS HOUSING FINANCE CORPORATIONS ACT) OF THE *TEXAS LOCAL GOVERNMENT CODE*, IN THE CITY OF TEMPLE, TEXAS, FOR THE PURPOSE OF MAKING PROPERTY LOCATED WITHIN THE CITY OF TEMPLE, TEXAS, ELIGIBLE FOR SINGLE FAMILY HOUSING FOR PERSONS OF LOW AND MODERATE INCOME FINANCED BY LOANS MADE FROM THE PROCEEDS OF THE CENTRAL TEXAS HOUSING FINANCE CORPORATION SINGLE FAMILY MORTGAGE REVENUE BONDS (GUARANTEED MORTGAGED-BACKED SECURITIES PROGRAM) SERIES 2009A ISSUED IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000.

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—

WHEREAS, pursuant to the Texas Housing Finance Corporations Act, Chapter 394, *Texas Local Government Code* (the “Act”), the creation of The Central Texas Housing Finance Corporation (the “Corporation”) was approved by resolution of the governing bodies of each of the Texas Counties of Bell, Bell, Hamilton, Lampasas, Milam, Mills and San Saba, to provide a means of financing the cost of residential ownership and development that will provide decent, safe and sanitary housing for persons and families of low and moderate income;

WHEREAS, the Corporation desires and intends to issue its Single Family Mortgage Revenue Bonds (Mortgaged-Backed Securities Program), Series 2009A (the “Bonds”) pursuant to the Act to defray, in whole or in part, the costs of purchasing or funding the making of home mortgages;

WHEREAS, Section 394.005 of the Act provides that said Act does not apply to property located within a municipality with more than 20,000 inhabitants unless the governing body of such municipality approves the application of said Act to that property;

WHEREAS, the effect of said Section 394.005 is that the proceeds of the Bonds may not be used to finance single family housing within the City of Temple, Texas, without the approval of the City’s governing body;

WHEREAS, it is the desire of the City Council of the City to make available to citizens of low and moderate income of this City loans financed by the proceeds of the Bonds since they provide favorable interest rates and/or down payment assistance for first time home buyers or other qualified buyers who qualify for such loans; and

WHEREAS, the Corporation has requested the approval of the governing body of the City, so that the Corporation may provide, with the proceeds of the issuance of the Corporation's Bonds, financing for home mortgages for homes in the City limits.

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

**Part 1:** The recitals made above in this Resolution are hereby adopted in their entirety and incorporated herein as though set forth in full herein.

**Part 2:** The City Council hereby approves the application of the Act to property located within the City and grants its approval to the Corporation for the use of proceeds of the Bonds to finance home mortgages for homes located within the City.

**Part3:** It is officially found and determined that no provision of this resolution shall make the City of Temple, Texas, this City Council, or any officer, agent, employee, or official of the City of Temple, Texas, liable in any respect whatsoever in regard to the Bonds, it being understood that the Bonds are solely to be repaid and secured from the sources described in the documents related thereto, none of which sources impose any liability whatsoever upon this City, this City Council, or the officers, agents, employees, and officials of this City.

**Part 4:** To indicate the City's desire to participate in this program, a copy of this resolution will be forwarded to The Central Texas Housing Finance Corporation.

PASSED, APPROVED, AND ADOPTED on this 17<sup>th</sup> day of **December**, 2009, at a regular meeting of the City Council of the City of Temple, Texas which meeting was held in compliance with the Open Meetings Act, *Texas Government Code*, Chapter 551.001, et. seq. at which meeting a quorum was present and voting.

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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12/17/09  
Item #6  
Regular Agenda  
Page 1 of 2

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-10-08: Consider adopting an ordinance authorizing a zoning change request from General Retail District (GR) to Planned Development General Retail District (PD-GR) on the South 50 Feet of Lot 1, Block 2, Keaton Addition, located at 803 North General Bruce Drive.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** At its December 8, 2009 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zoning change from GR to PD-GR with the following stipulations:

1. The use and development standards of the property shall conform to the requirements of the General Retail zoning district;
2. Off-premise sign is allowed;
3. In the event of a conflict between the development plan and the text of the Planned Development ordinance, the stricter standard applies; and
4. All standards of the Zoning Ordinance apply unless the development plan or the text of the Planned Development ordinance specifically modifies such standards.

Commissioners Barton and Dusek 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 January 7, 2010.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-08, from the Planning and Zoning meeting, December 8, 2009. A used car lot occupies the subject property. The applicant requests the PD-GR zoning district to erect an off-premise sign (billboard). Off-premise signs are only allowed by right in the Commercial (C), Light Industrial (LI) and Heavy Industrial (HI) zoning districts. If the Planned Development is approved an off-premise sign could be erected on the property. The base zoning district of GR will continue to control the types of uses allowed on the property.

The proposed sign location is 781 feet from a property that was granted a rezoning to Commercial in 2008 for the purpose of erecting an off-premise sign. Such sign was never erected. If the Planned Development case for the subject property is approved, then this other location will no longer be eligible for an off-premise sign.

The applicant has sufficient off-premise sign credits to construct a double-faced sign.

The Planning and Zoning Commission raised no other issues requiring further staff attention.

Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of Monday, December 7, 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 Planning and Zoning Commission public hearing on November 27, 2009 in accordance with state law and local ordinance

**FISCAL IMPACT:** None

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
Billboard Distances Map  
Binding Site Development Plan  
Notice Map  
P&Z Staff Report (Z-FY-10-08)  
P&Z Minutes (12/08/09)  
Ordinance



**Z-FY-10-08**

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr



 Z-FY-10-08

Feet 0 50 100 150 200

J Stone 11.18.09



Z-FY-10-08

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr



1 inch = 150 feet  
J Stone 11.18.09

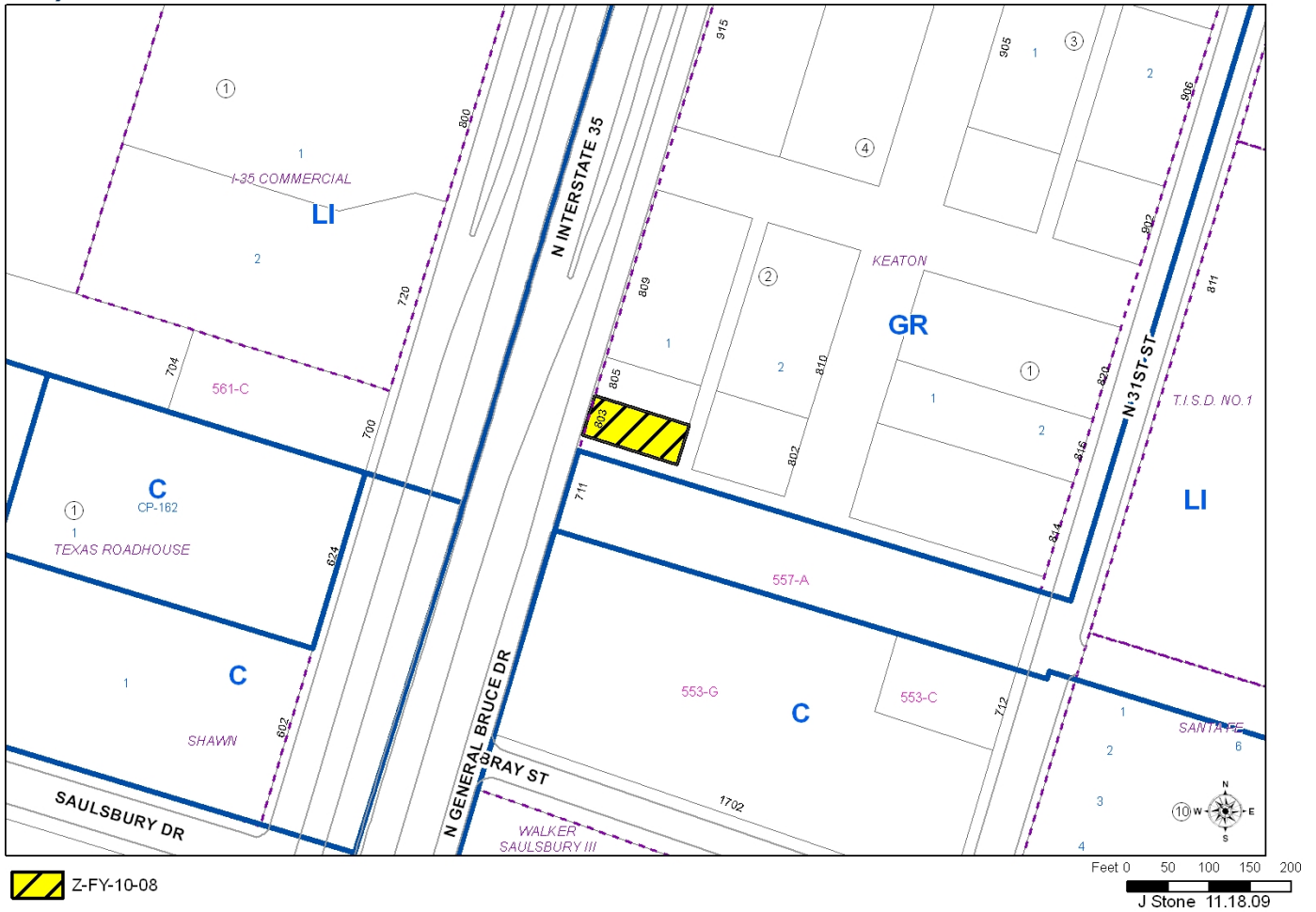




**Z-FY-10-08**

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr

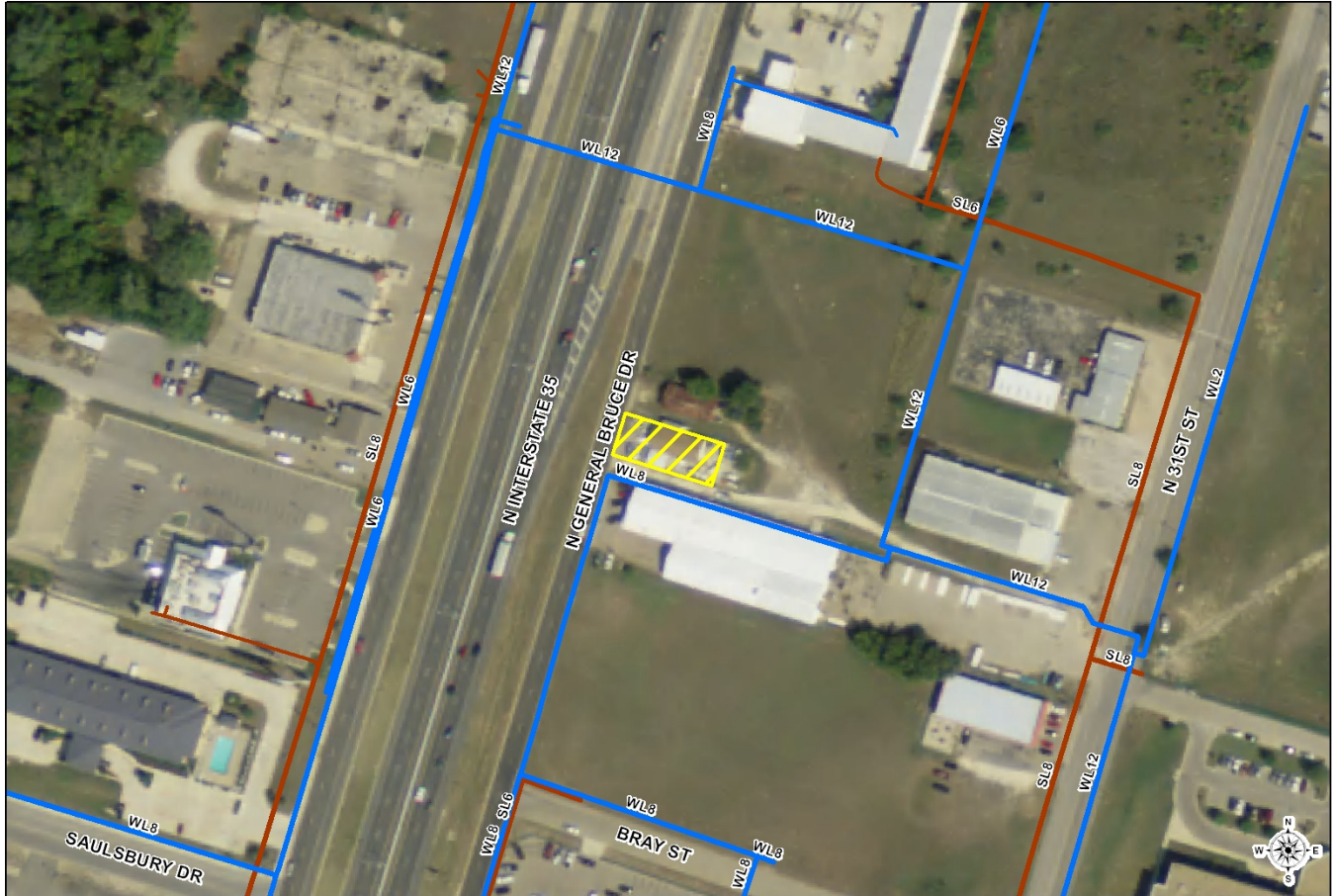





Z-FY-10-08

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr



 Z-FY-10-08

Feet 0 50 100 150 200

J Stone 12.01.09

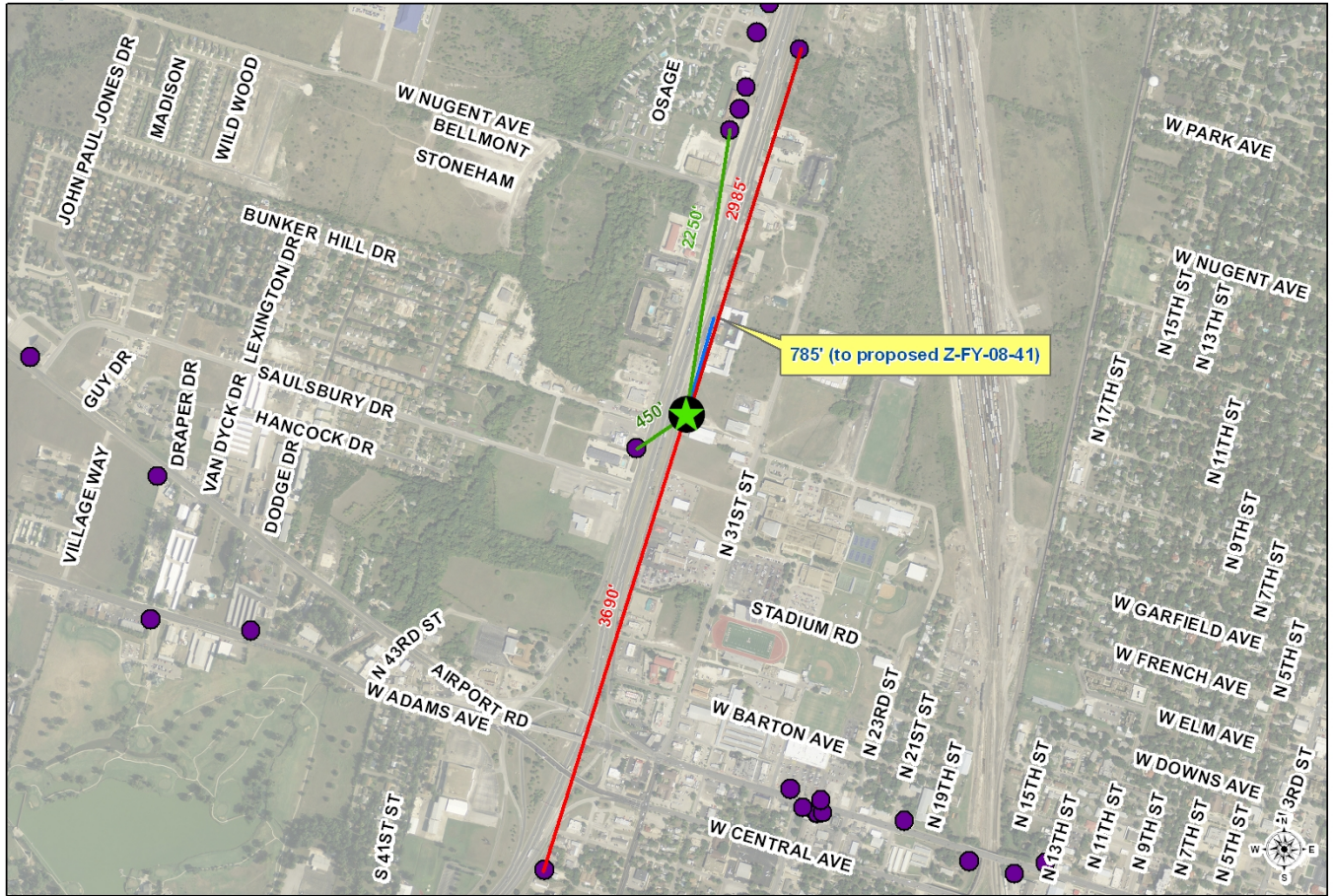




**Z-FY-10-08**

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr



Z-FY-10-08

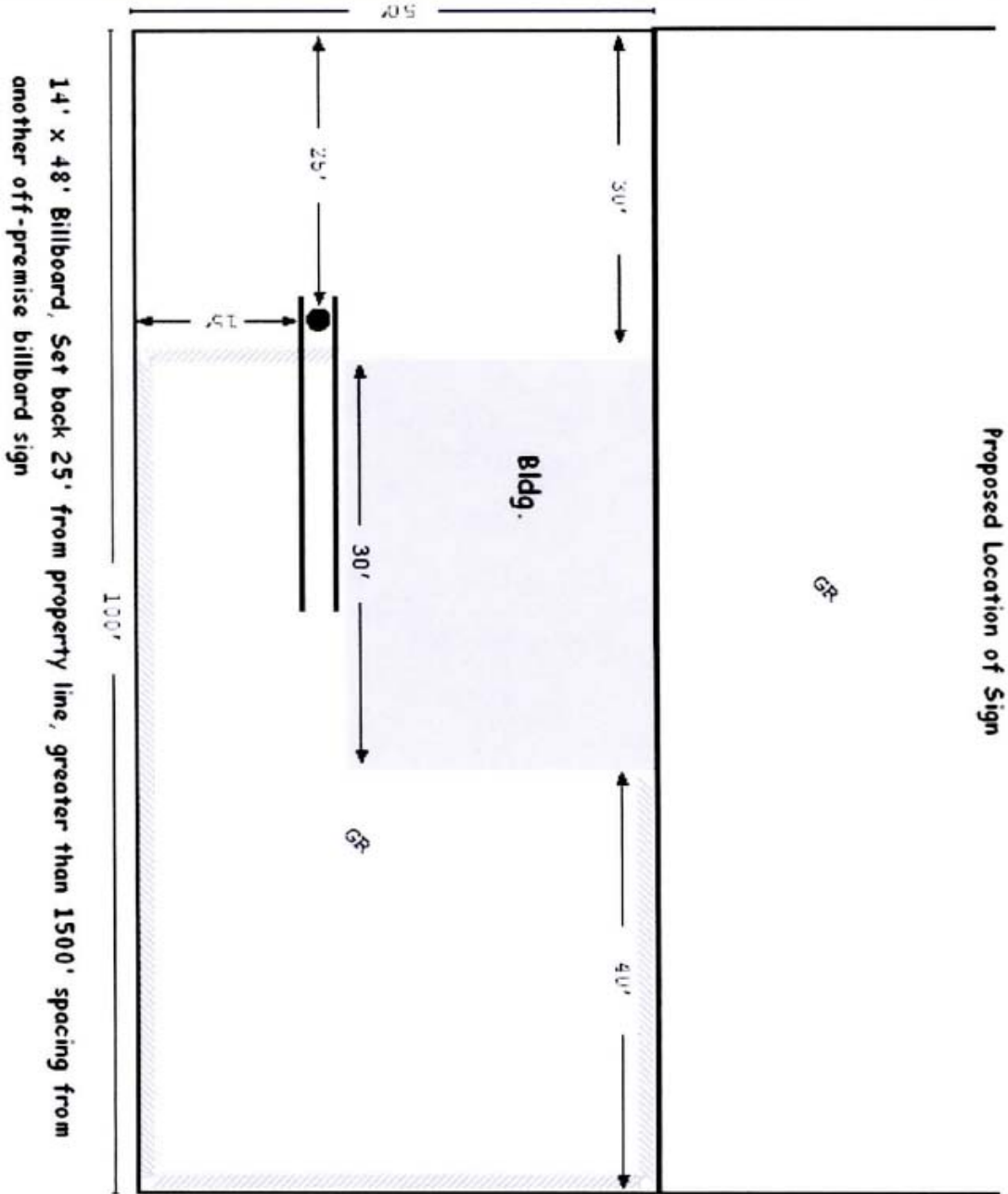


Billboards/Signage

1 inch = 1,000 feet  
J Stone 11.18.09

803 GENERAL BRUCE DRIVE

Proposed Location of Sign



14' x 48' Billboard, Set back 25' from property line, greater than 1500' spacing from another off-premise billboard sign

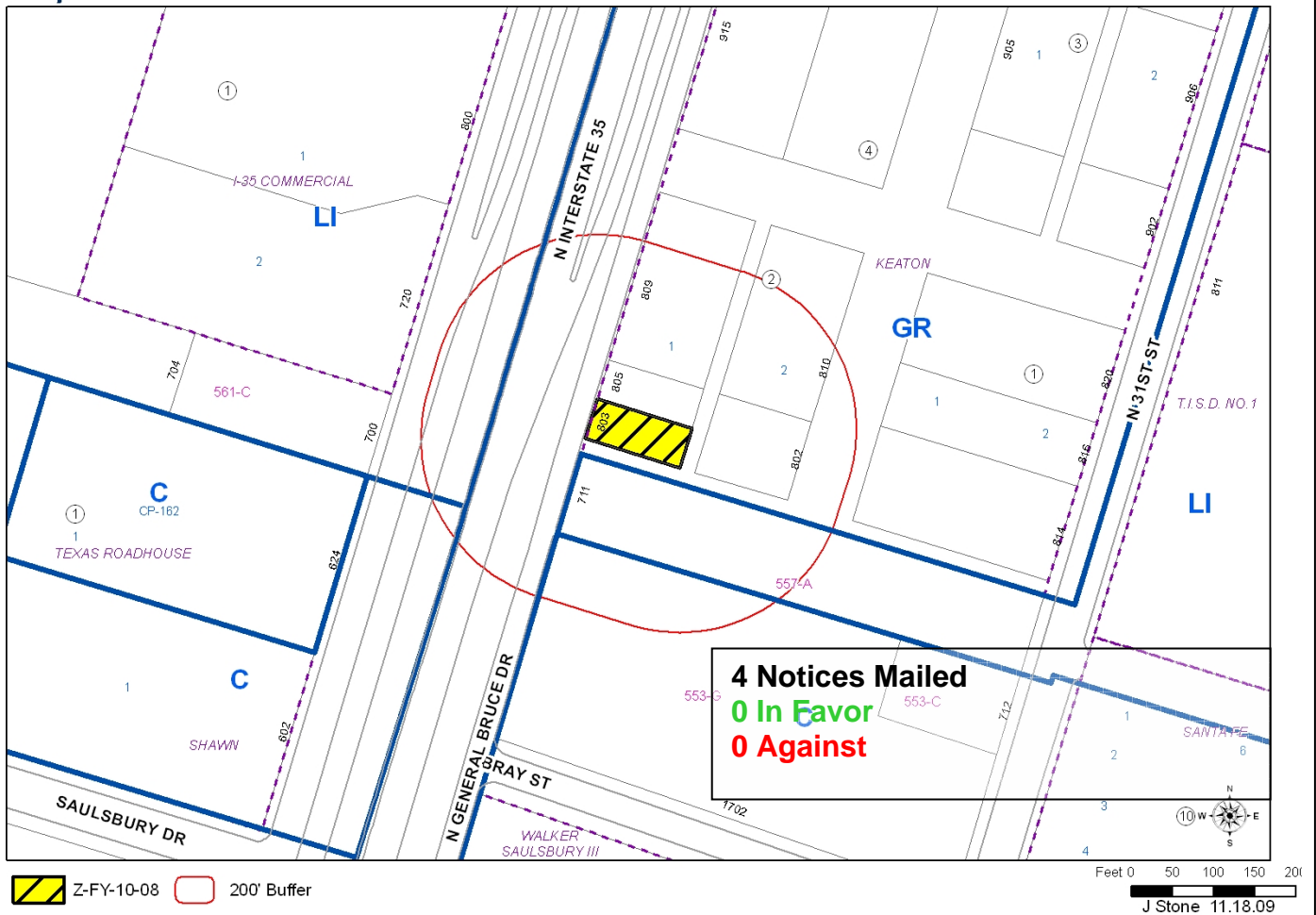
T1



**Z-FY-10-08**

S 50' of Lot 1, Blk 2, Keaton Addition

803 N General Bruce Dr





# PLANNING AND ZONING COMMISSION AGENDA ITEM

12/08/09  
Item #5  
Regular Agenda  
Page 1 of 3

**APPLICANT / DEVELOPMENT:** Lamar Advertising for Charles Altman

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

**ITEM DESCRIPTION:** Z-FY-10-08 Hold a public hearing to discuss and recommend action on a zoning change request from General Retail District (GR) to Planned Development General Retail District (PD-GR) on the South 50 Feet of Lot 1, Block 2, Keaton Addition, located at 803 North General Bruce Drive.

**BACKGROUND:** A used car lot occupies the subject property. The applicant requests the PD-GR zoning district to erect an off-premise sign (billboard). Off-premise signs are only allowed by right in the Commercial (C), Light Industrial (LI) and Heavy Industrial (HI) zoning districts. The following uses would be permitted in the proposed PD-GR zoning district:

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


If the Planned Development is approved the base zoning district will continue to control the types of uses allowed on the property.

The Zoning Ordinance requires a minimum separation distance of 1,500 feet between off-premise signs along General Bruce Drive. As shown in the attached aerial, existing off-premise signs are 2,985 to the north and 3,690 feet to the south. The proposed sign location is 781 feet from a property that was granted a rezoning to Commercial in 2008 for the purpose of erecting an off-premise sign. Such sign was never erected. If the Planned Development case for the subject property is approved, then this other location will no longer be eligible for an off-premise sign.

The applicant has sufficient off-premise sign credits to construct a double-faced sign.





## Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	GR (current) PD-GR (proposed)	Used Car Lot	

**Double Sided**



Direction	Zoning	Current Land Use	Photo
North	GR	Vacant Auto Service	
East	GR	Vacant Land	
South	LI	Building Materials Sales	
West	LI	I-35 / Vacant Motorcycle Sales	

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 Auto Urban Commercial. The request conforms to the Future Land Use and Character map.

#### Thoroughfare Plan

The subject property fronts on Interstate 35. The Thoroughfare Plan map designates Interstate 35 an expressway. The request conforms to the Thoroughfare Plan map.

#### Availability of Public Facilities

Although such utilities do not apply to the function of a billboard, an eight-inch water line serves the property. Public facilities are available.

#### Development Regulations

The purpose of the GR zoning district is to serve larger service areas than neighborhoods. This district should be located at the intersection of major arterials and should provide total on-site traffic maneuvering such that traffic entering and exiting the facility should have room to turn, queue for parking areas, and park within the confines of the retail facility. This is the standard retail district and

allows most retail uses including new or used auto sales, retail sales, fuel sales, restaurants, grocery stores, or offices and residential uses except apartments.

The dimensional requirements for an off-premise sign are as follows.

Off-Premise Signs	
Sign Face Area (sq. ft.)	672
Overall Height (ft.)	42.5
Setback from Street (ft.)	20

#### Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, December 2, 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 Planning and Zoning Commission public hearing on November 27, 2009 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of Planned Development application Z-FY-10-08, including the binding site development plan, with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the General Retail zoning district.
2. An off-premise sign is allowed.
3. In the event of a conflict between the site development plan and the text of the Planned Development District ordinance, the stricter standard applies.
4. All standards of the Zoning Ordinance apply unless the site development plan or the text of the Planned Development District ordinance specifically modifies such standards.

**FISCAL IMPACT:** Not Applicable

#### **ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
Billboard Distances Map  
Binding Site Development Plan  
Notice Map



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

**TUESDAY, DECEMBER 8, 2009**

**ACTION ITEMS**

**Item 5: Public Hearing, Discussion and Action Z-FY-10-08:** Discuss and recommend action on a zoning change request from General Retail District (GR) to Planned Development (General Retail) District (PDGR) on the South 50 Feet of Lot 1, Block 2, Keaton Addition, located at 803 North General Bruce Drive. (Lamar Signs Inc. c/o Charles Altman)

Mr. Brian Mabry, Senior Planner, stated the applicant for this case is Lamar Advertising for Charles Altman, property owner. This would go to City Council on December 17th for first reading and second reading on January 7, 2010.

Mr. Mabry stated the property had I-35 frontage instead of State Highway 317 as incorrectly stated in the Commissioners packets. This request is in order to erect an off-premises sign or billboard. Currently the property had an auto sales on it.

Mr. Mabry stated normally billboards are allowed by right in Commercial (C), Light Industrial (LI) and Heavy Industrial (HI) and since the property was already zoned General Retail (GR), a Planned Development (PD) layer was added to it which would allow a billboard instead of rezoning to a C, Li, or HI district. Billboards are allowed along the Loop and I-35 according to the Zoning Ordinance. They are to be 672 square feet in area with 42.5 feet overall height and the setback from the road is required to be at least 20 feet. Mr. Mabry stated the site development plan complied with all required standards.

Mr. Mabry gave an overview of the surrounding area of the subject property. The Zoning Ordinance required billboard separation along the Interstate to be a minimum of 1,500 feet separation along the Interstate; the separation for the request was 2,985 feet to the north and 3,690 feet to the south so the separation on that side of I-35 was met.

Mr. Mabry stated there was another billboard approximately 450 feet across from I-35 but the separation standards and the Zoning Ordinance do not apply to signs/billboards across I-35 or across the Loop from the proposed billboard.

Mr. Mabry stated approximately 785 feet to the north of the proposed billboard, a rezoning was granted in 2008 for the purpose of allowing a billboard, however, that billboard was never built. This current PD request, if approved by City Council at its second reading, and the billboard is built, it would nullify the right of the property 785 feet to the north.

Mr. Mabry showed the site development plan for the property and proposed billboard. A 25 foot separation from the pole of the billboard to the front property line along General Bruce and a 15 foot side setback is indicated. The size of the billboard was 14 feet by 48 feet which met the standards of off-premise signs in the Zoning Ordinance.

The zoning for the property is GR, C, and LI throughout the area of the vicinity of the proposed billboard. The Future Land Use Map showed the area to be auto/urban commercial. There is an 8" water line along the property for availability. I-35 on the Thoroughfare Plan is shown as an expressway. The proposed PD would avoid intense uses normally allowed in the C zoning along I-35 corridor. This PD would allow uses allowed in GR which is the base zoning district and however the I-35 Corridor Overlay would affect that property. The PD would also allow off-premise sign. Typically GR uses in GR zoning district are retail, gas stations, restaurants, grocery stores, things like that.

Mr. Mabry stated four notices were mailed and zero were returned. Staff recommended approval of this Planned Development application Z-FY-10-08, including the binding site development plan, along with the following stipulations:

1. Except as modified by the binding site development plan, the use and development standards of the property must conform to the requirements of the General Retail zoning district;
2. An off-premise sign is allowed;
3. In the event of a conflict between the site development plan and the text of the Planned Development District ordinance, the stricter standard applies; and
4. All standards of the Zoning Ordinance apply unless the site development plan or the text of the Planned Development District ordinance specifically modifies such standards.

Commissioner Pope asked about the area rezoned 785 feet from this property for the purpose of erecting a sign and the sign was never erected and Mr. Mabry confirmed this was correct. Commissioner Pope asked if the landowner was notified about this and Mr. Mabry stated they were not within the 200 foot radius for notification, however, prior to the City Council meeting, they could be informally notified. Commissioner Pope felt it was appropriate to notify the party and let them know what was happening with their land since it was only in 2008 it occurred. Mr. Mabry stated that would be done.

Vice-Chair Talley asked if the previous party still had the right to come back at any time and put up a sign even though they have not. Mr. Mabry stated no, if the current PD were approved by City Council and Lamar received a permit from TxDOT or the City and went through the proper channels and built the billboard,

then the separation distance would be too short for the billboard to be built. They would have other options however.

Chair Pilkington opened the public hearing and Mr. Mat Naegele approached the podium.

Mr. Mat Naegele, Vice President and General Manager of Lamar Advertising, of 3501 Canyon Heights, Belton, Texas 76513, stated he was present to answer any questions the Commission had on the billboard itself.

Chair Pilkington closed the public hearing.

Commissioner Pope made a motion to approve the zone request for Item Z-FY-10-08 from GR to PD-GR and Vice-Chair Talley made a second.

*Motion passed: 7:0*

*Commissioners Dusek and Barton absent*

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

[PLANNING NO. Z-FY-10-08]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO PLANNED DEVELOPMENT GENERAL RETAIL DISTRICT (PD-GR) ON THE SOUTH 50 FEET OF LOT 1, BLOCK 2, KEATON ADDITION, LOCATED AT 803 NORTH GENERAL BRUCE DRIVE, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the owner of the property located at 803 North General Bruce Drive has requested that the property be rezoned from General Retail District (GR) to Planned Development General Retail District (PD-GR);

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

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

**Part 1:** The City Council approves a zoning change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on the south 50 feet of Lot 1, Block 2, Keaton Addition, located at 803 North General Bruce Drive in the City of Temple, Bell County, Texas, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

- (a) The use and development standards of the property shall conform to the requirements of the General Retail zoning district;
- (b) Off-premise sign is allowed;
- (c) In the event of a conflict between the development plan and the text of the Planned Development ordinance, the stricter standard applies; and
- (d) All standards of the Zoning Ordinance apply unless the development plan or the text of the Planned Development ordinance specifically modifies such standards.

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

**Part 3:** The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

**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 **17<sup>th</sup>** day of **December**, 2009.

PASSED AND APPROVED on Second Reading on the **7<sup>th</sup>** day of **January**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #7  
Regular Agenda  
Page 1 of 2

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-10-10: Consider adopting an ordinance authorizing a Conditional Use Permit request for an off-premise consumption package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182, a 15,723 square foot lease area.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** At its December 8, 2009 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of Conditional Use Permit request for an off-premise consumption package store subject to review from the Comprehensive Plan. The applicant agrees with the conditions of the CUP.

1. The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial.
2. This request conforms to the Thoroughfare Plan since the shopping center contains access easements to the Major Arterials of IH 35 and Loop 363.
3. Available public facilities serve this site.

Commissioner Barton and Dusek 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 January 7, 2010.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-10, from the Planning and Zoning meeting, December 8, 2009. This Conditional Use Permit (CUP) request is to allow an off-premise consumption package store for the sale of distilled liquors, wines and beers in unbroken original containers at the Bird Creek Mall, the western end cap lease area in line with Target, Michael's, PetSmart, Office-Max and Sally Beauty Stores. The Council approved the allowed use in Ordinance 2009-4322, approved November 5, 2009.

The outdoor lighting and parking are in compliance now as part of the Bird Creek Mall. The applicant will not have a drive-through window; retail customers will use the front door for ingress/egress. The applicant has begun the process with the Texas Alcoholic Beverage Commission. This application conforms to the area and use requirements for a CUP required for an off-premise package store in the Commercial District. Condition #11 is based on Section 7-604 providing for the site plan and application to become part of the CUP.

The Planning and Zoning Commission raised no other issues requiring further staff attention.

Public Notice

One notice was sent out to the Planning and Zoning Commission public hearing were sent out. As of Monday, December 7, 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 Planning and Zoning Commission public hearing on November 27, 2009 in accordance with state law and local ordinance

**FISCAL IMPACT:** None

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
CUP Site Plan  
Notice Map  
P&Z Staff Report (Z-FY-10-10)  
P&Z Minutes (12/08/09)  
Ordinance




**Z-FY-10-10**

15,723 SF of Lot 1, Block 1, Bird Creek Crossing Addition

Proposed Package Store



 Z-FY-10-10

Feet 0 130 260 390 520

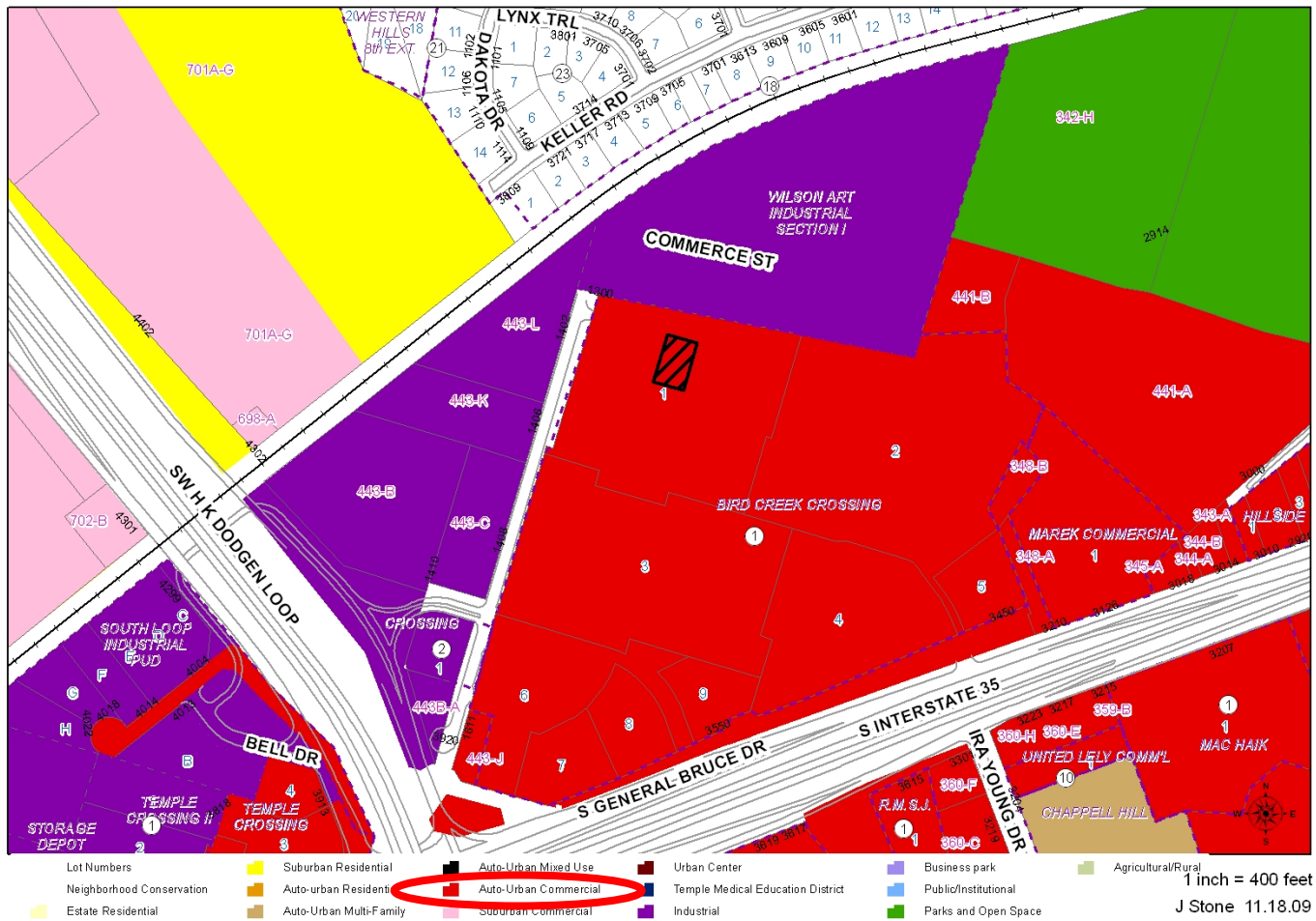
J Stone 11.24.09





**Z-FY-10-10** 15,723 SF of Lot 1, Block 1, Bird Creek Crossing Addition

Proposed Package Store

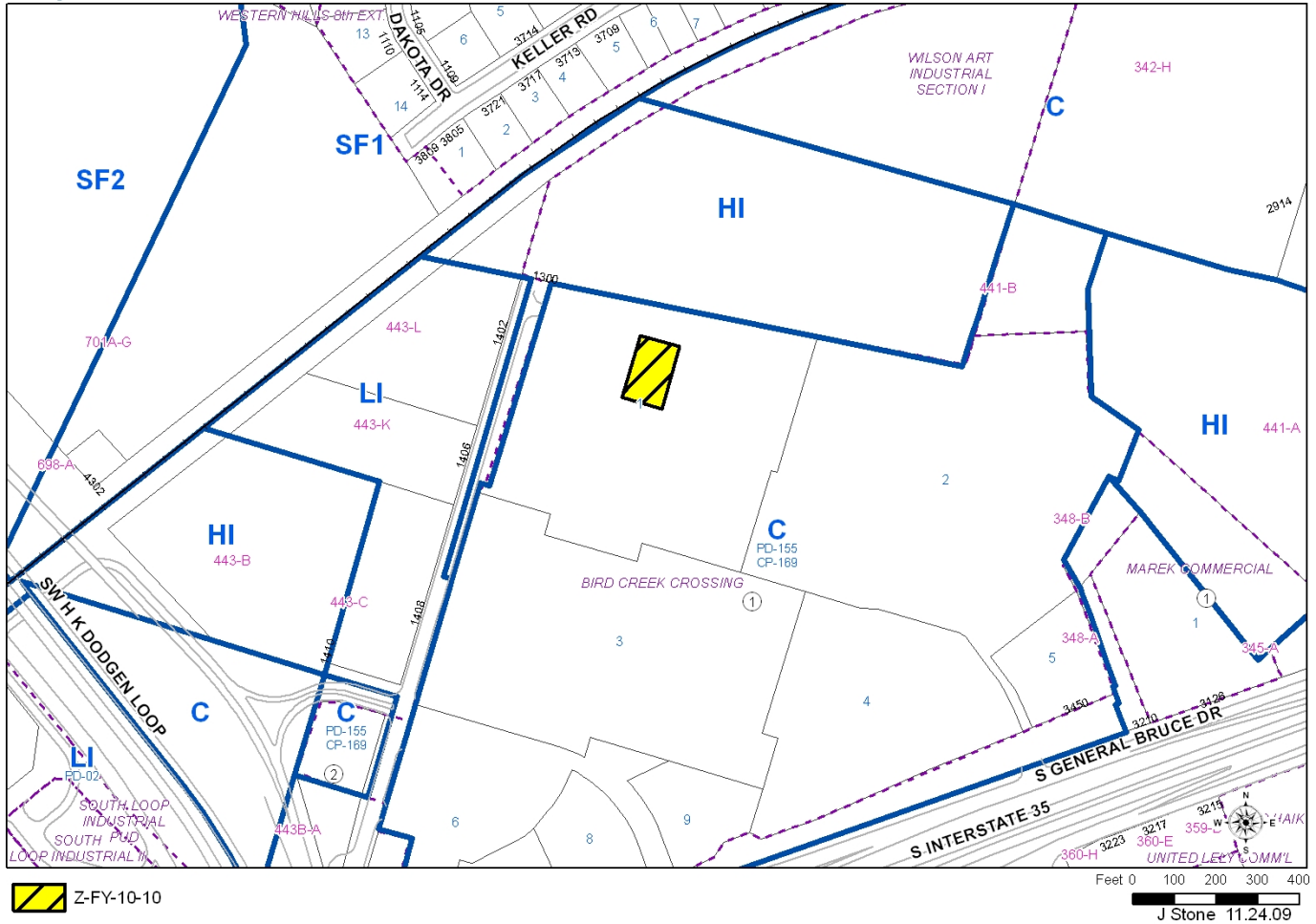




**Z-FY-10-10**

15,723 SF of Lot 1, Block 1, Bird Creek Crossing Addition

Proposed Package Store





Proposed Site Plan  
Subject to Change

## Bird Creek Crossing Temple, Texas



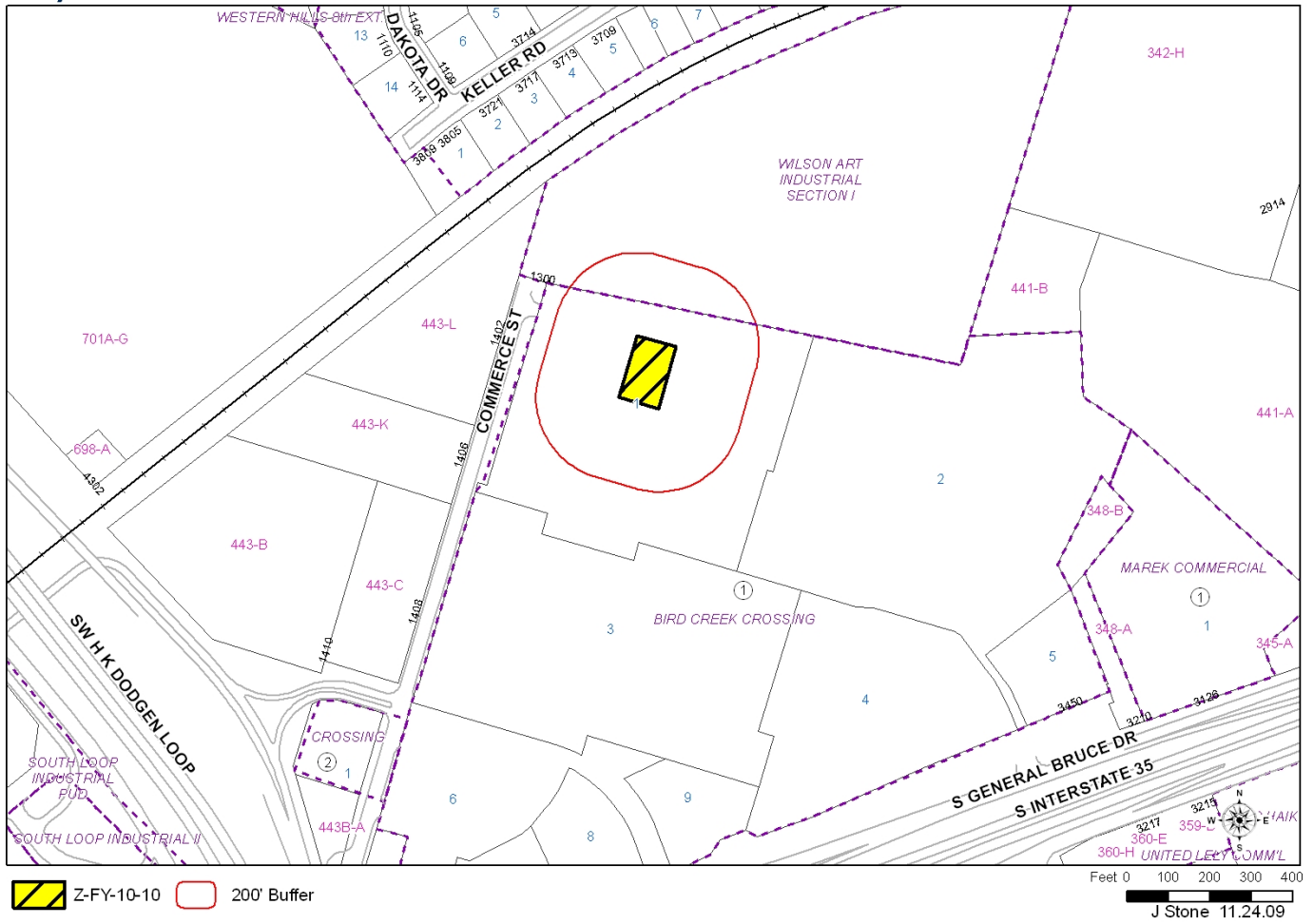
Primus Real Estate Services  
512.322.2008  
[www.primusre.com](http://www.primusre.com)



**Z-FY-10-10**

15,723 SF of Lot 1, Block 1, Bird Creek Crossing Addition

Proposed Package Store





# PLANNING AND ZONING COMMISSION AGENDA ITEM

12/08/09  
Item #4  
Regular Agenda  
Page 1 of 8

**APPLICANT / DEVELOPMENT:** Primus Real Estate c/o Spec's Stores




**CASE MANAGER:** Tim Dolan, AICP, Planning Director

**ITEM DESCRIPTION-Public Hearing, Discussion and Action Z-FY-10-10:** Discuss and recommend action on a Conditional Use Permit request for an off-premise consumption, package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182, a 15,723 square foot lease area.



**BACKGROUND:** This Conditional Use Permit (CUP) request is to allow an off-premise consumption, package store for the sales of distilled liquors, wines and beers in unbroken original containers at the Bird Creek Mall, the western end cap lease area in line with Target, Michael's, Pets Mart, Office-Max and Sally Stores. The Council approved the allowed use in Ordinance 2009-4322, approved November 5, 2009.

**Surrounding Property and Uses**

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

Direction	Zoning	Current Land Use	Photograph
Subject	PDD-C	Shopping Mall	
North	PDD-C	Parking – Mall area	
South	PDD-C	Parking – internal traffic circulation Mall area	



East	PDD-C	Shopping Mall lease space and parking	
West	HI	Oncor Electric Storage Yard	

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

Future Land Use Plan and Character Map – The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial.

Thoroughfare Plan – This request conforms to the Thoroughfare Plan since the shopping center contains access easements to the Major Arterials of IH 35 and Loop 363.

Availability of Public Facilities – Available public facilities serve this site.

#### Development Regulations

In addition to the general Conditional Use Permit standards in Sec. 7-600 above, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store:

- Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code;
- Outdoor lighting must comply with the standards in Sec. 7-566 (G) of the Zoning Ordinance;
- If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
- The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
- An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
- Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
- Window signs are prohibited; and
- Lighted advertising signs must be turned off at closing time.

The outdoor lighting and parking are in compliance now as part of the Bird Creek Mall. The applicant will not have a drive-through window; retail customers will use the front door for ingress/egress. The applicant has begun the process with the TABC. This application conforms to the area and use requirements for a CUP required in the for an off-premise package store in the C District. Condition #11 is based on Section 7-604 providing for the site plan and application to become part of the CUP.

#### Public Notice

One notice was sent out. As of Friday, December 4th at Noon, no notices were returned. The newspaper printed notice of the public hearing on November 27, 2009 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the Z-FY-10-10, a CUP for an off-premise consumption, package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182 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 must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
4. 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.
5. 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.
6. 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.
7. Window signs are prohibited
8. Lighted advertising signs must be turned off at closing time.
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:**

Aerial  
Land Use and Character Map  
Zoning Map  
CUP Site Plan  
Notice Map

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

**TUESDAY, DECEMBER 8, 2009**

**ACTION ITEMS**

**Item 4: Public Hearing, Discussion and Action Z-FY-10-10:** Discuss and recommend action on a Conditional Use Permit request for off-premise consumption, package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182, a 15,723 square foot lease area. (Applicant: Primus Real Estate)

Mr. Tim Dolan, Planning Director, stated this request was to look at a proposed package store in Bird Creek Mall. Mr. Dolan stated the vote to allow this use was approved on November 5th by the City of Temple voters and the County canvassed the votes on November 16th. This property is zoned a Planned Development District Commercial and it conformed to all regulations recommended by both Planning Commission and approved by City Council for an off-premises package store.

Mr. Dolan stated the site showed the area of Bird Creek Mall of the approximate 15,720 square foot area leased area known as A-182. Access is available from both Loop 363 and I-35.

The Future Land Use and Character Plan showed the area for auto/urban commercial so the use conformed to the Future Land Use Plan. I-35 is known as an expressway and public facilities are availability to serve the site.

Mr. Dolan stated one notice was mailed to Oncor, the only property owner, and no response had been received; the remaining 200 foot boundary remained with Primus Real Estate.

Mr. Dolan stated the site plan submitted would be adopted as part of the Conditional Use Permit (CUP) as Exhibit A.

Staff recommended approval for this CUP since it conformed to the Future Land Use and Character Plan for the auto/urban use and conformed to the Thoroughfare Plan for its access from I-35 and 363. Facilities are available to serve the property.

Mr. Dolan stated this is a public hearing and the applicant and lessee are available for questions.

Before opening the public hearing, Chair Pilkington stated to the attending public to adhere to the 3 minute limit for individual presentations in order for everyone to have a chance to speak. After his instructions, Chair Pilkington



opened the public hearing. There being no speakers, Chair Pilkington closed the public hearing.

Commissioner Hurd made a motion to approve Z-FY-10-10 and Commissioner Martin made a second.

*Motion passed: 7:0*

*Commissioners Dusek and Barton absent*

Mr. Dolan stated this item would be scheduled for City Council meetings December 17th and January 7th of 2010.

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

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR AN OFF-PREMISE CONSUMPTION PACKAGE STORE AT THE BIRD CREEK CROSSING SUBDIVISION, LOT 1, SUITE A-182, A 15,723 SQUARE FOOT LEASE AREA; 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 Lot 1, Suite A-182 of the Bird Creek Crossing Subdivision, recommends that the City Council approve the application for this Conditional Use Permit for an off-premise consumption package store; 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 an off-premise consumption package store at the Bird Creek Crossing Subdivision, Lot 1, Suite A-182, a 15,723 square foot lease area, more fully shown on Exhibit A, attached hereto and made a part of 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 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.
- (b) 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.
- (c) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) Window signs are prohibited.
- (h) Lighted advertising signs must be turned off at closing time.
- (i) The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
- (j) 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.
- (k) The permittee's site plan and application are exhibits to the conditional use permit, attached hereto as Exhibits B and C.

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

**Part 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 **17<sup>th</sup>** day of **December**, 2009.

PASSED AND APPROVED on Second Reading on the **7<sup>th</sup>** day of **January**, 2010.

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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12/17/09  
Item #8  
Regular Agenda  
Page 1 of 2

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

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the execution of a contract with Georgetown Railroad for the purchase of approximately 6.2 miles of railroad right of way located in southeast Temple.

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 City projects, the public discussion of which would have a detrimental effect on negotiations with a third party.

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

**ITEM SUMMARY:** *Background.* The Staff began negotiations to acquire the Georgetown Railroad (GRR) in December of 2008. The Staff and GRR have negotiated the terms of the purchase of the GRR's right of way in Temple. Those terms will be discussed in executive session. The portion being considered is 6.2 miles of rail line with roughly 4 miles within the City and 2 in Belton. The process of acquiring the Georgetown Railroad actually involves several elements: (1) the assignment by GRR to the City of the easements which they hold in land over the 6.2 mile length of the railroad—this transfer would also include a bill of sale for all of the infrastructure they have in place (rails, ties, ballast and switches—there are no engines involved in this sale); and (2) the transfer of the rights and obligations of GRR as a railroad from GRR to the City.

While the City does not wish to operate the rail lines a common carrier, the process we would go through would transfer the rights and duties of the railroad to the City initially under what is called a “notice of exemption” filing with the Surface Transportation Board in Washington. That process is likely to take as little as 30-45 days and would result in the City being substituted as the rail service provider for this 6.2 mile section of railroad. No rail service has actually been provided on the line in many years (10-15 at least) and we anticipate that would continue. Working with Patriot Rail and the Temple & Central Texas Railway, we would likely refuse any request for service (however unlikely that would be) if the railroad is transferred to the City on the basis that it is not economically feasible to provide service.

As the listed operator of the railroad and holder of the railroad right-of-way, we ensure that the railroad easements remain intact after the conveyance from GRR—rather than risking the easements revert to the original property owners. Our expectation is that we would use the right of way to place a 24 inch water line for much of the route of the railroad to further a Public Works project to improve water service in the southeast quadrant of the City. There is the additional possibility of using the surface of the easement for a hike and bike trail—though this use would likely require that we go back to the Surface Transportation board and have the railroad right of way placed into a national rail bank for “rails to trails” programs. The salvageable parts of the rail line itself, would be of economic benefit to the City after eventual abandonment of the rail road by the City. Those lines, switches and ties could be used, for example, as replacement parts in our northwest rail park. After abandonment of the railroad, we would also have the opportunity to remove several existing rail crossings on City streets that cross the GRR. Those crossings cost about \$75-100K and would have some salvage value for reuse.

If the City Council approves the execution of the purchase agreement, the City will execute the agreement, and under its terms will close on the property in ninety days. During the initial sixty days thereafter, we will do our due diligence on the property which includes having a phase one environmental assessment performed on the right of way. Should that due diligence turn up any significant issues, we can terminate the agreement and receive our earnest money back. Otherwise we would proceed to closing at the end of ninety days from the date of execution. We are prepared to award a contract for the phase one services if you authorize the execution of this purchase.

Sarah Gardner-Cox, Deputy City Attorney, has been working with me on this project and will discuss it with you during our workshop on Thursday. My recommendation is that you go into executive session on this item during the workshop to discuss with the Staff some of the sensitive issues related to this negotiation and purchase of the GRR right of way.

While we will discuss this item in executive session, any vote on this item with a discussion of the terms of the potential purchase must be approved during the public meeting.

**FISCAL IMPACT:** The purchase agreement calls for the City to pay earnest money in the amount of \$5,000, and the balance of the purchase price at closing. The City currently has funds available for acquisition of right of way for a proposed 24 inch water line running from the City’s water plant to east Temple, in account 561-5200-535-6909, project # 100333, which will provide the source of funding. The purchase price and funding sources will be discussed in executive session.

**ATTACHMENTS:**

Agreement (to be handed out in the executive session)  
Resolution (to be handed out in the executive session)



## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #9  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** Consider adopting a resolution designating the Chair of the Tax Increment Financing Reinvestment Zone No. 1 Board of Directors for 2010.

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

**ITEM SUMMARY:** Chapter 311 of the Tax Code, Tax Increment Financing Act, specifies that each year the governing body of the municipality shall appoint one member of the board to serve as chairman for a term of one year that begins on January 1 of the following year. The board of directors may elect a vice-chairman to preside in the absence of the chair.

Bob Browder is currently serving as Chair of the TIF RZ No. 1 Board of Directors. Please see the attached board member list.

We recommend the Council designate one member of the board to serve as Chair for a one year term beginning January 1, 2010.

**FISCAL IMPACT:** N/A

### **ATTACHMENTS:**

[RZ No. 1 Board Member List](#)

# REINVESTMENT ZONE NUMBER ONE

TERM EXPIRATION: SEPTEMBER - 2 YEAR TERMS

APPOINTED BY: C.C., TJC, BELL COUNTY, & TISD

MEMBER	DATE APPOINTED	EXPIRATION YEAR	ADDRESS	PHONE NUMBER
Scott Allen <a href="mailto:svallen@sbcglobal.net">svallen@sbcglobal.net</a> OMA	02/08	2010	818 North 11 <sup>th</sup> Street Temple, TX 76501	774-9565 W 718-3025 M 774-8579 F
John R. Bailey <a href="mailto:john@johnbaileyfinancial.com">john@johnbaileyfinancial.com</a>	09/05	2011	4106 Spanish Oak Temple, TX 76502	774-8882 W 774-8883 Fax 760-1486 M
Jacob (Jay) Bojorquez <a href="mailto:jaynbetty@sbcglobal.net">jaynbetty@sbcglobal.net</a>	10/08	2011	7311 Rickey Drive Temple, TX 76502	771-3299 H 931-3269 C
Jack W. Jones, Jr. (Temple College Rep.) <a href="mailto:jackj@vvm.com">jackj@vvm.com</a> OMA	08/07 appt.by TC	2009	P O Box 3310 Temple, TX 76505	774-7167 H 771-1855 W 760-0827 M
Bob Browder, Chair <a href="mailto:bobbrowder@bcswlaw.com">bobbrowder@bcswlaw.com</a>	10/08	2011	4101 Briar Cliff Road Temple, TX 76502	774-8333 ext 255 W 778-8956 H 760-6164 C
Mark Whitaker <a href="mailto:markwhitaker@bcswlaw.com">markwhitaker@bcswlaw.com</a> OMA	09/05	2011	3710 Wendy Oaks Temple, TX 76502	774-8333 W 742-1418 H
Bruce Walker <a href="mailto:lumber@vvm.com">lumber@vvm.com</a>	09/04	2010	1106 North 13 <sup>th</sup> St Temple, Texas 76501	773-2609 W 541-1897 M
Gail Peek <a href="mailto:peek@vvm.com">peek@vvm.com</a>	09/06	2010	3409 Whispering Oak Temple, Texas 76502	778-7892 H/W 493-2000 M
Steve Wright (TISD Rep.) <a href="mailto:steve@wrightbuilders.com">steve@wrightbuilders.com</a>	6/06 appt.by TISD	2011	Wright Builders 5640 Kegley Place Ln Temple, TX 76502	778-4495 W 541-5124 M
Michael Norman <a href="mailto:mnorman@catalystbioventures.com">mnorman@catalystbioventures.com</a> OMA	09/09	2011	19 North Main Street Temple, TX 76501	624-5747 W/C 770-1714 H 512-628-6506 Fax
Commiss. Eddy Lange (Bell Co. Rep.) <a href="mailto:william.lange@co.bell.tx.us">william.lange@co.bell.tx.us</a>	01/05- appt.by Bell Co.	2011	P.O. Box 768 Belton, Texas 76513	933-5103 W 933-5179 Fax
Michael Thompson <a href="mailto:mthompson@extracobanks.com">mthompson@extracobanks.com</a>	09/06	2010	18 South Main Street Temple, TX 76501	774-5550 W
John Kiella (BISD Rep.) <a href="mailto:jkiella@kiella.com">jkiella@kiella.com</a>	09/05	2010	P O Box 1344 Temple, TX 76503	778-0085 W 774-7231 Fax 541-3360 M
Gary Schmidt (Troy ISD Rep.) <a href="mailto:gschmidt@cnb-temple.com">gschmidt@cnb-temple.com</a>	02/2000	2010	Central National Bank P O Box 4107 Temple, TX 76505	743-6965 W 938-2429 H 770-3186 Fax
Edward Coufal (Elm Crk) <a href="mailto:edwardc@cpetem.com">edwardc@cpetem.com</a>	05/05	2011	8576 FM 3117 Temple, Texas 76501	721-9696 773-9916 W

Created pursuant to Section 311.004(a)(2) of the Tax Increment Financing Act; Ordinance 1457, December 16, 1982. **Purpose:** Make recommendations to the City Council concerning the administration of the Zone. The board of directors exercise powers necessary to implement the project plan which is delegated by ordinance of the Council. **Membership:** 15 directors - 9 appointed by the Council; 1 director each of every taxing entity with levies taxes within the Zone, currently: TC, TISD, BISD, Troy ISD, Bell County and Elm Creek Water District. To be eligible for appointment to the board an individual must be a qualified voter of the municipality or be at least 18 years of age and own real property in the zone, whether or not the individual resides in the municipality. **Term:** 2 years  
Revised 08/20/2009





## COUNCIL AGENDA ITEM MEMORANDUM

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12/17/09  
Item #10  
Regular Agenda  
Page 1 of 2

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-10-06A: Consider adopting an ordinance authorizing a zoning change request from the Agricultural District (A) to Light Industrial District (LI) on 19.5± acres, situated in the McCampbell Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835, Bell County, located in the vicinity of State Highway 36 and North State Highway 317 intersection.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** At its December 8, 2009 meeting, the Planning and Zoning Commission voted 4/3 in to deny the applicant's request of a zoning change from the Agricultural District (A) to Light Industrial District (LI) on a 19.5± acre tract of land, which is part of a larger tract of land, zoned LI, as part of an area for minimum and mining storage. This use requires a Conditional Use Permit (CUP) in the LI zoning district (See Next Agenda Item, #11). The Commission heard testimony that about the request that it should not be rezoned due the property is next to a major source of water in the community, and is near a residential subdivision.

Commissioners Barton and Dusek were absent.

**STAFF RECOMMENDATION:** Consistent with the Commission's recommendation, Staff recommends denial of the request. If the Council recommends the adoption of the ordinance as presented, on first reading, the second reading and final adoption will be scheduled for January 7, 2010.

**ITEM SUMMARY:** This area was part of an earlier development agreement when the City Council annexed a voluntary request in 2009 for applicant's request for the possible continuation of mining.

#### **Public Notice**

One notice was sent out for the Planning & Zoning Commission, since the remaining 200' area is owned by the property owner. As of Monday, December 8, 2009 at Noon, none were returned. The newspaper printed notice of the public hearing on November 25, 2009 in accordance with state law and local ordinance.

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Buffer Map

P&Z Staff Report (Z-FY-10-106A)

P&Z Minutes Excerpts (December 8, 2009)

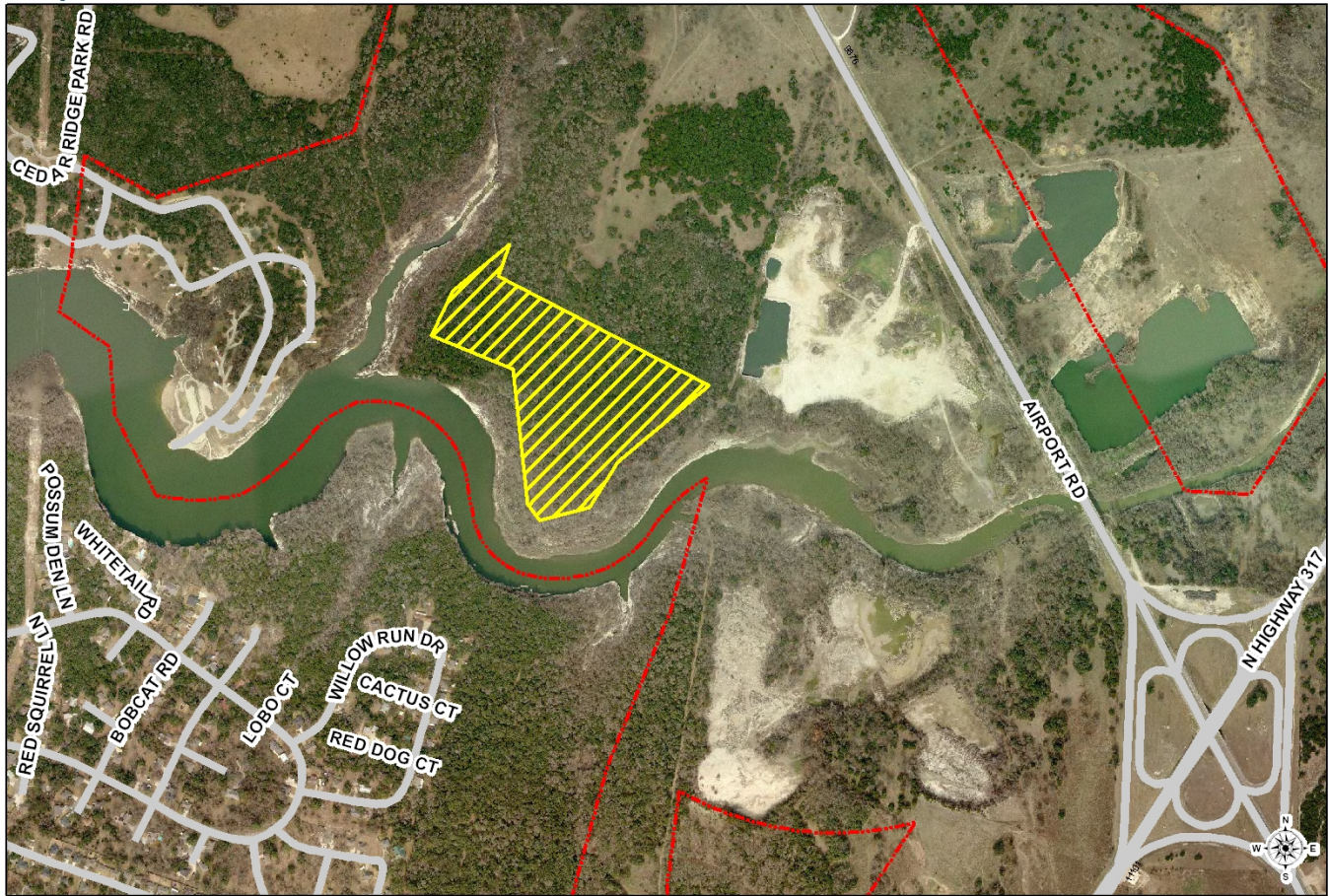
Ordinance





**Z-FY-10-06-A**

OB# 2088-A & B

Extension of Base Zoning



 Temple Boundary  Z-FY-10-06A

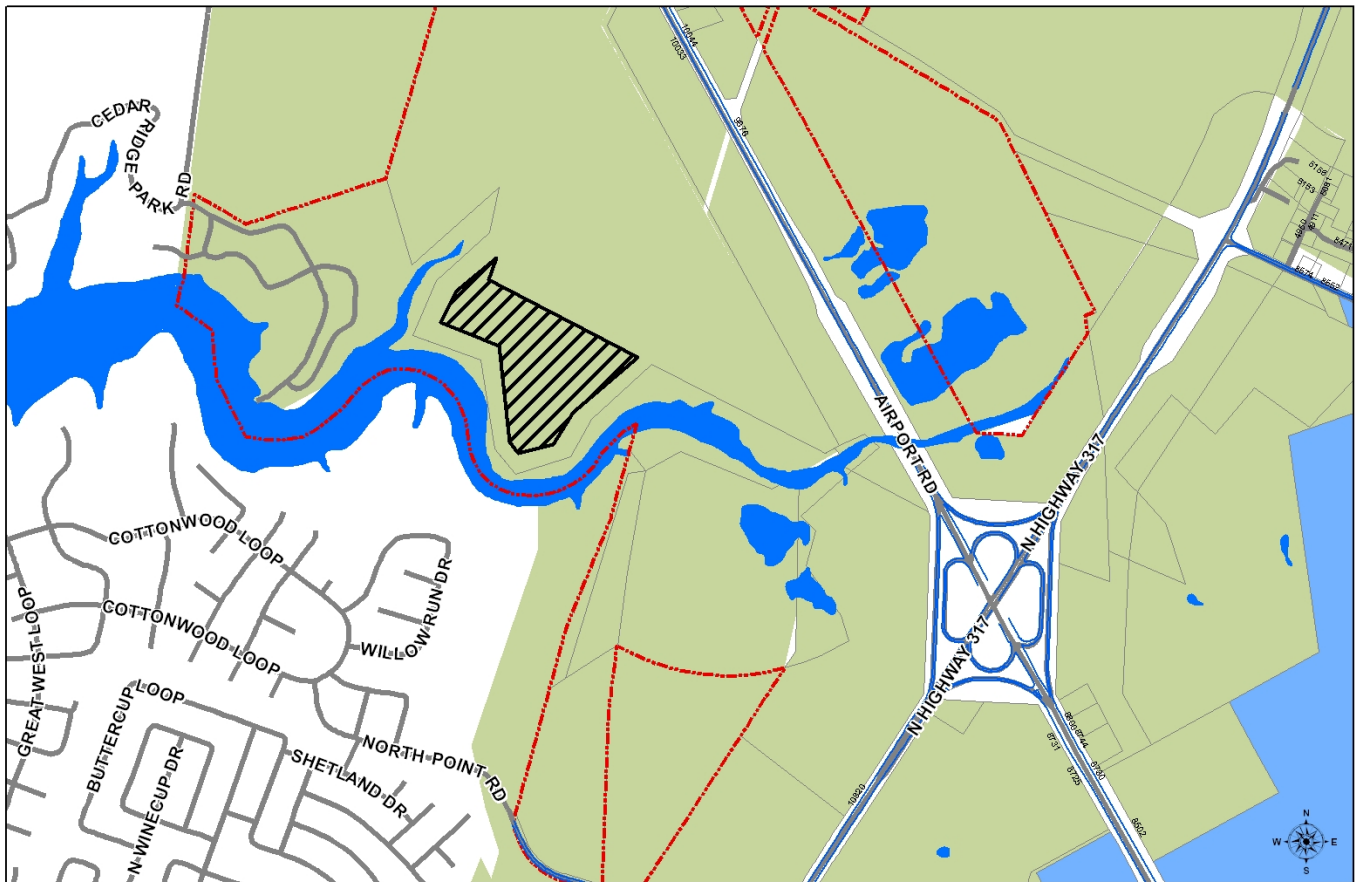
1 inch = 700 feet  
J Stone 11.13.09



Z-FY-10-06

OB# 2088-A & 2088-B

Extension of Base Zoning



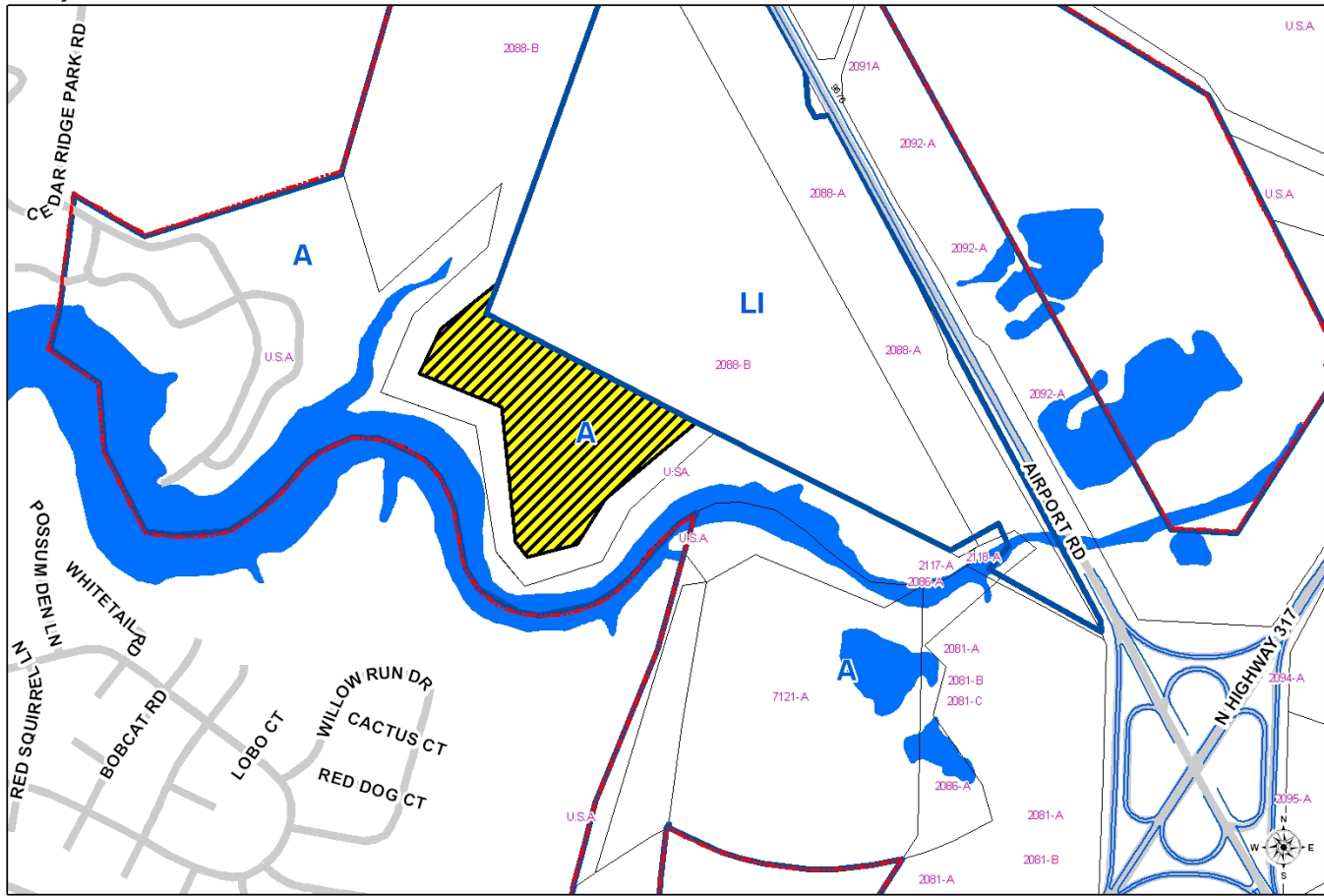




**Z-FY-10-06-A**

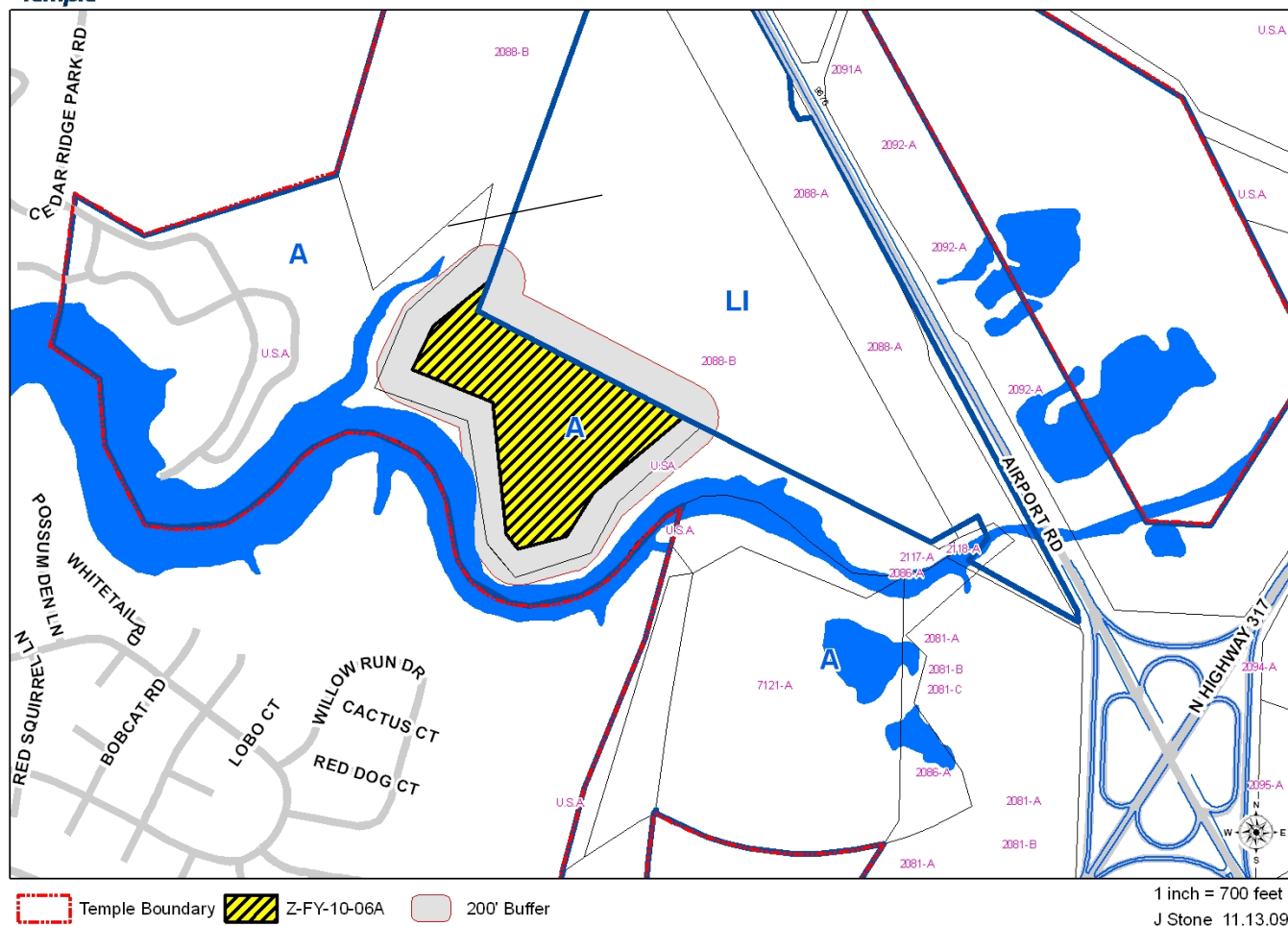
OB# 2088-A & B

Extension of Base Zoning



Temple Boundary Z-FY-10-06A

1 inch = 700 feet  
J Stone 11.13.09





## PLANNING & ZONING COMMISSION MEMORANDUM

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10/08/09  
Item 6A  
Regular Agenda  
Page 1 of 2

### **APPLICANT:**

Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust

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

Tim Dolan, AICP, Planning Director

**Public Hearing, Discussion and Action Z-FY-10-06A:** Discuss and recommend action on a zoning district change request from Agricultural District (A) to Light Industrial District (LI) on 19.5± acres, situated in the McCampbell Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835, Bell County, located in the vicinity of State Highway 36 and North State Highway 317 intersection. (Applicant: Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust).

### **ITEM SUMMARY:**

The applicant requests zoning request from Agricultural (A) to Light Industrial (LI) as part of an area for minimum and mining storage. This use requires a Conditional Use Permit (CUP) in the LI zoning district (See Next Agenda Item, 6B). The applicant has been working with the US Army Corps of Engineers for a flowage easement across the property closer to the Lake Belton Area.

### **Surrounding Property and Uses**

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

Direction	Current Land Use
North	Vacant – area zoned Light Industrial (LI)
East	Vacant – area annexed as Agriculture (A)
South	Vacant – county land
West	Vacant – area annexed as Agriculture (A)

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

**Future Land Use & Character Plan** – The map shows this area as Agricultural/Rural. When the City Council adopted the Plan *Choices '08*, it required Staff to annually update the Plan. A portion of this area will need be shown as Industrial for the mining and mining storage area, provided the approval of the CUP.

This area was part of a 'Development Agreement' when the City Council annexed area near here in 2009, which began in 2008. This area contained more than 10 acres, and had an agriculture classification since the mine was inactive. By practice the Legal Department offered development agreements to property owners who owned more than 10 acres, and the county assessor's office had

classified it as agriculture or wildlife management. The same agreement states if a property owner changes the use of its land, here the continuation of mining, that it would trigger annexation.

Thoroughfare Plan – This application conforms to the Thoroughfare Plan for access to State Highway 36 (SH36) designated as a Freeway.

Availability of Public Facilities – Water and sewer are not available.

#### Public Notice

One notice was sent out to the US Army Corps of Engineers, Lake Belton Office. As of Friday, December 4, 2009 at Noon, none were returned. The newspaper printed notice of the public hearing on November 25, 2009 in accordance with state law and local ordinance.

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

1. The request complies with the Future Land Use & Character Plan for Industrial Uses provided with a Map Amendment;
2. The request complies with the Thoroughfare Plan; and
3. Available public facilities serve the site.

#### **ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Buffer Map



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

**TUESDAY, DECEMBER 8, 2009**

**ACTION ITEMS**

**Item 6A: Public Hearing, Discussion and Action Z-FY-10-06A:** Discuss and recommend action on a zoning district change request from Agricultural District (A) to Light Industrial District (LI) on 19.5± acres, situated in the McCampbell Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835, Bell County, located in the vicinity of State Highway 36 and North State Highway 317 intersection. (Applicant: Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust)

Chair Pilkington stated the Commission was asked to discuss Items 6A and 6B simultaneously but would hold two separate hearings, motions and votes.

Mr. Dolan stated if this item moved forward, it would be scheduled for December 17th for first reading and second reading would be January 7, 2010. Mr. Dolan requested these items be considered simultaneously but both items required separate public hearings, motions, and seconds.

Mr. Dolan stated the applicant requested rezoning of his property from Agricultural (A) which was annexed early 2009 to LI use. The following agenda item request for a CUP for mining/mining storage required a base zoning district of LI. This area would be dependent on the following item for the CUP. No letters have been received which opposed this request.

Mr. Dolan stated this area is south of S.H. 36. The Future Land Use and Character Plan showed this area for Agricultural rural open area and would require an amendment to the Future Land Use and Character Plan. These type of amendments are brought before the P&Z Commission on a semi-annual basis.

Mr. Dolan stated this subject property is adjacent to an area already zoned LI. Only one notice was mailed to the U.S. Army Corps of engineers and have not responded.

Staff recommended approval of the zoning district change for Z-FY-10-06A from A to LI subject to City Council approval since it required revision to the Future Land Use and Character Plan. It conformed to the Thoroughfare Plan because there is access to S.H. 36 which is an expressway and water is available to the site.

Mr. Dolan continued with the presentation for Z-FY-10-06B, the CUP request by the applicant. The Commission considered an application earlier in 2009 and this was the revised site plan which had been submitted. This area is essentially further south down 36 out towards the lake. The same schedule would follow for this item, December 17th City Council meeting for first reading and second reading approval for January 7, 2010.

Mr. Dolan stated this request was for a larger area, including the area discussed previously for the zoning case, Z-FY-10-06A, for a CUP for mining and mining storage dependent upon the previous zoning case.

Mr. Dolan stated two letters were received from property owners within the 200 foot boundary of the requested area and both were opposed to the request. Mr. Dolan stated the Commissioners also had been given approximately seven letters (emails) from property owners outside of the area which also oppose the request.

Mr. Dolan stated the contrast to the previously reviewed plan (earlier 2009), the area had now been pushed further south down S.H. 53. The maps shown to the Commission during the presentation were contingent upon the field notes submitted by the applicant as part of the registration process.

Mr. Dolan stated the Future Land Use and Character Plan showed this area for a rural/agricultural area which would require an amendment to the Future Land Use and Character Plan if the CUP were approved in association with the previous zoning case.

Mr. Dolan showed the total area for the CUP and some of the area was already zoned LI but was not part of the CUP.

Mr. Dolan went through each condition and stipulations for the Commission:

Mr. Dolan stated the Commission must consider the following items when reviewing a conditional use permit (CUP):

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;

4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Suggested CUP Conditions for Staff recommended approval of Z-FY-10-06B subject to:

- 1) The project shall proceed in substantial conformance with the plans and application materials submitted October 20, 2009, and on file except as amended by the conditions herein. The DRC deemed it complete November 15, 2009.
- 2) The field notes for the area shall be adopted as Exhibit 'A'.
- 3) The mining, mining storage, scale house and rock crusher shall be limited to the area shown on the site plan, adopted as Exhibit 'B'.
- 4) The landscape plan shall be adopted as Exhibit 'C'.
- 5) Any modification (cutting/filling etc.) of a 100-year flood plain required a separate permit from the City of Temple Engineering Office.
- 6) The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- 7) The maximum height of any stockpiles shall not exceed 30 feet and shall remain free of noxious weeds and dust.
- 8) The rock crusher shall be located 1,500 feet away from the property lines of all residential uses, schools or places of worship.
- 9) Hours of operation shall be Monday-through Friday, 7:00 a.m. to 6:00 p.m.

- 10) All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise).
- 11) Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.
- 12) Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
- 13) A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.
- 14) An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.
- 15) Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- 16) Final "as built" for all drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- 17) Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.

- 18) The applicant shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).

- a. The applicant will provide an asphalt covered road, wide enough for commercial trucks, from the scale house to the driveway entrance on SH 36.
  - b. The applicant will provide both an acceleration and deceleration lane on private property, measured a minimum of 100 linear feet by 20 feet, outside of the right-of-way, and on private property measured from the centerline of the approved driveway.
- 19) The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- 20) Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the final reports submitted to the City of Temple Fire Department.
- 21) A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall label and dimension the flood plain and floodway, have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.
- 22) The storm water facilities shall be owned and maintained by the property owner.
- 23) The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.

- 24) All rock piles will be removed from the property at time of final cessation of mining by the property owner.
- 25) The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
- 26) 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.

Mr. Dolan stated four notices to the property and two were returned in opposition and approximately seven letters from property owners outside the 200 foot area that are also opposed to the request.

Commissioner Staats stated he had questions regarding the CUP and Mr. Dolan asked if the public hearing could be opened first and then have the Commission ask their questions.

Commissioner Secrest asked if the zoning issue could be taken second and Chair Pilkington and Mr. Dolan stated no.

Chair Pilkington opened the public hearing on the Z-FY-10-06A and reiterated the 3 minute limit request for speakers.

Mr. Robert Boop, 10990 W. Highway 36, Temple, Texas. Mr. Boop owned property near this site and as before, objected to this request again. Mr. Boop stated the Commission voted this down 7 to 1 the last time and hoped they would do so again.

Mr. Boop stated this request was the same package just wrapped in different foil. A 120 acre hole will end up out there with no way to cover it up. To say it will not impact the neighborhood for development is a misstatement—would you buy a piece of property across from a 120 acre hole? It would not matter what type of screening or package, you have a 120 acre hold that will never be filled.

Mr. Boop stated he was firmly and completely opposed to this project.

Chair Pilkington reminded everyone this public hearing was on the zoning request and the CUP will be the next public hearing.

Mr. Stewart Fine, 5100 Cedar Ridge Park Road. Mr. Fine stated he grew up in Temple and had lived there most of his life. Mr. Fine stated it was “beyond” him why the City of Temple would want to put a “cancer” on the west side. It will continue to grow and afterward will be hard to treat.

Mr. Fine stated Mayor Jones was quoted by the Temple Telegram that “this rock quarry has no beneficial value to Temple.” If that is the case, why is this being considered?

Mr. Fine stated he requested a 100% vote against this idea.

Mr. Allan Einboden, 302 Mikey Lane, Temple, Texas 76502 and spoke specifically to the zoning request. This area is incompatible with the area for rezoning. Across the creek/lake is Morgan’s Point which is within hundreds of feet of this subject property and also people who live in the Moffat (Temple) area make this area either residential or agricultural at this time. This property is especially important since it represents a gateway into Temple and a visible area on the lake adjacent to a very popular park. Mr. Einboden asked the Commission to decline the zone request.

Ms. Karen Kendall, 10604 Bridgeport Drive, Temple, Texas 76502, stated an area with residential homes would probably require more schools and would recommend something other than LI.

Mr. Carroll Shell, 50 Oakridge Road, stated his big concern, along with the other concerns mentioned, were the accidents that would occur on the highway with the 100 foot turnout. This is nothing considering the size of an 18-wheeler and would create a liability. Mr. Shilling was opposed to the request.

Mr. E.L. Shelton, 101 Oakridge Road, Temple, gave a description of the current westbound and eastbound traffic and deer situations, and how problematic it would be for trucks to enter/exit the road and it would be extremely dangerous. Mr. Shelton was opposed to the request.

Mr. Steven Whitman, 116 Starlight Drive, Temple, Texas 76502, stated he currently lived across the street from a quarry and did not know this when he moved there. Mr. Whitman stated any change that would allow a quarry to go in near a residential area would be a wrong move, it is disruptive and not conducive to a desired lifestyle. Mr. Whitman asked the Commissioner to vote against this request.

Mr. Weldon Wilkerson, 15741 Lonesome Point, Moffat, and is not a citizen of Temple. Mr. Wilkerson asked the Commission to come out and see the traffic from the quarry entrance to the airport at 5:00 in the afternoon—it was a steady line of vehicles. Mr. Wilkerson stated he opposed the quarry on safety grounds and could probably hear it when blasting occurred.

Ms. Becky Shelton, 101 Oakridge Road, Temple, Texas, stated the quarry is less than a half mile from their home and would be ugly to look at if changed to a LI district. Ms. Shelton stated safety was the main concern: the buses for the handicapped and children, the residents of Gatesville driving back and forth, and the rest of the traffic.

Mr. Dwayne Atchison, 1278 Frederick Lane, Temple, Texas 76502, stated he represented the HOA in the Woods at Cedar Oaks which had approximately 120 home sites all of which are opposed to this request. Mr. Atchison stated he sent an email to the Commission which stated his concerns. Mr. Atchison stated the requested change is “ridiculous” due to aesthetics and safety is paramount. With a proposed high school being built near this location, more kids will be traveling 317 and 36 than there are today. Mr. Atchison asked the Commission to vote against this request.

Mr. John Connor, 5321 Cedar Ridge Park Road, stated he lived less than 2 miles from the subject property. Mr. Connor stated when the area was annexed approximately two years ago, the City Council and Mayor Jones said they would be there to protect the residents in the area. Mr. Connor reiterated the concerns previously mentioned by others and also the wind which constantly blew in the area would cause dust to be everywhere. Mr. Connor opposed the zoning request.

Ms. Lisa McCurley, Hill County Environmental, engineering consultant, stated she represented Mine Service and had a presentation during the CUP portion. Ms. McCurley stated since this is an existing site, it had an actual LI usage already and had been in place since the 1950s. Ms. McCurley stated it was zoned Agriculture by default but the site was being used for LI activities so it was not a green fill site changing over to industrial—it was already industrial.

Mr. Mark Woods, owner and part-time resident of the subject property, stated he also had a home in New Braunfels, 5357 FM 306. Mr. Woods stated the property had been a quarry for many years and was in operation about 5-6 years ago. Mr. Woods’ father acquired the property approximately 15 years ago and his intention at that time was to utilize it at some time in the future for a quarry. Mr. Woods stated as the quarry were mined out it would be allowed to fill with water and become an extension of the lake, which would definitely improve the overall aesthetics.

Mr. Woods stated with respect to safety, he “could not imagine TxDOT would give them a permit to get on and off the property if it were not safe.”

Vice-Chair Talley asked if there would be fencing in any way, shape, or form around the whole area for keep people off.

Mr. Woods stated the property was already fenced and people still go into the property and is difficult to stop people from climbing fences.

Vice-Chair Talley asked how long the fence had been there and Mr. Woods stated as long as they have had the property, making it approximately 15 years old.



Mr. Woods stated occasionally Lake Belton would flood the property and fences are knocked down or knocked down by cars so sometimes there is no fencing but it was not intentional.

Vice-Chair Talley asked if within the last month or so had any blasting occurred and Mr. Woods stated "no sir." Mr. Woods also stated the last time this issue was brought up he read some erroneous information put forward that there was blasting, however, he went out there then and it was obvious to him there had been no blasting. Mr. Woods stated "it would be foolish to blast without a permit" and there had been no evidence of blasting.

Vice-Chair Talley stated he spoke with a resident in Morgan's Point that stated blasting had occurred on the 2nd and 3rd of December and Mr. Woods stated she must be "confused" since there was no evidence of any blasting and then invited the City to go out and inspect the area.

There being no further speakers, Chair Pilkington closed the public hearing.

Commissioner Staats asked what other uses are allowed in LI and Mr. Dolan responded more major automotive uses, more construction maintenance and contractor storage.

Vice-Chair Talley asked if the zoning did not change, would the 10-06B still operate and Mr. Dolan stated it would be a smaller geographical area.

Commissioner Martin made a motion to approve of the zone change from A to LI for Z-FY-10-06A and Commissioner Hurd made a second.

*Motion failed: 3:4*

*Commissioners Martin, Hurd and Vice-Chair Talley voted Yes*

*Commissioners Staats, Pope, Secrest and Chair Pilkington voted No*

*Commissioners Dusek and Barton absent*

Mr. Dolan stated this item would be scheduled for December 17th City Council meeting.

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

[PLANNING NO. Z-FY-10-06A]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO LIGHT INDUSTRIAL DISTRICT (LI) ON APPROXIMATELY 19.5 ACRES, SITUATED IN THE McCAMPBELL SURVEY, ABSTRACT NO. 529 AND THE ELIAS TUTTLE SURVEY, ABSTRACT NO. 838, BELL COUNTY, LOCATED IN THE VICINITY OF THE STATE HIGHWAY 36 AND NORTH STATE HIGHWAY 317 INTERSECTION; 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 Light Industrial District (LI) on approximately 19.5 acres, situated in the McCampbell Survey, Abstract No. 529 and the Elias Tuttle Survey, Abstract No. 835, Bell County, located in the vicinity of the State Highway 36 and North State Highway 317 intersection, 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 **17<sup>th</sup>** ay of **December**, 2009.

PASSED AND APPROVED on Second Reading on the **7<sup>th</sup>** day of **January**, 2010.

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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12/17/09  
Item #11  
Regular Agenda  
Page 1 of 3

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

Tim Dolan, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – Z-FY-10-06-B: Consider adopting an ordinance for a Conditional Use Permit (CUP) for mining and mining storage on a 123.2 ± acre tract of land located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529, the Daniel Meador Survey, Abstract No. 577, and the Elias Tuttle Survey, Abstract No. 835, Bell County, Texas.

**PLANNING AND ZONING COMMISSION RECOMMENDATION:** At its December 8, 2009 meeting, the Planning and Zoning Commission voted 7/0 to deny the applicant's request for a Conditional Use Permit (CUP) for mining and mining storage. The Commission listened to testimony about dust, noise, adjacency compatibility, traffic safety and water quality criteria for a conditional use permit, with the Commission discussing the compatibility with and the use and enjoyment and property values within the immediate vicinity; and if the establishment of the conditional use would impede the normal and orderly development and improvement of surrounding vacant property. The Commissioners also stated the number of conditions requested by Staff, while thorough for the CUP, could be difficult to monitor for compliance by the applicant or Staff.

Commissioners Barton and Dusek were absent.

**STAFF RECOMMENDATION:** Consistent with the Commission's recommendation, Staff recommends denial of the request. If the Council recommends the adoption of the ordinance as presented, on first reading, the second reading and final adoption will be scheduled for January 7, 2010.

**ITEM SUMMARY:** The unanimous recommendation for denial by the Planning & Zoning Commission requires a three-fourths vote of all members of the City Council to over rule the Commission's recommendation. (Section 16-102, Override of Planning & Zoning Commission Denial Recommendation, City of Temple Zoning Ordinance).

Please refer to the Staff Report and draft minutes of case Z-FY-10-06B, from the Planning and Zoning meeting, December 8, 2009. The Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust submitted the application November 12, 1999 for a conditional use permit (CUP) for

mining and mining storage of limestone for the subject property located off Airport Highway, north of SH 317. The site is the location of an existing quarry. The applicant has requested the owner's permission to continue mining the area. The applicant submitted a new site plan, as a CUP exhibit, which differs in size from the plan voluntarily tabled last year. The new plan shows an area, approximately 1,200± feet south along SH 36 compared to the previously submitted plan tabled by the applicant. This area is approximately 104± acres. The applicant has requested to expand the CUP area to include a 19.5± acre site to the south, backing up to Lake Belton (See Agenda Item #10) for a total of 123.3± acres. The Commission voted 4-3 to deny this request also.

The site plan and accompanying plans will be adopted as Exhibit 'B' which shows the locations where the quarrying, storage, rock crushing, silt fences, berms, etc will be placed, an asphalt covered road from the scale house to the SH 36 driveway, and deceleration and acceleration lanes located on private property. The landscape plan will be adopted as Exhibit 'C' which shows a 200' wide buffer along SH 36 to be supplemented by cedar trees and switch grass.

The applicant will use the mine for a source of needed materials for an energy plant outside of Bell County. The applicant states that mining and extraction operations will be sited and designed to minimize conflicts with adjacent land uses, and to have a minimal impact on critical habitats, natural vistas, cultural resources and the environment. The applicant has also applied for an air quality permit with the Texas Commission on Environmental Quality, Registration Number 87255, Customer Number CN602311896 and the Regulation Entity Number RN105672588. The applicant has been working with the US Army Corps of Engineers for a flowage easement across the property next to Lake Belton.

The applicant will need to ensure that mining sites and associated off-site stockpiles are maintained during the life of the operation, particularly in regard to the control of noxious weeds and dust. Any reclamation of mining and extraction sites is an integral part of all mining operations, and will be required and completed in a manner that will encourage future land uses that are compatible with local comprehensive plans. All road construction projects shall meet or exceed the minimum requirements for storm water runoff.

The City Council must consider the following items when reviewing a conditional use permit (CUP):

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;

6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Public Notice

Four notices were sent out for the Planning & Zoning Commission. As of Monday, December 8, 2009 at noon, two were returned opposing the request. A total of seven responses, from outside the notification area of 200', were received opposing the request. The newspaper printed notice of the public hearing on November 25, 2009 in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Site Plans](#)

[Landscape Plan](#)

[Additional Information Delivered to Council December 15, 2009](#)

[P&Z Staff Report \(Z-FY-10-106B\)](#)

[P&Z Minutes Excerpts \(December 8, 2009\)](#)

[Ordinance](#)

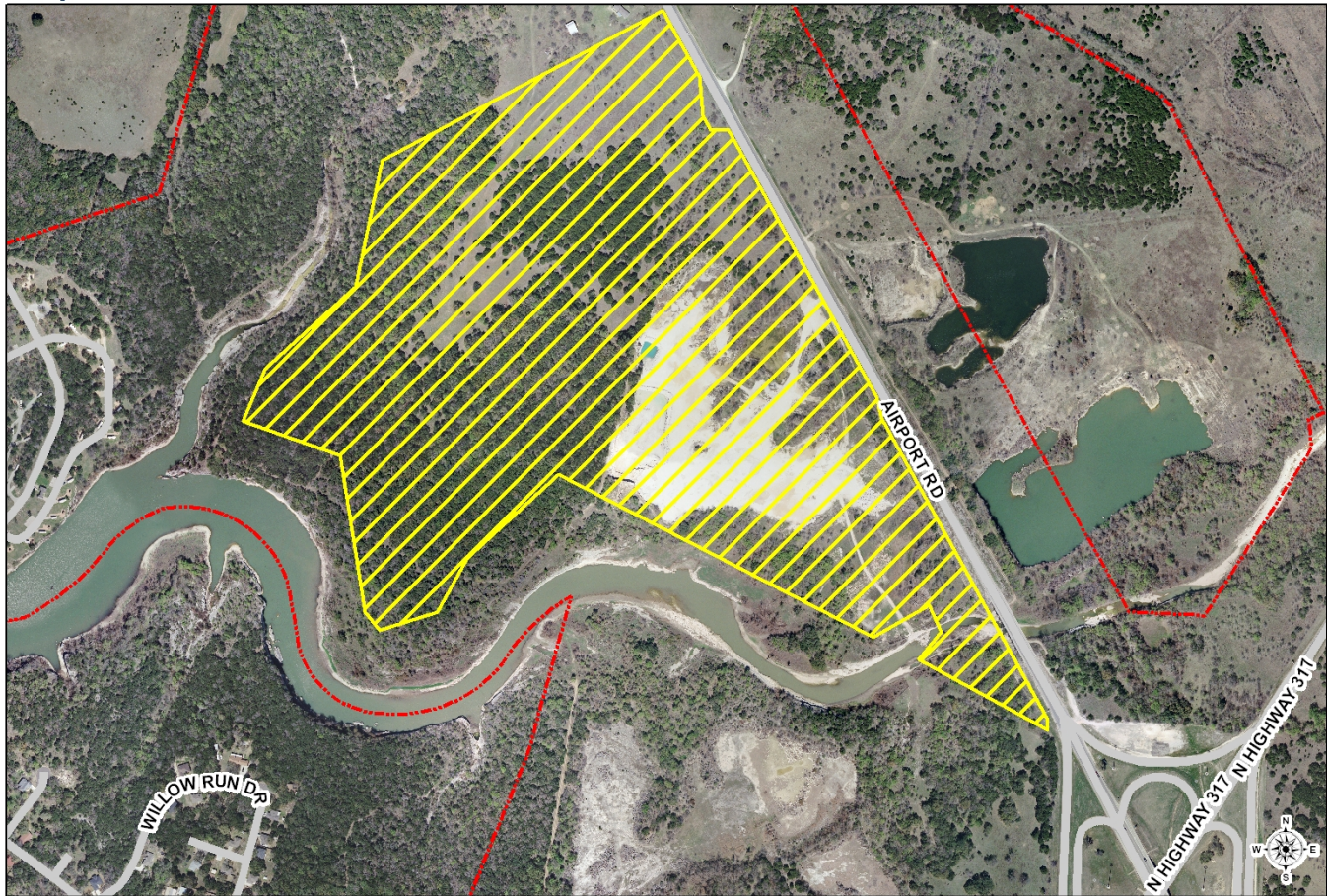




Z-FY-10-06

OB# 2088-A & 2088-B

Quarry



ZFY1006



Temple Boundary

1 inch = 600 feet

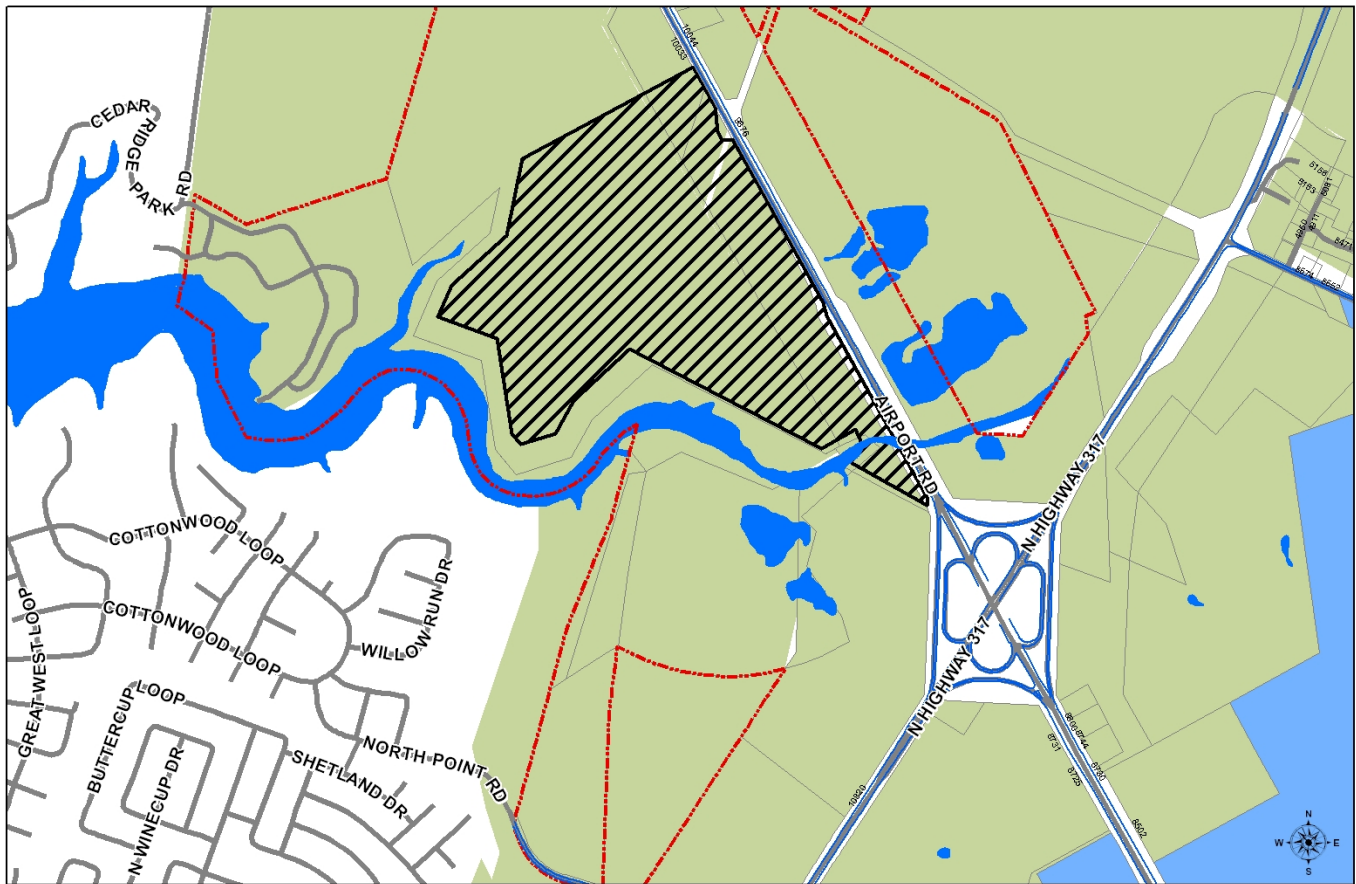
J Stone 10.26.09



Z-FY-10-06

OB# 2088-A & 2088-B

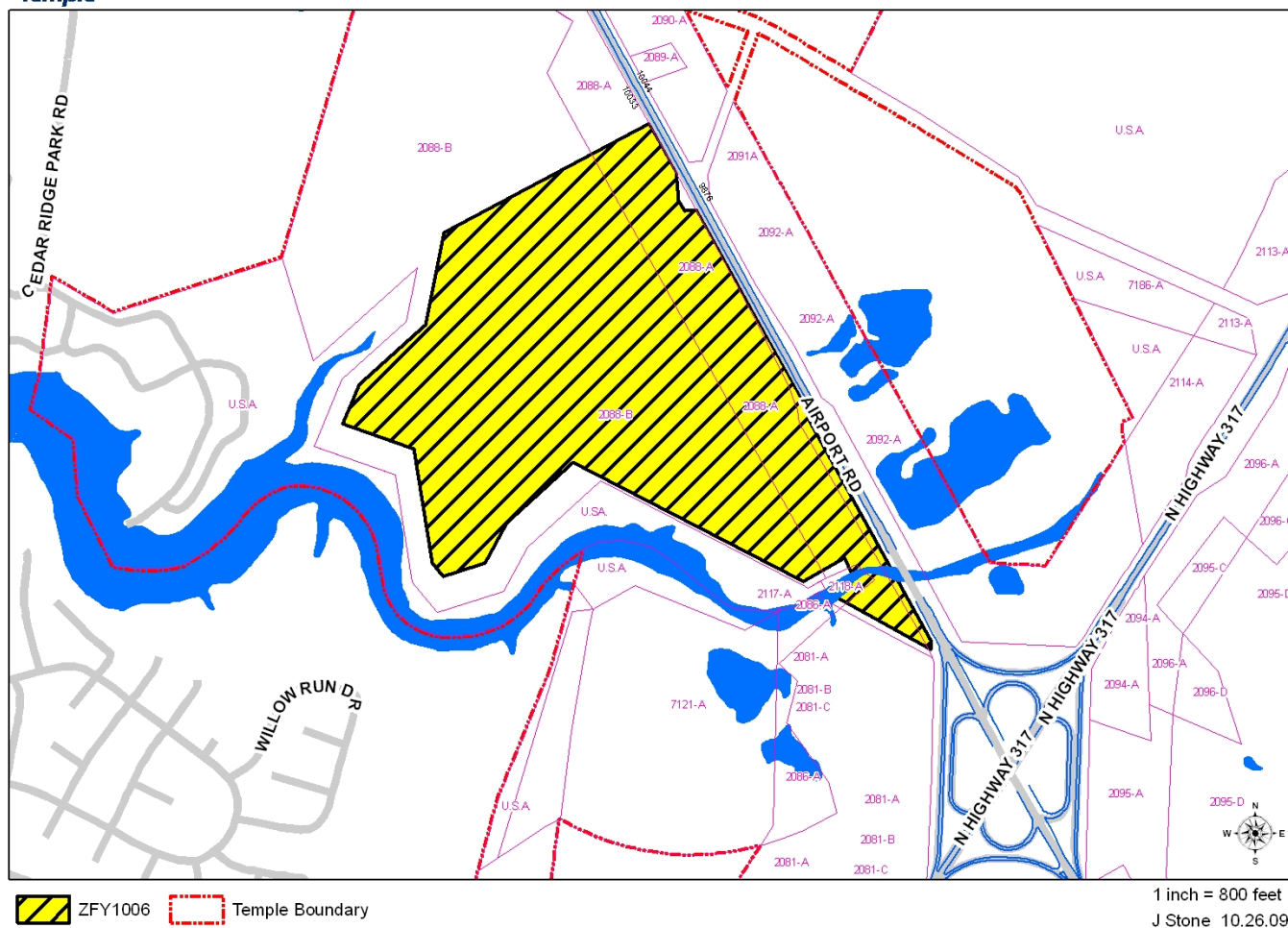
Quarry



- |                     |                           |                         |                       |                                   |                      |
|---------------------|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| Temple Boundary     | Neighborhood Conservation | Auto-urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional |
| side GIS H2O_Bodies | Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks and Open Space |
| ZFY1006, <Null>     | Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business park                     | Agricultural/Rural   |

1 inch = 1,000 feet  
J Stone 10.26.09



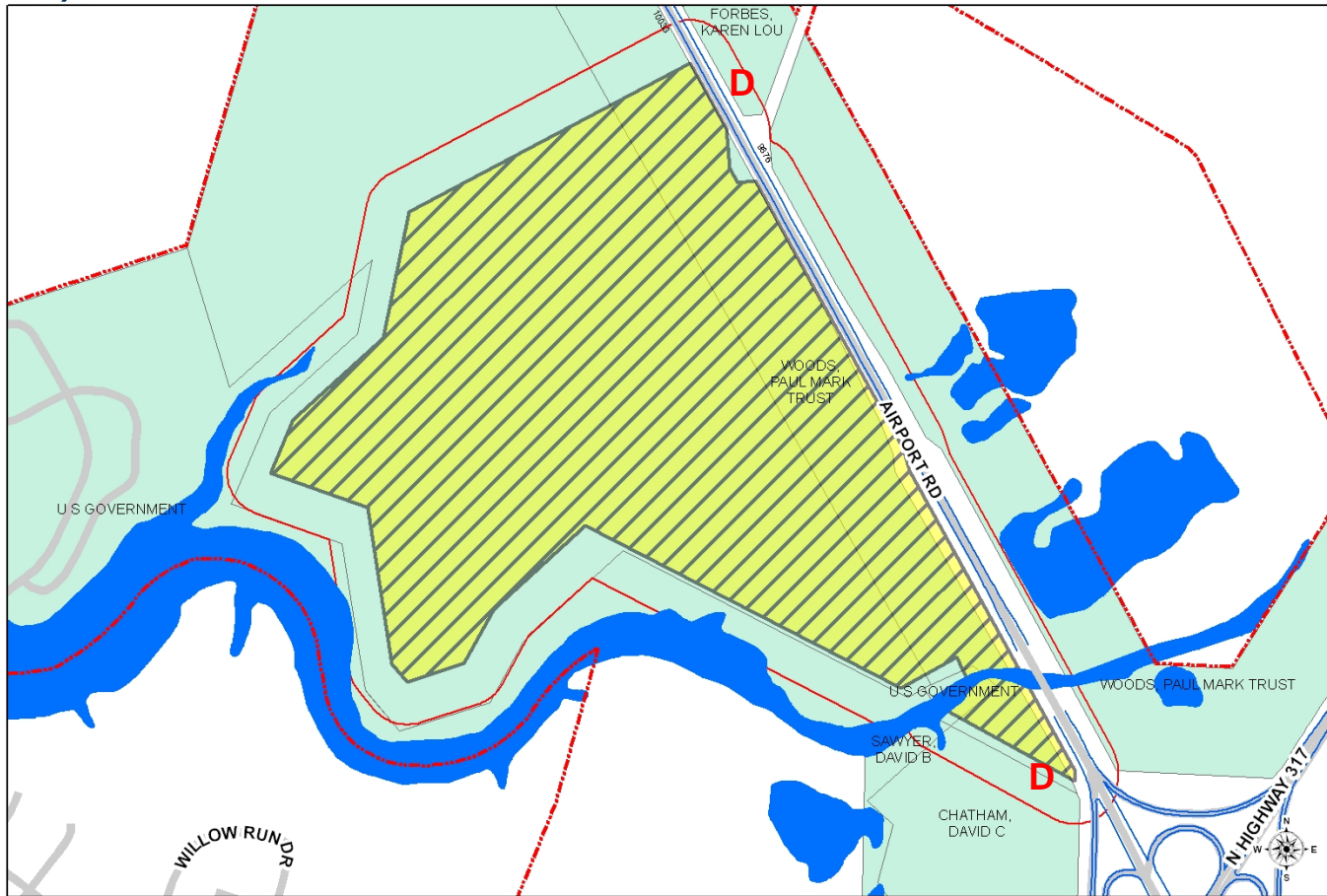




Z-FY-10-06

OB# 2088-A & 2088-B

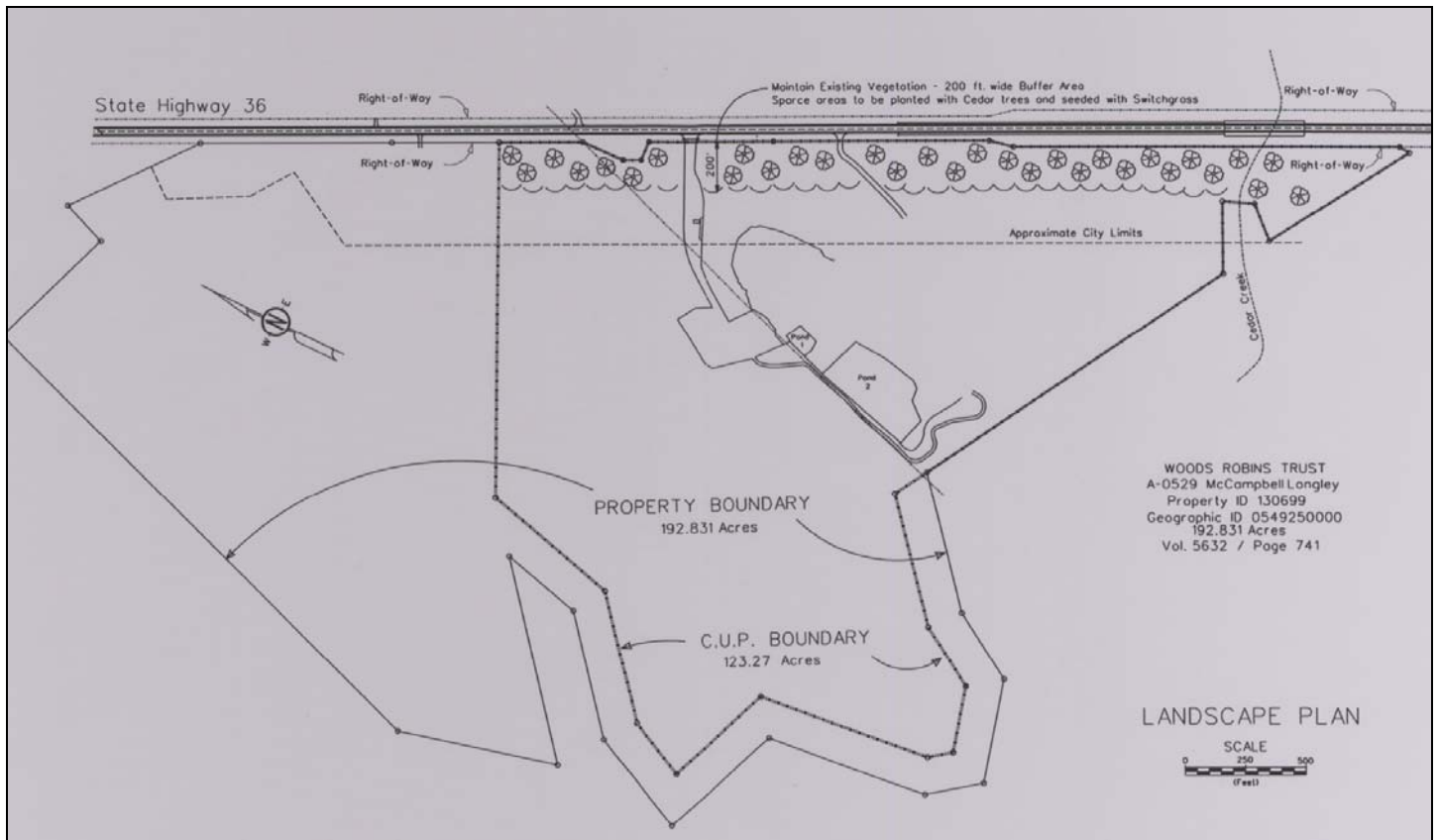
Quarry



Temple Boundary ZFY1006 ZFY1006

1 inch = 600 feet  
J Stone 10.26.09









**To:** Mayor & City Council

**From:** D. Blackburn, City Manager

**Date:** December 15, 2009

**Re:** December 17<sup>th</sup> City Council Meeting/ Agenda Item #11 / Z-FY-10-06-B /  
CUP for mining and mining storage on SH36

I have had some requests for additional information relating to Item #11 on your regular agenda. Please find attached:

- Map showing distances from the quarries to single family developments;
- Map showing area traffic counts around the quarries;
- Map showing traffic accident data around the quarries;
- Code Enforcement has received one complaint (dust) over the past 12 months relating to the Miller Springs Quarry. Temple Fire & Rescue periodically receives complaints regarding blasting activities. There are no records to produce regarding these complaints;
- A copy of the annual blasting permit for Miller Springs Quarry and an excerpt from Code of Ordinances, Chapter 12, regarding Extraction Operations Regulations;
- A spreadsheet and map from Finance indicating residential property value experience near Miller Springs Quarry over the past 12 years on ten randomly selected properties;
- Copies of emails/letters received since the December 8<sup>th</sup> PZC meeting relating to the SH36 quarry

We will also have the maps available for presentation on the screens in Chambers, if requested.

If there is additional information, or questions about any of the information provided, feel free to give me a call.

Xc: EXO  
Director of Planning

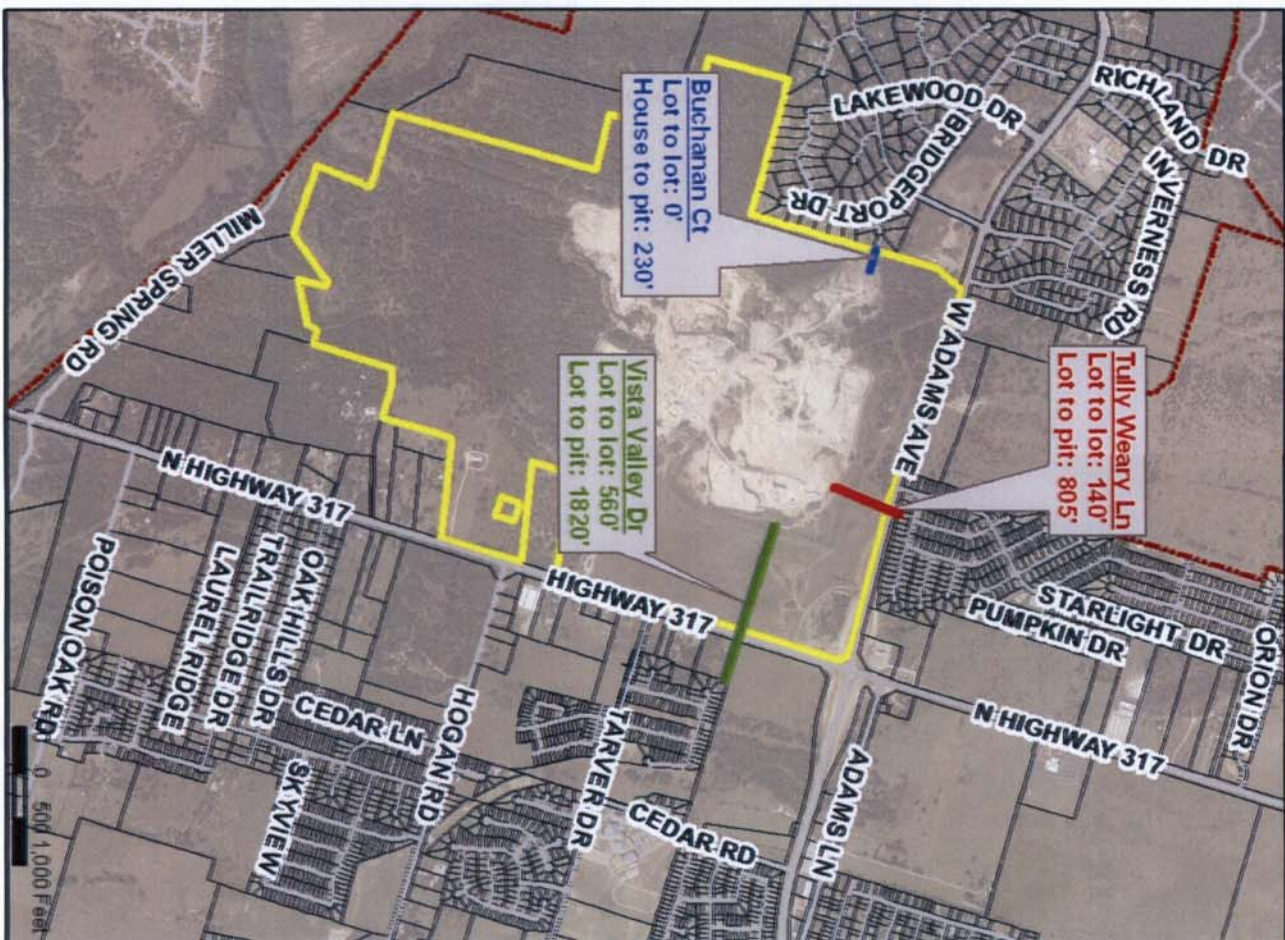




Z-FY-10-06B

Distances to Single Family Developments

Quarry Expansion



Temple Boundary  
Millers Quarry Site  
Proposed CUP Site

J Stone 12.11.09

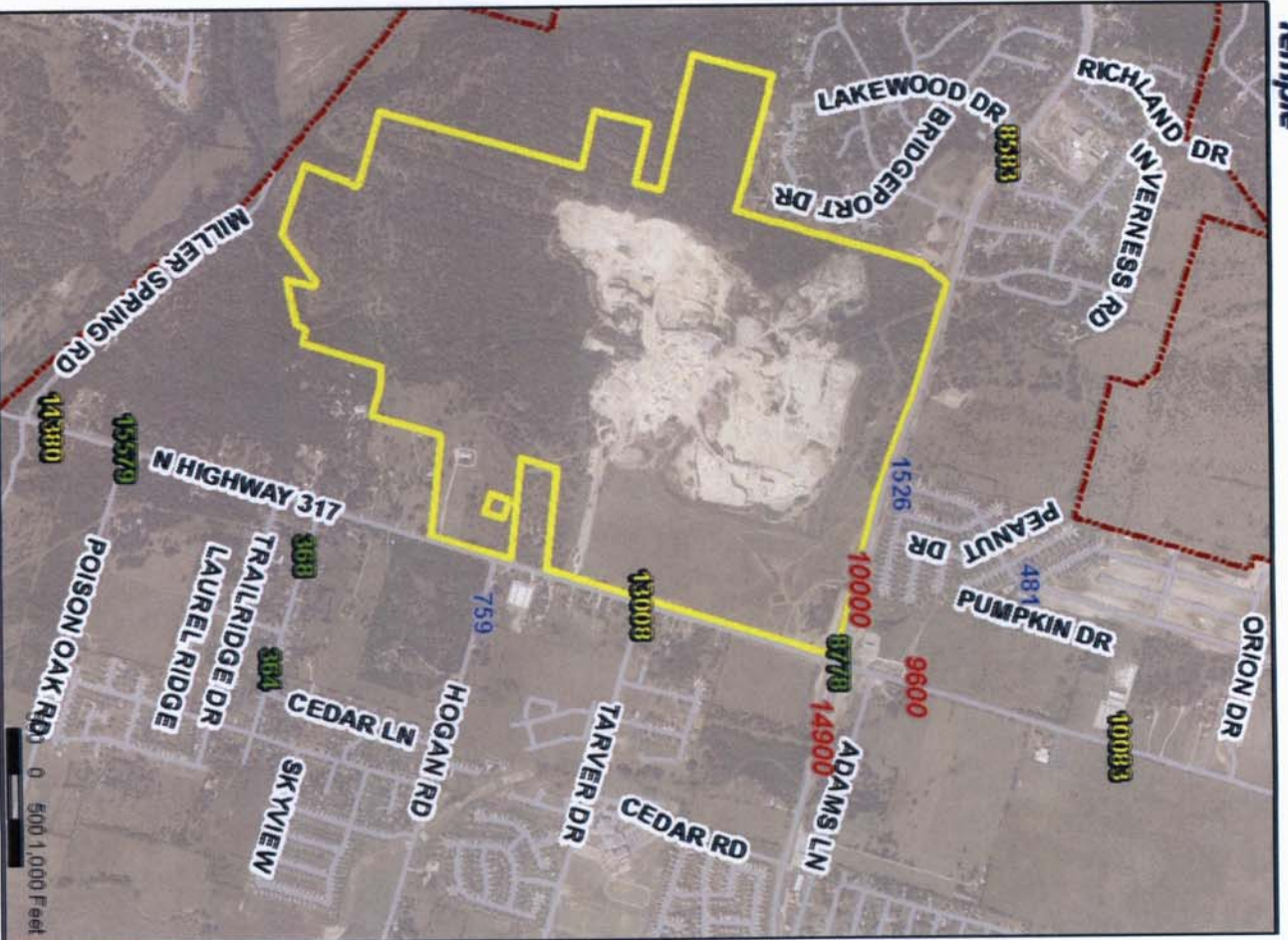




**Z-FY-10-06B**

Area Traffic Counts

Quarry Expansion



Temple Boundary

COT 2006 Counts

COT 2007 Counts

COT 2007 Counts

TxDOT 2008 Counts

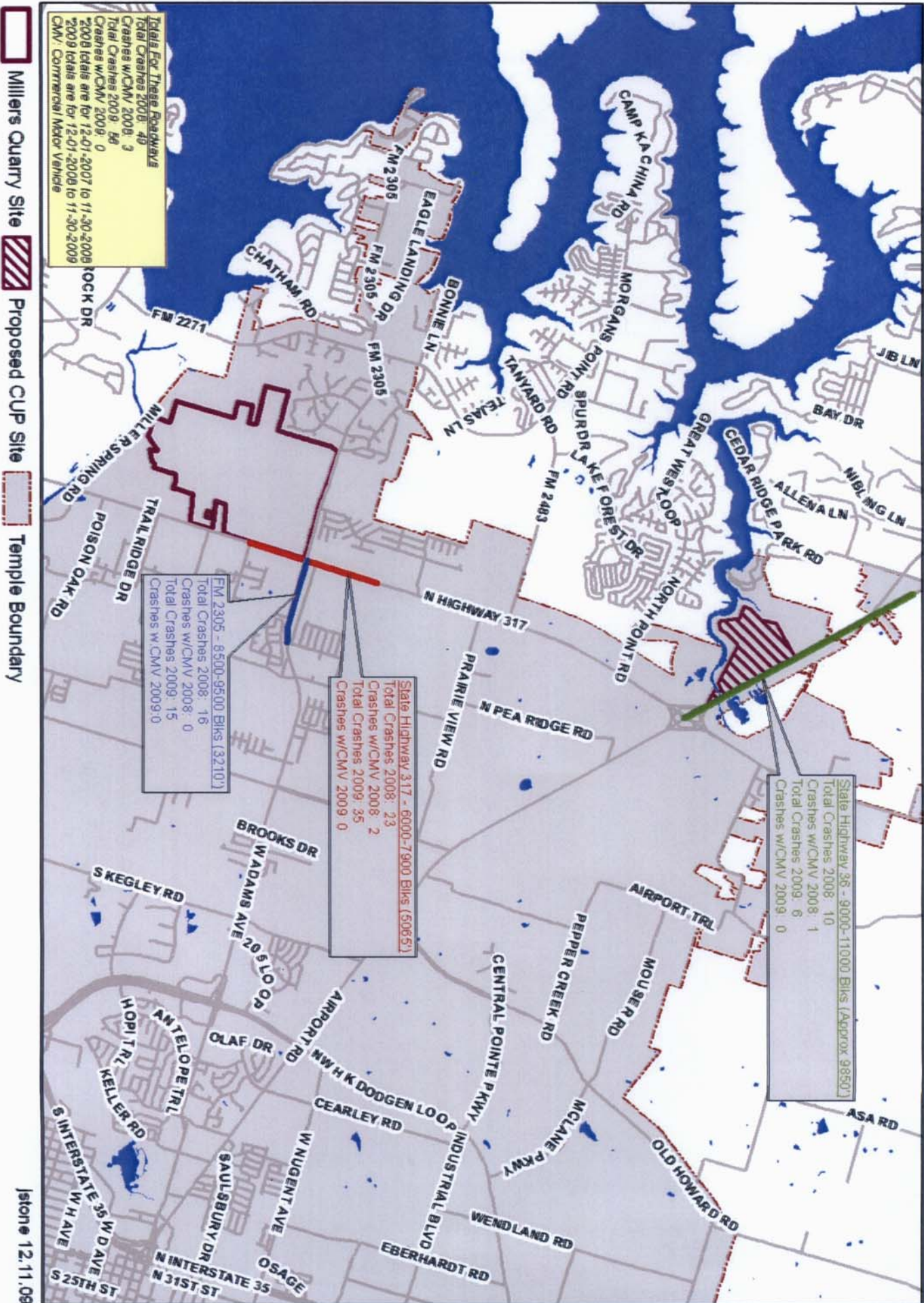




Z-FY-10-06B

Traffic Accident Data

Proposed Quarry Expansion







# BLASTING LICENSE CITY OF TEMPLE, TEXAS

No. 10-00000964

One Time Use ☐

Date Issued: October 26, 2009

Annual ☒

Expiration Date: November 18, 2010

NAME OF BUSINESS: MILLER SPRINGS MATERIALS

NAME OF RESPONSIBLE PARTY: MILLER AMERICAN

PHYSICAL LOCATION OF BLAST: 6218 N 317 HWY  
TEMPLE TX 76502

This license has been issued in accordance with the provisions set forth in Chapter 12 of the Code of Ordinances of the City of Temple, Texas.

City Secretary

This license or a copy of it shall be at the location of the blast and shall remain at the location if it is an annual license.

CITY OF TEMPLE  
\*\*\* CUSTOMER RECEIPT \*\*\*  
Date: 10/26/09 01 Receipt no: 18681

Description	Quantity	Amount
2010	964	
OR LICENSE - RENEWAL	1.00	\$1015.00
Trans number:		1194237
MILLER SPRINGS MATERIALS		

Tender detail		
CK CHECK - L	12759	\$1015.00
Total tendered		\$1015.00
Total payment		\$1015.00

Trans date: 10/26/09 Time: 16:14:42

\*\*\* THANK YOU FOR YOUR PAYMENT \*\*\*

TRACI L. BARNARD, DIRECTOR OF FINANCE

**EXCERPT FROM CODE OF ORDINANCES, CHAPTER 12 –  
FIRE PREVENTION & PROTECTION**

- (11) Fire hydrants, when placed at intersections or access drives to parking lots, when practical, shall be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
- (12) Post, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (13) Fire hydrants located on private property shall be accessible to the fire department at all times and free of any type of obstruction that would hinder their use (e.g., vegetation). A 3-foot clear space shall be maintained around the circumference of fire hydrants.
- (14) The fire code official shall have the authority to approve a variance of up to ten percent (10%) of the footage requirements found at Sec. 12-16, B, parts (1) and (2).

(d) *Maintenance.*

- (1) All fire hydrants shall be inspected, flushed and painted at least once annually and such inspections, flushing and painting shall be the responsibility of fire & rescue. Fire hydrants shall be color coded as follows:

- i. Less than 500 gpm – Red Bonnet
- ii. 500-999 gpm – Yellow Bonnet
- iii. 1000-1499 gpm – Green Bonnet
- iv. Over 1500 gpm – Blue Bonnet

- (2) Any maintenance or repairs require to keep a fire hydrants in proper working order, other than the maintenance found at a subsection above, shall be the responsibility of the property owner or manager of the property on which the fire hydrant is located.

(e) *Use; opening and closing.* The fire chief shall prescribe the manner in which all fire hydrants shall be opened or closed. No person shall open or close any fire hydrant unless authorized to do so by the chief.

**Sec. 12-17. Extraction Operations Regulations**

(a) *Purpose.*

- (1) In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the regulations in this section are applicable to extraction operations.
- (2) This section shall apply to all extraction operations conducted within the city or within 5000 feet of the city limits.

(b) *Definitions.*

In this section:

*Blasting* shall mean the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives or blasting agents.

*Extraction operations* shall mean the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

*Extraction site* shall mean the location of materials or rock removal or extraction operations as delineated by a site plan or a certificate of occupancy.

*Regulatory authority* shall mean the city.

(c) *Blasting.* All blasting activity that falls within the scope of this section shall comply with the following provisions;

(1) Permit required.

- i. An appropriate blasting or explosives permit must be acquired from the regulatory authority prior to any blasting activity or preparation for blasting activity at an extraction site.
- ii. A blasting or explosives permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- iii. The extraction site operator, or designated representative, may apply for a blasting or explosives permit in accordance with the following procedures:
  - a. The applicant shall submit a completed permit application form and fee, as required by the regulations contained in the 2006 International Fire Code, as adopted and amended by



the city. The permit fee shall be in an amount set by resolution of the city council.

- b. The fire code official shall have thirty (30) days in which to approve or deny a permit application.
- c. Any party aggrieved by the denial of a permit or inaction by the fire code official may appeal such decisions to the Building Board of Appeals, in writing. Upon receipt of an appeal notification, the Board shall take the actions required to review the appeal, in accordance with the 2006 International Fire Code.
- d. The application shall contain the following information:
  - 1. Name of the operator(s) conducting the blasting;
  - 2. Identification of extraction site;
  - 3. Description of conditions, if any, which may cause possible adverse blasting effects;
  - 4. Normal extraction operations schedule;
  - 5. Type of explosives or blasting agents to be used;
  - 6. Type of stemming;
  - 7. Name(s) of licensed blasters on the job;
  - 8. Copy of Mine Safety Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.
  - 9. Copy of Insurance Certificate of Blasting Liability Coverage

(2) Insurance required.

- i. Before a permit is issued, the applicant shall obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance shall name the city as an additional insured with a waiver of subrogation in favor of the city. The policy shall contain a provision requiring the insurance company to furnish the city with thirty (30) days advance written notification on any cancellation or non-renewal of the policy.

- ii. Evidence of compliance with this requirement shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, the fire code official. Such policy shall include an endorsement that the fire code official shall be notified at least thirty (30) days in advance in the event the policy or policies are canceled. The city may cancel a permit for any violation of this section.
- (3) Regulatory Compliance. All blasting operations located within an extraction site shall comply with the applicable provisions of the 2006 International Fire Code and with this section, as well as all applicable local, state, and federal regulations concerning industrial noise and dust levels and applicable drainage, water and air standards.
- (4) Annual permit renewal required.
  - i. In addition to compliance with local, state, or federal regulations, the operator shall be required to comply with the provisions of this section by renewing a permit annually before the anniversary date of the permit.
  - ii. Upon renewal, the extraction site operator shall:
    - a. certify in writing that the blasting activities at the permitted extraction site are anticipated to remain materially unchanged from the activities described on the permit application; or
    - b. provide all relevant information relating to material changes at the permitted extraction site to the fire code official for review;
    - c. pay the annual permit fee; and
    - d. file a current certificate of insurance which complies with this section.
  - iii. A blasting permit will remain in force and effect, provided that the blasting activities at the extraction site specified in the permit are anticipated to remain materially unchanged, the permittee has complied with the requirement of this section during the preceding permit year, and the annual renewal requirements have been met.
- (5) Hours of operation. The hours during which extraction operations may take place by blasting shall be at any time during the hours between 8:00 a.m. and 5:00 p.m. Extraction by blasting shall be prohibited on Saturdays, Sundays, and legal holidays unless a variance is obtained from the fire code official based upon public safety concerns or extraordinary economic considerations.



(6) Monitoring of Blasting.

- i. The extraction site operator shall monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity, as required by state and federal law. The extraction site operator shall conduct independent monitoring of blasting events, if directed, and to the extent and frequency reasonably required by the regulatory agency.
- ii. Information generated in the form of reports or other data from this monitoring shall be submitted to the fire code official within seventy-two (72) hours of each blasting event.
- iii. Monitoring information shall include:
  - a. actual date and time of the blast;
  - b. type of explosives or blasting agents used;
  - c. technical data and material safety data sheets for all explosives or blasting agents used;
  - d. total pounds of explosives used in each blast;
  - e. number, spacing, stemming and depth of holes;
  - f. maximum pounds per delay;
  - g. firing sequence, delay sequence, and typical hole load diagrams;
  - h. location and distance of extraction operation from seismographs;
  - i. weather conditions at time and location of blast;
  - j. seismograph data;
  - k. and ground vibrations or air blast records which shall include:
    1. Type of instrument, sensitivity and calibration signal of certification of annual calibration.
    2. Exact location of instrument and the date, time and distance from the blast;
    3. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
    4. The vibration and air blast level recorded.

- (7) Safety Standards. The extraction site operator is responsible and required to comply with all applicable provisions of any state or federal law or applicable regulations promulgated by the Occupational Safety Health Administration (OSHA), Mine Safety Health Administration (MSHA), Alcohol, Tobacco, and Firearms (ATF), or any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(8) Records and Inspections.

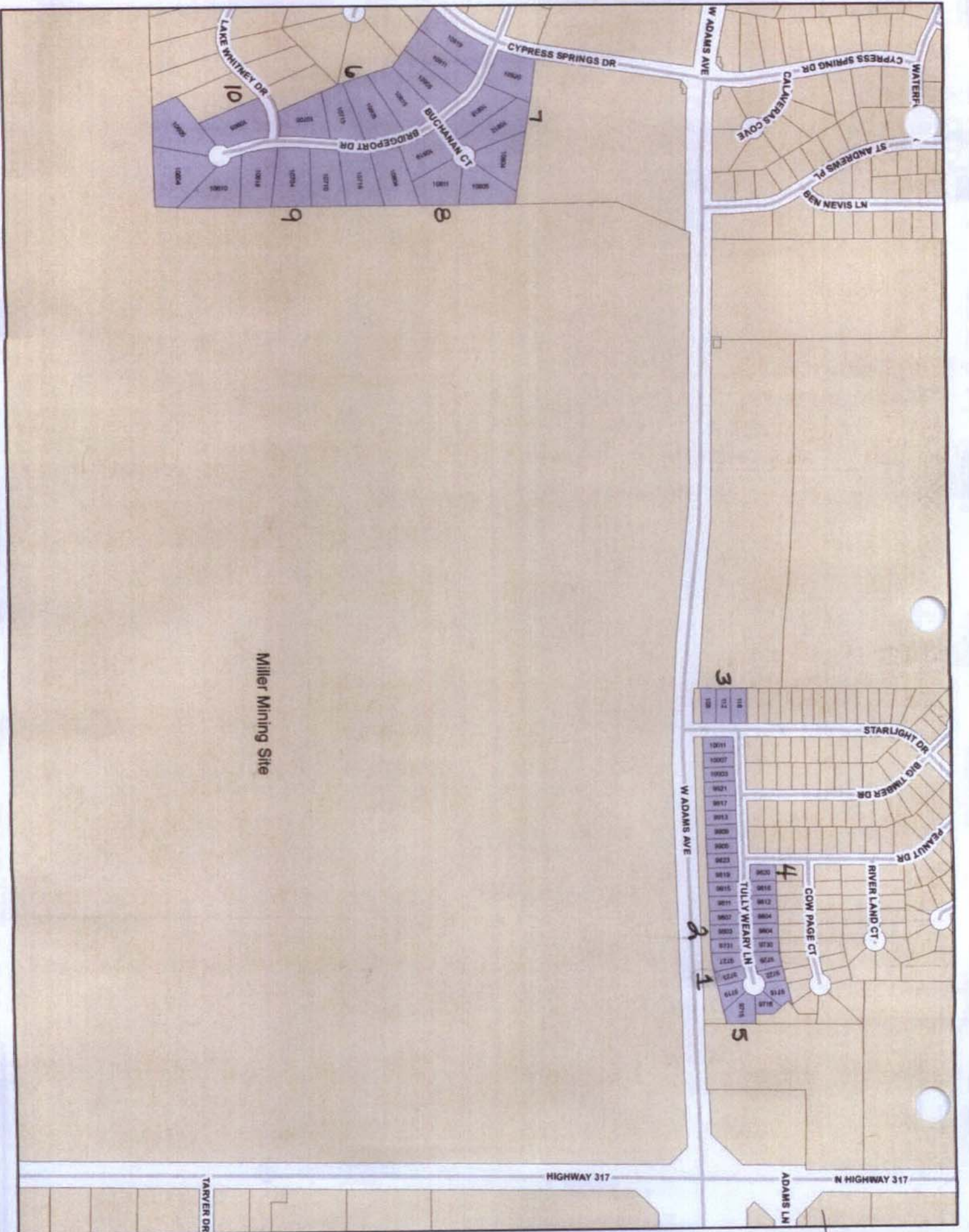
- i. The holder of a blasting permit shall make the extraction operations site available to the fire code official for inspection at all times during regular business hours.
- ii. The permittee shall retain a record of blast and monitoring information for at least the past five (5) years to include date of a blast.
- iii. All records, including monitoring records referenced in subsection (vi)(c) above, relating to blasting activities shall be made available to the fire code official during normal business hours within seventy-two (72) hours of request.

(d) *Control of Adverse Effects.*

1. Air Blast (Noise) Limits. For the purpose of this section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations shall be measured by the air blast created thereby. Air blast shall not exceed 134 dB peak ( $\pm$  3dB) at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (e) of this section.
2. Ground vibration. In all blasting operations, except as otherwise authorized in subsection (e) below, the maximum ground vibration shall not exceed one (1) inch per second at the location of any dwelling.
3. Monitoring Requirement. The operator shall conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the extent required this section.
4. Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
5. Exception. The maximum air blast and ground-vibration standards of this section shall not apply at the following locations:
  - i. At structures owned by the permittee and not leased to another person;
  - ii. At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.



											Historical Value by Tax Year											
											2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
SUBDIVNAM	addr_lines3	addr_city	addr_zip																			
LAKEWOOD RANCH VII	10604 BRIDGEPORT DR	TEMPLE	76502-6466																			
LAKEWOOD RANCH VII	10605 BRIDGEPORT DR	TEMPLE	76502-6467																			
LAKEWOOD RANCH VII	10610 BRIDGEPORT DR	TEMPLE	76502-6466																			
LAKEWOOD RANCH VII	10905 LAKE WHITNEY DR	TEMPLE	76502-6475	N/A	209,999	238,617	230,825	223,102	210,686	185,451	185,451	185,451	185,451	166,513	166,513	174,689						
LAKEWOOD RANCH VI	10616 BRIDGEPORT DR	TEMPLE	76502-6466																			
LAKEWOOD RANCH VI	10704 BRIDGEPORT DR	TEMPLE	76502	N/A	232,129	232,129	207,416	205,888	205,417	196,939	196,939	205,417	154,742	12,600	12,600	12,600						
LAKEWOOD RANCH VI	10710 BRIDGEPORT DR	TEMPLE	76502-6468																			
LAKEWOOD RANCH VI	10705 BRIDGEPORT DR	TEMPLE	76502-6469																			
LAKEWOOD RANCH VI	10715 BRIDGEPORT DR	TEMPLE	76502-6469																			
LAKEWOOD RANCH VI	10716 BRIDGEPORT DR	TEMPLE	76502-6468																			
LAKEWOOD RANCH VI	10804 BRIDGEPORT DR	TEMPLE	76502-6470																			
LAKEWOOD RANCH VI	10805 BRIDGEPORT DR	TEMPLE	76502-6471	N/A	303,943	304,428	296,103	278,760	246,208	237,662	237,662	206,001	138,776	138,776	145,376							
LAKEWOOD RANCH VI	10815 BRIDGEPORT DR	TEMPLE	76502-6471																			
LAKEWOOD RANCH VI	10819 BUCHANAN CT	TEMPLE	76502-6465																			
LAKEWOOD RANCH VI	10811 BUCHANAN CT	TEMPLE	76502-6465	N/A	224,481	226,516	217,075	196,179	190,665	182,295	182,295	190,665	149,434	149,434	154,465							
LAKEWOOD RANCH VI	10905 BRIDGEPORT DR	TEMPLE	76502-6473																			
LAKEWOOD RANCH VI	10911 BRIDGEPORT DR	TEMPLE	76502-6473																			
LAKEWOOD RANCH VI	10805 BUCHANAN CT	TEMPLE	76502-6465																			
LAKEWOOD RANCH VI	10919 BRIDGEPORT DR	TEMPLE	76502-6473																			
LAKEWOOD RANCH VI	10804 BUCHANAN CT	TEMPLE	76502-6464																			
LAKEWOOD RANCH VI	10818 BUCHANAN CT	TEMPLE	76502-6464																			
LAKEWOOD RANCH VI	10812 BUCHANAN CT	TEMPLE	76502	N/A	179,930	179,930	180,010	178,724	171,948	164,469	180,102	188,388	133,491	133,491	81,077							
LAKEWOOD RANCH VI	11121 WHITE ROCK DR	TEMPLE	76502-6459																			
WINDMILL FARMS PH I	9719 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9723 TULLY WEARY LN	TEMPLE	76502	N/A	172,552	175,335	7,536	2,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A						
WINDMILL FARMS PH I	9715 TULLY WEARY LN	TEMPLE	76502	N/A	165,994	168,523	9,973	2,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A						
WINDMILL FARMS PH I	9722 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9803 TULLY WEARY LN	TEMPLE	76502	N/A	136,135	138,265	7,150	2,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A						
WINDMILL FARMS PH I	9807 TULLY WEAR LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9811 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9815 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9716 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9819 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9823 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9805 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9809 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9718 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9722 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9726 TULLY WEARY	TEMPLE	76502																			
WINDMILL FARMS PH I	9913 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9730 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9917 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9804 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9921 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9804 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	10003 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	9812 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	10007 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	PO BOX 2834	PORTLAND	97208-2834																			
WINDMILL FARMS PH I	9816 TULLY WEARY LN	TEMPLE	76502																			
WINDMILL FARMS PH I	3000 ILLINOIS AVE	STE 10																				



Miller Mining Site





**RESPONSE TO PROPOSED ZONE CHANGE  
WITH CONDITIONAL USE PERMIT  
CITY OF TEMPLE**

David C. Chatham  
10820 North State Highway 317  
Belton, Texas 76513

Zoning Application Number: Z-FY-10-06-B

Project Manager: Tim Dolan

Proponent/Applicant: Paul Mark Woods Trust / Thomas Parker

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow mining and storage of mining materials. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval ☒ denial of this request.

Comments: This will destroy the scenic beauty and value of your property.

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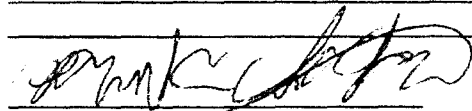
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(Signature)

DAVID C CHATHAM  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than December 8, 2009.

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

DEC 01 2009

City of Temple  
Planning & Development

Number of Notices Mailed: 4

Date Mailed: November 25, 2009



**RESPONSE TO PROPOSED ZONE CHANGE  
WITH CONDITIONAL USE PERMIT  
CITY OF TEMPLE**

Karen Lou Forbes  
10044 Airport Road  
Temple, Texas 76502

Zoning Application Number: Z-FY-10-06-B

Project Manager: Tim Dolan

Proponent/Applicant: Paul Mark Woods Trust / Thomas Parker

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow mining and storage of mining materials. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval (✓) denial of this request.

Comments:

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Karen Forbes  
Mark Forbes  
(Signature)

KAREN FORBES  
MARK FORBES  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than December 8, 2009.

**RECEIVED**

DEC 07 2009

City of Temple  
Planning & Development

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

Number of Notices Mailed: 4

Date Mailed: November 25, 009

## Clydette Entzminger

**From:** Danny Reynolds [reynolds1danny@yahoo.com]  
**Sent:** Saturday, December 05, 2009 11:40 AM  
**To:** Bill Jones  
**Subject:** Gravel pit on 36 highway near 317 intersection

would to strongly recommend that you vote against the opening of the pit on highway 36. If you take a drive by there you will see the highway is very narrow for trucks to enter and those people hurt or killed will be on your consious. I have lived ast this location for fourteen years and have seen some bad wrecks where people turn off to Moffat road and there is a urn lane there. Again I would request that you vote against this pit opening.

13124 Deck Dr.

## **Clydette Entzminger**

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**From:** Danny Reynolds [reynolds1danny@yahoo.com]  
**Sent:** Saturday, December 05, 2009 11:50 AM  
**To:** Tony Jeter  
**Subject:** gravel pit on highway near 317 intersection

request that you vote against opening this pit. If you will drive by the pit you will see that Highway 36 cannot handle the traffic congestion trucks will cause at that site. I have lived north of this location for fourteen years and the traffic has increased every year from Gatesville and other small communities. Any accidents caused by these trucks that kill or injure people will be on your consious. You would not want your wife and children to drive this area and I don't want to either.  
VOTE NO!!

**Clydette Entzminger**

**From:** KIT MRAZ [kitmraz@embarqmail.com]  
**Sent:** Saturday, December 05, 2009 3:48 PM  
**To:** Bill Jones  
**Subject:** Rock Quarry on Hwy 36

To the Mayor and City Council:

We live at the Woods at Cedar Oaks, off of Highway 36, and urge you to vote against allowing the proposed rock quarry to proceed with their planned venture. We feel that it would cause a dangerous increase in traffic, excess noise & dust, and the blasting would put our foundation and pool in danger of being damaged. The homeowners in this area have substantial investment in our property and fear that such a business in the neighborhood would severely lower property values.

Please vote against the measure!!

Thank you for your consideration.

Don & Kit Mraz  
292 Frederick Lane  
Temple, TX 76502  
(254)986-3408

Donald & Kathryn (Kit) Mraz  
1292 Frederick Ln



**Clydette Entzminger**

**From:** Jimmie Snelson [jrsnelson@msn.com]  
**Sent:** Saturday, December 05, 2009 6:16 PM  
**To:** Bill Jones  
**Subject:** Rock Quarry

Dear Mr. Jones,

We moved here last year and had no idea that a rock quarry was being considered so close to our home in the Woods of Cedar Oaks. We are very upset about the possibility of damage to our foundation and home as a result of mining activity so close to our property. We also feel that there will be excessive traffic, noise and dust due to this activity. Please vote against the permit for the rock quarry mining.

Sincerely,  
Jimmie and Retha Snelson  
136 Fredrick  
Temple, Tx 76502  
jrsnelson@msn.com

*1136 Fredrick Ln*

2/7/2009

**Clydette Entzminger**

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**From:** Buddy [buddyh@isp.com]  
**Sent:** Monday, December 07, 2009 9:33 AM  
**To:** Bill Jones  
**Cc:** Tony Jeter; PATSY LUNA Pel@HOT.RR.Com; MJANCVAK@Cl.Temple.TX.US; Russell Schneider  
**Subject:** Quarry at W. Hwy 36

I am Buddy Honeycutt and I live on Cedar Ridge Park Road. I feel our area and Hwy. 36 will be adversely affected by the proposed quarry. Since we came here (from Austin) in 1996, I have dealt with the large trucks coming on 317 at the quarry there. VERY HAZARDOUS to the ongoing traffic because of their bullish entries into traffic!!! The road surface is effected also.

Hwy 36 cannot handle these traffic conditions with any degree of safety.

Please consider the facts and spare this area of economic growth in this county.

Sincerely. Buddy Honeycutt

4650 Cedar Ridge Rd.

**Clydette Entzminger**

**From:** Clydette Entzminger

**Sent:** Monday, December 07, 2009 9:55 AM

**To:** City Council

**Cc:** David Blackburn; Tim Dolan; Natalie Washburn

Please see following e-mail:

On 12/6/2009 10:50:39 AM, Mr. Raymond Rossi wrote:

I am writing to express my concern over the rock quarry on hwy 36 once again. When I bought my home 3 years ago I certainly did not know about this potential problem or I would have selected some where else to live. There are many homes in the Woods at Cedar Oaks that are over \$300,000 and up. This mining operation will sink our property values which will cost Bell County thousands of dollars in property tax revenue. Along with that, there is the safety of the roadways, pollution from the large trucks, traffic concerns and a horrible eye soar as you drive into Temple from the west. WHY DO WE NEED IT???

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

2190 Allena Ln

## **Clydette Entzminger**

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**From:** Elder, Dan CSM MIL USA AMC [DAN.ELDER@us.army.mil]  
**Sent:** Monday, December 07, 2009 11:15 AM  
**To:** Tony Jeter  
**Subject:** Mine Service Ltd. Quarry Request

Dear Mr. Jeter

I am a local resident who lives nearby the 123 acre site owned by Mine Service Ltd. of Rockdale who is requesting to reopen an abandoned pit on Lake Belton. This request was recently disapproved by your Committee, which I strongly suggest you again disapprove. It appears the company will dynamite, crush and haul limestone out of the abandoned quarry to a power plant near Kosse. I would personally be present to voice these opinions, but have a prior engagement.

I am opposed to this for three reasons, which I ask you to consider.

1. The operations will be disruptive to the people living and working around that area. My subdivision is relatively close to their site and likely would be affected by noise and any byproducts of their activities.
2. The access road leading in to the quarry is off of Hwy 36. Vehicles drive at speeds of up to 60mph and a hauler pulling on to the road, or stopping to turn in to the quarry, will be a hazard to traffic in both directions. Plus, the amount of hazardous rocks and stones kicked up by these vehicles on a highly travelled road will cause an increase in automobile damage to windshields and paint.
3. Recent reporting by the Temple Daily Telegram make mention that the quarry industry under little regulation, despite state senator's efforts. I suggest that state legislators also have concerns about quarry operations in our State and your committee should also consider the facts identified by state leaders, and see how they affect Temple.

Again, I strongly request that you disapprove Mine Service Ltd request.

Furthermore, if you decide to pass their request anyway, I would ask at the same time you approve a strategy to mitigate these three concerns that I, and I assume other residents, have.

Thank You.

Dan Elder  
2074 Allena Ln  
Temple, TX 76502

**Clydette Entzminger**

**From:** Duane Atchison [datch@hotmail.com]  
**Sent:** Monday, December 07, 2009 11:27 AM  
**To:** Bill Jones; Tony Jeter; mjanckvak@ci.temple.tx.us; Russell Schneider; Patsy LunaExternal  
**Cc:** datch@hotmail.com  
**Subject:** Highway 36 Quarry

*Good Morning Lady and Gentlemen:*

*My name is Duane Atchison. I am representing the 100+ home sites in The Woods at Cedar Oaks subdivision. We are as the crow flies within 1/2 of a mile of the proposed Quarry site. I do not know if any of you have any experience living in close proximity of an active quarry, I do and as I testified at the last meeting this issue was broached it is in no way a positive experience. The negatives far out weigh the positives in this case! We have covered Traffic, Property Values, Blasting and Aesthetics. As I read the stipulations of P&Z for this organization to adhere to I still cannot but wonder if anyone in the decision making process has actually looked at the site and surrounding area. I have had time to think about this matter at length and have some other thoughts. If this is such a good thing why has the site been inactive for so long? How is this a benefit to Temple? It will not create jobs, the resources will not be used to benefit anything in this area. The only entities I see benefiting is the "Trust" and the mining company. Did they not build the scales and the scales house without a permit? Are you going to reward such activity? I was under the impression being elected officials you were there to do the best for the people. I cannot see for the life of me how making a decision against the wishes of the people is beneficial when there is no positive impact for the city, the local economy, or the people that have to live with this. I am quite certain if it were to be put in your back yard it would not even be an issue. As I understand, the gentlemen who recused themselves last time are considering voting this round? How have things changed? What makes this attempt different? This subdivisions home values are on average between \$280,000 and \$300,000. Your decision will impact the largest investment in our lives, YOU will have a profound impact on our lives. We work, We shop, We attend church and We call Temple home. Please do not make a decision that ALL of us will regret in the future.*

*Respectfully Submitted*

/7/2009

*Duane Atchison, LTCP*  
*Senior Associate*  
*World Financial Group*  
*1278 Frederick Lane*  
*Temple TX. 76502*

*254.985.1518 Cell*

## Clydette Entzminger

**From:** Troy Phillip [Phillip.Troy@bisd.net]  
**Sent:** Wednesday, December 09, 2009 11:24 AM  
**To:** Patsy Luna  
**Subject:** Quarry

Dear Ms. Luna,

Just learned about the old quarry possibly being re-opened. I grew up in north Temple during the 60s and 70s. We could hear the explosions that far away. It would be a nightmare to have it opened again. All of the extra trucks would make a very congested area even more so. Quarries tend to be environmental disasters as well.

Don't think that the residents should have to be put through the torture of having loud explosions (believe me...they are very loud) and tons of dust and trucks in areas that have been beautified/improved.

If you have any influence in this matter, please consider the long-term affects of having the quarry re-opened.

Thank you,

Phillip T. Troy  
54-770-3327

4009 Ermine Trl

Belton I.S.D. does not discriminate on the basis of race, color, national origin, sex, religion, disability, or age in its programs, activities or employment practices. For inquiries regarding the non-discrimination policies, contact:

Executive Director of Human Resources, (254)215-2015,  
Director of Elementary Curriculum & Instruction, (254)215-2037,  
100 N Wall St, Belton, Texas 76513.

2/9/2009



Clydette Entzminger

**From:** Troy Phillip [Phillip.Troy@bisd.net]  
**Sent:** Wednesday, December 09, 2009 11:42 AM  
**To:** Marty Janczak  
**Subject:** Quarry

Dear Sir,

I was truly shocked that the old quarry on the west side of Temple may be re-opened...What a nightmare. I grew up in north Temple through the 60s and 70s. We could hear the explosions that far away. Now, the entire area has grown up and has become a very nice place to live. If the quarry re-opens, it will definitely be a true scar for Bell County. I'm sure it would open up some new jobs, but at what cost? The area around that part of Lake Belton would definitely suffer. Have you ever driven around in that area( the intersection between hwy 317 and lake road )? It's a mess. I can't imagine having that place re-opened. It would create more congestion and dust in an already busy area.

Please consider all of the information regarding this issue as well as the long-term affects.

Thank you,

Phillip T. Troy  
54-770-3327

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100 N Wall St, Belton, Texas 76513.

2/14/2009

## Clydette Entzminger

**From:** Rita Ronnebaum [roni2120@clearwire.net]  
**Sent:** Thursday, December 10, 2009 9:54 PM  
**Subject:** re-opening of rock quarry along Hwy 36

Dear Council Members,

I understand that you will vote soon on the re-opening of the rock quarry along HWY-36 in Temple/Moffat TX.

Please consider a **"NO"** vote for the re-opening of Hwy 36.

Here are my concerns for this project, I know it is different for everyone.

- ) Heavy truck traffic on a two lane road that is already heavy with commuter automobile traffic.
- ) Heavy dust contamination, learn from what is happening along Hwy 317.
- ) If they are hauling rock out of the quarry on Hwy 317, why is it necessary for this one to be operating?
- ) What kind of "need" do we have for rock to have both operating? Is there a high demand for rock now?
- ) Should an accident occur with injuries, what kind of measures are/will be in place to get to the accident site.

Thank you for taking a look at the above items. Your thoughtful consideration of this issue is important to me.

Rita Ronnebaum  
619 Surrey Drive  
Temple, TX 76502  
54-780-7505

*2619 Surrey Dr.*

## Clydetta Entzminger

**From:** Steve Stephens [grandaddystephens@juno.com]  
**Sent:** Friday, December 11, 2009 8:21 AM  
**To:** Bill Jones  
**Cc:** Patsy LunaExternal; Russell Schneider; mjanvac@ci.temple.tx.us; Tony Jeter  
**Subject:** Temple City Council Meeting - opposition C.U.P

I am opposed to the rock digging as I think this ruins the land for future use.

As it stands now this land has a far more value to the future of Temple as real estate development including businesses and many homes on the banks of lake Belton and would bring in much tax moneys in the future that would benefit everyone.

Wm. A. "Steve" Stephens  
14100 Moffat Road.  
Temple 76502

icccrc@hotmail.com>

**o:** Steve Stephens <grandaddystephens@juno.com>

**ate:** Thu, 10 Dec 2009 16:49:42 -0500

**ubject:** Temple City Council Meeting - opposition C.U.P

**essage-ID:** <SNT101-W636CC4C0438F5EBC7A227D58D0@phx.gbl>

**eferences:** <001c01ca79d0\$8fa67610\$aef36230\$@com>

The Temple City Council is meeting at 5pm Friday December 11th.

I am a resident of the Moffat community and would like support for my opposition. Attempts are being made for C.U. P. (conditional Use Permit) to mine the area of Hwy 6 close to intersection Hwy 317.

This project does not benefit the city of Temple; and the rock excavated is to be transported to Kosse, TX.

In my opinion this will cause traffic problems on a already busy two lane road, not to mention the noise in the

area. I also know that the air pollution caused by the process used causes many problems

allergies, asthma, and other breathing illnesses. I believe that this mining will also bring

the property value down in the Moffat Community.

I would greatly appreciate your help with this opposition by

telephone, email, forwarding this information to your friends and neighbors and *especially attendance at this City Council Meeting.*

Please contact the City Council Numbers listed:

2/11/2009

**Tony Jeter**  
Temple City Council

(254) 541-1110 Work  
tjeter@ci.temple.tx.us

1215 North 3rd  
Temple TX 76501

**Marty Jancvak**  
Temple City Council

(254) 773-4025 Work  
mjancvak@ci.temple.tx.us

3149 Kegley Road  
Temple TX 76502

**Russaell Schneider**  
Temple City Council

(254) 933-2529 Work  
rschneider@ci.temple.tx.us

2918 Riverside Trail  
Temple TX 76502

**Bill Jones**

Temple City Council

(254) 298-2951 Work  
bjones@ci.temple.tx.us

3606 Oak Villa Drive  
Temple TX 76502

***Your Attention is greatly appreciated,  
Robert Boop***

Get gifts for them and cashback for you. [Try Bing now.](#)

2/11/2009

## Clydette Entzminger

**From:** Bobby Spradley [bobby@spradleyproperties.com]  
**Sent:** Monday, December 14, 2009 4:39 PM  
**To:** Russell Schneider; Tony Jeter; Patsy Luna  
**Subject:** City Council Concern

Russell, Tony & Patsy:

will be out of town on Thursday when you, as part of the council, hear the public reading for the zoning change and CUP for mining and mining storage off Hwy 36. I wanted to make you aware that I live off Cedar Ridge Park Road and that I am against the approval of this business. It goes against everything the Keep Temple Beautiful organization has worked towards by putting a mining business right at the door step of the city limits.

On a personal concern a mining operation that size will create noise, dust and worst of all traffic. From personal experience with the trucks pulling out of the quarry on 317 I know this will be a problem. The large trucks have no choice but to pull out onto oncoming traffic and that creates an unsafe environment for all of us. There are a number of homeowners including myself that moved to that part of Temple to get away from the noise and hustle and bustle of living in the city. I understand there was already a small quarry there when I elected to move to that part of town, but it was a small operation and has been out of service for the most part. The site in question has potential to be seen from the same sites in that area.

From a financial viewpoint I have been told that the company looking is from out of town and materials will be used out of town. I can't vouch that the information I was given is accurate, but in the event it is why would we disrupt the quality of life for those taxpaying citizens to further the quality of life for those that are not.

I understand you guys have to look at things for the betterment of the city and I commend you for what you do. I just wanted to take a moment of your time to give you the view from someone that will be effected from the decision you make.

Thanks again for your time and dedication to the City of Temple.

Sincerely,

Bobby Spradley  
(541) 541-2533

2/14/2009



## PLANNING & ZONING COMMISSION MEMORANDUM

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10/08/09  
Item 6B  
Regular Agenda  
Page 1 of 10

### **APPLICANT:**

Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust

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

Tim Dolan, AICP, Planning Director

**Public Hearing, Discussion and Action Z-FY-10-06B:** Discuss and recommend action for a Conditional Use Permit (CUP) for mining and mining storage on a 123.2 ± acre tract of land located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529, the Daniel Meador Survey, Abstract No. 577, and the Elias Tuttle Survey, Abstract No. 835, Bell County, Texas.

### **HISTORY:**

04/20/09. The Planning & Zoning Commission tabled the item at the applicant's written request to allow the applicant time to work out issues associated with the site plan.

04/16/09. City Council will consider the second reading. Staff will report the findings April 20<sup>th</sup>.

04/06/09. The City Manager's and City Attorney's office asked for the Commission to comment on a revised site plan, which showed a larger area for mining of an existing limestone quarry. The Commission recommended to deny a revised site plan voting 7-1 (Commissioner Martin absent).

04/02/09. City Council approved on first reading to approve the said CUP.

03/16/09. Planning and Zoning Commission voted 4-3 to recommend approval of a conditional use permit (CUP) for mining and mining storage subject to staff's conditions, including adoption of the site plan as part of an exhibit for the proposed ordinance.

### **ITEM SUMMARY:**

#### **New Site Plan**

The applicant submitted a new site plan, as a CUP exhibit, which differs in size from the plan voluntarily tabled last year. The new plan shows an area, approximately 1,200± feet south along SH 36 compare to the previously submitted plan tabled by the applicant. This area is approximately 104± acres. The applicant has requested to expand the CUP area to include a 19.5± acre site to the south, backing up to Lake Belton (See Agenda Item 5A) for a total of 123.3± acres.

#### **New Landscape Plan**

The applicant also submitted a new landscape plan, which shows a 200' wide buffer along SH 36, which will include the planting of switch grass and evergreen cedar trees. Switch grass will need to be planted at a 4' vertical height and the trees a minimum 5' height and 2" caliper.

## Site Characteristics

The site characteristics for the subject property are characterized as relatively sloping (0-7% slope) to sloping toward the east (35-40% slope). The proposed scale house, rock crusher, mining and mining storage area and activities would be located on the relatively flat portion of the site. A scale house (480 square feet) would be placed on-site north of the access road from State Highway 36 (SH 36) for truck access entering and leaving the site past stockpiles exist onsite. Staff will request approval to have asphalt paving from the scale house to SH 36.

The applicant will use the mine for a source of needed construction materials for transport to an energy plant near the Kosse-Franklin area for the Oak Grove Energy Plant, operated by Luminant, formerly known as Texas Utilities (TXU). The mining and extraction operations will be sited and designed to minimize conflicts with adjacent land uses, and to have a minimal impact on critical habitats, natural vistas, cultural resources and the environment. The applicant has also applied for an air quality permit with the Texas Commission on Environmental Quality, Registration Number 87255, Customer Reference Number CN602311896 and the Regulation Entity Number RN105672588.

The applicant will use existing topography to screen and minimize blasting, noise, dust, vibration, and visual impacts of the rock crusher and mining debris when developing new mineral extraction sites. Where heavy equipment, mines and pits cannot be effectively screened from residential and/or commercial areas, a combination of existing topography, berms and landscaping will be used to screen the site from SH 36 and surrounding residential areas. Adequate screening and buffering will be maintained between adjacent land uses and the mining site, and will be the responsibility of the new or expanded mineral extraction development. Here a vertical wall which measures 12± vertical feet will screen the rock crusher, stockpile area and mining area from SH 36 and surrounding residential uses. Staff will also recommend any rock crusher will have to be located 1,500 feet away from any residential use. State law requires a crusher to be located a minimum of 1,320 feet away from any residential use. Staff will also recommend the applicant provide asphalt paving from SH 36 back to the scale house (1,000± linear feet) and deceleration and acceleration lanes, a minimum of 100 linear feet by 20 feet, outside of the right-of-way, on private property.

The applicant will need to ensure that mining sites and associated off-site stockpiles are maintained during the life of the operation, particularly in regard to the control of noxious weeds and dust. Any reclamation of mining and extraction sites is an integral part of all mining operations, and will be required and completed in a manner that will encourage future land uses that are compatible with the Action Plan of the Comprehensive Plan for buffers next to residential areas. All road construction projected shall meet or exceed the minimum requirements for storm water runoff.

## Consideration of a CUP

The Commission must consider the following items when reviewing a conditional use permit (CUP):

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;



5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

#### Surrounding Property and Uses

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

Direction	Current Land Use
North	Vacant – area zoned Light Industrial (LI)
East	Vacant – area annexed as Agriculture (A)
South	Vacant – county land
West	Vacant – area annexed as Agriculture (A)

Future Land Use & Character Plan – The map shows this area as Agricultural/Rural. When the City Council adopted the Plan *Choices '08*, it required Staff to annually update the Plan. A portion of this area will need be shown as Industrial for the mining and mining storage area, provided the approval of the CUP.

This area was part of a 'Development Agreement' when the City Council annexed area near here in 2009, which began in 2008. This area contained more than 10 acres, and had an agriculture classification since the mine was inactive. By practice the Legal Department offered development agreements to property owners who owned more than 10 acres, and the county assessor's office had classified it as agriculture or wildlife management. The same agreement states if a property owner changes the use of its land, here the continuation of mining, that it would trigger annexation. The property owner sought voluntary annexation, leasing the area to continue the mine.

Thoroughfare Plan – This application conforms to the Thoroughfare Plan for access to State Highway 36 (SH36) designated as a Freeway.

Availability of Public Facilities – Water and sewer are not available.

#### Public Notice

A total of four notices were sent out. As of Friday, December 4, 2009 at Noon, one notice was returned in opposition to the request. The newspaper printed notice of the public hearing on November 25, 2009 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** City Staff will recommend a Conditional Use Permit (CUP) for mining and mining storage, with the site plan, landscape plan to be adopted as part of the ordinance subject to the conditions discussed below. The proposed site plan to be adopted will show the locations where the quarrying, storage, rock crushing, silt fences, berms, etc will be placed. The landscaped plan will show where trees and switch grass will be planted to supplement sparse areas. Another example, on the site plan, the applicant will be required to apply for a flood plain permit, besides a building permit for any structure residing in the 100-year flood plain, keep the crusher 1,500 away from residential uses, schools or places of worship, have asphalt paving from the scale house outward to SH 36, and deceleration and acceleration lanes, a minimum of 100 linear feet by 20 feet, outside of the right-of-way, on private property.

**Suggested Conditions of Approval** Staff recommends approval of Z-FY-10-06B subject to:

- 1) The project shall proceed in substantial conformance with the plans and application materials submitted October 20, 2009, and on file except as amended by the conditions herein. The DRC deemed it complete November 15, 2009.
- 2) The field notes for the area shall be adopted as Exhibit 'A'.
- 3) The mining, mining storage, scale house and rock crusher shall be limited to the area shown on the site plan, adopted as Exhibit 'B'.
- 4) The landscape plan shall be adopted as Exhibit 'C'.
- 5) Any modification (cutting/filling etc.) of a 100-year flood plain requires a separate permit from the City of Temple Engineering Office.
- 6) The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- 7) The maximum height of any stockpiles shall not exceed 30 feet and shall remain free of noxious weeds and dust.
- 8) The rock crusher shall be located 1,500 feet away from the property lines of all residential uses, schools or places of worship.
- 9) Hours of operation shall be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
- 10) All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise).
- 11) Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.
- 12) Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
- 13) A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.
- 14) An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.
- 15) Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- 16) Final "as built" for all drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- 17) Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.
- 18) The applicant shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public

right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).

- a. The applicant will provide an asphalt covered road, wide enough for commercial trucks, from the scale house to the driveway entrance on SH 36.
- b. The applicant will provide both an acceleration and deceleration lane on private property, measured a minimum of 100 linear feet by 20 feet, outside of the right-of-way, and on private property measured from the centerline of the approved driveway.

- 19) The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- 20) Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the final reports submitted to the City of Temple Fire Department.
- 21) A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall label and dimension the flood plain and floodway, have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.
- 22) The storm water facilities shall be owned and maintained by the property owner.
- 23) The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.
- 24) All rock piles will be removed from the property at time of final cessation of mining by the property owner.
- 25) The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
- 26) 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.

#### **ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Site Plan showing flood plain

Buffer Map



**RESPONSE TO PROPOSED ZONE CHANGE  
WITH CONDITIONAL USE PERMIT  
CITY OF TEMPLE**

David C. Chatham  
10820 North State Highway 317  
Belton, Texas 76513

Zoning Application Number: Z-FY-10-06-B

Project Manager: Tim Dolan

Proponent/Applicant: Paul Mark Woods Trust / Thomas Parker

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow mining and storage of mining materials. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval ☒ denial of this request.

Comments:

*This will destroy the scenic beauty and value of your property.*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Signature]*  
(Signature)

DAVID C CHATHAM  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than December 8, 2009.

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

DEC 01 2009

City of Temple  
Planning & Development

Number of Notices Mailed: 4

Date Mailed: November 25, 2009



**RESPONSE TO PROPOSED ZONE CHANGE  
WITH CONDITIONAL USE PERMIT  
CITY OF TEMPLE**

Karen Lou Forbes  
10044 Airport Road  
Temple, Texas 76502

Zoning Application Number: Z-FY-10-06-B

Project Manager: Tim Dolan

Proponent/Applicant: Paul Mark Woods Trust / Thomas Parker

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow mining and storage of mining materials. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ) approval (✓) denial of this request.

Comments:

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Karen Forbes  
Mark Forbes  
(Signature)

KAREN FORBES  
MARK FORBES  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than December 8, 2009.

**RECEIVED**  
DEC 07 2009  
City of Temple  
Planning & Development

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

Number of Notices Mailed: 4

Date Mailed: November 25, 2009

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

**TUESDAY, DECEMBER 8, 2009**

**ACTION ITEMS**

**Item 6B: Public Hearing, Discussion and Action Z-FY-10-06B:** Discuss and recommend action for a Conditional Use Permit (CUP) for mining and mining storage on a 123.2 ± acre tract of land located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529, the Daniel Meador Survey, Abstract No. 577, and the Elias Tuttle Survey, Abstract No. 835, Bell County, Texas. (Applicant: Mining Services, Inc. c/o Thomas Parker for Paul Mark Woods Trust)

Chair Pilkington and Mr. Dolan started to discuss the 19.5 acres being the remainder and Ms. Trudi Dill, Deputy City Attorney, approached the podium and suggested to the Commission that the vote should be on the item 'as presented' in the agenda since it was unknown whether the item will be approved or not. Ms. Dill stated the final outcome if the LI zoning is disapproved by City Council would be a smaller area but did not feel the Commission should reduce it for the vote tonight.

Since Mr. Dolan gave a presentation earlier regarding the CUP, Chair Pilkington asked if there were questions or comments before opening the public hearing.

Chair Pilkington opened the public hearing on the CUP and informed the audience this public hearing involved more of the minute details of what could be done to the property, not just the zoning.

Mr. Robert Boop once again approached and stated the property is now in city limits and believed it was the City's obligation not to allow any more mining out there because it will be there forever and cannot be covered up.

Mr. Boop asked the Commission to vote against this for the safety of the people living there now, possible development and the property around it.

Mr. Stewart Fine approached the Commission and stated he wanted to see a tree that had a 2" diameter and 5 feet tall because he did not believe it existed. Mr. Fine also stated a 30 foot tall rock pile was as high as a 3 story building and could not be hidden. Mr. Fine stated the land would not hold water and could not be turned into a lake; it would cost a fortune to seal or dam it. Mr. Fine stated he would like to know where the 100 foot access road would be placed in order for the trucks to slow down or speed up and still keep it on private property without bringing it to the county road.

Mr. Shelton approached again and asked about the zoning from A to LI since Ms. McCurley stated it already was (LI). Clarification was made that "part of the land" is already zoned LI. Mr. Shelton stated the 26 points were "not doable" and gave various descriptions of passed problems in the area such as dust, wind, runoff, etc., and asked how it was going to be done. Chair Pilkington stated that was not up to the Commission.

Ms. Karen Kendall approached and stated her family moved to Temple about 12-13 years ago and did not realize there was an existing quarry that abutted their property. Their home is approximately 800-900 feet from the blasting area. When blasting the house will shake and rattle and Ms. Kendall compared it to an earthquake. The noise of the crusher is constant, the noise of the water pump at 2:00 and 3:00 in the morning is loud, the building operations, excavation, and demolition will begin at 4-5 in the morning and go until 9-10 p.m. in the summer. The berm they built is a wall of weeds, the dirt and debris is on the road everywhere, traffic on 317 is awful at 7 in the morning with trucks pulling out.

Ms. Kendall stated she is living the experience and had worked with the City to institute regulations for the quarry but are not being followed or monitored.

Commissioner Martin asked what sort of protection and/or right do the citizens have if this is passed with the conditions and the conditions are not being followed. Mr. Dolan stated the rights would be to call City Construction Services or Code Enforcement Department because there would be a violation of the Zoning Ordinance. Mr. Dolan pointed out the last stipulation stated the CUP could be canceled, suspended, removed or revoked if the regulations were not followed.

Mr. Steven Whitman approached the Commission and stated he also lived near the current quarry and reiterated Ms. Kendall's remarks regarding the blasting and the dust. Being raised in California, Mr. Whitman likened the blasting to an earthquake but even worse. Mr. Whitman had cracks in his house, foundation and tiles, and the dust in the home and all around is bad. Mr. Whitman was opposed to the quarry.

Mr. Wade Matthews, 18001 Owl Creek Road, approached and stated his primary concern is the traffic. The 100 foot distance is impossible to mitigate the problems that will occur. Nothing had been mentioned on insurance for the trucks that will be driving out there that will cause the problems. Mr. Matthews is totally opposed to this. Mr. Matthews stated he was also concerned no land reclamation plan had been presented and what would happen to the area afterward. Mr. Matthews asked the Commission to vote against this.

Mr. Carroll Shell approached and asked Commissioner Martin where he lived and Commissioner Martin replied, 1211 Daisy Lane, Wildflower. Mr. Shell stated Commissioner Martin did not live by a quarry or have children traveling on a road like 36 and would not be as eager to get this passed if that were the case. Mr.



Shell stated the people in the area moved there for a countryside setting and the quarry would not be supporting Temple. Mr. Shell was opposed to the request.

Mr. Weldon Wilkerson of Moffat approached and stated Ms. McCurley said part of this area is zoned LI and had been in the City for two years. Mr. Wilkerson asked if the Commission or someone prior had approved a zoning for that property in the last two years and Mr. Dolan stated the City Council approved it earlier this year. Mr. Wilkerson asked when and Mr. Dolan was not sure of the date but was sure it was this year.

Mr. Wilkerson stated the City Council voted down the quarry and asked if that was correct. Ms. Luna was the sole descending, two recused themselves and two that voted for it had to be a majority. Mr. Wilkerson stated City Council had voted it down and it is here again.

Mr. Dwayne Atchison approached and said Mr. Woods stated he was a “part-time” resident and Mr. Atchison stated he was a full time resident and traveled 36 all the time. Mr. Atchison stated the median value of the homes at Woods of Cedar Oaks ranged from \$280-300,000 and those homes were bought because of the aesthetic value and peace and quiet. Mr. Atchison stated times have changed and a quarry should not be put in the middle of a residential area. Mr. Atchison stated there was no need for the quarry out there.

Mr. Einboden approached and stated that mining and a community are not compatible. Mr. Einboden stated being adjacent to a quarry meant you were constantly berated by blasting, listened to a crusher all day long, and the dust is terrible because it's in the air and everything else. Noise, vibration and air pollution are very bad, along with water pollution, especially since this is the source of water for the City of Temple. Mr. Einboden stated even with all of the considerations from the Planning Department they could not be met because quarries and mines are not compatible with residential areas.

Mr. John Connor approached and reiterated the same concerns from pollution to traffic. Mr. Connor stated there would be a lot of accidents due to speed, traffic and trucks and also stated the Temple Daily Telegram recently ran an article regarding quarries and that few of them are regulated, the fines are minimal, and the quarries continue to do the same things as before, and now another quarry is being considered. Mr. Connor asked the Commission to vote against this because people will not move out there.

Ms. Lisa McCurley approached and had a Powerpoint presentation for the Commission. Ms. McCurley stated her service had already received the authorization needed for air pollution and had satisfied the regulating agency's requirements and a permit had already been issued. A storm water prevention plan had also been prepared that met and exceeded the requirements but is waiting on registration for the appropriate time before operation. Ms. McCurley

stated an oil spill plan must be in effect for the fuel used out there which will be prepared before operation.

Ms. McCurley stated TxDOT had already been out to the site and looked at the area regarding traffic safety, they were made aware of the pending operations, have considered access, the ingress/egress, and the visibility issues and have authorized a driveway permit as it is. Mining is also limited to daytime operations which should be an increased safety factor. Mine Services had already committed to paving from the scale house to Highway 36 which would alleviate a lot of sediment buildup which can be a traffic hazard. Mine Service's routine maintenance procedures include cleaning the roadway and daily inspections to ensure there is no sediment buildup.

Ms. McCurley stated they had volunteered to put a buffer along Highway 36 and where landscape is sparse will add some fast growing native species to increase the screen. This is an excellent use of the brown fill property which this site is and the floodplain plan is a controlled storage capacity.

Chair Pilkington asked Ms. McCurley about the pavement coming in and rumble strips to bounce material off of the truck beds before entering the highway. Ms. McCurley stated it was her understanding there were 375 feet of paving from the scale house to Highway 36 which, from her experience, should be ample, plus they clean it everyday. Cleaning Highway 36 is not something Mine Services wants to do so the preventive maintenance would keep the area clean. Excessive maintenance would automatically trigger additional controls with their operation procedures which might include rumble strips. It had not been discussed yet.

Ms. McCurley stated the former owner of the property, Mrs. Woods, was present and her children who are the current owners of the land, Mark Woods and Vicky Robbins, are in support of the project and can answer questions.

Commissioner Staats asked what standards the asphalt paving would be applied to (TxDot, County, what?) and Ms. McCurley was not sure and said Mr. Tom Parker, the engineer on the project who was present, would address that issue.

Mr. Tom Parker, 4212 Ballyloo Lane, College Station, Texas, is the design engineer for Mine Services in this operation, 20 years retired TxDot. Mr. Parker stated there are no standards for TxDot, designs are according to features, traffic, and the existing conditions.

Mr. Parker stated currently there was 12" of flex base out there which is more than exceeds what is required for the traffic load but to control dirt, dust, etc., two inches of a hot-mixed type asphalt on the wearing surface. That is what is being proposed—a hot-mix from the scale house to the highway.

Commissioner Staats stated trucks are hard on asphalt, especially loaded trucks, and asked what the maintenance plan was for the asphalt. Mr. Parker stated

repair as needed, two inches of hot-mix with 12" of base material far exceeds any pavement design currently used on Farm to Market roads that carried heavy truck traffic.

Commissioner Secrest asked how long will the mining occur and will we end up with this lake and Ms. McCurley stated a five year contract had been discussed but was uncertain about anything.

Mr. Mark Woods stated someone said the lake would not fill in the existing quarry but where they were previously mining the existing quarry floor is a barren floor and not attractive and of little use. Where additional mining had been done there is a lake, the property does hold water and is level with the existing lake. It would look a lot prettier than what is there and would be an absolute improvement of how the property looks. The trucks had access to roads too and he felt it was not unreasonable since the property had been in his family a long time and to extend that use.

Mr. Woods stated his family had spent time on the property during operation and there is some noise, but it's "not any louder than a truck going by."

Mr. Mark Forbes, 10044 State Highway 36, Temple, stated he kept hearing "this was a quarry, this was a quarry." Since 1970 that quarry had been closed. It had not been a quarry in a long time.

Ms. Vicky Robbins, part-time resident of the ranch, 2304 Woodway Drive, Round Rock, Texas, stated "this had been a quarry" and Shallowford operated it. At least 6-7 years ago the business decision was to have them leave, not because it flooded. Ms. Robbins stated her father did sign and wanted it to be a quarry and be mined and this was not a temporary situation. Ms. Robbins stated her family visit the property often, enjoy the country life and will continue to do so. This property is very important to the family and they want to keep it pretty and felt the lake would be an improvement.

Ms. Karen Forbes, 10044 State Highway 36, Temple, Texas, stated she lived directly across from the impending quarry. Ms. Forbes stated, "yeah, they come in for the weekend, have fun and they leave." Ms. Forbes stated she worked from home and it is a "lot more noise than just a truck"; it's constant noise. She will be in the house with the air conditioner, radio and/or TV running and can hear the noise. Ms. Forbes stated the applicant could get all of the permits and everything else, but "those people don't live here. They don't live across from it. If they did, they wouldn't want it there either."

Ms. Forbes stated she could not believe the City of Temple would do this to them. Many years ago when the quarry was operating, the traffic was stopped both ways, blasted, and then let the traffic go. Ms. Forbes was concerned about the safety of all of the people out there. Ms. Forbes stated to the Commission that "if you want the City of Temple to be something, this isn't the way to do it."

Ms. Becky Shelton, 101 Oakridge Road, Temple, approached and stated to the part-time residents, "that's what you are, part-time" and the only purpose it served was the money. Ms. Shelton stated the land does not look good and does not help anyone except the Woods.

Chair Pilkington closed the public hearing.

Commissioner Staats stated he felt property owners should always be able to do as they wished until the use of the property diminishes the quality of adjoining property or neighborhood. There is no requirement to remediate the property. Belton Lake had been cleaned up and had fairly good water quality. Commissioner Staats stated he was aware of the conditions large trucks and machinery operate under for a facility such as this and that site is floodable and would permeate into the lake. Even without flooding it permeates into the soil and no way to stop it.

Commissioner Staats stated traffic and safety were large concerns and had no idea if S.H. 36 would ever be widened and 100 feet was not enough for trucks. Commissioner Staats stated at one time this was a rural area but had changed over the years and is no longer the rural area remembered.

Commissioner Staats stated he was pro-business but the conditions that affect the site were big concerns and asked the Commission to vote against this.

Vice-Chair Talley stated "ditto to what you said, Commissioner Staats" and recommended a motion to deny the CUP, Z-FY-10-06B, Commissioner Staats made a second.

Before the vote was taken, Chair Pilkington stated he was also pro-business and liked growth, however, felt this request would hinder the enjoyment of surrounding property and this is a very difficult vote.

Commissioner Pope stated the seven (7) items to be considered by the Commission regarding a CUP, number 2, "will not impede the normal and orderly development and improvement of surrounding property" was a big issue.

As the vote started, Commissioner Pope asked for clarification on the motion and a 'Yes' vote was to deny? Mr. Dolan confirmed that was correct.

*Motion approved: 7:0*

*Commissioners Dusek and Barton absent*

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

[PLANNING NO. Z-FY-10-06B]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR MINING AND MINING STORAGE ON APPROXIMATELY 123.2 ACRES LOCATED IN THE VICINITY OF THE SOUTHWEST CORNER OF SH 36 (AIRPORT ROAD) AND NORTH SH 317, OUT OF THE McCAMPBELL LANGLEY SURVEY, ABSTRACT NO. 529, THE DANIEL MEADOR SURVEY, ABSTRACT NO. 577, AND THE ELIAS TUTTLE SURVEY, ABSTRACT NO. 835, BELL COUNTY, TEXAS; 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 located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, unanimously denied the application for this Conditional Use Permit for mining and mining storage; 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 mining and mining storage on approximately 123.2 acres located in the vicinity of the southwest corner of SH 36 (Airport Road) and North SH 317, out of the McCampbell Langley Survey, Abstract No. 529, the Daniel Meador Survey, Abstract No. 577, and the Elias Tuttle Survey, Abstract No.

835, Bell County, Texas, and said tract being more fully shown on a map which is attached hereto and made a part hereof for all purposes as Exhibit A.

**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 project shall proceed in substantial conformance with the plans and application materials submitted October 20, 2009, and on file except as amended by the conditions herein. The DRC deemed it complete November 15, 2009.
- (b) The field notes for the area shall be adopted as Exhibit A.
- (c) The mining, mining storage, scale house and rock crusher shall be limited to the area shown on the site plan, adopted as Exhibit B.
- (d) The landscape plan shall be adopted as Exhibit C.
- (e) Any modification (cutting/filling etc.) of a 100-year flood plain requires a separate permit from the City of Temple Engineering Office.
- (f) The applicant is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- (g) The maximum height of any stockpiles shall not exceed 30 feet and shall remain free of noxious weeds and dust.
- (h) The rock crusher shall be located 1,500 feet away from the property lines of all residential uses, schools or places of worship.
- (i) Hours of operation shall be Monday-through Friday, 7:00 a.m. to 6:00 p.m.
- (j) All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in Zoning Ordinance Section 7-300 (Noise).
- (k) Blasting shall be done by permit and in accordance with regulations found in Chapter 12 of the City of Temple Code of Ordinances.
- (l) Site illumination shall be designed and located so that lighting sources are not directly visible from the highway or residential uses. Lighting shall not cast glare on adjacent properties.
- (m) A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house.
- (n) An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state and or federal regulations.
- (o) Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- (p) Final "as built" for all drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- (q) Private improvements shall be clearly shown and labeled as such on each sheet of the construction plans. The note below shall appear on the cover sheet of the construction plans for private improvements:

The City of Temple shall not be responsible for the maintenance of roadway and appurtenant improvements, including storm drainage structures and pipes for all roadways in the development, specifically driveways and private accesses.

- (r) The applicant shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties. One access point for construction (via SH 36) shall be approved by the Texas Department of Transportation (TXDOT).
- (s) The applicant will provide an asphalt covered road, wide enough for commercial trucks, from the scale house to the driveway entrance on SH 36.
- (t) The applicant will provide both an acceleration and deceleration lane on private property, measured a minimum of 100 linear feet by 20 feet, outside of the right-of-way, and on private property measured from the centerline of the approved driveway.
- (u) The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- (v) Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with city code and geotechnical assessments. Monitoring shall be required as determined appropriate by the engineer or geologist of record and in accordance with the final reports submitted to the City of Temple Fire Department.
- (w) A final storm water drainage report and plan prepared by a professional engineer licensed in the State of Texas shall be submitted to and approved by City of Temple construction services prior to construction. The storm water plan shall label and dimension the flood plain and floodway, have supporting calculations and, in the event that a computer program is used as an aid in the analysis, all input data and variables used shall be clearly identified. This includes but is not necessarily limited to: design storm unit hydrograph data points; basin data & time of concentration calculation; runoff hydrograph; reach data; storage / infiltration data; and a summary of the hydraulic design parameters for each storm water conveyance and detention / infiltration element proposed on the plans. Final "as built" drawings and material test reports shall be delivered to the City of Temple Construction Services upon completion.
- (x) The storm water facilities shall be owned and maintained by the property owner.
- (y) The property owner and lessee shall be responsible for the long-term operation, maintenance, repair and replacement of the storm water facility, and that the City of Temple will not be responsible for the maintenance of the storm water facility.
- (z) All rock piles will be removed from the property at time of final cessation of mining by the property owner.
- (aa) The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.



- (bb) 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.

**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 **17<sup>th</sup>** day of **December**, 2009.

PASSED AND APPROVED on Second Reading on the **7<sup>th</sup>** day of **January**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydette Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney