



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

THURSDAY, APRIL 1, 2010

3:30 P.M.

3RD FLOOR CONFERENCE ROOM

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 1, 2010.
2. Receive update on 2010 Tax Increment Financing Reinvestment Zone No. 1 Master Plan.
3. Review and discuss the City's extraterritorial jurisdiction map and consider possible revisions thereto.

5:00 P.M.

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR**

TEMPLE, TX

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) [Absolutely Incredible Kid Day – April 14, 2010](#)

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.

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

Minutes:

- (A) [March 18, 2010 Special Called and Regular Meeting](#)

Contracts, Leases & Bids

- (B) [2010-5981-R](#): Consider adopting a resolution authorizing an agreement with Bucher, Willis & Ratliff Corporation (BWR) to assist the City in preparing an application for a Pass-Through Financing Project proposal for improvements to the Northwest Loop 363 with the Texas Department of Transportation (TxDOT).

Misc.

- (C) [2010-5982-R](#): Consider adopting a resolution ratifying emergency work performed and authorizing payment to T. Morales Company of Florence, Texas for services performed related to a power outage on March 9, 2010 at the Water Treatment Plant in the amount of \$28,318.06.
- (D) [2010-5983-R](#): Consider adopting a resolution declaring the candidates for the May 8, 2010 District 1 City Councilmember as unopposed and elected to office, thereby canceling the May 8, 2010 City general election in District 1.
- (E) [2010-5984-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

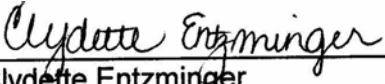
V. REGULAR AGENDA

ORDINANCES

5. [2010-4352](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance abandoning 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition.
6. [2010-4353](#): FIRST READING – PUBLIC HEARING - Z-FY-10-20 – Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop.
7. [2010-4354](#): FIRST READING – PUBLIC HEARING – Z-FY-10-23 - Consider adopting an ordinance authorizing a zoning change from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) on a 250 ± acre tract of land situated in the Maximo Moreno survey, Abstract 14, Bell County, located in the Southeast Industrial Park, south of Lorraine Drive.
8. [2010-4355](#): (A) FIRST READING – PUBLIC HEARING – Z-FY-10-24A – Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road.
- [2010-4356](#): (B) FIRST READING – PUBLIC HEARING – Z-FY-10-24B – Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located on the north side of Airport Road east of the State Highway 317 interchange at 8800 Airport Road.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 12:45 PM, on March 26, 2010.


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 _____ 2010. _____



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #3(A)
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamations:

Absolutely Incredible Kid Day

April 14, 2010

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY:

This proclamation was requested by Karen Allman and will be received by Ms. Allman and Campfire Boys and Girls.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #4(A)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Clydetta Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) March 18, 2010 Special Called and 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:

March 18, 2010 Special Called and Regular Meeting

TEMPLE CITY COUNCIL

MARCH 18, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, March 18, 2010, at 1:30 pm, in the 3rd Floor Conference Room, Municipal Building, 2 North Main Street.

Present:

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

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, March 18, 2010.

Regular Agenda Item 6 - Conditional Use Permit for package store: David Blackburn, City Manager, stated this item was tabled at the last meeting. The applicant will be present to answer any questions from the Council.

Regular Agenda Item 7 - Alley abandonment: Mayor Jones stated the applicant has requested this item be tabled and that the public hearing be left open.

Regular Agenda Item 8 - Board Appointments: Clydette Entzminger, City Secretary, presented names of applicants to be considered for appointment to these particular boards.

2. Review and discuss the "Temple Tomorrow," the City of Temple Strategic Vision and Plan.

Mayor Jones stated the purpose of this discussion was to review the City's strategic vision and plan to determine if updates and amendments are necessary, prior to beginning the budget process for 2011. He specifically asked Councilmembers to provide input on whether the four focus areas are still relevant.

Councilmember Schneider stated he felt one goal had been accomplished in developing quite a few shovel ready lots in our business parks. We should now focus on maintaining what we have and not on growing more. These lots add maintenance responsibilities for City crews. Councilmember Schneider agreed with the need to continue to acquire land when prudent but not to build more infrastructure at this time.

David Blackburn, City Manager, stated much of the current Capital Improvement Program addresses the sustainability issues related to existing infrastructure.

Councilmember Schneider stated our parks have been expanded, which causes an increase in the operations budget and the number of employees. In this area, he also felt the focus should be on maintaining what we have and not expanding.

Mayor Jones reminded the Council the strategic plan needs to look 10-15 years ahead, not just at 2011.

Mr. Blackburn questioned whether the Council is in favor of submitting another pass through financing application, as this would be considered an expansion of infrastructure if approved. The consensus was to pursue the funding in an effort to both maintain and enhance road conditions for the existing and future customers. Mr. Blackburn noted this project is favorable to TxDOT and will increase our odds to get IH-35 expanded through Temple. The Outer Loop will not accomplish those goals.

Mayor Jones stated the City finances will see another 'sawtooth' in 2013 when some debt is retired. What do we need to address at that time? We could possibly do a \$5-6 million General Obligation bond issuance at that time. Do we need to look at improving Kegley Road, an existing roadway that has an I-H 35 connection?

Mr. Blackburn noted the RZ No. 1 Project Committee is working on an update of the Zone's Master Plan and will update the City Council on their activities soon. He discussed how the City Council's strategic plan affects the Zone Master Plan. There has been discussion at the RZ meetings, as well as in other forums, about what type of businesses we want in Temple and which ones we don't want.

Mayor Pro Tem Luna agreed with taking care of the existing infrastructure, such as the water treatment plant, Kegley Road, etc.

Councilmember Janczak asked that the City investigate the possibility of a publicly owned electric generation facility. This could be quite advantageous to our community and he asked that a feasibility study be performed.

Councilmember Jeter referred to strategic objective 6.1, traffic calming program. He stated there are a lot of areas with significant traffic and we need to develop a plan to address those areas. Regarding objective 7.3, enhancing the public transit system, Councilmember Jeter stated the City needs to address the shelter issue and not wait on federal funds to be made available. He noted the HOP does not favor advertising on shelters or buses but he still felt this was the City's best opportunity to get shelters constructed at no cost to the City. Trash containers are also needed at bus shelters, although they present a maintenance issue.

Regarding strategic objective 10.2 and 10.3, beautification efforts along major corridors and developing Temple's oldest neighborhoods, Councilmember Jeter stated he felt 3rd Street has been overlooked. That corridor should be protected by expanding the Historic District to include 3rd Street. Councilmember Jeter stated strategic objective 11.3, investment in parks and related facilities, has been good but we also need to protect our investment in existing facilities and should keep one deep water pool open.

Mr. Blackburn discussed water parks versus deep water pools. The voters approved the bonds for a water park because that is what they wanted. He asked Council to think about General Obligation bonds and the future consequences they cause. The objective is to make some of the programs break even, such as the Summit, golf course and the aquatics program, while determining the appropriate rate of recovery for others, such as Wilson Park and the Senior Center.

Traci Barnard, Director of Finance, stated the City needs to identify the economic benefit versus cost with all of our Capital Improvement projects. Staff will continue to identify cost recovery areas throughout the City's operations.

Mr. Blackburn noted the Railroad and Heritage Museum Board is collaborating with the City on a vision for the Springer Park area, generally 3rd Street/the railroad/7th Street/Central

Avenue. We need to decide what we want it to be in 20 years so we can work toward that goal. This vision needs to be what the stakeholders and the community wants it to be.

Mr. Blackburn concluded by stating more organizations and agencies throughout the community are working on a strategic plan and vision than ever before and they are looking to the City for guidance. There are a number of issues where City direction is needed, such as downtown redevelopment, the Hawn Hotel, the Arcadia Theatre, and TMED. All of these are important to the RZ Master Plan, as well as to others in the community.

3. Discuss proposed ordinance changes related to off-street parking in residential neighborhoods.

Kim Foutz, Assistant City Manager, presented this item to the City Council. She noted this draft ordinance is the result of several Council work sessions held last year. Some of the issues reviewed include codes from other Texas cities, driveway standards, driveway widths, maximum front yard covered in pavement and orientation. Mrs. Foutz began with a review of the current ordinance provisions for parking placement, parking surface, and site coverage. The standards being proposed address both motorized and non-motorized vehicles parked in front and side yards and Mrs. Foutz reviewed these standards, displaying photos as examples. Under the proposed standards, vehicles must be parked on a contiguous paved asphalt or concrete surface; parked perpendicular to front property line unless curvilinear driveway; extra paved parking areas allowed if perpendicular to front property line; combination of pavement to cover no more than a certain percentage of front and side yards; not located in front of the primary entrance in 2F and SF districts except curvilinear driveways; and driveway width at property line to be no less than pre-determined size.

Mrs. Foutz also explained that existing parking areas would be allowed if it extends in a continuous course from curb cut, is existing before a pre-determined date, is a non-erodible surface (crushed granite or stone, compacted gravel w/border, brick pavers, brick or stone) and is maintained. Unpaved driveways/parking areas would no longer be grandfathered when the driveway or parking area is expanded, the home is expanded by more than 25%, or the home is destroyed by more than 60% of its value. The ordinance proposes exceptions in Agricultural Districts and for temporary parking associated with construction or landscaping. Vehicles are also not to be parked in the visibility triangle.

Councilmember Jeter asked if there were options for designating a particular type of parking in a certain neighborhood, in keeping with that particular neighborhood's standards.

Trudi Dill, Deputy City Attorney, stated that could be done and gave Austin as an example of where that type of parking standards are in place.

Councilmember Schneider asked if granite can be used in new construction.

Mrs. Foutz replied that if the granite driveway is existing it would be grandfathered, under this proposal, but it would not be an allowable surface for future development.

Councilmember Schneider stated the proposed ordinance might not be appropriate for agricultural property.

The Council discussed the applicability of the visibility triangle and whether it applied to intersections only or to restrictions along the roadway. They also discussed what surfaces would be allowed, both now and in the future, if the proposed ordinance was adopted, and

the need for aprons or drive approaches to protect the underground infrastructure. The Council's consensus was concern for the location of where vehicles are parked, not the surface material.

Mr. Blackburn stated the staff would revise the proposed ordinance based on Council discussion and comments and present at the April 15th work session. The ordinance would then proceed to the Planning & Zoning Commission for their review and recommendation.

4. Discuss the City's economic development agreement with Temple Economic Development Corporation.

Mayor Jones stated the City Council would enter into executive session at this time, approximately 4:00 p.m., with no action to be taken following the executive session.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, March 18, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

I. CALL TO ORDER

1. Invocation

Reverend Roscoe Harrison, Eighth Street Baptist Church, voiced the Invocation.

2. Pledge of Allegiance

Scott Allen, Chair of the 2010 Census Complete Count Committee, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) Census Day in Temple - April 1, 2010

Mayor Jones presented this proclamation to members of the Temple 2010 Census Complete Count Committee. A video was shown that was created by the Complete Count Committee to encourage participation in the Census.

III. PUBLIC APPEARANCES

4. Receive comments from Mr. Andrew Machuca regarding oak wilt prevention.

Mr. Andrew Machuca addressed the City Council regarding oak wilt. He explained what causes the disease and what can be done to prevent it. It is spread when pruning

occurs during the wrong season or when not done properly. Mr. Machuca encouraged education of our citizens through various venues throughout the community. He also showed photos of leaves from both red oaks and live oaks infected with oak wilt.

IV. PUBLIC COMMENTS

Mr. David Carter, 69 Runway Lane, Temple, addressed the City Council regarding the cost to taxpayers of persons illegally present in our City. He read a prepared statement that outlined some questions to the City regarding documentation of data and costs of persons living here illegally.

V. CONSENT AGENDA

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

(A) March 4, 2010 Special Called and Regular Meeting

(B) 2010-5973-R: Consider adopting a resolution authorizing the extension of the City's Bank Depository Contract with Bank of America for an additional two year period, through May 31, 2012.

(C) 2010-5974-R: Consider adopting a resolution authorizing a Microsoft Software Enterprise Agreement with Dell Corporation of Round Rock (DIR Contract DIR-SDD-1014) in the amount of \$100,907.

(D) 2010-5975-R: Consider adopting a resolution authorizing the purchase of hardware for the City's computer replacement program from Dell Corporation of Round Rock (DIR Contract 48ABO) in the not to exceed amount of \$131,000.

(E) 2010-5976-R: Consider adopting a resolution granting a street use license for a French drain and accessories proposed to be located within a drainage and public utility easement at 6608 W. Adams Avenue, located in Block 1, Lot 1, Holy Trinity Catholic High School Subdivision.

(F) 2010-5979-R: 1. Consider adopting a resolution authorizing an emergency construction contract with Lone Star Railroad Contractors, Inc., to perform railroad track repairs in the Temple Industrial Park in the amount of \$76,258.

(G) 2010-4350: SECOND READING - Z-FY-10-22: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Single Family One District (SF-1) on a 0.70 ± acre tract of land being part of the Maximo Moreno Survey, Abstract Number 14, located at 216 North 36th Street.

(H) 2010-4351: SECOND READING - Consider adopting an ordinance re-establishing a curfew for minors.

(I) 2010-5977-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution approving Consent

Agenda, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

VI. REGULAR AGENDA

ORDINANCES

- 6. 2010-4348: THIRD READING - Z-FY-10-18: Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption in a 6,000 square foot building, on Lot 1, Block 4, Hilltop Estates Addition VII, at 1521 Marlandwood Road.**

Tammy Lyerly, Planner, presented this item to the City Council. The item was presented for first reading on February 18th and second reading on March 4th, at which time the item was tabled to allow further discussion with the applicant. Ms. Lyerly presented photos of the site, the surrounding uses and the site plan associated with the proposed conditional use permit. The site meets the criteria in the Thoroughfare Plan and public infrastructure is available to serve the site. Ms. Lyerly discussed the criteria by which the conditional use permit application was reviewed by staff.

Ron Thrower, representing the applicant, Twin Liquors, addressed the City Council. He addressed the traffic generated by this establishment and compared that to other business uses. He stated this business would be a good fit for the community and the location is good, as well.

Councilmember Schneider stated he has had questions and concerns from citizens within the community but his questions have been addressed.

Councilmember Janczak stated he has also sought feedback and opinions regarding traffic issues and the appropriateness of this location. He is convinced this is a legitimate business concern. Surrounding businesses sell beer and wine, as this is a retail area. The requirements for the Conditional Use Permit have been met and exceeded.

Motion by Councilmember Marty Janczak to adopt ordinance on third reading, seconded by Mayor Pro Tem Patsy E. Luna.

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

- 7. 2010-4352: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance abandoning 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition.**

Tammy Lyerly, Planner, presented this item to the City Council. The applicant has asked that this item be tabled and the public hearing continued to the next Council

meeting. Ms. Lyerly presented maps and photos showing the location of the alley that is requested to be abandoned. The applicant would like to continue the fence along the rear of his property line to cut down on foot traffic and crime in his particular business area. All utility providers have been notified and they have raised no objections. Taco Bell, the adjoining property owner, has voiced their objection to the request because their dine-in customers exit the parking lot and travel through the alley to 29th Street. Therefore, they would like for the alley to remain open. Staff is recommending denial of the alley abandonment based on objection of the adjoining property owner, Taco Bell. There is the potential for a 10 foot strip to be left between the two adjacent properties that would have to be maintained.

Councilmember Schneider stated the property owners need to get together to address this issue prior to the next Council meeting.

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

There were no comments made. Mayor Jones stated the public hearing would be continued to the next Council meeting.

Motion by Councilmember Marty Janczak to table ordinance on first reading, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

BOARD APPOINTMENTS

8. **2010-5978-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

(A) Building & Standards Commission - one regular member and one alternate member to fill expiring terms through March 1, 2012

It was recommended that Fay Evans be appointed as a regular member and Lee Crossley as an alternate member on this board.

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

Motion passed unanimously.

(B) Electrical Board - one member to fill expiring term through March 1, 2013

It was recommended that Tonya Degges be appointed to this board.

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

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #4(B)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

David A. Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing an agreement with Bucher, Willis & Ratliff Corporation (BWR) to assist the City in preparing an application for a Pass-Through Financing Project proposal for improvements to the Northwest Loop 363 with the Texas Department of Transportation (TxDOT).

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the City to engage the services of Bucher, Willis & Ratliff Corporation (BWR) to assist the City in preparing a Pass-Through Financing Project Proposal for TxDOT's FY 2010 Category 12 Program Call submission. The services provided will include preparing a proposal for improvements to NW Loop 363, address any and all questions from TxDOT during proposal review and act as a technical advisor during negotiations if the proposal is selected for funding.

The Pass-Through Financing program was established as a means to benefit local areas by accelerating improvements in mobility and safety on the state highway system. Under the "pass through financing" concept, cities or counties enter into an agreement with TxDOT in which the parties agree that an addition to the State highway system will be constructed within the boundaries of the city/county, and that the city/county will finance the cost of those improvements upfront. In return TxDOT will reimburse the city or county that financed the improvements based on future usage of that road improvement by the public. With the future expansion of IH 35 through Temple nearing, the NW Loop 363 will serve as a reliever route for traffic on IH 35. We believe that our Loop 363 project in west Temple is an excellent candidate for a pass-through financing agreement with TxDOT.

The project scope under consideration is an expansion of Loop 363('I-35 Reliever') to include the following: 1) adding two frontage roads on NW Loop 363 from FM 2305/West Adams north up to the BNSF main line; 2) a grade separated interchange at SH36/Airport Road; 3) and a grade separation at Wendland Road. TxDOT has completed design and is scheduled to begin construction in June 2010 of the segment just south of the BNSF main line to include the bridge over the BNSF railroad up to the connection to North IH 35 with no turn arounds.

David Blackburn, Traci Barnard, Bruce Butscher, Jonathan Graham and Sarah Gardner-Cox interviewed Pate Transportation Partners (who assisted the City in the preparation of the past two applications) and BWR. Based on the scope of the current project and BWR's existing knowledge of the NW Loop 363 project, the group determined that BWR's expertise would best serve the needs of the City of Temple.

FISCAL IMPACT: There is no fee for the services to assist in the preparation of the application. BWR offers the services as business development. If the City of Temple's application is selected and approved by TXDOT for the Pass-Through Program, BWR will be considered for project design and management on the NW Loop 363 project.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AGREEMENT WITH BUCHER, WILLIS & RATLIFF CORPORATION TO ASSIST THE CITY IN PREPARING AN APPLICATION FOR A PASS-THROUGH FINANCING PROJECT PROPOSAL FOR IMPROVEMENTS TO THE NORTHWEST LOOP 363 WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT); AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Pass-Through Financing program was established as a means to benefit local areas by accelerating improvements in mobility and safety on the state highway system where cities or counties enter into an agreement with TxDOT in which the parties agree that an addition to the State highway system will be constructed within the boundaries of the city/county, and that the city/county will finance the cost of those improvements upfront – in return TxDOT will reimburse the city/county that financed the improvements based on future usage of that road improvement by the public;

Whereas, the Staff recommends engaging the services of Butcher, Willis & Ratliff Corporation to assist the City in preparing a Pass-Through Financing Project proposal for TxDOT's FY 2010 Category 12 Program Call submission – the services provided will include preparing a proposal for improvements to NW Loop 363, address any and all questions from TxDOT during the proposal review and act as a technical advisor during negotiations if the proposal is selected for funding;

Whereas, there is no fee for the services to assist in the preparation of the application since Butcher, Willis & Ratliff Corporation offers the services as business development – if the City's application is selected and approved by TxDOT for the Pass-Through Program, the company will be considered for the project design and management on the NW Loop 363 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 City Manager, or his designee, to execute an agreement with Bucher, Willis & Ratliff Corporation, after approval as to form by the City Attorney, to assist the City in preparing an application for a Pass-Through Financing Project proposal for improvements to the Northwest Loop 363 with the Texas Department of Transportation.

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 **1st** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #4(C)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Interim/Acting Director of Public Works
Johnnie Reisner, Superintendent of Water Production Services

ITEM DESCRIPTION: Consider adopting a resolution ratifying emergency work performed and authorizing payment to T. Morales Company of Florence, Texas for services performed related to a power outage on March 9, 2010 at the Water Treatment Plant in the amount of \$28,318.06.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On March 8, 2010 the City of Temple experienced a severe thunderstorm that included excessive thunder and lightning. During the storm, the Conventional Water Treatment Plant sustained a major power outage, most likely the result of a lightning strike. The damage caused a short in the wiring to the transformer for the main administration building, which in-turn shut down all conventional plant equipment for treatment processing and all SCADA information.

Water treatment plant crews worked around the clock from the evening of March 8 and through the morning of March 10 to restore power and operations to the water plant. In addition to staff effort, contract work to pull a new electrical cable from the main switchgear to the transformer and specialized programming services related to restoration of the SCADA system was required.

T. Morales Company is currently under contract with the City to provide electrical service repairs on an as-needed basis. The invoicing for the work completed was in compliance with the annual contract authorized by Council on September 3, 2009.

FISCAL IMPACT: Repair and maintenance funds in the amount of \$89,008 are currently available in account 520-5100-535-2313 to pay for the services related to the emergency power outage at the Water Treatment Plant.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RATIFYING EMERGENCY WORK PERFORMED AND AUTHORIZING PAYMENT TO T. MORALES ELECTRIC & CONTROLS, LTD., OF FLORENCE, TEXAS, FOR SERVICES PERFORMED RELATED TO A POWER OUTAGE ON MARCH 9, 2010, AT THE WATER TREATMENT PLANT, IN THE AMOUNT OF \$28,318.06; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on March 8, 2010, the Conventional Water Treatment Plant sustained a major power outage during a severe thunderstorm, and the damage caused a short in the wiring to the transformer for the main administration building, which in turn shut down all conventional plant equipment for treatment processing and all SCADA information;

Whereas, T. Morales Electric & Controls, Ltd., is currently under contract with the City to provide electrical service repairs on an as-needed basis and were called to restore operations at the Conventional Water Treatment Plant as a result of the storm damage;

Whereas, the cost for the repairs is \$28,318.06, and repair and maintenance funds are available in Account No. 520-5100-535-2313 for this expenditure; and

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

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

Part 1: The City Council ratifies emergency work performed by T. Morales Electric & Controls, Ltd., of Florence, Texas, for services performed related to a power outage on March 9, 2010, at the Water Treatment Plant, and authorizes payment to the company in the amount of \$28,318.06.

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 1st day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #4(D)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Consider adopting a resolution declaring the candidates for the May 8, 2010 District 1 City Councilmember as unopposed and elected to office, thereby canceling the May 8, 2010 City general election in District 1.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Election Code permits the cancellation of an election under certain circumstances. This is the third opportunity the City of Temple has had to cancel an election.

In order to cancel an election in the City, the City Secretary must certify in writing to the City Council that only one candidate's name is to appear on the ballot for the election in a particular district; that no write-in candidates have filed to be placed on the list of write-in candidates for this place; and that no proposition is to appear on the ballot. These certifications have been made on the attached *Certification of Unopposed Candidates* regarding the District 1 Councilmember election.

Since there is only one candidate for District 1 Councilmember, Danny Dunn, the Council can declare the unopposed candidate for District 1 elected to office, thereby canceling the May 8, 2010 election in District 1 only. The *Order of Cancellation*, also attached, will be posted on Election Day at the District 1 polling place. The Certificate of Election will be presented to Mr. Dunn following the May 8th election date.

Two candidates have filed for a place on the ballot in the District 4 election, the incumbent Russell Schneider, and Justice Bigbie. Therefore, the election in District 4 cannot be canceled and will be held as ordered on May 8, 2010 in District 4 only.

FISCAL IMPACT: Savings of approximately \$2,000 will be realized by canceling the May 8th election in District 1.

ATTACHMENTS:

[Certificate of Unopposed Candidate](#)
[Order of Cancellation](#)
[Resolution](#)

**CERTIFICATION OF UNOPPOSED CANDIDATES
CERTIFICACIÓN DE CANDIDATOS ÚNICOS**

To: Presiding Officer of Governing Body

Al: Presidente de la entidad gobernante

As the authority responsible for having the official ballot prepared, I hereby certify that the following candidates are unopposed for election to office for the election scheduled to be held on May 8, 2010.

Como autoridad a cargo de la preparación de la boleta de votación oficial, por la presente certifico que los siguientes candidatos son candidatos únicos para elección para un cargo en la elección que se llevará a cabo el 8 de mayo de 2010.

List offices and names of candidates:

Lista de cargos y nombres de los candidatos:

Office(s) Cargo(s)

District 1 Councilmember

Candidate(s) Candidato(s)

Danny Dunn

Signature (Firma)

Clydette Entzminger

Printed name (Nombre en letra de molde)

City Secretary

Title (Puesto)

March 16, 2010 (Seal) (sello)

Date of signing (Fecha de firma)

ORDER OF CANCELLATION
EJEMPLO DE ORDEN DE CANCELACIÓN

The City Council of the City of Temple hereby cancels the election scheduled to be held on May 8, 2010 in accordance with Section 2.053(a) of the Texas Election Code. The following candidates have been certified as unopposed and are hereby elected as follows:

La Ciudad Temple, Texas por la presente cancela la elección que, de lo contrario, se hubiera celebrado el 8 de mayo de 2010 de conformidad, con la Sección 2.053(a) del Código de Elecciones de Texas. Los siguientes candidatos han sido certificados como candidatos únicos y por la presente quedan elegidos como se haya indicado a continuación:

Candidate (Candidato)

Danny Dunn

Office Sought (Cargo al que presenta candidatura)

Councilmember District 1

A copy of this order will be posted on Election Day at each polling place that would have been used in the election.

El Día de las Elecciones se exhibirá una copia de esta orden en todas las mesas electorales que se hubieran utilizado en la elección.

Mayor (Presidente)

Secretary (Secretario de ciudad)
(seal) (sello)

April 1, 2010
Date of adoption (Fecha de adopción)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DECLARING THE CANDIDATE FOR THE MAY 8, 2010, DISTRICT 1 CITY COUNCILMEMBER ELECTION AS UNOPPOSED AND ELECTED TO OFFICE, THEREBY CANCELLING THE MAY 8, 2010 DISTRICT 1 CITY COUNCILMEMBER ELECTION.

Whereas, in 1995, the Texas Legislature amended the Election Code to permit the cancellation of an election under certain circumstances;

Whereas, in 1997, the Legislature added write-in declaration requirements for many types of political subdivisions, expanding the number who could cancel the election;

Whereas, in 2001 the Legislature added a write-in declaration requirement for special elections for cities and for legislative vacancy elections;

Whereas, the City Secretary of the City of Temple, as the authority responsible for gathering information for preparation of the ballot for the May 8, 2010 City of Temple General Election, has certified in writing to the City Council of the City of Temple, Texas that only one candidate's name is to appear on the ballot for the City Councilmember District 1 election;

Whereas, no write-in candidates have filed to be placed on the list of write-in candidates for this place;

Whereas, no proposition is to appear on the ballot for the May 8, 2010, election; and

Whereas, the City Council of the City of Temple, Texas 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:

Part 1: The City Council of the City of Temple, Texas accepts the Certification of Unopposed Status of Candidates for District 1 Councilmember for the May 8, 2010 General Election as submitted by the City Secretary.

Part 2: The City Council declares the unopposed candidate for District 1 Councilmember elected to office.

Part 3: The City Council hereby cancels the May 8, 2010 District 1 Councilmember Election, and authorizes a copy of the order of cancellation to be posted on election day at each polling place that would have been used in the election.

Part 4: The City Council also authorizes a certificate of election to be issued to each candidate in the same manner as provided in the Texas Election Code for a candidate elected at the election.

Part 5: It is 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 1st day of **April**, 2010

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #4(E)
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 \$2,075.

ATTACHMENTS:

[Budget amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2010 BUDGET
April 1, 2010

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-2200-522-2513		Special Services (Fire Department)	\$ 100	
110-0000-442-1629		Fire Donations		\$ 100
110-2200-522-2514		Travel & Training	\$ 1,252	
110-0000-442-1630		Fire Department Revenue		\$ 1,252
<p>This budget adjustment recognizes \$100 of donations from the Friends of Temple Fire for the annual awards banquet and \$1,252 of TCLOSE training reimbursement from the State for law enforcement TCLOSE qualified training.</p>				
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 485	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 485
<p>Settlement of claim filed against the City by Mark Fihn seeking reimbursement for damage to the brick mailbox structure for the claimant's home at 3305 Chelsea Place after a Solid Waste brush truck backed into it on March 5, 2010.</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 238	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 238
<p>Attorney fees for lawsuit filed against the City -- Centex Investments, Inc. v. City of Temple</p>				
TOTAL AMENDMENTS			\$ 2,075	\$ 2,075
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	77,833
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	(29,545)
Net Balance of Judgments & Damages Contingency Account			\$	48,288
Beginning Fuel Contingency			\$	125,000
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	125,000
Beginning Solid Waste - Future Capital Replacement 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
Net Balance Council Contingency			\$	221,688
Beginning Balance Budget Sweep Contingency			\$	-
Added to Budget Sweep Contingency			\$	-
Taken From Budget Sweep			\$	-
Net Balance of Budget Sweep Contingency Account			\$	-

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2010 BUDGET
April 1, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	247,423
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(28,875)
		Net Balance of Contingency Account	\$	218,548
		Beginning Approach Mains Contingency	\$	-
		Added to Approach Mains Contingency	\$	488,270
		Taken From Approach Mains Contingency	\$	(488,270)
		Net Balance of Approach Mains Contingency Account	\$	-
		Net Balance Water & Sewer Fund Contingency	\$	218,548
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	26,336
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(19,000)
		Net Balance of Contingency Account	\$	7,336
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	15,243
		Carry forward from Prior Year	\$	51,505
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(43,423)
		Net Balance of Contingency Account	\$	23,325

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 3rd 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 1st day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #5
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance abandoning 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented, on first reading, and schedule second reading and final adoption for April 15, 2010.

ITEM SUMMARY: This item was presented to Council for first reading on March 18th. The applicant was not present for that meeting and at the applicant's request, the Council tabled action on the item and left the public hearing open until April 1st.

The applicant, James D. Dean, requests this abandonment to add square footage to the open area of his existing car wash and to allow him to complete the fence along his rear property line. The applicant hopes the fence will reduce vandalism and theft from foot traffic through his business property.

Staff contacted all utility providers, including all divisions of the Public Works Department, regarding the proposed alley abandonment. There are no objections to the request.

The applicant and the owners of the adjacent Taco Bell property are the only abutting property owners along this portion of the subject alley. Staff notified the owners of the Taco Bell property of this alley abandonment request. Taco Bell representatives are opposed to the applicant's request to abandon the alley because their customers use the alley to travel back to Central Avenue.

FISCAL IMPACT: If approved, both abutting property owners will be allowed to purchase their half of the abandoned alley, which has a fair market value of \$4,900.

ATTACHMENTS:

[Application](#)
[Survey](#)
[Plat](#)
[Aerial](#)
[Abandonment Exhibit](#)
[Ordinance](#)

ABANDONMENT APPLICATION

Date: 12/16/2009

Property Owner: JAMES D. DEAN 409 VAN DYKE DR. 254.721.9929
Name Address Phone #

Applicant: JAMES D. DEAN 409 VAN DYKE DR. 254.721.9929
Name Address Phone #

Capacity of applicant: ☐ Officer ☐ Broker ☐ Prospective Buyer ☒ Other OWNER

Email: jdeanod@yahoo.com Fax Number: —

Address of Property: 1506 W. ADAMS Lot: 1 Block: 2 Subdivision: BLACK ADD.

Outblock (if not platted): _____

Filing Fee: The abandonment application requires a filing fee of \$100 plus the broker's opinion of the value of the property to be abandoned (if applicable). The fee is not refundable, except that a refund of \$25 and the value of the property will be made if an application is withdrawn in writing and received by the Planning Department prior to the notification of utility providers.

Type of Abandonment: ☒ Alley ☐ Street ☐ Drainage or utility easement ☐ Other _____

Abandonment Description: Please explain why the abandonment is needed.

POLICE RECOMMENDS TO HELP STOP VANDALISM AND TRAFFIC TO COMPLETE
EXISTING FENCE ALL THE WAY ACROSS BACK OF PROPERTY, TO STOP FOOT
TRAFFIC OF HOMELESS AND STREET PEOPLE FROM HAVING WALK THROUGH
ALLEYS AS NOW.

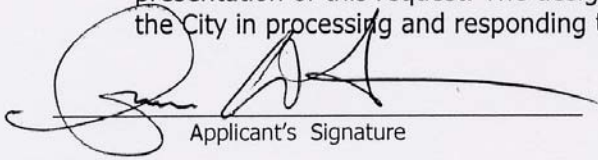
Use of Abandonment: Please provide the proposed use of abandoned property, if granted.

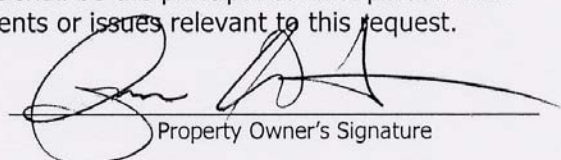
TO COMPLETE FENCE ACROSS BACK OF PROPERTY AND ADD 50 FEET AREA
TO OPEN AREA OF EXISTING CAR WASH. NO INTENDED USE
FOR BUILDING ON.

Thoroughfare Plan Streets: Any abandonment of a street reflected on the City's Thoroughfare Plan may be presented to Planning and Zoning Commission and the City Council.

Certification: You as the property owner certify with your signature that all of the following statements are true:

- This application is complete and all of the information provided is accurate.
- The person signing below as applicant may act as my agent for the processing and presentation of this request. The designated agent shall be the principal contact person with the City in processing and responding to requirements or issues relevant to this request.


Applicant's Signature


Property Owner's Signature

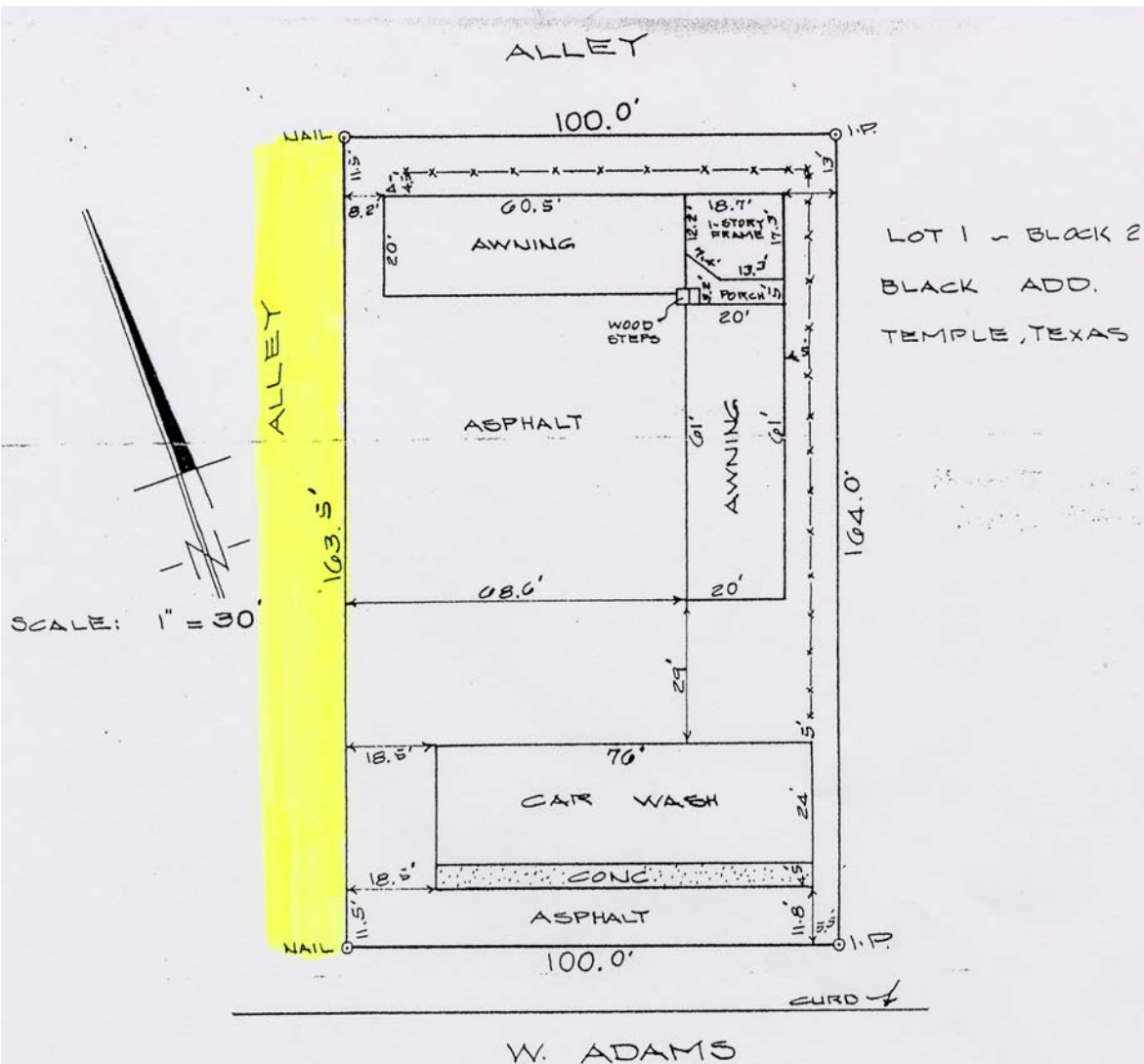
For Office Use Only

☒ Completed Application

Fee Received By: M. Maxwell

Case #: A-FV-10-04 Zoning Map Page: _____ Project Manager: Tammy Lyenky

Tentative City Council Date: _____



STATE OF TEXAS)

) KNOW ALL MEN BY THESE PRESENTS,

COUNTY OF BELL)

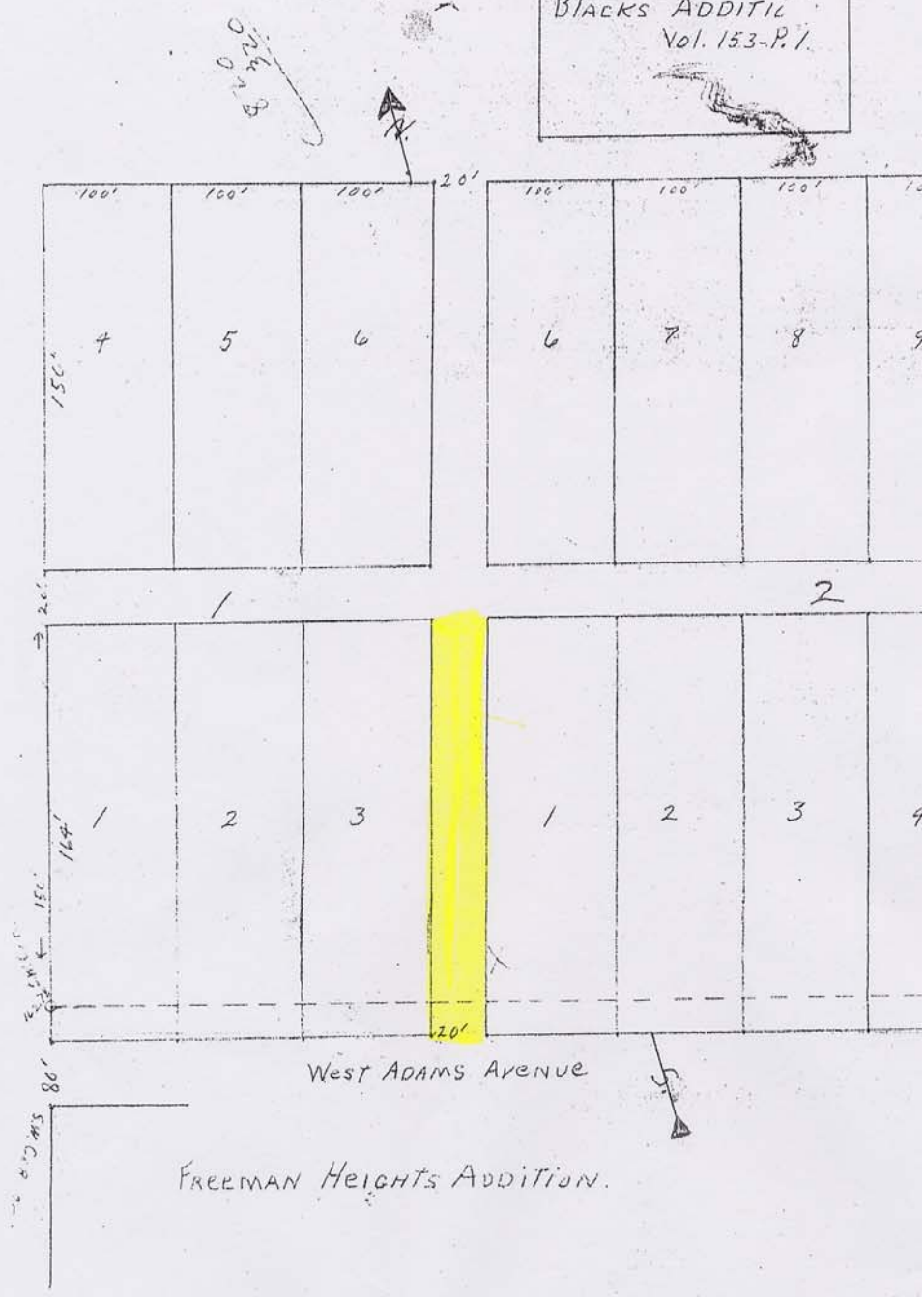
That I, Frank G. Martin Jr., a Registered Public Surveyor in the State of Texas, do hereby certify that the plat hereon is a true and accurate representation as determined by a survey made on the ground of Lot 1 Block 2 of Black Addition to the City of Temple, Texas, and the improvements erected thereon. There are no other easements. This lot is not in a flood hazard area.

December 9, 1981



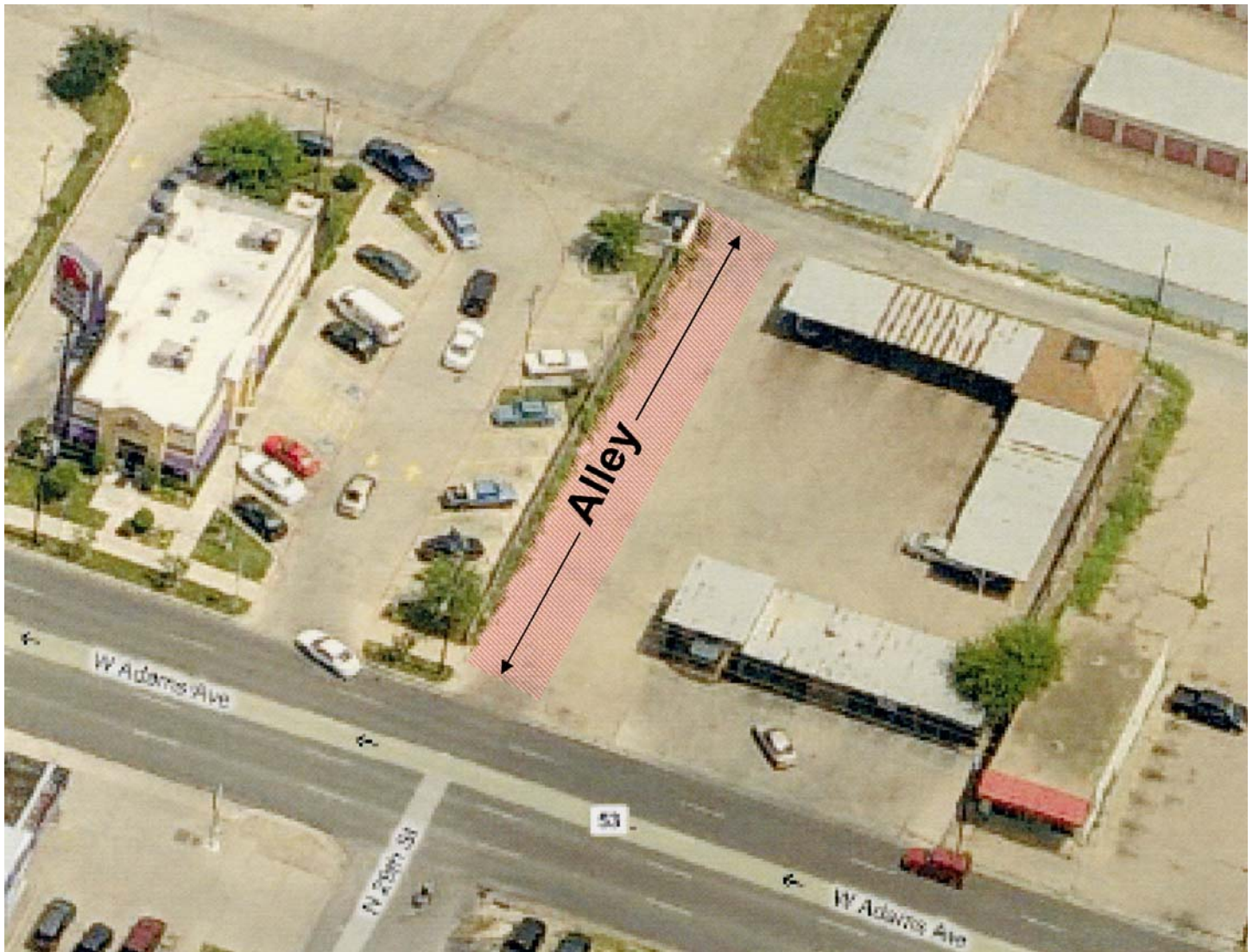
Frank G. Martin Jr.
Frank G. Martin Jr.
Registered Public Surveyor

BLACKS ADDITION
Vol. 153-P. 1.



FREEMAN HEIGHTS ADDITION.

N.W. COR. AVE. D. & 31ST. ST.
IRON BOLT.





**Proposed Alley Abandonment
20' wide x 164' long**

ORDINANCE NO. 2010-4352

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING 164 FEET OF A 20-FOOT WIDE ALLEY LOCATED ON THE NORTH SIDE OF WEST ADAMS AVENUE, BETWEEN LOT 3, BLOCK 1 AND LOT 1, BLOCK 2, BLACKS ADDITION; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has a request to abandon 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition;

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

Whereas, the Staff recommends that the tract be abandoned in exchange for the fair market value of the property; and

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

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

Part 1: The City Council abandons 164 feet of a 20-foot wide alley located on the north side of West Adams Avenue, between Lot 3, Block 1 and Lot 1, Block 2, Blacks Addition, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 3, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owners, which when done, shall be and become a binding act and deed of the City of Temple.

Part 3: As consideration for the conveyance described in Part 2 hereof, the abutting property owners shall each pay to the City of Temple the fair market value amount of \$2,450, for a total of \$4,900.

Part 4: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 5: 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.

TABLED on First Reading and Public Hearing on the **18th** day of **March**, 2010.

PASSED AND APPROVED on First Reading and Public Hearing on the **1st** day of **April**, 2010.

PASSED AND APPROVED on Second Reading the **15th** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of **April**, 2010, by WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #6
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-20 – Consider adopting an ordinance authorizing a zoning change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop.

STAFF AND P&Z COMMISSION RECOMMENDATION: At its March 15, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend **denial** of the zoning change from GR to PD-GR for a billboard at 1521 SW H K Dodgen Loop for the following reasons:

1. The request does not comply with the Urban Design and Future Land Use Chapter of the Comprehensive Plan.
2. A billboard is not permitted in the GR zoning district.
3. A billboard is too intense of a use for the subject property and is out of scale with surrounding structures.

Commissioner Dusek was absent.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-20, from the Planning and Zoning meeting, March 15, 2010.

A restaurant occupies the subject property. The applicant requests the PD-GR zoning district to erect an off-premise sign (billboard). Staff recommends denial of this Planned Development request due to concerns related to: the Comprehensive Plan, Zoning Ordinance and Scale of Design.

Due to the recommendation for denial from the Planning and Zoning Commission, a minimum of four favorable votes from the City Council is required to approve this Planned Development designation.

CONCERNS:

Comprehensive Plan

The purpose of the Auto-Urban Commercial character district in the Comprehensive Plan is as follows:

...The use of a higher landscape surface area, better landscaping along frontages and around and within parking areas, a build-to line (rather than a large front yard setback), and other signage and design standards would significantly enhance the appearance of these areas, especially as sites redevelop over time...

Adding a billboard to the property does not further this purpose statement.

Zoning Ordinance

Billboards are regulated as intense uses in the Zoning Ordinance. As stated above, billboards are only allowed by right in the zoning districts that allow industrial uses: Commercial (C), Light Industrial (LI) and Heavy Industrial (HI). If an applicant applied for any of these zoning districts on the subject property or the surrounding area, staff would recommend denial.

Scale of Design

Considering the dimensional requirements above, Staff has concerns about the scale of the existing structures in the area in relation to the proposed billboard. The heights of various structures in the area are as follows.

Structure	Height (ft.)
TSO Building	15
Baytown Seafood Building	18
Old Montgomery Ward Building	22
Baytown Seafood Sign	28
Parking Lot Light Poles	33
Light Pole Along Frontage Road	47

In addition, the size of the site itself (approximately 22,000 square feet) scale does not lend itself well to the placement of such a large sign.

Staff originally informed the applicant in November 2009 that the proposal would be recommended for denial.

The applicant's representative (Lamar Outdoor Advertising) was not present at the Commission's hearing.

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

Public Notice

Eight notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, March 12 at noon, one notice was returned in opposition to the request and no notices were returned in favor. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 18, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: None

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Billboard Separation Map
Binding Site Development Plan
Applicant's Exhibits
Notice Map
P&Z Staff Report (Z-FY-10-20)
P&Z Minutes (March 15, 2010)
Ordinance




Z-FY-10-20

Number One Market Loop, Lot 1, Block 1

1521 SW H.K. Dodgen Loop



 Z-FY-10-20

Feet 0 20 40 60 80
J Stone 1.15.10

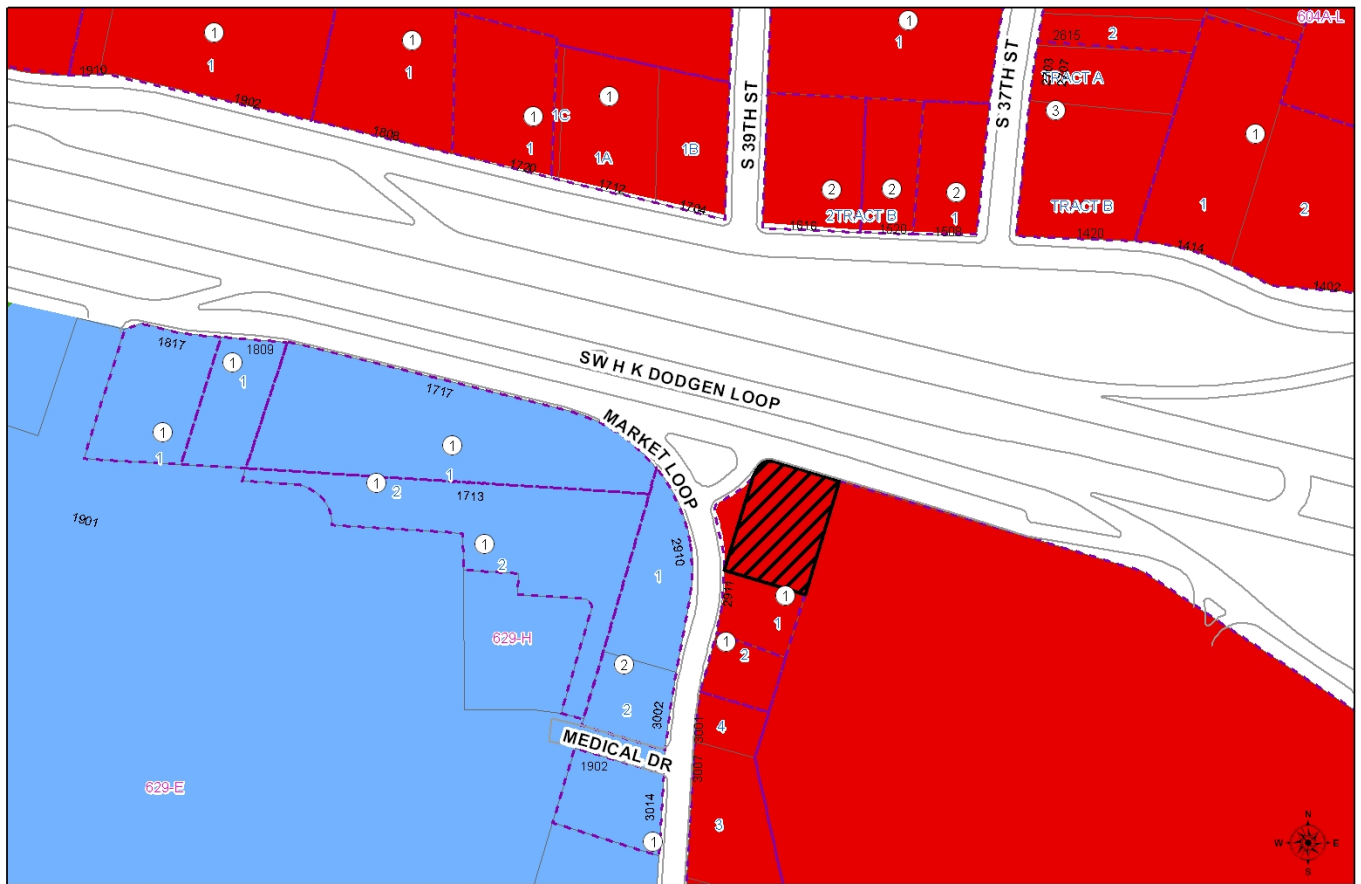


Z-FY-10-20

No. One Market Loop, Lt 1, Blk 1

1521 SW H.K. Dodgen Lp

Proposed Billboard



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

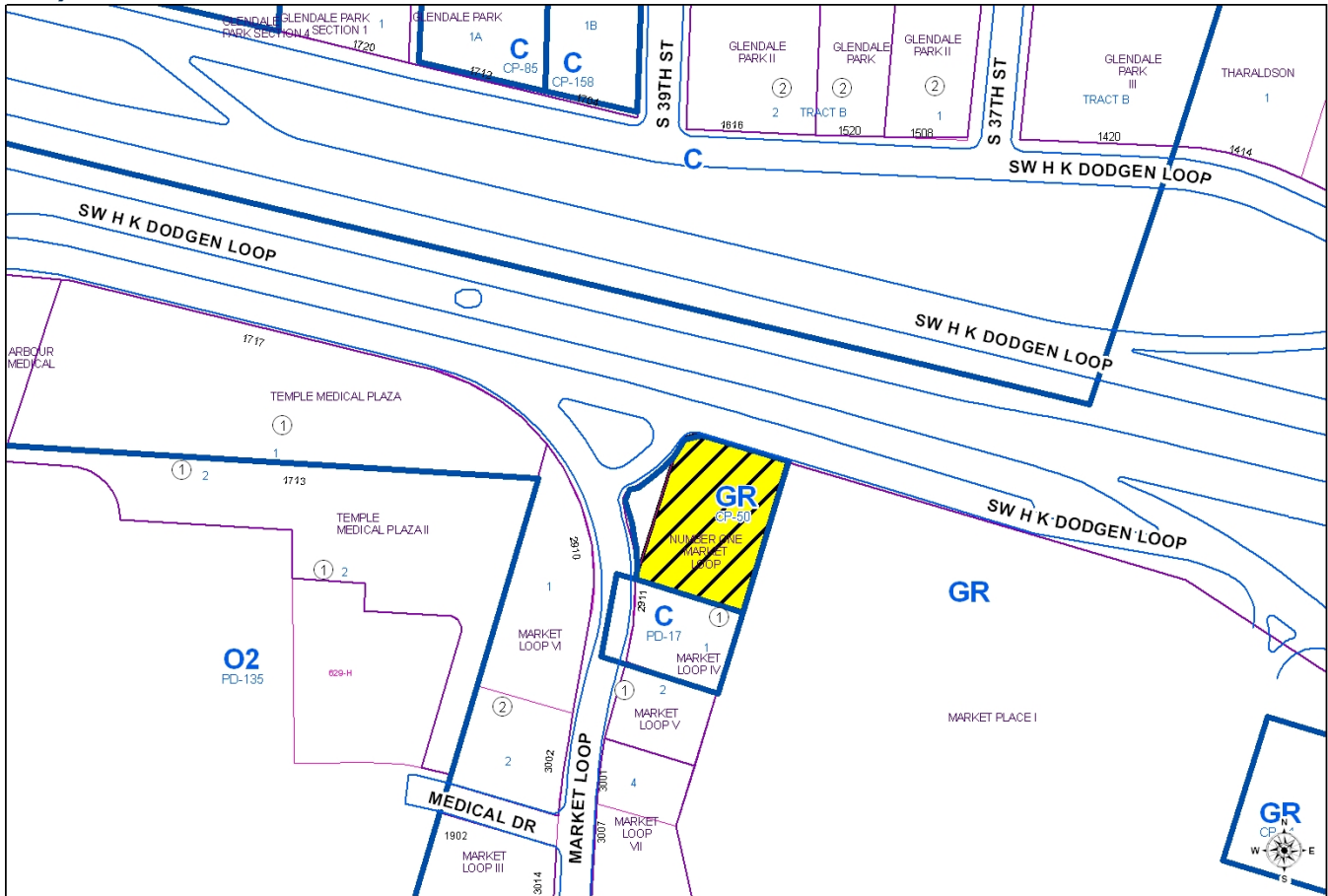
1 inch = 200 feet
J Stone 1.15.10



Z-FY-10-20

Number One Market Loop, Lot 1, Block 1

1521 SW H.K. Dodgen Loop



Z-FY-10-20

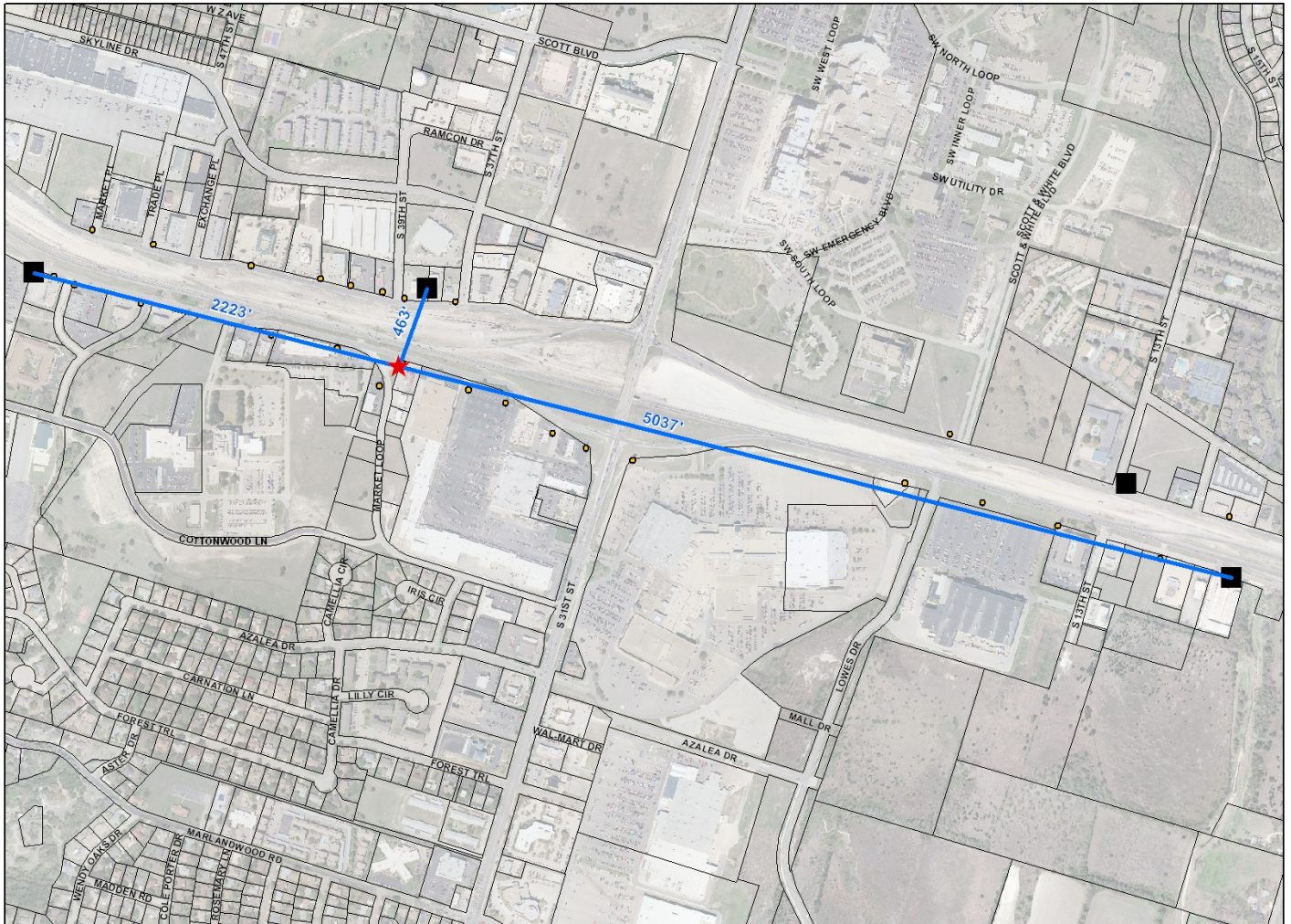
Feet 0 30 60 90 120
J Stone 1.15.10



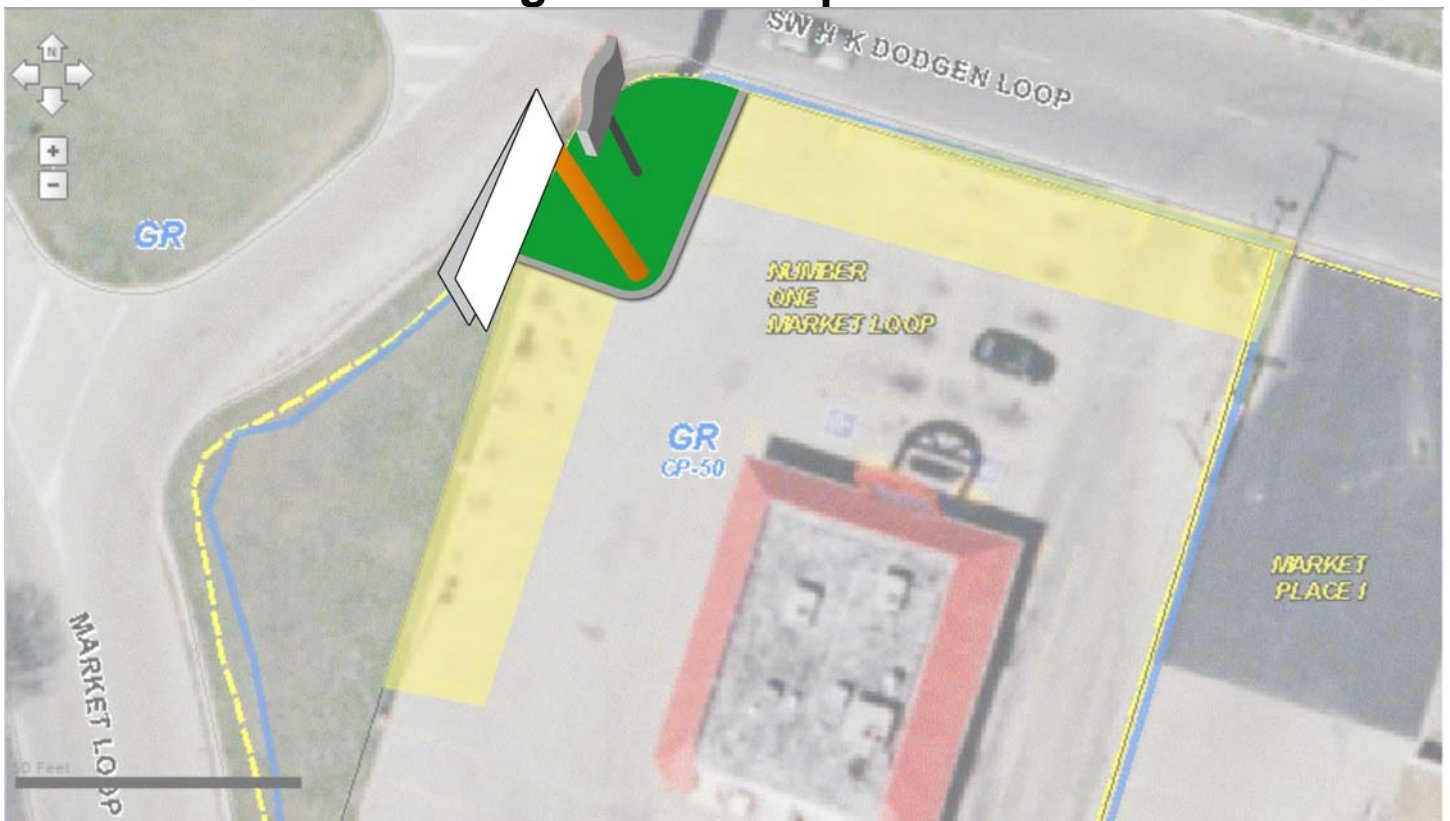
Z-FY-10-20

Number One Market Loop, Lot 1, Block 1

1521 SW H.K. Dodgen Loop



Binding Site Development Plan

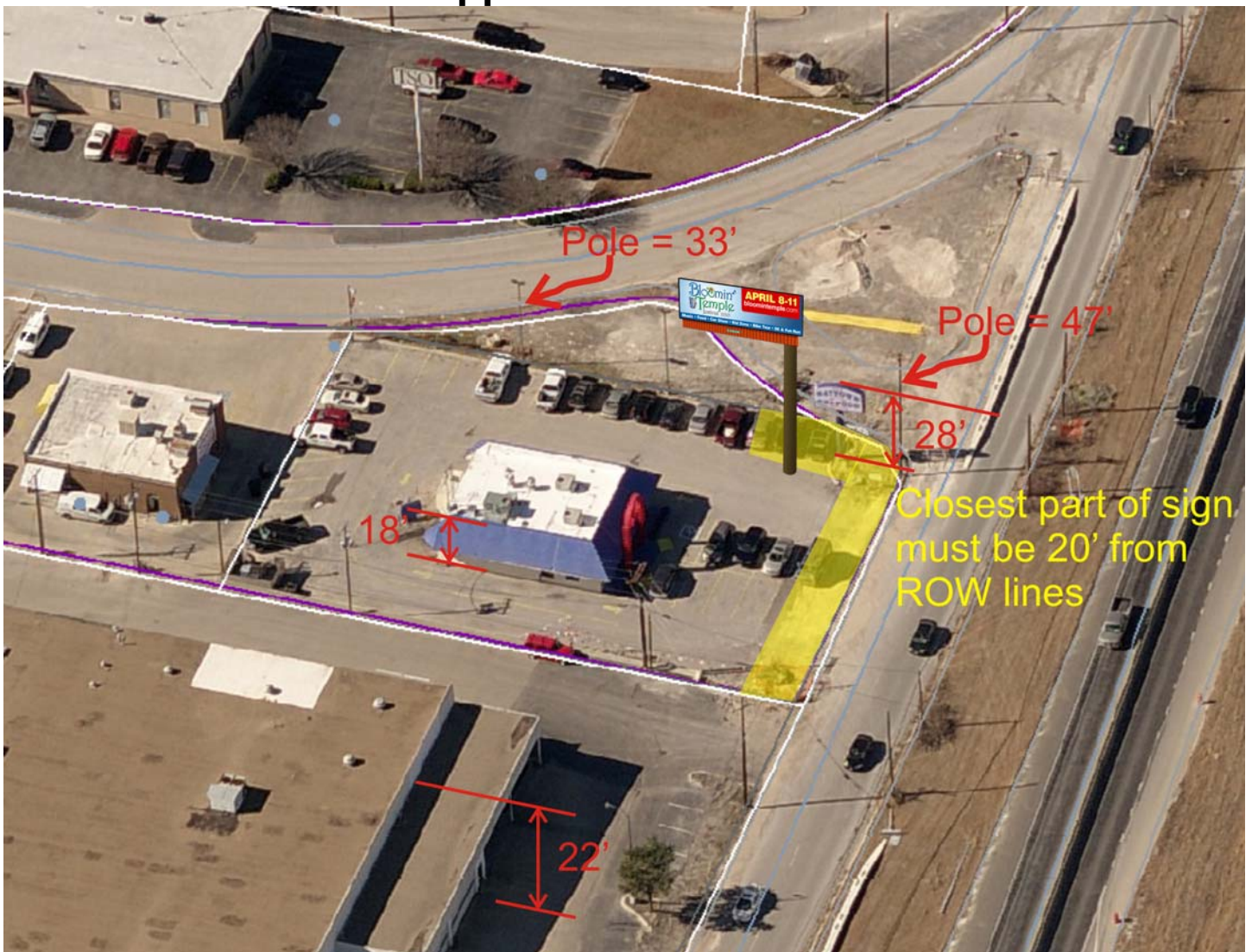


Yellow area = required 20' setback from right-of-way line for billboards

Applicant's Exhibits



Applicant's Exhibits

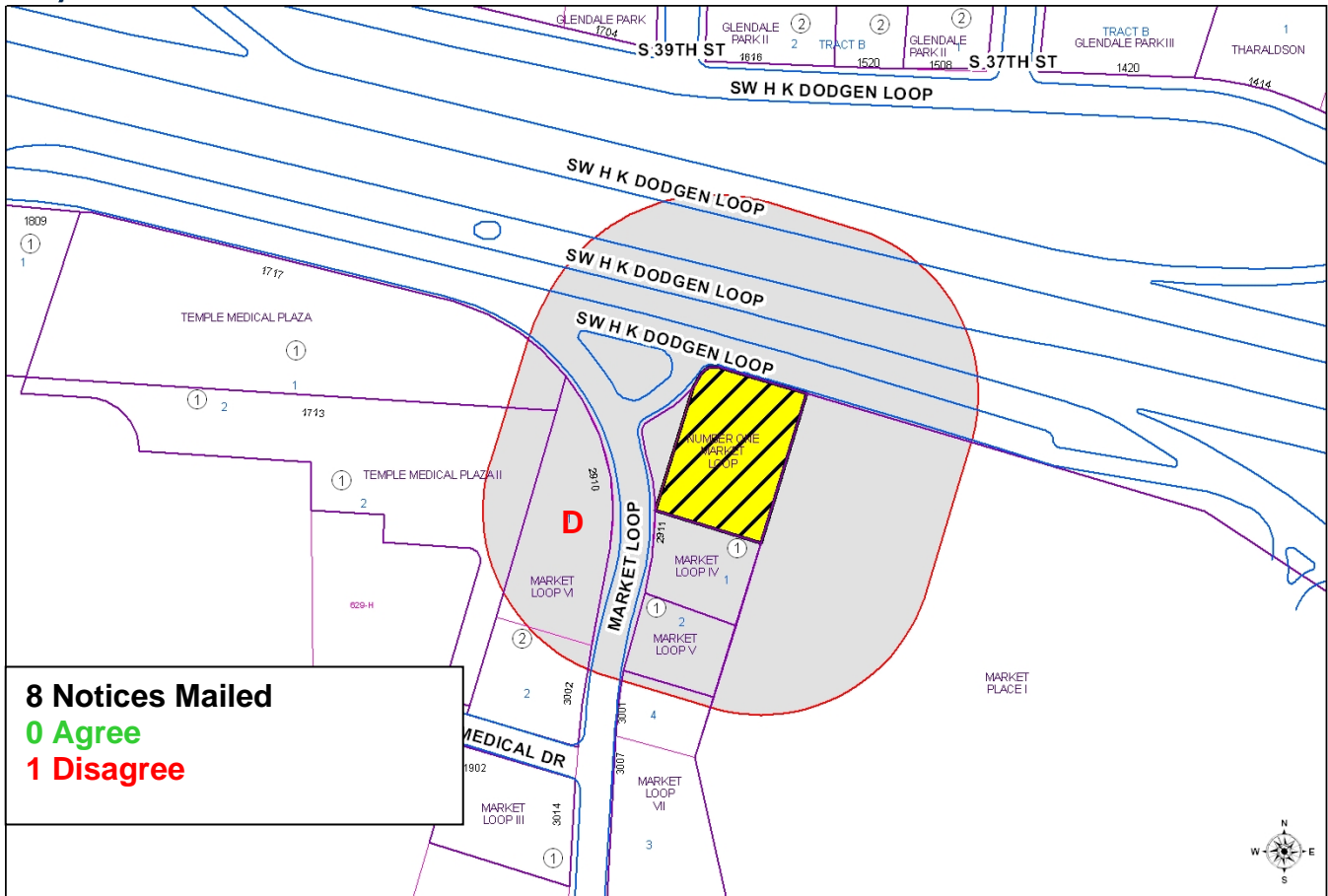




Z-FY-10-20

Number One Market Loop, Lot 1, Block 1

1521 SW H.K. Dodgen Loop



8 Notices Mailed

0 Agree

1 Disagree



Z-FY-10-20



200' Buffer

Feet 0 30 60 90 120

J Stone 1.15.10



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/15/10
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Lamar Advertising for David Newman of Famous Chicken of Laredo

CASE MANAGER: Brian Mabry, AICP, Senior Planner


ITEM DESCRIPTION: **Public Hearing, Discussion and Action Z-FY-10-20:** Hold a public hearing to discuss and recommend action on a zone change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop. Zoned GR.

BACKGROUND: A restaurant occupies the subject property. The applicant requests the PD-GR zoning district to erect an off-premise sign (billboard).

Billboards are only allowed by right in the Commercial (C), Light Industrial (LI) and Heavy Industrial (HI) zoning districts. Staff recommends denial of this Planned Development request due to concerns related to: the Comprehensive Plan, Zoning Ordinance and Scale of Design.

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	GR (PD-GR proposed)	Restaurant	

Direction	Zoning	Current Land Use	Photo
North	GR	TxDOT right-of-way	
South	PD-C	Dry Cleaner	
East	GR	Vacant Retail	
West	GR	TxDOT right-of-way	

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-Urban Commercial. The request does not comply with the Future Land Use and Character Map. See the “Concerns” section below.

CONCERNS

Comprehensive Plan

The purpose of the Auto-Urban Commercial character district in the Comprehensive Plan is as follows:

...The use of a higher landscape surface area, better landscaping along frontages and around and within parking areas, a build-to line (rather than a large front yard setback), and other signage and design standards would significantly enhance the appearance of these areas, especially as sites redevelop over time...

Adding a billboard to the property does not further this purpose statement. Once the billboard is erected, it could be in place for up to 70 years if properly maintained (source: Florida Office of Program Policy and Government Analysis), potentially hindering or detracting from the redevelopment of the area.

Zoning Ordinance

Billboards are regulated as intense uses in the Zoning Ordinance. As stated above, billboards are only allowed by right in the zoning districts that allow industrial uses: Commercial (C), Light Industrial (LI) and Heavy Industrial (HI). Billboards were permitted in the GR zoning district until 2002., when they were removed as a permitted use as part of an update to the billboard standards. If an applicant applied for any of these zoning districts on the subject property or the surrounding area, staff would recommend denial.

Section 12-168 of the Zoning Ordinance requires a minimum separation distance of 2,000 feet between billboards along HK Dodgen Loop. As shown in the attached aerial, the closest existing billboard on the same side of the Loop is 2,223 feet to the west. The closest billboard to the east is 5,150 feet away.

The dimensional requirements for a billboard are as follows.

Billboards on HK Dodgen Loop	
Sign Copy Area (sq. ft.)	378 (10'6" x 36')
Overall Height (ft.)	42.5
Setback from Any ROW Line (ft.)	20
Separation Between Billboards (ft.)	2,000

Scale of Design

Considering the dimensional requirements above, Staff has concerns about the scale of the existing structures in the area in relation to the proposed billboard. The heights of various structures in the area are as follows.

Structure	Height (ft.)
TSO Building	15
Baytown Seafood Building	18
Old Montgomery Ward Building	22
Baytown Seafood Sign	28
Parking Lot Light Poles	33
Light Pole Along Frontage Road	47

Staff originally informed the applicant in November 2009 that the proposal would be recommended for denial.

Public Notice

Eight notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, March 12 at noon, no notices were returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 18, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends denial of Z-FY-10-20, a Planned Development for a billboard at 1521 SW HK Dodgen Loop for the following reasons:

1. The request does not comply with the Urban Design and Future Land Use Chapter of the Comprehensive Plan.
2. A billboard is not permitted in the GR zoning district.
3. A billboard is too intense of a use for the subject property and is out of scale with surrounding structures.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Billboard Separation Map
Binding Site Development Plan
Applicant's Exhibits
Notice Map

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

MONDAY, MARCH 15, 2010

ACTION ITEMS

Item 3: Public Hearing, Discussion and Action Z-FY-10-20: Discuss and recommend action on a zoning change to Planned Development (General Retail) District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop. Zoned GR. (Applicant: Lamar Advertising for David Newman)

Mr. Brian Mabry, Senior Planner, stated Lamar Advertising was the applicant for this request and if approved would go to City Council on April 1st and 15th. The applicant was requesting a Planned Development designation in order to erect a billboard on the property which has frontage on H.K. Dodgen Loop. There were no representatives from Lamar Advertising in attendance at the meeting.

Staff recommended denial of this application based on concerns related to the Comprehensive Plan, the Zoning Ordinance, and the overall use and scale of the billboard design in relation to the property and surrounding area. The zoning map for the subject property is mostly Office Two (O2) and General Retail (GR) on outside of the Loop and Commercial (C) on the inside of the Loop.

Mr. Mabry gave the billboard standards along the Loop and stated the copy area for a sign is 10.5 x 36 feet; overall height was 42.5 feet, setback was 20 feet and separation of billboards was 2,000 feet. The proposed billboard met all of these requirements.

In reference to the concerns regarding approval, the property was shown to be Auto/Urban Commercial. In accordance with the Comprehensive Plan, part of the description for Auto/Urban Commercial stated "...the signage and design standards would significantly enhance the appearance of this/these area(s) especially as sites redevelop over time..." It was Staff's opinion the addition of this billboard to the subject property would not further this statement of Auto/Urban Commercial character district, especially for this area in this setting.

Staff also had concerns related to the Zoning Ordinance and the standards for billboards related to this specific property. Billboards are allowed in industrial zoning districts—C, LI and HI, which recognized billboards as an intense use. If the applicant had applied for any of these zoning districts for the subject property that do allow billboards or an intense use such as billboards, Staff would recommend denial for that as well.

Mr. Mabry showed the Commission the required PD site development plan submitted by the applicant which showed the GR designations surrounding and on the property itself. The proposed location of the billboard does meet the required setback standards, but the scale in relation to Baytown Seafood sign was larger.

The last concern related to the scale of design. There were several heights of various structures currently in the area: the TSO building was 15 feet in height; the Baytown Seafood was 18 feet; the Wards building was 22 feet, etc. The closest sign to the proposed billboard was the Baytown Seafood sign which was 28 feet in height.

Mr. Mabry showed several visuals regarding various heights of buildings and signs in relation to the requested billboard.

Eight (8) notices were mailed for this request and one (1) notice was returned in opposition; zero were received in favor.

Staff recommended denial of this request because the request did not comply with the urban design and Future Land Use chapter of the Comprehensive Plan, a billboard is not permitted in a GR district and a billboard on this site is too intense of a use for the subject property, and it is out of scale with the surrounding structures.

Commissioner Staats asked about the origin of the existing billboard on the other side of the Loop. Mr. Mabry stated he did not know the origin of the billboard or when it was permitted, however, as far as spacing, there were no requirements for spacing across the Loop so the presence of that existing billboard would not prevent a billboard from being placed on the subject property. Mr. Mabry also stated that the property across the Loop was zoned Commercial as required for a billboard.

Commissioner Secrest asked about the dimensions of the new sign and Mr. Mabry stated they were the default dimensions for a billboard along the Loop.

Chair Pilkington asked about the letter of denial and Mr. Mabry stated it was from the TSO building which stated there were concerns about the proposed billboard blocking public view of the TSO sign and possibly the building.

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

Commissioner Martin made a motion to deny the request for **Z-FY-10-20** and Commissioner Hurd made a second.

Motion passed: (8:0)

Commissioner Dusek absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-20]

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 A PORTION OF LOT 1, BLOCK 1, NUMBER ONE MARKET LOOP, LOCATED AT 1521 SW H K DODGEN LOOP, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property located at 1521 SW H K Dodgen Loop has requested that the property be rezoned from General Retail District (GR) to Planned Development General Retail District (PD-GR);

Whereas, the Planning and Zoning Commission denied this request at a meeting on March 15, 2010, and the Staff recommends denial of the request; and

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

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

Part 1: The City Council approves a zoning change from General Retail District (GR) to Planned Development General Retail District (PD-GR) on a portion of Lot 1, Block 1, Number One Market Loop, located at 1521 SW H K Dodgen Loop 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, attached hereto as Exhibit B, 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 **1st** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **15th** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #7
Regular Agenda
Page 1 of 2

DEPT. /DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-23 - Consider adopting an ordinance authorizing a zoning change from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) on a 250 ± acre tract of land situated in the Maximo Moreno survey, Abstract 14, Bell County, located in the Southeast Industrial Park, south of Lorraine Drive.

STAFF AND P&Z COMMISSION RECOMMENDATION: At its March 15, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change request from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) subject to the following requirements:

- A. The request complies with the Future Land Use and Character Plan for Industrial uses;
- B. The request complies with the Thoroughfare Plan for the extension of Lorraine and Panda Drives as access roads; and
- C. Available facilities will serve the site.
- D. Adoption of the Development Plan with the following requirements:
 - (1) Landscape area shall measure the five percent coverage for that area parallel to Loop 363 with trees, 5' height, 2" caliper 30 linear feet on center, with five-gallon capacity evergreen shrubs every three linear feet on center interspersed between the trees;
 - a) Species must be those found in the Zoning Ordinance, Section 7-560, and Exhibit E.
 - (2) Access shall come from an extension of Lorraine and Panda Drive, and both shall be an 80' rights-of-way and 45' pavement width, with 6" raised curb and gutter;
 - (3) Secondary access for construction shall come from a southern point as shown on the development plan subject to the development agreement;
 - (4) A business sign shall be allowed on the entrance from Panda Drive with a maximum 15' height measured at the grade level of the sign, 50' square foot of copy area per side, which shall be a monument style, supported by a 100% masonry base, and
 - (5) A business tenant sign shall be included as part of the Southeast Industrial Park.

Commissioner Dusek was absent.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-23, from the Planning and Zoning meeting, March 15, 2010. The PD was requested by Panda, and it is not required by the Zoning Ordinance or by Staff. The PD Development Plan shows the location of the proposed energy plant with access from the extension of Lorraine Drive and the future construction of Panda Drive. The PD elevation plan shows the profile of the energy plant. The description of the use was provided by Panda Energy.

Public Notice

A total of eight notices of the Planning and Zoning Commission public hearing were sent out. As of March 10, 2010 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 March 10, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: None

ATTACHMENTS:

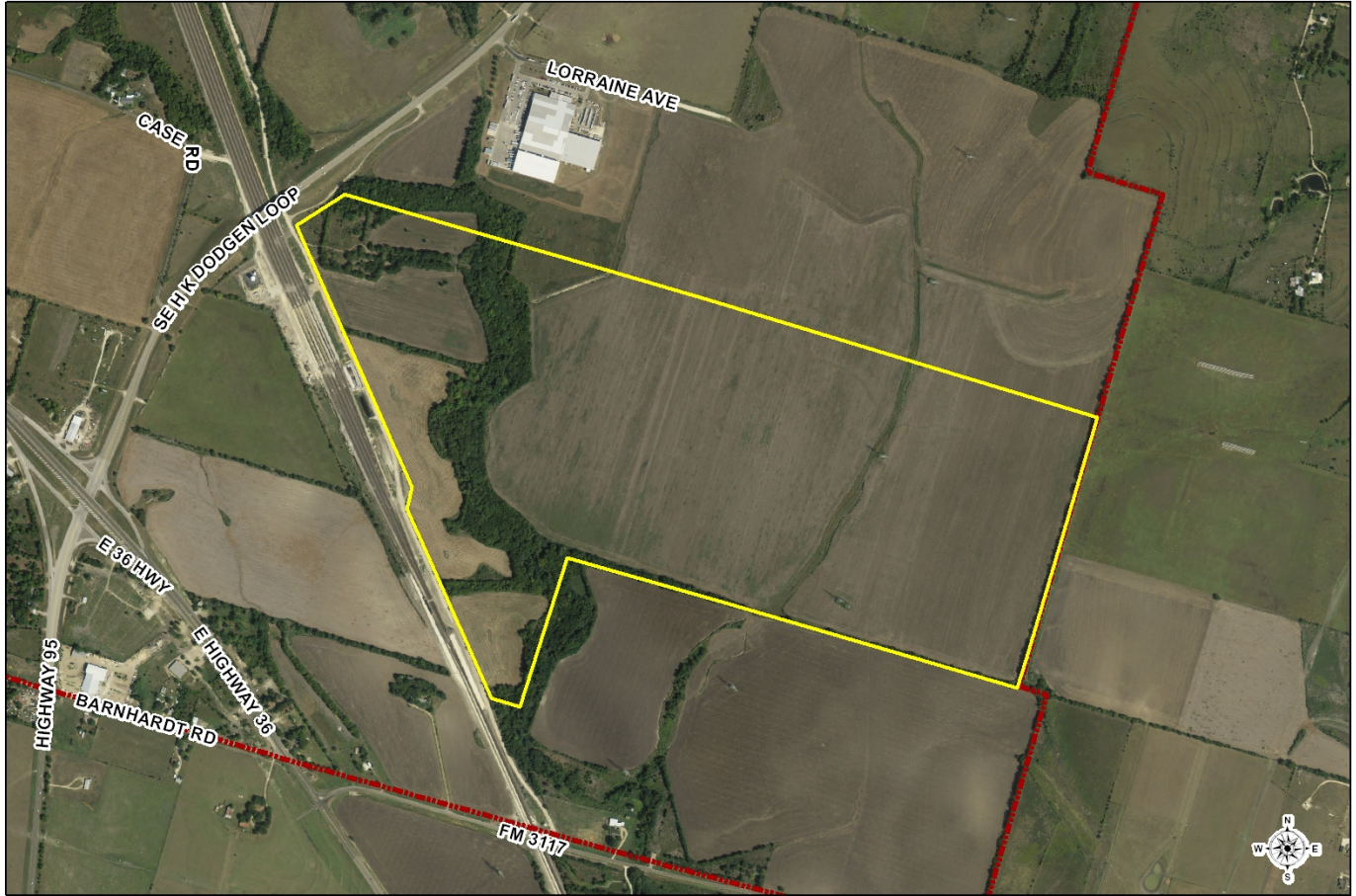
Aerial
Future Land Use and Character Map
Zoning Map
Notice Map
Development Plan
Development Façade Plan
Applicant's PD Explanation
P&Z Staff Report (Z-FY-10-23)
P&Z Minutes (March 15, 2010)
Ordinance




Z-FY-10-23

Panda Temple Power Project

250 Acres of Maximo Moreno Abstract



 Z-FY-10-23

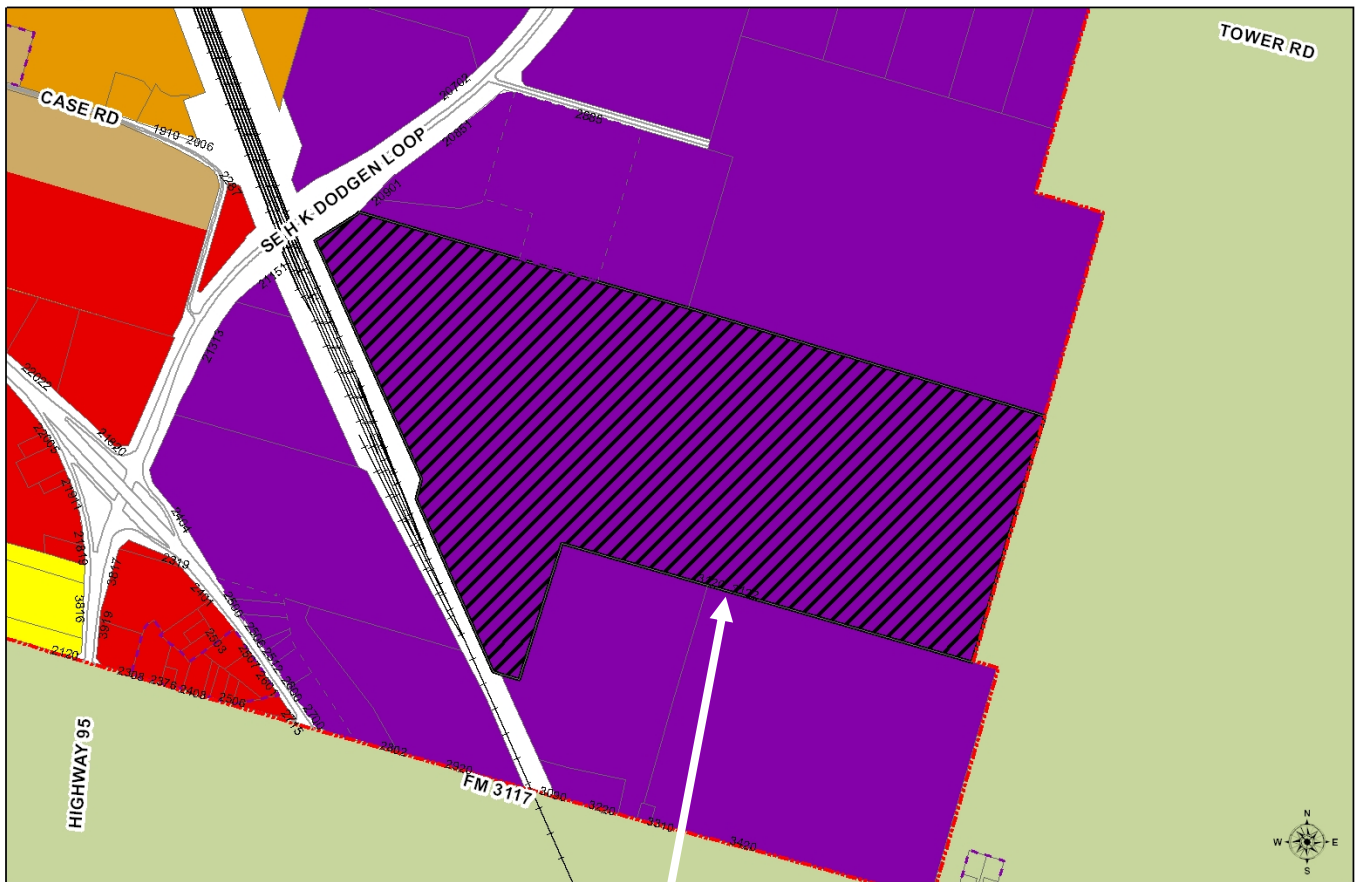
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Z-FY-10-23

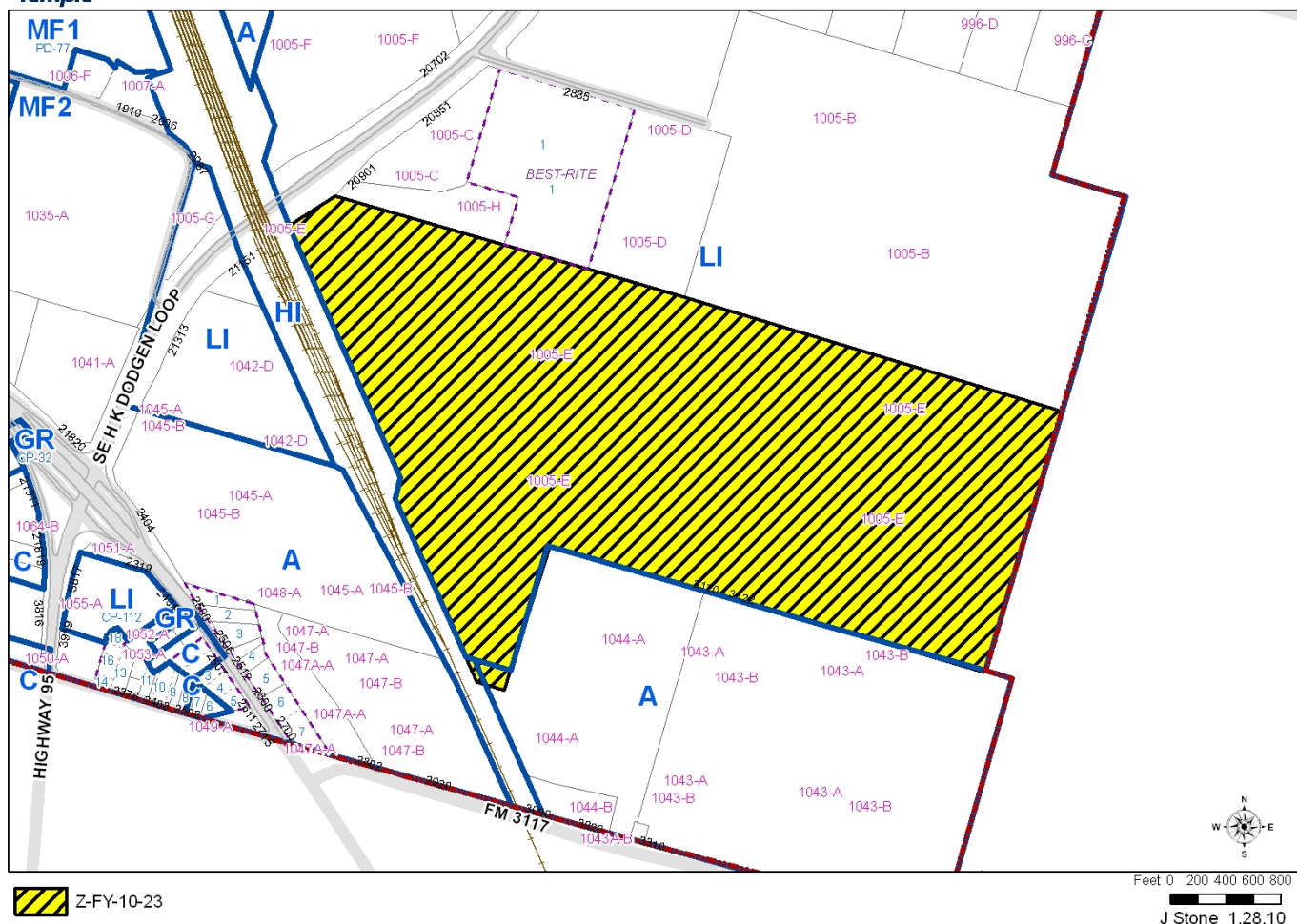
Panda Temple Power Project

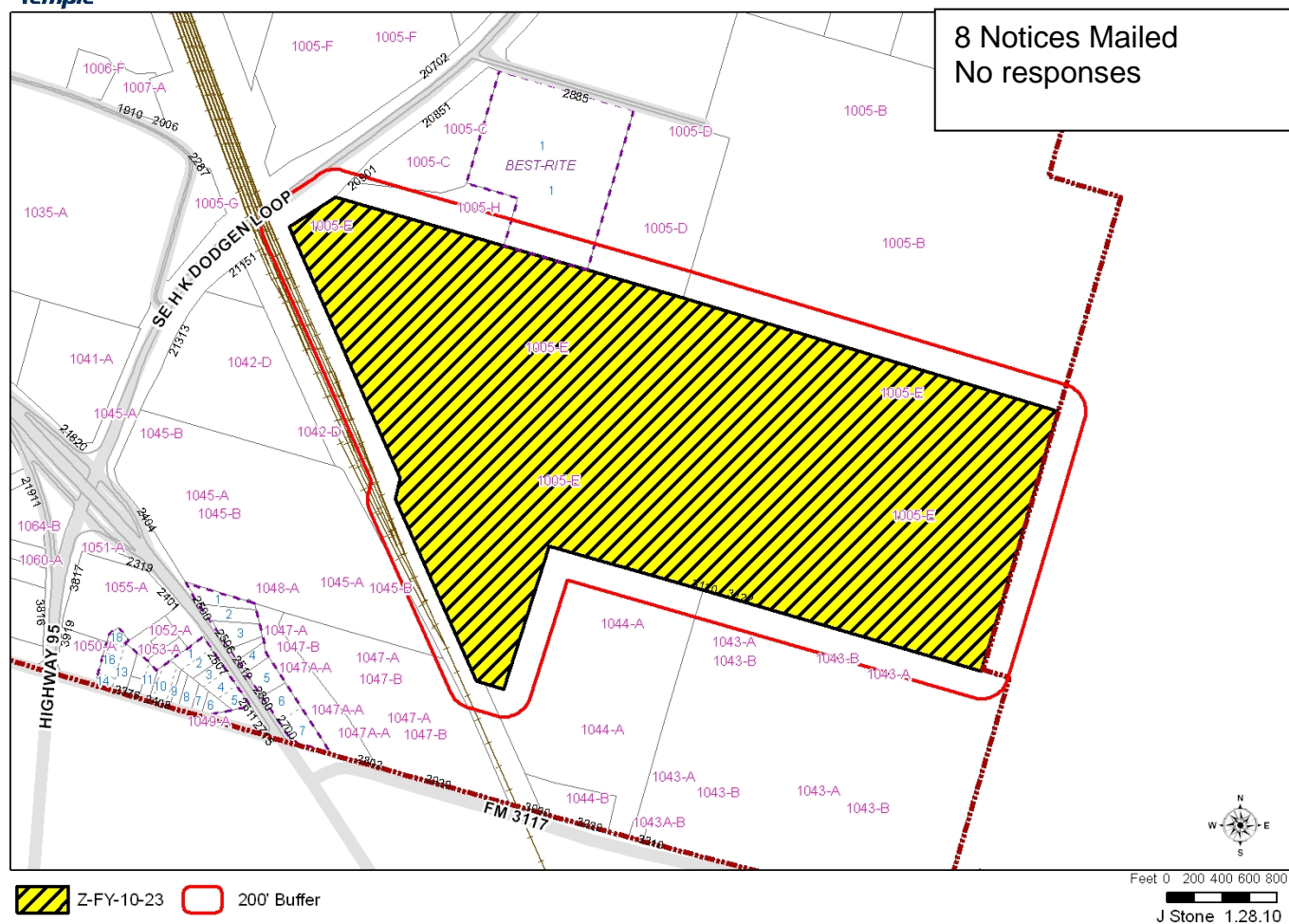
250 Acres of Maximo Moreno Abstract

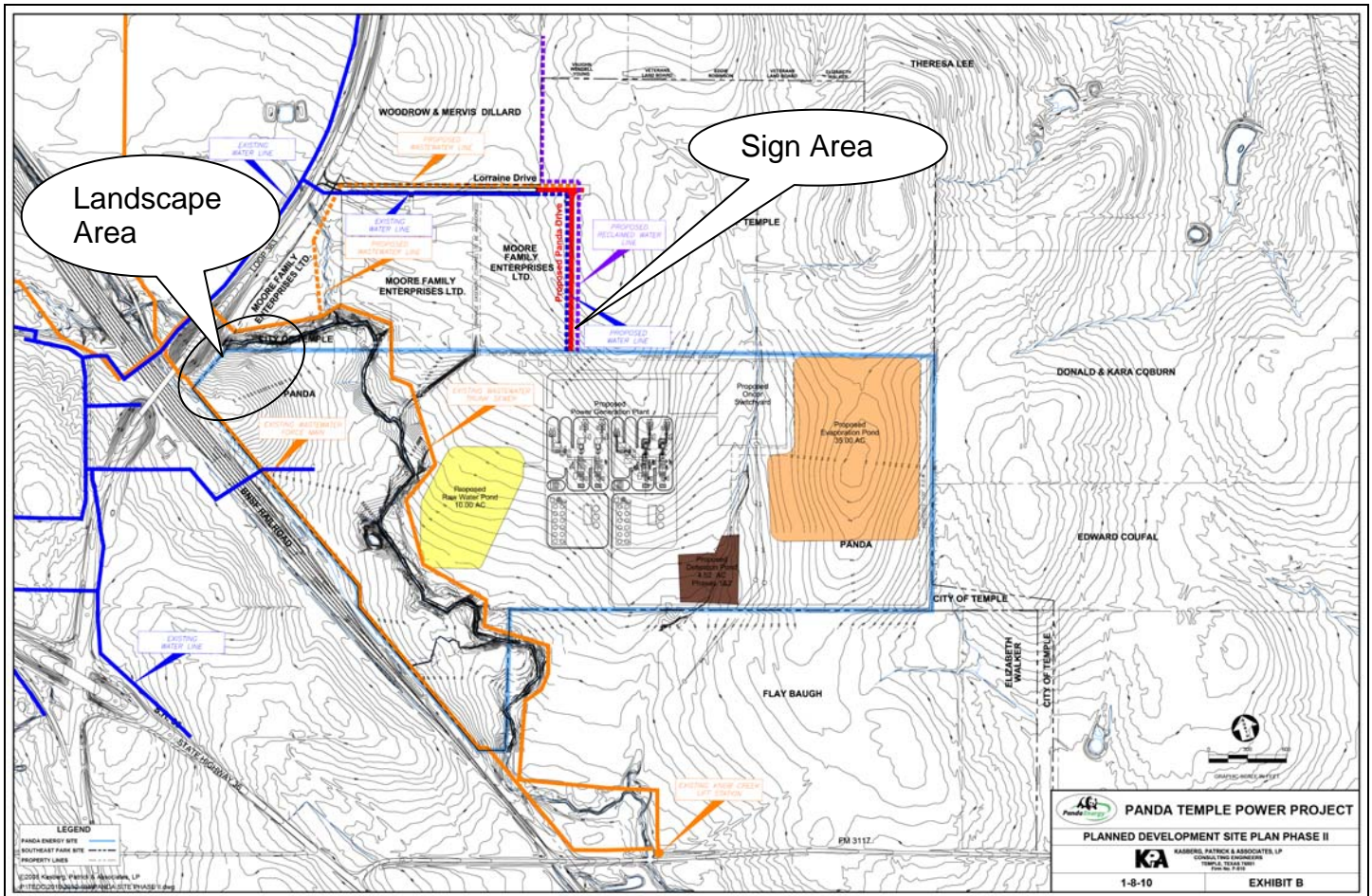


- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|----------------------|
| Z-FY-10-23 | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural |
| Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | Parks and Open Space |
| Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | | |

1 inch = 1,000 feet
J Stone 2.3.10

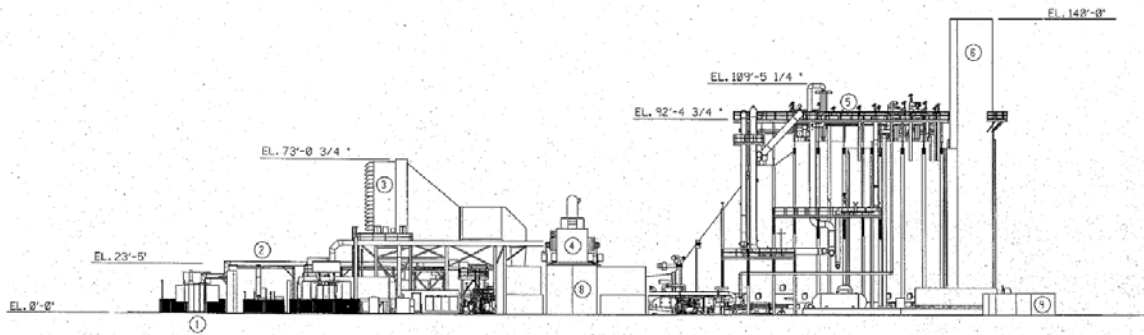






11 10 9 8 7 6 5 4 3 2 1

PLANT NORTH



LEGEND

- 1 GENERATOR STEP UP TRANSFORMER
- 2 ISOPHASE BUS DUCT
- 3 GAS TURBINE INLET FILTER
- 4 STEAM TURBINE
- 5 HEAT RECOVERY STEAM GENERATOR
- 6 HRSG STACK
- 7 AUXILIARY BOILER (NOT SHOWN)
- 8 CONDENSER
- 9 FEEDWATER PUMP BUILDING



PRELIMINARY

Panda Temple Power Project
SUBMITTED WITH THE PLANNED DEVELOPMENT APPLICATION
TO THE CITY OF TEMPLE
JANUARY 20, 2010
GENERAL PROJECT DESCRIPTION

Panda Temple Power, LLC (Panda) is developing an electric power generating facility to be located in the City of Temple (City). Specifically the site location is on a 250 acre parcel in the Southeast Industrial Park. Panda has a contract in place with the Temple Economic Development Corporation (TEDC) for an option to purchase this property. The following sections describe the proposed facility including utility interconnections, fuel supply, water and waste water connections, access, permits, and plans for expansion.

Technical Description of Power Plant

The electric generating facility will be a natural gas fired, two-on-one power block in combined cycle configuration. This arrangement consists of two Gas Turbine Generators, two Heat Recovery Steam Generators, and one Steam Turbine Generator. The plant will have a nominal output of 550 MW and a maximum output of approximately 650 MW with duct firing.

The proposed plant will utilize the latest, most efficient and environmentally friendly power generation equipment available on the market today. It will have an overall heat rate of approximately 6900 Btu/kWh and will have one of the lowest emissions possible of any Texas power generation facility. The general layout of plant equipment and structures on the site is shown on the Project Development (PD) Drawing.

Water Supply

The primary water supply for cooling and makeup to the plant will be treated effluent provided from the Doshier Farm Waste Water Treatment Plant (WTP), which is owned by the City of Temple. A Water Agreement that addresses the purchase of the treated effluent by Panda and the terms of supply and delivery has been executed between Panda the City.

The effluent will be pumped from the Doshier facility through a 16-inch diameter pipeline approximately 1.1 miles to the project site. Panda will be responsible for the design and construction of the pump station and the pipeline. Panda will transfer ownership of these facilities to the City upon completion.

The pipeline will be located on easements on four parcels of City owned property and one privately held parcel. Routing and preliminary survey drawings for the easements have been completed. Additionally, the project will be supplied with potable water from the City water system. It is planned that an eight-inch water line will be installed, running from the existing line on Lorraine Drive at the Best Rite facility to the Panda project site.

Preliminary routing and designation of easements for this line have been accomplished as part of the Lorraine Drive Extension engineering effort.

Waste Water

The primary source of waste water on the site will be blowdown from the Cooling Towers. This stream will be processed through Reverse Osmosis (RO) units in order to reclaim and reuse as much water as possible. The RO reject stream will then be sent to an onsite evaporation pond. There will be no liquid waste discharge to the environment.

Sanitary sewage will be discharged via a Panda pipeline to the existing 15-inch waste water trunk line, owned by the City, which traverses the Panda site.

Fuel Supply

Natural gas will be supplied from the Atmos 30-inch pipeline and the Energy Transfer Corporation 20-inch pipeline. These are located approximately 7 and 13 miles east of the Panda site respectively. Panda will construct a compressor station and a lateral pipeline to the interconnection points. Preliminary pipeline routing and engineering have been performed.

Electrical Interconnection

The Panda Temple Project will connect to the existing Oncor 345 kV transmission line, which runs across the Panda site. A new Oncor switching station, located onsite adjacent to the Panda power island, will be constructed concurrently with the Panda project.

All interconnection studies by Oncor have been completed. No system upgrades are required other than the changing of line termination equipment at the Temple and Salado switching stations at a minimal cost. These studies demonstrate that the Panda Temple Project can easily inject its power into the Southern Zone of the ERCOT grid. Oncor is currently preparing a draft Interconnection Agreement for Panda review.

In addition the Panda site will be served by a distribution line to be constructed along Lorraine Drive from Loop 363 and along the Panda Drive connector to the project site boundary. This line will provide power for construction and will serve auxiliary site loads during the operations phase and will also provide power for streetlights along Lorraine Drive and Panda Drive.

Permitting

Panda received its Air Permit from the Texas Commission on Environmental Quality (TCEQ) on October 10, 2008. Onsite environmental assessments have been performed and no adverse impacts have been identified. Additional required permits will be applied for and obtained as the project goes forward.

Site Access

The primary access to the site will be via a planned extension of Lorraine Drive and a north-south connector road to the Panda site. These roadways have already been laid out and preliminary engineering (30% Review Drawings) has been completed for the City by Kasperg, Patrick and Associates. The ROW for these roadways is 80 feet. A secondary access road is planned which will approach the site from the south. Panda will construct a construction phase access road with the City's permission on easements owned by the City. These easements run north from FM 317 and then west to the southeast corner of the Panda site. The ROW available for this road ranges from approximately 80 feet up to approximately 200 feet. All roads, walkways, and parking areas within the site boundary will be the responsibility of Panda. Specific locations and routings will be developed during the final site engineering phase of the project.

Expansion

The project is designed to allow future expansion. Specifically, a second power block generally identical to the first block would be added thus doubling the overall plant electrical output to a nominal 1100MW. For planning purposes, this additional capacity is designated as Phase 2. Both Phase 1 and Phase 2 are shown on the respective Project Development Drawings.

PD SITE PLAN CHECKLIST – EXPLANATORY NOTES

Uses

The major structures and areas (power block, cooling towers, raw water storage pond, waste evaporation pond, switchyard, etc.) are identified on the PD Site Plan.

More detailed identification of power plant equipment is provided on the Plant Arrangement Drawing and the Power Island Elevation Drawing which were prepared for Panda by Burns and Roe Engineers.

Building Locations

Building locations are shown on PD Site Plan and the Plant General Arrangement Drawing. Building Heights and General Floor Area

Building heights for the main power island are shown in the Power Island Elevation Drawing.

General areas are indicated by the General Arrangement Drawing. Due to the complexity of the equipment layout and the amount of equipment that is located outside of closed structures, it is difficult to provide a specific number for “floor areas” especially in this stage of the design process. Setbacks from Property Lines

The location of structures relative to the property lines is shown on the PD Site Plan Drawing.

Landscaping

Panda will provide landscaping on the site consistent with its use as an industrial facility.

Location, Height and Area of Signs

Panda will install signage at the entrance gates to the site on the primary and secondary access roads. Panda may also install a sign as part of the Southeast Industrial Park monument at the intersection of Lorraine Drive and Loop 363. All signs will be of appropriate size, height and design in keeping with the overall aesthetics of the park.

Screening Walls of Fences

The project buildings, equipment, structures, switchyard and ponds will be enclosed by a security fence. Due to the nature of the surrounding industrial park and the distance of the plant equipment from the site boundaries, no additional walls or screening are planned.

Lot Area

The overall site area is 250 acres as indicated on the plat drawings.

Adjacent Land Uses

The property adjacent to western portion of the northern boundary of the site is used for light manufacturing by the Best Rite facility. The property adjacent to the site along its southwestern border is owned by the BNSF railroad and is used for a fueling facility and the through rail line. The remaining parcels adjacent to the site are wooded or are currently under cultivation. The site is zoned as LI – Light Industrial.

Easements

The original easements on the site property are to the City of Temple for the existing 15” waste water trunk line and the 8” waste water force main and to Oncor for the 345kV transmission line corridor.

Easements have been added to site property for drainage along the western end of the northern boundary and for a drainage path running north – south near the transmission line.

There is also a strip of land along the eastern boundary of the site which will be dedicated to the City of Temple for future use as an access road and / or water lines. These easements and dedicated strip are shown on the Preliminary Plat Drawing and on the PD Site Plan.

Significant Drainage Ways or Natural Features

The topography of the site is shown on the Topo / Utility Map and on the PD Site Plan. The primary drainage way is Knob Creek which runs generally north – south in the western portion of the site.

Fire Hydrants

The Panda facility will have its own fire detection and protection system. The fire protection system will include fire water storage, pumps, buried loop piping, interior sprinkler systems, as well as hydrants. The fire systems will be designed and constructed in accordance with applicable provisions of the National Fire Code as well as local requirements. During the final design phase for the project, Panda's engineering and construction contractors will work directly with the City of Temple Fire Marshal to ensure that all requirements are implemented and that all appropriate inspections are performed.

It should also be noted that at all our facilities, Panda's O&M organization works closely with the local fire and emergency services organizations to coordinate emergency response procedures and to ensure that all responders are familiar with the facility. Panda also will implement a detailed hazardous material control and emergency training programs at the facility.

Sidewalks

Various paved walkways will be provided on the site for use of Panda operations and maintenance personnel. The exact layout of roadways and sidewalks will be developed during the final site engineering phase of the project.

Required Parking and Loading Spaces

Parking and loading spaces will be provided on the site for use of Panda operations and maintenance personnel and for shipping and receiving materials.

The exact layout of roadways and sidewalks will be developed during the final site engineering phase of the project.

Refuse Container and Screening

Refuse containers will be located and maintained by Panda in accordance with good industrial practices.

Width of Internal and Adjacent Streets and Alleys

Roadways within the Panda site will be designed and constructed to serve the needs of operating and maintaining the power facility. The exact design of these roadways will be developed during the final site engineering phase of the project. With regard to adjacent streets, the primary access road which connects the site to the Lorraine Drive extension will be designed and constructed in accordance with the requirements and specifications put forth by the City of Temple. These are reflected in the engineering drawings that have already been produced. The ROW width for this road is 80 feet.

The secondary access road connecting to the southern boundary of the site will also be designed and constructed in accordance with the appropriate City of Temple requirements. The ROW available for this road ranges from approximately 80 feet up to approximately 200 feet.

Location and Size of Water and Sewer Mains

The potable water supply will be provided by an 8 inch pipeline which will run along the southern side of the Lorraine Drive Extension and then along the western edge of the Panda Drive connector road to the Panda site boundary. This line will be located within the ROW for the roadways.

The effluent water supply will be provided by a 16 inch pipeline which will run from the outfall of the Doshier Farm Waste Treatment Facility, under Loop 363 and then across open land to the Lorraine Drive Extension where it will run along the north side of the roadway. It will then run down the eastern edge of the Panda Drive connector road to the Panda site boundary. The ROW for this pipeline will be a 20 foot wide Public Utility Easement. The sanitary sewer connection will be via a Panda pipeline running from the appropriate buildings on site to the 15 inch waste water trunk line which transverses

the Panda site near Knob creek. The routes for the potable water and effluent water lines are already shown on the engineering drawings which were prepared as part of the Lorraine Drive Extension engineering effort. The exact design of the onsite piping for potable water, effluent, and sewage will be developed by Panda's engineering contractor during the final site engineering phase of the project.

Drainage Facilities

The size and location of site drainage facilities are shown on the Preliminary Drainage Plan prepared by Kasberg, Patrick and Associates. The three exhibits in the plan show the existing drainage pattern and the drainage patterns for Phase 1 of the project (one Power Island) and for Phase 2 of the project (two Power Islands).

Public Open Space, Parks and Playground

These types of facilities are not applicable to a private industrial site.



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/15/10
Item #4A
Regular Agenda
Page 1-14

APPLICANT / DEVELOPMENT: Applicant: TEDC, c/o Richard Evans and Panda Energy

CASE MANAGER: Tim Dolan, AICP, Planning Director

Public Hearing, Discussion and Action Z-FY-10-23: Discuss and recommend action on a zoning change request from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) on a 250 ± acre tract of land situated in the Maximo Moreno survey, Abstract 14, Bell County, located in the Southeast Industrial Park, south of Loraine Drive.

BACKGROUND - The applicant's request is for an industrial subdivision on one lot for an electric power generating facility. Water and wastewater will be extended to this area as part of the development agreement. The applicant has received an air quality permit from the TCEQ. Other permits shall be forthcoming as the project develops.

Surrounding Property and Uses

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

Future Land Use and Character Plan

The Future Land Use and Character Plan show the subject area suitable for industrial uses in the Southeast Industrial Park. The request conforms to the Future Land Use and Character Plan.

Thoroughfare Plan

Both Loraine Drive and Panda Drives, (both with 80' right-of-way) will be extended as part of the building permit process; will provide access to the energy plant. The request conforms to the Thoroughfare Plan.

Availability of Public Facilities Plan

Adequate water will be extended as part of the utility agreement for the purpose of having sufficient water for cooling ponds and service to the administration building. Sewer will be managed by on-site.

Planned Development (PD) Regulations

The purpose of the PD-Light Industrial (LI) district is to allow light industrial uses as defined by performance standards in the zoning ordinance. Residential uses are not allowed except boarding or rooming houses and hotels or motels, and it allows building height to any legal limit not prohibited by other laws or ordinances. The light industrial district acts as a transition from other commercial or retail uses to industrial uses. This district is intended to be located away from areas of low and medium density residential development. The location should be carefully selected to avoid or reduce environmental impacts to residential areas. No residential areas exist here.

The applicant has requested a PD-LI, with the development plan to be adopted as an exhibit in the PD ordinance. The minimum requirements for the Planned Development- LI district are as follows.

PD-LI, Planned Development Light Industrial	
Min. Lot Area (sq. ft.)	None
Min. Lot Width (ft.)	None
Min. Lot Depth (ft.)	None
Max. Height (stories)	None
Min. Yard (ft)	
Front Cooling Pond	230 from center line of Loop 363
Front Energy Plant	265 from the centerline of Loop 363
Side	None
Rear	None
Primary Access	A shown on development plan from extension of 'Panda Drive' from extension of Loraine Drive (both 80' rights of way)
Business Tenant Sign	Part of Southeast Industrial Park Tenant Sign
On-premise Sign on Panda Drive Energy Plant Entrance	Maximum 15' height, 50' maximum square foot copy area per side, monument style support with 100% masonry base

Public Notice

A total of eight notices were sent out. As of March 12, 2010 at Noon, no notices were returned. The newspaper printed notice of the public hearing on Mar 4, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the case Z-FY-10-23:

- A. Zoning change from Light Industrial (LI) to a Planned Development Light Industrial District subject to:
 - (1) Landscape area shall measure the five percent coverage for that area parallel to Loop 363 with trees, 5' height, 2" caliper 30 linear feet on center, with five-gallon capacity evergreen shrubs every three linear feet on center interspersed between the trees.
 - a) Species must be those found in the Zoning Ordinance, Section 7-560, and Exhibit E.
 - (2) Access shall come from an extension of Loraine and Panda Drive, and both shall be an 80' rights-of-way and 45' pavement width, with 6" raised curb and gutter.
 - (3) Secondary access for construction shall come a southern point as shown on the development plan subject to the development agreement.
 - (4) A business sign shall be allowed on the entrance from Panda Drive with a maximum 15' height measured at the grade level of the sign, 50' square foot of copy area per side; monument style supported by a 100% masonry base, and shall require a building permit.
 - (5) A business tenant sign shall be included as part of the Southeast Industrial Park.
 - (6) Adoption of the binding development plan.
- B. The request complies with the Future Land Use and Character Plan for industrial uses;
- C. The request complies with the Thoroughfare Plan for the extension of Loraine and Panda Drives as access roads; and
- D. Available facilities will serve the site.

ATTACHMENTS:

Aerial

Land Use and Character Map

Zoning Map

Notice Map

Development Plan

Development Façade Plan

Applicant's PD Explanation

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

MONDAY, MARCH 15, 2010

ACTION ITEMS

Item 4A: Public Hearing, Discussion and Action Z-FY-10-23: Discuss and recommend action on a zoning change request from Light Industrial District (LI) to Planned Development (Light Industrial) District (PDD-LI) on a 250± acre tract of land situated in the Maximo Moreno survey, Abstract 14, Bell County, located in the Southeast Industrial Park. (Applicant: TEDC, c/o Richard Evans and Panda Energy).

Chair Pilkington stated **Items 4A and 4B** (4B being Preliminary Plat, required P&Z authority only) would be presented together; however, separate public hearings, motions, and seconds would be made.

Commissioner Staats stated he would recuse himself from **Items 4A and 4B** (4B being Preliminary Plat) and presented his Affidavits to Staff.

Mr. Tim Dolan, Planning Director, stated the Future Land Use and Character Plan showed the requested area to be suitable for industrial uses and the Thoroughfare Plan showed the extensions of Loraine Drive and Panda Drive would be access roads to serve the site. Sewage was available to the site and water will be extended with the construction plans for the roads for both potable and reclaimed water.

The property to the north is zoned LI, property across the Loop contained both HI and LI and the properties to the south were zoned A.

Eight (8) notices were mailed out and zero (0) notices were returned. Ms. Kathleen Coburn stated she had a notice she would like to turn in for the zoning case. Mr. Dolan stated to the Commission he would read the notice comments into the record (minutes) and copies of the notice would be made available for their review before continuing on with the discussion. Mr. Dolan stated the notice contained several questions and Ms. Coburn asked for the questions to be answered in order to make a decision.

“What chemical hazards will be in generating the electricity? What hazards will exist with high powered electric lines near homes? Cattle? What explosion hazards will there be? There will need to be easements for the conveyance of natural gas for the generators and delivery of electricity from the plant. Will these be over the surrounding contiguous properties? If this forces a change of use from contiguous properties from Agricultural to other uses, who pays the additional property taxes?

The PD development standards showed everything remained the same for LI zoning save for the idea for the setbacks for the cooling pond and front energy plant from center lines of Loop 363. The access will be from the extension of Panda Drive and Loraine Drive which are planned to both be 80 feet rights-of-way. The applicant would look to be on the tenant sign as part of the Southeast Industrial Park and the possibility of an on-premise sign for the plant entrance would be a maximum of 15 feet in height and monument style with 100% masonry base.

Staff recommended approval of the zoning case from LI to PD-LI since the request conformed to the Future Land Use and Character Plan for industrial uses, the Thoroughfare Plan for access roads, and availability of public facilities would be at the site at the time of issuance of building permit.

Chair Pilkington opened the public hearing for the zoning case. There being no speakers, the public hearing was closed.

Copies of Ms. Coburn's hand delivered notice for zoning were given to the Commissioners for review before taking action on this item.

Chair Pilkington asked if the questions stated on the hand delivered notice would be covered by the EPA since the Commission did not have details regarding those issues and Mr. Dolan stated Chair Pilkington was correct; nor was any information about property taxes or easements available.

Chair Pilkington stated there was nothing in the written questions that would change the use of surrounding properties and Mr. Dolan confirmed that was correct. The area was planned to be an industrial park and the use is allowed by Zoning Ordinance. Chair Pilkington asked as far as hazards and other issues, if EPA and/or TCEQ would be involved and Mr. Dolan confirmed. Mr. Dolan also stated the applicant's representative would likely answer these questions.

Mr. Richard Evans, Development Director for Panda Energy, approached the Commission and stated when a plant of this nature is built everything goes through a very extensive structured and permitting procedure. Panda had been unable to do anything without going through certain strict processes beforehand. Any chemicals transported or used would be in contained areas and/or within the plant and no danger existed to the residents or surrounding property owners. Again, these processes would have to go through an extensive permitting process with strict guidelines.

In relation to explosion hazards, Mr. Evans stated during the operation of the plant very strict operation guidelines and procedures would be in place for any potential issues. As with any industrial plant, risk analyses would be done on every possible risk and all measures would be taken to minimize any risk. Mr. Evans stated if something were to happen within the plant, it would be contained within the plant and not have an impact beyond the plant boundaries.

Regarding the electrical questions, the plant already had the 345 kva cables crossing the facility so they will not be building any more transmission. A switchyard would be built immediately under the cables that are there already so no more transmission would be necessary.

Mr. Evans stated Panda wanted to be very open with the public and have the support of the community.

Vice-Chair Talley asked about Pinto Drive not being on the map and Mr. Dolan stated it was a mailing address and not a location of the property owned by Ms. Coburn.

Commissioner Pope made a motion to approve the zone request from LI to PD-LI as requested and Vice-Chair Talley made a second.

Motion passed: (7:0)

Commissioner Staats abstained; Commissioner Dusek absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-23]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM LIGHT INDUSTRIAL DISTRICT (LI) TO PLANNED DEVELOPMENT- LIGHT INDUSTRIAL DISTRICT (PDD-LI) ON AN APPROXIMATELY 250 ACRE TRACT OF LAND SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT 14, BELL COUNTY, TEXAS, LOCATED IN THE SOUTHEAST INDUSTRIAL PARK, SOUTH OF LORRAINE DRIVE, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of an approximately 250 acre tract of land situated in the Maximo Moreno Survey, Abstract 14, Bell County, Texas, located in the Southeast Industrial Park, south of Lorraine Drive, has requested that the property be rezoned from Light Industrial District (LI) to Planned Development-Light Industrial District (PDD-LI); 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 Light Industrial District (LI) to Planned Development-Light Industrial District (PDD-LI) on an approximately 250 acre tract of land situated in the Maximo Moreno Survey, Abstract 14, Bell County, Texas, located in the Southeast Industrial Park, south of Lorraine Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101, is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development-Light Industrial District (PDD-LI), 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 Light Industrial District;
- (b) In the event of a conflict between the development plan, attached hereto as Exhibit B, and the text of this ordinance, the stricter standard applies;
- (c) All standards of the Zoning Ordinance apply unless the development plan or the text of this ordinance specifically modifies such standards;
- (d) Landscape area shall measure the 5% coverage for that area parallel to Loop 363 with trees, 5 feet in height, 2 inches in caliper, 30 linear feet on center, with 5-gallon capacity evergreen shrubs every 3 linear feet on center interspersed between the trees (species must be those found in the Zoning Ordinance, Section 7-560, and Exhibit E);
- (e) Access shall come from an extension of Lorraine and Panda Drive, and both shall be an 80 foot rights-of-way and 45 feet pavement width, with 6 inch raised curb and gutter;
- (f) Secondary access for construction shall come a southern point as shown on the development plan, subject to the development agreement;
- (g) A business sign shall be allowed on the entrance from Panda Drive with a maximum 15 feet height measured at the grade level of the sign, 50 square feet of copy area per side, which shall be a monument style, supported by a 100% masonry base; and
- (h) A business tenant sign shall be included as part of the Southeast Industrial Park.

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 **1st** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **15th** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #8(A)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-24A – Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road.

STAFF AND P&Z COMMISSION RECOMMENDATION: At its March 15, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from A to GR for the following reasons:

1. Although the proposal does not conform to the Future Land Use and Character Plan, Planning Staff will recommend an amendment to the Map at the intersection of Airport Road and State Highway 317 to reflect the Suburban Commercial character district as part of the semi-annual update, planned for June 2010.
2. The proposal conforms to the Thoroughfare Plan.
3. Public water is available and an on-site septic facility is proposed on the property.

Commissioner Dusek was absent.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-24A, from the Planning and Zoning meeting, March 15, 2010. A package store requires a Conditional Use Permit. This request is addressed in item 8(B).

Future Land Use and Character

The Future Land Use and Character Map designates the subject property as Rural. Although the request does not conform to the Future Land Use and Character Map, Planning Staff will recommend an amendment to the Map at the intersection of Airport Road and State Highway 317 to reflect the Suburban Commercial character district as part of the semi-annual update, planned for June 2010.

Thoroughfare Plan

The Thoroughfare Plan designates Airport Road as a Major Arterial. The zone change request complies with the Thoroughfare Plan.

Availability of Public Facilities

A 6" water line serves the property. An on-site septic facility is proposed for the property and has received approval from the Bell County Sanitarian. Public and private facilities are available.

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

Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of March 10, 2010 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 March 10, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: None

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Notice Map
P&Z Staff Report (Z-FY-10-24A)
P&Z Minutes (March 15, 2010)
Ordinance




Z-FY-10-24A

Rezoning to GR

0.92ac, OB#2803-A

8800 Airport Rd



 Z-FY-10-24

Feet 0 100 200 300 400



J Stone 2.4.10



Z-FY-10-24A

Rezoning to GR

0.92ac, OB#2803-A

8800 Airport Rd



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|--------------------|
| Z-FY-10-24 | Suburban Residential | Auto-Urban Mixed Use | Urban Center | Business park | Agricultural/Rural |
| Neighborhood Conservation | Auto-urban Residential | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | |
| Estate Residential | Auto-Urban Multi-Family | Suburban Commercial | Industrial | Parks and Open Space | |

1 inch = 300 feet
J Stone 2.4.10

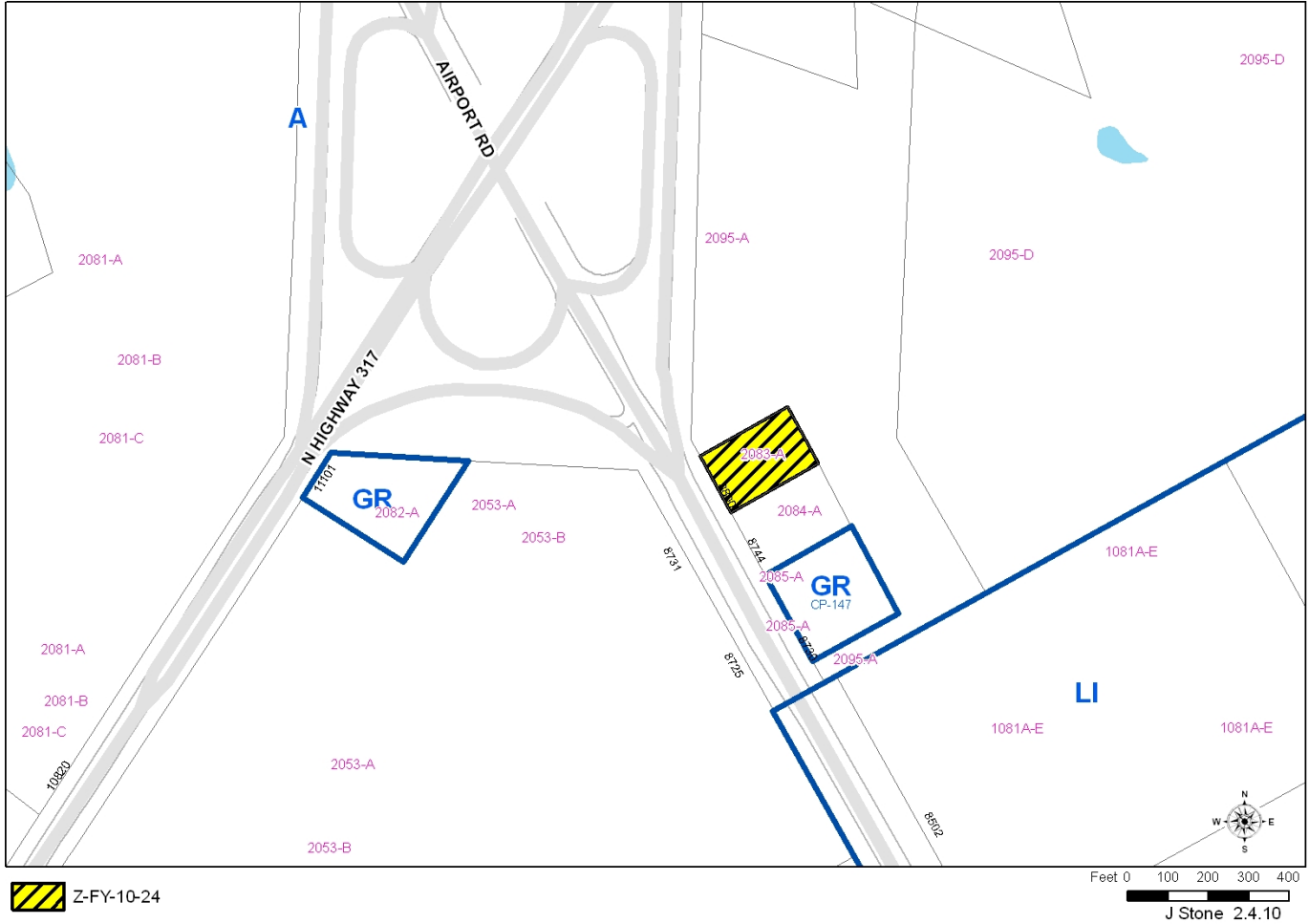


Z-FY-10-24A

Rezoning to GR

0.92ac, OB#2803-A

8800 Airport Rd





Z-FY-10-24A

Rezoning to GR

0.92ac, OB#2803-A

8800 Airport Rd



Z-FY-10-24 — WATER LINE — SEWER LINE

Feet 0 100 200 300 400
J Stone 2.4.10

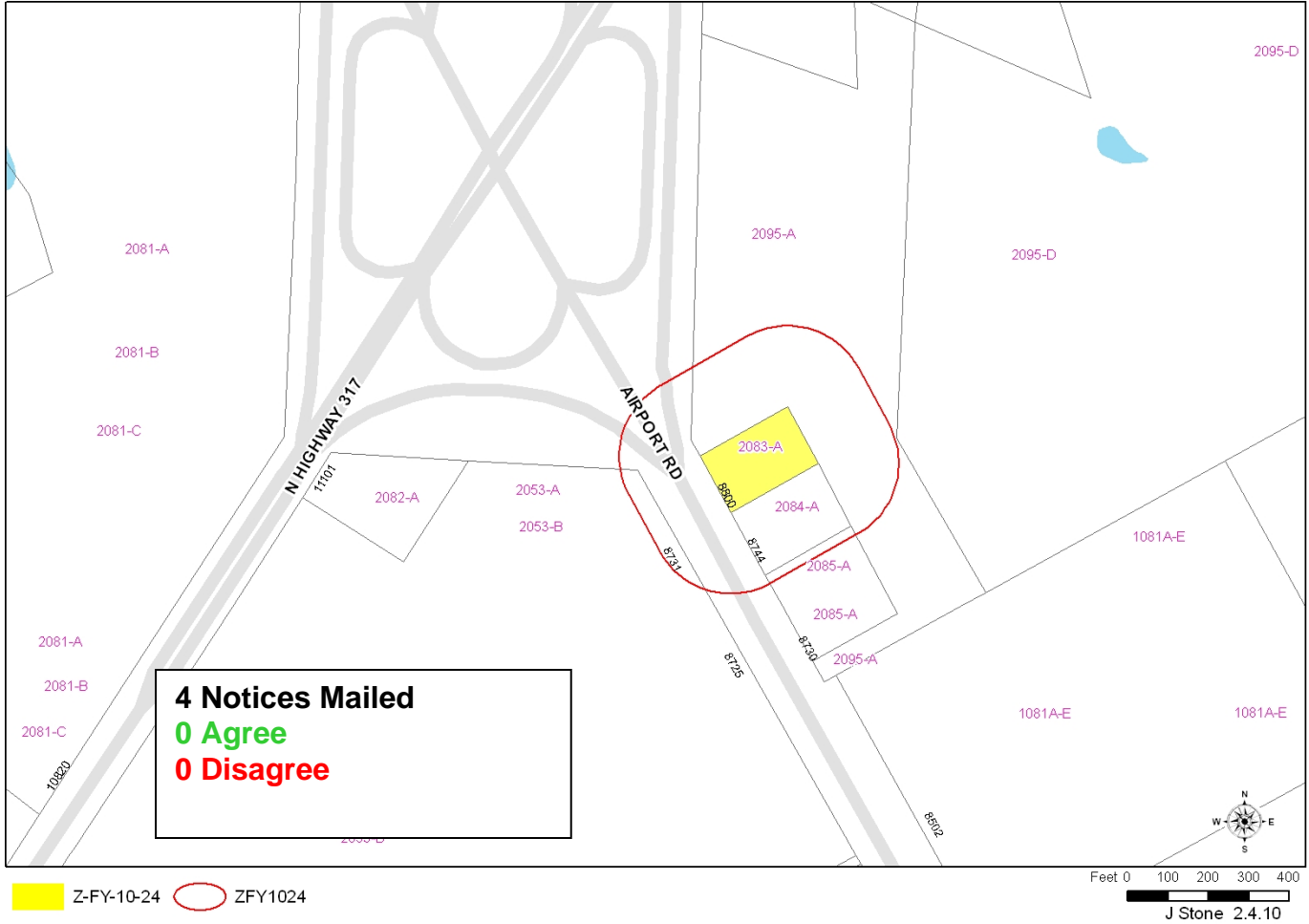


Z-FY-10-24A

Rezoning to GR

0.92ac, OB#2803-A

8800 Airport Rd





PLANNING AND ZONING COMMISSION AGENDA ITEM

03/15/10
Item #5A
Regular Agenda
Page 1 of 3

APPLICANT: Richard Lewis



CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-10-24-A Hold a public hearing to discuss and recommend action on a zoning change request from Agricultural District (A) to General Retail District (GR) on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road.




BACKGROUND: The purpose of this zone change request is to establish a package store. The subject property was annexed in January 2008 and given the default zoning district of Agricultural. The property previously had a bar on it which was demolished in October 2009. A package store requires a Conditional Use Permit. This request is addressed in item 5B.

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	A (GR proposed)	Vacant	
North	A	Undeveloped	

Double Sided

Direction	Zoning	Current Land Use	Photo
South	A	Convenience store with fuel sales	
East	A	Undeveloped	
West	A	Undeveloped (across from Airport Rd.)	

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 as Rural. Although the request does not conform to the Future Land Use and Character Map, Planning Staff will recommend an amendment to the Map at the intersection of Airport Road and State Highway 317 to reflect the Suburban Commercial character district as part of the semi-annual update, planned for June 2010.

Thoroughfare Plan

The Thoroughfare Plan designates Airport Road as a Major Arterial. The zone change request complies with the Thoroughfare Plan.

Availability of Public Facilities

A 6" water line serves the property. An on-site septic facility is proposed for the property and has received approval from the Bell County Sanitarian. Public and private facilities are available.

Development Regulations

The GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery store, department store, or offices and all residential uses except apartments, with a maximum

building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line and 10 feet for the side yard. Any additions to the existing building would have to occur to the rear of the 15-foot front yard setback.

Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of March 10, 2010 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 March 10, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-10-24A for the following reasons:

1. Although the proposal does not conform to the Future Lands Use and Character Plan, Planning Staff will recommend an amendment to the Map at the intersection of Airport Road and State Highway 317 to reflect the Suburban Commercial character district as part of the semi-annual update, planned for June 2010.
2. The proposal conforms to the Thoroughfare Plan.
3. Public water is available and an on-site septic facility is proposed on the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Notice Map

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

MONDAY, MARCH 15, 2010

ACTION ITEMS

Item 5A: Public Hearing, Discussion and Action Z-FY-10-24-A: Discuss and recommend action on a zoning change request from Agricultural District (A) to General Retail District (GR) on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road. (Applicant: Richard Lewis).

Chair Pilkington stated **Items 5A and 5B** would be presented together; however, separate public hearings, motions and seconds would be made individually.

Commissioner Staats stated he would recuse himself from **Items 5A and 5B** and presented the Affidavits to Staff.

Mr. Brian Mabry stated this was a rezoning request for a package store and the applicant was Richard Lewis. The request was from Agricultural to GR and the subject property was located at 8800 Airport Road. If approved, this case would go to City Council on April 1st and 15th.

A Conditional Use Permit (CUP) was required for a package store in the GR, C, CA, LI and HI zoning districts. A bar which was previously located on the subject property was demolished in 2009.

Mr. Mabry gave a visual presentation of the area to the Commission. The property was currently shown as rural on the Future Land Use and Character Map and although the request does not conform to the Future Land Use and Character Map, Staff would recommend an amendment to the map at the intersection of Airport Road and SH 317 to reflect the suburban/commercial character district as part of its semi-annual update planned for June 2010.

Mr. Mabry stated Airport Road was classified as a major arterial on the Thoroughfare Plan and the zoning request was appropriate. A 6 inch water line would serve the property and the applicant would use an on-site septic system for the wastewater so adequate facilities would be provided for the site.

The dimensional standards were cited and the site plan for the CUP met all of the standards.

Four (4) notices were mailed to surrounding property owners and zero responses were received.

Staff recommended approval of the rezoning request from A to GR for the following reasons: although the proposal does not conform with the Future Land Use and Character Plan, Planning Staff would recommend an amendment to the map for the intersection of Airport and SH 317 to reflect suburban/commercial in June of 2010. The proposal conformed with the Thoroughfare Plan and public water was available and on-site septic facility was proposed for the subject property.

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

Vice-Chair Talley made a motion to approve the zoning request for **Z-FY-10-24A** and Commissioner Barton made a second.

Motion passed: (7:0)

Commissioner Staats abstained; Commissioner Dusek absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-24A]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO GENERAL RETAIL DISTRICT (GR) ON AN APPROXIMATELY 0.9 ACRE TRACT OF LAND OUT OF THE DANIEL MEADOR SURVEY, ABSTRACT 577, BELL COUNTY, TEXAS, LOCATED AT 8800 AIRPORT ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to General Retail District (GR) on an approximately 0.9 acre tract of land out of the Daniel Meador Survey, Abstract 577, Bell County, Texas, located at 8800 Airport Road, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **1st** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **15th** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/01/10
Item #8(B)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Tim Dolan, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-24B – Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located on the north side of Airport Road east of the State Highway 317 interchange at 8800 Airport Road.

STAFF AND P&Z COMMISSION RECOMMENDATION: At its March 15, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a CUP for a package store at 8800 Airport Road subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
3. 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.
4. The City Council may deny or revoke this CUP 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.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan, elevations and application are exhibits to the CUP.
8. Window signs are prohibited.
9. Lighted signs must be turned off at closing time.
10. The color of the metal siding at the rear of the building must match the color of the stone facades on the other three sides of the building.
11. The sign must be 15 feet in height, with a copy area that is 9 feet wide by 6 feet tall and a brick base that compliments the exterior of that building and is 9 feet wide by 9 feet tall.

Commissioner Dusek was absent.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-24B, from the Planning and Zoning meeting, March 15, 2010. The purpose of the CUP is to establish a package store.

Access to the property comes from Airport Road/State Highway 36. The Texas Department of Transportation will allow a driveway 40 feet in width as shown on the CUP site plan.

The CUP site plan shows 48 percent of the gross square footage of the property is proposed to be landscaped. Thirty six percent of the area that is landscaped is visible to the public, along the sides and the front of the property. Plantings will consist of hydromulch, live oaks, crepe myrtles, Indian hawthorns and Knock Out roses.

Facades of the building that are visible to the public are 100% stone, excluding doors, windows and an awning. Metal is proposed for the rear façade with a color compatible to the three sides.

The State has designated State Highway 317 between Belton and Moody as a scenic corridor where billboards are prohibited. Since the subject property is at the intersection of Airport Road and State Highway 317, recommendation 11 above requires a monument sign that is 15 feet in overall height with a brick base.

General CUP Standards

The proposal complies with all of the general standards for a CUP in the Zoning Ordinance. These standards include but are not limited to compatibility with adjacent properties, access and landscaping.

Specific Use Standards for Package Stores

The proposal complies with all of the specific standards for package stores. These standards include but are not limited to location of pick-up windows, vehicle stacking space and escape lane in the drive-through.

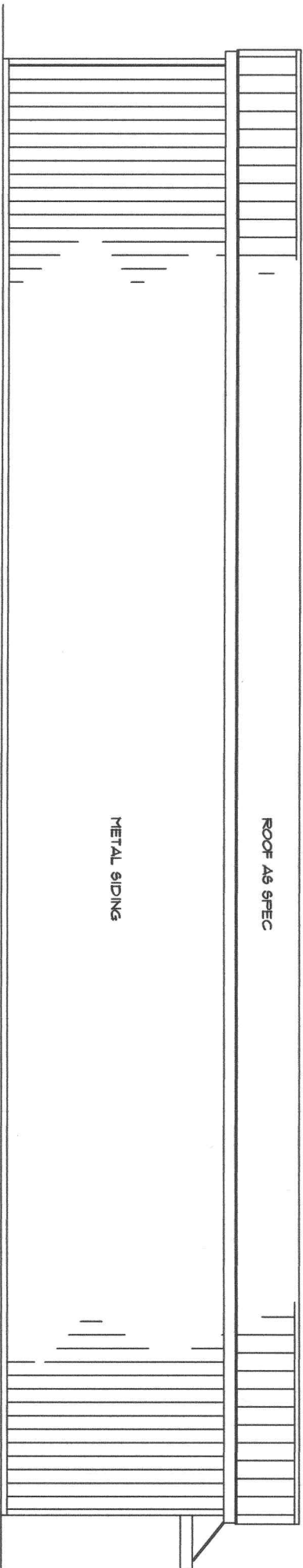
Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of March 10, 2010 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 March 10, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: None

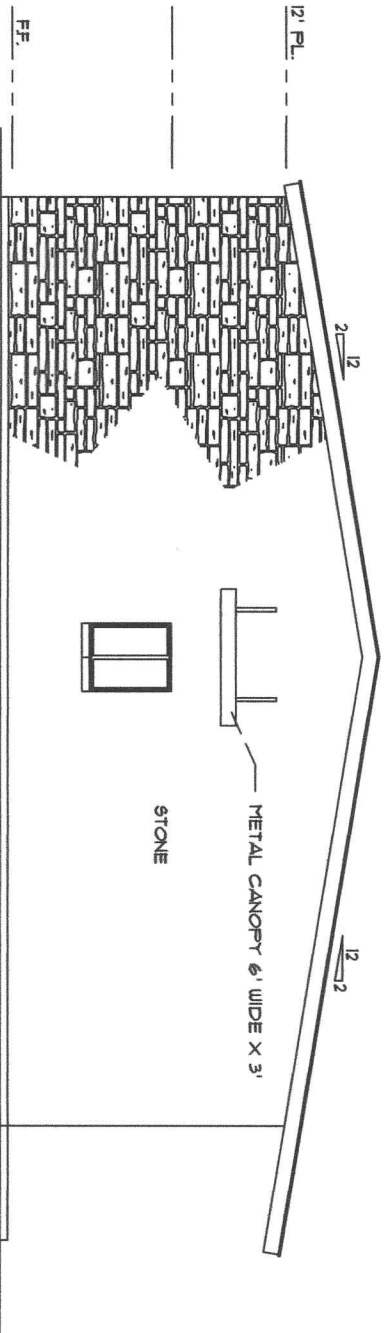
ATTACHMENTS:

[CUP Site Plan](#)
[CUP Elevations](#)
[P&Z Staff Report \(Z-FY-10-24B\)](#)
[P&Z Minutes \(March 15, 2010\)](#)
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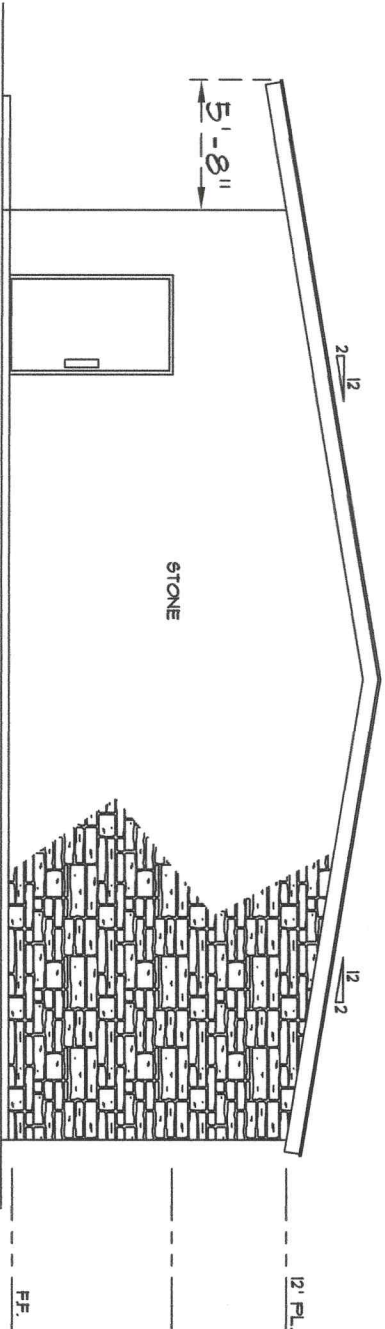
REAR ELEVATION

SCALE: 1/4"=1'-0"



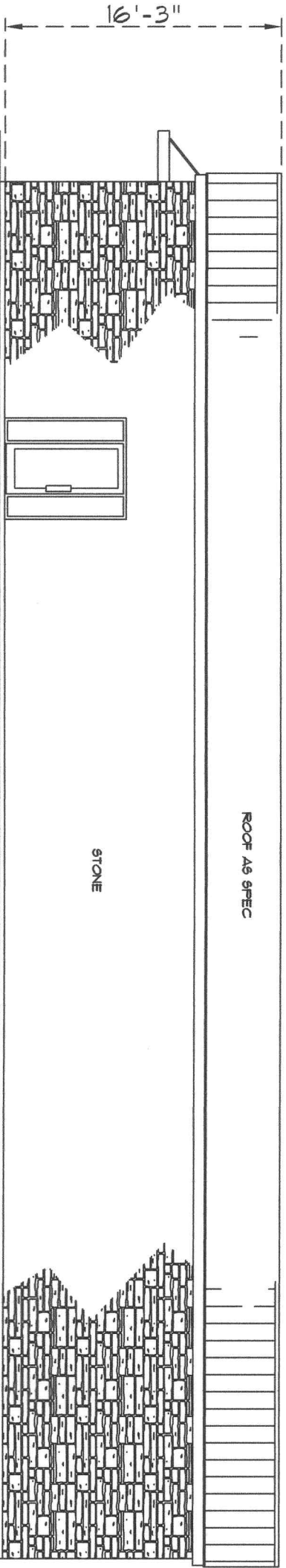
LEFT ELEVATION

SCALE: 1/4"=1'-0"



RIGHT ELEVATION

SCALE: 1/4"=1'-0"



FRONT ELEVATION

SCALE: 1/4"=1'-0"



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/15/10
Item #5B
Regular Agenda
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APPLICANT: Richard Lewis

CASE MANAGER: Brian Mabry, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-10-24-B Hold a public hearing to discuss and recommend action on a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located on the north side of Airport Road east of the State Highway 317 interchange at 8800 Airport Road.

BACKGROUND: The purpose of this CUP request is to establish a package store at the intersection of Airport Road and State Highway 317. The applicant is also requesting a rezoning from Agricultural to General Retail. This request is addressed in item 5A.

Access to the property comes from Airport Road / State Highway 36 and the Texas Department of Transportation (TxDOT) will allow a driveway 40 feet in width as shown on the CUP site plan. The applicant will also install a six-foot wide sidewalk along Airport Road / State Highway 36, an Arterial Road on the Thoroughfare Plan.

The CUP site plan shows 48 percent of the gross square footage of the property is proposed to be landscaped. The landscaping at the rear of the property is for an on-site septic facility and will not be visible to the general public. Thirty six percent of the landscaped area is visible to the public, along the sides and the front of the property. Plantings will consist of hydromulch, live oaks, crepe myrtles, Indian hawthorns and Knock Out roses.

The drive through lane contains proper stacking, a bypass lane and a pick up window visible from the public right-of-way, as required by the package store standards in the Zoning Ordinance.

Facades of the building that are visible to the public are 100% stone, excluding doors, windows and an awning. Metal is proposed for the rear façade with a color compatible to the three sides.

General CUP Criteria

There are seven general criteria for the Planning and Zoning Commission and City Council to consider when reviewing a CUP. (Section 7-600).

Criteria	Proposal Meets Criteria?
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	Yes. Project will have a higher degree of site design amenities than nearby developments.
The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property	Yes
Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided	Yes. 6" water line serves the property. Septic system has already been approved by County Sanitarian. Plat for the property will be administratively approved.
The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development	Yes. Number of parking spaces complies with required number for a package store.
Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration	Yes
Directional lighting will be provided so as not to disturb or adversely affect neighboring properties	Yes
There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes. 48% of the entire property is landscaped with hydromulch, live oaks, crepe myrtles, Indian hawthorns and knock out roses. 36% of the landscaped area is visible to the public.

Package Store Standards In addition to the general CUP standards in Zoning Ordinance Section 7-600, the following standards apply to a CUP for a package store:

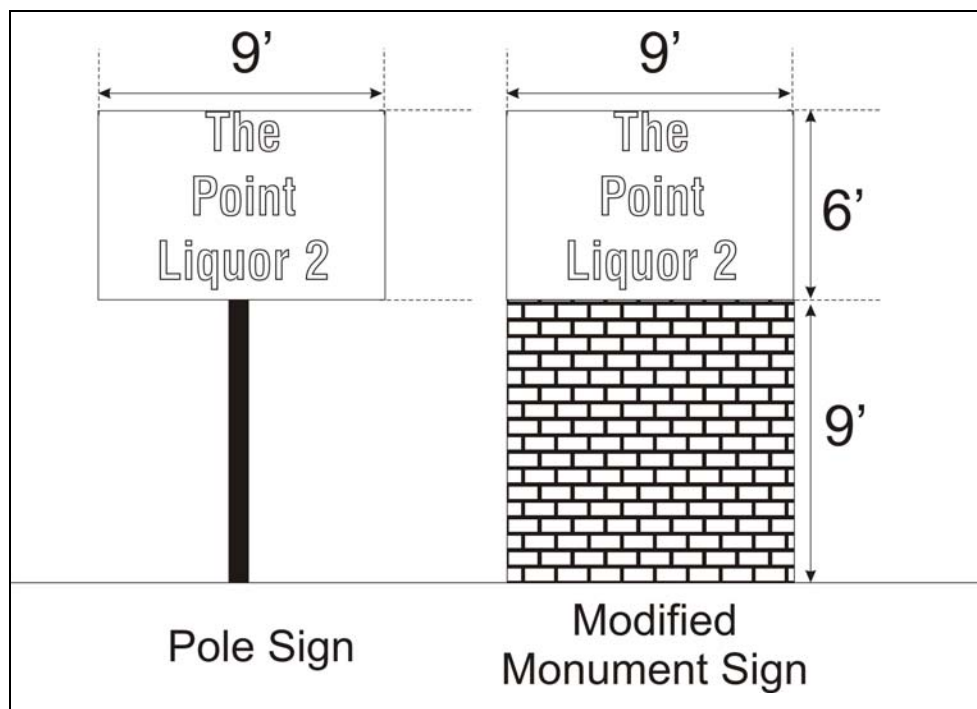
1. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
2. Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7-566 (G);
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. 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);
7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

All of the applicable standards above are reflected on the attached CUP site plan.

This application conforms to the area and use requirements for a CUP required for a package store in the GR zoning district. Conditions 1 through 6 in the Staff Recommendation below are standard conditions for alcohol-related uses in the Zoning Ordinance. Condition 7 is based on Zoning Ordinance Section 7-604 requiring the site plan and application to become part of the CUP.

Conditions 8 and 9 in the Staff Recommendation are from the Zoning Ordinance standards for a package store and cannot really be shown on a site plan but are more related to Code Enforcement. The rear of the building is currently not visible to the public or to a residential use. The Zoning Ordinance allows non-masonry materials on the rear façade of buildings when the façade is not visible from the public right-of-way. Condition 10 requires the rear metal façade of the building to match the color of the stone used on the other three sides of the building.

Texas Transportation Code Sec. 391.252 prohibits billboards on State Highway 317 from Belton to Valley Mills. This corridor is grouped with eighteen other scenic corridors across the state. The applicant submitted a proposal to have a pole sign that is 15 feet in overall height with a copy area that is 9 feet wide by 6 feet tall. In keeping with the State's designation of this scenic corridor, condition 11 in the Staff Recommendations recommends a modified monument sign. The recommended modified monument sign is 15 feet in height, has a copy area that is 9 feet wide by 6 feet tall and a brick base that compliments the exterior of that building and is 9 feet wide by 9 feet tall. See the conceptual drawing below.



Public Notice

Four notices of the Planning and Zoning Commission public hearing were sent out. As of March 10, 2010 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 March 10, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-24B, a CUP for a package store at 8800 Airport Road with the following conditions in accordance with Zoning Ordinance, Section 7-611:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.

3. 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.
4. The City Council may deny or revoke this CUP 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.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan, elevations and application are exhibits to the CUP.
8. Window signs are prohibited.
9. Lighted signs must be turned off at closing time.
10. The color of the metal siding at the rear of the building must match the color of the stone facades on the other three sides of the building.
11. The sign must be 15 feet in height, with a copy area that is 9 feet wide by 6 feet tall and a brick base that compliments the exterior of that building and is 9 feet wide by 9 feet tall.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

CUP Site Plan
CUP Elevations

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

MONDAY, MARCH 15, 2010

ACTION ITEMS

Item 5B: Public Hearing, Discussion and Action Z-FY-10-24-B: Discuss and recommend action on a Conditional Use Permit (CUP) to allow a package store with alcoholic beverage sales for off-premise consumption on 0.9 ± acres out of the Daniel Meador Survey, Abstract 577, Bell County Texas, located at 8800 Airport Road. (Applicant: Richard Lewis).

Chair Pilkington stated **Items 5A and 5B** would be presented together; however, separate public hearings, motions and seconds would be made individually.

Commissioner Staats stated he would recuse himself from **Items 5A and 5B** and presented the Affidavits to Staff.

Mr. Mabry began the CUP portion of the presentation by stating there were seven general criteria for conditional uses the Zoning Ordinance set forth and all of those criteria have been met by the proposal. The project would have a higher degree of site design amenities than nearby developments so there is no concern for diminishing property values. There are adequate utilities to serve the property; the number of parking spaces complied with required number for a package store; and a large percentage of the property (48%) was landscaped with 30% being visible to the public.

There are eight (8) standards specific to package stores:

Package Store Standards: In addition to the general CUP standards in Zoning Ordinance Section 7 600, the following standards apply to a CUP for a package store:

1. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
2. Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7 566 (G);
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;

5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. 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);
7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

The proposal met all of the applicable standards above and are reflected on the CUP site plan.

Mr. Mabry stated the frontage on SH 36 would have a 30' wide access way which was in compliance with TxDOT requirements and applicant would install a six-foot wide sidewalk along Airport Road and SH 36, an Arterial Road on the Thoroughfare Plan.

The stacking space was 60 feet from the pick/up window and the escape lane to the right would allow vehicles to get by without going through the window. Façades of the building visible to the public are 100% stone, excluding doors, windows and an awning. Metal is proposed for the rear façade with a color compatible to the three sides.

TxDOT has designated SH 317 as a scenic corridor where billboards are not permitted; therefore, Staff suggested a modified monument sign which has the same height and copy area as a conventional pole sign but a better aesthetic look.

Staff recommended approval of **Z-FY-10-24B**, a CUP for a package store at 8800 Airport Road with the following conditions in accordance with Zoning Ordinance, Section 7-611:

1. The permittee must design and operate the establishment in such a manner that the proposed use does not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
3. 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.

4. The City Council may deny or revoke this CUP 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.
5. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
6. The CUP may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance.
7. The applicant's site plan, elevations and application are exhibits to the CUP.
8. Window signs are prohibited.
9. Lighted signs must be turned off at closing time.
10. The color of the metal siding at the rear of the building must match the color of the stone facades on the other three sides of the building.
11. The sign must be 15 feet in height, with a copy area that is 9 feet wide by 6 feet tall and a brick base that compliments the exterior of that building and is 9 feet wide by 9 feet tall.

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

Commissioner Pope made a motion to approve the CUP as described in **Z-FY-10-24B** and Commissioner Hurd made a second.

Motion passed: (7:0)

Commissioner Staats abstained; Commissioner Dusek absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-24B]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A PACKAGE STORE WITH ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISE CONSUMPTION ON AN APPROXIMATELY 0.9 ACRE TRACT OF LAND OUT OF THE DANIEL MEADOR SURVEY, ABSTRACT 577, BELL COUNTY, TEXAS, LOCATED ON THE NORTH SIDE OF AIRPORT ROAD EAST OF THE STATE HIGHWAY 317 INTERCHANGE AT 8800 AIRPORT ROAD; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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 an approximately 0.9 acre tract of land out of the Daniel Meador Survey, Abstract 577, Bell County, Texas, located on the north side of Airport Road east of State Highway 317 interchange at 8800 Airport Road, 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 to allow a package store with alcoholic beverage sales for off-premise consumption on an approximately 0.9 acre tract

of land out of the Daniel Meador Survey, Abstract 577, Bell County, Texas, located on the north side of Airport Road east of State Highway 317 interchange at 8800 Airport Road 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 demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City;
- (c) 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;
- (d) 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;
- (e) Window signs are prohibited;
- (f) Lighted advertising signs must be turned off at closing time;
- (g) The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit;
- (h) 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;
- (i) The permittee's site plan, elevations and application are exhibits to the conditional use permit, attached hereto as Exhibit B;
- (j) The color of the metal siding at the rear of the building must match the color of the stone facades on the other 3 sides of the building; and
- (k) The sign must be 15 feet in height, with a copy area that is 9 feet wide by 6 feet tall and a brick base that compliments the exterior of that building and is 9 feet wide by 9 feet tall.

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 **1st** day of **April**, 2010.

PASSED AND APPROVED on Second Reading on the **15th** day of **April**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney