



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3RD FLOOR CONFERENCE ROOM

THURSDAY, JULY 1, 2010

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, July 1, 2010.
2. Receive an update from Jacobs Engineering Group regarding the Bird Creek Interceptor Improvement Project.
3. Receive briefing on preliminary FY 2010-2011 budget.
4. Receive update regarding the Temple Medical and Education District (TMED) and the associated overlay ordinance.

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. PUBLIC APPEARANCES

3. Receive comments from Susan Peoples and Genevieve Gregg regarding the closure of the [Maxine Raye Clark Swimming Pool](#).

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) [June 17, 2010 Special Called and Regular Meeting](#)

Contracts, Leases & Bids

- (B) [2010-6044-R](#): Consider adopting a resolution authorizing a construction contract with TTG Utilities, Inc., of Gatesville for the reconstruction of Steeplechase Lift Station in the amount of \$422,773.96.
- (C) [2010-6045-R](#): Consider adopting a resolution authorizing additional expenses to S&M Vacuum and Waste, Ltd., of Killeen for the emergency disposal of removed sediments from the Leon River in the amount of \$31,777.
- (D) [2010-6046-R](#): Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with Strasburger Enterprises for redevelopment improvements in the Temple Medical and Education District and the South 1st Street Strategic Investment Zone corridor at 1802 and 1808 South 1st Street in an amount not to exceed \$24,200 plus waiver of permits and fees.

Ordinances – Second and Final Reading

- (E) 1. [2010-4366](#): SECOND READING – A-FY-10-08: Consider adopting an ordinance to abandon two alleys with one alley being approximately 21 feet in width by 343 feet in length, located between Lots 6 through 8, Block 8, Moore-Cole Addition and Block 1, Lang Addition and with the other alley being approximately 48 feet in width and 60 feet in length, located between Block 255, Original City of Temple Addition and Lot 5, Block 8, Moore-Cole Addition near the northwest corner of West Adams Avenue and North 23rd Street.
- 2. [2010-6047-R](#): S-FY-10-09 - Consider adopting a resolution authorizing a street use license to allow the encroachment of an existing two-inch water line, an existing six-inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within a public utility easement at 1206 West Adams Avenue, near the northwest corner of the intersection of West Adams Avenue and North 23rd Street.

Misc.

- (F) [2010-6048-R](#): Consider adopting a resolution authorizing the City Manager to submit a grant application for 6 new police officer positions through the 2010 COPS Hiring Program.
- (G) [2010-6049-R](#): Consider adopting a resolution authorizing the renewal of the Emergency Management Performance Grant (EMPG) for FY 2010 which funds a portion of the administration cost for Emergency Management for the City of Temple.

- (H) [2010-6050-R](#): Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2010-2011 budget for August 5, 2010 and September 2, 2010 at 5:00 p.m. in the City Council Chambers.
- (I) [2010-6051-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

V. REGULAR AGENDA

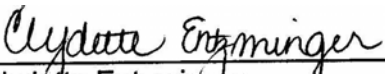
ORDINANCES

- 5. (A) [2010-4367](#): FIRST READING – PUBLIC HEARING - Z-FY-10-30-A: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Neighborhood Service District (NS) on a 1.29 ± acre tract of land in the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road.

(B) [2010-4368](#): FIRST READING – PUBLIC HEARING - Z-FY-10-30-B: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of beer and wine in an existing convenience store for off-premise consumption on a tract of land being part of the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road.
- 6. [2010-4369](#): FIRST READING – PUBLIC HEARING - Z-FY-10-32: Consider adopting an ordinance authorizing a zoning change from General Retail District to Multiple Family Two District on 1.74 ± acres of land situated in the Maximo Moreno Survey, Abstract No. 14, City of Temple, located on the north side of Marlandwood Road, adjacent to and east of 990 Marlandwood 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 1:35 PM, on June 25, 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

07/01/10
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Receive comments from Susan Peoples and Genevieve Gregg regarding the closure of the Maxine Raye Clark Swimming Pool.

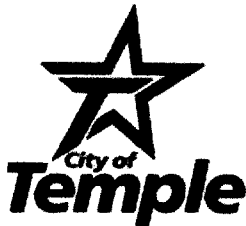
STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Susan Peoples filed a Request for Placement on the City Council Agenda, please see attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)



CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

___Priority

NAME OF PRESENTER: Susan Peoples & Genevieve Greggs

ADDRESS: 254 1205 Madison Temple, TX

TELEPHONE NO. 254-773-0082 or 913-8519

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) July 1st 2010

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) THE CLOSING OF the

MAXINE RAY CLARK SWIMMING POOL; To Reopen the EAST
Side pool.

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.

Susan Peoples
SIGNATURE OF PRESENTER

6-25-2010
DATE

For Office Use:

RECEIVED

JUN 25 2010

CITY OF TEMPLE, TX
CITY SECRETARY



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) June 17, 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:

[June 17, 2010 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

JUNE 17, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, June 17, 2010 at 3:00 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

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

1. **Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, June 17, 2010.**
2. **Receive an update from Jacobs Engineering Group regarding the Bird Creek Interceptor Improvement Project.**

There was no discussion of items 1 and 2.

3. **Executive Session: Chapter 551, Government Code, §551.071 - Consultation with Attorney - The City Council will meet in executive session with the City Attorney to discuss pending and contemplated litigation.**

**Willis Martin, Jr. v. Wayne Dawson, et al
John Jay Reed, III v. Temple PD, et al
City of Temple, Texas, v. William T. Anderson, as Trustee of the Center of Orthopedic Pension Plan Trust, and Wind Mountain Ranch, LLC.**

4. **Executive Session: Chapter 551, Government Code, §551.087 - Economic Development Negotiations - The City Council will meet in executive session to discuss economic development negotiations concerning Gulf States Toyota.**

Mayor Jones stated the Council would enter into executive session at this time for the discussion of item 4, followed by item 3. No action was taken by the City Council regarding either item.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, June 17, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

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

I. CALL TO ORDER

1. Invocation

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

2. Pledge of Allegiance

SFC Donald Hardy, US Army Recruiting Office in Temple, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. Presentation of Proclamations:

(A) Healthcare Risk Management Week June 14—18, 2010

Mayor Jones presented this proclamation to Lisa Havens, Associated General Counsel and Director of Risk Management, and Amy Fox, Director of Patient Relations at Scott and White Hospital.

(B) 235th Birthday of the United States Army June 14, 2010

Mayor Jones presented SFC Donald Hardy, US Army Recruiting Office, with this proclamation.

III. PUBLIC COMMENTS

Rosa Hernandez, 3509 Gila Trail, addressed the City Council on behalf of Central Texas LULAC. She discussed a pilot program being developed in the community to keep kids in school and connected to successful experiences as a collaborative approach to dropout prevention. Mrs. Hernandez also explained the outcomes they hope this program will achieve. She asked the Council for \$3,600 to bridge the gap in funding needs for this program.

IV. PUBLIC HEARING

4. PUBLIC HEARING - Presentation of the proposed 2010-2015 Community Development Block Grant (CDBG) Five Year Consolidated Plan, and the proposed 2010-2011 CDBG Annual Action Plan, including the funding recommendations for public service agencies from the Community Services Advisory Board.

Traci Barnard, Finance Director, stated over the next 5 years, the City of Temple will received approximately \$2.5 million in CDBG funds. For the 2010-2011 Annual Action Plan, the City will receive \$560,000 in funding.

Mark Taylor, Gary Traylor & Associates, made a brief presentation to the City Council regarding this item. He began with an explanation of what the consolidated plan is, its purpose and the contents of the plan. Mr. Taylor also explained the citizen participation and consultations conducted during the process of developing the consolidated plan. A housing needs assessment was conducted and Mr. Taylor presented those results, as well as the housing

market analysis from the Temple-Belton MLS residential housing activity. 70% of funds expended through CDBG must be to benefit low and moderate income persons. Citizen survey results show public facilities ranked very high. The recommendation is that the City carry out public services, facilities and improvements and provide housing assistance and Mr. Taylor reviewed the specific recommendations in these areas.

Next, Mr. Taylor addressed the 2010-2011 Action Plan. The City will receive \$559,603 in CDBG funds this year. In addition, \$16,090 in program income and prior year reallocation in the amount of \$7,105 will be incorporated into the Action Plan. Mr. Taylor reviewed the proposed allocated of FY 2010-2011 CDBG funds, totalling \$582,798. He detailed the public service agency recommendations, which total \$78,344.

Dr. Robert Beamon, Chair of the Community Services Advisory Board, and Lois Whitley, Community Development Office, provided some details on the Temple ISD program recommended for funding, in the amount of \$18,844. This is for the A+ Diploma Program for those over 18 years of age. It is a computer based program for those students who may have dropped out of school or previously obtained their GEDs but now need or desire to obtain their high school diploma.

Mr. Taylor continued by providing specific details about the other recommendations for funding in the 2010-2011 Action Plan. The public review period will begin tonight with the first public hearing. The plan must be submitted to HUD by August 15th. The Plan will also be posted on the City of Temple website.

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

At this time, Chief Wallace introduced David Bell, new Deputy Chief for Temple Fire & Rescue.

V. CONSENT AGENDA

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

(A) May 25, 2010 Special Called Meeting

(B) June 3, 2010 Special Called and Regular Meeting

(C) 2010-6038-R: Consider adopting a resolution authorizing an interlocal agreement with Bell County for use of the County's software and fiber optic network to process and maintain records regarding early voting, in the amount of \$1200.

(D) 2010-6039-R: Consider adopting a resolution authorizing change order #3 to the new Central Fire Station construction contract with EMJ Corporation of Irving in the amount of \$31,482.

(E) 2010-6040-R: Consider adopting a resolution authorizing a construction contract with Cunningham Constructors & Associates, Inc. of Georgetown for the construction and installation of improvements necessary to address the solids removal process at the Membrane Water Treatment Plant in the amount of \$2,596,720.

(F) 2010-6041-R: Consider adopting a resolution authorizing a 3-year rental agreement with G&K Services of Coppell off the BuyBoard, for the rental of uniforms and floor mats in the estimated annual amount of \$61,000.

(G) 2010-4365: SECOND READING - Z-FY-10-27: Consider adopting an ordinance authorizing a Conditional Use Permit (CUP) to allow the sale of all alcoholic beverages for on-premise consumption in a restaurant, where the gross revenue from alcoholic beverages is 50 percent or less than the total gross revenue of the restaurant, located on Lot 1, Block 1, Shoney's Commercial Addition at 411 North General Bruce Drive.

(H) 2010-6042-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

Motion by Councilmember Danny Dunn to adopt resolution approving Consent Agenda, with exception of item 5(D), seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

(D) 2010-6039-R: Consider adopting a resolution authorizing change order #3 to the new Central Fire Station construction contract with EMJ Corporation of Irving in the amount of \$31,482.

Motion by Councilmember Marty Janczak to adopt resolution approving agenda item 5(D), seconded by Councilmember Danny Dunn.

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

VI. REGULAR AGENDA

ORDINANCES

6. 2010-4366: FIRST READING - PUBLIC HEARING - A-FY-10-08: Consider adopting an ordinance to abandon two alleys with one alley being approximately 21 feet in width by 343 feet in length, located between Lots 6 through 8, Block 8, Moore-Cole Addition and Block 1, Lang Addition and with the other alley being approximately 48 feet in width and 60 feet in length, located between Block 255, Original City of Temple Addition and Lot 5, Block 8, Moore-Cole Addition near the northwest corner of West Adams Avenue and North 23rd Street.

Brian Mabry, Interim Planning Director, presented this case to the City Council. He showed an aerial photo of the alleys being requested for abandonment. He also displayed the exhibit to be part of the proposed ordinance. HEB is requesting abandonment to use these alleys as part of a planned gas station and car wash. There are no objections from the utility providers or adjacent property owners. The Broker's Opinion of Value is \$7,825 and the applicant does agree with that opinion. HEB has applied for a Street Use License to encroach into the blanket easement area and this will be considered by the Council at the next meeting, if approved on second reading at the July 1st meeting.

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

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

Motion by Councilmember Russell Schneider to adopt ordinance, with second and final reading set for July 1, 2010, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

7. 2010-4363: SECOND READING - Z-FY-10-29: Consider adopting an ordinance authorizing a zoning change from Commercial District and General Retail District to Planned Development - Commercial District (PD-C) on Lots 1 - 4, Block 33, Temple Heights Addition, located at 2015 West Avenue M, 1305 and 1307 South 41st Street.

Brian Mabry, Interim Planning Director, presented this case to the City Council. This item was presented for first reading on May 20th. The purpose of the request is to move the truck rental business from the current South 1st location to the subject property. This use is already allowed on 3 of the 4 lots but the Planned Development will provide some protection to the surrounding residential uses. Mr. Mabry displayed an aerial photo of the property and photos of the surrounding properties. The Planned Development would allow parking encroachment onto Lot 4. The development plan was displayed and Mr. Mabry noted the truck parking area, setbacks, the proposed fence along the alley and south and west property lines, and the paving of Lot 4 with an all-weather surface. Twenty-seven notices were mailed to surrounding property owners, with four returned in approval and three in disapproval. Mr. Mabry reviewed the Planning & Zoning Commission and staff recommendations, highlighting those of significance and noting that conditions 12 and 14 are the result of comments made during the public hearing on first reading of the ordinance.

Councilmember Schneider stated that parking is already allowed on Lots 1,2, and 3. He asked if the entrance will off 41st Street.

Mr. Mabry replied yes, in the middle of Lot 2.

Councilmember Schneider asked about landscaping.

Mr. Mabry this was discussed with the applicant but it is not required because the property owner could withdraw the request and no improvements would be made.

Councilmember Janczak asked if metal slats in a chain link fence would qualify as opaque.

Mr. Mabry stated he did not think that would qualify as opaque but the Council could choose to either allow or disallow that type of fencing in the Planned Development ordinance.

Councilmember Schneider stated most of the comments he has received relate to the entrance from 41st Street and sight obstruction from the alley due to truck parking. Approval of the Planned Development would require trucks to be parked on the lot.

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

Mable Taylor, 1308 South 41st Street, stated she has lived at this address for more than 38 years. She asked if the lot at 1307 South 41st is going to be fenced on the 41st street side. Her concern is with trucks parked on 41st street, as hers was hit yesterday. Also, children have been playing on this lot since school has been out. Fencing this lot would help that and keep trucks from entering the property.

Mr. Mabry showed Ms. Taylor what the proposal is and how it might address her concerns.

David Rowe, 1402 South 39th Street, stated he has concerns with trucks parking on the front of the lot. He has been told he could go to the Code Enforcement Department if issues arise but he has not had good luck with this course of action in the past. Mr. Rowe showed photos of a grassy lot, a fence in disrepair, and a trailer of tires that have not been addressed by Code Enforcement. He would just like to keep their neighborhood nice.

Tanya Mikeska-Reed, 1317 North 9th Street, addressed the Council representing the applicant. The applicant is agreeing to most items being proposed but she clarified some of the issues. The opaque fence will be constructed of fiberglass and the permit has already been applied for and approved. The screening fence along 41st street has not been agreed to by the applicant, but he has agreed to an enclosed fence (no gate), with access from lots 1 and 2 only. The intended use is already allowed but the applicant wants to retain the curb cut on 41st Street.

Mayor Jones suspended the public hearing at this time to allow discussion between the applicant and his representative.

When Mayor Jones reconvened the public hearing Mrs. Mikeska-Reed explained the applicant's issue is that he is giving up 70' and getting 25'. He has requested a gate on lot 3 and if that is approved will construct an opaque screening fence on lot 4.

Ms. Taylor asked how they will move trucks in and out if there is a gate between lots 3 and 4. 1306 South 41st Street is also a residential structure and this would create a problem for them if they park on the road.

There being no further comments, Mayor Jones closed the public hearing regarding item 7.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, to include an opaque fence from 1307 South 41st and ending at 1305 South 41st, then continuing with a chain link fence, and access to 41st Street from Lots 2 and 3, seconded by Councilmember Danny Dunn.

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

RESOLUTIONS

8. **2010-6043-R: Consider adopting a resolution authorizing a construction contract with Chaney-Cox Construction, Inc. of Temple for the construction of Fire Station No. 8 with Training Center/Emergency Operations Center in the amount of \$2,885,000.**

Belinda Mattke, Purchasing Director, presented this item to the City Council. She provided some background information regarding this project. She also presented details regarding the facility design, which will be comprised of both Station 8 and and training center/EOC. Mrs. Mattke displayed an aerial photo of the proposed site for station 8, located on 2 acres on Airport property, along SH 36. The competitive sealed proposal process was used and 13 proposals were received. Staff recommended the low bid of \$2,885,000 submitted by Chaney-Cox Construction Company. Mrs. Mattke explained the criteria by which the proposals were reviewed. The project is proposed to break ground the week of June 28th, with occupancy in July 2011. Mrs. Mattke compared the price per square foot of other fire stations constructed over the past few years in the surrounding area.

Motion by Mayor Pro Tem Patsy E. Luna to adopt resolution, seconded by Councilmember Danny Dunn.

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

9. **2010-6037-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

(A) Two members to the Temple Public Safety Advisory Board to fill unexpired terms through September 1, 2010 and September 1, 2011

It was recommended that Pat Bell be appointed to fill the unexpired term

through September 1, 2011 and Margaret Goodwin be appointed to fill the unexpired term through September 1, 2010.

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

Motion passed unanimously.

(B) One member to the Animal Services Advisory Board to fill an unexpired term through September 1, 2012

Mayor Jones asked that this item be tabled.

Motion by Councilmember Marty Janczak to table item, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #4(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Interim Director of Public Works
Michael Newman, P.E., Assistant Director of Public Works / City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with TTG Utilities, Inc., of Gatesville for the reconstruction of Steeplechase Lift Station in the amount of \$422,773.96.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Over the years, the service boundary for the Steeplechase Lift Station (located near the intersection of Olympia Drive and Ascot Parkway) has dramatically expanded, resulting in excessive run times of the existing lift station. In addition to the lift station size needing to be expanded, pumps operate almost continuously, creating excessive wear on the belt driven pumps and creating substantial noise at the site. To address these concerns, this project will consist of construction of a new submersible lift station with a larger wet well. In January, 2010, the City entered into an agreement with Clark & Fuller to design the project.

On June 22, 2010, three bids were received. Per the attached bid tabulation, TTG Utilities submitted the low base bid, including deduct alternate, in the amount of \$422,773.96. Clark & Fuller's final opinion of probable cost for the project was approximately \$425,640. Staff recommends awarding a contract to the low bidder, TTG Utilities. Construction time allotted for this project is 120 days.

FISCAL IMPACT: This project was estimated at \$350,000 and included in the FY 2010 revised UR CIP approved by Council on 11/19/09. The source of funds for the project is Retained Earnings. In January 2010, when the design agreement was approved, \$36,259 was appropriated, leaving a remaining balance of \$313,741 for project construction. An additional \$109,032.96 is needed to fund the construction contract. The additional funding will require reprioritization of other projects within the UR CIP, and/or reallocation of project savings once projects are complete.

A budget adjustment is presented for Council's approval appropriating additional Water & Sewer Unreserved Retained Earnings in the amount of \$428,951 to account 520-5900-535-6611, project #100590 for the construction contract and anticipated testing fees.

ATTACHMENTS:

Bid Tabulation

Engineer's Letter of Recommendation

Project Map

Budget Adjustment

Resolution

Bid Tabulation Sheet									
2010 Steeplechase Lift Station Reconstruction Project									
Bid Date: June 22, 2010									
Base Bid				Matous Construction		Austin Engineering Co., Inc.		TTG Utilities, Inc.	
No.	Item Description	Est. Quan.	UOM	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
1	Site Preparation & Clearing	100%	LS	\$ 18,000.00	\$ 18,000.00	\$ 7,500.00	\$ 7,500.00	\$ 6,500.00	\$ 6,500.00
2	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 20,000.00	\$ 20,000.00	\$ 15,000.00	\$ 15,000.00	\$ 9,256.95	\$ 9,256.95
3	Provide & Implement a Traffic Control Plan	100%	LS	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 4,630.00	\$ 4,630.00
4	Provide & Implement a Trench Safety Plan	100%	LS	\$ 1,000.00	\$ 1,000.00	\$ 5,000.00	\$ 5,000.00	\$ 23,600.00	\$ 23,600.00
5	Provide Erosion Control Silt Fencing	210	LF	\$ 2.80	\$ 588.00	\$ 2.00	\$ 420.00	\$ 2.60	\$ 546.00
6	Saw Cut, Removal & Replace Ex. HMAC Pavement	16.5	SY	\$ 214.00	\$ 3,531.00	\$ 100.00	\$ 1,650.00	\$ 50.25	\$ 829.13
7	Demolish & Remove Ex. HMAC Pavement	212	SY	\$ 33.25	\$ 7,049.00	\$ 20.00	\$ 4,240.00	\$ 7.50	\$ 1,590.00
8	Demolish & Remove Existing Sanitary Sewer Manhole	4	EA	\$ 2,125.00	\$ 8,500.00	\$ 2,000.00	\$ 8,000.00	\$ 415.00	\$ 1,660.00
9	Demolish & Remove Existing Sanitary Sewer Lift Station	100%	LS	\$ 5,000.00	\$ 5,000.00	\$ 25,000.00	\$ 25,000.00	\$ 3,700.00	\$ 3,700.00
Subtotal Site Preparation					\$ 68,668.00		\$ 68,310.00		\$ 52,312.08
10	Connection to Existing Sanitary Sewer Main	6	EA	\$ 400.00	\$ 2,400.00	\$ 2,000.00	\$ 12,000.00	\$ 510.00	\$ 3,060.00
11	Inline Connection to Existing Force Main	1	EA	\$ 1,000.00	\$ 1,000.00	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00
12	Provide New Sanitary Sewer Service Connection	1	EA	\$ 900.00	\$ 900.00	\$ 1,500.00	\$ 1,500.00	\$ 450.00	\$ 450.00
13	Provide 4' Dia. Precast Epoxy Coated Eccentric Concrete Manhole	4	EA	\$ 4,250.00	\$ 17,000.00	\$ 3,500.00	\$ 14,000.00	\$ 4,110.00	\$ 16,440.00
14	Provide 10" PVC SDR 26 Sanitary Sewer Main	65	LF	\$ 131.00	\$ 8,515.00	\$ 100.00	\$ 6,500.00	\$ 66.00	\$ 4,290.00
15	Provide 8" PVC SDR 26 Sanitary Sewer Main	147	LF	\$ 65.00	\$ 9,555.00	\$ 100.00	\$ 14,700.00	\$ 60.01	\$ 8,821.47
16	Provide 4" PVC Class 200 Force Main	75	LF	\$ 72.00	\$ 5,400.00	\$ 65.00	\$ 4,875.00	\$ 52.00	\$ 3,900.00
17	Provide 6" Ductile Iron Pipe	10	LF	\$ 120.00	\$ 1,200.00	\$ 85.00	\$ 850.00	\$ 85.36	\$ 853.60
18	Provide 4" MJ Gate Valve	1	EA	\$ 850.00	\$ 850.00	\$ 600.00	\$ 600.00	\$ 550.00	\$ 550.00
19	Provide 6" Flg Check Valve	1	EA	\$ 2,600.00	\$ 2,600.00	\$ 4,500.00	\$ 4,500.00	\$ 1,235.00	\$ 1,235.00
20	Provide 4" Ductile Iron 45 Degree MJ Bend	2	EA	\$ 400.00	\$ 800.00	\$ 300.00	\$ 600.00	\$ 220.00	\$ 440.00
21	Provide 4" Ductile Iron 22.5 Degree MJ Bend	1	EA	\$ 300.00	\$ 300.00	\$ 300.00	\$ 300.00	\$ 220.00	\$ 220.00
22	Provide 4" Ductile Iron 4"x4" Flg Tee	1	EA	\$ 350.00	\$ 350.00	\$ 500.00	\$ 500.00	\$ 730.00	\$ 730.00
23	Provide 4"x6" Ductile Iron Flg Reducer	1	EA	\$ 300.00	\$ 300.00	\$ 350.00	\$ 350.00	\$ 350.00	\$ 350.00
24	Provide 6" Ductile Iron 90 Degree Flg Bend	1	EA	\$ 325.00	\$ 325.00	\$ 500.00	\$ 500.00	\$ 365.00	\$ 365.00
25	Provide 6" Ductile Iron 45 Degree Flg Bend	2	EA	\$ 300.00	\$ 600.00	\$ 600.00	\$ 1,200.00	\$ 335.00	\$ 670.00
26	Provide 6" Thread Aluminum Quick Connection with Cap	1	EA	\$ 800.00	\$ 800.00	\$ 200.00	\$ 200.00	\$ 145.00	\$ 145.00
27	Provide New Sanitary Sewer Lift Station w/ solid handling pumps	100%	LS	\$ 251,327.00	\$ 251,327.00	\$ 268,000.00	\$ 268,000.00	\$ 285,650.00	\$ 285,650.00
28	Provide New Electrical Service to New Lift Station	100%	LS	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00	\$ 7,500.00
29	All Testing per TCEQ & City of Temple Requirements	100%	LS	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 6,500.00	\$ 6,500.00
Subtotal New Lift Station & Sanitary Sewer Main Construction					\$ 316,722.00		\$ 346,175.00		\$ 343,170.07
30	Provide New 6" Reinforced Concrete Pavement Section	10.5	SY	\$ 466.00	\$ 4,893.00	\$ 100.00	\$ 1,050.00	\$ 120.00	\$ 1,260.00
31	Provide New 2" HMAC Pavement Section	212	SY	\$ 30.00	\$ 6,360.00	\$ 25.00	\$ 5,300.00	\$ 21.10	\$ 4,473.20
32	Provide New 12" Crushed Limestone Pavement Section	212	SY	\$ 36.00	\$ 7,632.00	\$ 35.00	\$ 7,420.00	\$ 15.08	\$ 3,196.96
33	Provide New 8" Crushed Limestone Pavement Section	66	SY	\$ 60.50	\$ 3,993.00	\$ 35.00	\$ 2,310.00	\$ 31.40	\$ 2,072.40
34	Provide Subgrade Preparation & Compaction	288.5	SY	\$ 28.00	\$ 8,078.00	\$ 20.00	\$ 5,770.00	\$ 7.00	\$ 2,019.50
35	Provide New Concrete Retaining Wall	22	LF	\$ 225.00	\$ 4,950.00	\$ 150.00	\$ 3,300.00	\$ 110.00	\$ 2,420.00
36	Provide New 6' Intruder Resistant Cedar Plank Fencing w/ Access Gate	105	LF	\$ 35.00	\$ 3,675.00	\$ 34.00	\$ 3,570.00	\$ 50.40	\$ 5,292.00
Subtotal New Paving and Fencing					\$ 39,581.00		\$ 28,720.00		\$ 20,734.06
37	Provide New 1-1/2" PVC Water Service	165	LF	\$ 29.00	\$ 4,785.00	\$ 50.00	\$ 8,250.00	\$ 24.35	\$ 4,017.75
38	Provide New Frost Free Fire Hydrant	1	EA	\$ 400.00	\$ 400.00	\$ 500.00	\$ 500.00	\$ 960.00	\$ 960.00
39	Provide New 1" Reduced Pressure Zone Backflow Preventer Assembly	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 850.00	\$ 850.00	\$ 4,630.00	\$ 4,630.00
Subtotal New Water Main Construction					\$ 7,185.00		\$ 9,600.00		\$ 9,607.75
Total Base Bid Steeplechase Lift Station Reconstruction project					\$ 432,156.00		\$ 452,805.00		\$ 425,823.96
27	Deduct Base Bid Sanitary Sewer Lift Station w/ solid handling pumps	100%	LS	\$ (251,327.00)	\$ (251,327.00)	\$ (268,000.00)	\$ (268,000.00)	\$ (285,650.00)	\$ (285,650.00)
27	Add Bid Alternate Sanitary Sewer Lift Station w/ vortex pumps	100%	LS	\$ 250,327.00	\$ 250,327.00	\$ 267,000.00	\$ 267,000.00	\$ 282,600.00	\$ 282,600.00
Total Base Bid plus Bid Alternate less Deduct:					\$ 431,156.00		\$ 451,805.00		\$ 422,773.96



2010 SW HK Dodgen Loop, Suite 105
Temple, Texas 76504
(254) 899-0899
Fax (254) 899-0901
www.clark-fuller.com
Firm Registration No: F-10384

June 22, 2010

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

Re: 2010 City of Temple, Steeplechase Lift Station Reconstruction Project

Dear Mrs. Torralva,

We have reviewed the bids for the above referenced project. TTG Utilities, Inc. submitted a Base Bid of \$425,823.96. In addition to the Base Bid, a Bid Alternate for the amount of \$422,773.96 was submitted. This alternate bid specified Submersible Vortex Pumps to be constructed, in lieu of the base bid Solids Handling Pumps. *Please see the enclosed Bid Tabulation Sheet for detailed information.*

The original project estimate was \$350,000.00, and the final engineer's opinion of probable cost to construct was \$425,640.00. The additional costs can be attributed to the following factors:

1. The concrete wet well was increased from a 6' diameter to a 10' diameter wet well.
2. The increased amount of excavation and trench safety required to construct the 10' diameter wet well.
3. The addition of the new 10" PVC sewer pipe and Manhole Replacement construction adjacent to and crossing Stratford Drive.
4. The addition of a new bypass pumping station, to be located adjacent to the new Lift Station site.

We are recommending that you award the contract with the Bid Alternate, utilizing the Submersible Vortex Pumps, to TTG Utilities, Inc. We believe, through personal experience, that TTG Utilities, Inc. is qualified and is capable of providing the new utility improvements as required in this project.

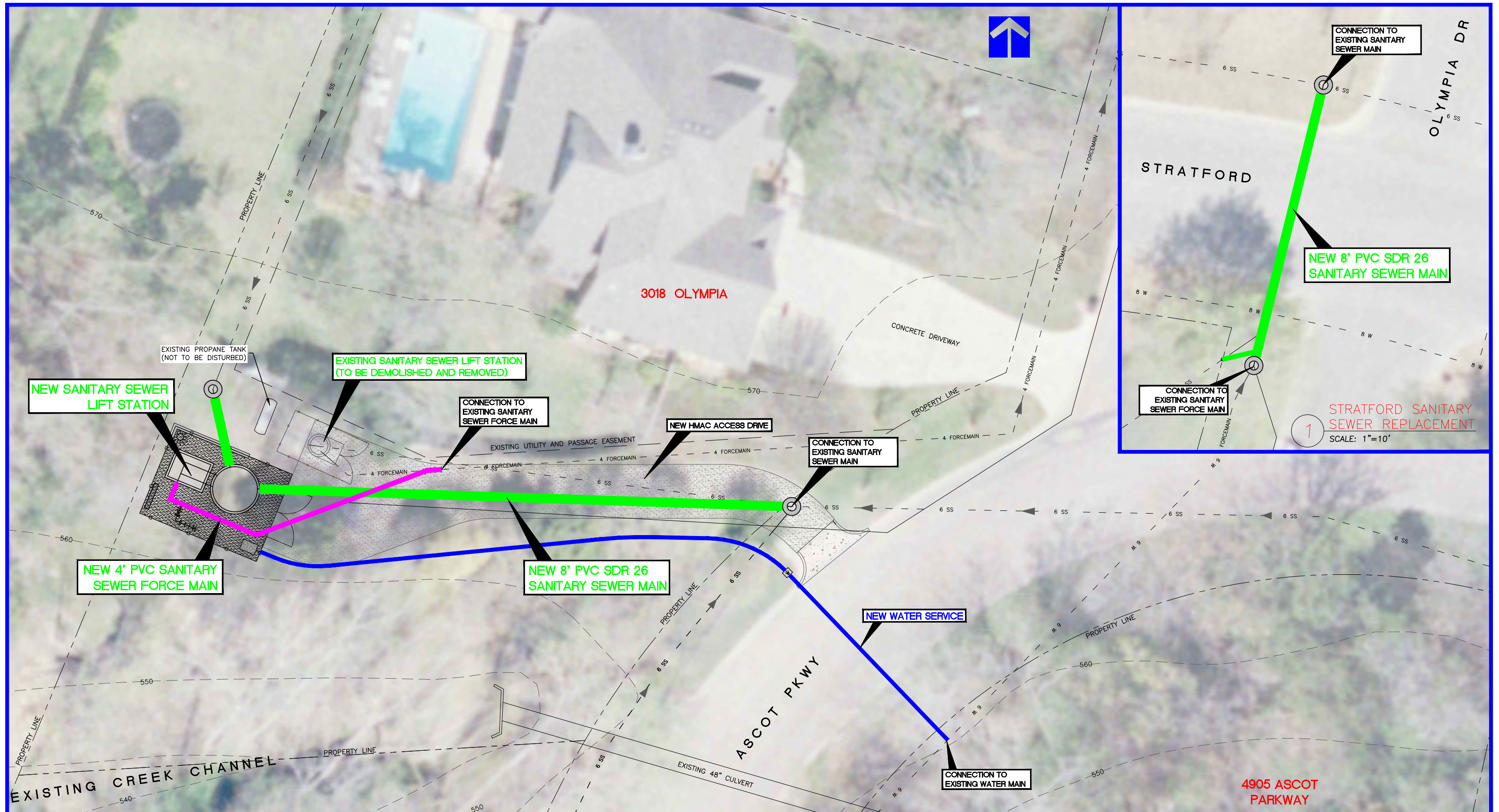
TTG Utilities, Inc. is a proven company with many successfully completed projects and we look forward to working with them on this project.

Please advise us as to which contractor you select.

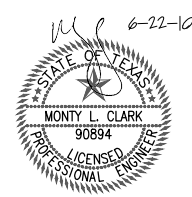
Sincerely,

A handwritten signature in black ink, appearing to be "M. Clark", written over a horizontal line.

Monty Clark, P.E.



Clark & Fuller, PLLC
 Civil Engineers • Designers • Planners
 Tel: (254) 899-0899 Fax: (254) 899-0901
 2010 SW HK Dodgen Loop, Suite 105, Temple, Texas 76504
 Firm No: F-10384



**2010 STEEPLECHASE
 LIFT STATION
 RE-CONSTRUCTION PROJECT**

0 10 20
 FEET

LEGEND:

- NEW SANITARY SEWER MANHOLE
- NEW 8" PVC SANITARY SEWER MAIN
- NEW 4" PVC SANITARY SEWER FORCE MAIN
- NEW 1" PVC WATER SERVICE

FY 2010**BUDGET ADJUSTMENT FORM**

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

Adjustments should be rounded to the nearest \$1.

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5900-535-66-11	100590	Lift Station-Steeplechase	\$ 428,951			
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings			428,951	
		Do Not Post				
TOTAL.....			\$ 428,951		\$ 428,951	

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

To fund the construction contract with TTG Utilities, Inc. for the reconstruction of Steeplechase Lift Station and anticipated testing fees related to the project. This project was approved by Council as part of the FY 2010 Capital Improvement Program as revised on November 19, 2009.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

July 1, 2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division DirectorDate☐

Approved

☐

Disapproved

FinanceDate☐

Approved

☐

Disapproved

City ManagerDate☐

Approved

☐

Disapproved

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH TTG UTILITIES, LP, OF GATESVILLE, TEXAS, FOR RECONSTRUCTION OF THE STEEPLECHASE LIFT STATION, FOR AN AMOUNT NOT TO EXCEED \$422,773.96; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 22, 2010 the City received 3 bids for the reconstruction of the Steeplechase Lift Station;

Whereas, the Staff recommends accepting the bid (\$422,773.96) received from TTG Utilities, LP, of Gatesville, Texas;

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

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a construction contract, not to exceed \$422,773.96, with TTG Utilities, LP, of Gatesville, Texas, after approval as to form by the City Attorney, for reconstruction of the Steeplechase Lift Station.

Part 2: The City Council authorizes an amendment to the FY2009-2010 budget, substantially in the form of the copy attached as Exhibit A, attached hereto and made a part for all purposes, for this project.

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

PASSED AND APPROVED this the 1st day of **July**, 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

07/01/10
Item #4(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing additional expenses to S&M Vacuum and Waste, Ltd., of Killeen for the emergency disposal of removed sediments from the Leon River in the amount of \$31,777.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: During the first two weeks in June, accumulated sediments were successfully removed from in front of the raw water intake structure on the Leon River. This work was performed in response to upcoming Army Corps of Engineer improvements that will occur later this summer. It was also an effort to clear a path from the intake structure out to the center of the river, to better insure a continuous and reliable water supply for the City while work on the dam is being performed.

This operation consisted of two parts. The first was removal of the sediments, which was performed by an underwater dive and pump team, and the second was disposal of the sediments at an approved land application site. S&M Vacuum and Waste, Ltd., was engaged through a supplemental agreement to dispose of the sediments at a cost of \$225 per load plus a 2¢ per gallon disposal fee. Estimated quantities for disposal before the work was performed totaled 150 loads, at an approximate cost of \$35,000. Actual loads of sediment removed totaled 215 loads for a total 920,097 gallons. Therefore, an additional \$31,777 is necessary to pay for expenses related to disposal of all sediments removed.

FISCAL IMPACT: Funding in the amount of \$31,776 is available in account 520-5100-535-23-13, for completion of this work.

ATTACHMENTS:

[Resolution](#)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ADDITIONAL EXPENSES IN THE AMOUNT OF \$31,777 TO S&M VACUUM AND WASTE LTD., OF KILLEEN, TEXAS, FOR THE EMERGENCY DISPOSAL OF REMOVED SEDIMENTS FROM THE LEON RIVER; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 20, 2010, the City Council approved a supplemental contract with S&M Vacuum and Waste, Ltd., of Killeen, Texas, for the emergency disposal of sediments removed from the Leon River by Chapman-Marine, Inc., of Austin, Texas;

Whereas, this work was performed in response to upcoming Army Corps of Engineer improvements that will occur later this summer, and was an effort to clear a path from the intake structure out of the center of the river, to better insure a continuous and reliable water supply for the City while work on the dam is being performed;

Whereas, estimated quantities for disposal before the work was performed totaled 150 loads, at an approximate cost of \$35,000 – actual loads of sediment removed totaled 215 loads, for a total of 920,097 gallons;

Whereas, an additional \$31,377 is necessary to pay for expenses related to disposal of all the sediments removed – funds are available in Account No. 520-5100-535-2313 for completion of this work; 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 additional expenses in the amount of \$31,377 to S&M Vacuum and Waste, Ltd., of Killeen, Texas, for the emergency disposal of removed sediments from the Leon River.

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 **July**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #4(D)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a Chapter 380 “matching grant” agreement with Strasburger Enterprises for redevelopment improvements in the Temple Medical and Education District and the South 1st Street Strategic Investment Zone corridor at 1802 and 1808 South 1st Street in an amount not to exceed \$24,200 plus waiver of permits and fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This agreement outlines the obligations and representations of Strasburger Enterprises for redevelopment of retail spec space, and also defines the City's incentive package. Strasburger's retail center, located at 1802 and 1808 First Street, is situated in the Temple Medical and Education District and is within the South 1st Street Strategic Investment Zone.

The agreement and resolution will allow Strasburger to receive a Chapter 380 matching grant on a 1:1 matching basis of up to \$10,000 match for landscaping, islands, and irrigation improvements (estimated match is \$7,109); up to \$10,000 match for sidewalk and related improvements (estimated match is \$9,985); and waiver of permits and fees. In addition, a grant not to exceed \$4,200 is included to cover costs of tree grates which are unique to the TMED design concept. Strasburger's total project investment includes construction of the new building, demolition of the existing building, and construction of a parking lot (approximately \$750,000), plus \$38,388 in infrastructure improvements. The maximum City match is \$24,200 (estimated match of \$21,294). These improvements significantly exceed the City's basic ordinance requirements and meet conceptual TMED concept design. Improvements must be completed by March 31, 2011. In return, Strasburger has agreed to:

- Install landscaping and irrigation system as per TMED concept design – Attachment “A” 3” caliper trees 25’ on center, tree wells, grates, continuous hedge along 1st Street
- Install 10’ wide sidewalks back of curb, curb and gutter, islands, and handicap ramps as per TMED concept design – Attachment “A”
- Install asphalt parking lot (not grant eligible)

- Demolish building on the north side of the property

FISCAL IMPACT: The total maximum grant match by the City is \$24,200 plus waiver of permits, taps, and fees. A total of \$255,000 has been appropriated for the Strategic Investment Zone matching grant incentives over the last three fiscal years, of which \$13,486 is currently available. A budget adjustment is presented for Council's approval transferring an additional \$10,714 from the Planning Department budget that was originally allocated for professional fees related to 1st Street Strategic Investment Zone to the applicable account in the Special Services Department.

Payment of the grant matching funds will not be made until work and inspections are completed, and receipts are received by the City.

ATTACHMENTS:

[Grant Agreement](#)

[Attachment "A" - TMED Landscaping, Streetscape, and Sidewalk Design](#)

[Attachment "B" – Project Site Plan](#)

[Budget Adjustment](#)

[Resolution](#)

South 1st Street Strategic Investment Zone Chapter 380 Development Agreement



This Agreement is executed by and between the City of Temple, a home rule city in Bell County, Texas (hereinafter “the City”) and Strasburger Enterprises, a Limited Liability Company hereinafter “Owner”).

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City and Owner agree as follows:

Section 1. Purpose. Pursuant to authority granted to home rule cities under Chapter 380 of the Local Government Code and pursuant to a program established for the South 1st Street Strategic Investment Zone under City Ordinance Number 2009-4285, the City and the Owner enter into this Agreement to promote economic development within the South 1st Street Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 1802 and 1808, South 1st Street (hereinafter the “Property”), City and Owner agree to assume the responsibilities set forth below.

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Section 2. Obligations of Owner. Owner proposes to make certain improvements to the Property, which are described generally below and as attached, and to use the Property as a retail center, after the Improvements are completed. Owner is seeking matching grants for certain types of additional improvements described in Section 3, and further agrees to complete all of the additional improvements describe in the subparts of Section 3.

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install landscaping, landscape islands, and irrigation system as per Attachment “A”; install tree wells and grates, demolish existing and install new 10’ wide sidewalks back of curb on S. 1st Street, curb and gutter, landscape medians, and handicap ramps as per Attachment “A”; install additional parking lot (not grant eligible); engineering, survey work, etc. (not grant eligible), hereinafter collectively referred to as “the Improvements.” The cost of total anticipated Improvements, including the new building that was recently constructed is approximately \$800,000.

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Owner agrees to complete said Improvements on or before March 31, 2011. As a condition to receiving the matching grants from the City described in Section 3, Owner further agrees to complete the improvements described in each subpart of Section 3.

Section 3. Matching Grants by the City. The City agrees to provide matching grants to the Owner as described below if Owner satisfactorily completes and maintains the additional improvements described in each subpart below:

(a) Landscaping Improvement Grant. The City will make a grant of up to \$10,000.00 on a 1:1 matching basis (estimated grant of \$7,109) for the installation of new or additional landscaping and irrigation system on the Property. To be eligible the landscaping must meet or exceed the City's landscaping requirements for TMED, (see attachment "A"), as the same may be established from time to time. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, irrigation, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences), landscape medians, and material and construction (including labor) costs, but specifically exclude design costs. The City will also consider making grants of trees from the City's tree farm if requested by the Owner as part of a landscaping improvement grant application.

A description of the Landscaping Improvements to be completed by Owner is as follows:

(b) Install landscaping, landscape islands, tree wells and grates, and irrigation system as per Attachment "A". Trees will be lacy bark elms with a minimum 3" caliper, spaced 25' on center and back of curb. Install continuous hedge along First Street frontage between the sidewalk and parking lot. 50% of hedge plantings will be evergreen. See also Attachment "B", Sidewalk Improvement Grant. The City will make a grant of up to \$10,000.00 on a 1:1 matching basis (estimated grant of \$9,985) for the demolition and disposal of existing sidewalks, construction of new sidewalks, curb and guttering, and handicap ramps. Sidewalk improvement costs eligible for reimbursement include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically exclude design costs.

See Attachment "A" for Sidewalk Improvement design and construction to be completed by Owner is as follows. Sidewalks will be a minimum of 10 feet wide, back of curb, with a minimum of six 4' wide tree wells back of curb.

c) Tree grates. The City will make a grant of \$4,200 with no matching requirements for six, 4'-5' wide tree grates to be installed 25' on center

Deleted: <#>Façade Improvement Grant. The City will make a grant of \$15,000 on a 1:1 matching basis for the replacement of an existing façade with an eligible masonry product on the Improvements as per Attachment "B"-building elevations. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, simulated stone block, and such other materials that the City may approve from time to time. A list of eligible materials for the South 1st Street Strategic Investment Zone is maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Other façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including labor), landfill costs, and material and construction (including labor) costs, but specifically exclude design costs.¶

¶
A description of the Façade Improvements to be completed by Owner is as follows:¶

<#>EIFS and stone or brick on all four sides of the building¶

¶
<#>Install new doors and windows¶

¶
<#>Façade elevation as per Attachment "B"¶

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along the frontage of South First Street. See Attachment “A” for design type and color.

- ▼ (c) Waiver of Platting, Zoning and Permit Fees. The City will waive platting, zoning, water and wastewater tap fees, and building permit fees related to the Improvements on the Property.

Section 4. Acceptance of Improvements and Payment of Matching Grants.

The City’s obligation to provide the matching grants described in Section 3 is conditioned upon the Owner completing the Improvements described in Section 2 and the specific additional improvements described in the relevant subparts of Section 3. After the Improvements described in Section 2 and in the subparts of Section 3 are inspected and accepted by the City, the City will make payment to the Owner within 30 days of such acceptance and upon evidence of receipts for expenses.

Section 5. Maintenance of Improvements. Owner, or its successors and assigns, agree to maintain the Improvements described in Section 2 and the subparts of Section 3 for a period of not less than five (5) years from the date matching grants are received from the City. Landscaping must not be removed or allowed to die.

Section 6. Assignment. Owner shall have the right to assign this Agreement as collateral for the financing of the construction of the Improvements, and in the event that Owner is unable to complete the project for any reason, its assignee shall have the right, but not the obligation to finish the project, and receive a contribution from the City in the amounts specified in this Agreement upon final inspection and acceptance of the Improvements by the City.

Section 7. Availability of Records. Owner agrees to make its books and other records related to the construction of the Improvements available for inspection by the City during reasonable business hours.

Executed on this the ____ day of _____, 20__.

City of Temple, Texas

Owner

Deleted: <#>Monument Sign. The City will make a grant of up to \$5,000.00 on a 1:1 matching basis for sign construction and installation. See Attachment “A” for design and construction requirements.¶

Deleted: <#>Asbestos Survey and Removal. The City will make a grant of up to \$1,000 on a 1:1 matching basis for Owner-initiated asbestos survey of the building and up to \$3,000 on a 1:1 matching basis for asbestos abatement for the building. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, and replacement materials.¶

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David A. Blackburn
City Manager

~~Gregg Strasburger~~
For ~~Strasburger Enterprises~~

Deleted: Tom Wilkinson

Deleted: Texquest Investments, LLC

Attest:

Approved as to form:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney

State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20____ by David A. Blackburn, City Manager, for the City of Temple, a Texas
home rule City.

Notary Public

State of Texas §

County of Bell §

This instrument was acknowledged before me on the ____ day of _____,
20__ by _____.

Notary Public

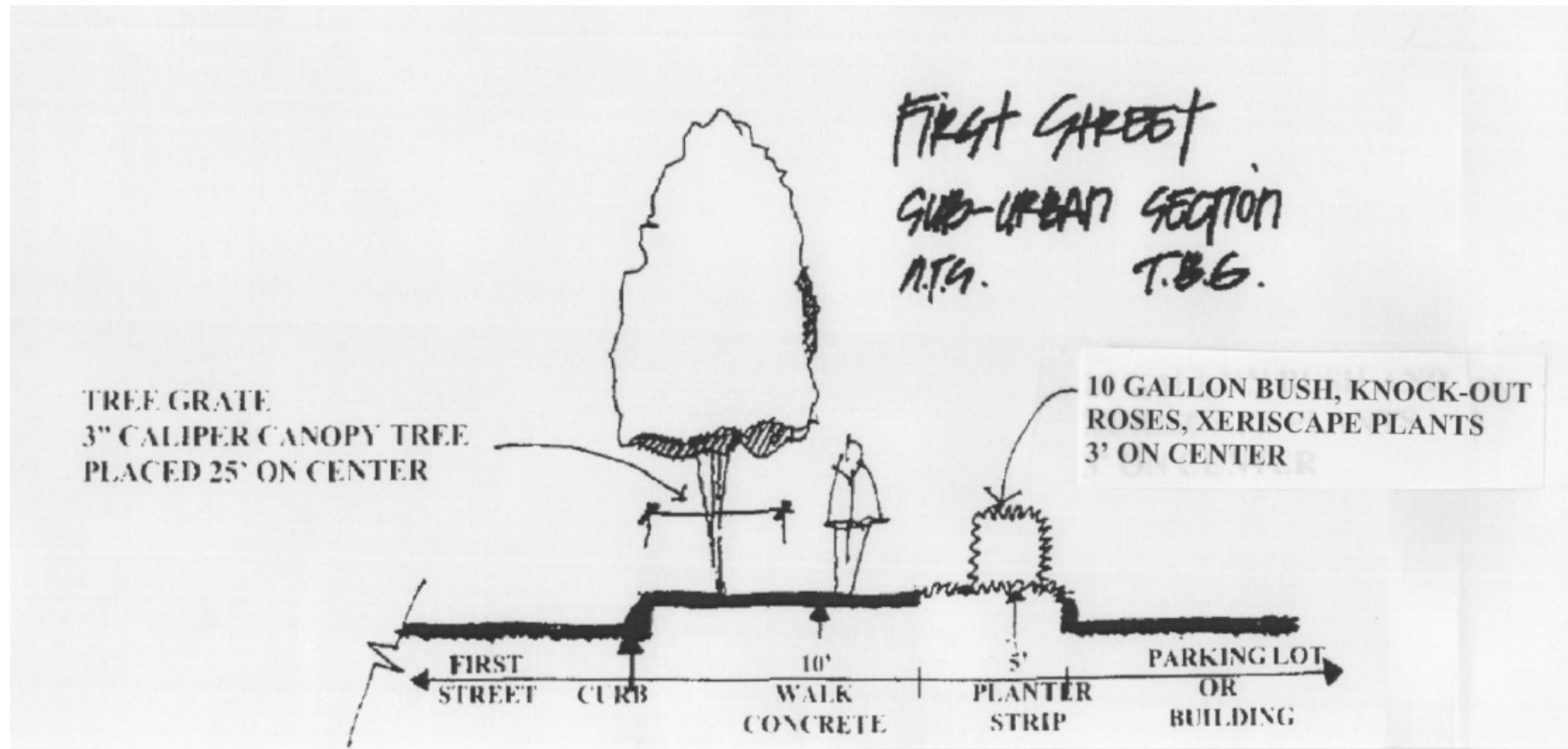
Attachment “A”

TMED Landscaping, Streetscape, and Sidewalk Design

Attachment “B”
Project Site Plan

**Deleted: Building Elevations and
Materials**

Temple Medical and Education District Landscape & Hardscape Specifications



ADDITIONAL SPECIFICATIONS:

- Design as depicted above
- Programmable Irrigation System
- Plants must be Xeriscape Plants from City Plant List
- 50% of Plants in Planting Strip Must Be Evergreen and Include Large Perennials, Shrubs, and Grass
- Bushes which Mature at a Minimum of 3' Height
- 50% of Plants in Planting Strip must be Knock-Out Roses
- Planting strip must be $\geq 75\%$ Filled with Plants
- 4" Mulch in Planting strip
- Additional Landscaping Against/near Building to Meet 5% Site landscape site requirement
- Trees are continuous across all street frontages; spacing is 25' on center in tree grates
- Planting strips continuous across all street frontages (except driveway cut)
- Tree Species: Lacy Bark Elm for street trees; any species for all other areas

Street Bench Design (if installed)



SPECIFICATIONS

- Bronze in Color
- Two Benches Every 200 Feet of Street Frontage
- Design as depicted
- Location under tree adjacent to tree grate

<http://www.landscapeforms.com/en-US/Products/Pages/TowneSquareBench.aspx#more>

ADA Ramp Design



Tree Grate Design



SPECIFICATIONS

- Bronze in Color
- Design as depicted
- 4 ' x 4'

http://www.fairweathersf.com/tree_grates_pages/sp_tree_grates.html

Trash Receptacle – if installed



SPECIFICATIONS

- Design as depicted
- Bronze in Color
- One Receptacle Every 200' of Street Frontage
- Located next to bench

<http://www.landscapeforms.com/en-US/Products/Pages/PlainwellLitterReceptacle.aspx>

Bike Rack – if installed



SPECIFICATIONS

- Design as depicted
- Bronze in Color
- Located at Convenient Locations Near Building Entrances Outside of Pedestrian Circulation Routes
- One Bicycle Rack for Every 50 Parking Spaces
- Minimum of 1 Bike rack

<http://www.landscapeforms.com/en-US/Products/Pages/RingBikeRack.aspx>

Street Lighting (if street lighting is installed)
Does not apply to parking lot lighting



SPECIFICATIONS

- Design as depicted
- Bronze in Color
- Installed in Planter Strips
- 12' -15' Height for Pedestrian Illumination
- 20' Height for Vehicular Illumination
- Design Required if Lighting Fixtures are installed

http://www.sternberglighting.com/product_details.asp?id=899

Building Signs and Free Standing Signs
Design applies only if free standing sign is installed.



SPECIFICATIONS

- One Sign Max on Building
- One Ground Mounted Monument Sign (No Pole)
- Monument Must Have Some Brick or Stone
- No Plastic or Internal Illumination
- Similar design as depicted

http://www.vitalsignsusa.com/pro_bldg_5339stone.htm

Grant Project Location Map



Grant Project Location Map

1808 S. 1st Street

1802 S. 1st Street



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

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

Adjustments should be rounded to the nearest \$1.

+

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
110-1500-515-26-95		Neighborhood Rehabilitation	\$ 16,214			
110-5900-515-61-10		Land Purchase Price			5,500	
110-1700-519-26-16		Contracted Services-Professional			10,714	
TOTAL.....			\$ 16,214		\$ 16,214	

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

Appropriate funds for the a Chapter 380 matching grant agreement between the City of Temple and Strasburger Enterprises for redevelopment improvements in the Temple Medical Education District and the 1st Street Strategic Investment Zone corridor at 1802 and 1808 S. 1st Street. The total maximum grant match by the City is \$24,200 plus waiver of permits, taps, and fees.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

July 1, 2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CHAPTER 380 “MATCHING GRANT” AGREEMENT BETWEEN THE CITY OF TEMPLE AND STRASBURGER ENTERPRISES FOR REDEVELOPMENT IMPROVEMENTS IN THE TEMPLE MEDICAL EDUCATION DISTRICT AND THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE CORRIDOR AT 1802 AND 1808 SOUTH 1ST STREET, FOR A COST NOT TO EXCEED \$24,200 PLUS WAIVER OF PERMITS AND FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, property owned by Strasburger Enterprises located at 1802 and 1808 South 1st Street is situated within the Temple Medical Education District and the South 1st Street Strategic Investment Zone which makes it eligible to receive a matching grant incentive from the City which is authorized by Ordinance No. 2008-4218 passed by the Temple City Council on June 5, 2008, and amending Ordinance No. 2009-4285 passed on March 5, 2009;

Whereas, the Staff recommends entering into a Chapter 380 “matching grant” agreement which will outline the obligations and representations of Strasburger Enterprises and defines the City’s incentive package;

Whereas, the total project investment by Strasburger Enterprises is approximately \$788,388, and the City’s total match may not exceed \$24,200;

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

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a Chapter 380 “matching grant” agreement, between the City of Temple and Strasburger Enterprises, after approval as to form by the City Attorney, for redevelopment improvements in the Temple Medical Education District and the

South 1st Street Strategic Investment Zone corridor, for a cost not to exceed \$24,200 plus waiver of permits and fees.

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

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

PASSED AND APPROVED this the 1st day of **July**, 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

07/01/10
Item #4(E-1)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Interim Planning Director

ITEM DESCRIPTION: SECOND READING – A-FY-10-08: Consider adopting an ordinance to abandon two alleys with one alley being approximately 21 feet in width by 343 feet in length, located between Lots 6 through 8, Block 8, Moore-Cole Addition and Block 1, Lang Addition and with the other alley being approximately 48 feet in width and 60 feet in length, located between Block 255, Original City of Temple Addition and Lot 5, Block 8, Moore-Cole Addition near the northwest corner of West Adams Avenue and North 23rd Street.

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

ITEM SUMMARY: HEB Grocery Company requests this abandonment of approximately .23 acres of alley right-of-way to replat the property and incorporate the alley into a planned gas station and car wash. A blanket easement will remain in place to accommodate existing utilities. The applicant has also applied for a street use license to allow a gas pump and canopy encroachment into the blanket easement. That case will be on the July 1, 2010, City Council agenda.

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.

HEB Grocery Company is the owner of all but one lot adjacent to the proposed abandonment. Planning staff notified the property owner adjacent to the alley (who is currently under contract with HEB to sell his lot to them) regarding this alley abandonment request. As of the date of this report, the owner had no issues with the alley abandonment request. It is projected that by second reading of the ordinance to grant the abandonment, HEB will have closed on the contract.

FISCAL IMPACT: If approved, HEB may purchase the abandoned alley, which has a fair market value of \$7,825.

ATTACHMENTS:

Application
Abandonment Exhibit
Ordinance

ABANDONMENT APPLICATION

Date: _____

Property Owner: HEB Grocery Company 646 S. Main Avenue San Antonio, TX 78204 (210) 412-2121
Name Address Phone #

Applicant: Jonathan R. Neslund 221 West Sixth Street, Suite 600 Austin, TX 78701 (512) 328-0011
Name Address Phone #

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

Email: ineslund@burypartners.com **Fax Number:** (512) 328-0325
West Adams Avenue

Address of Property: and 23rd Street **Lot:** N/A **Block:** N/A **Subdivision:** N/A

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.

The abandonment is required to finalize the proposed HEB Temple Subdivision Plat. The majority of existing alley right-of-way in the area was previously abandoned.

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

We propose to use the abandoned alley area for drive aisles, parking, and a fuel pump/canopy.
A Street Use License Application will accompany this Abandonment Application for the proposed fuel pump/canopy.

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.

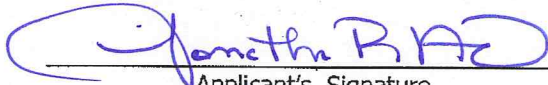
RECEIVED

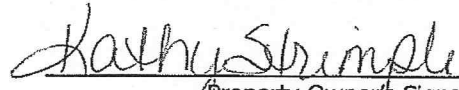
APR 23 2010

City of Temple
Planning & Development

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: Mary

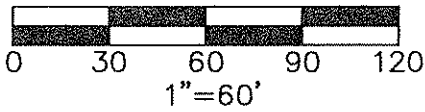
Case #: A-FY-10-08 Zoning Map Page: _____ Project Manager: Brian Mabey

Tentative City Council Date: _____

WEST BARTON AVENUE (R.O.W. WIDTH VARIES)

LEGEND

- 1/2" IRON ROD FOUND (UNLESS NOTED)
- ⊙ IRON PIPE FOUND
- ▲ 60D NAIL FOUND
- △ CALCULATED POINT
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT



BLOCK 255
ORIGINAL CITY
OF TEMPLE

H E BUTT GROCERY COMPANY
(PER APPRAISAL DISTRICT)

0.234 ACRE
(10,183 SQ. FT.)

ORDINANCE NO. 95-2322
VOL. 3291, PG. 741

LOT 5

ORIGINAL LOT LINE & DEED LINE

LOT 4
HEB GROCERY COMPANY
VOL. 806, PG. 272

ORIGINAL LOT LINE & DEED LINE

LOT 3
BLOCK 1
LANG ADDITION
(UNRECORDED SUBDIVISION)

HEB GROCERY COMPANY, LP.
VOL. 6204, PG. 147
LOT 2

P.O.C.

LOT 1

P.O.B.

N73°38'06"W 360.02'
TO 1/2" IRON ROD FOUND
AT NORTH 27TH STREET

S73°38'06"E 140.00'

N73°38'06"W
21.31'

WEST ADAMS AVENUE
(80' R.O.W.)

ALLEY

BLOCK 4

FREEMAN HEIGHTS BLOCK 4

BLOCK 5

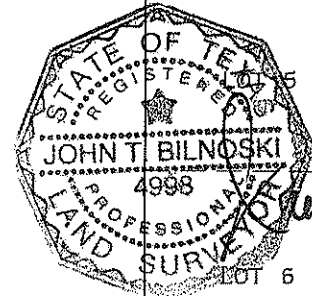
Bury+Partners
ENGINEERING SOLUTIONS
221 West Sixth Street, Suite 600
Austin, Texas 78701
Tel. (512)326-0011 Fax (512)326-0325
Bury+Partners, Inc. ©Copyright 2010

SKETCH TO ACCOMPANY DESCRIPTION
OF A 0.234 ACRE TRACT OF LAND, OUT OF THE G.W. FARRIS SURVEY, ABSTRACT NO. 304, SITUATED IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS, BEING A PORTION OF LOT 5 AND LOT 6, BLOCK 8 OF THE MOORE-COLE ADDITION, A SUBDIVISION OF RECORD IN VOLUME 77, PAGE 423 OF THE DEED RECORDS OF BELL COUNTY, TEXAS, TOGETHER WITH THE REMAINING PORTION OF AN ALLEY LOCATED BETWEEN LANG ADDITION, AN UNRECORDED SUBDIVISION IN THE CITY OF TEMPLE AND SAID MOORE-COLE SUBDIVISION.

HEB GROCERY COMPANY

DATE: 06/10/10 FILE: H:\50266\136\50266136EX2.DWG FN No.: FN10-126(KWA) DRAWN BY: AJM PROJ. No: 50266-136

NORTH 23RD STREET
(80' R.O.W.)



LINE TABLE

LINE	BEARING	LENGTH
L1	S73°38'06"E	21.31
L2	S16°49'01"W	45.47
L3	S73°11'28"E	60.00
L4	N73°50'48"W	60.00

ORDINANCE NO. 2010-4366

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING TWO ALLEYS WITH ONE ALLEY BEING APPROXIMATELY 21 FEET IN WIDTH BY 343 FEET IN LENGTH, LOCATED BETWEEN LOTS 6 THROUGH 8, BLOCK 8, MOORE-COLE ADDITION AND BLOCK 1, LANG ADDITION AND WITH THE OTHER ALLEY BEING APPROXIMATELY 48 FEET IN WIDTH AND 60 FEET IN LENGTH, LOCATED BETWEEN BLOCK 255, ORIGINAL CITY OF TEMPLE ADDITION AND LOT 5, BLOCK 8, MOORE-COLE ADDITION, NEAR THE NORTHWEST CORNER OF WEST ADAMS AVENUE AND NORTH 23RD STREET; MAINTAINING A FRANCHISE UTILITY EASEMENT TO ACCOMMODATE EXISTING UTILITIES; 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 2 alleys located near the northwest corner of West Adams Avenue and North 23rd Street, approximately .23 acres of alley right of way to replat the property and incorporate the alley into a planned gas station and car wash by HEB Grocery Company;

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 property 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 two alleys with one alley being approximately 21 feet in width by 343 feet in length, located between Lots 6 through 8, Block 8, Moore-Cole Addition and Block 1, Lang Addition and with the other alley being approximately 48 feet in width and 60 feet in length, located between Block 255, Original City of Temple Addition and Lot 5, Block 8, Moore-Cole Addition, near the northwest corner of West Adams Avenue and North 23rd Street, 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, in the right of way and in an existing 2 inch water line and 6 inch wastewater line within the right of way to the abutting property owners, which when done, shall be and become a binding act and deed of the City of Temple, while maintaining a public utility easement on all of the right of way described herein. In addition, the City Council has authorized a Street Use License for the encroachment of the existing 2 inch water line, 6 inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within the described right of way in a separate resolution.

Part 3: As consideration for the conveyance described in Part 2 hereof, the abutting property owner shall each pay to the City of Temple the fair market value amount of \$7,825.

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.

PASSED AND APPROVED on First Reading and Public Hearing on the **17th** day of **June**, 2010.

PASSED AND APPROVED on Second Reading the **1st** day of **July**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

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

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORADUM

07/01/10
Item #4(E-2)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Interim Planning Director

ITEM DESCRIPTION: S-FY-10-09: Consider adopting a resolution authorizing a street use license to allow the encroachment of an existing two-inch water line, an existing six-inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within a public utility easement at 1206 West Adams Avenue, near the northwest corner of the intersection of West Adams Avenue and North 23rd Street.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: HEB Company proposes a fuel station and car wash on the subject property. A utility easement will remain in place after the abandonment of the alley (as detailed in the previous agenda item). A fuel pump and a fuel station canopy are proposed to encroach into and over the easement. The area of the pump island and canopy to encroach into the easement is approximately 16 feet by 24 feet. Excavation will be approximately four feet in depth.

In addition, the granting of the street use license will render the existing City water and wastewater lines private. Maintenance and repair of the lines will be the responsibility of HEB.

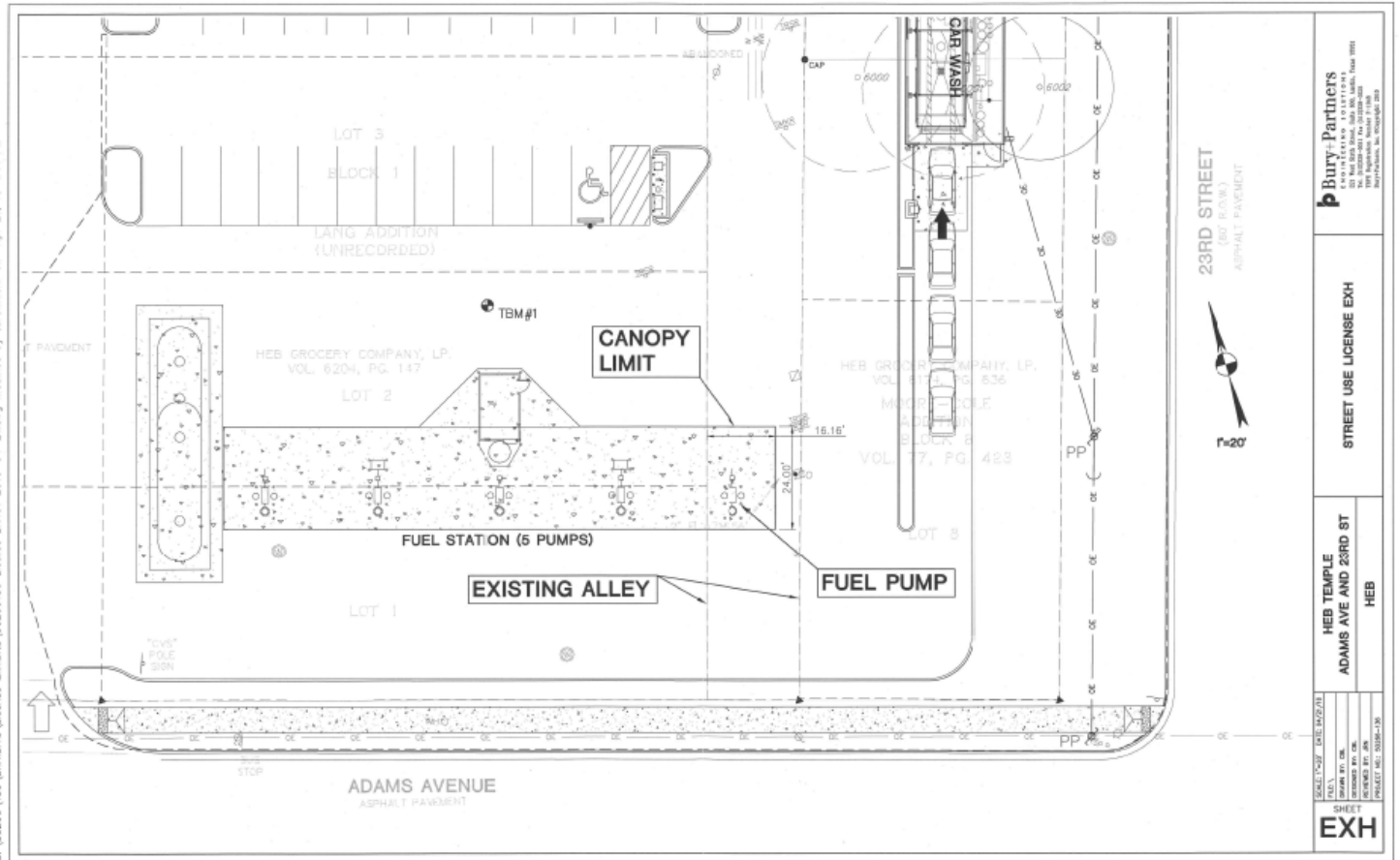
Staff notified all utility companies, including the City of Temple Public Works Department, regarding the applicant's requested street use license. There are no objections to the street use license.

FISCAL IMPACT: Street use licenses require a \$150.00 fee for a 15-year term. The applicant paid the \$150.00 fee with his application submittal.

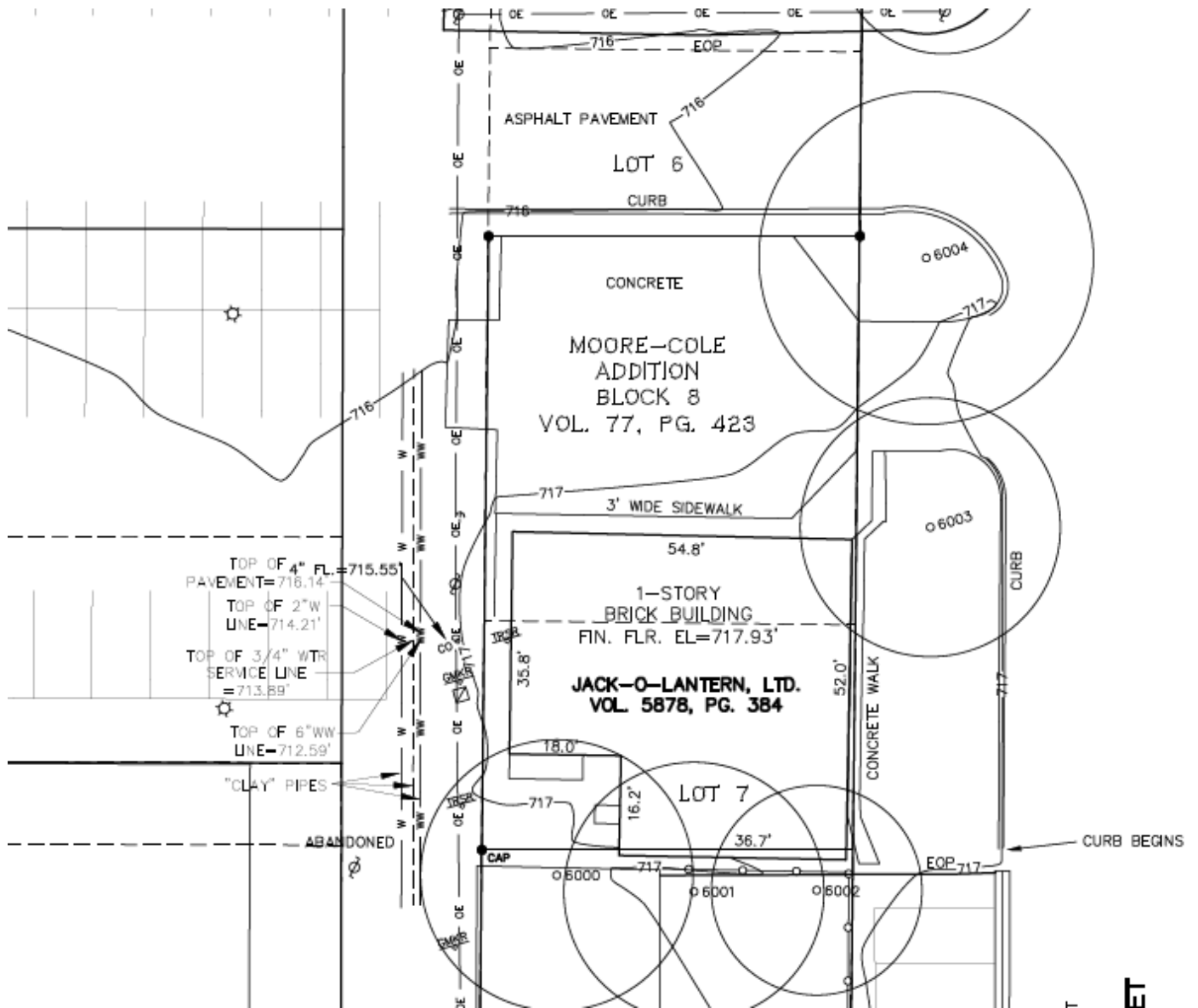
ATTACHMENTS:

[Exhibits A & B](#)
[Resolution](#)

Proposed fuel pump and canopy encroachments



Existing water and wastewater line encroachments



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A STREET USE LICENSE TO HEB GROCERY COMPANY TO ALLOW THE ENCROACHMENT OF AN EXISTING TWO-INCH WATER LINE, AN EXISTING SIX-INCH WASTEWATER LINE, A PROPOSED FUEL PUMP, AND A PORTION FO A PROPOSED FUEL PUMP CANOPY WITHIN A PUBLIC UTILITY EASEMENT AT 1206 WEST ADAMS AVENUE, NEAR THE NORTHWEST CORNER OF THE INTERSECTION OF WEST ADAMS AVENUE AND NORTH 23RD STREET; PROVIDING FOR THE TERMS AND CONDITIONS OF THIS LICENSE; PROVIDING FOR COMPENSATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, a Street Use License has been requested to allow the encroachment of an existing two-inch water line, an existing six-inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within a public utility easement at 1206 West Adams Avenue;

Whereas, the use of the property is not inconsistent, nor will it interfere, with any present City use of the property; and

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

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

Part 1: A Street Use License is granted to HEB Grocery Company, or any successors in interest, hereinafter "Licensee," to occupy, maintain, and utilize property to allow the encroachment of an existing two-inch water line, an existing six-inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within a public utility easement at 1206 West Adams Avenue, near the northwest corner of the intersection of West Adams Avenue and North 23rd Street in the City of Temple, Bell County, Texas, more fully shown on Exhibits A and B, attached hereto and made a part hereof for all purposes. This Street Use License is approved in accordance with the following terms and conditions:

I. Term

This license is granted for a term of 15 years, beginning July 1, 2010 unless sooner terminated according to the terms and conditions herein contained. At the end of the

fifteen year period, the owner may request an extension or renewal of the license. This agreement is effective when an executed copy is returned to the City.

II. Fee

Licensee shall pay to the City of Temple, Texas, the sum of \$150 for the 15-year term for the license herein granted upon the execution by Licensee and approval by the City of the agreement.

III. Conditions of License

This license is granted subject to the following conditions, terms, and reservations:

(a) **Maintenance of Encroachment Area.**

(1) Licensee shall maintain the encroachment area at all times in a neat, attractive, and orderly manner. Licensee shall at all times allow access to utilities and trash receptacles located within the encroachment area. Licensee shall not interfere with the operation of existing overhead electric lines along the west side of the alley.

(2) Licensee shall restore the encroachment area to its original condition at the end of the license period, unless renewed or extended, or in the event that this license is terminated by the City as provided herein. If Licensee fails to maintain the encroachment area as provided herein, or fails to restore the encroachment area when the license is expired or terminated, the City may cause such work to be done, the costs of which shall be born by Licensee.

(b) **Right of Cancellation.**

(1) This license is made subordinate to the right of the City to use said area for a public purpose, and in addition to any other reservations made herein, it is understood and agreed that should the City of Temple deem it in the public interest to use the above area, or any portion thereof for a public purpose, or for any utility service which will require the use of said area, then in that event, the City shall give the Licensee 30 days written notice of its intention to cancel this license. Licensee shall likewise have the same right of cancellation upon giving the City thirty (30) days written notice of its intention to cancel.

(2) In either event, upon the termination or cancellation by the City or Licensee, as the case may be, this license shall become null and void, and Licensee or anyone claiming any rights under this instrument shall remove any improvements and encroachments from said area at Licensee's expense. Failure to do so shall subject Licensee to the provisions of subsection (a) (2) above. All work shall be done at the sole cost of the Licensee and to the satisfaction of the City Engineer. The decision of the City

Council in this matter shall be final and binding upon all parties insofar as the City's determination as to the public necessity of the use of said area for public use.

(c) **Compliance with Laws.**

This license is subject to all State and Federal laws, the provisions of the Charter of the City of Temple as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Temple now in effect or those which may hereafter be passed and adopted. The City of Temple shall have the right to increase or decrease the compensation to be charged for this license upon its renewal or extension.

(d) **Indemnification.**

(1) Neither Licensee, nor his heirs, executors, administrations and assigns, shall ever make any claim of any kind or character against the City, its officers, employees, agents, servants, assigns and franchisees, for damages, including but not limited to damages caused by flooding, infiltration, and natural causes, that Licensee may suffer by reason of the installation, construction, reconstruction, operation, and maintenance of any public improvement or utility that is presently in place or that may in the future be constructed or installed on the above-described public properties, including but not limited to streets, sidewalks, storm sewers, water systems, sanitary sewer systems, and facilities for electric, gas, telephone, cable television, or telecommunications services.

(2) As a condition of this license, Licensee, for himself, his heirs, executors, administrators and assigns, agrees to indemnify, defend and hold harmless the City, its officers, employees, agents, servants, assigns and its franchisees providing public utilities, from liability for any and all claims or actions based on common, constitutional, or statutory law, for damages, injuries to persons (including death), property damage (including loss of use), and expenses, (including court costs and attorneys' fees), arising out of use, occupancy and maintenance of the above-described public properties by Licensee, or from any act or omission of any representative, agent, customer or employee of Licensee.

(3) Licensee agrees that this indemnity provision shall also cover any damages or personal injuries sustained by the City, its officers, employees, agents servants, assigns and franchisees, by reason or as a consequence of the City's having granted this license.

IV. Acceptance by Licensee

Licensee may accept the provisions of this license by signing through its duly authorized officer as indicated below within 30 days from the date of this license. In the event said acceptance is not signed as provided for herein, then this license shall be of no further effect and shall be considered as having been canceled fully.

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 on the **1st** day of **July**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney's Office

STATE OF TEXAS §

COUNTY OF BELL §

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

Notary Public, State of Texas

AGREEMENT OF LICENSEE

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

I, _____, on behalf of HEB Grocery Company, hereby accept the terms and conditions of Resolution No. _____ granting a Street Use License to utilize property to allow the encroachment of an existing two-inch water line, an existing six-inch wastewater line, a proposed fuel pump, and a portion of a proposed fuel pump canopy within a public utility easement at 1206 West Adams Avenue, near the northwest corner of the intersection of West Adams Avenue and North 23rd Street in the City of Temple, Bell County, Texas.

HEB GROCERY COMPANY

By: _____

State of Texas §

County of _____ §

This instrument was acknowledged before me on the ____ day of _____, 2010, by _____, on behalf of HEB Grocery Company.

Notary Public, State of Texas

Return recorded document to:
City Attorney's Office
2 N Main ST, STE 308
Temple TX 76501



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #4(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David A. Blackburn, City Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to submit a grant application for 6 new police officer positions through the 2010 COPS Hiring Program.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Department of Justice, Office of Community Oriented Policing Services (COPS), has announced the opening of the 2010 COPS Hiring Program (CHP), intended to provide funding to law enforcement agencies to create and preserve jobs and to increase their community policing capacity and crime-prevention efforts. The funding is available for hiring full-time career law enforcement officers. There is no local matching requirement for the duration of the grant. However, grant recipients are required to retain the positions after the grant period has concluded. The City submitted an application for the 2009 COPS Hiring Recovery Program (CHRP) but was not awarded funding. For the 2010 CHP, COPS will select CHP grantees from the existing pool of approximately 6,000 2009 COPS Hiring Recovery Program (CHRP) applications. The COPS office will not accept new applications for the CHP, and expects to make fewer than 500 awards with the limited amount of funding available.

FISCAL IMPACT: The total cost of hiring 6 Police Officers over the 36 month grant period is \$1,108,198. This cost includes salary, benefits and operational costs. The grant would fund the salaries and benefits for a total of \$994,464. The City's operational cost not covered by the grant would be approximately \$113,734. After the 36-month grant period the new positions must be included in the budget for at least one full budget cycle with an estimated annual cost of \$430,387.

Additional equipment items, such as police cars, are not requested at this time. These requests will follow over future budgets as needs are better identified and projected.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION FOR 6 NEW POLICE OFFICER POSITIONS THROUGH THE DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES (COPS) 2010 COPS HIRING PROGRAM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Police Department desires to apply for grant funds available through the Department of Justice COPS 2010 Hiring Program, which is intended to provide funding to law enforcement agencies to create and to preserve jobs to increase community policing capacity and crime-prevention efforts;

Whereas, there is no local matching requirement for the duration of the grant; however, recipients are required to retain the positions after the 36 month grant period has concluded;

Whereas, the City's cost of the new positions after the initial grant period must be included in the budget for at least one full budget cycle with an estimated annual cost of \$430,387, excluding vehicles; 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 submit a grant application for 6 new police officer positions to the Department of Justice COPS 2010 Hiring Program, and commits to retaining the positions after the 36 month grant period has concluded, to be included in the budget for at least one full budget cycle with an estimated annual cost of \$430,387.

Part 2: The City Manager, or his designee, is authorized to execute any documents which may be necessary to apply for this grant, after approval as to form by the City Attorney.

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

PASSED AND APPROVED this the **1st** day of **July**, 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

07/01/10
Item #4(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing the renewal of the Emergency Management Performance Grant (EMPG) for FY 2010 which funds a portion of the administration cost for Emergency Management for the City of Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The request is for approval of the renewal of the Emergency Management Performance Grant for FY 2010. This grant is funded by the Governor's Department of Emergency Management (GDEM) to pay for a portion of the administration cost for Emergency Management for the City of Temple.

Temple Fire and Rescue recommends approval of the renewal of this grant by the City Council.

FISCAL IMPACT: The grant will reimburse the City for a maximum of 50% of the salary and benefit expenditures related to emergency management. The grant application estimates that the total expenditures will be \$148,022.13 for fiscal year 2010 with a 50% grant amount of \$74,011.06. In fiscal year 2009, the City was only awarded grant funds in the amount of \$43,241.

Funds were included in the fiscal year 2010 Fire Department operating budget for the full amount of salary and benefit expenditures. Revenue was budgeted in the amount of \$43,241. For the FY 2010 grant the City has been awarded \$43,241.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE RENEWAL OF THE EMERGENCY MANAGEMENT PERFORMANCE GRANT (EMPG) FOR 2010 WHICH FUNDS A PORTION OF THE ADMINISTRATION COST FOR EMERGENCY MANAGEMENT FOR THE CITY OF TEMPLE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Emergency Management Performance Grant is funded through the Governor's Department of Emergency Management and pays a portion of the administration cost for Emergency Management for the City;

Whereas, the grant will reimburse the City for a maximum of 50% of the salary and benefit expenditures related to emergency management -- the grant application estimates that the total expenditures will be \$148,022.13 for fiscal year 2010 with a 50% grant amount of \$74,011.06; 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 renewal of the Emergency Management Performance Grant (EMPG) for 2010 which funds a portion of the administration cost for Emergency Management for the City of Temple.

Part 2: The City Council accepts any funds that may be received for this grant, and authorizes the City Manager to execute any documents which may be necessary for this grant.

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

PASSED AND APPROVED this the **1st** day of **July**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #4(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution setting the date, time and place of public hearings on the proposed FY 2010-2011 budget for August 5, 2010 and September 2, 2010 at 5:00 p.m. in the City Council Chambers.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This proposed resolution will comply with the City Charter requirement that the date, time and place of the public hearing on the proposed budget be set at the first regular Council meeting after the budget is filed. The public hearing is scheduled for the August 5, 2010 Regular Council meeting, to be held at 5:00 p.m. in the Council Chambers, to receive citizen comments on the operating budget. The resolution will also indicate that a supplemental public hearing on the proposed budget will be conducted at the September 2, 2010 Regular Council meeting, just prior to the scheduled adoption of the budget.

Additional public hearings for the FY 2010-2011 Proposed Budget may be scheduled relating to statutory requirements for adoption of a tax rate.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SETTING THE DATE, TIME, AND PLACE OF THE PUBLIC HEARINGS ON THE PROPOSED FY2010-2011 BUDGET FOR AUGUST 5, 2010, AND SEPTEMBER 2, 2010, AT 5:00 P.M. IN THE CITY COUNCIL CHAMBERS; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE SETTING FORTH THE TIME AND PLACE THEREOF; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council directs that public hearings on the budget for the City of Temple Fiscal Year 2010-2011 shall be held at meetings of the City Council at 5:00 p.m. on **August 5, 2010**, and **September 2, 2010**, in the City Council Chambers located in the Municipal Building at 2 North Main Street, Temple, Bell County, Texas.

Part 2: The City Council directs the City Secretary to cause the publication of notice of said hearings setting forth the time and place thereof in a newspaper of general circulation within the City.

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

PASSED AND APPROVED this the **1st** day of **July**, 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

07/01/10
Item #4(I)
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 \$552,817.

ATTACHMENTS:

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

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

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-1600-512-2515		Dues & Subscriptions	\$ 5,966	
110-0000-461-0855		Miscellaneous-Claims Due City		\$ 5,966
<p>To appropriate a portion of payment from Oncor through the Steering Committee to pay for membership in the 2010 Steering Committee of Cities served by Oncor. The total payment received was \$13,737. Our cost for membership in the Steering Committee is \$5,966 and is based on population.</p>				
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 1,029	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,029
<p>Attorney fees for lawsuits filed against the City - Centex Investment v. City of Temple and Anderson v. City.</p>				
240-7000-551-2311		Repair & Maintenance - Buildings & Grounds	\$ 2,600	
240-0000-358-1110		Hotel/Motel Unreserved Fund Balance		\$ 2,600
<p>To appropriate funds for the painting of the gazebo on the Depot grounds. Funds were not included in the FY 2010 operating budget for this expenditure.</p>				
260-0000-431-0135		HOME Grant	\$ 382,500	
260-0000-490-2582		Transfer In - General Fund	\$ 80,361	
260-6400-572-2616		Professional		\$ 89,515
260-6400-572-2623		Other Contract Services		\$ 360,625
260-6400-572-2625		Advertising/Legals		\$ 112
260-6400-572-2697		Affordable Housing - General Fund		\$ 12,609
110-0000-352-1345		Designated Capital Projects - Unallocated	\$ 80,361	
110-9100-591-8160		Transfer Out - Grant Fund		\$ 80,361
<p>To unappropriate funds for the 2008 HOME Owner Occupied grant received from the Texas Department of Housing and Community Affairs. The grant funds were deobligated and the program will not be completed.</p>				
TOTAL AMENDMENTS			\$ 552,817	\$ 552,817
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			\$	(69,496)
Net Balance of Judgments & Damages Contingency Account			\$	8,337
Beginning Fuel Contingency			\$	125,000
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	125,000

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

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		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	\$	181,737
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	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	\$	(26,336)
		Net Balance of Contingency Account	\$	-
		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	\$	(48,745)
		Net Balance of Contingency Account	\$	18,003

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 **July**, 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

07/01/10
Item #5(A)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Interim Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-30-A: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Neighborhood Service District (NS) on a 1.29 ± acre tract of land in the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its June 21, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a rezoning from GR to MF-2 for the following reasons:

1. The Comprehensive Plan recommends the NS zoning district to complement rural and urban residential areas since it is the most restrictive and least intense commercial zoning district.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

Commissioners Williams and Martin were absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-30A, from the Planning and Zoning meeting, June 21, 2010.

The applicant requests this rezoning in order to establish a base zoning district to allow a Conditional Use Permit for the sale of beer and wine for off-premise consumption. The subject property was annexed in January 2008 and was given the default zoning district of A, Agricultural. A convenience store currently occupies the subject property and was in operation prior to annexation. The convenience store currently sells non-alcoholic beverages and the operator would like to sell beer and wine for off-premise consumption. The requested zoning district of NS, Neighborhood Service, allows such use with a Conditional Use Permit. The NS zoning district is the least intense nonresidential zoning district and the most appropriate district for this location.

Public Notice

Six notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 10, 2010 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Notice Map
P&Z Staff Report (Z-FY-10-30A)
P&Z Minutes (06/21/10)
Ordinance



Z-FY-10-30-A


OB# 7204-A, 7205-A, 7206-A & 7207-A, 1.29 ac

10775 W SH 36



Feet 0 50 100 150

J Stone 5.17.10

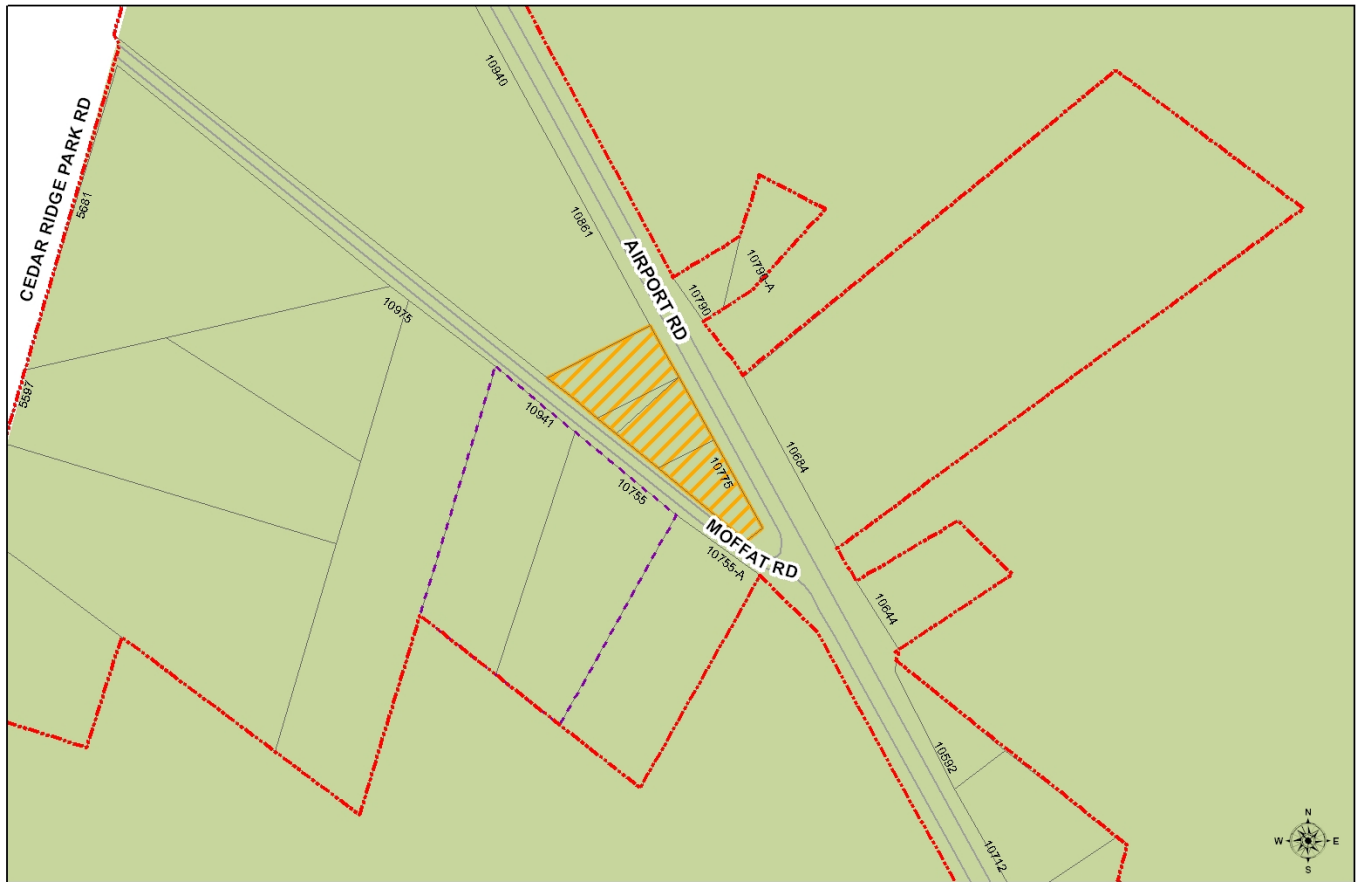
 Z-FY-10-30-A



Z-FY-10-30-A

OB# 7204-A, 7205-A, 7206-A & 7207-A, 1.29 ac

10775 W SH 36



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|--------------------|
| Z-FY-10-30-A | 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 | |

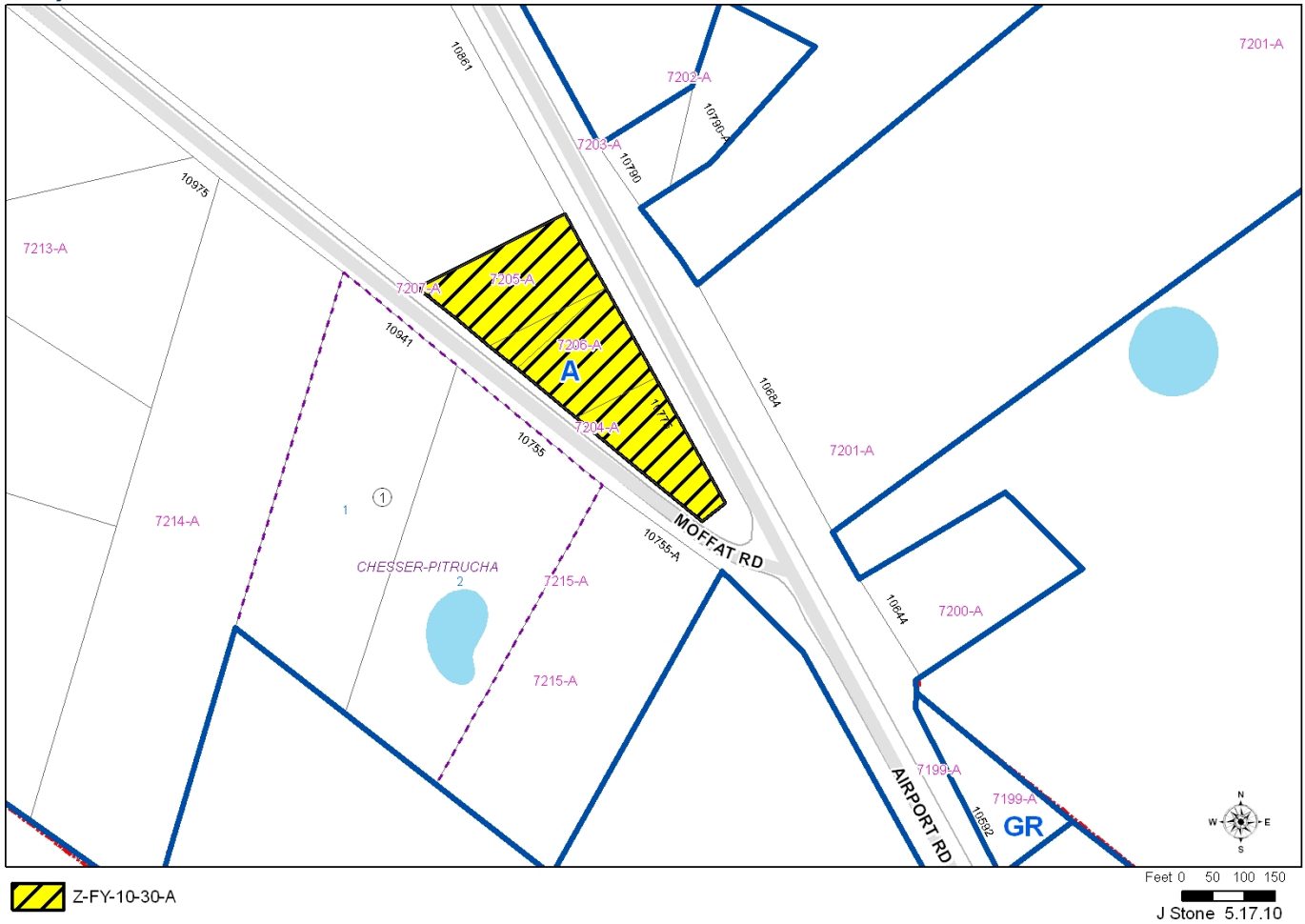
1 inch = 300 feet
J Stone 5.17.10



Z-FY-10-30-A

OB# 7204-A, 7205-A, 7206-A & 7207-A, 1.29 ac

10775 W SH 36

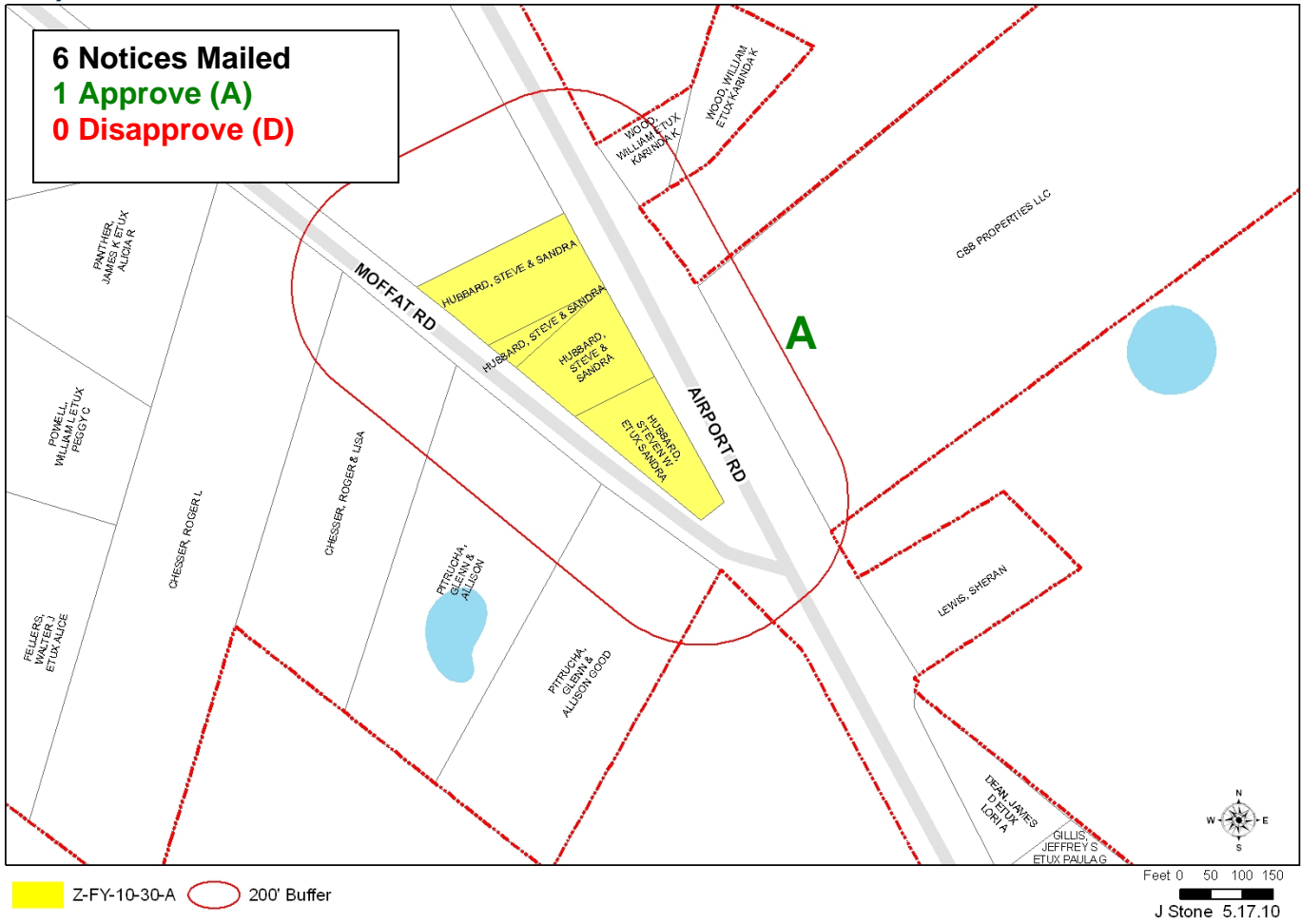




Z-FY-10-30-A

OB# 7204-A, 7205-A, 7206-A & 7207-A, 1.29 ac

10775 W SH 36





PLANNING AND ZONING COMMISSION AGENDA ITEM

06/21/10
Item #3A
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Wyatt Cramer/CEFCO for RAS Investments

CASE MANAGER: Brian Mabry, AICP, Interim Planning Director


ITEM DESCRIPTION: Z-FY-10-30-A Hold a public hearing to consider and recommend action on a zoning district change from Agricultural District (A) to Neighborhood Service District (NS) on a 1.29 ± acre tract of land in the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road. (Applicant: Wyatt Cramer / CEFCO for RAS Investments)

BACKGROUND: The applicant requests this rezoning in order to establish a base zoning district to allow a Conditional Use Permit for the sale of beer and wine for off-premise consumption. The subject property was annexed in January 2008 and was given the default zoning district of A, Agricultural.




A convenience store currently occupies the subject property and was in operation prior to annexation. The property had other structures on it at the time of annexation but they have since been demolished. The convenience store currently sells non-alcoholic beverages and the operator would like to sell beer and wine for off-premise consumption. The requested zoning district of NS, Neighborhood Service, allows such use with a Conditional Use Permit. The NS zoning district is the least intense nonresidential zoning district and the most appropriate district for this location.

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 (NS proposed)	Convenience store	

Double Sided

Direction	Zoning	Current Land Use	Photo
North	A	Undeveloped	
East	A	(across SH 36) Agricultural & large lot residential	
South	A	(Across Moffat Rd) Undeveloped & large lot residential	
West			

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. The Comprehensive Plan recommends the NS zoning district to complement rural and urban residential areas since it is the most restrictive and least intense commercial zoning district. The proposal conforms to the Future Land Use and Character Plan. Planning Staff will recommend this area be part of the semi-annual update to the Map, since this area will accommodate existing and future commercial activity near the intersection of Highway 36 and Moffat Road. The semi-annual update is projected to take place in Summer 2010.

Thoroughfare Plan

The Thoroughfare Plan designates State Highway 36 as a Major Arterial and Moffat Road as a Collector Street. The zone change request complies with the Thoroughfare Plan.

Availability of Public Facilities

Moffat Water Supply, the area's water provider, states that a 2" water line serves the property. An on-site septic facility currently exists on the property. Public and private facilities are available.

Development Regulations

The purpose of the NS zoning district is to provide day-to-day retail and service needs for residential areas. This district should be located convenient to residential areas in locations such as the corner of a local road and a collector that serves the neighborhood.

Typical permitted uses include limited retail services such as a convenience store without fuel sales, bank, barber or beauty shop, cleaners or flower shop. Typical prohibited uses include a drive-in restaurant or car wash.

The minimum lot area and setback requirements for NS zoning district are as follows.

NS, Neighborhood Service	
Min. Lot Area (sq. ft.)	NA
Min. Lot Width (ft.)	NA
Min. Lot Depth (ft.)	NA
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	15
Side	10
Rear	0

Public Notice

Six notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 10, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-10-30A for the following reasons:

1. The Comprehensive Plan recommends the NS zoning district to complement rural and urban residential areas since it is the most restrictive and least intense commercial zoning district.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, JUNE 21, 2010

ACTION ITEMS

Item 3: Z-FY-10-30A: Hold a public hearing to consider and recommend action on a rezoning from Agricultural District (A) to Neighborhood Service District (NS) on a 1.29 ± acre tract of land in the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the intersection of State Highway 36 and Moffat Road. (Applicant: Wyatt Cramer / CEFCO for RAS Investments)

Mr. Brian Mabry, Interim Planning Director, stated the purpose of this rezoning request was to convert the existing structure (service station) to sell beer and wine for off-premises consumption. The property was annexed in January 2008 giving the subject property an Agricultural (A) zoning. The request was for Neighborhood Services (NS) zoning district which is the least intense of the non-residential zoning districts and the most appropriate for the location.

This property was located at the split for Moffat Road and S.H. 36. Undeveloped land lay to the north, agricultural use and large lot use to the east across S.H. 36, and undeveloped land and large lot residential to the south and west across Moffat Road.

The Future Land Use and Character Map designated the subject property as rural, however, the Comprehensive Plan recommended NS zoning to compliment rural and urban residential areas since it was the most restrictive and least intensive. This request also complied with the Thoroughfare Plan.

There was a 2" water line serving the existing property and on-site septic facility existed.

Mr. Mabry stated dimensional standards for the Commission required within a NS zoning district.

Five (5) notices were mailed to surrounding property owners and one (1) was returned in favor of rezoning. No notices were returned in opposition.

Staff recommended approval of this request since the Comprehensive Plan recommended NS zoning district to compliment rural and residential areas since it was the most restrictive and least intensive commercial zoning district, it complied with the Thoroughfare Plan, and public and private facilities were available to serve the property.

Chair Pilkington opened the public hearing for the zone change request.

Mr. Clark Rudy, Vice-President of Engineering for Fikes Wholesale, 2002 Scott Blvd., approached and stated he worked with Wyatt Cramer. Mr. Rudy addressed Commissioner Hurd's question and stated the underground storage tanks were up to date and in compliance.

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

Commissioner Pope made a motion to approve the zone district change from A to NS for **Z-FY-10-30A** and Vice-Chair Talley made a second.

Motion passed: (6:0:1)

Commissioners Williams and Martin absent;

Commissioner Staats abstained

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-30-A]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO NEIGHBORHOOD SERVICES DISTRICT (NS) ON AN APPROXIMATELY 1.29 ACRE TRACT OF LAND IN THE SARAH FITZHENRY SURVEY, ABSTRACT 312, BELL COUNTY, TEXAS, LOCATED AT THE SOUTHWEST CORNER OF STATE HIGHWAY 36 AND MOFFAT 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 Neighborhood Services District (NS) on an approximately 1.29 acre tract of land located in the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat 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 **July**, 2010.

PASSED AND APPROVED on Second Reading on the **15th** day of **July**, 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

07/01/10
Item #5(B)
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Interim Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-30-B: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of beer and wine in an existing convenience store for off-premise consumption on a tract of land being part of the Sarah Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its June 21, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the CUP with the following conditions:

1. Use of the property must conform to the CUP site plan, which is an exhibit to the ordinance approving the CUP.
2. In the event that the preserved trees on the north property line die or are removed, one tree a minimum of five feet in height and two inches in caliper is required to be planted per 40 linear feet of the north property line.
3. The permittee must operate the establishment in such a manner that the use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
4. 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.
5. The City Council may deny or revoke a CUP in accordance with the revocation clause set forth in Section 7-609 of the Zoning Ordinance if it affirmatively determines that the issuance of the CUP is incompatible with the surrounding uses of property or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
6. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

Commissioners Williams and Martin were absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-30B, from the Planning and Zoning meeting, June 21, 2010.

The purpose of this CUP request is to allow the sale of beer and wine for off-premise consumption for the convenience store that already exists on the subject property and that is approximately 2,750 square feet in floor area. The store currently sells only non-alcoholic beverages.

Staff does not recommend additional landscaping or screening to the subject property. Existing trees along the north property line provide a suitable screening device. The staff recommendation indicates that if those trees die or are removed, then they must be replaced with minimum five-foot, two-inch caliper trees per 40 feet of the length of the property line. This is consistent with previous recommendations for similar cases (for example, the CUP request for a convenience store at the corner of FM 2305 and Woodland Point Road earlier this year).

General CUP Criteria

There are seven general criteria for the Planning and Zoning Commission and City Council to consider when reviewing a CUP.

Criteria	Proposal Meets Criteria?
The CUP 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. The overall use of the property is not proposed to change.
The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property	Yes. The property is located at an intersection and does not impede future development in the area.
Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided	Yes. Store has functioned in this location for several years.
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. Approval of the proposed CUP should not have a negative impact in this area.
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. Surrounding properties are large enough that light trespass would not be a problem.
There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Yes. Existing trees along the north property line will be preserved. In addition, the subject property and surrounding properties are large enough that extra landscaping and screening are not a problem.

Public Notice

Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 10, 2010 in accordance with state law and local ordinance

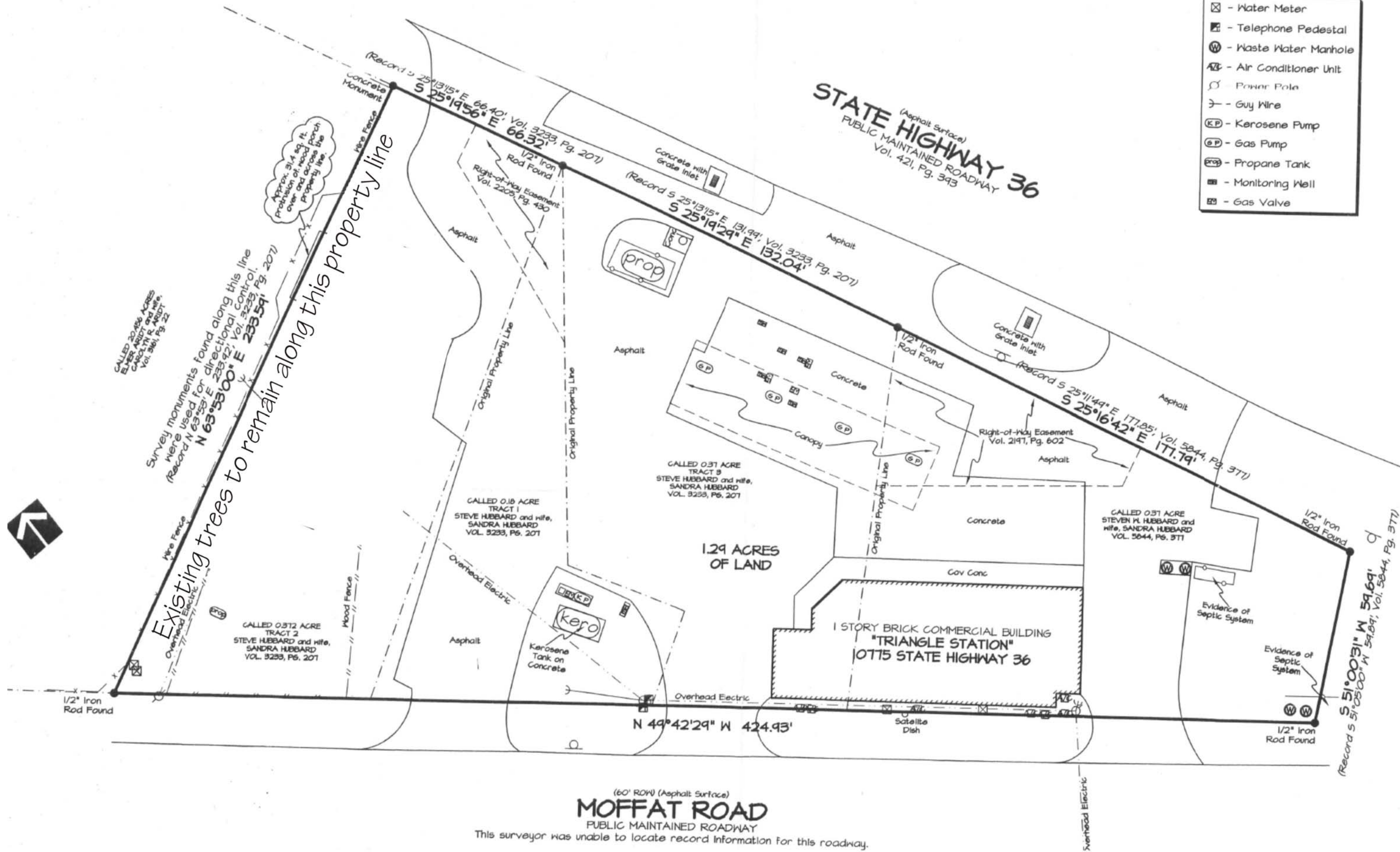
FISCAL IMPACT: NA

ATTACHMENTS:

CUP Site Plan
P&Z Staff Report (Z-FY-10-30B)
P&Z Minutes (06/21/10)
Ordinance

LEGEND

- ☒ - Water Meter
- ☒ - Telephone Pedestal
- ⊙ - Waste Water Manhole
- Ⓐ - Air Conditioner Unit
- ⊙ - Power Pole
- - Guy Wire
- ⓀⓅ - Kerosene Pump
- ⓖⓅ - Gas Pump
- ⓀⓅ - Propane Tank
- - Monitoring Well
- ⓖⓅ - Gas Valve





PLANNING AND ZONING COMMISSION AGENDA ITEM

06/21/10
Item #3B
Regular Agenda
Page 1 of 2

APPLICANT / DEVELOPMENT: Wyatt Cramer/CEFCO for RAS Investments

CASE MANAGER: Brian Mabry, AICP, Interim Planning Director

ITEM DESCRIPTION: Z-FY-10-30-B Hold a public hearing to consider and recommend action on a Conditional Use Permit for the sale of beer and wine in an existing convenience store for off-premise consumption on a tract of land being part of the Sara Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road. (Applicant: Wyatt Cramer for CEFCO/ RAS Investments)

BACKGROUND: In Item 3A on the P&Z agenda the applicant requests the NS, Neighborhood Services zoning district for the subject property. The purpose of this CUP request is to allow the sale of beer and wine for off-premise consumption for the convenience store that already exists on the subject property and that is approximately 2,750 square feet in floor area. The store currently sells only non-alcoholic beverages.

The sale of beer and wine for off-premise consumption is allowed by right in the General Retail, Commercial and Industrial zoning districts. However, the NS zoning district requires a CUP for the proposed use. As stated in the previous rezoning staff report, this zoning district is the most appropriate for the subject area since it is the least intense of the nonresidential zoning districts.

Staff does not recommend additional landscaping or screening to the subject property. Existing trees along the north property line provide a suitable screening device. The staff recommendation show that if those trees die or are removed, then they must be replaced with minimum five-foot, two-inch caliper trees per 40 feet of the length of the property line. This is consistent with previous recommendations for similar cases (for example, the CUP request for a convenience store at the corner of FM 2305 and Woodland Point Road earlier this year).

Development Regulations

There are seven general criteria for the Planning and Zoning Commission and City Council to consider when reviewing a CUP.

Criteria	Proposal Meets Criteria?
The CUP 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. The overall use of the property is not proposed to change.
The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property	Yes. The property is located at an intersection and does not impede future development in the area.
Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided	Yes. Store has functioned in this location for several years.

Criteria	Proposal Meets Criteria?
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. Approval of the proposed CUP should not have a negative impact in this area.
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. Surrounding properties are large enough that light trespass would not be a problem.
There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.	Existing trees along the north property line will be preserved. In addition, the subject property and surrounding properties are large enough that extra landscaping and screening are not a problem.

The Zoning Ordinance does not specify CUP standards for alcoholic beverage sales for off-premise consumption in the NS zoning district. The staff recommendation contains standards that are adapted from those for off-premise consumption uses. In addition, development of the property must comply with the attached CUP site plan.

Public Notice

Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16 at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 10, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the CUP for case Z-FY-10-15 subject to the following conditions:

1. Use of the property must conform to the CUP site plan, which is an exhibit to the ordinance approving the CUP.
2. In the event that the preserved trees on the north property line die or are removed, one tree a minimum of five feet in height and two inches in caliper is required to be planted per 40 linear feet of the north property line.
3. The permittee must operate the establishment in such a manner that the use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
4. 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.
5. The City Council may deny or revoke a CUP in accordance with the revocation clause set forth in Section 7-609 of the Zoning Ordinance if it affirmatively determines that the issuance of the CUP is incompatible with the surrounding uses of property or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
6. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

CUP Site Plan

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

MONDAY, JUNE 21, 2010

ACTION ITEMS

Item 4: Z-FY-10-30B: Hold a public hearing to consider and recommend action on a Conditional Use Permit application for the sale of beer and wine in an existing convenience store for off-premise consumption on a tract of land being part of the Sara Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the intersection of State Highway 36 and Moffat Road. (Applicant: Wyatt Cramer for CEFCO/ RAS Investments)

Mr. Mabry stated the CUP request was for off-premise sale of beer and wine and a site plan had been submitted. The existing store and gasoline pumps would remain in operation. There were some existing trees along the north property line which provided a measure of screening for the properties to the north and these should remain.

Seven (7) general criteria are in the Zoning Ordinance for CUPs:

1. The CUP 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.

Staff felt the overall use of the property was not proposed to change.

2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property.

Staff felt the property was located at an intersection and would not impede future development in the area.

3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.

Staff felt the store had functioned in this location for several years.

4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.

Staff agreed approval of the proposed CUP should not have a negative impact in this area.

5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration.

Staff felt this was not an issue.

6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties.

Staff stated the surrounding properties were large enough that light trespass would not be a problem.

7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Existing trees along the north property line will be preserved. In addition, the subject property and surrounding properties are large enough that extra landscaping and screening are not a problem.

Three (3) notices were mailed out and one (1) was returned in favor of this request.

Staff recommended approval of this CUP subject to the following conditions:

1. Use of the property must conform to the CUP site plan, which is an exhibit to the ordinance approving the CUP.

2. In the event that the preserved trees on the north property line die or are removed, one tree a minimum of five feet in height and two inches in caliper is required to be planted per 40 linear feet of the north property line.

3. The permittee must operate the establishment in such a manner that the use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.

4. 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.

5. The City Council may deny or revoke a CUP in accordance with the revocation clause set forth in Section 7-609 of the Zoning Ordinance if it affirmatively determines that the issuance of the CUP is incompatible with the surrounding uses of property or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

6. A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

Commissioner Hurd asked if the gasoline tanks approval were up to date and Mr. Mabry stated the applicant would address that issue during the public hearing.

Chair Pilkington opened the public hearing.

Mr. Clark Rudy, Vice-President of Engineering for Fikes Wholesale, 2002 Scott Blvd., approached and stated he worked with Wyatt Cramer. Mr. Rudy addressed Commissioner Hurd's question and stated the underground storage tanks were up to date and in compliance.

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

Commissioner Hurd made a motion to approve the **Z-FY-10-30B** CUP request and Commissioner Barton made a second.

Motion passed: (6:0:1)

Commissioners Williams and Martin absent;

Commissioner Staats abstained

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-30-B]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW FOR THE SALE OF BEER AND WINE IN AN EXISTING CONVENIENCE STORE FOR OFF-PREMISE CONSUMPTION ON A TRACT OF LAND BEING PART OF THE SARA FITZHENRY SURVEY, ABSTRACT 312, BELL COUNTY, TEXAS, LOCATED AT THE SOUTHWEST CORNER OF STATE HIGHWAY 36 AND MOFFAT 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 a tract of land being part of the Sara Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State Highway 36 and Moffat Road, recommends that the City Council approve the application for this Conditional Use Permit to allow an existing convenience store for alcoholic beverage sales, off-premise consumption of beer and wine; and

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

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

Part 1: The City Council approves a Conditional Use Permit for alcoholic beverage sales, off-premise consumption of beer and wine, on a tract of land being part of the Sara Fitzhenry Survey, Abstract 312, Bell County, Texas, located at the southwest corner of State

Highway 36 and Moffat 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) Use of the property must conform to the CUP site plan, which is an exhibit to the ordinance approving the CUP, attached hereto as Exhibit B.
- (B) In the event that the preserved trees on the north property line die or are removed, one tree a minimum of five feet in height and two inches in caliper is required to be planted per 40 linear feet of the north property line.
- (C) The permittee must operate the establishment in such a manner that the use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (D) 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.
- (E) The City Council may deny or revoke a CUP in accordance with the revocation clause set forth in Section 7-609 of the Zoning Ordinance if it affirmatively determines that the issuance of the CUP is incompatible with the surrounding uses of property or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (F) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

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 **July**, 2010.

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

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

07/01/10
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Interim Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-32: Consider adopting an ordinance authorizing a zoning change from General Retail District to Multiple Family Two District on 1.74 ± acres of land situated in the Maximo Moreno Survey, Abstract No. 14, City of Temple, located on the north side of Marlandwood Road, adjacent to and east of 990 Marlandwood Road.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its June 21, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a rezoning from GR to MF-2 for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Public facilities are available to the property.

Commissioners Williams and Martin were absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-32, from the Planning and Zoning meeting, June 21, 2010.

The purpose of this rezoning request is to establish an entryway to a new apartment complex. The subject property is currently zoned GR. Apartments are not allowed in this zoning district. The 29.4 acre tract to the north of the subject property, which is the majority of the land for the proposed complex, is already zoned MF-2. The applicant proposes a total of 180 units on a total of 9.7 acres, which results in a density of 18.5 units per acre. The maximum density of the MF-2 zoning district is 20 units per acre.

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

Public Notice

Seven notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16, at 5 PM, two 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 June 10, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Notice Map
P&Z Staff Report (Z-FY-10-32)
P&Z Minutes (06/21/10)
Ordinance




Z-FY-10-32

1.748 ac of proposed Multi-Family Development

800 Block Marlandwood Rd



 Z-FY-10-32

Feet 0 100 200 300 400

JStone 5.28.10



Z-FY-10-32

1.748 ac of proposed Multi-Family Development

800 Block Marlandwood Rd



- | | | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|--------------------|
| Z-FY-10-30-A | 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 | |

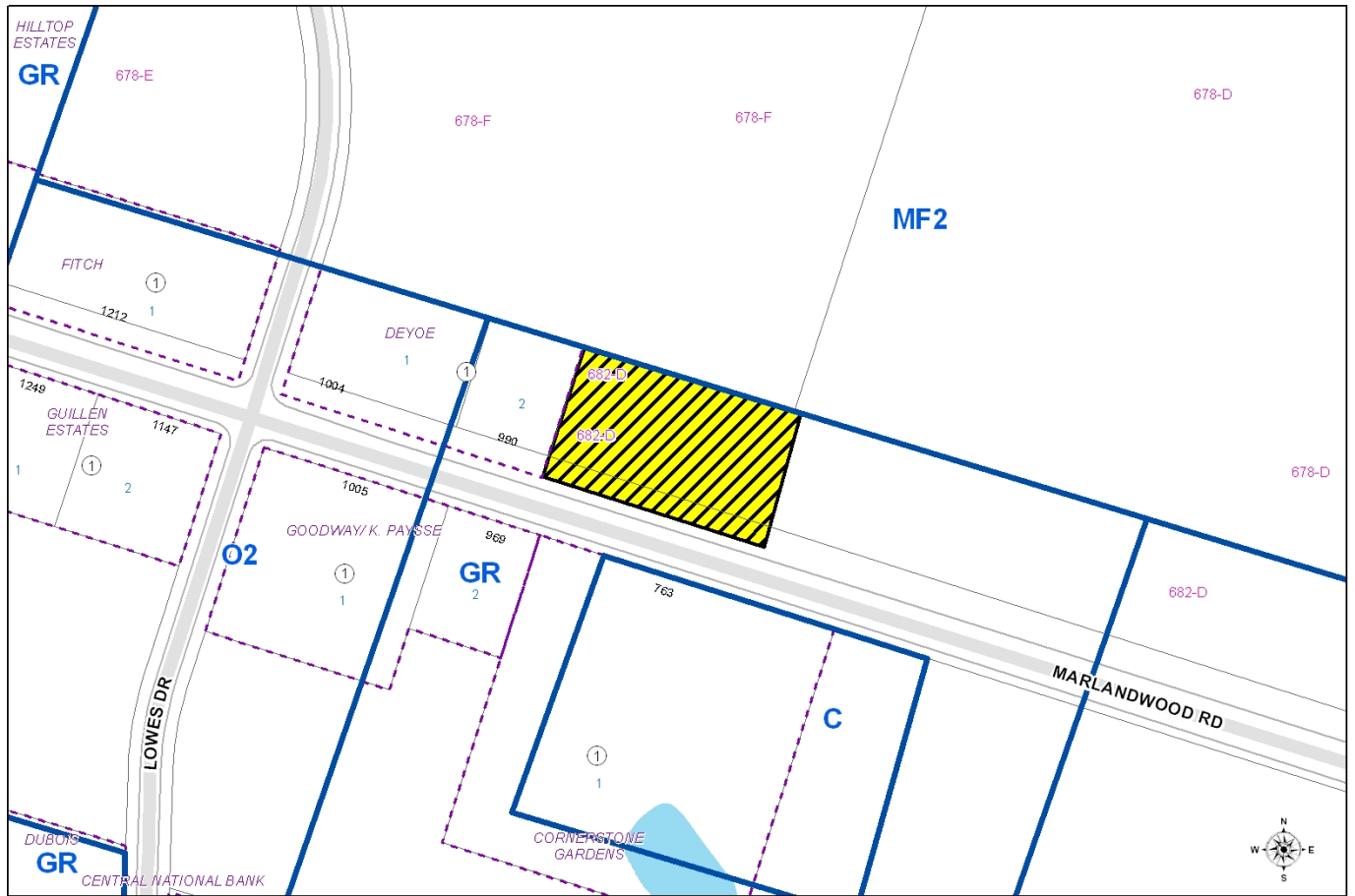
1 inch = 300 feet
J Stone 5.17.10



Z-FY-10-32

1.748 ac of proposed Multi-Family Development

800 Block Marlandwood Rd



Feet 0 50 100 150 200

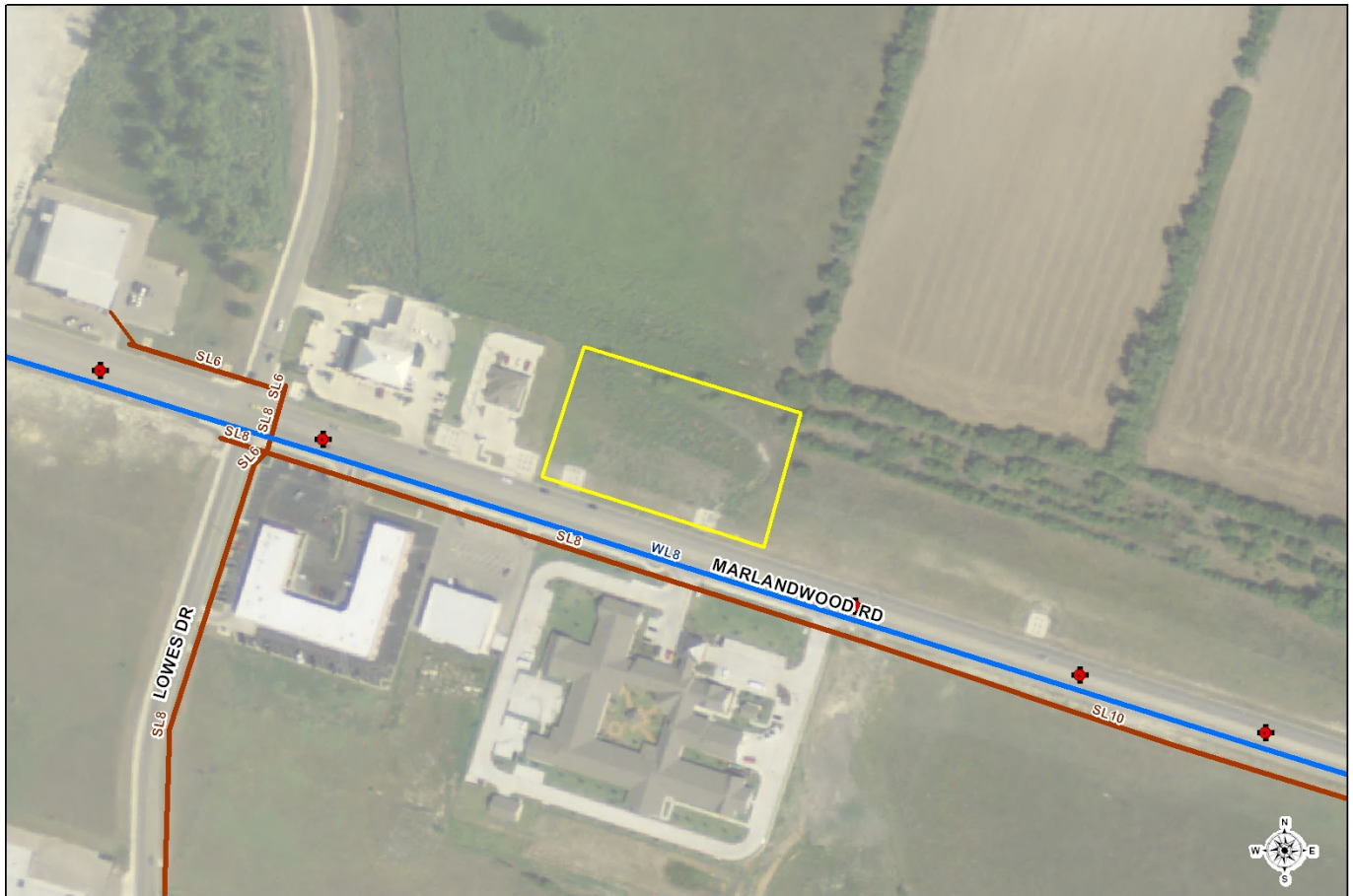
JStone 5.28.10



Z-FY-10-32

1.748 ac of proposed Multi-Family Development

800 Block Marlandwood Rd



— WATER LINE — SEWER LINE — Z-FY-10-32

Feet 0 50 100 150 200

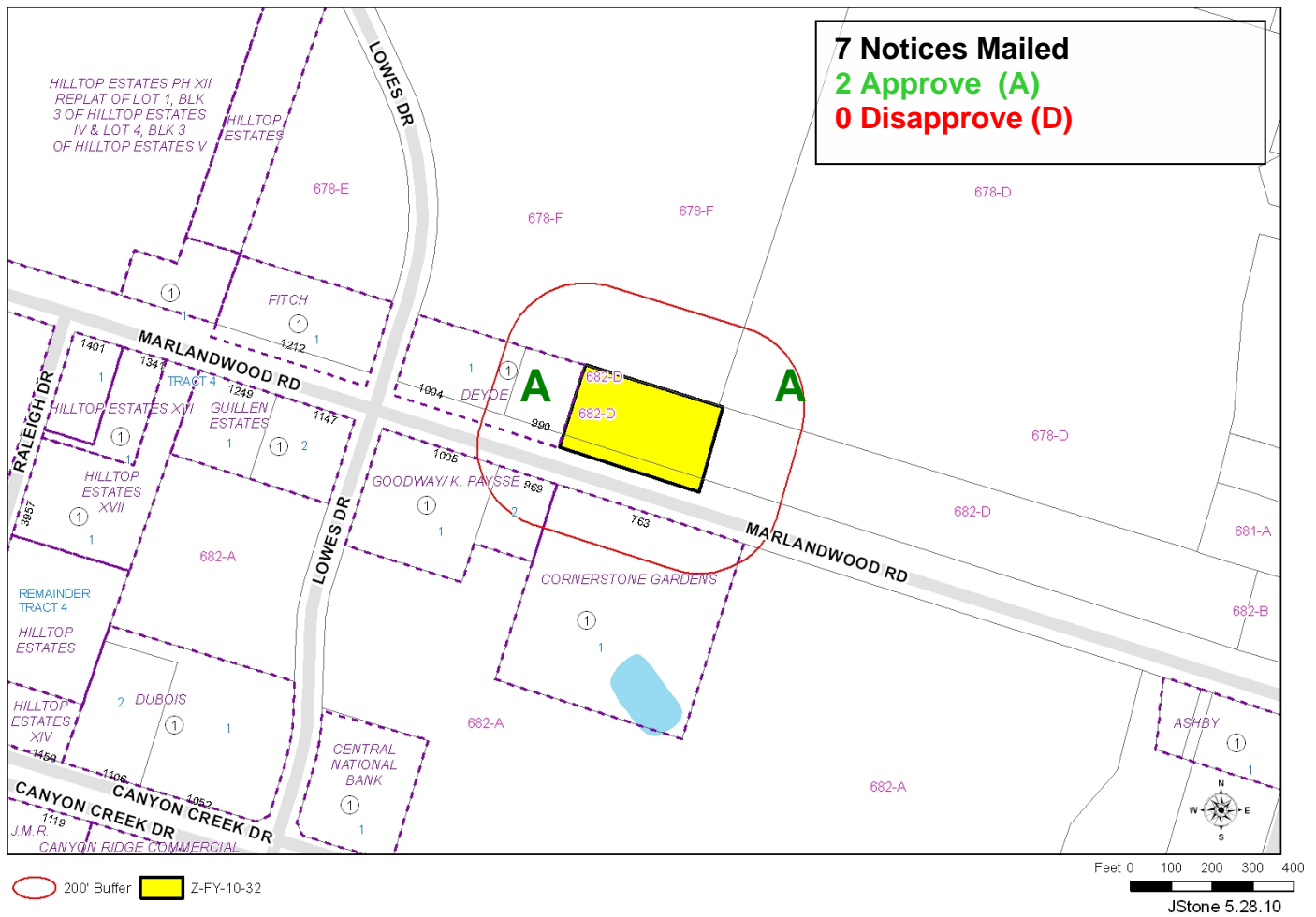
JStone 5.28.10



Z-FY-10-32

1.748 ac of proposed Multi-Family Development

800 Block Marlandwood Rd





PLANNING AND ZONING COMMISSION AGENDA ITEM

06/21/10
Item #5
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Encore Multi-Family LLC for Marlandwood Road Ltd.

CASE MANAGER: Brian Mabry, AICP, Interim Planning Director


ITEM DESCRIPTION: Z-FY-10-32 Hold a public hearing to consider and recommend action on a rezoning from General Retail District to Multiple Family Two District on 1.74 ± acres of land situated in the Maximo Moreno Survey, Abstract No. 14, City of Temple, located on the north side of Marlandwood Road, adjacent to and east of 990 Marlandwood Road.

BACKGROUND: The purpose of this rezoning request is to establish an entryway to a new apartment complex. The subject property is currently zoned GR. Apartments are not allowed in this zoning district. The 29.4 acre tract to the north of the subject property, which is the majority of the land for the proposed complex, is already zoned MF-2.




The applicant proposes a total of 180 units on a total of 9.7 acres, which results in a density of 18.5 units per acre. The maximum density of the MF-2 zoning district is 20 units per acre. The subject property being considered for rezoning would accommodate an entryway, clubhouse, leasing office and a portion of one of the apartment buildings. Staff has reviewed conceptual designs for the complex, which indicate adequate parking, building height, exterior building materials and recreational space. The Commission should keep in mind, however, that it is only making a decision on the land use aspect of the project, not its 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 (MF-2 proposed)	Undeveloped	
North	MF-2	Undeveloped	

Double Sided

Direction	Zoning	Current Land Use	Photo
South	C	Assisted living center	
East	GR	Office	
West	GR	Undeveloped	

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

Future Land Use and Character Map

The Future Land Use and Character map designates the subject property as Suburban Commercial. Apartments have a residential and a commercial character due to their coordinated landscaping, signs and parking. The request complies with the Future Land Use and Character Map.

Thoroughfare Plan

The Thoroughfare Plan designates Marlandwood Road as a minor arterial. The request complies with the Thoroughfare Plan.

Availability of Public Facilities

An eight-inch sewer line and an eight-inch water line serve the subject property. Public facilities serve are available to the property.

Development Regulations

The purpose of the MF-2 zoning district is: Allows more modest sized dwelling units and an increased number of units within the multifamily complex. Maximum density is 20 units per acre in buildings 3 to 4 stories. The MF-2 zoning district provides more modest sized dwelling units within the multifamily complex. This district should be designed for a higher density use of the land with the amenities and facilities, such as a major thoroughfare, parks, transit, and utilities close by and adequate for the volume of use.

The MF-2 zoning district allows most residential uses, except for manufactured homes. It also allows some residential support uses such as school and places of worship.

The minimum lot area and setback requirements for NS zoning district are as follows.

MF-2, Multiple-Family 2	
Maximum Density	20 units per acre
Min. Lot Width (ft.)	60
Min. Lot Depth (ft.)	120
Max. Height (stories)	4 stories
Min. Yard (ft)	
Front	25
Side	15
Rear	10

Public Notice

Seven notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, June 16, at 5 PM, two notices was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on June 10, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-32, the zone change from the GR to the MF-2 zoning district, for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Public facilities are available to the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, JUNE 21, 2010

ACTION ITEMS

Item 5: Z-FY-10-32: Hold a public hearing to consider and recommend action on a rezoning from General Retail District to Multiple Family Two District on 1.74 ± acres of land situated in the Maximo Moreno Survey, Abstract No. 14, City of Temple, located on the north side of Marlandwood Road, adjacent to and east of 990 Marlandwood Road. (Applicant: Encore Multi-Family LLC for Marlandwood Road Ltd.)

Mr. Brian Mabry, Interim Planning Director, stated the applicant was Encore Multi-Family LLC and this case would go to City Council July 1st for first reading and July 15th for second reading and final action.

The purpose of this request is to establish an entryway to a new apartment complex. The applicant proposed a total of 100 units on approximately 9.7± acres, a density of 18.5 units per acre. The maximum density for a Multi-Family Two (MF2) was 20 units per acre.

The subject property would accommodate the entryway, clubhouse, leasing office and possibly a portion of one of the apartment buildings.

The surrounding properties consisted of undeveloped land to the north and east, an office to the west, and an assisted living center to the south across Marlandwood.

The Future Land Use and Character Map designated this and surrounding property as suburban/commercial and the Thoroughfare Plan showed Marlandwood as a minor arterial.

There was an 8" water line and 8" sewer line so facilities were in place to serve the property.

Mr. Mabry stated the dimensions and setback requirements for the request.

Seven (7) notices were mailed out and three (3) were returned in favor of the rezoning; zero (0) were returned in opposition.

Staff recommended approval for Z-FY-10-32, a zone change from General Retail (GR) to Multi-Family Two (MF2), since the request complied with the Future Land Use and Character Map, the Thoroughfare Plan, and public facilities were available to serve the property

Chair Pilkington opened the public hearing.

Ms. Angela Hill, Development Manager for Encore Multi-Family, 500 LBJ Freeway, 12th Floor, Dallas, Texas. Ms. Hill introduced herself and offered to answer any questions from the Commission.

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

Vice-Chair Talley made a motion to approve the rezoning request from GR to MF2 and Commissioner Barton made a second.

Motion passed: (6:0)

Commissioners Williams and Martin absent;
Commissioner Staats abstained

ORDINANCE NO. _____

[PLANNING NO. Z-FY-10-32]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM GENERAL RETAIL DISTRICT (GR) TO MULTIPLE FAMILY TWO DISTRICT (MF-2) ON AN APPROXIMATELY 1.74 ACRE TRACT OF LAND SITUATED IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, TEMPLE, BELL COUNTY, TEXAS, LOCATED ON THE NORTH SIDE OF MARLANDWOOD ROAD, ADJACENT TO AND EAST OF 990 MARLANDWOOD 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 General Retail District (GR) to Multiple Family Two District (MF-2) on an approximately 1.74 acre tract of land located in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located on the north side of Marlandwood Road, adjacent to and east of 990 Marlandwood 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 **July**, 2010.

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

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney