



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET**

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

**THURSDAY, SEPTEMBER 2, 2010**

**3:30 P.M.**

**WORKSHOP AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, September 2, 2010.
2. Discuss the Tax Increment Financing Reinvestment Zone Number One 2022 Master Plan, including the Project and Financing Plans, expansion of the Zone Boundary and extension of the life of the Zone.
3. Discuss the proposed amendment to the 2008 Economic Development Agreement between City of Temple, Temple Economic Development Corporation, Gulf States Toyota, Inc., and GST Realty-Temple, L.P.

Executive Session: Pursuant to Chapter 551, Government Code, §551.087, the City Council may enter into executive session to discuss or deliberate regarding commercial or financial information received from Gulf States Toyota, Inc. regarding the proposed amendment to the 2008 Economic Development Agreement noted above.

**5:00 P.M.**  
**MUNICIPAL BUILDING**  
**2 NORTH MAIN STREET**  
**CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR**  
**TEMPLE, TX**  
**REGULAR MEETING AGENDA**

**I. CALL TO ORDER**

1. Invocation
2. Pledge of Allegiance

**II. PUBLIC APPEARANCES**

3. Receive comments from Genevieve Gregg regarding 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. BOND ITEM**

4. Receive a report on the sale of \$17,250,000 City of Temple, Texas [Utility System Revenue Bonds, Series 2010](#).

**V. BUDGET ITEMS**

5. [2010-6081-R](#): PUBLIC HEARING – Conduct a public hearing and consider a resolution adopting the City's budget for fiscal year beginning October 1, 2010 and ending September 30, 2011, including the Operating Budget for 2010-2011, Capital Improvement Program and Fiscal & Investment Policies.
6. [2010-4386](#): FIRST & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance approving the tax roll and authorizing calculation of the amount of tax that can be determined for all real and personal property in the City for the tax year 2010, to be considered on an emergency basis.



7. [2010-4387](#): FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an ordinance levying taxes and setting a tax rate for the City for the tax year 2010, making the appropriation for the regular operation of the City, to be considered on an emergency basis.
8. [2010-6082-R](#): Consider adopting a resolution funding the rates for medical/prescription insurance and dental insurance for employees and under age 65 retirees, as well as, Life Insurance, Accidental Death & Dismemberment Insurance and Long Term Disability Insurance.

## **VI. 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.

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

### **Minutes:**

- (A) [August 19, 2010 Special Called and Regular Meeting](#)

### **Contracts, Leases & Bids**

- (B) Consider adopting resolutions authorizing FY 2011 contract renewals for the following:
  1. [2010-6083-R](#): Library Books, DVD's, Books on CD and Compact Disks – Baker & Taylor, in the estimated annual amount of \$105,000
  2. [2010-6084-R](#): Oils and Lubricants - Brazos Valley Lubricants, in the estimated annual amount of \$59,473.12
  3. [2010-6085-R](#): Fire Uniforms - Miller Uniforms & Emblems, in the estimated annual amount of \$30,000
  4. [2010-6086-R](#): T-Shirt Design and Printing - Safari Sun LLC, in the estimated annual amount of 44,000
  5. [2010-6087-R](#): Rock, Sand, Crusher Fines, Crushed Rock, Construction Rock and Rip Rap Rock -Superior Crushed Stone and Miller Springs Materials, in the estimated annual amount of \$25,000
  6. [2010-6088-R](#): Water Treatment Chemicals – various vendors, in the estimated annual amount of \$954,590
  7. [2010-6089-R](#): Electrical Services – T. Morales Company, in the estimated annual amount of \$69,000
  8. [2010-6090-R](#): HVAC repair services – Temple Heat & Air, in the estimated annual amount of \$150,000
  9. [2010-6091-R](#): Printing of Play-by-Play brochures - Liberty Press, in the estimated annual amount of \$33,513
  10. [2010-6092-R](#): Library Security Guard Services – Texas Star Security, Inc., in the estimated annual amount of \$28,717

11. [2010-6093-R](#): Sludge Hauling & Disposal – S&M Vacuum & Waste, Ltd, in the estimated annual amount of \$135,000
  12. [2010-6094-R](#): Construction Materials Testing - Kleinfelder Central, Inc., in the estimated annual amount of \$104,500
- (C) [2010-6095-R](#): Consider adopting a resolution authorizing continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$163,000.
- (D) [2010-6096-R](#): Consider adopting a resolution authorizing a term contract with Anderton Group, Inc., dba MailMax Direct of Waco for the printing, folding, stuffing and mailing of utility bills and folding, stuffing, and mailing of accounts receivable statements utilizing the Texas Multiple Award Schedule Contract TXMAS-10-36040 for an estimated annual amount of \$168,800.
- (E) [2010-6097-R](#): Consider adopting a resolution authorizing a five-year contract with McCreary, Veselka, Bragg & Allen (MVBA) of Round Rock for delinquent account collection services.
- (F) [2010-6098-R](#): Consider adopting a resolution authorizing a construction contract with Patin Construction LLC, of Taylor, for the fourth and final group of the 2010 Wastewater Line Replacement Projects which includes the replacement of wastewater lines along Avenue H and 40<sup>th</sup> Street and rehabilitation of the existing 40<sup>th</sup> Street Lift Station wet well and wet well plumbing in the amount not to exceed \$396,890.
- (G) [2010-6099-R](#): Consider adopting a resolution authorizing a contract with The Perryman Group to perform a comprehensive study of the current and future economic impact of Temple Medical and Education District ('TMED') for an amount not to exceed \$72,700 plus direct, out-of-pocket expenses.
- (H) [2010-6100-R](#): Consider adopting a resolution authorizing the rejection of all bids received on August 10, 2010 for irrigation installation in the 5<sup>th</sup> Street medians from Loop 363 to Waters Dairy Road.
- (I) [2010-6101-R](#): Consider adopting a resolution authorizing an amendment to the 2008 Economic Development Agreement between City of Temple, Temple Economic Development Corporation, Gulf States Toyota, Inc., and GST Realty-Temple, L.P.
- (J) [2010-6102-R](#): Consider adopting a resolution authorizing a Chapter 380 agreement to convey a 0.561 acre parcel of City-owned land situated in the R.C. Moore Survey, Abstract 581, Temple Industrial Park, to the Temple Economic Development Corporation for economic development purposes.

### **Ordinances – Second and Final Reading**

- (K) 1. [2010-4376](#): SECOND READING – Consider adopting an ordinance designating two tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive as City of Temple Tax Abatement Reinvestment Zone Number Sixteen for commercial/industrial tax abatement.

2. [2010-6103-R](#): Consider adopting a resolution authorizing a tax abatement agreement with Akzo Nobel Paints LLC – Liquid Nails Division, for personal property on two tracts at 3410 and 3602 Lucius McCelvey Drive, Temple, Bell County, Texas.
- (L) [2010-4379](#): SECOND READING – Z-FY-10-35: Consider adopting an ordinance authorizing a zoning change from Agriculture (A) to Neighborhood Service (NS) on a 0.72 ± acre tract of land situated in the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection of State Highway 36 and Moffat Road.
- (M) [2010-4380](#): SECOND READING – Z-FY-10-39: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303, South 31st Street. Suite 101.
- (N) [2010-4381](#): SECOND READING – Z-FY-10-40: Consider adopting an ordinance amending the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet on Lot 1, Block 1, Northland Synergy Addition at 4875 Wendland Road.
- (O) [2010-4382](#): SECOND READING – Z-FY-10-34: Consider adopting an ordinance authorizing a zoning change from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1), on a 6.76 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, located at 1000 South Knob Street.
- (P) [2010-4383](#): SECOND READING – Z-FY-10-36: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square feet lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 West Adams, Suite B.
- (Q) SECOND READING – Z-FY-10-37: Consider adopting an ordinance authorizing the following:
1. [2010-4384](#): Repealing Ordinance No. 2009-4288, dated April 2, 2009 approving a Conditional use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant to be known as Kazam's Family Entertainment Center, on Tract 1, Albertson's Addition Replat, located at 2001 West Adams Avenue; and
2. [2010-4385](#): A Conditional Use Permit to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 West Adams, Suite C.

**Misc.**

- (R) [2010-6104-R](#): Consider adopting a resolution authorizing acceptance of a grant for Phase II of the Mayors' Physical Fitness Council Grant Program through the Governor's Advisory Council on Physical Fitness in the amount of \$67,926.
- (S) [2010-6105-R](#): Consider adopting resolution authorizing a payment to Temple Economic Development Corporation (TEDC) in the amount of \$30,000 for professional services performed for developing a grading plan on a site in the North Rail Park.
- (T) [2010-6106-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.

## **VII. REGULAR AGENDA**

### **ORDINANCES**

- 10. [2010-4388](#): FIRST READING – PUBLIC HEARING – A-FY-10-14: Consider adopting an ordinance abandoning 150 feet of the 15-foot wide alley in Block 7, Eugenia Terrace Addition, retaining a 15' wide utility easement in its place, and abandoning 100 feet of the 50-foot wide right-of-way of South 3<sup>rd</sup> Street in Block 7, Eugenia Terrace Addition, both being adjacent to the south right-of-way of West Avenue P.
- 11. [2010-4389](#): FIRST READING – PUBLIC HEARING - Z-FY-10-44: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages, more than 50% and less than 75% revenue from alcohol sales, for on-premise consumption in a restaurant on the South 100 feet of Lot 2, Block 3, W S Chapman Addition, located at 715 South 1<sup>st</sup> Street.
- 12. [2010-4390](#): FIRST READING – PUBLIC HEARING - Z-FY-10-45: Consider adopting an ordinance authorizing a zoning change from Urban Estate District to General Retail District on Lot 2, Block 1, Simpson Addition Phase Two, located at 11720 West Adams Avenue.

### **RESOLUTIONS**

- 13. [2010-6107-R](#): P-FY-09-14: Consider adopting a resolution approving the Preliminary Plat of Northcliffe Phase IX, 76 residential lots planned for single-family uses on 18.3± acres of land, located south of Northcliffe Drive and west of FM 2271, partially in the City of Temple, partially in the City of Temple's extraterritorial jurisdiction, and partially in the City of Belton's extraterritorial jurisdiction, with exceptions requested for street width, curb and gutter, and curve radii.
- 14. [2010-6108-R](#): Consider adopting a resolution authorizing the Mayor to cast an official ballot for the election of four members to the Texas Municipal League Intergovernmental Risk Pool Board of Trustees.

### **BOARD APPOINTMENTS**

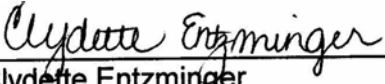
- 15. [2010-6109-R](#): Consider adopting a resolution appointing one member to the Tree Board to fill an unexpired term through March 1, 2011.

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

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I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 2:00 PM, on August 27, 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

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09/02/10  
Item #3  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** Receive comments from Genevieve Gregg regarding the Maxine Raye Clark Swimming Pool.

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

**ITEM SUMMARY:** Genevieve Gregg 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: Genevieve W. Cress

ADDRESS: 2916 Country Ln. Dr. # 1232, 76504

TELEPHONE NO. 254-2313300

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note - The City Council meets the first and third Thursdays of each month.) 1st Thurs. Sept 2, 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.) \_\_\_\_\_

Up date on Clark Pool, request  
to keep it open for 2011

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.

Genevieve Cress  
SIGNATURE OF PRESENTER

8-20-10  
DATE

For Office Use:

**RECEIVED**

AUG 20 2010

CITY OF TEMPLE, TX  
CITY SECRETARY



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #4  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** Receive a report on the sale of \$17,250,000 City of Temple, Texas Utility System Revenue Bonds, Series 2010.

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

**ITEM SUMMARY:** Mr. Dan Wegmiller, Specialized Public Finance, Inc. will present the results of the sale of \$17,250,000 City of Temple, Texas Utility System Revenue Bonds, Series 2010.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:** N/A





## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #5  
Regular Agenda  
Page 1 of 2

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

David Blackburn, City Manager  
Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** PUBLIC HEARING – Conduct a public hearing and consider a resolution adopting the City's budget for fiscal year beginning October 1, 2010 and ending September 30, 2011, including the Operating Budget for 2010-2011, Capital Improvement Program and Fiscal & Investment Policies.

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

**ITEM SUMMARY:** This item is to conduct a public hearing and adopt the 2010-2011 proposed budget. Attached is a list of changes, for all funds, that have been made since the budget was filed with the City Secretary on June 25, 2010. The changes are a result of Council work sessions, public input and updated information since the Council last reviewed the budget.

The ad valorem tax rate is proposed to increase from the prior year's rate of \$0.5646 to \$0.5679. This increase of \$0.0033 is comprised of an increase in the maintenance and operation rate of \$0.0127 and a decrease in the debt service rate of \$0.0094. The proposed Maintenance and Operation rate (M&O) is \$0.3300 and the Interest and Sinking fund rate (I&S) is \$0.2379 for a total rate of \$0.5679. The proposed rate is 1.10% below the effective tax rate of \$0.5742.

The proposed Budget with the subsequent changes as listed on the attached page remains balanced with the use of Undesignated Fund Balance-Capital Projects and meets the operational needs as requested.

The budget is summarized below by fund.

### FY 2011 Proposed Annual Budget

(As Compared to Adopted FY 2010 Budget)

Revenues/Other Sources	FY 2010	FY 2011	(Decrease)
General Fund	\$ 53,303,747	\$ 52,857,911	-0.84%
Water & Wastewater Fund	26,369,924	26,388,878	0.07%
Debt Service Fund	8,244,019	7,614,585	-7.64%
Hotel/Motel Tax Fund	1,231,250	1,260,750	2.40%
Federal/State Grant Fund	515,539	615,438	19.38%
Drainage Fund	999,373	999,373	0.00%
Reinvestment Zone No. 1 Fund	4,529,957	4,615,077	1.88%
<b>Total Revenues/Other Sources</b>	<b>\$ 95,193,809</b>	<b>\$ 94,352,012</b>	<b>-0.88%</b>

Expenditures/Transfers	Adopted Budget FY 2010	Proposed Budget FY 2011	% Increase/ (Decrease)
General Fund	\$ 54,717,771 <sup>(1)</sup>	\$ 54,861,735 <sup>(2)</sup>	0.26%
Water & Wastewater Fund	26,369,924	26,489,243	0.45%
Debt Service Fund	8,534,733	7,914,745	-7.26%
Hotel/Motel Tax Fund	1,231,250	1,260,750	2.40%
Federal/State Grant Fund	515,539	615,438	19.38%
Drainage Fund	999,373	1,199,873	20.06%
Reinvestment Zone No. 1 Fund	3,364,783	4,655,506	38.36%
<b>Total Expenditures/Transfers</b>	<b>\$ 95,733,373</b>	<b>\$ 96,997,290</b>	<b>1.32%</b>

<sup>(1)</sup> Includes \$1,414,024 in Capital (\$1,362,243) and TEDC Matrix allocation (\$51,781) funded with Undesignated Fund Balance - Capital Projects

<sup>(2)</sup> Includes \$2,003,824 in Capital (\$995,000); TEDC Matrix allocation (\$295,068); Strategic Investment Zone (\$85,000); and Self Insurance Start Up Cost (\$628,756) funded with Undesignated Fund Balance - Capital Projects

### FISCAL IMPACT:

N/A

### ATTACHMENTS:

Budget Transmittal Letter

Schedule of adjustments to the proposed budget filed with City Secretary on June 25, 2010

Fiscal & Budgetary Policy

Investment Policy

Resolution

June 25, 2010



Honorable Mayor and City Council,

I am pleased to present the Preliminary Fiscal Year 2010-2011 Budget for the City of Temple totaling \$96,996,740 for all funds. Of this amount, \$91,034,522 is proposed for the operations and maintenance budget which includes debt service and transfers and \$5,962,218 is proposed for routine capital for the general operating budget which includes equipment and public infrastructure projects. As in previous years, the FY 2011 Preliminary Budget is a balanced budget under the policies and parameters discussed in earlier planning sessions with the City Council.

### **Budget Development & Background**

**Budget Process-** The framework for the development of this budget continued to be very similar to previous budgets. Planning and work for this budget began in late 2009 with the City Manager working on timelines and issue identification. Through late 2009 and early 2010, the Manager worked with Finance to develop the budget calendar and process for the FY 2011 Budget.

In early February, City Manager and Finance staff met with Departments to identify issues for the upcoming budget and conduct a status review of current year budget and performance indicators.

In mid February, the City Council met to review the budget calendar and parameters and receive information regarding potential budget issues identified by staff. In March, City Council met to review and, as might be needed, update the City's strategic plan, "Temple Tomorrow: Strategic Vision and Plan". This plan establishes the mission and vision of the City, identifies four major areas of focus, and establishes the City's goals and objectives. The areas of focus identified in the Plan are: Grow the Tax Base, Grow Health and Bioscience, Grow the Transportation Infrastructure, and Grow Community Enhancements. These focus areas and their associated goals and objectives guided the development of the FY 2011 Preliminary Budget.

From February through the delivery of this Preliminary FY 2011 Budget, staff has worked countless hours on preparing, reviewing, researching and responding to questions from Finance and the Manager relating to the programs and services this Preliminary Budget recommends.

**Budget Approach-** The FY 2011 Budget continues the 'activity-based' perspective began in FY 2010. Each Department was asked to identify each and every activity that they provide. They were also asked to identify the cost for providing each activity. This 'activity-based' approach allows for better identification of the services and service levels that we provide. While this approach serves our processes well during any budget process, I believe the approach is particularly helpful in times where resources are challenged.

**Budget Challenges-** The national recession continues to have an impact on our local economy and has impacted the development and content of this Preliminary FY 2011 Budget. Temple's diverse economy has proved more stable than many, but our community is not immune from the current recession and the challenges resulting from such. Sales Tax revenue, our single largest source of revenue for the General Fund, has experienced declines in both FY 2009 and FY 2010. Overall budgeted revenues in the General Fund were down 3.15% from FY 2009 to FY 2010. Accordingly, FY 2011 General Fund budget forecasts overall budgeted revenues down 0.84% as compared to FY 2010 Adopted Budget.

Property tax revenue, the second major source of revenue for the General Fund, has also been impacted. While we have seen some upward movement in our new construction activity, and our overall values have held relatively well, we have seen property tax revenues flatten somewhat. Overall budgeted revenues for property tax revenues for the past couple of fiscal years has been flat and our forecast for the FY 2011 budget is the essentially the same.

As a result of these revenue forecasts, and a directive to maintain the tax rate, Departments were asked to 'hold the line' for FY 2011. 'Hold the line' meant we were to strive to maintain current service levels within existing budgeted resources. While certainly affected by the recession, the City of Temple continues to be in a strong financial position due to conservative budgeting practices, our diverse economy, strong bond ratings, and healthy fund balances.

**Budget 'Fence Posts'-** This year's budget, as with every budget I have presented you, has been developed within the framework of the strategic plan priorities adopted by the City Council and the budget parameters, or 'fence posts', that were briefed to the Council at the February 18 and May 20, 2010 work sessions. Those 'fence posts' are:

1. Maintain fiscal soundness;
2. Maintain the tax rate;
3. Align strategic, financial & tactical plan;
4. Focus on core missions and activities.

### **Significant Budget Highlights**

With this background, I would like to highlight a few areas of general priority and significant issues addressed in the FY 2011 Preliminary Budget.

**Property Tax Rate-** A primary 'fence post' for the development of the FY 2011 Preliminary Budget, as in past budgets, has been the maintenance of the existing tax rate. As in year's past, 'maintaining the tax rate' has meant that the tax rate proposed would be within 2.99% of the effective tax rate calculation for the upcoming fiscal year. Thus, the preliminary tax rate for FY 2011 is proposed at 56.46¢ per \$100 valuation. This rate is based on a preliminary appraisal of \$3,221,022,514 (net taxable value not adjusted for frozen values). The tax rate is comprised of two components, the Maintenance and Operations rate (M&O) and the Interest Sinking rate (I&S). This year's proposed tax rate is 32.87¢ for the M&O rate and 23.59¢ for the I&S rate.

The following chart presents the components of the total proposed tax rate for FY 2011 and the actual tax rate for the past two years.

<b>TAX RATE BY FUND</b>	<b>Fiscal Year 08-09</b>	<b>Fiscal Year 09-10</b>	<b>Fiscal Year 10-11</b>	<b>RATE CHANGE</b>
<b>General (M&amp;O)</b>	33.22¢	31.73¢	32.87¢	1.14¢
<b>Debt (I&amp;S)</b>	22.73¢	24.73¢	23.59¢	(1.14¢)
<b>TOTAL (Per \$100 Valuation)</b>	55.95¢	56.46¢	56.46¢	0.00¢

The certified appraisal roll for Ad Valorem taxes will not be available from the Appraisal District of Bell County until late July. Therefore, the proposed tax rate is based on assumptions and may require adjustments prior to the final adoption of the budget to reflect the current parameters set forth by Council.

Property tax is a significant source of revenue for the City. In FY 2011, property tax accounts for 20.56% of the General Fund budgeted revenues and is the second largest revenue source of the General Fund.

**Sales Tax Revenue-** Like property tax, sales tax revenue is a significant source of revenue for the City. In FY 2011, sales tax is projected to account for 28% of the General Fund budgeted revenues, and is the single largest revenue source of the General Fund. The City of Temple has historically, over the last five years, experienced a 4.08% average annual growth rate in sales tax revenue. The fact that sales tax revenue is closely associated with the general economy means that the slowing of the economy has also resulted in a decline in sales tax revenue. Actual sales tax revenue received by the City for the months of October 2009-May 2010 totals \$10,155,765 dollars, which represents a 1.66% decline from the same time period as prior year and is projected to be 2.05% below budgeted revenue levels. Sales Tax revenue is budgeted at \$14,800,000, a decrease of 3.27% compared to the FY 2010 adopted budget of \$15,300,000.

**Sammons Golf Course-** The FY 2011 Preliminary Budget proposes to invest the \$350,000 approved by voters in the General Obligation Bond election in November 2007 for golf course improvements in two primary areas: 1) re-surfacing all 18 greens and 2) upgrading the irrigation system for the golf course. These improvements are critical to our long term success in providing golf recreation to our residents.

Additionally, we are going to look at re-designing the course to add much needed length options as well as to improve the overall playing experience for our patrons. In concert with the greens re-surfacing and the irrigation system improvements, the new design and layout should present a remarkable transformation for Sammons Golf Links.

The timing and execution of these improvements is just as critical as the improvements themselves. In order to minimize impacts on play and budget, these improvements are scheduled to begin late in January and will be in concert with a public works project, Bird Creek Wastewater Line Phase 1, which will also impact the golf course.

These improvement projects will require the closure of the golf course in January for a minimum of six months. The FY 2011 Preliminary Budget reflects both the decreased revenues and expenditures associated with this closure.

**Street Maintenance-** Temple maintains 942 lane miles of streets and paved alleys. In FY 2010, Temple's Street Department completed a year-long comprehensive Pavement Condition Assessment ('PCA') for all city streets and alleys. (State maintained roads were not included in the assessment.) The PCA found the overall condition of our streets to be in good condition. The PCA also found significant challenges ahead for the City to maintain the overall good condition of the majority of our streets. However, among the findings in the PSA were that over 88% of streets exhibit surface cracks. Surface cracks are an 'early warning indicator' that the street is beginning to fail and that more immediate maintenance should occur. Deferred maintenance will consequently have a detrimental effect on pavement life and subsequently require increased costs to repair or reconstruct streets in order to sustain them in good condition.

The report recommends, among other things, a comprehensive street maintenance program that includes several more aggressive maintenance approaches including activities such as crack seal, seal coat, overlay, and reconstruction. Routine and preventative maintenance strategies such as crack seal and seal coat provide an extended pavement life at a cost that is far less than street rehabilitation and reconstruction. The recommended comprehensive strategy includes establishing a year round crack seal program and enhancing the annual seal coat and overlay program. The goal of the maintenance strategy is to get arterials, collectors and locals on 30, 36, 45 year overlay cycles, respectively, by implementing a systematic crack seal and seal coat program.

We have not been, and this budget does not propose, funding street maintenance at a level which will provide sustainable infrastructure. Current revenues and available resources simply do not allow for such. However, the FY 2011 Preliminary Budget does recommend a phased multi-year approach to achieve the recommended maintenance strategy. The first phase of that strategy, and included in the FY 2011 Preliminary Budget, is the establishment of a five member year-round crack sealing crew at a cost of \$211,806. This crew will be able to crack seal city streets at the frequency level recommended by the Pavement Condition Assessment Report. Under this multi-phase approach, a reduced seal coat program will also be funded this fiscal year but full funding of the seal coat program and funding for the overlay program will be deferred to upcoming years.

**Our Primary Asset: Our People-** You have heard me say many times that our most important asset isn't our brick and mortar, it isn't our trucks, it isn't our tools...it is our people. The City of Temple is a service based organization and our people are our number one asset. What we are and the priority we place on our people doesn't change with the economy. However, personnel-related expenditures are also our largest category of expenses and, as such, one of the most significant impacts that can be made to align our expenditures with our available resources is in this area. As a result, the strategic hiring freeze implemented during the latter part of FY 2009 is continued in the FY 2011 Preliminary Budget. Also consistent with prior year, the FY 2011 Preliminary Budget includes no compensation adjustments for general government employees, other than step increases for civil service employees in police and fire.



On a related note, I am also not recommending funding levels to outside agencies that the City funds or supports at a level that includes pay increases for the employees of those organizations. I believe it to be poor policy, and simply wrong, for the City to participate in funding pay increases for organizations we support while not providing pay increases for our own people. Accordingly, I will not support funding levels for outside agencies that provide for pay increases such as the Tax Appraisal District, Temple Economic Development Corporation, Bell County Communications, the Bell County Health District, or the HOP.

Health Insurance. The offering of group health insurance is a key and critical benefit for the organization. While fully cognizant of the national policy debate, we must also be mindful of the day to day impact health care has on our people. The City has generously provided for a group health insurance plan for many years. The plan design has been modified many times over the years, with the most recent plan offering to include a 'base plan' and 'buy up plans'. The current plans provide for co-pays and deductibles to be met, one of the cost sharing components built in to the plan designs.

As we do each year, we go through a process for competitive bidding for our health insurance business. The proposals received this year, on providing the same coverages, proposed a 42% increase in costs.

In addition, the proposal asked for a self-funded plan option. After receiving the bids, I asked Finance and the employee health insurance committee to focus on one path regarding our health insurance benefit. I asked both to begin working toward a plan that would allow the City, and the employees, to take greater ownership and management of our health insurance benefit. I asked them to look toward creating a self funded plan.

There are many things a self funded plan is not. A self funding plan approach will not eliminate future cost increase to the City or to employees... a self funding plan approach will not be without some risk...a self funding plan approach is not the answer to all our health insurance issues. A self funding plan approach is simply one of the strategies that I believe we need to employ over the next several years to gain better control and management over health costs and plan design and approach.

While I don't know what the federal government's ultimate executable plan is with regard to health care, I do believe that neither our organization nor our employee's should rely upon it. We need, to the extent our resources and the law will allow, to take better control of our own destiny with regard to our health care. One component in the equation to do this, I believe, is self funding.

The FY 2011 Budget proposes to fund the first year of start up costs for the self funded plan by using a portion of the unallocated fund balances in each of the major funds. The projected ending fund balance of the General Fund will be within the range of the end-of-year fund balance for the past 5 years. It is my intent that this funding mechanism being used only this year and that remaining years will see both a decline in funding needs as well as other revenue sources for funding it.

I look forward to the discussion and further direction on this issue. It is one of prime importance to our employees and to me. Whatever the outcome of those discussions and the course we chart, we must be cognizant of the fact that we, both the organization and the employee, must resolve to work together in order to continue to offer this significant and key benefit.

One key benefit area that is not being impacted by our constrained revenue situation is the employee retirement fund. Thanks to the work and strategies that began in the FY 2009 Budget, and the work of TMRS in this Legislative Session, funding and benefits for the third year of an eight year plan are being recommended. Substantial work still remains ahead in coming budget years to insure both benefit and funding levels are sustainable, but the presence of our City Attorney on the TML Advisory Board relative to TMRS issues should position us well to both advocate and impact the process.

### **Highlights by Fund**

**General Fund Revenues-** Total revenues for the FY 2011 General Fund Budget are presented at \$52,857,361, a decrease of 0.84% compared to the FY 2010 adopted budget.

The three largest sources of revenue for the General Fund are sales tax, property tax, and solid waste charges. As mentioned above, sales tax is the single largest source of revenue for the General Fund and is projected to account for \$14,800,000 and 28% of budgeted revenues. This represents a 3.27% decline from the FY 2010 sales tax revenue adopted budget of \$15,300,000.

Property tax revenue is the second largest source of revenue for the General Fund and is projected to account for \$10,866,754 and 20.56% of budgeted revenues. This represents a 3.12% increase from the FY 2010 property tax revenue adopted budget of \$10,537,550. FY 2011 property tax revenue will be generated from a proposed tax rate of 56.46¢ per \$100 valuation.

Charges associated with solid waste services represent the third largest source of revenue for the General Fund and are projected to account for 15.43% of total General Fund revenues. \$8,154,636 in solid waste revenue is projected for FY 2011, representing a 1.92% increase from the FY 2010 solid waste revenue adopted budget of \$8,001,139. These revenues are based on rates that remain unchanged from current year.

**General Fund Expenditures-** Total expenditures for the FY 2011 General Fund Budget are presented at \$54,861,185, an increase of 0.26% compared to the FY 2010 adopted budget.

Several service level adjustments and cost containment strategies implemented in FY 2010 are proposed to continue in the FY 2011 Preliminary Budget including the aforementioned strategic hiring freeze and no compensation adjustments for general government employees. Additionally, parks mowing and vacant lot mowing frequency reduction, custodial services frequency reduction, suspension of legislative consulting services, closure of the Clark swimming pool, and reduction in Walker pool hours of operation. While the FY 2011 Preliminary Budget also continues a reduced service level for street maintenance, the FY 2011 Preliminary Budget does propose a shift in program expenditures and the adoption of a multi-year plan for street maintenance. These adjustments allow us to continue provision of comparable levels of services to our citizens but do so within the confines of the revenues available.

As also previously mentioned, as a result of flat or declining revenues due to the effects of the economic recession, Departments were asked to 'hold the line' for FY 2011. This resulted in no major new programs or service enhancements being proposed for FY 2011, with the exception of the year round crack sealing crew in Streets.



In addition to 'holding the line' for services provided directly by the City, the FY 2011 Proposed Budget for funding provided to Public Service Agencies ('PSAs') is also proposed to be maintained at a comparable level as compared to FY 2010. As you are aware, the PSAs provide much needed services to the community and our support to them 'leverages' their resources with ours. It is a 'win-win' situation. However, just as City departments have been impacted by constrained resource levels, the recommended funding levels for our PSAs in this Proposed Budget are also impacted. The FY 2010 adopted budget included \$571,516 in funding to twelve public service agencies. In FY 2011, twenty public service agencies requested \$909,450 in funding. The FY 2011 Proposed Budget includes \$586,862 in funding for thirteen organizations. Many of these organizations are funded through the City's General Fund. Organizations whose services are eligible for funding by hotel/motel tax revenues are funded through the City's Hotel/Motel Tax Fund.

One of the strategic focus areas identified in our Strategic Plan is to 'grow the tax base'. In order for us to continue to meet the demands for current service, and in order for us to meet the needs of projected growth and development, it is critical that this objective be met. As Council will recall, the FY 2008 Budget set historic, unprecedented levels of funding for economic development. The funding levels were increased by almost 100%, from around \$1,000,000 annually to almost \$2,000,000 annually. This increase also included funding a 'matrix incentive pool' at \$800,000. This 'matrix incentive pool' was intended to be funding for economic development incentives relating to economic development agreements with new and/or expanding businesses. The commitment made in the FY 2008 Budget was to maintain this matrix incentive pool at a level of \$800,000. The FY 2011 Preliminary Budget continues that commitment and includes a \$295,068 'placeholder' investment to maintain the matrix funding level. It is anticipated that additional discussions with TEDC will clarify the actual level of funding needed and that such discussions will occur between the filing of this Preliminary Budget and adoption of the final FY 2011 Budget in September.

**Capital Improvements Program-** The City of Temple is currently managing the largest capital improvement program in the history of the community. As of March 31, 2010, a total of \$107,383,182 has been allocated for various capital projects including such improvements as water and sewer infrastructure, transportation infrastructure, parks improvements, library improvements, and public safety infrastructure. Funding sources for these projects can be identified in four major areas:

- ▶ Utility Revenue Bonds
- ▶ General Obligation Bonds
- ▶ Certificates of Obligation
- ▶ General Operating Budget Funding

During FY 2010, several major capital projects are underway or have been completed such as the Lions Park Multi-Use Fields, Fully-Accessible Playground, Pepper Creek Hike & Bike Trail, Friar's Creek Hike Trail, 5<sup>th</sup> Street Hike & Bike Trail, Central Fire Station, Municipal Court & Utility Business Office Complex, Library Improvements, Airport Runway Extension, and West Temple Water System Improvements.

These improvements were funded by CO bonds, GO bonds, utility revenue bonds, grants, Reinvestment Zone funding, and general operating capital.

The FY 2011 Preliminary Budget includes \$5,962,218 for routine capital for the general operating budget which includes equipment and public infrastructure projects that are underway and/or planned for this fiscal year. Of this amount, \$1,195,500 of capital is proposed to be funded with Fund Balance Designated for Capital – Unallocated, \$995,000 from General Fund and \$200,500 from Drainage Fund.

Within the Capital Improvement Projects section of this document, the specific projects recommended are listed within three categories of funding. The categories are routine capital, multi-year non-routine capital, and projects identified for future funding.

**Water and Wastewater Fund-** Total revenues for the FY 2011 Water and Wastewater Fund Budget are presented at \$26,388,878, an increase of 0.07% compared to the FY 2010 adopted budget. No rate changes are proposed for water and wastewater service.

Expenses, capital improvements, and debt service for the FY 2011 Water and Wastewater Fund Budget are presented at \$26,489,243, an increase of 0.45% compared with prior year. The capital improvements include the allocation of \$1,758,082 to continue the long-term replacement program of water and sewer infrastructures and equipment needs.

**Hotel and Motel Fund-** Total revenues and expenditures for Hotel/Motel Fund Budget are presented at \$1,260,750, an increase of 2.40% compared to the FY 2010 adopted budget. Funding for the Mayborn Center program as well as the Tourism/Marketing program are funded through the Hotel/Motel Tax Fund. Public Service Agencies whose services are eligible for funding by hotel/motel tax revenues are also funded through the Hotel/Motel Tax Fund.

**Federal and State Grant Fund-** Total revenues and expenditures for Federal and State Grant Fund Budget are presented at \$615,438, an increase of 19.38% compared to the FY 2010 adopted budget. Total revenues include the award of the Community Development Block Grant (CDBG) at \$559,603. The proposed allocation of CDBG funds are as follows: public services \$78,344, housing rehabilitation \$20,000, sidewalk improvements \$149,339, public improvements \$200,000, and general administration \$111,920.

Also included in the Grant Fund are revenues and expenses related to the Energy Efficiency and Conservation Block Grant at \$55,835. These funds have been awarded for the construction of the 5<sup>th</sup> Street Hike & Bike Trail and the establishment of Sustainability and Grant Manager position.

**Drainage Fund-** Total revenues are presented at \$999,373, with no increase and expenditures at \$1,199,873, an increase of 20.06% compared to the FY 2010 adopted budget. The expenditures of the drainage fund represent personnel, operational, and capital cost related to maintenance of existing drainage systems.

FY 2011 is the third year of the Texas Pollutant Discharge Elimination System ('TPDES') program that is required by the Texas Commission on Environmental Quality ('TCEQ'). As I mentioned in the past, I consider this program to be an unfunded mandate from the State. The

multi-year plan required by the State, and adopted by Council in 2008, includes fee increases over several years to fund this program. In FY 2009, the first drainage fee increase was implemented. The FY 2010 Budget did not include a fee increase and the FY 2011 Preliminary Budget also proposes no increase to the drainage fee.

### **Conclusion**

I have attempted to provide you with a brief synopsis of the Preliminary Budget for FY 2011. Developing the budget is a team effort that requires participation and input by citizens, City Council and City staff. My thanks to all of the Department and Division Heads who helped put this Preliminary Budget together. Their ability to respond, many times on short notice, to my inquiries and requests for additional information was appreciated and helpful.

I also want to extend a special word of appreciation to Director of Finance, Traci Barnard and her staff for the many hours of work and effort they put in toward the development of this Preliminary Budget. Of special note is the work done by Assistant Finance Director Melissa Przybylski, Budget Analyst Miranda Hennig, Senior Accountant Kiyoko McDonald, and Accountant Stacey Hawkins. I also need to recognize Assistant City Manager Kim Foutz, Assistant to the City Manager Brynn Reynolds for their work and input into the development of this Preliminary FY 2011 Budget. Quite simply, this document could not have been produced without them.

I look forward to the coming weeks of discussion, review, and direction by Council.

Respectfully Submitted,



David Blackburn  
City Manager  
City of Temple, Texas

FY 2011

GENERAL FUND PROPOSED BUDGET

SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 52,857,361	\$ 52,857,911	\$ 550 <sup>A</sup>
Proposed Budget Expenditures	54,762,745	54,763,295	550 <sup>B</sup>
Excess Revenues Over (Under) Expenditures	(1,905,384)	(1,905,384)	-
Transfers In (Out):			
Less: Transfer Out To Debt Service Fund [Energy Program]	(98,440)	(98,440)	-
Total Transfer In (Out)	(98,440)	(98,440)	-
<b>Excess Revenues Over (Under) Expenditures for FY 2011</b>	<b>\$ (2,003,824)</b>	<b>\$ (2,003,824)</b>	<b>\$0.00</b>
Recommended Use of Undesignated Fund Balance-Capital Projects			
-Capital Equipment Funding	\$ 995,000	\$ 995,000	\$ -
-TEDC Matrix Funding	295,068	295,068	-
-Strategic Investment Zone Funding	85,000	85,000	-
- Self Insurance Start Up Cost	628,756	628,756	-
	<u>\$ 2,003,824</u>	<u>\$ 2,003,824</u>	<u>\$ -</u>
Estimated Balance @ 9/30/2010	<u>\$ 4,072,512</u>	<u>\$ 4,072,512</u>	<u>\$ -</u>

**Explanation of Changes from Filed Budget to Proposed Budget @ 8/5/2010:**

<sup>A</sup> **Revenue Changes:**

Required adjustment from preliminary to certified roll	\$ 550
<b>Total Revenue Changes</b>	<u>\$ 550</u>

<sup>B</sup> **Expenditure Changes:**

Increased contingency for fuel (offset for property tax adjustment)	\$ 550
Increased electric utilities in Recreation - transfer from Parks	32,800
Decreased electric utilities in Parks - transfer to Recreation	(32,800)
<b>Total Expenditures Changes</b>	<u>\$ 550</u>
<b>Net Revenue Over (Under) Expenditures</b>	<u>\$ -</u>

**FY 2011**

**WATER & WASTEWATER FUND PROPOSED BUDGET**

**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 26,388,878	\$ 26,388,878	\$ - <sup>A</sup>
Proposed Budget Expenses	26,489,243	26,489,243	- <sup>B</sup>
Net Revenues for FY 2011	<u>(\$100,365)</u>	<u>(\$100,365)</u>	<u>\$0.00</u>
Recommended Use of Unreserved Retained Earnings			
- Self Insurance Start Up Cost	100,365	100,365	-
	<u>\$ 100,365</u>	<u>\$ 100,365</u>	<u>\$ -</u>

**FY 2011**

**DEBT SERVICE FUND PROPOSED BUDGET**

**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 7,495,774	\$ 7,495,774	\$ - <sup>A</sup>
Proposed Budget Expenditures	7,914,745	7,914,745	-
Excess Revenues Over (Under) Expenditures	<u>\$ (418,971)</u>	<u>\$ (418,971)</u>	<u>-</u>
Transfers In (Out):			
Plus: Transfer In From Hotel/Motel Fund [Energy Program]	20,371	20,371	-
Plus: Transfer In From General Fund [Energy Program]	<u>98,440</u>	<u>98,440</u>	<u>-</u>
Excess Revenues Over (Under) Expenditures for FY 2011	<u><u>\$ (300,160)</u></u>	<u><u>\$ (300,160)</u></u>	<u><u>\$ -</u></u>
Recommended Use of Undesignated Fund Balance	<u>300,160</u>	<u>300,160</u>	<u>-</u>
	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>
Estimated Balance @ 9/30/2010	<u><u>\$ 850,712</u></u>	<u><u>\$ 850,712</u></u>	<u><u>\$ -</u></u>

***Explanation of Changes from Filed Budget to Proposed Budget @ 8/5/2010:***

<sup>A</sup> ***Revenue Changes:***

Required adjustment from preliminary to certified roll	\$ (2,300)
Increased line item for penalty and interest (offset for property tax adjustment)	2,300
<b><i>Total Revenue Changes</i></b>	<u><u>\$ -</u></u>

<sup>B</sup> ***Expenditure Changes:***

<b><i>Total Expenditures Changes</i></b>	<u><u>\$ -</u></u>
<b><i>Net Revenue Over (Under) Expenditures</i></b>	<u><u>\$ -</u></u>

**FY 2011**

**HOTEL/MOTEL TAX FUND PROPOSED BUDGET**

**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 1,260,750	\$ 1,260,750	\$0.00 <sup>A</sup>
Proposed Budget Expenditures	1,240,379	1,240,379	- <sup>B</sup>
Excess Revenues Over (Under) Expenditures	<u>\$ 20,371</u>	<u>\$ 20,371</u>	<u>-</u>
Transfers In (Out):			
Less: Transfer Out To Debt Service [Energy Loan]	<u>(20,371)</u>	<u>(20,371)</u>	<u>-</u>
Total Transfer In (Out)	<u>(20,371)</u>	<u>(20,371)</u>	<u>-</u>
Excess Revenues Over (Under) Expenditures for FY 2011	<u><u>\$0.00</u></u>	<u><u>\$0.00</u></u>	<u><u>\$0.00</u></u>

FY 2011

FEDERAL/STATE GRANT FUND PROPOSED BUDGET

SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 615,438	\$ 615,438	\$0.00 <sup>A</sup>
Proposed Budget Expenditures	615,438	615,438	- <sup>B</sup>
Excess Revenues Over (Under) Expenditures for FY 2011	\$0.00	\$0.00	\$0.00



**FY 2011**

**DRAINAGE FUND PROPOSED BUDGET**

**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

	Proposed Budget		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 999,373	\$ 999,373	\$0.00 <sup>A</sup>
Proposed Budget Expenditures	1,199,873	1,199,873	- <sup>B</sup>
<b>Excess Revenues Over (Under) Expenditures for FY 2011</b>	<b>\$ (200,500)</b>	<b>\$ (200,500)</b>	<b>\$0.00</b>
Recommended Use of Undesignated Fund Balance-Capital Projects			
-Capital Equipment Funding	200,500	200,500	-
	<u>\$ 200,500</u>	<u>\$ 200,500</u>	<u>\$ -</u>
Estimated Balance @ 9/30/2010	<u>\$ 941,645</u>	<u>\$ 941,645</u>	<u>\$ -</u>

**FY 2011**

**REINVESTMENT ZONE NO. 1 FUND PROPOSED BUDGET**

**SCHEDULE OF ADJUSTMENTS AFTER FILING PROPOSED BUDGET**

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	Proposed Budget <sup>1</sup>		Increase (Decrease)
	Filed Copy as of 6-25-10	Current as of 9-2-10	
Projected Revenues	\$ 4,615,077	\$ 4,615,077	\$0.00
Proposed Budget Expenditures	4,655,506	4,655,506	-
Excess Revenues Over (Under) Expenditures for FY 2011	<u>\$ (40,429)</u>	<u>\$ (40,429)</u>	<u>\$ -</u>

<sup>1</sup> - As amended in Financing Plan approved by Council on February 18, 2010

# Fiscal and Budgetary Policy Statement

## I. STATEMENT OF PURPOSE

The broad purpose of the following Fiscal and Budgetary Policy Statements is to enable the City to achieve and maintain a long-term stable and positive financial condition. The watchwords of the City's financial management include integrity, prudent stewardship, planning, accountability, full disclosure and communication.

The more specific purpose is to provide guidelines to the Director of Finance in planning and directing the City's day-to-day financial affairs and in developing recommendations to the City Manager and City Council.

The scope of these policies generally spans, among other issues, accounting, auditing, financial reporting, internal controls, operating and capital budgeting, revenue management, cash and investment management, expenditure control, asset management, debt management, and planning concepts, in order to:

- A. present fairly and with full disclosure the financial position and results of the financial operations of the City in conformity to generally accepted accounting principles (GAAP) and;
- B. determine and demonstrate compliance with finance-related legal and contractual issues in accordance with provisions of the Texas Local Government Code and other pertinent legal documents and mandates.

The City Council will annually review and approve the Fiscal and Budgetary Policy Statements as part of the budget process.

## II. OPERATING BUDGET

- A. **Preparation** – Budgeting is an essential element of the financial planning, control, and evaluation process of municipal government. The “operating budget” is the City's annual financial operating plan. The annual budget includes all of the operating departments of the general fund, proprietary fund, the debt service fund, special revenue funds, and capital project funds of the City. The budget is prepared by the City Manager and Director of Finance with the cooperation of all City Departments, on a basis which is consistent with generally accepted accounting principles. The City Manager presents the budget to the City Council and in accordance with Article 12 of the Charter, files a copy with the City Secretary and the Director of Finance. The budget should be presented to the City Council no later than the 1<sup>st</sup> day of August and should be enacted by the City Council on or before the fifteenth day of the last month of the preceding fiscal year.
  - 1. **Proposed Budget** – A proposed budget shall be prepared by the City Manager with the participation of all the City's Department Heads within the provisions of the City Charter.
    - a. The budget shall include four basic segments for review and evaluation. These segments are: (1) revenues, (2) personnel costs, (3) operations and maintenance costs, and (4) capital and other (non-capital) project costs.

- b. The budget review process shall include City Council participation in the development of each of the four segments of the proposed budget and Public Hearings to allow for citizen participation in the budget preparation.
  - c. The budget process shall span sufficient time to address policy and fiscal issues by the City Council.
  - d. A copy of the proposed budget shall be filed by the City Manager with the City Secretary, Director of Finance when it is submitted to the City Council in accordance with the provisions of the City Charter.
2. Adoption – Upon the presentation by the Director of Finance of a proposed budget document to the City Council, the City Council shall call and publicize a public hearing. The City Council will subsequently adopt by Ordinance such budget, as it may have been amended, as the City's Annual Budget effective for the fiscal year beginning October 1<sup>st</sup>.
- B. **Balanced Budget** – The operating budget will be balanced with current revenues, which may include beginning fund balances less required reserves as established by City Council, greater than or equal to current expenditures/expenses.
- C. **Planning** – The budget process will be coordinated so as to identify major policy issues for City Council consideration several months prior to the budget approval date. This will allow adequate time for appropriate decisions and analysis of financial impacts.
- D. **Reporting** – Periodic financial reports will be prepared by the Director of Finance to enable the Department Managers to manage their budgets and to enable the Director of Finance to monitor and control the budget as authorized by the City Manager. Summary financial and budgetary reports will be presented by the Director of Finance to the City Council to understand the overall budget and financial status.
- E. **Control and Accountability** – The Department Heads of each department will be solely responsible to insure that their department budgets will not exceed budgeted amounts. In addition, each Department Head will be solely responsible to achieve budgeted revenues that are generated by activities of that department. Failure to achieve budgetary control of their individual expenditure and revenue budgets will be evaluated and investigated by the City Manager.
- F. **Expenditure Requests** – The Finance Department will evaluate expenditure requests from departments to ensure that the requests are in the amount and kind originally budgeted in those departments and that adequate funds are available to comply with individual expense request. The Director of Finance will make every effort to assist departments in obtaining purchases to accomplish the goals and objectives delineated in the budget information for each department set forth in the current yearly adopted budget.
- G. **Contingent Appropriation** – The City Manager should establish an adequate contingent appropriation in each of the operating funds. Expenditures from this appropriation shall be made only in cases of emergency or an unforeseen/unusual need. A detailed account shall be recorded and reported. The transfer of this budget appropriation shall be under the control of the City Council. Any transfer of contingency must be expressly approved in advance by the City Council.

All transfers from the contingent appropriation will be evaluated using the following criteria:

1. Is the request of such an emergency nature that it must be made immediately?
2. Why was the item not budgeted in the normal budget process?
3. Why the transfer cannot be made within the division or department?

### **III. REVENUE POLICIES**

A. **Characteristics** – The City Finance Department will strive for the following optimum characteristics in its revenue system:

1. **Simplicity** – The City, where possible and without sacrificing accuracy, will strive to keep the revenue system simple in order to reduce compliance costs for the taxpayer or service recipient. A corresponding decrease in the City's cost of collection and a reduction in avoidance to pay should result.
2. **Certainty** – A knowledge and understanding of revenue sources increases the reliability of the revenue system. The City will understand its revenue sources and enact consistent collection policies to provide assurances that the revenue base will materialize according to budgets and plans.
3. **Equity** – The City shall make every effort to maintain equity in its revenue system structure; i.e., the City should seek to minimize or eliminate all forms of subsidization between entities, funds, services, utilities, and customer classes.
4. **Revenue Adequacy** – The City should require that there be a balance in the revenue system; i.e., the revenue base will have the characteristics of fairness and neutrality as it applies to cost of service, willingness to pay, and ability to pay.
5. **Administration** – The benefits of a revenue source should exceed the cost of levying and collecting that revenue. The cost of collection should be reviewed annually for cost effectiveness as a part of the indirect cost of service analysis. Where appropriate, the City will use the administrative processes of State, Federal or Local Governmental collection agencies in order to reduce administrative cost.
6. **Diversification and Stability** – A diversified revenue system with a stable source of income shall be maintained. This will help avoid instabilities in two particular revenue sources due to factors such as fluctuations in the economy and variations in the weather.

B. **Issues** – The following considerations and issues will guide the City Finance Department in its revenue policies concerning specific sources of funds:

1. **Cost/Benefit of Abatement** – The City will use caution in the analysis of tax or fee incentives that are used to encourage development. Ideally, a cost/benefit (fiscal impact) and analysis should be performed as part of such caution.

2. Non-Recurring Revenues – One-time or non-recurring revenues should not be used to finance current ongoing operations. Non-recurring revenues should be used only for non-recurring expenditures and not be used for budget balancing purposes.
3. Property Tax Revenues – All real and business personal property located within the City shall be valued at 100% of the fair market value for any given year based on the current appraisal supplied to the City by the Bell County Tax Appraisal District. Reappraisal and reassessment shall be done every third year.

Conservative budgeted revenue estimates result in a projected ninety-eight percent (98%) budgeted collection rate for current ad valorem taxes. Two percent (2%) of estimated current ad valorem taxes will be projected and used as the budget for delinquent ad valorem tax collections. The combined ad valorem tax collections budgeted each fiscal year will be no less than one hundred percent (100%) of the tax levy and should insure that ad valorem tax collection projections will not be over estimated.

The Finance Department will endeavor with the Tax Assessor Collector to collect ad valorem taxes in excess of ninety-seven percent (97%) of total ad valorem tax levy with a goal of one hundred percent (100%) collection of actual ad valorem taxes levied in each fiscal year.

All delinquent taxes shall be aggressively pursued each year by the Tax Assessor/Collector. Tax accounts delinquent greater than 90 days shall be submitted for collection each year to an attorney selected by the Bell County Tax Appraisal District. A penalty shall be assessed on all delinquent property taxes, which shall include all court costs, as well as an amount for compensation of the attorney as permitted by State law and in accordance with the attorney's contract with the County. Annual performance criteria will be developed for the attorney and reported to the City Council.

4. Interest Income – Interest earned from investment of available monies, whether pooled or not, will be distributed to the funds in accordance with the equity balance of the fund from which monies were provided to be invested.
5. User-Based Fees and Service Charges – For services associated with a user fee or charge, the direct and indirect costs of that service will be offset by a fee where possible. There will be an annual review by all Department Heads of fees and charges to ensure that fees provide adequate coverage of cost of services for their respective departments.

The City Council will determine how much of the cost of a service should be recovered by fees and charges.

6. Enterprise Fund Rates – The Director of Utilities will review rates annually, and the City Council will adopt rates that will generate revenues sufficient to cover operating expenses, meet the legal restrictions of all applicable bond covenants, and provide for an adequate level of working capital.

Additionally, enterprise activity rates and other legal funds of the City will include transfers to and receive credits from other funds as follows:

- a. General and Administrative Charges – Administrative costs should be charged to all funds for services of general overhead, such as administration, finance, customer billing, personnel, data processing, engineering, and legal counsel, and other costs as appropriate. The charges will be determined by the Director of Finance through an indirect cost allocation following accepted practices and procedures not to exceed 9%.
- b. Payment in-lieu-of-costs – This transfer will be made in accordance with the following methods, not to exceed 5% of the total estimated operating revenues of the respective fund.
  - (1) *In-Lieu-of-franchise-fee.* In-lieu-of-franchise fee will be included as a part of the rate computation of gross sales consistent with the franchise rates charged to investor owned utility franchises to operate within the City. Currently, the City levies a 5% franchise fee.
  - (2) *Payment-in-lieu-of-ad valorem tax.* Rates will be calculated so as to include a fee equal to the ad valorem taxes lost as a result of municipal ownership of the various utility and other enterprise activities owned by the City. Net book value will be used as a basis, barring absence of known market value and applied only to capital assets actually within the incorporated City limits.
- 7. Intergovernmental Revenues (Federal/State/Local) – All potential grants will be examined for matching requirements and the source of the matching requirements. These revenue sources will be expended only for intended purpose of grant aid. It must be clearly understood that operational requirements set up as a result of a grant or aid could be discontinued once the term and conditions of the project have terminated.
- 8. Revenue Monitoring – Revenues actually received will be compared to budgeted revenues by the Director of Finance and any variances considered to be material will be investigated. This process will be summarized in the appropriate budget report. The Director of Finance will report results of that investigation to the City Manager and City Council.

#### IV. EXPENDITURE POLICIES

- A. Appropriations – The point of budgetary control is at the department level budget for all funds. When budget adjustments among Departments and/or funds are necessary, they will be made in accordance with the City Charter. Budget appropriation amendments at lower levels of control shall be made in accordance with the applicable administrative procedures.
- B. Central Control – No recognized or significant salary or capital budgetary savings in any Department shall be spent by the Department Head without the prior authorization of the City Manager. This control will realize budget savings each year that will be recognized in the approved budget as “unexpended appropriations” or contingency “sweep” accounts. The City Manager is authorized, without further City Council action, to transfer appropriations within individual department budgets for each fund from line item to line item greater than \$5,000 provided that the total funds appropriated by the City Council for each individual department budget are neither increased nor decreased. The Director of Finance is authorized without

further City Council action, to transfer appropriations within individual department budgets for each fund from line item to line item less than \$5,000 provided that the total funds appropriated by the City Council for each individual department budget are neither increased nor decreased.

- C. **Purchasing** – All City purchases of goods or services will be made in accordance with the City's current Purchasing Manual.
- D. **Prompt Payment** – All invoices approved for payment by the proper City authorities shall be paid by the Finance Department within thirty (30) calendar days of receipt in accordance with the provisions of Article 601f, Section 2 of the State of Texas Civil Statutes.

The Director of Finance shall establish and maintain proper procedures which will enable the City to take advantage of all purchase discounts, when possible, except in the instance where payments can be reasonably and legally delayed in order to maximize the City's investable cash.

- E. **Reporting** – Quarterly reports will be presented by the Director of Finance in open Council meetings describing the financial and budgetary conditions of the City. Comparisons of actual to budget and actual to prior year, appropriate ratios and graphs to fully disclose and present meaningful information will be used whenever possible.

## **V. CAPITAL BUDGET AND PROGRAM**

- A. **Preparation** – The City's Capital Budget will include all capital project funds and all capital resources. The budget will be prepared annually and on a project basis. The Capital Budget will be prepared by the City Manager with the involvement of responsible departments.
- B. **Control** – All capital project expenditures must be appropriated in the Capital Budget. The Finance Department must certify the availability of resources before any capital project contract is presented to the City Council for approval.
- C. **Program Planning** – The Capital Budget will be taken from capital improvements plan for future years. The planning time frame for the capital improvements project plan should normally be five years, but a minimum of at least three years. The replacement and maintenance for capital items should also be projected for the next ten (10) years. Future maintenance and operational costs will be considered so that these costs can be included in the operating budget.
- D. **Financing Programs** – Where applicable, assessments, impact fees, pro rata charges, or other fees should be used to fund capital projects which have a primary benefit to specific, identifiable property owners.

Recognizing that long-term debt is usually a more expensive financing method, alternative-financing sources will be explored before debt is issued. When debt is issued, it will be used to acquire major assets with expected lives that equal or exceed the average life of the debt issue. The exceptions to this requirement are the traditional costs of marketing and issuing the debt, capitalized labor for design and construction of capital projects, and small component parts which are attached to major equipment purchases.



- E. **Timing** – The Financial Analyst will work with Department Heads during the budget preparation to schedule the timing of capital equipment purchases to insure funds availability. The final schedule of capital purchases will be given to Directors or Department Heads to assist them in timing purchase requests to the Purchasing Department.
- F. **Infrastructure Maintenance** – The City recognizes the deferred maintenance increases future capital costs. Therefore, a portion of all individual funds with infrastructure should be budgeted each year to maintain the quality of the City's infrastructure. Replacement schedules should be developed in order to anticipate the deterioration and obsolescence of infrastructure.
- G. **Reporting** – Periodic financial reports will be prepared by the Director of Finance to enable the Department Heads to manage their capital budgets and to enable the Finance Department to monitor and control the capital budget as authorized by the City Manager.

## **VI. ACCOUNTING, AUDITING, AND FINANCIAL REPORTING**

- A. **Accounting** – The City Finance Department is solely responsible for the reporting of the financial affairs, both internally and externally. The Director of Finance is the City's Chief Fiscal Officer and, through responsibility delegated to the Assistant Director of Finance, is responsible for establishing the Chart of Accounts and for properly recording financial transactions.
- B. **Auditing** –
  - 1. **Qualifications of the Auditor** – In conformance with the City's Charter and according to the provisions of Texas Local Government Code, Title 4, Chapter 103, the City will be audited annually by outside independent accountants ("auditor"). The auditor must be a CPA that can demonstrate that it has the breadth and depth of staff to conduct the City's audit in accordance with generally accepted auditing standards and contractual requirements. The auditor must hold a license under Article 41a-1, Section 9, of the Civil Statutes of Texas, capable of demonstrating that it has sufficient staff which will enable it to conduct the City's audit in accordance with generally accepted auditing standards as required by the City Charter and applicable state and federal laws. The auditor's report on the City's financial statement will be completed within 120 days of the City's fiscal year end, and the auditor will jointly review the management letter with the City Council within 30 days of its receipt by the staff.

In conjunction with their review, the Director of Finance shall respond within 100 days in writing to the City Manager and City Council regarding the auditor's Management Letter, addressing the issues contained therein. The City Council shall schedule its formal acceptance of the auditor's report upon the resolution of any issues resulting from the joint review.
  - 2. **Responsibility of Auditor to City Council** – The auditor is retained by and is accountable directly to the City Council and will have access to direct communication with the City Council if the City Staff is unresponsive to auditor recommendations or if the auditor considers such communication necessary to fulfill its legal and professional responsibilities.

## C. **Financial Reporting** –

1. **External Reporting** – The City Finance Department shall prepare a written Comprehensive Annual Financial Report (CAFR) which shall be presented to the City's auditor within 60 days of the City's fiscal year end. Accuracy and timeliness of the CAFR is the responsibility of the City staff. The CAFR will be prepared in accordance with generally accepted accounting principles (GAAP). If City staffing limitations preclude such timely reporting, the Director of Finance will inform the City Council of the delay and the reasons therefore. Upon the completion and acceptance of the CAFR, the City's auditor shall present the audited CAFR to the City Council within 120 days of the City's fiscal year end.
2. **Internal Reporting** – The Finance Department will prepare internal financial reports, sufficient to plan, monitor, and control the City's financial affairs. Internal financial reporting objectives are addressed throughout these policies. As the Finance Department strives for excellence in financial reporting, the following Qualitative Characteristics of Accounting Information will be incorporated in all reports and policies that are prepared or implemented.

### **Definitions of Qualitative Characteristics of Accounting Information:**

- **Bias** – Bias in measurement is the tendency of a measure to fall more often on one side than the other of what it represents instead of being equally likely to fall on either side. Bias in accounting measures means a tendency to be consistently too high or too low. Financial reporting will strive to eliminate bias in accounting data.
- **Comparability** – The quality of information that enables users to identify similarities in and differences between two sets of economic phenomena.
- **Completeness** – The inclusion in reported information of everything material that is necessary for faithful representation.
- **Conservatism** – A prudent reaction to uncertainty to try to insure that uncertainty and risks inherent in financial situations are adequately considered.
- **Consistency** – Conformity from period to period with unchanging policies and procedures.
- **Feedback Value** – The quality of information that enables users to confirm or correct prior expectations.
- **Materiality** – The magnitude of an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement.
- **Neutrality** – Absence in reported information of bias intended to attain a predetermined result or to induce a particular mode of behavior.

- **Predictive Value** – The quality of information that helps users to increase the likelihood of correctly forecasting the outcome of past or present events.
- **Relevance** – The capacity of information to make a difference in a decision by helping users to form predictions about the outcomes of past, present, and future events or to confirm or correct prior expectations.
- **Reliability** – The quality of information that assures that information is reasonably free from error and bias and faithfully represents what it purports to present.
- **Representational Faithfulness** – Correspondence or agreement between a measure or description and the phenomenon that it purports to represent (sometimes called validity).
- **Timeliness** – Having information available to a decision-maker before it loses its capacity to influence decisions.
- **Understandability** – The quality of information that enables users to perceive its significance.
- **Verifiability** – The ability through consensus among measurers to insure that information represents what it purports to represent or that the chosen method of measurement has been used without error or bias.

## **VII. ASSET MANAGEMENT**

- A. **Investments** – The Director of Finance shall promptly deposit all City funds with the City's Depository Bank in accordance with the provisions of the current Bank Depository Agreement. The Director of Finance will then promptly invest all funds in any negotiable instrument that the Council has authorized under the provisions of the Public Funds Investment Act, and in accordance with the City Council approved Investment Policies.
- B. **Cash Management** – The City's cash flow will be managed to maximize the cash available to invest. Such cash management will entail the centralization of cash collections, where feasible, utility bills, building and related permits and licenses, and other collection offices as appropriate.

The Finance Department shall use the facsimile check-signing machine, bearing the signatures of the City Manager and Director of Finance.

The Director of Finance may transfer funds, via electronic transfer, through verbal or electronic instructions to the City's Depository only for payment of any obligation of the City under the conditions applicable to the use of the facsimile machine. Payment authorization shall be in accordance with the pay authorization criteria as defined in the current Bank Depository Agreement, approved by Council, stipulating the conditions and control procedures on such activity.

## VIII. TREASURY

**Cash/Treasury Management** – Periodic review of each cash flow position will be performed to determine performance of cash management and investment policies. A detailed policy structure will be followed with respect to Cash/Treasury Management. The underlying theme will be that idle cash will be invested with the intent to 1) safeguard assets, 2) maintain liquidity, and 3) maximize return. Where legally permitted, pooling of investments will be done.

The City will adhere to the investments authorized through the Public Funds Investment Act and any amendments to such act and will additionally establish a comprehensive Investment Policies and Guidelines. Such policies will clarify acceptable investment securities, brokers, terms, and other pertinent investment information.

## IX. DEBT MANAGEMENT

A. **Policy Statement** – The City of Temple recognizes the primary purpose of capital facilities is to support provision of services to its residents. Using debt financing to meet the capital needs of the community must be evaluated according to two tests – efficiency and equity. The test of efficiency equates to the highest rate of return for a given investment of resources. The test of equity requires a determination of who should pay for the cost of capital improvements. In meeting the demand for additional capital facilities, the City will strive to balance the load between debt financing and “pay as you go” methods. The City realizes failure to meet the demands of growth may inhibit its continued economic viability, but also realizes that too much debt may have detrimental effects. Through the rigorous testing of the need for additional debt financed facilities and the means by which the debt will be repaid, the City Director of Finance will strike an appropriate balance between service demands and the amount of debt.

### B. **Types of Debt** –

1. **General Obligation Bonds (GO's)** – General obligation bonds will be used only to fund capital assets of the general government, are not to be used to fund operating needs of the City and are backed by the full faith and credit of the City as well as the ad valorem taxing authority of the City as prescribed by law. The term of a bond issue will not exceed the useful life of the asset(s) funded by the bond issue and will generally be limited to no more than twenty years. General obligation bonds must be authorized by a vote of the citizens of the City of Temple.
2. **Revenue Bonds (RB's)** – Revenue bonds will be issued to provide for the capital needs of any activities where the capital requirements are necessary for continuation or expansion of a service which produces a revenue and for which the asset may reasonably be expected to provide for a revenue stream to fund the debt service requirements. The term of the obligation may not exceed the useful life of the asset(s) to be funded by the bond issue and will generally be limited to no more than twenty years.
3. **Certificates of Obligation, Contract Obligations, etc. (CO's)** – Certificates of Obligations or Contract Obligations will be used in order to fund capital requirements which are not otherwise covered under either Revenue Bonds or General Obligation Bonds. Debt service for CO's may be either from general revenues or backed by a specific revenue stream or streams or by a combination of both. Generally CO's will be used to fund capital assets

where full bond issues are not warranted as a result of cost of the asset(s) to be funded through the instrument. The term of the obligations may not exceed the useful life of the asset(s) to be funded by the proceeds of the debt issue and will generally be limited to no more than twenty years.

4. **Method of Sale** – The Director of Finance will use a competitive bidding process in the sale of bonds unless the nature of the issue warrants a negotiated bid. In situations where a competitive bidding process is not elected, the Director of Finance will publicly present the reasons why, and the Director of Finance will participate with the financial advisor in the selection of the underwriter or direct purchaser.
- C. **Analysis of Financing Alternatives** – Finance Staff will explore alternatives to the issuance of debt for capital acquisitions and construction projects. These alternatives will include, but are limited to: 1) grants-in-aid, 2) use of reserves/designations, 3) use of current revenues, 4) contributions from developers and others, 5) leases, and 6) impact fees.
- D. **Conditions for using debt** – Debt financing of capital improvements and equipment will be done only when the following conditions exist:
  - When non-continuous projects (those not requiring continuous annual appropriations) are desired;
  - When it can be determined that future users will receive a benefit from the improvement;
  - When it is necessary to provide basic services to residents and taxpayers (for example, purchase of water rights);
  - When total debt, including that issued by overlapping governmental entities, does not constitute an unreasonable burden to the residents and taxpayers.
- E. **Federal Requirements** – The City Finance Department will maintain procedures to comply with arbitrage rebate and other Federal requirements.
- F. **Sound Financing of Debt** – When the City utilizes debt financing, it will ensure that the debt is soundly financed by:
  - Conservatively projecting the revenue sources that will be used to pay the debt;
  - Financing the improvement over a period not greater than the useful life of the improvement;
  - Determining that the benefits of the improvement exceed the costs, including interest costs;
  - Maintaining a debt service coverage ratio which ensures that combined debt service requirements will not exceed revenues pledged for the payment of debt; and
  - Evaluating proposed debt against the target debt indicators.
- G. **Financing Methods** – The City maintains the following policies in relation to methods of financing used to issue debt:

- An Ad Valorem tax rate of \$1.20 per \$100 of assessed value is the maximum municipal tax rate (by City Charter) that may be levied for all General Fund tax supported expenditures and debt service;
- Where possible, the City will use revenue or other self-supporting bonds in lieu of General Obligation Bonds;
- When appropriate, the City will issue non-obligation debt, for example, Industrial Development Revenue bonds, to promote community stability and economic growth; and
- Staff will maintain open communications with bond rating agencies about its financial condition and whenever possible, issue rated securities.

H. **Elections** – The Charter also regulates which securities may be issued only after a vote of the electors of the City and approved by a majority of those voting on the issue.

1. **Election Required** – Securities payable in whole or in part from Ad Valorem taxes of the City except issues such as tax increment securities, certificates of obligation, and contractual obligations.

2. **Election Not Required** –

- Short-term notes (12 months or less) issued in anticipation of the collection of taxes and other revenues.
- Securities issued for the acquisition of water rights or capital improvements for water treatment.
- Securities payable solely from revenue other than Ad Valorem taxes of the City.
- Refunding securities issued to refund and pay outstanding securities.
- Securities for any special or local improvement district, such as a Public Improvement District (PID).
- Tax increment securities payable from Ad Valorem tax revenue derived from increased valuation for assessment of taxable property within a plan of development or other similar area as defined by applicable State Statutes.
- Securities issued for the acquisition of equipment or facilities pursuant to a lease-purchase contract.

## X. **FINANCIAL CONDITIONS, RESERVES, AND STABILITY RATIOS**

A. **Operational Coverage** – (*No Operating Deficits*) – The City's Proprietary Utility fund will comply with all bond covenants and maintain an operational coverage of at least 125%, such that current operating revenues will exceed current operating expenses.

Deferrals, short-term loans, or one-time sources will be avoided as budget balancing techniques. Reserves will be used for emergencies or non-recurring expenditures, except when balances can be reduced because their levels exceed guideline minimums as stated in Paragraph B, following.

**B. Operating Reserves/Fund Balances –**

1. The General Fund's **fund balance** should be at least 33% of the General Fund's annual operating expenditures. This percentage is the equivalent of four months operational expenditures.
2. The Enterprise Fund **working capital** should be maintained at 33% of total operating expenses or the equivalent of four months.

C. **Liabilities and Receivables** – Procedures will be followed to maximize discounts and reduce penalties offered by creditors. Current liabilities will be paid within 30 days of receiving the invoice. Accounts Receivable procedures will target collection for a maximum of 30 days from service. Receivables aging past 120 days will be sent to a collection agency. The Finance Director is authorized to write-off non-collectible accounts that are delinquent for more than 180 days, provided proper delinquency procedures have been followed. The Finance Director will make an annual report to the City Council of the status of delinquent write-offs of non-collectible accounts.

**D. Capital and Debt Service Funds –**

1. Monies in the Capital Projects Funds should be used within 24 months of receipt or within a reasonable time according to construction schedule. Balances will be used to generate interest income to offset construction cost. Any unused monies can be used to fund similar projects as outlined by bond covenants and remaining excess funds will be transferred to the Debt Service Fund, provided that this complies with the bond covenant.

Revenues in the Debt Service Fund are based on property tax revenues, interest earnings and transfers from other funds. Reserves in the Debt Service Fund are designed to provide funding between the date of issuance of new debt and the time that property tax levies are adjusted to reflect the additional debt. Reserve levels should not exceed one month of average annual debt service.

2. Revenue obligations will maintain debt coverage ratios as specified by the bond covenants.

#### E. Ratios/Trend Analysis –

Ratios and significant balances will be incorporated into monthly, quarterly and financial reports. This information will provide users with meaningful data to identify major trends of the City's finances through analytical procedures. We have selected the following ratios/balances as key indicators:

- Fund Balance/Equity:  
FB/E Assets – liabilities  
AL (Acceptable level)  $\geq$  33.0% of operations
- Working Capital:  
CA – CL Current assets less current liabilities  
AL  $\geq$  33.0% of operations

- Current Ratio: CA/CL      Current assets divided by current liabilities  
AL > 1.00
- Quick Ratio: "Liquid" current assets divided by current liabilities  
Liquid CA/CL      AL > 1.00
- Debt/Assessed      Debt divided by assessed Ad Valorem value  
Ad Valorem Taxes: D/AV      AL < 5
- Debt Ratio (%): CL+LTL/TA      Current liabilities plus long term liabilities divided by total assets  
AC < 1.00
- Enterprise Operational      Operating revenue divided by operating expense  
Coverage: OR/OE      AL > 1.25

Our goal is to develop minimum/maximum levels for the ratios/balances above through analyzing City of Temple historical trends and anticipated future trends. We will also analyze/compare City of Temple to other municipalities to develop these acceptable levels.

## XI. INTERNAL CONTROLS

- A. **Written Procedures** – Wherever possible, written procedures will be established and maintained by the Director of Finance for all functions involving cash handling and/or accounting throughout the City. These procedures will embrace the general concepts of fiscal responsibility set forth in this policy statement.
- B. **Department Heads Responsibilities** – Each Department Head is responsible to ensure that good internal controls are followed throughout their Department, that all Finance Department directives or internal controls are implemented, and that all independent auditor internal control recommendations are addressed.

## XII. STAFFING AND TRAINING

- A. **Adequate Staffing** – Staffing levels will be adequate for the fiscal functions of the City to operate effectively. Overtime shall be used only to address temporary or seasonal demands that require excessive hours. Workload allocation alternatives will be explored before adding staff.
- B. **Training** – The City will support the continuing education efforts of all financial staff members including the investment in time and materials for maintaining a current perspective concerning financial issues. Staff will be held accountable for communicating, teaching, and sharing with other staff members all information and training materials acquired from seminars, conferences, and related education efforts.



- C. **Awards, Credentials, Recognition** – The Finance Department will support efforts and involvement which result in meeting standards and receiving exemplary recitations on behalf of any of the City's fiscal policies, practices, processes, products, or personnel. Staff certifications may include Certified Public Accountant, Management Accountant, Certified Internal Auditor, and Certified Cash Manager.

The Finance Department will strive to maintain a high level of excellence in its accounting policies and practices as it prepares the CAFR. The CAFR will be presented annually to the Governmental Finance Officers Association for evaluation and consideration for the Certificate of Achievement for Excellence in Financial Reporting. The Budget will also be submitted to the GFOA for evaluation and consideration of the Distinguished Budget Presentation Award.

# **Investment Policy**

The Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended, prescribes that each City is to adopt rules governing its investment practices and to define the authority of the investment officer. The following Investment Policy addresses the methods, procedures, and practices, which must be exercised to ensure effective and judicious fiscal management of the City's funds.

The Director of Finance is designated as the investment officer of the City of Temple, Texas, and is responsible for all investment decisions and activities.

## **I. Scope**

This Policy applies to all investment activities of the City's funds under its control, except those subject to other investment covenants, or excluded by contract. The Investment Policy will govern the activities of the Director of Finance and designated deputies in their management of all public funds covered by this Investment Policy.

In order to make effective use of the City's resources, all funds shall be pooled for investment purposes, except for those funds required to be accounted for in other accounts as stipulated by applicable laws, bond covenants, contracts or City policy. The pooled funds will include, but are not limited to, the funds of the General Fund, Water & Wastewater, GO Interest & Sinking, Hotel/Motel, Capital Projects, Federal/State Grant, Drainage, and Tax Increment Funds. The Firemen's Pension Fund, Deferred Compensation Plans, and any investments donated to the City for a particular purpose, or under terms of use specified by the donor, are outside the scope of this Investment Policy.

This Policy also requires the formal adoption of an Investment Strategy that specifically addresses each of the City's fund groups. (See Attachment A)

## **II. Objectives**

The primary objectives of the City investment activities, in order of priority, shall be:

- A. Safety – Investments shall be undertaken in a manner that seeks to ensure the preservation of principal.
- B. Liquidity – The City's investment portfolio will remain sufficiently liquid to enable the City to meet all operating requirements, which might be reasonably anticipated.
- C. Yield – The City's investment strategy is conservative. Given this strategy, the benchmark used by the Director of Finance to determine whether market yields are being achieved shall be the 90-day T-bill rate. Return on investment is of least importance compared to the safety and liquidity objectives.

Each investment transaction shall seek to first ensure that principal losses are avoided, whether they are from security defaults or erosion of market value.

## **III. Delegation Of Authority**

The Director of Finance may designate deputies to assist with the management of the investment portfolio.

The Director of Finance or designated deputy shall be responsible for all transactions, compliance with internal controls, and insuring that all safekeeping, custodial, and collateral duties are in compliance with this investment policy and other applicable laws and regulations.

IV. **Standard Of Care**

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of the person's own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. This investment principle shall be applied in the context of managing the overall investment portfolio.

The Director of Finance or designated deputy, acting in accordance with written procedures and exercising due diligence, shall not be held personally responsible for an individual security's credit risk or market price changes, provided that deviations from expectations are reported in a timely manner to the City Manager, and appropriate action is taken to control adverse developments.

V. **Ethics And Conflicts Of Interest**

The Director of Finance and designated deputies shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. An individual who has a personal business relationship with a business organization offering to engage in an investment transaction with the City shall file a statement with the Texas Ethics Commission and the City Council disclosing that personal business interest. A disclosure statement will also be filed if the Director of Finance or any designated deputy is related within the second degree by affinity of consanguinity, as determined under Chapter 573, to an individual seeking to sell an investment to the City.

For the purpose of this section, an individual has a personal business relationship with a business organization if:

- A. The individual owns 10 percent or more of the voting stock or shares of the business organization, or owns \$5,000 or more of the fair market value of the business organizations;
- B. Funds received by the individual from the business organization exceed 10 percent of the individual's gross income for the previous year; or
- C. The individual has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the individual.

VI. **Accounting/Reporting**

The Director of Finance shall, not less than quarterly, prepare and submit to the City Council a written report of investment transactions for all funds covered by this investment policy for the preceding reporting period. The report should:

- A. Describe the investment position of the entity on the date of the report;
- B. Be prepared and signed by the Director of Finance and Treasury Manager;
- C. Contain a summary statement prepared in compliance with generally accepted accounting principles that states the beginning market values, additions and changes to the market value, ending market value and fully accrued interest for the reporting period;

- D. State the book value and market value of each separately invested asset at the beginning and end of the reporting period by type of asset and fund type invested;
- E. State the maturity date of each separately invested asset that has a maturity date;
- F. State the compliance of the investment portfolio as it relates to the City's Investment Policy, the City's Investment Strategy and the Public Funds Investment Act; and
- G. The reports should be formally reviewed at least annually by an independent auditor.

The method used to monitor the market price of acquired investments is to obtain market rates for the total portfolio from at least two independent brokers or from a recognized entity that provides a similar service.

## **VII. Internal Controls**

The management of the City of Temple, Texas, is responsible for establishing and maintaining an internal control structure. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of internal control structure policies and procedures. The objective of an internal control structure is to provide management with reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and recorded properly to permit the preparation of financial statements in accordance with generally accepted accounting principles. Because of inherent limitations in any internal control structure, errors or irregularities may nevertheless occur and not be detected. Also, projection of any evaluation of the structure to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the effectiveness of the design and operation of policies and procedures may deteriorate.

For the purpose of this policy, we have identified procedural controls for the purchase of investments (See Attachment B). Significant internal control structure policies and procedures are beyond the scope of this policy. The Director of Finance shall comply with the City's Internal Control Policies and Procedures at all times.

## **VIII. Diversification**

The City will diversify use of investment types and issuers to avoid incurring unreasonable risks inherent in over-investment in specific instruments, individual issuers or maturities.

The investment portfolio shall not exceed the following guidelines without prior approval of the City Manager:

- A. With the exception of U.S. Treasury securities and authorized pools, no more than 50% of the total investment portfolio will be invested in a single investment type.
- B. Investment in any one single U.S. Agency Issue shall not exceed 30% of the total investment portfolio.
- C. Commercial Paper shall not exceed more than 5% of the total investment portfolio.
- D. With the exception of U.S. Treasury securities, no more than 40% of the total investment portfolio shall be invested with a single issuer.
- E. Investment with maturities of three years shall be limited to a maximum of 20% of the total portfolio.

- F. The minimum maturity on any individual investment shall be one day (overnight). Maturities will be scheduled to meet liquidity and operating requirements.
- G. The maximum maturity for each investment and the total portfolio will be timed to maturity to meet cash flow needs established by the cash flow analysis. The maximum maturity of any individual investment shall not exceed three (3) years.
- H. The maximum dollar-weighted average maturity of the total investment portfolio is 270 days.

Maturity schedules shall be timed according to anticipated liquidity needs. Investments, from time to time, may be liquidated before maturity for cash-flow purposes. To meet these disbursement schedules, market gains or losses may be required. Any losses for early maturity liquidation should be minimized, and they should be reported as such to the City Manager in a timely manner. Actual risk of default shall be minimized by adequate collateralization. Market risk shall be minimized by diversification of investment type and maturity.

The Director of Finance shall routinely monitor the contents of the investment portfolio, the available markets and the relative values of competing instruments, and shall adjust the investment portfolio accordingly, keeping in mind the overall objectives of the investments.

#### **IX. Cash Flow Analysis**

The Director of Finance will develop and maintain a comprehensive cash flow analysis for all of the City's fund types. The purposes will be to determine liquidity needs and the available funds for investing. The summarized cash flow analysis reports will be provided to the City Council and the City Manager on a quarterly basis.

#### **X. Authorized Investments**

The following is a list of authorized investments:

- A. Obligations issued, guaranteed, insured by, or backed by the full faith and credit of the United States or its agencies and instrumentalities (i.e. U.S. Treasury and Agency Issues).
- B. Certificates of Deposit, which are guaranteed or insured by the Federal Deposit Insurance Corporation or its successor or the National Credit Union Share Insurance Fund or its successor and are secured by obligations of the United States or its agencies and instrumentalities, that have a market value of not less than the principal amount of the certificates.
- C. Fully collateralized repurchase agreements that have a defined termination date and are secured by obligations of the United States or its agencies and instrumentalities. The securities purchased by the City must be pledged to the City, held in the City's name and deposited at the time the investment is made with the City's custodial bank. Repurchase agreements can only be placed through primary government securities dealers or financial institutions doing business in Texas. The maximum term for repurchase agreements is ninety (90) days from the date the reverse security repurchase agreement is delivered and securities held as collateral must not mature later than the agreement's expiration date.
- D. Commercial paper with a stated maturity of 270 days or less from the date of issuance. Must be rated not less than A-1 or P-1, or an equivalent, by at least two nationally recognized credit rating agencies or rated by one credit rating agency plus fully secured by an irrevocable letter of credit issued by a domestic bank.

- E. Investment pools that are authorized by Council, invest only in investments approved by the Public Funds Investment Act, have an advisory board and are continuously rated no lower than AAA or AAA-m or at an equivalent rating by at least one nationally recognized rating agency. Investment pools must provide an offering circular, investment transaction confirmations, and monthly reports.
- F. S.E.C. registered no-load money market mutual funds that have a dollar-weighted average stated maturity of ninety (90) days or less and include in its investment objectives the maintenance of a stable net asset value of \$1 for each share.

An investment that requires a minimum rating under this policy does not qualify as an authorized investment during the period the investment does not have the minimum rating. The Director of Finance will take all prudent measures that are consistent with this policy to liquidate an investment that does not have the minimum rating; however, the Director of Finance will not be required to liquidate investments that were authorized investments at the time of purchase.

The Director of Finance is specifically prohibited from investing in:

- A. Structured notes, investments with inverse-floaters, collateralized mortgage obligations, or any other form of derivatives;
- B. Any investment not authorized by this Policy or the Public Funds Investment Act;
- C. Any instrument for which there would not be a ready market for immediate resale;
- D. Any investment pool in which the City would own more than 20% of the market value of the pool;
- E. Highly sophisticated investments not freely conducted in the marketplace e.g., derivatives; and
- F. Any one mutual fund in which the City would own more than 10% of the total assets of the mutual fund.

The Director of Finance is also specifically prohibited from borrowing funds for the purpose of reinvesting the funds to leverage return.

#### **XI. Eligible Institutions**

The following financial institutions are eligible for consideration for investment transactions by the Director of Finance:

- A. State or national banks domiciled in the State of Texas.
- B. Savings banks domiciled in the State of Texas.
- C. State or federal credit unions domiciled in the State of Texas.
- D. Brokers approved and designated as primary dealers by the Federal Reserve Bank of New York.
- E. Secondary or regional brokers who meet the following requirements:
  - 1. National Association of Security Dealers certified;

2. Carry Texas State Registration;
3. Have net capital of \$1 million or more for Delivery Versus Payment investment transactions or net capital of \$50 million or more for Repurchase Agreement transactions; and
4. Have at least five (5) years of operation.

F. Local government investment pools, i.e. Texpool, TexSTAR, etc.

G. S.E.C. registered money market mutual funds.

Due to possible conflicts of interest, we feel that it is in the best interest of the City for the City's depository to be ineligible for quote-qualified investment transactions. Other routine investment transactions, not covered in the scope of this policy such as sweep accounts, certificates of deposit, and float interest earnings, would be allowed with the City's depository.

A written copy of the City's investment policy shall be presented to any financial institution offering to engage in an investment transaction with the City. The qualified representative of the financial institution offering to engage in an investment transaction with the City shall execute an Investment Policy Certification substantially to the effect that the financial institution has:

- A. Received and reviewed the City's investment policy; and
- B. Acknowledged that the financial institution has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the City and the institution that are not authorized by the City's investment policy, except to the extent that this authorization is dependent on an analysis of the makeup of the City's entire portfolio or requires an interpretation of subjective investment standards.

A list of individual qualified institutions authorized to engage in investment transactions with the City shall, at least annually, be reviewed, revised, and adopted by the City Council. (See Attachment C)

All broker/dealers will have on file, with the City, Trading Authorization Agreements.

## **XII. Security Purchases/Trades**

The City will purchase securities on an "as needed" basis only. The City will determine investment requirements based on cash flow analysis and current cash positions. The City will evaluate all bids given for determination of the securities best suited for the City's requirements.

Security selections and term will be determined in accordance with, (1) safety of principal, (2) cash flow needs, (3) investment type as a percentage of total investment portfolio and (4) yield.

Brokers/dealers are not encouraged to contact the City on currently available securities that the broker/dealers believe are items of interest to the City.

All securities placed will be solicited from no less than three qualified institutions. The Treasury Manager will obtain the quotes and get approval from the Director of Finance or a designated deputy prior to making any investment decision. All security purchases and trades conducted through the City will be settled with the City's third party custodial bank. The use of Delivery versus Payment (DVP) for investment transactions/purchases, except with investment pools and money market mutual funds, will be continually used by the Director of Finance at the City's third party custodian bank.

The Director of Finance, Assistant Director of Finance, Treasury Manager, Senior Accountant, City Manager, and City Secretary are the only individuals authorized to wire funds for the City. Dual authorization shall be used for all nonrepetitive wire transfers.

The City must approve any Substitution of securities on repurchase agreements. The City will only enter repurchase agreements under the terms of the Public Securities Agreement (PSA) – Master Repurchase Agreement format.

### **XIII. Collateralization Requirements**

Consistent with the requirements of the Public Funds Collateral Act, Chapter 2257, Texas Government Code, as amended, the City will require full collateralization of all deposits with depository institutions. In order to anticipate market changes and provide a level of security, the collateralization level will be 102% of market value of principal and accrued interest on the deposits less the amount insured by the Federal Deposit Insurance Corporation. Securities pledged as collateral shall be held in the City's name by an independent third party with whom the City has a current custodial agreement. A clearly marked evidence of ownership must be supplied to the City for retention. The City must approve any release and/or substitution of collateral before such action is taken. Collateral shall be reviewed daily to assure that the market value of the securities pledged equals or exceeds the related deposit.

Securities authorized by the Public Funds Collateral Act are acceptable for collateralization purposes.

Private insurance coverage is not an acceptable collateralization form.

### **XIV. Investment Training**

The Director of Finance and designated deputies shall attend:

- A. At least one training session relating to the Director of Finance or designated deputies' responsibilities within 12 months after taking office or assuming duties.
- B. Investment training sessions not less than once in a two year period and receive not less than ten (10) hours of instruction relating to investment responsibilities.

Training must include education in investment controls, security risks, strategy risks, market risks, diversification of the investment portfolio, and compliance with the Public Funds Investment Act.

All training shall be from an independent source on the list of approved training seminar sponsors. (See Attachment D)

### **XV. Conclusion**

The Director of Finance and designated deputies will adhere to the investment policy in all investment decisions of the City. The Director of Finance will provide quarterly written reports to the City Manager and City Council on the investment activity of the City's investment portfolio.

All current investment activity, which does not comply with the above stated policy, will be allowed to mature, and all future investment activity will be negotiated under the terms of the stated policy.

In conjunction with the annual financial audit, a compliance audit will be performed on management controls and adherence to this policy.

An annual review of the Investment Policy and Strategy will be conducted by the Director of Finance. The Investment Policy and Strategy, with any changes, will then be presented for the City Council to review. Formal adoption of the Investment Policy and Strategy will be documented in the minutes of the City Council meeting and the adopting ordinance.



## **INVESTMENT STRATEGY –**

## ***Attachment A***

The investment strategy of the City of Temple, Texas, is adopted to provide investment guidelines that will minimize the risk of loss. In order to make effective use of the City's resources, all monies shall be pooled into one fund, except for those monies required to be accounted for in other accounts as stipulated by applicable laws, bond covenants, contracts or City policy. Investment priorities (in order of importance) are as follows:

- A. Suitability – Any investment allowed by the Investment Policy is suitable. Maturity schedules shall be timed according to anticipated needs.
- B. Safety of Principal – All investments should be of high quality with no perceived default risk.
- C. Liquidity – Local government investment pools and mutual funds shall provide daily liquidity. Fixed maturity investments shall provide liquidity as required by anticipated needs.
- D. Marketability – Investments should have an active and efficient secondary market to enable the City to liquidate investments prior to the maturity for unanticipated cash requirements.
- E. Diversification – The City will diversify use of security types, issuers and maturities. With the exception of U.S. Treasury securities and authorized pools, no more than 50% of the total investment portfolio shall be invested in a single security type. With the exception of U.S. Treasury securities, no more than 40% of the total investment portfolio shall be invested with a single issuer. Maturity schedules shall be timed according to anticipated liquidity needs. The maximum dollar-weight average maturity is 270 days.
- F. Yield – The City's investment strategy is conservative. The benchmark used by the Director of Finance to determine whether market yields are being achieved shall be the 90-day T-bill rate.

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## **INVESTMENT PURCHASING PROCEDURAL CONTROLS –**

## ***Attachment B***

- A. Director of Finance, or designated deputy, and Treasury Manager shall analyze cash flow and determine specific cash flow needs of the City before any current securities mature or any new money is invested.
- B. Director of Finance and Treasury Manager agree to type of security (as allowed or as authorized by law, contract, or investment policy), denominations, and duration.
- C. Treasury Manager
  - Obtains three (3) net quotes for securities from authorized brokers listed on Attachment C;
  - Prepares quote listing with relevant information from the offerers;
  - Submits quote listing with recommendation for best responsible net offerer to Director of Finance or designated deputy;
  - Director of Finance or designated deputy approves best responsible net offerer; and
  - Contacts selected offerer with instructions to buy.

- D. Broker faxes or calls Treasury Manager with details of the purchase (disc, etc.).
- E. Treasury Manager contacts safekeeping with details, and faxes copy of CUSIP to safekeeping for security verification.
- F. Safekeeping compares CUSIP to delivered securities to initiate payment. The purchase of individual securities shall be executed "delivery versus payment" (DVP) through the Federal Reserve System. By so doing, City funds are not released until the City has received, through the Federal Reserve wire, the securities purchased.
- G. A letter is prepared with Director of Finance and Treasury Manager's signature stating all details of the purchase, and is sent to the broker.
- H. The broker must verify the letter for understanding and correctness of securities purchased, sign it, and return it to the City of Temple.
- I. The investment portfolio and cash flow documents are updated to reflect security transactions. The Treasury Manager reconciles the investment portfolio with the general ledger daily. The reconciliation is reviewed and approved by the Assistant Director of Finance.
- J. Safekeeping receipts are received by a Finance employee who is independent from the initiating or approval of the purchase, and are verified with the Daily Balance Report; if correct, the receipts are filed for documentation upon arrival.

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**LIST OF QUALIFIED INSTITUTIONS –**

***Attachment C***

A list of institutions that are authorized to engage in investment transactions with the City shall, at least annually, be reviewed, revised, and adopted. The following institutions, listed by type, are authorized for use by the Investment Officer:

**Brokers/Dealers:**

Duncan Williams  
First Southwest Company  
Frost National Bank  
Seattle Northwest Securities  
Simmons First National Bank  
Vining-Sparks IBG  
Wachovia Securities Financial Network  
Zions First National Bank

**Local government investment pools:**

Texpool  
TexSTAR  
CLASS by MBIA Municipals Investors Service  
Cooperation Great Pacific Securities

This list shall be revised when necessary throughout the year to account for additions and deletions.

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**TRAINING SEMINAR SPONSORS –**

***Attachment D***

All investment training shall be from an independent source approved by the City Council. The following sponsors are hereby approved:

- A. Government Finance Officer's Association (GFOA);
- B. Texas Society of Certified Public Accountants (TSCPA);
- C. Texas Municipal League (TML);
- D. Government Treasurer's Organization of Texas (GTOT);
- E. Sponsors approved by the TSCPA and GFOA, GFOAT, GTOT, to provide CPE credits; or
- F. Other sponsors approved on an individual basis by the Director of Finance.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE CITY BUDGET FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2010, AND CLOSING SEPTEMBER 30, 2011, INCLUDING THE FOLLOWING COMPONENTS: OPERATING BUDGET FOR 2010-2011, CAPITAL IMPROVEMENT PROGRAM, FISCAL AND BUDGETARY POLICY STATEMENT, AND INVESTMENT POLICY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, after notice and a public hearing has been held as required by law and after considering the comments of the public at such public hearing, the City Council desires to adopt the budget for the fiscal year 2010-2011, Capital Improvement Program, and the Fiscal and Investment Policies.

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

**Part 1:** The first public hearing was held on August 5, 2010, at 5:00 p.m., and after the conclusion of the public hearing held at 5:00 p.m. on the 2<sup>nd</sup> day of September, 2010, the budget for the City of Temple for the fiscal year beginning October 1, 2010, and closing September 30, 2011, together with the changes and amendments adopted by the City Council, on file in the Office of the City Secretary, is hereby adopted and approved.

**Part 2:** The City Council adopts the Capital Improvement Program, Fiscal and Budgetary Policy Statement, and the Investment Policy, all on file in the Office of the City Secretary.

**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 on this the 2<sup>nd</sup> day of **September**, 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

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09/02/10  
Item #6  
Regular Agenda  
Page 1 of 2

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

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** FIRST & FINAL READING – PUBLIC HEARING - Consider adopting an ordinance approving the tax roll and authorizing calculation of the amount of tax that can be determined for all real and personal property in the City for the tax year 2010, to be considered on an emergency basis.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance, as presented in item description, on first and final reading.

**ITEM SUMMARY:** The proposed ordinance will adopt the ad valorem property tax roll certified by the Tax Appraisal District of Bell County, in the amount of **\$3,331,261,128**. The total 2010 taxable value is as follows:

Taxable Value –

	Certified Taxable Value	% of +/- from Prior Year
City of Temple	\$2,873,046,330	-0.87%
Freeze Taxable*	328,932,578	1.95%
Tax Increment District (Reinvestment Zone No. 1)	129,282,220	0.00%
Total Taxable Value	<u>\$3,331,261,128</u>	<u>-0.57%</u>

**FISCAL IMPACT:** The tax levy at the proposed tax rate of \$0.5679 in the 2010-2011 fiscal year is:

	TAX RATE	TAX LEVY <sup>1</sup>
General Fund (M&O)	\$0.3300	\$ 9,386,242
Debt Service (I&S)	0.2379	6,834,977
Frozen Taxes*	--	1,625,062
<b>Total</b>	<b><u>\$0.5679</u></b>	<b><u>\$17,846,281</u></b>
 Tax Increment District (Reinvestment Zone No. 1)	 <u>\$0.5679</u>	 <u>\$ 734,194</u>

\* - Freeze taxable value = \$328,932,578

<sup>1</sup> – Assuming 99% collection of maintenance & operation revenue

**ATTACHMENTS:**

2010 Certified Tax Roll  
Ordinance

**2010 CERTIFIED TOTALS**

Property Count: 33,318

TTE - CITY OF TEMPLE  
Grand Totals

7/16/2010 5:03:47AM

Land		Value			
Homesite:		199,303,125			
Non Homesite:		263,841,738			
Ag Market:		42,446,631			
Timber Market:		0	<b>Total Land</b>	(+)	505,591,494
Improvement		Value			
Homesite:		1,648,245,576			
Non Homesite:		1,206,902,625	<b>Total Improvements</b>	(+)	2,855,148,201
Non Real		Count	Value		
Personal Property:	3,293		857,198,261		
Mineral Property:	0		0		
Autos:	992		7,962,031	<b>Total Non Real</b>	(+)
			<b>Market Value</b>	=	865,160,292
Ag		Non Exempt	Exempt		
Total Productivity Market:	42,446,631		0		
Ag Use:	2,525,878		0	<b>Productivity Loss</b>	(-)
Timber Use:	0		0	<b>Appraised Value</b>	=
Productivity Loss:	39,920,753		0	<b>Homestead Cap</b>	(-)
			<b>Assessed Value</b>	=	5,630,033
					4,180,349,201

Exemption	Count	Local	State	Total		
AB	15	16,865,071	0	16,865,071		
CH	6	647,032	0	647,032		
DP	367	3,378,262	0	3,378,262		
DV1	269	0	1,774,698	1,774,698		
DV1S	30	0	150,000	150,000		
DV2	130	0	1,062,000	1,062,000		
DV2S	10	0	68,300	68,300		
DV3	191	0	1,714,449	1,714,449		
DV3S	25	0	240,000	240,000		
DV4	437	0	3,671,621	3,671,621		
DV4S	109	0	1,294,552	1,294,552		
DVHS	186	0	22,599,851	22,599,851		
EX	2,352	0	441,597,279	441,597,279		
EX366	20	0	5,114	5,114		
HS	13,011	300,304,656	0	300,304,656		
OV65	4,265	41,463,172	0	41,463,172		
OV65S	194	1,925,586	0	1,925,586		
PC	31	10,326,430	0	10,326,430	<b>Total Exemptions</b>	(-)
						849,088,073
					<b>Net Taxable</b>	=
						3,331,261,128

Freeze	Assessed	Taxable	Actual Tax	Ceiling	Count		
DP	27,696,876	16,407,953	83,181.31	93,977.92	335		
OV65	458,632,043	312,524,625	1,558,296.11	1,618,866.85	4,199		
<b>Total</b>	<b>486,328,919</b>	<b>328,932,578</b>	<b>1,641,477.42</b>	<b>1,712,844.77</b>	<b>4,534</b>	<b>Freeze Taxable</b>	(-)
<b>Tax Rate</b>	<b>0.564600</b>						328,932,578
Transfer	Assessed	Taxable	Post % Taxable	Adjustment	Count		
OV65	528,026	382,420	295,646	86,774	4		
<b>Total</b>	<b>528,026</b>	<b>382,420</b>	<b>295,646</b>	<b>86,774</b>	<b>4</b>	<b>Transfer Adjustment</b>	(-)
							86,774

Bell County

## 2010 CERTIFIED TOTALS

As of Certification

Property Count: 33,318

TTE - CITY OF TEMPLE  
Grand Totals

7/16/2010 5:03:47AM

Freeze Adjusted Taxable = 3,002,241,776

APPROXIMATE LEVY = (FREEZE ADJUSTED TAXABLE \* (TAX RATE / 100)) + ACTUAL TAX  
18,592,134.49 = 3,002,241,776 \* (0.564600 / 100) + 1,641,477.42

Tif Zone Code	Tax Increment Loss
TETIF1	129,282,220
Tax Increment Finance Value:	129,282,220
Tax Increment Finance Levy:	729,927.41



**2010 CERTIFIED TOTALS**

Property Count: 33,318

TTE - CITY OF TEMPLE  
Grand Totals

7/16/2010

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**State Category Breakdown**

State Code	Description	Count	Acres	New Value Market	Market Value
A	SINGLE FAMILY RESIDENCE	18,298		\$44,916,534	\$1,937,713,960
B	MULTIFAMILY RESIDENCE	619		\$2,093,756	\$179,908,426
C	VACANT LOT	2,756		\$0	\$42,622,198
D1	QUALIFIED AG LAND	573	14,851.0207	\$0	\$42,446,631
D2	NON-QUALIFIED LAND	358	4,323.4970	\$0	\$16,722,649
E	FARM OR RANCH IMPROVEMENT	287		\$357,038	\$28,723,930
F1	COMMERCIAL REAL PROPERTY	1,761		\$7,553,761	\$497,974,177
F2	INDUSTRIAL REAL PROPERTY	118		\$1,000,000	\$151,237,159
J1	WATER SYSTEMS	2		\$0	\$40,575
J2	GAS DISTRIBUTION SYSTEM	8		\$0	\$4,440,317
J3	ELECTRIC COMPANY (INCLUDING CO-OP)	29		\$0	\$44,668,851
J4	TELEPHONE COMPANY (INCLUDING CO-O	10		\$0	\$13,526,370
J5	RAILROAD	38		\$0	\$21,096,512
J6	PIPELAND COMPANY	23		\$0	\$916,990
J7	CABLE TELEVISION COMPANY	3		\$0	\$6,665,960
L1	COMMERCIAL PERSONAL PROPERTY	3,747		\$19,000	\$274,585,990
L2	INDUSTRIAL PERSONAL PROPERTY	316		\$0	\$473,523,990
M1	TANGIBLE OTHER PERSONAL, MOBILE H	418		\$92,421	\$3,798,799
O	RESIDENTIAL INVENTORY	1,862		\$5,087,788	\$25,515,955
S	SPECIAL INVENTORY TAX	46		\$0	\$17,521,123
X	TOTALLY EXEMPT PROPERTY	2,378		\$6,311,247	\$442,249,425
	<b>Totals</b>		19,174.5177	\$67,431,545	\$4,225,899,987

**2010 CERTIFIED TOTALS**

Property Count: 33,318

TTE - CITY OF TEMPLE  
Effective Rate Assumption

7/16/2010

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**New Value**

TOTAL NEW VALUE MARKET:	\$67,431,545
TOTAL NEW VALUE TAXABLE:	\$55,678,665

**New Exemptions**

Exemption	Description	Count		
EX	TOTAL EXEMPTION	42	2009 Market Value	\$1,492,493
ABSOLUTE EXEMPTIONS VALUE LOSS				\$1,492,493
Exemption	Description	Count	Exemption Amount	
DP	DISABILITY	25	\$250,000	
DV1	DISABLED VET	10	\$78,000	
DV2	DISABLED VET	19	\$156,000	
DV2S	DISABLED VET	1	\$7,500	
DV3	DISABLED VET	31	\$320,000	
DV3S	DISABLED VET	3	\$30,000	
DV4	DISABLED VET	27	\$276,000	
DV4S	DISABLED VET	15	\$180,000	
DVHS	Disabled Veteran Homestead	36	\$4,592,766	
HS	HOMESTEAD	632	\$17,200,809	
OV65	OVER 65	186	\$1,780,462	
OV65S	OVER 65 Surviving Spouse	1	\$10,000	
PARTIAL EXEMPTIONS VALUE LOSS				\$24,881,537
TOTAL EXEMPTIONS VALUE LOSS				\$26,374,030

**New Ag / Timber Exemptions****New Annexations**

Count	Market Value	Taxable Value
6	\$364,247	\$89,672

**New Deannexations****Average Homestead Value****Category A and E**

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
12,844	\$118,371	\$23,781	\$94,590

**Category A Only**

Count of HS Residences	Average Market	Average HS Exemption	Average Taxable
12,691	\$118,048	\$23,703	\$94,345

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE TAX ROLL AND AUTHORIZING CALCULATION OF THE AMOUNT OF TAX THAN CAN BE DETERMINED FOR ALL REAL AND PERSONAL PROPERTY IN THE CITY FOR THE TAX YEAR 2010; AUTHORIZING THE MAYOR TO EXECUTE ALL DOCUMENTS AS MAY BE REQUIRED BY THE TAX APPRAISAL DISTRICT OF BELL COUNTY; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; DECLARING FINDINGS OF FACT; PROVIDING AN OPEN MEETINGS CLAUSE; AND DECLARING AN EMERGENCY.

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WHEREAS, the Chief Appraiser has determined the total appraised value, the total assessed value, and the total taxable value of property taxable within the City of Temple, Texas, in order to submit the Tax Appraisal Roll to the City Council as required by Article 26.04 of the Property Tax Code;

WHEREAS, the Chief Appraiser has presented evidence that in order to verify all calculations of the Tax Appraisal District of Bell County and to fully comply with the legal requirements of the City Charter and State law, that September 2, 2010, is the date that is as soon as practicable after August 1, 2010, to present the Tax Appraisal Roll to the City Council, and the City Council after a public hearing has determined this to be true; and

WHEREAS, the City Council desires to approve the Tax Roll for tax year 2010 and to authorize calculation of the amount of tax that can be determined as a prerequisite to adopting the tax rate for the tax year 2010 as submitted by the Tax Appraisal District of Bell County.

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

**Part 1:** The City Council approves the Tax Appraisal Roll, as previously submitted by the Tax Appraisal District of Bell County, showing the total taxable assessed value of all real and personal property within the limits of the City of Temple, Texas, at **\$3,331,261,128** more particularly shown on the attached Exhibit A, which is made a part of this ordinance for all purposes as if written word for word herein, and authorizing assessment at 100% of market value.

**Part 2:** The City Council authorizes the Mayor of the City of Temple, Texas, to execute all documents as may be required to calculate the amount of tax that can be determined as a prelude to adopting the tax rate for the tax year 2010 for the City of Temple, Texas, as may be required by the Tax Appraisal District of Bell County.

**Part 3:** The declarations, determinations, and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 4:** 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.

**Part 5:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

**Part 6:** It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

**Part 7:** The fact that the tax roll must be approved prior to the start of the 2010-2011 fiscal year and in conjunction with the adoption of a tax rate creates an emergency and an urgent public necessity requiring the suspension of the charter rule which requires that all ordinances be passed on two separate readings and such rule is hereby suspended and this ordinance is finally passed on the date of its introduction as an emergency ordinance.

PASSED AND APPROVED On First and Final Reading on this the **2<sup>nd</sup>** day of **September**, 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

09/02/10  
Item #7  
Regular Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

**ITEM DESCRIPTION:** FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an ordinance levying taxes and setting a tax rate for the City for the tax year 2010, making the appropriation for the regular operation of the City, to be considered on an emergency basis.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance, as presented in item description, on first and final reading.

**ITEM SUMMARY:** The Fiscal 2010-2011 budget will require adoption of a property tax rate of \$0.5679 per \$100 of taxable assessed property value. The proposed tax rate will generate \$16,316,030 of property tax levy when applied to an ad valorem tax base of \$3,201,978,908 less \$328,932,578 of freeze taxable value. In addition, there will be \$1,641,477 in frozen tax levy for a total property tax levy of \$17,957,507. Assuming 99% collection of maintenance & operation and frozen tax revenue, the total budgeted property tax revenue is \$17,846,281. The proposed tax rate of \$0.5679 is a \$0.0033 increase over last year's tax rate of \$0.5646 and represents a 1.10% decrease over the effective tax rate of \$0.5742.

The fiscal year 2010-2011 tax rate is comprised of the Maintenance and Operation rate and the Debt Service rate. These two components are as follows:

TAX RATE			TAX LEVY		
	FY 2011	FY 2010		FY 2011	FY 2010
Maintenance & Operations	\$ 0.3300	\$ 0.3173	Maintenance & Operations	\$ 9,481,053	\$ 9,196,558
Debt Service	0.2379	0.2473	Debt Service	6,834,977	7,167,693
	--	--	Frozen Taxes*	1,641,477	1,593,291
Total Tax Rate	<u>\$ 0.5679</u>	<u>\$ 0.5646</u>	Total Tax Levy	<u>\$ 17,957,507</u>	<u>\$ 17,957,542</u>
			Budget w/M&O at 99% Collection	<u>\$ 17,846,281</u>	<u>\$ 17,849,643</u>
Tax Increment District (Reinvestment Zone No. 1)			Tax Increment District (Reinvestment Zone No. 1)		
Total Tax Rate	<u>\$ 0.5679</u>	<u>\$ 0.5646</u>	Total Tax Levy	<u>\$ 734,194</u>	<u>\$ 729,909</u>

\* - Frozen value = \$328,932,578

The residential homestead exemption for property owners is \$5,000 or 20% of the assessed value whichever is greater. In addition to the homestead exemption, property owners 65 years of age or older will continue to receive an additional \$10,000 exemption and all disabled individual property owners will receive an exemption of \$10,000 in accordance with Texas Tax Code Section 11.13.

The ad valorem tax freeze on the residence homestead of a person who is disabled or sixty-five (65) years of age or older (as approved in an election held in the City of Temple on May 7, 2005) applies to Tax Year 2006 (FY 2007). The amount of the qualifying homeowners tax ceiling was determined on the Tax Year 2005 (FY 2006). Future city taxes on that homestead cannot exceed the 2005 tax amount (but may be less). The tax limitation, however, may be adjusted higher for an increase in improvements to the homestead, other than repairs and those improvements made to comply with governmental regulations.

The motion to adopt an ordinance setting a tax rate is as follows: **“I move that the ordinance setting the 2010-2011 tax rate in the amount of \$0.5679 per \$100 valuation, comprised of \$0.3300 for maintenance and operations and \$0.2379 for debt service, be adopted.”**

Pursuant to Section 11.20 of the City Charter, all taxpayers shall be allowed discounts for the payment of taxes due to the City if such taxes are paid in the year for which such taxes are due as follows: 3% in October; 2% in November; and 1% in December.

#### **FISCAL IMPACT:**

##### **Example 1 – Annual Property Tax - \$100,000 Taxable Value:**

With the proposed tax rate of 56.79 cents per \$100 valuation, the cost to a homeowner with a taxable value of \$100,000 would be an annual increase of \$3.30 if there was no change in taxable value from the prior year. If a homeowner with a taxable value of \$100,000 in 2010 experienced a decrease in taxable value of 0.11% (average decrease in appraised value), the annual property tax would increase by \$2.68.

##### **Example 2 – Annual Property Tax – Average Taxable Value for City of Temple:**

The preceding tax year's average taxable value for of a residence homestead in Temple is \$93,371. In the current tax year, the average taxable value of a residence homestead in Temple is \$94,590. With the proposed tax rate of 56.79 cents per \$100 valuation, there would be an annual increase of \$10.01 in taxes.

#### **ATTACHMENTS:**

Assessed Value of Taxable Property  
Tax Rate FY 2002-2011  
Ordinance

**CITY OF TEMPLE, TEXAS**  
**Assessed Value of Taxable Property**  
**Last Ten Fiscal Years**

<u>Fiscal Year Ending September 30,</u>	<u>Taxable Property Valuation <sup>(5)</sup></u>	<u>Percent (%) Increase (Decrease)</u>
2002	\$1,971,358,175	2.28%
2003	2,081,235,886	5.57%
2004	2,152,111,633	3.41%
2005	2,307,589,214	7.22%
2006	2,441,277,465	5.79%
2007	2,622,803,439 <sup>(4)</sup>	7.44%
2008	2,854,755,588 <sup>(4)</sup>	8.84%
2009	3,100,594,231 <sup>(3)</sup>	8.61%
2010	3,221,022,514 <sup>(2)</sup>	3.88%
<b>2011</b>	<b>3,201,978,908 <sup>(1)</sup></b>	<b>-0.59%</b>

<b>Average Annual Increase</b>	<b>5.25%</b>
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<sup>(1)</sup> **Source Document:** Tax Appraisal District of Bell County - Certified Tax Roll - July 19, 2010

Net taxable value not adjusted for frozen values - frozen levy \$1,641,477

<sup>(2)</sup> **Source Document:** Tax Appraisal District of Bell County - Certified Tax Roll - July 20, 2009

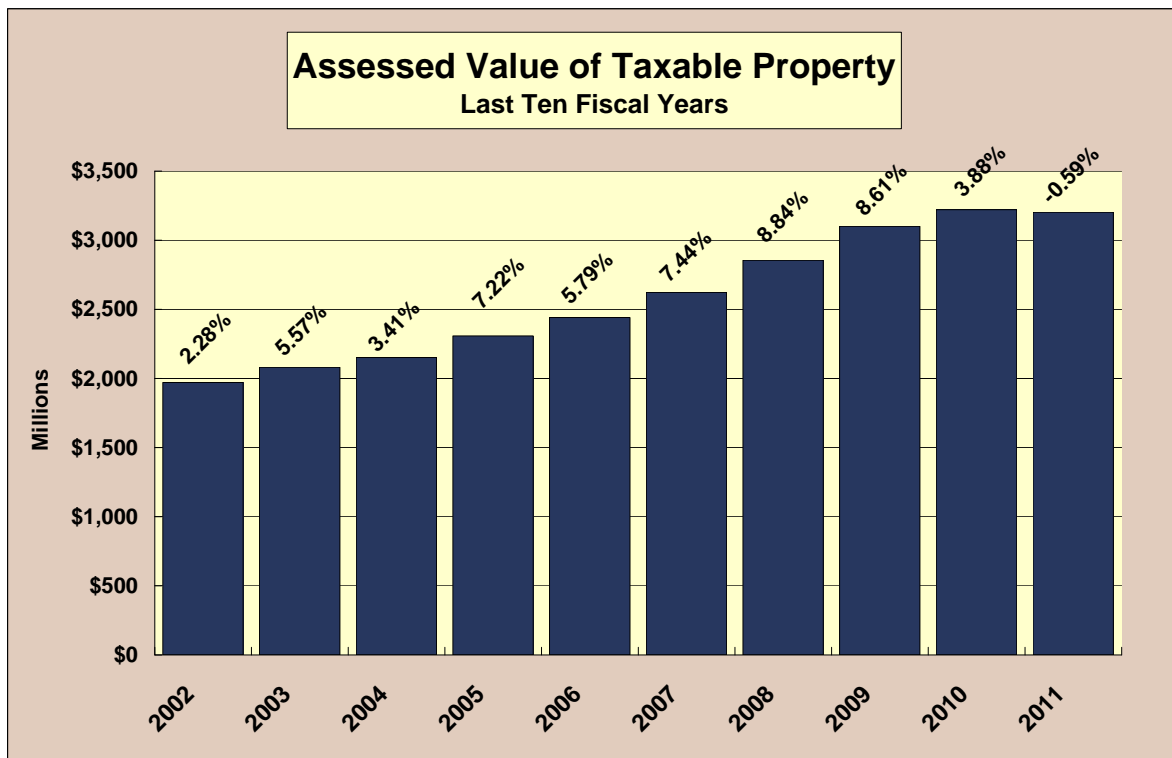
Net taxable value not adjusted for frozen values - frozen levy \$1,593,291

<sup>(3)</sup> **Source Document:** Tax Appraisal District of Bell County - Certified Tax Roll - July 21, 2008

Net taxable value not adjusted for frozen values - frozen levy \$1,540,393

<sup>(4)</sup> Net taxable value not adjusted for frozen values

<sup>(5)</sup> Excludes amount applicable to the Tax Increment District (Reinvestment Zone No. 1)



**CITY OF TEMPLE, TEXAS**  
**ADOPTED TAX RATE VS. EFFECTIVE TAX RATE**

Fiscal Year	Adopted Tax Rate			Effective Tax Rate	Adopted Rate v. Effective Tax Rate	
	I & S	M & O	Total		\$	%
2002	\$0.2445	\$0.3520	\$0.5965	\$0.5792	0.0173	2.99%
2003	0.2620	0.3273	0.5893	0.5722	0.0171	2.99%
2004	0.2537	0.3510	0.6047	0.5972	0.0075	1.26%
2005	0.2349	0.3674	0.6023	0.5731	0.0292	5.10%
2006	0.2199	0.3546	0.5745	0.5579	0.0166	2.98%
2007	0.2339	0.3395	0.5734	0.5568	0.0166	2.98%
2008	0.2289	0.3392	0.5681	0.5516	0.0165	2.99%
2009	0.2273	0.3322	0.5595	0.5433	0.0162	2.98%
2010	0.2473	0.3173	0.5646	0.5511	0.0135	2.45%
<b>2011*</b>	<b>0.2379</b>	<b>0.3300</b>	<b>0.5679</b>	<b>0.5742</b>	<b>-0.0063</b>	<b>-1.10%</b>

\*Proposed Tax Rate



AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, LEVYING TAXES AND SETTING A TAX RATE FOR THE CITY OF TEMPLE FOR THE TAX YEAR 2010, MAKING APPROPRIATIONS FOR THE REGULAR OPERATION OF THE CITY AND FOR THE OPERATION OF ITS WATER AND SEWER SYSTEMS; DECLARING FINDINGS OF FACT; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN OPEN MEETINGS CLAUSE; AND DECLARING AN EMERGENCY.

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WHEREAS, the City Council held a public hearing on the proposed FY 2010-2011 budget on August 5, 2010, and at that meeting discussed the tax rate and took a record vote to set the meeting for adoption of the proposed tax rate of \$0.5679 per \$100 valuation for September 2, 2010;

WHEREAS, the proposed tax rate of \$0.5679 per \$100 valuation did not exceed the rollback rate or effective tax rate, therefore requiring no additional tax rate public hearings or notices;

WHEREAS, the City Council did set and announce the 2<sup>nd</sup> day of September, 2010, at 5:00 p.m. as the date and time for a public hearing on the proposed budget for the fiscal year beginning October 1, 2010, and ending September 30, 2011, and in accordance with the City Charter requirements, notice was published in the TEMPLE DAILY TELEGRAM that the hearing on the proposed budget would be held on the 2<sup>nd</sup> day of September, 2010, at 5:00 p.m.;

WHEREAS, the City Council did consider and adopt the City Budget for the fiscal year beginning October 1, 2010, and ending September 30, 2011; and

WHEREAS, the City Council did approve the tax appraisal roll and authorize the collection of the total amount of tax that can be determined for the tax year 2010 and wishes to establish the tax rate on \$100 valuation of all property; real, personal, and mixed, subject to taxation for that tax year that would result in a tax rate of \$0.5679 per \$100 of assessed property valuation.

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

**Part 1:** The following tax rate on \$100 valuation for the City of Temple, Texas, be and is hereby levied and adopted for the tax year 2010 as follows:

For the purpose of maintenance and operation; \$ 0.3300

For the payment of principal and interest on  
bonds, warrants and certificates of obligation     \$ 0.2379  
and other debt of this City;

TOTAL TAX RATE

\$ 0.5679 per each \$100 of assessed  
property valuation

Total Estimated Tax Levy (100%)

\$17,957,507

Total Estimated Tax Levy –

(Tax Increment District for City of Temple) \$734,194

**THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND  
OEPRATIONS THAN LAST YEAR’S TAX RATE.**

The above tax rate is hereby levied and adopted on the assessed valuation of all property, real, personal and mixed, subject to taxation by the City of Temple for the tax year 2010, for the City's departmental purposes for interest and sinking fund accounts in accordance with the budget adopted by the City Council on the 2<sup>nd</sup> day of September, 2010, to-wit: and all such ad valorem taxes shall become due on the 31st day of January, 2011, and shall, unless paid, become delinquent on the 1st day of February, 2011.

**Part 2:** The Director of Finance is hereby authorized to assess and collect the taxes of the City of Temple employing the above tax rate.

**Part 3:** The *Residential Homestead Exemption* for property owners shall remain at \$5,000 or 20% of the assessed value whichever is greater. The *Over 65 Residential Homestead Exemption* shall remain at \$10,000. The *Disabled Individual Property Owners Exemption* shall be \$10,000 (as authorized by an ordinance passed by the City Council on July 3, 2003, and in accordance with Texas Tax Code Section 11.13).

**Part 4:** The ad valorem tax freeze on the residence homestead of a person who is disabled or sixty-five (65) years of age or older shall also be effective (as authorized in an election held in the City of Temple on May 7, 2005). The amount of tax year 2005 City taxes will set the qualifying homeowners tax ceiling amount. Future City taxes on that homestead cannot exceed the tax year 2005 tax amount (but may be less). The tax limitation, however, may be adjusted higher for an increase in improvements to the homestead, other than repairs and those improvements made to comply with governmental regulations.

**Part 5:** All monies on hand on the 1st day of October, 2010, belonging to the City of Temple, Texas, and other than monies belonging to the credit of its Water and Sewer Departments, and all monies received by the City during the fiscal year 2010, other than monies received from operation of its Water and Sewer Department, be and are hereby appropriated for the several purposes other than its water and sewer systems and in the respective amounts set forth in the budget adopted by the City Council on the 2<sup>nd</sup> day of September, 2010.

**Part 6:** Any funds needed for carrying out the budget shall be financed by deficiency warrants, and authority is hereby given to the City Manager and the Mayor to issue deficiency warrants, if necessary, to defray the current expenses for the City during the ensuing fiscal year in such amounts and at such times as shall be necessary in the judgment of the City Council.

**Part 7:** 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 8:** 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.

**Part 9:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not effect 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 10:** 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.

**Part 11:** The fact that it is necessary to immediately prepare 2010 tax statements and billings, creates an emergency and imperative necessity which authorize and require that all Charter provisions, ordinances, and rules commanding the reading of ordinances on two separate regular meetings of the City Council, and prohibiting the passage of an ordinance on the date of its introduction be suspended and they are hereby suspended, and this ordinance is hereby passed as an emergency ordinance on the date of its introduction and shall be in effect from and after its adoption.

PASSED AND APPROVED on First and Final Reading and Public Hearing on this the 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #8  
Regular Agenda  
Page 1 of 1

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

Amy M. House, Director of Human Resources

**ITEM DESCRIPTION:** Consider adopting a resolution funding the rates for medical/prescription insurance and dental insurance for employees and under age 65 retirees, as well as, Life Insurance, Accidental Death & Dismemberment Insurance and Long Term Disability Insurance.

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

**ITEM SUMMARY:** At their meeting on July 15, 2010, the trustees of the City of Temple Employee Benefits Trust agreed to purchase insurance contracts from BlueCross BlueShield of Texas for medical/prescription stop loss insurance (self funded insurance), from Met Life for dental insurance, from Met Life for life and accidental death and dismemberment insurance, and from the Standard for Long Term Disability for employees and under age 65 retirees. (Retirees are eligible for medical and dental only). The City must now, with the adoption of the budget, fund the cost of those benefits awarded in addition to allowing for the biweekly transfer of contributions made by the City and by employees/retirees to the trust.

**FISCAL IMPACT:** Funding of the contracts awarded by the Trust reflects no change in costs from current year.

Budgeted FY10-11 amount:	\$2,292,808 for medical/prescription insurance for employees
	\$ 54,885 for dental insurance for employees
	\$ 130,450 for medical/prescription and dental insurance for retirees < age 65
	\$ 40,881 for life insurance for employees
	\$ 8,623 for ad&d insurance for employees
	\$ 52,694 for long term disability insurance for employees

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING FUNDING OF THE RATES FOR MEDICAL/PRESCRIPTION INSURANCE AND DENTAL INSURANCE FOR EMPLOYEES AND UNDER AGE 65 RETIREES, AS WELL AS LIFE INSURANCE, ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE AND LONG TERM DISABILITY INSURANCE, AND THE BIWEEKLY TRANSFER OF THE CITY'S EMPLOYEES' AND RETIREES' CONTRIBUTIONS TO THE TRUST FOR THE PAYMENT OF BENEFITS PURCHASED BY THE CITY OF TEMPLE EMPLOYEE BENEFIT TRUST; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, at their meeting on July 15, 2010, the trustees of the City of Temple Employee Benefits Trust agreed to purchase insurance contracts from BlueCross BlueShield of Texas for medical/prescription insurance, from Met Life for dental insurance, from Met Life for life and accidental death and dismemberment insurance, and from the Standard for Long Term Disability for employees and under age 65 retirees;

**Whereas**, the City must now, with the adoption of the FY2010-11 budget, fund the cost of those benefits and allow for the biweekly transfer of contributions made by the City and by employees/retirees to the trust;

**Whereas**, funding of the contracts awarded by the Trust reflects no change in costs from the current year and funds are budgeted in the FY2010-11 budget for this expense; and

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

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

**Part 1:** The City Council approves funding of the rates for medical/prescription insurance and dental insurance for employees and under age 65 retirees and the biweekly transfer of the City's employees' and retirees' contributions to the trust for the payment of benefits purchased by the City of Temple Employee Benefit Trust.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(A)  
Consent Agenda  
Page 1 of 1

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

Clydette Entzminger, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) August 19, 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:**

[August 19, 2010 Special Called and Regular Meeting Minutes](#)

## TEMPLE CITY COUNCIL

**AUGUST 19, 2010**

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, August 19, 2010 at 3:30 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

**Present:**

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

**Absent:**

Councilmember Marty Janczak

**1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, August 19, 2010.**

Regular Agenda Item #8 - CUP for package store at 1 North 6th Street: Mayor Jones stated the applicant has requested this item be tabled while he continues to work on parking issues.

**2. Discuss the proposed Erosion and Sedimentation Stormwater Ordinance.**

Michael Newman, Assistant Director of Public Works, presented this item to the City Council. He explained the Texas Commission on Environmental Quality (TCEQ) requires the City adopt three new ordinances as part of the 5-year storm water management plan. The first ordinance to be proposed for Council adoption relates to erosion and sedimentation control. The purpose is to provide temporary water quality control for streams during construction. Mr. Newman provided examples of various types of controls that can be used, including silt fences and revegetation, rock berms, curb inlet protection, rock rip-rap, and temporary sedimentation ponds.

The proposed ordinance will safeguard persons, protect property and prevent damage to the environment in the City. It will also promote the public welfare by guiding, regulating, and controlling the design, construction, use and maintenance of any residential and non-residential subdivision development, applicable City projects or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City. Mr. Newman stated the ordinance will apply to land that is one acre or more in size within the City limits and extraterritorial jurisdiction (ETJ). The ordinance would require an erosion and sedimentation control plan prepared by a professional engineer or certified professional in erosion and sedimentation control. The plan must meet the Drainage Criteria and Design Manual. Exemptions from the plan include areas zoned agriculture, emergency activity necessary for protection of life and property, existing nursery and agricultural operations (including ranching), legally permitted landfill operation, and tree cutting and mulching with no land disturbance over one acre. The City engineer/designee will make inspections and notify the permittee of areas that do not comply. The permittee would be required to



notify the City engineer at least two days prior to start of the construction, installation of erosion and sedimentation controls and final acceptance of the project.

Mayor Jones asked how the ordinance would be enforced when no building permits, construction permits or platting is required, such as with land clearing or activity in the ETJ.

Mr. Newman stated that is going to be an issue that will have to be determined and worked through as the ordinance is implemented. He concluded by stating that no new permits are being proposed and this is not a new process as these land disturbances are already required to meet TCEQ standards. The Temple Area Builders Association have reviewed the proposed ordinance and support its adoption.

**3. Discuss third quarter financial results for fiscal year 2010.**

Traci Barnard, Director of Finance, presented a summary review of the City's quarterly financial statements for the nine-month period ended June 30, 2010. She began with a review of General Fund revenues, providing historical and analytical information regarding sales tax. General Fund expenditures were also reviewed and Mrs. Barnard noted fuel costs are on target for the current year and vacation/sick leave payouts for retirements and claims and damages will continue to be monitored.

Next, Mrs. Barnard discussed the fund balance in the General Fund, explaining the sources of addition to these funds. She noted that both the Airport and Golf Course have both revenues and expenditures less than budgeted. The estimated fund balance at year end is \$2,068,688.

Mrs. Barnard continued with a review of the Water & Wastewater Fund revenues and expenses, the City's investments, Capital Improvement Program, Hotel/Motel Tax Fund and Drainage Fund.

**4. Discuss upcoming appointments to various City boards and commissions.**

Councilmembers discussed appointments to various boards and commissions with terms expiring September 1st. They reviewed applications received and discussed specific recommendations for appointment.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, August 19, 2010 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

**Present:**

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

**Absent:**

Councilmember Marty Janczak

## **I. CALL TO ORDER**

### **1. Invocation**

Pastor Tom Robbins, First United Methodist Church, voiced the Invocation.

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

Police Chief Gary Smith led the Pledge of Allegiance.

## **II. RECOGNITIONS**

### **3. Presentation by Bell County ARC to the Parks and Leisure Services Department in recognition of 40 years of collaboration.**

Bell County ARC Board Members presented Ken Cicora, Director of Parks and Leisure Services, and the City of Temple with this special recognition for the support their organization receives for their activities.

## **III. PUBLIC COMMENTS**

Lois Sullivan, 1704 South 21st Street, stated the seniors have a beautiful new pool, with activities and programs geared almost entirely to seniors through efforts of seniors in the community. Another example of how seniors have been able to support their programs is the adoption of the local tax freeze for the elderly that was lead by a group of seniors several years ago. She made reference to an article in Sports Illustrated that she had shared with Genevieve Gregg. She stated there is more to the Council's job than just counting beans (finances).

Genevieve Gregg, 2916 Country Lane Drive, thanked the Council for reconsideration of opening Clark Pool this summer. This is one of the most rewarding projects she has been involved in. Businesses offered to sponsor kids who could not pay. She was at the pool everyday from 11:00 to 5:00 and it was just at capacity each day. The swimming lessons were also very successful. The class was limited to 32 but 113 signed up. The obesity program has also received a good response in relation to Clark Pool and an aquatic program.

Milton Hensley, 301 Mitchell Drive, discussed the success of the 2009 Life Chain. This year's event will occur October 2 and 3, at the same location on South 31st Street. He invited all Councilmembers to participate. They expect over 150 participants this year.

## **IV. CONSENT AGENDA**

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

**(A) August 5, 2010 Special Called and Regular Meeting Contracts, Leases & Bids**

**(B) 2010-6073-R: Consider adopting a resolution authorizing a construction contract with Wolff Construction, L.P. of Salado for**

construction services required to install the City of Temple 2010 Drainage Improvements for an amount not to exceed \$107,398.

(C) 2010-6074-R: Consider adopting a resolution authorizing a construction contract with Horseshoe Construction Inc. of La Porte for the third group of the 2010 Wastewater Line Replacement Projects in the amount not to exceed \$278,560 which includes the replacement of wastewater lines along West Killen and West Welton between North Main and 3rd Street and 37th and 39th Street between Avenue H and Avenue K.

(D) 2010-6075-R: Consider adopting a resolution authorizing the purchase of furniture for the new Central Fire Station from Perry Office Plus of Temple, utilizing Texas State Contracts (TXMAS), in an amount not to exceed \$80,000.

(E) 2010-4366: SECOND READING - A-FY-10-08: Consider adopting an ordinance 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.

(F) 2010-4372: SECOND READING - Consider adopting an ordinance establishing school crosswalks and setting speed limits within school zones to conform to school schedules.

(G) 1. 2010-4373: SECOND READING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing Plan for FY 2010 to allocate \$134,601 of additional funds for general engineering services, to allocate \$39,205 to fund contract amendment #1 for the 2022 Master Plan Phase II, to allocate funds related to the 2009 bond refunding transaction, and for FY 2010-2022 to reduce debt service payments due to the 2009 bond refunding.

2. 2010-6076-R: Consider adopting a resolution authorizing a contract amendment with Kasberg, Patrick & Associates, LP for the 2022 Master Plan Phase II in the amount of \$39,205.

(H) 2010-4374: FIRST READING - SET PUBLIC HEARING - Consider adopting an ordinance establishing the City's participation in the Texas Enterprise Zone Program and nominating Wilsonart International, Inc., as a qualified enterprise project.

(I) 2010-6077-R: Consider adopting a resolution amending the resolution creating the Animal Services Advisory Board.

(J) 2010-6078-R: Consider adopting a resolution approving third quarter financial results for Fiscal Year 2010.

**(K) 2010-6079-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2009-2010.**

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

Motion passed unanimously.

**(J) 2010-6078-R: Consider adopting a resolution approving third quarter financial results for Fiscal Year 2010.**

Traci Barnard, Director of Finance, presented the third quarter financial results to the City Council. She highlighted the major revenue sources in the General Fund, providing detailed historical and statistical information regarding sales tax revenues. Mrs. Barnard also reviewed the General Fund expenditures, projected Fund Balance at year end, Water and Wastewater Fund revenues and expenses, and monthly water consumption data.

Motion by Councilmember Danny Dunn to adopt resolution approving agenda item 4(J), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

**V. REGULAR AGENDA**

**ORDINANCES**

- 5. 2010-4375: FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an ordinance authorizing the "Third Supplemental Ordinance to the Master Ordinance Establishing the City of Temple, Texas Utility System Revenue Financing Program" related to the issuance of \$17,250,000\* City of Temple, Texas Utility System Revenue Bonds, Series 2010 and the establishment of procedures for selling and delivering the Bonds.**

Traci Barnard, Director of Finance, presented this item to the City Council. This issue will finance nine major projects in the current Capital Improvement Program, totalling an amount not to exceed \$17,250,000. Ratings will be published on August 25th and bonds will be sold through a competitive sale on August 30th. The annual debt service is estimated at \$1,441,548, assuming an interest rate of 5%.

Dan Wegmiller, Specialized Public Finance, Inc., addressed the Council with details of the bond sale. The delegation method is being used due to the timing of the sale and next City Council meeting. A competitive sale is recommended. The results will be presented to Council on September 2nd.

Carol Polumbo, McCall, Parkhurst & Horton, L.L.P., stated the ordinance

sets out the procedures for pricing of the bond sale. The City Manager and Director of Finance will be authorized to award the sale to the lowest bidder under the parameters set out in the ordinance. The Council is also agreeing to establish utility rates at a level that are adequate to pay the debt service on this issue.

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

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance on first and final reading, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

6. **2010-4376: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance designating two tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive as City of Temple Tax Abatement Reinvestment Zone Number Sixteen for commercial/industrial tax abatement.**

Trudi Dill, Deputy City Attorney, presented this item to the City Council. She explained the creation of this zone is a prerequisite to entering into a tax abatement agreement for a future economic development prospect. This proposed zone will cover approximately 14 acres. The tax abatement agreement will be presented with the second reading of this ordinance on September 2nd. The proposed tax abatement zone meets the criteria for creation of a zone under State law and the City's criteria and guidelines for tax abatement.

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

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

Motion by Councilmember Russell Schneider to adopt ordinance with second reading and final adoption set for September 2, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

7. **2010-4377: FIRST READING - PUBLIC HEARING - Z-FY-10-31: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2700 square foot building, on a portion of the south one-half of Lot 10 and a portion of the north one-half of Lot 11, Block 14, Eugenia Terrace Addition, located at 1818 South 1st Street.**

Brian Mabry, Interim Planning Director, presented this case to the City

Council. The request concerns a 2700 square feet new vacant building with general retail zoning. An old vacant building located on adjacent property is proposed to be demolished to accommodate parking. The City has provided grant money for enhanced amenities in line with the proposed Temple Medical and Education District (TMED) standards. If approved, this package store is likely to be the only one in the TMED if form based code is adopted for this area.

Mr. Mabry displayed photos of surrounding property uses and distance requirements from the Veterans Administration Hospital. He demonstrated the location to be in compliance with the Future Land Use and Character Map, Thoroughfare Plan, and public infrastructure. The package store standards were reviewed and Mr. Mabry also discussed some of the significant features of the site plan. Information was submitted by the Veterans Administration Hospital relating to statistics for persons treated for substance abuse at their facility. The hospital did not submit an approval or disapproval for the request, although there were five surrounding property owners that disapproved the request. The Planning and Zoning Commission voted 4-3 to recommend approval subject to conditions contained in the proposed ordinance.

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

Herb Cowan, Dunns Medical, 1900 South 1st Street, asked the Council to deny this request due to its proximity to the Veterans Administration Hospital. He felt this would be a dis-service to the veterans. A lot of money has been invested in this area and this proposed package store would decrease property values. This property was intended to be part of a medical plaza and the business here should support that mission.

Dennis Johnson, one of the owners of Kork's, the applicant in this request, addressed the Council. There have been no issues with their other package store which is located on IH-35. Substance abuse is a much larger issue than just alcohol and the statistics presented earlier include people from cities other than Temple.

Mr. Rick Hughes, 3507 Victorian Drive, addressed the Council representing Strasburger Enterprises, the property owner. He discussed the property ownership and the improvements that have been made most recently. He showed some examples in other areas that the property values near package stores do not decrease the value. Crime statistics are also shown to not increase near these establishments. Mr. Hughes stated trash will be less prevalent if the site is occupied. The Strasburgers own 18 additional acres in TMED. Mr. Hughes showed a map of TMED and the proposed form based zoning plan for the area, explaining how their proposed use would fit into that plan. He asked for the Council's support of their proposal under the current Code, not what might be adopted in the future.

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

Mayor Jones stated he, too, was concerned with the proximity to the

Veterans Administration Hospital and what the future of the TMED area will be. He saw no issue with other items mentioned, such as crime, litter, and decrease in property value. TMED and the VA Hospital make this area unique and give him concern, he stated. Once a CUP is approved it remains with the property and this has been a concern expressed by Council on other cases.

Councilmember Dunn acknowledged the willingness of the Strasburger family and Kork's to work with the City but stated he agreed with Mayor Jones' comments.

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance with second reading and final adoption set for September 2, 2010, seconded by Councilmember Danny Dunn.

Mayor Pro Tem Patsy E. Luna voted aye. The other members voted nay. The motion failed.

- 8. 2010-4378: FIRST READING - PUBLIC HEARING - Z-FY-10-33: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on the south one-half of Lot 1, Block 292-1, Temple Original at 1 North 6th Street.**

Brian Mabry, Interim Planning Director, stated the applicant has requested this item be tabled indefinitely while working on parking issues.

Mayor Jones declared the public hearing open with regard to agenda item 8 and asked if anyone wished to address this item.

John Mark Johnson, owner of the duplex next door to the proposed package store, asked what will happen now.

Mr. Mabry explained the process for resubmission of this item to the City Council. He indicated he would notify Mr. Johnson as an interested party when the item comes before Council again.

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

Motion by Councilmember Russell Schneider to table ordinance on first reading, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

- 9. 2010-4379: FIRST READING - PUBLIC HEARING - Z-FY-10-35: Consider adopting an ordinance authorizing a zoning change from Agriculture (A) to Neighborhood Service (NS) on a 0.72 ± acre tract of land situated in the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection of State Highway 36 and Moffat Road.**

Brian Mabry, Interim Planning Director, presented this case to the City Council. The purpose of the rezoning is to establish a small retail center in this location. He showed the surrounding property uses and demonstrated the compliance with the Future Land Use and Character Map, Thoroughfare Plan and public utilities. The Planning and Zoning Commission unanimously approved the requested rezoning.

Mayor Jones declared the public hearing open with regard to agenda item 9 and asked if anyone wished to address this item.

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

Motion by Councilmember Danny Dunn to adopt ordinance with second reading and final adoption set for September 2, 2010, seconded by Councilmember Russell Schneider.

Motion passed unanimously.

- 10. 2010-4380: FIRST READING - PUBLIC HEARING - Z-FY-10-39: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303, South 31st Street. Suite 101.**

Brian Mabry, Interim Planning Director, presented this case to the City Council. This request is for the standard CUP for alcohol sales in a restaurant. He showed the surrounding properties and uses. The request conforms to the Future Land Use and Character Map, Thoroughfare Plan and public utilities are adequate to serve the site. Due to the type of request, it was not recommended that the sidewalk width be increased to meet the requirements in the City's Trails Plan. The Planning and Zoning Commission unanimously recommended approval of the requested Conditional Use Permit.

Mayor Jones declared the public hearing open with regard to agenda item 10 and asked if anyone wished to address this item.

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

Motion by Councilmember Danny Dunn to adopt ordinance, with second reading and final adoption set for September 2, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 11. 2010-4381: FIRST READING - PUBLIC HEARING - Z-FY-10-40: Consider adopting an ordinance amending the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum**



**storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet on Lot 1, Block 1, Northland Synergy Addition at 4875 Wendland Road.**

Brian Mabry, Interim Planning Director, presented this case to the City Council. Construction has not occurred on the site as of yet. He showed the surrounding property uses. Mr. Mabry reviewed some of the significant elements in the amended site plan as compared with the original approved site plan. A number of elements will remain the same as in the original site plan. The Planning and Zoning Commission unanimously recommended approval of this request.

Mayor Jones declared the public hearing open with regard to agenda item 11 and asked if anyone wished to address this item.

Mr. Wayne Klemdenning, Architect, 2400 Great SW Parkway, Fort Worth, addressed the Council. The proposal is to just simply expand the facility from what was originally proposed and he asked for Council support.

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

Motion by Councilmember Danny Dunn to adopt ordinance, with second reading and final adoption set for September 2, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

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

- 12. 2010-4382: FIRST READING - PUBLIC HEARING - Z-FY-10-34: Consider adopting an ordinance authorizing a zoning change from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1), on a 6.76 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, located at 1000 South Knob Street.**

Tammy Lyerly, City Planner, presented this case to the City Council. She showed photos of the surrounding properties. The request conforms with both the Comprehensive Plan and the Citywide Trails Master Plan. The Parks and Leisure Services Department has no plans to purchase property for a connector in this area. The proposal also complies with the Thoroughfare Plan and public utilities are available to serve the property.

Staff had concerns with the property being so close to the railroad track so a 50' railroad track buffer will be established. Forty-eight notices were mailed to surrounding property owners, with four returned in favor and two in opposition. The Planning and Zoning Commission unanimously recommended approval of the request with the conditions noted in the proposed ordinance.

Mayor Jones declared the public hearing open with regard to agenda item 12 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 reading and final adoption set for September 2, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 13. 2010-4383: FIRST READING - PUBLIC HEARING - Z-FY-10-36: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square feet lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 West Adams, Suite B.**

Tammy Lyerly, City Planner, presented this case to the City Council. She noted there is some overlap with the following item since both are to be co-located in the same building. Ms. Lyerly showed the suite where the package store is proposed to be located. The proposed use conforms with the Comprehensive Plan, Thoroughfare Plan and public utilities are adequate to serve the site. She showed a rendering of the property and where the package store would be located, in conjunction with the bingo hall and future restaurant site. The request complies with the package store standards and general conditional use standards. The Planning and Zoning Commission unanimously recommended approval.

Mayor Jones declared the public hearing open with regard to agenda item 13 and asked if anyone wished to address this item.

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

Motion by Councilmember Danny Dunn to adopt ordinance, with second reading and final adoption set for September 2, 2010, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

- 14. FIRST READING - PUBLIC HEARING - Z-FY-10-37: Consider adopting an ordinance authorizing the following:**

**(A) 2010-4384: Repealing Ordinance No. 2009-4288, dated April 2, 2009 approving a Conditional use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant to be known as Kazam's Family Entertainment Center, on Tract 1, Albertson's Addition Replat, located at 2001 West Adams Avenue; and**

**(B) 2010-4385: A Conditional Use Permit to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at**

### **2001 West Adams, Suite C.**

Tammy Lyerly, City Planner, presented this case to the City Council. She explained the two separate items that are part of this request and related to the previous agenda item. There are multiple ways to exit each suite but the suites do not adjoin. The Planning and Zoning Commission recommended approval of this request.

Scott Motsinger, 1101 North 13th, confirmed that each unit will have an exit door out to the back of the structure.

Mayor Jones declared the public hearing open with regard to agenda items 14(A) and (B) and asked if anyone wished to address these items.

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

Motion by Councilmember Russell Schneider to adopt ordinance, with second reading and final adoption set for September 2, 2010, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

## **RESOLUTIONS**

### **15. 2010-6080-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

Mayor Jones read the nominations for appointments to these boards.

#### **(A) Airport Advisory Board - five members to fill expiring terms through September 1, 2013**

Reappoint Vernon Starnes and Rayford Brown, appoint Perry Cloud as TEDC representative, and appoint Craig Caddell, and David Jones

#### **(B) Animal Services Advisory Board - two members to fill expiring terms through September 1, 2013 and appoint Chair for the period of September 1, 2010 through August 31, 2011**

Reappoint Dr. Lance Crews, appoint Carole Owen and appoint Barbara Brown as chair for the upcoming year

#### **(C) Civil Service Commission - one member to fill expiring term through September 1, 2013**

Appoint Justice Bigbie

#### **(D) Community Services Advisory Board - three members to fill expiring terms through September 1, 2013**

Appoint Patsy Cofer, Ashleigh Pettijohn, and Iris Witt

**(E) Library Board - three members to fill expiring terms through September 1, 2013**

Reappoint Margarita Stefano-Rios and Sammie Marshall and appoint Temekia Brown

**(F) Planning & Zoning Commission - three members to fill expiring terms through September 1, 2013**

Reappoint Allan Talley and Derek Martin and appoint Will Sears

**(G) Reinvestment Zone No. 1 Board of Directors - four members to fill expiring terms through September 1, 2012**

Reappoint Scott Allen, Gail Peek and Mike Thompson and appoint Hugh Shine

**(H) Temple Economic Development Corporation - four members to fill expiring terms through September 1, 2013**

Reappoint Pat Patterson, appoint Gregg Strasburger as Bioscience District representative and appoint Drayton McLane, III and Jim Kent

**(I) Temple Public Safety Advisory Board - six members to fill expiring terms through September 1, 2013**

Reappoint John Bush, Corey Richardson and Margaret Goodwin and appoint Dee Blackwell, Sylvia Chesser and Twila Coley

**(J) Transit Advisory Committee - four members to fill expiring terms through September 1, 2012**

Reappoint Vickie Gideon and appoint Justice Bigbie, Nancie Etzel and Deanna DeGraaff

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

Motion passed unanimously.

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William A. Jones, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-1)  
Consent Agenda  
Page 1 of 2

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

Judy Duer, Library Director  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual purchase agreement with Baker & Taylor of Charlotte, North Carolina, for the purchase of library books, DVD's, books on CD, and compact disks for FY 2011 in the estimated annual amount of \$105,000.

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

**ITEM SUMMARY:** On September 18, 2008, the City Council authorized an annual purchase agreement with Baker & Taylor for the purchase of the following library materials:

1. General Trade Books, 45% discount from publisher's price list
2. Paperbacks (Mass Market and Trade), 40.8% discount from publisher's price list
3. Library Bindings, 24.1% discount from publisher's price list
4. Books on CD, 45.6% discount from publisher's price list
5. Playaways, 21.8% discount from publisher's price list
6. DVD's, 31.6% discount from publisher's price list
7. Compact Disks, 27.1% discount from publisher's price list

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendors must agree to hold their prices firm for an additional year, which Baker & Taylor has agreed to do.

Ingram Library Services was the City's contract holder for pre-bound paperbacks, but Ingram was unwilling to renew their contract for FY 2010. Due to the low volume of pre-bound paperbacks typically purchased, the Library has determined that it is more efficient to get quotes on an as-needed basis for these paperback items.

Staff is pleased with the services provide by Baker & Taylor and recommends Council authorize an extension to the contract. This will be the second renewal available under this contract, with two years remaining.

**FISCAL IMPACT:** Included in the proposed FY 2011 budget is \$154,742 for Library materials in the following accounts: 110-4000-555-22-25, 110-4000-555-22-26 & 110-4000-555-25-22

Estimated expenditure: \$105,000

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE PURCHASE AGREEMENT WITH BAKER & TAYLOR OF CHARLOTTE, NC, FOR THE PURCHASE OF LIBRARY BOOKS, DVDs, BOOKS ON CD AND COMPACT DISCS FOR FISCAL YEAR 2011, IN THE ESTIMATED ANNUAL AMOUNT OF \$105,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 18, 2008, the City Council authorized an annual purchase agreement with Baker & Taylor of Charlotte, NC, for the purchase of library books, DVD's, books on CD and compact disks;

**Whereas**, the original bid allowed for 4 one-year extensions to the purchase agreement and the Staff recommends extending the agreement with Baker & Taylor;

**Whereas**, the estimated annual expenditure for these materials is \$105,000, and funds are available in Account Nos. 110-4000-555-2225, 110-4000-555-2226, and 110-4000-555-2522; and

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

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

**Part 1:** The City Council approves a one-year extension to the purchase agreement with Baker and Taylor of Charlotte, NC, for the purchase of library books, DVDs, books on CD and compact discs (estimated expenditure \$105,000).

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

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-2)  
Consent Agenda  
Page 1 of 1

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

Nicole Torralva, PE, Interim Director of Public Works  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the purchase agreement with Brazos Valley Lubricants of College Station for the purchase of oil and lubricants for FY 2011 in the estimated annual amount of \$59,473.12.

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

**ITEM SUMMARY:** On September 18, 2008, the City Council authorized an annual purchase agreement with Brazos Valley Lubricants for the purchase of oil and lubricants. On September 3, 2009, Council authorized a one-year renewal to the contract. The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do.

Staff is satisfied with the products provided by Brazos Valley Lubricants, and based on price research conducted, staff believes that we have a good value with the current contracted prices. Accordingly, staff recommends Council authorize an extension to the contract. This will be the second one-year renewal authorized under this contract, with two years remaining.

**FISCAL IMPACT:** Proposed FY 09-10 Budgeted Amount: \$0 (inventory purchase)  
Estimated Expenditure: \$59,473.12

These items will be purchased as needed and charged to departmental expenditure accounts for vehicles and equipment that are serviced by Fleet Services. The estimated annual expenditure of \$59,473.12 was compiled based on the Brazos Valley Lubricants' line item bid prices along with Fleet Maintenance's projection of the estimated annual quantity that will be used.

**ATTACHMENTS:**  
[Resolution](#)



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE PURCHASE AGREEMENT FOR FISCAL YEAR 2011 FOR OILS AND LUBRICANTS WITH BRAZOS VALLEY LUBRICANTS OF BRYAN, TEXAS, FOR AN ESTIMATED EXPENDITURE OF \$59,473.12; PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 18, 2008, the City Council authorized an annual purchase agreement with Brazos Valley Lubricants of Bryan, Texas, for oils and lubricants for FY2009;

**Whereas**, the original bid allowed for 4 one-year extensions, and the Staff recommends extending the agreement for one additional year;

**Whereas**, these items will be purchased as needed and charged to departmental expenditure accounts for vehicles and equipment that are serviced by the Fleet Services – estimated annual expenditure is \$59,473.12; 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 one-year renewal to the purchase agreement with Brazos Valley Lubricants, after approval as to form by the City Attorney, for the purchase of oil and lubricants for FY 2011 in the estimated annual amount of \$59,473.12.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-3)  
Consent Agenda  
Page 1 of 1

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

Lonzo Wallace, Chief of Fire  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the purchase agreement with Miller Uniforms & Emblems of Austin for the purchase of fire department uniforms during FY 2011 in an estimated annual amount of \$30,000.

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

**ITEM SUMMARY:** On September 18, 2008, the City Council authorized an annual purchase agreement with Miller Uniforms & Emblems for the purchase of fire department uniforms. On September 3, 2009, the City Council authorized a one-year extension to the contract.

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do again this year.

Staff is satisfied with the products provided by Miller Uniforms & Emblems and recommends Council authorize an extension to the contract. This will be the second one-year renewal authorized under this contract, with two years remaining.

**FISCAL IMPACT:** Funding in the amount of \$43,568 is currently included in the proposed FY 2011 budget for fire uniforms and coats in account 110-2200-522-2113.

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE YEAR RENEWAL TO THE PURCHASE AGREEMENT WITH MILLER UNIFORMS & EMBLEMS OF AUSTIN, TEXAS, FOR THE PURCHASE OF FIRE DEPARTMENT UNIFORMS DURING FISCAL YEAR 2011, IN AN ESTIMATED ANNUAL AMOUNT OF \$30,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 18, 2008, the City Council authorized an annual purchase agreement with Miller Uniforms & Emblems for the purchase of fire department uniforms;

**Whereas**, the Staff is satisfied with the products provided by Miller Uniforms & Emblems and recommends an extension to the agreement as authorized under the original bid;

**Whereas**, the estimated annual expenditure for the uniforms is \$30,000, and funds are budgeted in Account No. 110-2200-522-2113; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute an extension to the purchase agreement with Miller Uniforms and Emblems of Austin, Texas, after approval as to form by the City Attorney, for the purchase of Fire Department uniforms for Fiscal Year 2011, in the estimated annual amount of \$30,000.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-4)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual purchase agreement with Safari Sun LLC of Altamonte Springs, Florida, for the design and printing of t-shirts for FY 2011 in the estimated annual amount of \$44,000.

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

**ITEM SUMMARY:** On October 2, 2008, the City Council authorized an annual purchase agreement with Safari Sun LLC for the design and printing of t-shirts. On September 3, 2009, the City Council authorized a one-year extension to the contract.

The current contract will be expiring on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do again this year.

Staff is pleased with the products provided by Safari Sun LLC and recommends Council authorize an extension to their contract. This will be the second one-year renewal authorized under this contract, with two remaining.

**FISCAL IMPACT:** Budgeted amount: Sufficient amounts in various accounts\*  
Estimated expenditure: \$44,000

\*These shirts will be ordered on an as-needed basis and departments will ensure sufficient funds are available for their purchases. The majority of the shirts are used by the recreation department in their athletic events, and others are used by various City departments as uniform shirts.

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE ANNUAL PURCHASE AGREEMENT FOR THE DESIGN AND PRINTING OF T-SHIRTS WITH SAFARI SUN LLC, OF ALTAMONTE SPRINGS, FLORIDA, FOR FISCAL YEAR 2011, IN THE ESTIMATED ANNUAL AMOUNT OF \$44,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on October 2, 2008, the City Council authorized an annual purchase agreement with Safari sun LLC, of Altamonte Springs, Florida, for the design and printing of t-shirts;

**Whereas**, the original bid allowed for 4 one-year extensions and since Staff is pleased with the products provided by Safari Sun LLC, it is recommended that the purchase agreement be extended for an additional year;

**Whereas**, there are sufficient funds in the various departmental accounts for the purchases – the t-shirts are ordered on an as-needed basis by each department; and

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

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

**Part 1:** The City Council authorizes a one-year renewal to the annual purchase agreement with Safari Sun, LLC, of Altamonte Springs, Florida, for an estimated annual expenditure of \$44,000, for Fiscal Year 2011, for the purchase, design, and printing of t-shirts for recreational and municipal activities.

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

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

PASSED AND APPROVED this the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-5)  
Consent Agenda  
Page 1 of 2

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing one-year renewals to the purchase agreements with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for the purchase of rock, sand, crusher fines, crushed rock, construction rock and rip rap rock in the estimated annual amount of \$25,000.

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

**ITEM SUMMARY:** On July 16, 2009, the City Council authorized annual purchase agreements with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for the purchase of rock, sand, crusher fines, crushed rock, construction rock and rip rap rock.

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendors must agree to hold their prices firm for an additional year, which they are willing to do.

The contracted prices are as follows:

- (1) Concrete Sand Delivered for \$9.00 per ton to Superior Crushed Stone of Jarrell;
- (2) Concrete Sand Picked Up for \$8.00 per ton to Superior Crushed Stone of Jarrell;
- (3) Pea Gravel Delivered for \$9.00 per ton to Superior Crushed Stone of Jarrell;
- (4) Pea Gravel Picked Up for \$8.00 per ton to Superior Crushed Stone of Jarrell;
- (5) Rock 1-1/4" to 1-1/2" Delivered for \$10.95 per ton to Miller Springs Material of Belton;
- (6) Rock 1-1/4" to 1-1/2" Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (7) Washed Rock 1" to 1-1/4" Delivered for \$10.95 per ton to Miller Springs Material of Belton;
- (8) Washed Rock 1" to 1-1/4" Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (9) Crusher Fines Delivered for \$7.50 per ton to Miller Springs Material of Belton;
- (10) Crusher Fines Picked Up for \$2.25 per ton to Superior Crushed Stone of Jarrell;
- (11) 5/16" to 3/8" Type F Crushed Rock Delivered for \$11.95 per ton to Miller Springs Material of Belton;
- (12) 5/16" to 3/8" Type F Crushed Rock Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;

- (13) 3" x 5" Construction Rock Delivered for \$11.95 per ton to Miller Springs Material of Belton;
- (14) 3" x 5" Construction Rock Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (15) 24" Rip Rap Rock Delivered for \$15.50 per ton to Miller Springs Material of Belton; and
- (16) 24" Rip Rap Rock Picked Up for \$12.50 per ton to Miller Springs Material of Belton

Staff is satisfied with the products provided by Superior Crushed Stone and Miller Springs Material and recommends Council authorize extensions to their contracts. This will be the first one-year renewal authorized under these contracts, with three years remaining.

**FISCAL IMPACT:** Budgeted amount: Departments have budgeted for these materials in several of their accounts. These products will be ordered on an as needed basis.  
Estimated annual expenditure: \$25,000

**ATTACHMENTS:**  
[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ONE-YEAR RENEWALS TO THE PURCHASE AGREEMENTS WITH SUPERIOR CRUSHED STONE OF JARRELL, TEXAS, AND MILLER SPRINGS MATERIALS OF BELTON, TEXAS, FOR THE PURCHASE OF ROCK, SAND, CRUSHER FINES, CRUSHED ROCK, CONSTRUCTION ROCK AND RIP RAP ROCK, IN THE ESTIMATED ANNUAL AMOUNT OF \$25,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on July 16, 2009, the City Council authorized annual purchase agreements with Superior Crushed Stone of Jarrell, Texas, and Miller Springs Materials of Belton, Texas, for the purchase of rock, sand, crusher fines, crushed rock, construction rock and rip rap rock;

**Whereas**, the original bid allowed for 4 additional one-year extensions and the Staff recommends extending the agreements for another year;

**Whereas**, funds are budgeted in several different departments' account and products will be ordered as needed; 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 one-year renewals to the purchase agreements with Superior Crushed Stone of Jarrell, Texas, and Miller Springs Materials of Belton, Texas, for the purchase of rock, sand, crusher fines, crushed rock, construction rock and rip rap rock, in the estimated annual amount of \$25,000, in accordance with the following prices:

- (a) Concrete Sand Delivered for \$9.00 per ton to Superior Crushed Stone of Jarrell;
- (b) Concrete Sand Picked Up for \$8.00 per ton to Superior Crushed Stone of Jarrell;
- (c) Pea Gravel Delivered for \$9.00 per ton to Superior Crushed Stone of Jarrell;
- (d) Pea Gravel Picked Up for \$8.00 per ton to Superior Crushed Stone of Jarrell;
- (e) Rock 1-1/4" to 1-1/2" Delivered for \$10.95 per ton to Miller Springs Material of Belton;



- (f) Rock 1-1/4" to 1-1/2" Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (g) Washed Rock 1" to 1-1/4" Delivered for \$10.95 per ton to Miller Springs Material of Belton;
- (h) Washed Rock 1" to 1-1/4" Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (i) Crusher Fines Delivered for \$7.50 per ton to Miller Springs Material of Belton;
- (j) Crusher Fines Picked Up for \$2.25 per ton to Superior Crushed Stone of Jarrell;
- (k) 5/16" to 3/8" Type F Crushed Rock Delivered for \$11.95 per ton to Miller Springs Material of Belton;
- (l) 5/16" to 3/8" Type F Crushed Rock Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell
- (m) 3" x 5" Construction Rock Delivered for \$11.95 per ton to Miller Springs Material of Belton;
- (n) 3" x 5" Construction Rock Picked Up for \$7.50 per ton to Superior Crushed Stone of Jarrell;
- (o) 24" Rip Rap Rock Delivered for \$15.50 per ton to Miller Springs Material of Belton; and
- (p) 24" Rip Rap Rock Picked Up for \$12.50 per ton to Miller Springs Material of Belton.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-6)  
Consent Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Interim Director of Public Works  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to seven annual purchase agreements for the purchase of water treatment chemicals in the estimated annual amount of \$954,590.

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

**ITEM SUMMARY:** Staff is recommending renewals of the following seven (7) water treatment plant chemical purchase agreements. The usage of these chemicals is dependant on the chemical make-up of the raw water which varies throughout the year. Each of these purchase agreements are being recommended for renewal based on staff's satisfaction with the products currently being received and staff's research indicating that the pricing offered is still a good value.

1. On September 18, 2008, Council awarded an annual purchase agreement to **Altivia Corporation of Houston, Texas**, for the purchase of **Liquid Caustic Soda** at **\$.3218/wet pound**. On October 1, 2009, Council authorized a one-year renewal to the contract. The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. This will be the second one-year renewal authorized under this contract with two remaining. The estimated annual expenditure for liquid caustic soda in FY 2011 is \$96,700.
2. On June 18, 2009, Council awarded an annual purchase agreement to **Altivia Corporation of Houston, Texas**, for the purchase of **Citric Acid** at **\$7.4053/gallon**. The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for citric acid in FY 2011 is \$147,000.
3. On October 1, 2009, Council awarded an annual purchase agreement to **Polydyne, Inc of Riceboro, Georgia**, for the purchase of PolyDimethyldiallylammonium Chloride at \$.40/pound and **Clarifloc A-3310** at **\$1.30/pound**. The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for these chemicals in FY 2011 is \$3,660.

4. On October 1, 2009, Council awarded an annual purchase agreement to **Altivia Corporation of Houston, Texas**, for the purchase of **Liquid Ammonium Sulfate** at **\$.0745/pound**. The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for liquid ammonium sulfate in FY 2011 is \$91,844.
5. On October 1, 2009, Council awarded an annual purchase agreement to **Pencco, Inc of San Felipe, Texas**, for the purchase of **Liquid Fluoride** at **\$.3840/ wet pound**. The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for liquid fluoride in FY 2011 is \$34,035.
6. On October 1, 2009, Council awarded an annual purchase agreement to **DPC Industries, Inc of Cleburne, Texas**, for the purchase of **Liquid Chlorine** at **\$644/ton**. The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for liquid chlorine in FY 2011 is \$85,240.
7. On October 1, 2009, Council awarded an annual purchase agreement to **Altivia Corporaton of Houston, Texas**, for the purchase of the following  
**Alum & Copper without Polymer -- \$.0765/wet pound;**  
**Alum & Polymer with 2% Copper -- \$.0695/wet pound;**  
**Alum & Polymer without Copper -- \$.0585/wet pound; and**  
**Aluminum Sulfate -- \$.0490/wet pound**  
The original bid allowed for four (4) additional one-year extensions. This will be the first one-year renewal authorized under this contract with three remaining. The estimated annual expenditure for the alum products in FY 2011 is \$502,553.

**FISCAL IMPACT:** Budgeted amount: \$961,032.00 in account 520-5100-535-2118  
Estimated expenditure on chemicals identified above: \$954,590

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO SEVEN ANNUAL PURCHASE AGREEMENTS FOR THE PURCHASE OF WATER TREATMENT CHEMICALS, IN THE ESTIMATED ANNUAL AMOUNT OF \$954,590; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Staff recommends one year renewals to seven annual purchase agreements, more fully described in Part 1, for the purchase of water treatment chemicals for FY2011;

**Whereas**, funds are available for these purchases in Account No. 520-5100-535-2118 and will be ordered on as “as needed” basis; 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 one-year renewals to the annual purchase agreements for the purchase of water treatment chemicals, in an estimated annual amount of \$954,590, with the following companies:

- (a) Altivia Corporation of Houston, Texas, Liquid Caustic Soda at \$.3218/wet pound, estimated annual expenditure is \$96,700;
- (b) Altivia Corporation of Houston Texas, Citric Acid at \$7.4053 per gallon, estimated annual expenditure is \$147,000;
- (c) Polydyne, Inc., of Riceboro, Georgia, PolyDimethylidallylammonium Chloride, \$.40 per pound, and Clarifloc A-3310, \$1.30 per pound, estimated annual purchase of \$3,660;
- (d) Altivia Corporation of Houston, Texas, Liquid Ammonium Sulfate, \$.0745 per pound, estimated annual purchase of \$91,844;
- (e) Pencco, Inc., of San Felipe, Texas, Liquid Fluoride, \$.3840 per wet pound, estimated annual purchase of \$34,035;
- (f) DPC Industries, Inc., of Cleburne, Texas, Liquid Chlorine, \$644 per ton, estimated annual purchase of \$85,240; and

- (g) Altivia Corporation of Houston, Texas, Alum & Copper without polymer, \$0.0765 per wet pound; Alum & Polymer with 2% copper, \$0.0695 per wet pound; Alum & Polymer without copper, \$0.0585 per wet pound; and Aluminum Sufate, \$0.0490 per wet pound, estimated annual expenditure of \$502,553.

**Part 3:** The City Council authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for these purchases.

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

PASSED AND APPROVED this the 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-7)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual contract with T. Morales Company of Florence for electrical services for all City facilities on an as-needed basis for FY 2011 in the estimated annual amount of \$69,000.

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

**ITEM SUMMARY:** On September 6, 2007, the City Council authorized an annual contract for electrical services to T. Morales Company. On September 4, 2008 and September 3, 2009, the City Council authorized one-year extensions to the contract.

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do again this year.

Staff is pleased with the services provide by T. Morales Company and recommends Council authorize an extension to the contract. This will be the third renewal available under this contract, with one year remaining.

**FISCAL IMPACT:** Budgeted amount: **General Electrical Repair** - \$15,000 budgeted in several departments' accounts and services will be ordered as needed.  
**High Voltage/Telemetry Services** - \$52,900 in 520-5100-535-2338 & \$8,000 in 520-5100-535-2319  
Estimated expenditure: \$69,000

**ATTACHMENTS:**  
[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE ANNUAL CONTRACT WITH T. MORALES COMPANY OF FLORENCE, TEXAS, FOR ELECTRICAL SERVICES FOR ALL CITY FACILITIES ON AN AS-NEEDED BASIS FOR FY2011, IN THE ESTIMATED AMOUNT OF \$69,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 7, 2007, the City Council authorized an annual contract with T. Morales Company of Florence, Texas, for electrical services for all City facilities on an as-needed basis for FY2007-08 – the original bid allowed for 4 additional one-year extensions;

**Whereas**, the Staff recommends a one-year renewal with T. Morales Company for FY2011 for these services, for an estimated annual expenditure of \$69,000;

**Whereas**, funds are budgeted in several different departments' account and services will be ordered as needed; and

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

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

**Part 1:** The City Council authorizes a one-year renewal to the annual contract for electrical services for all City facilities on an as-needed basis for FY2011 with T. Morales Company of Florence, Texas, for an estimated annual expenditure of \$69,000.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents which may be necessary for these services, subject to 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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-8)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year extension to the annual contract with Temple Heat & Air of Temple for HVAC repair services for FY 2011 in the estimated annual amount of \$150,000.

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

**ITEM SUMMARY:** On September 3, 2009, the City Council authorized an annual contract for HVAC repair services to Temple Heat & Air.

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do.

Staff is pleased with the services provided by Temple Heat and Air and recommends that Council authorize an extension to the contract. This will be the first renewal available under this contract, with three years remaining.

**FISCAL IMPACT:** Each department has budgeted for HVAC repair service. This service will be ordered on an as-needed basis. Staff estimates expenditures of approximately \$150,000 in FY 2011 for HVAC repair services.

### **ATTACHMENTS:**

[Resolution](#)



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR EXTENSION TO THE CONTRACT FOR HVAC REPAIR SERVICES FOR FY 2011 WITH TEMPLE HEAT & AIR OF TEMPLE, TEXAS, IN THE ESTIMATED ANNUAL AMOUNT OF \$150,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 3, 2009, the City Council awarded a bid to Temple Heat & Air of Temple, Texas, for HVAC repair services for 2010;

**Whereas**, the original bid allowed for four additional one-year extensions – the Staff is pleased with the services provided by Temple Heat & Air during the past year and recommends extending the contract for an additional year;

**Whereas**, each department has budgeted for HVAC repair service which will be ordered on an as-needed basis (estimated annual expenditure is \$150,000); and

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

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

**Part 1:** The City Council authorizes a one-year extension to the contract with Temple Heat & Air of Temple, Texas, for HVAC repair services for Fiscal Year 2011, for an estimated annual expenditure of \$150,000.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents which may be necessary for this service, subject to 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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-9)  
Consent Agenda  
Page 1 of 1

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

Ken Cicora, Director of Parks and Leisure Services  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual contract with Liberty Press of Springville, Utah, for FY 2011 for the printing and mailing of Play-by-Play brochures in the estimated annual amount of \$33,513.

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

**ITEM SUMMARY:** On September 17, 2009, the City Council authorized an annual contract for the printing and mailing of the play-by-play brochures for the Parks & Leisure Department. The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do.

The Play-by-Play brochure is created quarterly to promote activities happening throughout the City. Depending on season, the pages of the brochure may range in size from 32-36 pages. Staff estimates that 15,000 copies of the brochure will be distributed via mail to residents quarterly which is an estimated annual cost of \$22,713.

The City asked that the printer mail the brochures from their location to prevent the extra mailing costs. This cost is an estimated 21 cents per brochure depending on the weight of the brochure and the number of brochures mailed. This mailing cost will be an added cost paid to the printer. The total estimated cost for postage on the brochures is \$10,800.

Staff is pleased with the products and services provide by Liberty Press and recommends Council authorize a one-year extension to the contract. This will be the first one-year renewal authorized under this contract, with three remaining.

**FISCAL IMPACT:** Budgeted amount: \$32,000 in 110-4100-551-2511 and  
\$12,400 in 110-4100-551-2128  
Estimated expenditure: \$33,513

**ATTACHMENTS:**  
[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE ANNUAL CONTRACT FOR THE PRINTING AND MAILING OF PLAY-BY-PLAY BROCHURES WITH LIBERTY PRESS OF SPRINGVILLE, UTAH, FOR FY 2011, IN THE ESTIMATED AMOUNT OF \$33,513; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 17, 2009, the City Council approved an annual contract with Liberty Press of Springville, Utah, for the printing and mailing of Play-by-Play brochures for the Parks and Leisure Services Department;

**Whereas**, the original bid allowed for 4 additional one-year extensions, and the Staff recommends extending the contract for one year;

**Whereas**, funds are available for the service in Account Nos. 110-3200-551-2511 and 110-3200-551-2128 – estimated annual expenditure is \$33,513; and

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

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

**Part 1:** The City Council authorizes a one-year renewal to the annual contract with Liberty Press of Springville, Utah, for the printing and mailing of the Play-by-Play brochures for the Parks and Leisure Services Department for Fiscal Year 2011, in the estimated amount of \$33,513.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents which may be necessary for this service, 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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

ATTEST:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-10)  
Consent Agenda  
Page 1 of 1

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

Judy Duer, Library Director  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual contract with Texas Star Security, Inc. of Belton for the provision of security guard services at the Temple Public Library for FY 2011 in the estimated annual amount of \$28,717.

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

**ITEM SUMMARY:** On February 15, 2007, the City Council authorized an annual contract with Texas Star USA, Inc. (dba Texas Star Security) of Belton for the provision of security guard services at the Temple Public Library. The contract provides security guards in the library during peak hours to promote the safety and security of patrons, building tenants and staff both in the library and in the parking garage.

The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do again this year.

Staff is pleased with the services provided by Texas Star Security, and recommends Council authorize an extension to their contract. This will be the last one-year renewal authorized under this contract.

**FISCAL IMPACT:** Budgeted amount: \$28,717 in 110-4000-555-2623  
Estimated expenditure: \$28,717

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE ANNUAL CONTRACT WITH TEXAS STAR USA OF BELTON, TEXAS, FOR THE PROVISION OF SECURITY GUARD SERVICES AT THE TEMPLE PUBLIC LIBRARY FOR FISCAL YEAR 2011, IN AN ESTIMATED AMOUNT OF \$28,717; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on February 15, 2007, the City Council authorized an annual contract with Texas Star USA, Inc. (dba Texas Star Security) of Belton, Texas, for the provision of security guard services at the Temple Public Library – the original bid allowed for 4 one-year renewals and the contract was renewed on September 4, 2008, and on September 3, 2009, for an additional year;

**Whereas**, the Staff recommends extending the contract with Texas Star USA for an additional one-year period, in an estimated amount of \$28,717;

**Whereas**, funds are available for this service in Account No. 110-4000-555-2623; 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 one-year extension to the annual contract between the City of Temple, Texas, and Texas Star USA of Belton, Texas, after approval as to form by the City Attorney, for the provision of security guard services at the Temple Public Library for FY2011, in the estimated amount of \$28,717.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-11)  
Consent Agenda  
Page 1 of 1

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

Nicole Torralva, PE, Interim Director of Public Works  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the annual contract with S&M Vacuum & Waste, Ltd of Killeen for the hauling and disposal of sludge for FY 2011 in the estimated annual amount of \$135,000.

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

**ITEM SUMMARY:** On September 7, 2006, the City Council authorized annual contracts with S&M Vacuum & Waste, LTD for the hauling and disposal of sludge at the following prices:

- \$ .0275 per gallon for hauling and disposing of sludge from the sewer manhole located at South Pea Ridge Road and Poison Oak;
- \$ .0500 per gallon for hauling and disposing of sludge from the sewer manhole located at 50<sup>th</sup> Street and Lavendusky; and
- \$ .0299 per gallon for hauling and disposing of sludge from other locations

On September 6, 2007, September 4, 2008, and September 3, 2009, the Council authorized a one-year extension to the contract. The current contract will expire on September 30, 2010. The original bid allowed for four (4) additional one-year extensions. In order to renew the contract, the vendor must agree to hold their prices firm for an additional year, which they are willing to do again this year.

Staff is pleased with the services provide by S&M Vacuum & Waste, Ltd and recommends Council authorize a one-year extension to the contract. This will be the last one-year renewal authorized under this contract.

**FISCAL IMPACT:** Budgeted amount: \$160,000 in account 520-5100-535-2338  
Estimated expenditure: \$135,000

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE ANNUAL CONTRACT WITH S&M VACUUM AND WASTE, LTD, OF KILLEEN, TEXAS, FOR THE HAULING AND DISPOSAL OF SLUDGE FOR THE WATER TREATMENT PLANT FOR FISCAL YEAR 2011, IN AN ESTIMATED ANNUAL AMOUNT OF \$135,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 7, 2006, the City Council approved an annual contract with S&M Vacuum and Waste, Ltd., of Killeen, Texas, for the hauling and disposal of sludge for the Water Treatment Plant – the bid allowed for 4 one-year renewals and the Staff recommends renewing the contract for an additional one year period;

**Whereas**, funds are budgeted for this service in Account No. 520-5100-535-2338 and the estimated annual expenditure is \$135,000; and

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

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

**Part 1:** The City Council authorizes a one-year renewal to the annual contract with S&M Vacuum & Waste, Ltd., of Killeen, Texas, for the hauling and disposal of sludge, in the estimated amount of \$135,000.

**Part 2:** The City Council authorizes the City Manager, or his designee, to execute any documents which may be necessary for these services, subject to 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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(B-12)  
Consent Agenda  
Page 1 of 1

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

Nicole Torralva, PE, Interim Director of Public Works  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a one-year renewal to the professional services agreement with Kleinfelder Central, Inc. of Waco, to provide construction materials testing for all public infrastructural projects, both City-initiated and subdivision-related, for FY 2011 in the estimated annual amount of \$104,500.

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

**ITEM SUMMARY:** On September 6, 2007, the City Council authorized a professional services agreement with Kleinfelder Central, Inc. to provide construction materials testing for all infrastructural projects, both City-initiated and subdivision-related. On September 18, 2008 and September 3, 2009, the City Council authorized one-year renewals to this agreement. This testing includes, but is not limited to, density of subgrade, base and hot mixed asphaltic concrete (MHAC) for roadway construction, gradation of subgrade and base material as well as HMA, California Bearing Ratios (CBR), concrete strength and density and bedding of trench excavation for utility installations. This testing is essential to assure quality construction and compliance with City specifications and standards. The current contract will expire on September 30, 2010. The original proposal allowed for four (4) additional one-year extensions.

Staff is satisfied with the professional services provide by Kleinfelder Central, Inc. and recommends Council authorize an extension to the contract. This will be the third one-year renewal authorized under this contract, with one year remaining.

**FISCAL IMPACT:** Budgeted amount: \$40,000 in 110-3900-533-2513 for subdivision testing.  
Estimated expenditure: \$104,500 (based on estimated actual expenditures in FY 08-09)

\*Project specific testing is budgeted within each project's budget

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A ONE-YEAR RENEWAL TO THE PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER CENTRAL, INC., OF WACO, TEXAS, TO PROVIDE CONSTRUCTION MATERIALS TESTING FOR ALL INFRASTRUCTURAL PROJECTS, BOTH CITY-INITIATED AND SUBDIVISION-RELATED FOR FISCAL YEAR 2011, IN THE ESTIMATED AMOUNT OF \$104,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on September 7, 2007, the City authorized a professional services agreement with Kleinfelder Central, Inc., of Waco, Texas, for construction materials testing for all infrastructural projects, both City-initiated and subdivision-related – the original proposal allowed for 4 one-year extensions;

**Whereas**, the Staff recommends a one-year renewal with Kleinfelder Central, Inc., for FY2011 for these services, for an estimated annual expenditure of \$104,500;

**Whereas**, funds are budgeted in Account No. 110-3900-533-2513 for subdivision testing, and specific project testing is budgeted within each project's budget; 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 one-year renewal to the professional services agreement with Kleinfelder Central, Inc., of Waco, Texas, after approval as to form by the City Attorney, for construction materials testing for all infrastructural projects, both City-initiated and subdivision-related, for Fiscal Year 2011 (estimated expenditure of \$104,500).

**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 **2<sup>nd</sup>** day of **September**, 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

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09/02/10  
Item #9(C)  
Consent Agenda  
Page 1 of 1

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

Alan DeLoera, Director of Information Technology  
Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$163,000.

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

**ITEM SUMMARY:** The City currently has 222 cellular phones and 131 wireless data cards serviced through Verizon Wireless. The Purchasing and Information Technology departments have reviewed the current Verizon contract and have done some comparisons with other plans and vendors and are confident that the current contracts offer the lowest rates available with the best service coverage.

The State of Texas contract offers lower monthly rates for staff who do not have smart phones or who do not travel outside the state. The State contract also has better rates for the wireless data cards. Currently we have 156 cellular phones and 131 wireless data cards on this contract.

For staff who have smart phones or who travel outside the State of Texas, we found the Federal (GSA-Schedule 70) contract to be more advantageous for the City. Currently we have 66 cellular phones on this contract.

Staff will be doing an economic analysis again this year to determine which plan is most advantageous for each user.

Staff has been pleased with the services provided by Verizon Wireless and recommends Council award extensions to the contracts.

**FISCAL IMPACT:** Each department with cellular phones and wireless data cards has budgeted for these services totaling approximately \$163,000.

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING CONTINUED CELLULAR SERVICES, DATA SERVICES, AND RELATED EQUIPMENT ACQUISITIONS THROUGH VERIZON WIRELESS UTILIZING AN EXISTING FEDERAL AND/OR STATE CONTRACT IN THE ESTIMATED ANNUAL AMOUNT OF \$163,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Staff recommends that the City continue cellular services, data services, and related equipment acquisitions through Verizon Wireless;

**Whereas**, each department with cellular phones and wireless data cards has budgeted for these services – Staff estimates it will spend no more than the approximately \$163,000 budgeted for cellular services over the next 12 months; 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 continued cellular services, data services, and related equipment acquisitions through Verizon Wireless utilizing an existing Federal and/or State contract in the estimated annual amount of \$163,000.

**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 **2<sup>nd</sup>** day of **September, 2010**.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(D)  
Consent Agenda  
Page 1 of 2

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a term contract with Anderton Group, Inc., dba MailMax Direct of Waco for the printing, folding, stuffing and mailing of utility bills and folding, stuffing, and mailing of accounts receivable statements utilizing the Texas Multiple Award Schedule Contract TXMAS-10-36040 for an estimated annual amount of \$168,800.

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

**ITEM SUMMARY:** Since February 2006 the City has been using Mailmax of Waco for printing, folding, stuffing and mailing of utility bills and folding, stuffing, and mailing of accounts receivable statements. The current contract will expire on September 30, 2010. Staff is pleased with the services provided by MailMax Direct.

TXMAS contracts are offered through the State as cooperatives for Cities, Counties, and School Districts. All contracts awarded through TXMAS have completed the competitive sealed bid process. Anderton Group, Inc., dba MailMax Direct has been awarded a contract for Office, Imaging and Document Solutions. The pricing offered by Anderton Group, Inc., dba MailMax Direct is as follows:

Presorted Postage Rate:	\$.382
Laser Printing:	\$.071 per image
Metering:	\$.015 each
Presort Processing	\$.0101 each
Total	\$.4781 per item

The City's contracted rate for FY 2010 was \$.474 per item with the increase being accounted for in postage.

The effective date of this contract would be October 1, 2010 through September 30, 2012, automatically renewing for incremental one-year periods on the anniversary date of the agreement unless notified within 30 days of the anniversary date.

**FISCAL IMPACT:** The printing and mailing cost is 47.81¢ per item. It is estimated that we will have

22,250 utility statements, 5,800 reminder notices and 400 accounts receivable statements per month for an annual amount of 341,400 items. There is a charge per set up for each print file above 9 per month. We are estimating approximately 40 print files per month for a monthly charge of \$465.

The estimated annual amount to print, fold, stuff and mail the utility statements and reminder notices and to fold, stuff and mail the accounts receivable statements is \$168,800. Funding in the amount of \$170,000 is currently included in the proposed FY 2011 budget in account 520-5800-535-2623 for the utility statements and reminders and \$3,500 is currently included in the proposed FY 2011 budget in account 110-1200-515-2128 for the accounts receivable statements.

The only change to pricing under this contract would be in the case of a postage increase.

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A TERM CONTRACT WITH ANDERTON GROUP, INC., DBA MAILMAX DIRECT OF WACO, TEXAS, FOR THE PRINTING, FOLDING, STUFFING AND MAILING OF UTILITY BILLS AND THE FOLDING, STUFFING AND MAILING OF ACCOUNTS RECEIVABLE STATEMENTS UTILIZING THE TEXAS MULTIPLE AWARD SCHEDULE CONTRACT TXMAS-10-36040, FOR AN ESTIMATED ANNUAL AMOUNT OF \$168,800; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** the City's contract with Mailmax Direct of Waco, Texas, for printing, folding, stuffing and mailing of utility bills and folding, stuffing, and mailing of accounts receivable statements will expire on September 30, 2010;

**Whereas,** the Staff has been satisfied with the services provided by Mailmax Direct since February, 2006, and recommend utilizing the Texas Multiple Award Schedule Contract TXMAS-10-36040 beginning October 1, 2010, to contract with Anderton Group, Inc., dba Mailmax Direct, for these services;

**Whereas,** the estimated annual amount for the services is \$168,800, and funds are available in Account Nos. 520-5800-535-2623 110-1200-515-2128; 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 term contract with Anderton Group, Inc., dba Mailmax Direct of Waco, Texas, after approval as to form by the City Attorney, for the printing, folding, stuffing, and mailing of utility bills and the folding, stuffing and mailing of accounts receivable statements for FY 2011, in the estimated amount of \$168,800.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(E)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a five-year contract with McCreary, Veselka, Bragg & Allen (MVBA) of Round Rock for delinquent account collection services.

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

**ITEM SUMMARY:** On July 27, 2010, the City received ten (10) proposals for delinquent account collection services. A summary of the firms submitting proposals is attached.

The collection services are used primarily by the Municipal Court and Utility Business Office. However, the Parks Department, Finance Department, and Convention Center also utilize this contract.

A committee comprised of staff from the Summit, Utility Business Office, Municipal Court, Convention Center, and Finance reviewed and evaluated the 10 proposals. Evaluation criteria as defined in the RFP included: Responsiveness of proposal, 20%; Professional capabilities and experience of firm, 25%; Professional qualifications and experience of staff who will be performing work, 20%; Ability to provide easily understood reports, 20%; and Proposed price, 15%. MVBA currently holds the City's contract for delinquent account collection services and staff has been very pleased with the professional capabilities of their firm and staff. In addition, MVBA offers the lowest commission rate at 12% versus the next lowest of 15-17%. Accordingly, it is the committee's unanimous recommendation to award the 5-year collection services contract to MVBA.

**FISCAL IMPACT:** Delinquent payments received by Municipal Court or by the collection agency are posted as an amount due to the collection agency based on the contracted rate of 30%. In FY 2009, \$104,423 was paid to the collection agency for Municipal Court collections. To date in FY 2010, \$84,331 has been paid to the collection agency for Municipal Court collections.

For all other delinquent payments collected either by the City or collection agency, \$12,000 has been budgeted in the proposed FY 2011 Operating Budget for these services.

### **ATTACHMENTS:**

[Summary of Proposals Received](#)  
[Resolution](#)

## Delinquent Accounts Collection Services Summary of Proposals Received on July 27, 2010

	Municipal Court Collections*		Other Collections	
	Base Commission < 120 old	Base Commission > 120 days old	Base Commission < 120 old	Base Commission > 120 days old
Penn Credit Corporation Harrisburg, PA	30% add-on	30% add-on	17%	25%
Professional Finance Company, Inc. Greeley, CO	22%	30%	22%	30%
PerdueBrandonFielderCollins&Mott LLP Austin, TX	30% statutory fee; 15% prior to 6/18/03	30% statutory fee; 15% prior to 6/18/03	20%	20%
Linebarger Goggan Blair & Sampson, LLP Waco, TX	30%	30%	25%	25%
NCO Financial Systems, Inc. Rancho, CA	30%	30%	20%	30%
American Municipal Services Carrollton, TX	30%	30%	17%	17%
RSI Enterprises Glendale, AZ	25%	28%	25%	28%
Management Koncepts, Inc. San Antonio, TX	30%	30%	15%	25%
Gila Corporation Austin, TX	30%	30%	17%	17%
McCreary, Veselka, Bragg & Allen P.C. Round Rock, TX	30%	30%	12%	12%

\* Regulated policy - 30% can be collected from defendant

**Recommended for Council Award**

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FIVE-YEAR CONTRACT WITH MCCREARY, VESELKA, BRAGG & ALLEN OF ROUND ROCK, TEXAS, FOR DELINQUENT ACCOUNT COLLECTION SERVICES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on July 27, 2010, the City received 10 proposals for providing the City with delinquent accounts collection services;

**Whereas**, a Staff review committee recommends entering into an agreement with McCreary, Veselka, Bragg & Allen of Round Rock, Texas, for this service;

**Whereas**, delinquent payments received by Municipal Court or by the collection agency are posted as an amount due to the collection agency based on the contracted rate of 30%; 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 5-year contract with McCreary, Veselka, Bragg & Allen of Round Rock, Texas, after approval as to form by the City Attorney, for delinquent account collection services.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(F)  
Consent Agenda  
Page 1 of 2

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

Nicole Torralva P.E., Interim Director of Public Works  
Thomas Brown, Superintendent of Distribution & Collection

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Patin Construction LLC, of Taylor, for the fourth and final group of the 2010 Wastewater Line Replacement Projects which includes the replacement of wastewater lines along Avenue H and 40<sup>th</sup> Street and rehabilitation of the existing 40<sup>th</sup> Street Lift Station wet well and wet well plumbing in the amount not to exceed \$396,890.

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

**ITEM SUMMARY:** For many years the Utility Services Division has experienced numerous wastewater system issues as a result of deteriorating infrastructure. Wastewater lines in these neighborhoods with clay tile sanitary sewer mains are nearing the end of their useful lives. These pipes must now be replaced to improve maintenance problems and ensure continued service to these areas. The 40<sup>th</sup> Street Lift Station, servicing this area, is also in need of an upgrade to include improvements to the wet well and wet well plumbing. Installation of a transfer switch is also necessary and will be used during periods of power loss, enabling operation of the lift station to continue through the use of a portable generator. Lift station work was a bid alternate.

In an effort to address system needs, this project is part of the six projects identified in the recently updated capital improvement project list. Clark & Fuller, PLLC of Temple was retained for engineering services including design, surveying and construction administration required for the six projects. Clark & Fuller's opinion for probable cost for Avenue H and 40<sup>th</sup> Street and 40<sup>th</sup> Street Lift Station was a combined total of \$480,000.

On August 17, 2010, six bids were received for the construction work. Per the attached bid tabulation Patin Construction LLC of Taylor submitted the low bid in the combined amount of \$396,890. Total cost for the Avenue H and 40<sup>th</sup> Street portion of the project was \$363,800. Total cost for the 40<sup>th</sup> Street Lift Station improvement was \$33,000. References were checked by Clark & Fuller PLLC and the Public Works staff has found Patin Construction LLC of Taylor to be qualified to complete these projects. Construction time allotted for the projects is 210 days.

**FISCAL IMPACT:** The estimated project cost for the wastewater line replacement along Avenue H and 40<sup>th</sup> Street identified in the revised FY 2010 CIP to be funded with Water & Sewer Unreserved Retained Earnings was \$500,000. In January 2010, \$62,998 was appropriated to fund engineering services leaving a balance of \$437,002 for construction.

The 40<sup>th</sup> Street Lift Station project was not included in the revised FY 2010 CIP, but was identified by Public Works and included with the FY 2010 Wastewater Line Replacement Projects to minimize cost. This project will be funded through the savings in the Avenue H and 40<sup>th</sup> Street project.

A budget adjustment is presented for Council's approval appropriating Water & Sewer Unreserved Retained Earnings in the amount of \$397,479 to account 520-5900-535-6361, project 100593 to fund this construction contract and other miscellaneous costs.

**ATTACHMENTS:**

[Bid Tabulation](#)

[Engineer's Letter of Recommendation](#)

[Project Map](#)

[Budget Adjustment](#)

[Resolution](#)

# **Bid Tabulation Sheet** **2010 Wastewater Line Replacement Avenue H & 40th Street & 40th Street Lift Station Improvements**

Bid Date: August 17, 2010

Base Bid			Patin Construction, LLC		Bear Contractors, Inc.		K&S Backhoe Services, Inc.		Smetana & Assoc. Const Co., Inc.		Bell Contractors, Inc.		TTG Utilities, LP		
No.	Item Description	Est. Quan.	UOM	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
Base Bid															
1	Site R.O.W. Preparation & Clearing	40	STA	\$ 400.00	\$ 16,000.00	\$ 1,050.00	\$ 42,000.00	\$ 368.08	\$ 14,723.20	\$ 289.00	\$ 11,560.00	\$ 250.00	\$ 10,000.00	\$ 125.00	\$ 5,000.00
2	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 31,200.00	\$ 31,200.00	\$ 24,000.00	\$ 24,000.00	\$ 21,098.88	\$ 21,098.88	\$ 7,691.00	\$ 7,691.00	\$ 21,900.00	\$ 21,900.00	\$ 13,925.00	\$ 13,925.00
3	Sawcut, Remove & Replace Ex. HMAc Pavement	1600	SY	\$ 12.00	\$ 19,200.00	\$ 50.00	\$ 80,000.00	\$ 15.90	\$ 25,440.00	\$ 50.00	\$ 80,000.00	\$ 43.00	\$ 68,800.00	\$ 28.00	\$ 44,800.00
4	Sawcut, Remove & Replace Ex. Concrete Flatwork Section	3	SY	\$ 200.00	\$ 600.00	\$ 4,615.00	\$ 13,845.00	\$ 76.00	\$ 228.00	\$ 38.00	\$ 114.00	\$ 90.00	\$ 270.00	\$ 47.95	\$ 143.85
5	Sawcut, Remove & Replace Ex. Concrete Curb and Gutter	10	LF	\$ 25.00	\$ 250.00	\$ 94.00	\$ 940.00	\$ 17.10	\$ 171.00	\$ 44.00	\$ 440.00	\$ 25.00	\$ 250.00	\$ 24.00	\$ 240.00
6	Sawcut, Remove & Replace Ex. A.D.A. Curb Ramp	1	EA	\$ 1,200.00	\$ 1,200.00	\$ 4,000.00	\$ 4,000.00	\$ 740.99	\$ 740.99	\$ 1,931.00	\$ 1,931.00	\$ 600.00	\$ 600.00	\$ 900.00	\$ 900.00
7	Provide & Implement a Traffic Control Plan	100%	LS	\$ 5,400.00	\$ 5,400.00	\$ 7,000.00	\$ 7,000.00	\$ 3,590.97	\$ 3,590.97	\$ 9,666.00	\$ 9,666.00	\$ 5,300.00	\$ 5,300.00	\$ 10,030.00	\$ 10,030.00
8	Provide & Implement a Trench Safety Plan	100%	LS	\$ 4,300.00	\$ 4,300.00	\$ 5,200.00	\$ 5,200.00	\$ 8,492.93	\$ 8,492.93	\$ 9,883.00	\$ 9,883.00	\$ 10,400.00	\$ 10,400.00	\$ 4,800.00	\$ 4,800.00
9	Demolish & Remove Existing Sanitary Sewer Manhole	12	EA	\$ 500.00	\$ 6,000.00	\$ 1,200.00	\$ 14,400.00	\$ 360.04	\$ 4,320.48	\$ 2,500.00	\$ 30,000.00	\$ 730.00	\$ 8,760.00	\$ 610.00	\$ 7,320.00
10	Provide 4' Dia. Precast Eccentric Conc Mh w/ heavy duty lid	15	EA	\$ 2,500.00	\$ 37,500.00	\$ 2,900.00	\$ 43,500.00	\$ 2,202.37	\$ 33,035.55	\$ 3,065.00	\$ 45,975.00	\$ 3,000.00	\$ 45,000.00	\$ 2,740.00	\$ 41,100.00
11	Provide 4' Dia. Epoxy Coated Prcst Eccentric Conc Mh w/ hevvy duty lid	1	EA	\$ 3,500.00	\$ 3,500.00	\$ 5,800.00	\$ 5,800.00	\$ 3,539.90	\$ 3,539.90	\$ 3,713.00	\$ 3,713.00	\$ 4,500.00	\$ 4,500.00	\$ 3,630.00	\$ 3,630.00
12	Provide New Manhole Vent	1	EA	\$ 2,000.00	\$ 2,000.00	\$ 2,800.00	\$ 2,800.00	\$ 1,650.48	\$ 1,650.48	\$ 1,842.00	\$ 1,842.00	\$ 1,700.00	\$ 1,700.00	\$ 1,910.00	\$ 1,910.00
13	Provide Connection to Existing Sanitary Sewer Main	9	EA	\$ 1,000.00	\$ 9,000.00	\$ 1,600.00	\$ 14,400.00	\$ 667.08	\$ 6,003.72	\$ 929.00	\$ 8,361.00	\$ 700.00	\$ 6,300.00	\$ 935.00	\$ 8,415.00
14	Provide 8" PVC SDR 26 Sanitary Sewer Main by open cut	2185	LF	\$ 38.00	\$ 83,030.00	\$ 53.00	\$ 115,805.00	\$ 40.93	\$ 89,432.05	\$ 59.15	\$ 129,242.75	\$ 56.00	\$ 122,360.00	\$ 61.00	\$ 133,285.00
15	Provide 8" PVC SDR 26 "pressure rated" Sanitary Sewer Main	680	LF	\$ 38.00	\$ 25,840.00	\$ 57.00	\$ 38,760.00	\$ 44.86	\$ 30,504.80	\$ 59.27	\$ 40,303.60	\$ 70.00	\$ 47,600.00	\$ 85.00	\$ 57,800.00
16	Provide 8" HDPE DR 17 Sanitary Sewer Main by bursting	635	LF	\$ 50.00	\$ 31,750.00	\$ 45.00	\$ 28,575.00	\$ 46.20	\$ 29,337.00	\$ 73.56	\$ 46,710.60	\$ 37.00	\$ 23,495.00	\$ 61.35	\$ 38,957.25
17	Provide 4" PVC Class 200 Sanitary Sewer Force Main by open cut	440	LF	\$ 20.00	\$ 8,800.00	\$ 29.00	\$ 12,760.00	\$ 29.04	\$ 12,777.60	\$ 21.11	\$ 9,288.40	\$ 22.50	\$ 9,900.00	\$ 12.00	\$ 5,280.00
18	Provide New 4" PVC Clean Out	2	EA	\$ 400.00	\$ 800.00	\$ 700.00	\$ 1,400.00	\$ 119.16	\$ 238.32	\$ 1,025.00	\$ 2,050.00	\$ 370.00	\$ 740.00	\$ 245.00	\$ 490.00
19	Provide 4" Sanitary Sewer Service & Service Connection	72	EA	\$ 800.00	\$ 57,600.00	\$ 1,360.00	\$ 97,920.00	\$ 784.60	\$ 56,491.20	\$ 1,117.00	\$ 80,424.00	\$ 750.00	\$ 54,000.00	\$ 980.00	\$ 70,560.00
20	Provide Lift Sta Outlet for alt/ portable Power installed on Control Panel	1	EA	\$ 7,200.00	\$ 7,200.00	\$ 10,300.00	\$ 10,300.00	\$ 3,419.97	\$ 3,419.97	\$ 3,869.00	\$ 3,869.00	\$ 1,200.00	\$ 1,200.00	\$ 4,100.00	\$ 4,100.00
21	Provide 4" MJ 45 Degree Coated Ductile Iron Bends	4	EA	\$ 330.00	\$ 1,320.00	\$ 600.00	\$ 2,400.00	\$ 324.84	\$ 1,299.36	\$ 373.00	\$ 1,492.00	\$ 410.00	\$ 1,640.00	\$ 380.00	\$ 1,520.00
22	Provide Connection to Existing Lift Station	1	EA	\$ 1,500.00	\$ 1,500.00	\$ 3,700.00	\$ 3,700.00	\$ 920.57	\$ 920.57	\$ 2,525.00	\$ 2,525.00	\$ 890.00	\$ 890.00	\$ 6,340.00	\$ 6,340.00
23	Provide 6" Concrete Force Main Encasement	40	LF	\$ 50.00	\$ 2,000.00	\$ 96.00	\$ 3,840.00	\$ 58.19	\$ 2,327.60	\$ 27.00	\$ 1,080.00	\$ 28.00	\$ 1,120.00	\$ 40.70	\$ 1,628.00
24	Provide Misc. Sanitary Sewer Service Pipe	500	LF	\$ 8.00	\$ 4,000.00	\$ 53.00	\$ 26,500.00	\$ 29.94	\$ 14,970.00	\$ 20.39	\$ 10,195.00	\$ 20.00	\$ 10,000.00	\$ 15.00	\$ 7,500.00
25	All Testing per TCEQ & City of Temple Requirements	100%	LS	\$ 3,900.00	\$ 3,900.00	\$ 28,000.00	\$ 28,000.00	\$ 6,047.65	\$ 6,047.65	\$ 4,599.00	\$ 4,599.00	\$ 4,100.00	\$ 4,100.00	\$ 7,325.00	\$ 7,325.00
Total Base Bid															
Avenue H & 40th Street & 40th Street Lift Station Improvements					\$ 363,890.00		\$ 627,845.00		\$ 370,802.22		\$ 542,955.35		\$ 460,825.00		\$ 476,999.10
Bid Alternate #1															
26	Rehabilitation of Ex Lift Station per TCEQ & City of Temple Requirement	100%	LS	\$ 33,000.00	\$ 33,000.00	\$ 36,000.00	\$ 36,000.00	\$ 54,519.54	\$ 54,519.54	\$ 4,700.00	\$ 51,642.98	\$ 50,000.00	\$ 50,000.00	\$ 25,615.00	\$ 25,615.00
Total Base Bid Plus Bid Alternate #1															
Avenue H & 40th Street & 40th Street Lift Station Improvements					\$ 396,890.00		\$ 663,845.00		\$ 425,321.76		\$ 594,598.33		\$ 510,825.00		\$ 502,614.10



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

August 18, 2010

City of Temple  
Thomas Brown  
3210 E. Ave. H, Bldg. A  
Temple, Texas 76501

Re: City of Temple, 2010 Wastewater Line Replacement – Avenue H & 40<sup>th</sup> Street & 40<sup>th</sup> Street  
Lift Station Improvements

Dear Mr. Brown,

We have reviewed the bids for the above referenced project. Patin, LLC submitted a Base Bid of \$363,890.00. In addition to the Base Bid, a Bid Alternate for the amount of \$33,000.00 was submitted. This alternate bid specified for the contractor to provide rehabilitation of the existing 40<sup>th</sup> Street Lift Station Wet Well and Wet Well Plumbing. The Total Bid including Base Bid and Bid Alternate equaled \$396,890.00. *Please see the enclosed Bid Tabulation Sheet and Bid Schedule Breakout for detailed information.*

The engineer's final opinion of probable cost to construct the base bid and bid alternate portion of the project was \$480,000.00.

Our firm has no previous experience working with Patin, LLC. Therefore, we contacted numerous entities that have worked with Patin, LLC and interviewed each as to Patin LLC's ability to perform timely and quality construction required for this project. Based upon these interviews, we feel Patin, LLC is a proven company with many successfully completed projects of this scope and magnitude and we look forward to working with them on this project. We are recommending that you award the contract to Patin, LLC.

The list of references can be provided upon request.

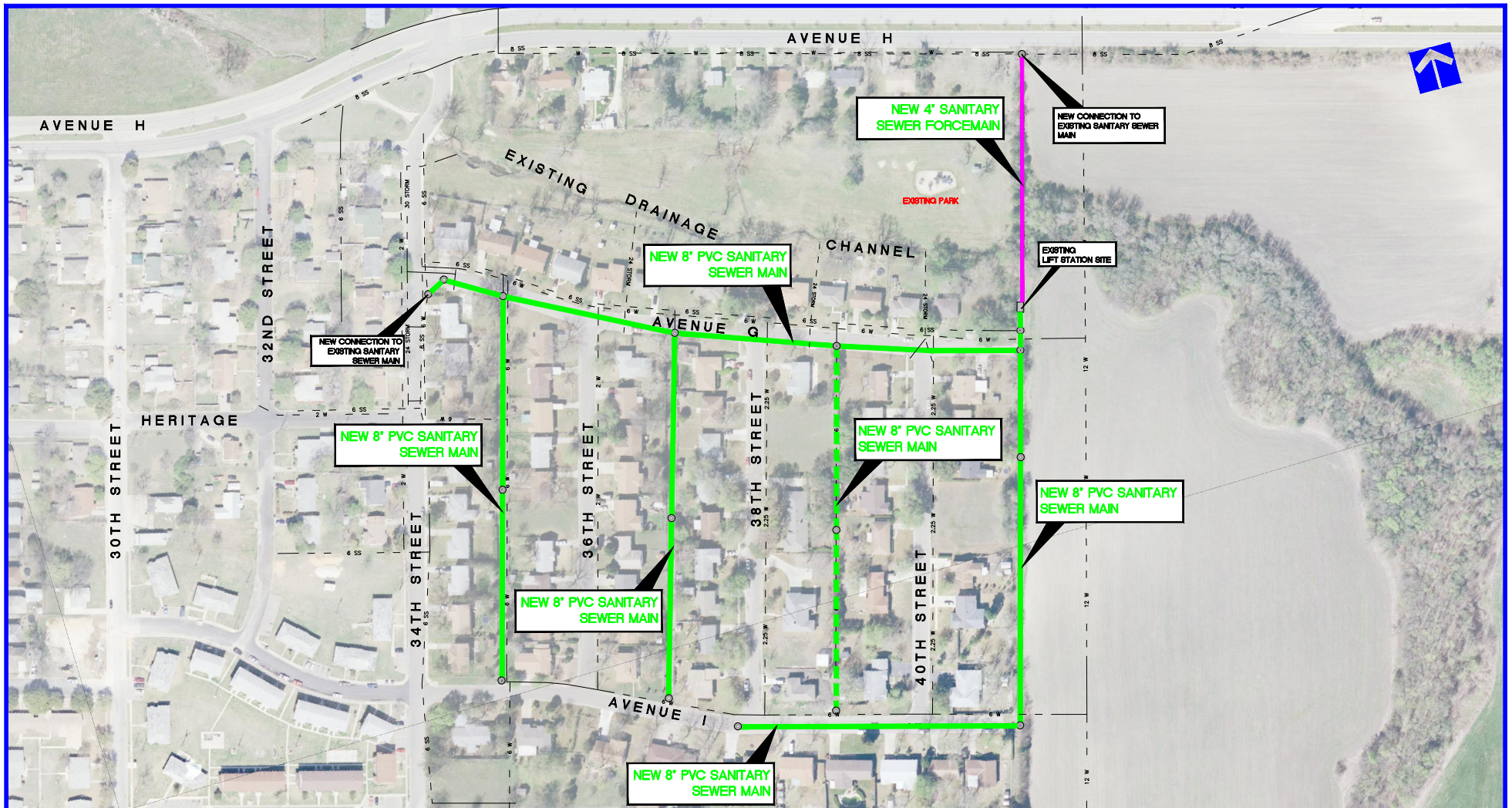
Please advise us as to which contractor you select.

Sincerely,

A handwritten signature in dark ink, appearing to read "Monty Clark", is written over a light blue horizontal line.

Monty Clark, P.E.

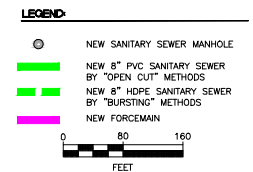




**Clark & Fuller, PLLC**  
 Civil Engineers • Designers • Planners  
 Tel: (254) 899-0899 Fax: (254) 899-0901  
 2010 SW HK Dodgen Loop, Suite 105, Temple, Texas 76504  
 Firm No: F-10384



**2010 WASTEWATER LINE REPLACEMENT  
 AVENUE H AND 40th STREET, AND 40TH  
 STREET LIFT STATION IMPROVEMENTS**



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	
520-5900-535-63-61	100593	Sewer Line Rpl- Ave H & 40th Street	\$ 397,479			
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings			397,479	
		<b>Do Not Post</b>				
<b>TOTAL.....</b>			<b>\$ 397,479</b>		<b>\$ 397,479</b>	

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

To fund the construction contract with Patin Construction, LLC for the replacement of wastewater line from Ave H & 40th Street which was included in the revised FY 2010 CIP and the rehabilitation of the existing 40th Street Lift Station wet well and wet well plumbing. The rehabilitation of the 40th Street Lift Station was not included in the revised FY 2010 CIP but was identified by Public Works and included in the FY 2010 Wastewater Line projects to minimize cost. Additional funds are appropriated for testing fees.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

September 2, 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 CONSTRUCTION CONTRACT WITH PATIN CONSTRUCTION, LLC, OF TAYLOR, TEXAS, FOR THE FOURTH AND FINAL GROUP OF THE 2010 WASTEWATER LINE REPLACEMENT PROJECTS, WHICH INCLUDES THE REPLACEMENT OF WASTEWATER LINES ALONG AVENUE H AND 40<sup>TH</sup> STREET AND REHABILITATION OF THE EXISTING 40<sup>TH</sup> STREET LIFT STATION WET WELL AND WET WELL PLUMBING, IN AN AMOUNT NOT TO EXCEED \$396,890.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on August 17, 2010, the City received 6 bids for the fourth and final group of the 2010 Wastewater Line Replacement Projects, which includes the replacement of wastewater lines along Avenue H and 40<sup>th</sup> Street and rehabilitation of the existing 40<sup>th</sup> Street Lift Station wet well and wet well plumbing;

**Whereas**, Staff recommends accepting the bid (\$396,890.00) from Patin Construction, LLC, of Taylor, 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 between the City of Temple and Patin Construction LLC, of Taylor, Texas, after approval as to form by the City Attorney, for the fourth and final group of the 2010 Wastewater Line Replacement Projects, which includes the replacement of wastewater lines along Avenue H and 40<sup>th</sup> Street and rehabilitation of the existing 40<sup>th</sup> Street Lift Station wet well and wet well plumbing, for a cost not to exceed \$396,890.00.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, Mayor

ATTEST:

---

Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(G)  
Consent Agenda  
Page 1 of 2

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

David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a contract with The Perryman Group to perform a comprehensive study of the current and future economic impact of Temple Medical and Education District ('TMED') for an amount not to exceed \$72,700 plus direct, out-of-pocket expenses.

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

**ITEM SUMMARY:** The City of Temple has partnered with Scott & White Healthcare and the Temple Health and Bioscience District, along with the Veterans Administration, Temple College, Texas A&M Health Science Center, Temple Independent School District, and Texas A&M Blackland Research & Extension Center to commission a comprehensive study of the current and future economic impact of TMED. This economic impact study is proposed to identify and quantify the economic impact of the medical and education infrastructure and assets in our community. The comprehensive assessment will include:

- 1) compiling all necessary data and conducting all underlying research for the analysis;
- 2) measuring the economic impact of current TMED facilities on local and state business activity. Results will be provided for the direct, indirect, and induced impacts of key indicators of overall performance including Expenditures, Gross Product, Personal Income, Retail Sales, and Employment, as well as detailed findings by major industrial sector and estimates of local and State fiscal revenues;
- 3) quantifying the direct outlays likely to occur from mixed-use construction and development associated with TMED including but not necessarily limited to retail and restaurant venues, commercial office/space, residential units, arts district, hotels, and public infrastructure improvements;
- 4) evaluating the overall effects (direct, indirect, and induced) of potential development associated with TMED on business activity and State and local fiscal revenues. Both the temporary stimulus during the construction phase and the aggregate benefits at project maturity will be provided;

- 5) defining reasonable scenarios regarding the potential increased economic development associated with TMED; and
- 6) preparing a report setting forth the results of this analysis

The Perryman Group ('TPG') is recommended to conduct this analysis based on their extensive experience in all phases of economic development. Per the Local Government Code Section 252.022, professional services are exempt from the competitive bidding rules.

**FISCAL IMPACT:** The total cost of the study is not to exceed \$72,700 plus direct, out-of-pocket expenses which are currently estimated to be \$5,000. We are currently working on a cost sharing arrangement with our community partners and anticipate the City's portion not to exceed \$25,000.

A budget adjustment is presented for Council's approval appropriating the City's share of \$25,000 from General Fund Designated for Capital Projects-Unallocated Fund Balance to account 351-1100-513-2616. The budget adjustment also appropriates to the same account the remaining \$52,700 which will be contributed by the other participating entities.

**ATTACHMENTS:**

[Budget Adjustment](#)  
[Project Concept Proposal](#)  
[Resolution](#)



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	
351-1100-513-2616		Professional	\$ 77,700			
351-0000-461-08-65		Miscellaneous Reimbursements	52,700			
351-0000-490-25-82		Transfer In	25,000			
110-9100-591-81-51		Transfer Out	25,000			
110-0000-352-13-45		Des for Capital Projects - Unallocated			25,000	
		<b>DO NOT POST</b>				
<b>TOTAL.....</b>			<b>\$ 180,400</b>		<b>\$ 25,000</b>	

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

To appropriate funding for The Perryman Group to perform a comprehensive study of the current and future economic impact of the Temple Medical and Education District (TMED) for an amount not to exceed \$72,700 plus direct, out-of-pocket expenses currently estimated to be \$5,000. The City's contribution is \$25,000 and is funded from General Fund's Designated for Capital Projects-Unallocated. The other participating entities will contribute \$52,700 for a total amount available to funds the contract of \$72,700 plus \$5,000 for expenses.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

9/2/2010

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

# Temple Tomorrow!!!

July 2010

An Assessment of the Current and Potential Economic  
Impact of the Temple Medical & Education District (TMED)

*Project Concept*



## THE PERRYMAN GROUP

510 N. Valley Mills Dr., Suite 300

Waco, TX 76710

ph. 254.751.9595, fax 254.751.7855

[info@perrymangroup.com](mailto:info@perrymangroup.com)

[www.perrymangroup.com](http://www.perrymangroup.com)





# **Temple Tomorrow!!!**

## **An Assessment of the Current and Potential Economic Impact of the Temple Medical & Education District (TMED)**

### **I. Introduction**

Temple, Texas is home to a diverse and growing population. The area, originally an intersection for rail transport across the country, is well located on Interstate 35 and US Highway 190/Texas State Highway 36 offering access to the largest cities in the state and major national transportation arteries. In addition, Temple is just 25 miles east of Fort Hood, the largest active duty military installation in the nation.

In 2009, the Milken Institute ranked the Killeen-Temple-Fort Hood Metropolitan Statistical Area as the second strongest performer among the 200 largest cities in the US. The greater Temple economy is helped by the diversity of industry, with particular strength in healthcare and biosciences, manufacturing, and transportation/distribution. While all of these sectors remain vitally important, the medical industry is becoming increasingly dominant and offers an excellent opportunity to capitalize on emerging global trends in technology convergence. To further this prospect, the City of Temple has partnered with Scott & White Healthcare, the Veterans Administration, the Temple Health and Bioscience District, Temple College, Texas A&M Health Science Center, Temple Independent School District, and Texas A&M Blackland Research & Extension Center to form the Temple Medical Education District (TMED).

In addition to promoting the services and activities offered on the above mentioned campuses, TMED is aimed at long-term economic vitality and the redevelopment of both residential and commercial neighborhoods surrounding the campuses. TMED would protect existing medical, educational, and research-related activities while also creating potential for new public and private sector investment in the area. The Perryman Group



(TPG) is pleased to present this project concept for a comprehensive assessment of the current and potential future impact of TMED on state and local business activity.

TPG is uniquely qualified to conduct this analysis. Dr. M. Ray Perryman, CEO and President of the firm, developed the US Multi-Regional Impact Assessment System in the early 1980s and has consistently maintained, expanded, and updated it since that time. The model has been used in hundreds of diverse applications and has an excellent reputation for reliability. In addition, TPG performed the studies underlying most of the major economic development programs within Texas, as well as evaluations of numerous initiatives associated with incentives and economic development. These studies have included comparative analyses across a spectrum of economic and demographic characteristics which companies frequently consider in their location decisions.

The Perryman Group's extensive experience in all phases of economic development includes preparation of the "Texas, Our Texas" report, the statewide economic development plan that forms the basis for much of the legislation strengthening incentive programs within the state. Additionally, TPG has been involved in virtually every significant economic development policy initiative and major site selection within the state in recent years. The firm has assisted numerous communities of all sizes with their development planning efforts. The firm has conducted extensive assessments of numerous ongoing real estate developments including Renner Road/Highway 75 (Richardson), Frisco City (Frisco), Padre Staples (Corpus Christi), The Summit at Rivery Park (Georgetown), and Villa Muse (Bastrop).

TPG is also extensively experienced in the Killeen-Temple-Fort Hood area. Dr. Perryman developed the Texas Econometric Model and its local submodel in the early 1980s and has consistently provided forecasts of the area since that time. In addition, the firm has completed many specialized projects in the area. Some examples include Bell County Healthcare, Scott & White Healthcare, Temple Health & Bioscience District impacts, the City of Killeen-Fort Hood impacts of base realignment, and the Killeen-Fort Hood Airport development analysis.



In short, TPG brings decades of knowledge and expertise to this endeavor, as well as a set of models and systems which are ideally suited to this assignment and reflect the specific industrial characteristics of the Temple area.

A short biographical summary of Dr. Perryman and a Firm Profile (attached to this project concept) highlight key aspects of The Perryman Group's capabilities.

## II. Scope of Work

- A. TPG will compile all necessary data and conduct all underlying research for the analysis (it is assumed that local officials will provide available information regarding the specific characteristics of the mixed-use development and the current direct operations of the various entities).
- B. Using the information obtained above, TPG will measure the economic impact of current TMED facilities on local and state business activity. The analysis will make use of the Temple area and Texas submodels of TPG's US Multi-Regional Impact Assessment System. Results will be provided for the direct, indirect, and induced impacts of key indicators of overall performance including Expenditures, Gross Product, Personal Income, Retail Sales, and Employment, as well as detailed findings by major industrial sector and estimates of local and State fiscal revenues. Assuming adequate information is provided, summary level impacts will be provided for each of the entities located in TMED.
- C. Using plans, cost estimates, and other documents available from local officials, TPG will quantify the direct outlays likely to occur from mixed-use construction and development associated with TMED including but not necessarily limited to retail and restaurant venues, commercial office/space, residential units, arts district, hotels, and



public infrastructure improvements. This element of the analysis will make use of standard construction cost models as well as any data available from local officials. TPG will also use the Texas Multi-Regional Real Estate Absorption System and related sources to estimate the employment and sales levels associated with the mixed-use development, as well as research on the current performance of the area.

- D. Once these direct measures are determined, they will be simulated within the relevant geographic submodels of the US Multi-Regional Impact Assessment System to evaluate their overall effects (direct, indirect, and induced) on business activity and State and local fiscal revenues. Both the temporary stimulus during the construction phase and the aggregate benefits at project maturity will be provided. The findings will include Total Expenditures, Gross Area Product, Personal Income, Employment, and Retail Sales, as well as detailed results by industry. Using a model that is tied to the unique State and local fiscal structure of Texas, the overall annual contribution to public revenues will also be generated.
- E. Additionally, TPG will define reasonable scenarios regarding the potential increased economic development associated with TMED and evaluate them in the manner described above. These scenarios will be based on actual performance in similar contexts and evaluated for reasonableness.
- F. TPG will prepare a report setting forth the results of this analysis including a section highlighting key study findings as well as graphics and tables as appropriate. The analysis will also place the evolution of the health and biomedical components of the economy over time relative to manufacturing and transportation/distribution. TPG, represented by Dr. M. Ray Perryman, will make up to two (2) presentations as requested and make other reasonable efforts to disseminate the report to potential developers and other key stakeholders.



### III. Fees and Timing

- A. TPG will complete this analysis for a fee of \$72,700 (plus direct, out-of-pocket expenses). One-half of the fee will be payable at project initiation, with the remainder (and expenses) being due upon completion.
- B. The exact timing will be mutually agreed upon to conform to the needs of project sponsors. TPG anticipates being able to accommodate any required schedule. At present. It is expected that, assuming timely receipt of input data, the analysis will be completed prior to December 31, 2010.

### IV. Other Provisions

- A. Any additional work will be billed at the firm's standard rates or be subject to a separate agreement. While minor revisions are to be expected in the usual course of business, major reworking (such as (1) changing assumptions or underlying data provided to TPG or (2) substantially shifting the project direction) will be billed at the firm's usual hourly rates or subject to a separate agreement.
- B. TPG will carry appropriate insurance coverage throughout the life of this project. Assuming timely payment of invoices, TPG will hold all sponsoring entities harmless for any debts incurred in the completion of this analysis.



## V. Authorization to Proceed

The Perryman Group is hereby authorized to proceed under the terms of this project concept.

Signature:\_\_\_\_\_ Name:\_\_\_\_\_

Company:\_\_\_\_\_ Title:\_\_\_\_\_

Address:\_\_\_\_\_ Phone:\_\_\_\_\_

\_\_\_\_\_ Fax:\_\_\_\_\_

Date:\_\_\_\_\_ E-mail:\_\_\_\_\_



## **M. RAY PERRYMAN**

President & CEO, The Perryman Group  
Institute Distinguished Professor of Economic Theory and Method,  
International Institute for Advanced Studies

### **ACADEMIC BACKGROUND**

Ph.D. in Economics, Rice University  
B.S. in Mathematics, Baylor University

### **SELECTED ACADEMIC/PROFESSIONAL POSITIONS AND ACTIVITY (Current and Former)**

Business Economist-in-Residence, Cox School of Business, Southern Methodist University  
University Professor and Economist-in-Residence, Baylor University  
Herman Brown Professor of Economics, Baylor University  
Founder and Director, Center for the Advancement of Economic Analysis, Baylor University  
President, Southwestern Economics Association  
President, Southwestern Society of Economists  
Editor, The Southwestern Journal of Economic Abstracts  
Editor, International Series in Economic Modeling (book series)  
Editor and Author, The Perryman Report & Texas Letter (monthly economic newsletter)  
Editor and Author, The Perryman Report (monthly economic newsletter)  
Editor and Author, The Perryman Economic Forecast (subscription forecasting service)  
Author, "The Economist" (syndicated weekly newspaper column)  
Editorial Advisor and Author, The Perryman Texas Letter  
Host, The Perryman Report, daily radio broadcast on the Texas State Network  
Assistant Editor, The Journal of Economics  
Author, The Perryman Permian Basin Oil Report  
Contributing Economist, "Marketplace Radio," National Public Radio  
Published or presented 400 academic papers  
Authored or edited 5 books

### **SELECTED ADVISORY/CONSULTING ACTIVITY (Current and Former)**

Advisor or Member for more than 50 governmental entities at the international, federal, state, and regional levels including: Federal Task Force on the Savings and Loan Crisis, Congress of the United States; Joint Economic Committee, Congress of the United States; United States Senate Academic Advisory Committee on the North American Free Trade Agreement; and Governor's Task Force on Economic Growth  
Economic Advisor, United States Senate  
Economic Advisor, United States House of Representatives  
Economic Advisor, Office of the President  
Economic Advisor, US Departments of the Treasury, Labor, Agriculture, the Interior, Commerce, Energy, and Housing and Urban Development  
Economic Consultant, Federal Communications Commission  
Economic Advisor, Office of the Governor, State of Texas  
Economic Advisor, Committees on Finance, State Affairs, and Economic Development, Texas Senate



Economic Advisor, Office of the Speaker, Texas House of Representatives  
 Economic Advisor, Committees on Ways and Means, Business and Industry, Economic Development, Transportation, Healthcare, Appropriations, and Science and Technology, Texas House of Representatives  
 Economic Advisor, Interim Committee on NAFTA and GATT, Texas House of Representatives  
 Economic Advisor, Texas Higher Education Task Force  
 Economic Advisor, Joint Select Committee on Public School Finance, Texas Legislature  
 Economic Advisor, Ministry of Economic Affairs, Republic of China  
 Chairman of the Board and President, Texas Manufacturing Technology Center  
 Chairman, Blue Cross & Blue Shield of Texas Local Affiliate Board  
 Member, Board of Directors, Texas Health Care Services Corporation  
 Member, Board of Directors, Real Estate Council of Dallas  
 Chairman, Texas Legislative Conference  
 President, Board of Directors, Texas Leadership Institute  
 Member, Board of Visitors, Scott & White Hospital  
 Director, Women's Financial Services, Southern Methodist University  
 Advisory Director, Texas Association of Business and Chambers of Commerce  
 Advisory Director, Chase Bank  
 Director of projects, studies, and analyses for more than 2,000 clients, including major corporations, public utilities, government agencies, and financial services groups  
 Published more than 1,800 trade articles and columns

## **SELECTED HONORS AND AWARDS**

Doctoris Honoris Causa degree, International Institute for Advanced Studies  
 Lifetime Achievement Award, International Institute for Advanced Studies  
 Citation for Outstanding Initiative in Promoting World Trade, China External Development and Trade Administration  
 Citation for Meritorious Efforts in Promoting World Capitalism (including the People's Republic of China), The Democracy Foundation  
 Citation for Promoting International Academic Exchange, The Asia and World Institute  
 Citation for Outstanding Advisory Contributions, Congress of the United States  
 Presidential Medal of Merit  
 Award for Outstanding Research Achievement in Economic Modeling, Systems Research Foundation  
 Outstanding Texas Leader (John Ben Shepperd Memorial Award)  
 Named the Outstanding Young Person in the World in the Field of Economics and Business Innovation, one of five Outstanding Young Texans, one of ten Outstanding Young Americans, and one of ten Outstanding Young Persons in the World





# **THE PERRYMAN GROUP**

## **Firm Profile and Capabilities**

The Perryman Group (TPG) specializes in all aspects of economic analysis, research, and forecasting. Led by Dr. M. Ray Perryman, the organization enjoys a worldwide reputation for its forecasting, modeling efforts, and high-profile public policy studies. For more than 30 years, the firm has provided some of the most innovative approaches in the industry to meet the needs of thousands of clients.

### **IMPACT ASSESSMENT**

Over the past three decades, The Perryman Group has developed a reputation for quality impact assessment techniques. The firm maintains a set of impact evaluation models which can be applied in numerous contexts. These systems have been employed in projects measuring economic effects of various activities around the globe. Specific industrial detail can be provided for more than 500 industries at the national, state, regional, Metropolitan Statistical Area (MSA), and county level.

Previous studies include (among hundreds of others) the economic impact of site locations, utility rate changes, infrastructure development, new transportation facilities, tourism and cultural attractions, regulatory changes, educational programs and investments, legislative changes, economic development initiatives, insurance and judicial reform, immigration policy, water resources, health care facilities and initiatives, mixed-use real estate developments, and communications and Internet policy. In addition to traditional economic aggregates such as employment, income, sales, expenditures, and gross product, TPG also provides projections of consumer spending, secondary development, occupational categories, and fiscal revenues.

### **REGULATORY ANALYSIS**

The Perryman Group has considerable experience and expertise in providing support for regulatory proceedings and initiatives. Previous projects have included analyzing the effects of utility and transportation rate changes on consumers and industrial concerns and evaluating the need for new electric facilities, water projects, transportation projects, and telecommunications investments. The firm also has experience in assessing the economic aspects of environmental regulations, energy policy, insurance, automobile dealerships, and other sectors subject to regulatory oversight. In addition, testimony has frequently been provided before state and federal regulatory bodies.

### **PUBLIC POLICY**

The Perryman Group frequently prepares public policy studies that play a key role in shaping legislation. Representative topics include energy deregulation, communications (telephone, Internet, and cable), judicial reforms, insurance, transportation (water, air, rail, trucking, and highway funding), financial services, health care, economic development, education funding and policy, taxation, social services, oil and gas development, pipelines, mergers and acquisitions,



competition, real estate, franchising, legal aid, and international trade). Analysis by the firm often plays a key role in policy formulation and implementation.

## **ECONOMIC DEVELOPMENT AND STRATEGIC PLANNING**

The Perryman Group has assisted communities, states, regions, and nations in comprehensive economic development efforts. The firm also aids corporations in determining appropriate sites for new facilities and negotiating suitable arrangements. Efforts by The Perryman Group have played a positive role in the creation of hundreds of thousands of jobs. In particular, the firm provided the underlying analysis that led to the creation of major economic development programs in Texas that are widely regarded as the state-of-the-art.

In today's world, economic development means different things in different places. For some communities, it is investing in major infrastructure programs to support future production. In others, it's attracting traditional manufacturing establishments. In still others, it's creating a base of small or large "high-tech" facilities. Some areas or institutions want to become distribution or service centers; others want to capitalize on an existing natural resource base. In many instances, the primary objective is to retain and expand existing firms; the top priority can also be establishing an environment that is conducive to small company startups. Companies and educational organizations also have multiple objectives, ranging from improved labor rates to opportunities for technology transfer.

Utilizing systems specifically geared to economic development, the firm's consultants can identify "target industries" that are likely to expand in the near future and be a complement to the local resource base. Through detailed analysis of workforce characteristics, the existing industrial base, quality-of-life factors, and local attitudes and perceptions, the firm can craft positive plans to maximize opportunities and go the extra mile to ensure their implementation.

## **FORECASTING AND MODELING**

The firm has developed and maintains a full range of international, national, regional, state, metropolitan area, and small area (zip code, census tract, etc.) forecasting and modeling capabilities. In particular, Dr. Perryman has developed large-scale econometric and impact assessment models that have been used in hundreds of projects across all 50 states and many foreign countries. These systems and the accompanying data resources permit forecasting of energy demand and supply, real estate market absorption, retail sales, infrastructure needs, industrial performance (manufacturing and service), transportation demand, financial markets, bond feasibility, construction costs, investment returns, and numerous other applications. In addition, projections regarding labor markets, demographics, global markets and trade, and cost factors such as wage rates and capital costs are generated for clients and subscribers on a frequent basis. Forecasts have been provided in a subscription service for almost three decades. The firm is on retainer to various entities (such as financial institutions and electricity providers) to supply ongoing information.



## LITIGATION SUPPORT AND EXPERT TESTIMONY

For litigation support and expert testimony purposes, The Perryman Group investigates and testifies on a variety of issues. Providing research, analysis, and testimony on behalf of major US law firms and their clients in complex matters, the Perryman team has addressed topics including security markets, intellectual property, employment, forensics, officers' and directors' liability, real estate markets, cash flow estimation, environmental and natural resource factors, lender liability, valuation, taxation, damage measurement, business losses, and antitrust issues. Dr. Perryman has successfully testified on numerous occasions, and is well-known for making the most difficult material and concepts readily accessible and easy to understand for any audience.

## PUBLICATIONS

The Perryman Group prepares several publications on a regular basis. The forecast series provides an in-depth analysis of the national, state, regional, and local economies in the state of Texas. *The Perryman Report & Texas Letter* is a monthly newsletter that provides analysis of local, statewide, national, and international issues, with particular attention given to how these impact the economy in Texas.

## PRESENTATIONS

Nationally recognized as an informative and entertaining speaker, Dr. M. Ray Perryman addresses audiences from all walks of life. Dr. Perryman has established a reputation for communicating often dry subjects in an effective and humorous fashion. Other presentations include specialized seminars on the economic outlook, industrial trends and patterns, economic development, and forecasting techniques.

In addition, the firm often provides briefings to corporate boards of directors and senior management personnel on a variety of topics, including assessment of national and regional economic conditions, trends in specific industries, patterns in international trade, and strategic planning in an uncertain business environment.



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH THE PERRYMAN GROUP TO PERFORM A COMPREHENSIVE STUDY OF THE CURRENT AND FUTURE ECONOMIC IMPACT OF TEMPLE MEDICAL AND EDUCATION DISTRICT (TMED), FOR AN AMOUNT NOT TO EXCEED \$72,700 PLUS DIRECT, OUT-OF-POCKET EXPENSES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City of Temple has partnered with Scott & White Healthcare and the Temple Health and Bioscience District, along with the Veterans Administration, Temple College, Texas A&M Health Science Center, Temple Independent School District, and Texas A&M Blackland Research & Extension Center to commission a comprehensive study of the current and future economic impact of the Temple Medical and Education District (TMED);

**Whereas**, this economic impact study is proposed to identify and quantify the economic impact of the medical and education infrastructure and assets in our community;

**Whereas**, the Staff recommends the Perryman Group to conduct the analysis based on their extensive experience in all phases of economic development;

**Whereas**, the total cost of the study will not exceed \$72,700 plus direct, out-of-pocket expenses which are currently estimated to be \$5,000;

**Whereas**, the Staff is currently working on a cost sharing arrangement with our community partners and anticipate the City's portion not to exceed \$25,000;

**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 contract with The Perryman Group, after approval as to form by the City Attorney, to perform a comprehensive study of the current and future economic impact of Temple

Medical and Education District (TMED), for an amount not to exceed \$72,700 plus direct, out-of-pocket expenses.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(H)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing  
Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the rejection of all bids received on August 10, 2010 for irrigation installation in the 5<sup>th</sup> Street medians from Loop 363 to Waters Dairy Road.

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

**ITEM SUMMARY:** Included in the adopted FY 2010 CIP budget is funding in the amount of \$61,943 to add irrigation to the 5<sup>th</sup> medians from Loop 363 to Waters Dairy Road. On August 10, 2010, one bid was received for this project from Heart of Texas Landscape & Irrigation in the amount of \$80,200. Based on the funding shortfall it is staff's desire to reject this bid, re-evaluate and re-issue the invitation to bid, and work to get more interest in this bid from other vendors.

The bid package will be modified to allow for the use of class 200 PVC piping as an alternate bid in the place of the schedule 40 PVC piping in the original package.

The installation of irrigation in the medians of 5<sup>th</sup> Street will allow Keep Temple Beautiful to proceed with landscaping plans in these medians.

**FISCAL IMPACT:** Funding was originally designated in the amount of \$61,943 for this project in account 110-5935-552-6318, Project #100540. To date, \$4,335 has been expended for design and bidding of the project leaving an available balance of \$57,608 for the construction of the project. There is no fiscal impact currently associated with this Agenda Item.

**ATTACHMENTS:**  
[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE REJECTION OF ALL BIDS RECEIVED ON AUGUST 10, 2010, FOR IRRIGATION INSTALLATION IN THE 5<sup>TH</sup> STREET MEDIANS FROM LOOP 363 TO WATERS DAIRY ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on August 10, 2010, one bid was received for irrigation installation in the 5<sup>th</sup> Street medians from Loop 363 to Waters Dairy Road;

**Whereas**, the bid received exceeded the amount budgeted for this project;

**Whereas**, the Staff recommends rejecting the bid received and then work to re-evaluate and re-issue the invitation to bid and work to get more interests in the bid from other vendors; 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 rejection of all bids received on August 10, 2010, for irrigation installation in the 5<sup>th</sup> Street medians from Lop 363 to Waters Dairy Road.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydetta Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(I)  
Consent Agenda  
Page 1 of 2

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

David Blackburn, City Manager  
Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing an amendment to the 2008 Economic Development Agreement between City of Temple, Temple Economic Development Corporation, Gulf States Toyota, Inc., and GST Realty-Temple, L.P.

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

**ITEM SUMMARY:** Two years ago, the City and TEDC entered into an economic development agreement (2008 EDA) with Gulf States Toyota (GST). In the 2008 EDA, the City committed to the construction of a number of infrastructure improvements in the northwest industrial park (the vicinity of Wendland Road and Moores Mill Road) and GST indicated its intent to build a vehicle processing center for Toyota and Scion vehicles. The City and TEDC also conveyed a 300 acre tract to GST as an additional incentive for them to build the vehicle processing center.

A vehicle processing center is a facility that accepts recently manufactured trucks and vehicles, adds equipment and detailing to those vehicles and ships them directly to Toyota and Scion dealers. GST receives vehicles from Toyota/Scion manufacturing plants by rail, and delivers them to dealers by truck. GST's capacity in Houston was becoming constricted and an additional location in Central Texas fit their business plan as they neared capacity (limitations of the size of that facility and the capacity of rail in Houston to deliver more vehicles to that location).

Under our 2008 EDA, GST projected that they would commence construction of their vehicle processing center in Temple by July 2009 and complete construction of the same by December 2011.

The City and Gulf States Toyota have recognized for some time now that the turmoil in the overall U.S. economy the past two years has dramatically and negatively impacted the sale of cars and trucks in the United States. Toyota sales have also been negatively impacted in the past twenty four months by several product recalls. The combined impact of these events has led to negotiations between the City and GST to allow GST some flexibility to delay construction and operation of their vehicle processing center.

The proposed amendment to the 2008 EDA that you have before you for consideration does just that, it provides for a three year extension of the projected times for GST to complete and begin operations



of their vehicle processing center, while also giving them the option to further postpone construction and operation for up to two additional one year periods (or a total of up to five years).

GST recognizes that a delay in construction and the commencement of operations of a Toyota/Scion vehicle processing center impacts the City, and as part of the proposed amendment, GST has agreed to compensate the City for that impact by making payments in lieu of taxes (**PILOT**) as follows:

For the 1<sup>st</sup> three year extension, GST will pay the City \$4.6 million in PILOT payments, payable in 3 installments—

1st Payment: In the amount of \$2,000,000 payable at the time of execution of the First Amendment.

2nd Payment: In the amount of \$1,300,000 payable on the 1st anniversary of the execution of the First Amendment.

3rd Payment: In the amount of \$1,300,000 payable on the 2nd anniversary of the execution of the First Amendment.

Should GST desire to exercise either or both additional one year extensions, they agree to pay the City an additional \$2.25 million for each one year extension.

The proposed amendment also allows GST to make some interim beneficial use of the 300 acre tract, and provides a method for getting some credit against the PILOT compensation paid to the City if the City receives some direct financial benefit from that interim use in the form of ad valorem (property) taxes.

In summary, our negotiations with GST have solidified our belief that GST's commitment to building a vehicle processing center in Temple, Texas remains firm. The payment of PILOT fees to the City allows the City to meet its debt service obligations during the period of any delay in construction and operation of the vehicle processing center, while giving GST the flexibility they need for their start date. It's also worth noting that while the amendment and the payment of PILOT fees allows a delay in the projected dates for starting construction and operations, it doesn't prevent GST from moving forward faster with their construction should the economy and auto sales in particular turn around more quickly. We certainly hope that is the case, but the PILOT payments protect the City if that is not the case.

We will discuss this item in executive session as part of the workshop on September 2, 2010.

**FISCAL IMPACT:** The City will receive \$4.6 million in PILOT payments over a three year period, and may receive another \$4.5 million if GST exercises both one year additional options. These funds will be deposited into the Reinvestment Zone Fund. The Finance Department plans to reserve any PILOT payments received for debt service for bonds related to constructing the infrastructure improvements for the GST project.

**ATTACHMENTS:**  
[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE 2008 ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF TEMPLE, TEMPLE ECONOMIC DEVELOPMENT CORPORATION, GULF STATES TOYOTA, INC., AND GST REALTY-TEMPLE, L.P.; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on January 31, 2008, the City of Temple entered into an economic development agreement with the Temple Economic Development Corporation (TEDC), Gulf States Toyota, Inc., (GST) and GST Realty—Temple, L.P. (Owner), for the future construction of a vehicle processing center for Toyota or Scion vehicles in the City of Temple;

**Whereas**, the world-wide economic recession for the past two years has dramatically impacted car and truck sales in the United States, and negatively impacted Owner and GST's business plan and timeline for construction and operation of a vehicle processing center in Temple;

**Whereas**, the parties to the original economic development agreement have agreed to certain revisions to the agreement by an amendment which will give Owner and GST additional time to complete and commence operation of the vehicle processing center for Toyota and Scion vehicles in Temple, and which will allow Owner and GST to make payments in lieu of taxes to the City during the period of time in which construction and commencement and operation of the vehicle processing center is either delayed or discontinued to prevent or mitigate financial hardship to the City and TEDC 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 the first amendment to the 2008 economic development agreement between the City of Temple, Temple Economic Development Corporation, Gulf States Toyota, Inc., and GST Realty-Temple, L.P., after approval as to form by the City Attorney.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(J)  
Consent Agenda  
Page 1 of 1

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

David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a Chapter 380 agreement to convey a 0.561 acre parcel of City-owned land situated in the R.C. Moore Survey, Abstract 581, Temple Industrial Park, to the Temple Economic Development Corporation for economic development purposes.

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

**ITEM SUMMARY:** The tract in question lies adjacent to three rail spurs and has limited access and because of its small size, irregular shape and location is too small to be readily developed as a separate tract. Conveying the property to TEDC will allow TEDC to convey the property to an adjoining property owner and get the property back on the tax rolls. Board of Directors of the Temple Economic Development Corporation has requested that the City convey this land to TEDC for industrial development purposes, including job creation and additional tax value.

The Staff recommends authorizing the transfer of the 0.561 acre tract of land to TEDC under a Chapter 380 agreement for economic development purposes

**FISCAL IMPACT:** At the present time, the property is exempt from property taxes, and it will remain so under the ownership of TEDC. When the property is conveyed for an industrial purpose it will be added back to the property tax rolls.

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CHAPTER 380 AGREEMENT TO CONVEY A 0.561 ACRE PARCEL OF CITY-OWNED LAND SITUATED IN THE R.C. MOORE SURVEY, ABSTRACT 581, TEMPLE INDUSTRIAL PARK, TO THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Board of Directors of the Temple Economic Development Corporation (TEDC) has requested that the City convey a 0.561 acre parcel of City-owned land situated in the R.C. Moore Survey, Abstract 581, Temple Industrial Park, for industrial development purposes, including job creation and additional tax value;

**Whereas**, conveying the tract to TEDC will allow TEDC to convey the property to an adjoining property owner and get the property back on the tax rolls;

**Whereas**, the Staff recommends the transfer of the 0.561 acre tract of land to TEDC under a Chapter 380 agreement for economic development purposes; and

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

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

**Part 1:** The City Council authorizes a Chapter 380 agreement to convey a 0.561 acre parcel of City-owned land situated in the R.C. Moore Survey, Abstract 581, Temple Industrial Park, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes, to the Temple Economic Development Corporation.

**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 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, MAYOR

ATTEST:

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Clydette Entzminger  
City Secretary

APPROVED AS TO FORM:

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(K-1)  
Consent Agenda  
Page 1 of 2

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

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** SECOND READING – Consider adopting an ordinance designating two tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive as City of Temple Tax Abatement Reinvestment Zone Number Sixteen for commercial/industrial tax abatement.

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

**ITEM SUMMARY:** The proposed ordinance designates the area consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive as a commercial/industrial tax abatement reinvestment zone. The designation of a tax abatement reinvestment zone lasts for five years and is a prerequisite for entering into a tax abatement agreement with a future economic development prospect.

Chapter 312 of the Texas Tax Code requires that property be within a tax abatement reinvestment zone (or an enterprise zone) to be eligible for tax abatement. The designation of a tax abatement reinvestment zone requires an ordinance, two readings and a public hearing. We are also required to give seven days prior notice to the other taxing entities before final approval of the ordinance, which will be done.

The proposed tax abatement reinvestment zone covers approximately 14.012 acres (two tracts containing 6.257 and 7.755 acres), and is proposed for commercial or industrial tax abatement (the property is currently zoned Commercial). Chapter 312 requires that the City make the following findings when it adopts an ordinance creating a tax abatement reinvestment zone: (1) that the creation of the tax abatement reinvestment zone will result in benefits to the City and to the land included in the zone after the term of any agreement, and that the improvements being sought are feasible; and (2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement. I have reviewed both the

State law and our criteria and guidelines, and believe that the creation of the proposed reinvestment zone and subsequent approval of a tax abatement agreement with the property owner will lead to the retention of primary employment in the area, and the creation of new real and personal property improvements in the area—as contemplated by our State and local criteria. The Staff recommends approval of the ordinance for the above reasons.

**FISCAL IMPACT:** None at this time.

**ATTACHMENTS:**

[Ordinance](#)

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING A CERTAIN AREA AS TAX ABATEMENT REINVESTMENT ZONE NUMBER SIXTEEN FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code (hereinafter the "Code");

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

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

**Part 1:** The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

**Part 2:** The City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

A. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

B. That the boundaries of the reinvestment zone (hereinafter "REINVESTMENT ZONE NUMBER SIXTEEN") should be the **two tracts of land consisting of approximately 6.257 and**



**7.755 acres located at 3410 and 3602 Lucius McCelvey Drive, Temple, Bell County, Texas, as described in the drawing attached as Exhibit "A."**

C. That creation of REINVESTMENT ZONE NUMBER SIXTEEN will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

D. That REINVESTMENT ZONE NUMBER SIXTEEN meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

E. That REINVESTMENT ZONE NUMBER SIXTEEN meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

**Part 3:** Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing the **two tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive**, described by the drawing in Exhibit "A" attached hereto and such REINVESTMENT ZONE is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Sixteen, City of Temple, Texas.

**Part 4:** The REINVESTMENT ZONE shall take effect on September 2, 2010, or at an earlier time designated by subsequent ordinance.

**Part 5:** To be considered for execution of an agreement for tax abatement the commercial/industrial project shall:

A. Be located wholly within the Zone as established herein;

B. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

C. Conform to the requirements of the City's Zoning Ordinance, the CRITERIA governing tax abatement previously adopted by the City, and all other applicable laws and regulations; and

D. Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

**Part 6:** Written agreements with property owners located within the zone shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

**Part 7:** Written agreements for tax abatement as provided for by Section 312.205 of the Code shall include provisions for:

A. Listing the kind, number and location of all proposed improvements of the property;

B. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

C. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

D. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

**Part 8:** 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 9:** 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 10: Sunset provision.** The designation of Tax Abatement Reinvestment Zone Number Sixteen shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

**Part 11:** 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 Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19<sup>th</sup>** day of **February**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(K-2)  
Consent Agenda  
Page 1 of 2

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

Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a tax abatement agreement with Akzo Nobel Paints LLC – Liquid Nails Division, for personal property on two tracts at 3410 and 3602 Lucius McCelvey Drive, Temple, Bell County, Texas.

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

**ITEM SUMMARY:** The proposed resolution authorizes the City Manager to execute an agreement with Akzo Nobel Paints LLC – Liquid Nails Division, (Akzo) which if approved gives the company five years of 50% tax abatement on the increased taxable value of personal property improvements located on 2 tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive. The tax abatement applies only to *new* personal property improvements with a useful life of ten or more years.

Akzo timely filed an application to receive tax abatement on improvements to personal property proposed for a facility located on Lucius McCelvey Drive. A separate, related item on this agenda is an ordinance designating the property on which the improvements will be located as a tax abatement reinvestment zone. Tax abatement is being sought for personal property improvements consisting of expanding the facility in order to add additional manufacturing and packaging equipment for the production of additional adhesive, caulk, and sealant product lines. The taxable value of personal property with a useful life of ten or more years at the facility will be increased by an estimated \$5,000,000.

The City's Economic Development Policy sets out the criteria and guidelines for granting tax abatement. The renovations proposed meet the minimum criteria established for tax abatement consideration. The proposed improvements fall within the definition of "eligible facilities" in the criteria. The application indicates real property improvements which meet the criteria for granting a fifty percent tax abatement for five years.

The Staff has provided the other taxing entities involved with notice and a copy of the proposed agreement. Under State law, the other taxing entities will have 90 days to elect to enter into an agreement with identical terms. The proposed agreement is drafted for the signature of each taxing

entity, but will be effective between Akzo and any of the taxing entities which sign the agreement even if not all sign. Under State law, taxes on supplies and inventory are not eligible for tax abatement.

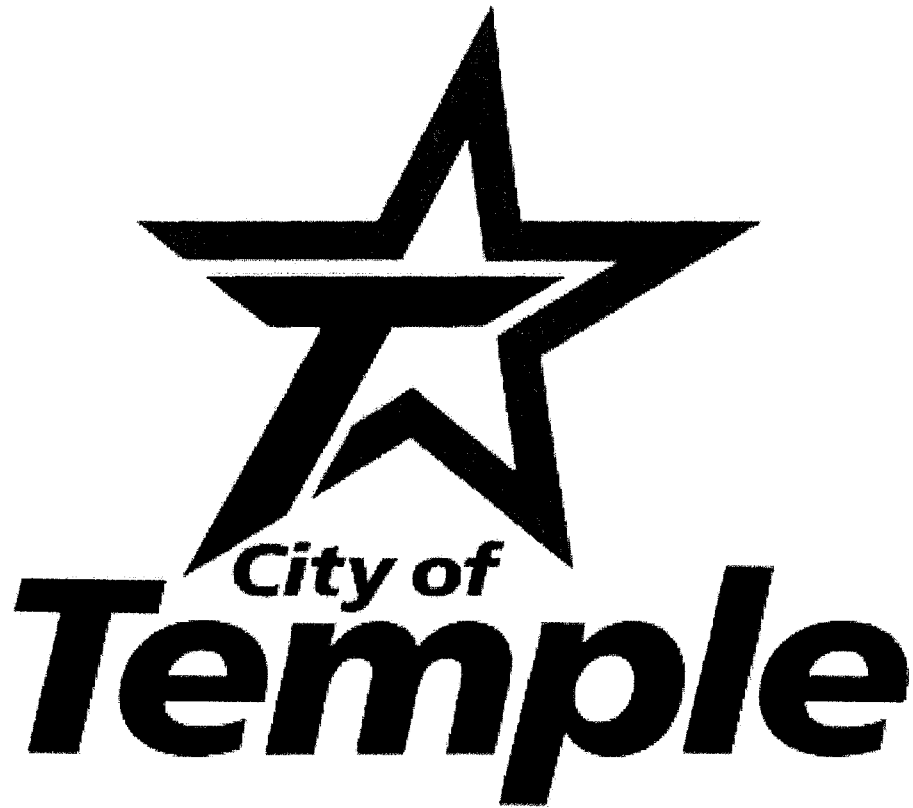
Additionally, the agreement has all of the other terms required by Chapter 312 of the Texas Tax Code for tax abatement agreements, including provisions: (1) listing the kind and number of improvements; (2) providing for inspections of the facility by the taxing entities; (3) requiring compliance with State and local laws; (4) recapturing abated taxes in the event of a default under the agreement; and (5) requiring Akzo to annually certify to all the taxing entities that it is in compliance with all of the terms and conditions of the agreement.

Akzo's application meets the standards for granting tax abatement on the increase in personal property improvements established by the City's Criteria and Guidelines for tax abatement. The City Council has discretion whether to approve an application for tax abatement and to increase the percentage of tax abatement over the recommended percentage specified in the matrix in the City's Criteria and Guidelines for tax abatement. The agreement should add to the continued development of the City's industrial growth, which would not have occurred in the absence of tax abatement.

**FISCAL IMPACT:** The tax abatement agreement would have the potential of abating approximately \$70,988 in City taxes over the 5 year life of the Agreement using the proposed FY 2011 tax rate of \$0.5679 per \$100 value.

**ATTACHMENTS:**

[Application](#)  
[Resolution](#)



**Application for**

**City of Temple**

**Tax Abatement Program**

## **Instructions for Completing the Application Form**

1. The application form consists of three parts: (1) general information regarding your proposal and the property in question; (2) the objective criteria worksheet; and (3) questions relating to minimum standards. Please **complete all three parts**. Please review the City of Temple's *Guidelines and Criteria* for tax abatement prior to completing the application form.

2. **Part One:** Questions 1-9 request basic information relating to your proposal.

Questions 3 & 4 are applicable only if you are not the current owner of the property. If you are leasing property for which you are requesting tax abatement, the City of Temple will also require your lessor to execute a tax abatement agreement.

Question 7: Describe in detail, the long term improvements you will make to the property, the proposed use you will make of the property, and your long range plans for the property.

Question 9: Tax abatement is available only on the increase in ad valorem taxes attributable to the improvements to the property you propose to make. Please indicate the percentage of abatement you are requesting, and the number of years of abatement you are requesting.

3. **Part Two:** Questions 1-14 relate to the objective criteria established by the City of Temple for granting tax abatement. Answer each question as fully as possible using additional sheets of paper where necessary. The City Staff will review your responses to assist them in making a recommendation to the City Council on whether tax abatement *should* be granted, and if so, under what terms.

Question 2: Note that under the City's *Guidelines & Criteria*, the City will grant tax abatement only on permanent improvements to real property and personal property with a useful life of at least ten years (e.g., buildings, permanently installed equipment, site improvements, fixtures, equipment). Specifically excluded from tax abatement are inventory, supplies, and the underlying real property. Personal property already on the property prior to the execution of a tax abatement agreement or transferred from another site owned or operated by the applicant are also excluded from tax abatement.

Question 3: Eligible personal property must have a useful life of ten years to be eligible.

Question 9: Note that the City of Temple has established a minimum threshold of \$500,000 (\$25,000 in the Downtown Development Area) in permanent improvements (w/ 10 year useful life) before tax abatement will be considered.

4. **Part 3:** To be eligible for consideration under the tax abatement program, the applicant must satisfy at least two of the minimum standards. We recommend that you provide detail information regarding each of the minimum standards that may apply to your proposed project.

### **Part One -- General Information**

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1. Applicant: Akzo Nobel Paints LLC – Liquid Nails Division

Mailing Address: 3410 Lucius McCelvey Drive, Temple TX 76504

E-mail Address: John.Elicker@akzonobel.com

Telephone Number: 254-771-3831

Fax Number: 254-771-0837

2. Contact Person or Agent: (if different)

Mailing Address:

E-mail Address:

Telephone Number: Fax

Number:

3. Current Property Owner: Akzo Nobel Paints LLC

HQ Mailing Address: 15885 W. Sprague Road, Strongsville, OH 44136

Telephone Number: 440-297-8581

4. Property Owner's Representative: (if different)

Mailing Address:

Telephone Number: Fax

Number:

5. Property Street Address: 3410 Lucius McCelvey Drive, Temple TX 76504

(Please also attach a legal description and a map/plat of the property for which you seek abatement.)

6. Is the property located within City of Temple? Yes No

In the City's extraterritorial jurisdiction (ETJ)? Yes No

Inside the City's **Tax Increment Financing Reinvestment Zone** Yes No

Temple ISD? Yes No Belton ISD? Yes No Troy ISD? Yes No

7. Description of Project. (Describe the *kind* of business (e.g., manufacturing or distribution) that will be created or expanded. For purposes of drafting an agreement we will need a detailed description of the proposed real and personal property improvements that you expect to make including **square footage, construction materials, etc.**)

Describe the Firm's plans in expanding or locating in Temple:

Akzo Nobel Paints LLC operates a 73,500 square foot Liquid Nails brand manufacturing facility in Temple, Texas that was built in 1984 and later expanded in 2000 with the assistance from the TEDC. AkzoNobel has recently completed studies to determine whether to retain and expand manufacturing operations in either the Temple, Texas facility or other sister plants in North America.

Based upon this study one of the options being considered is the proposed expansion of the Temple facility in order to add additional manufacturing and packaging equipment to its current facility for the production of additional adhesive, caulk, and sealant product lines.

The approximate capital investment is of \$5 million. This breakdown of the investment is detailed below. The ultimate result of the proposed project would be the retention of the 46-51 current jobs (currently 44 full-time and 7 part-time) and the addition of 4-6 full-time positions and 2-4 part-time positions. It is anticipated that 4-6 positions will be filled in 2010 and an additional 2-4 by the end of 2011.

A breakdown the project costs is attached to this application.

8. Date projected for (a) initiation of project: (m/d/y) 9-1-2010  
(b) completion of project: 12-1-2010

9. Percentage and duration of tax abatement requested: (See Section I.D.2(b) of the City's Criteria and Guidelines for Tax Abatement) Note: that tax abatement is generally limited to 5 years except for very large projects. Five Years at 50%

## **Part Two -- Objective Criteria**

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1. What is the existing appraised value of the real property and improvements? (Contact the Bell County Appraisal District at (254) 939-5841.) See attached.



2. What are the type and value of proposed improvements (broken down to separately show the kind and dollar value of real and personal property improvements)?

	<u>Type</u>	<u>Estimated Expenditure</u>	<u>Useful Life</u>
Real Property			
Personal Property	Machinery & Equipment	\$5,000.000	10
Miscellaneous Costs			

3. How many existing jobs, if any, will be *retained* by proposed improvements? 46-51

4. What number, job type, and estimated payroll of *new* jobs will be created by the proposed project?

Job Type - Operator    Number of Jobs 4-6 Full-time    Est. Annual Salary \$38K    Total Salary \$152-228K

Job Type - Operator    Number of Jobs 2-4 Part-time    Est. Annual Salary \$20K    Total Salary \$40-80K

5. Will the newly created jobs be filled by persons residing or projected to reside within the City? Yes    No    Unknown %

Temple/Belton/Troy (circle one) Independent Unknown

School District? Yes    No    \_\_\_\_% Bell County? Yes    No    \_\_\_\_% Unknown

6. What is the estimated amount of annual local sales taxes for the City of Temple to be generated directly? (Assume a 1.5% city sales tax on applicable purchases within the City)    With the help of the TEDC, it is estimated at \$22,000 annually.

7. By what amount do you estimate the valuation of the affected property increase after your real and personal property improvements are completed? Estimated assessed value (for taxation purposes) on the new equipment with an original cost of \$5 million is \$2,725,950 before abatement. Will the increase in appraised value attributable to your improvements be at least \$500,000 (\$25,000 in the Downtown Development Area)? Yes .

8. What expenditures, if any, will you request be incurred by the City of Temple to provide facilities or services to your proposed improvements? None

9. What is the amount of ad valorem taxes to be paid the City of Temple during the Abatement period considering: (a) the existing values; (b) your proposed real and personal property improvements; and (c) the percentage of new value abated; and (c) the Abatement period (assume a City tax rate of .5745). See attached schedule.

10. What population growth, if any, in the City of Temple do you expect to occur as a direct result of your proposed improvement? None anticipated at this time.

11. What, if any, are the types and values of public improvements (e.g., streets, railroad spurs) you intend to make? None anticipated at this time.

12. Will the proposed improvements compete with existing businesses to the detriment of the local economy? No Which businesses, if any, are likely to be impacted?  
N/A

13. Is your proposed use of the underlying real property in compliance with the City's Comprehensive Zoning and Subdivision Ordinances? Yes Have you discussed your plans with the City's Planning or Engineering Departments? Yes

### **Part Three -- Minimum Standards**

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1. Will the project involve a minimum increase in property value of 300% for construction of a new facility; 50% for expansion of existing facility; or an investment of at least \$1 million in taxable assets? (If outside the Downtown Area) Explain. Yes, the expansion will increase the assessed value by 61% and will also meet the minimum investment of \$1million in taxable assets - see the attached schedule.

2. Will the project make a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking, facades, materials, signs, etc.? Explain. No

3. Will the project have high visibility, image impact, or is it a significantly higher level

of development quality? Explain. No

4. Is the project an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.? No Explain.

5. Will the project serve as a prototype and catalyst for other development of a higher standard? Explain. No

Will the project stimulate desirable concentrations of employment or commercial activity? Explain. Although we haven't quantified the secondary economic effects of our expansion, it is reasonable to conclude there will be increased use of the local hotels and restaurants and an increase in the use of local service vendors and supply vendors that plant currently uses today.

6. Will the project generate greater employment than would otherwise be achieved, e.g., commercial/industrial versus residential or manufacturing versus warehousing? Explain. Yes, as reported Part 2 – Question 4

# Akzo Nobel Paints LLC

## Temple Abatement Application

### Part 1 - Question 7 - Detail of Project Costs

I	RAW MAT'L BULK STG. & DISTRIB.	
	XYLENE TANK	\$ 78,318
	DRAKEOL TANK	\$ 195,505
II	PROCESS AREA	
	TRI-MIXER	\$ 1,323,300
	SOLIDS ADDITION SYSTEMS	\$ 372,500
	PORTABLE MIX TANKS	\$ 259,709
	REMOVABLE LIDS FOR MIX TANKS	\$ 38,175
	LID APPLICATION/ REMOVAL SYSTEM	\$ 79,474
	COLORANT MAKEUP/ DOSING SYSTEM	\$ 48,587
	PRESS PLATE/EQUIP CLEANING SYSTEM	\$ 145,761
	VACUUM SYSTEM	\$ 70,798
III	PACKAGING	
	PORTABLE TANKS HOT WATER HEATING SYS.	\$ 49,165
	FILLER FEED HYDRAULIC TANK PRESS	\$ 336,638
	FILLER	\$ 832,919
	CARTRIDGE FEED SYSTEM	\$ 311,188
	CASE PACKER & LABELER	\$ 369,029
V	OTHER	
	MOTORIZED WALKIE HAND TRUCK	\$ 64,783
	NEW LOCAL VENTILATION FOR FILLING & MANUFACTURING	\$ 135,349
	PROVIDE ELEC. POWER & DISTRIBUTION REQUIRED FOR PROJECT	\$ 208,230
	ADDITIONAL R/M STG RACKS	\$ 57,842
	DRAKEOL PIPING FOR EXISTING MIXERS	\$ 70,567
		<b>\$ 5,047,835</b>

**Akzo Nobel Paints LLC**

**Temple Abatement Application - Part 2 Question #1**

**Existing Appraised Value of Real Property and Improvements**

Property ID #	Property Description	Land Value	Improvement Value	2010 Assessed Value
41266	Plant Land (6.257ac)	\$ 59,442	\$ -	\$ 59,442
41267	Vacant Land (7.755ac)	\$ 73,673	\$ -	\$ 73,673

<u>Total Value/Tax</u>	<u>\$ 133,115</u>
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**Akzo Nobel Paints LLC****Temple Abatement Application - Part 2 Question #9**

Estimate of Ad Valorem Taxes to be Paid to City of Temple  
including existing values & new project with 50% 5-year abatement

*Note: All values estimated based on current valuation factors.*

Property ID #	Property Description	(City of Temple)		
		2011 Assd. Value	Taxable Value	City Tax @ \$ 0.0057450
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ 341.49
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ 423.25
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ 5,081.57
347245	Personal Property	\$ 3,442,680	\$ 3,442,680	\$ 19,778.20
Abated BPP	Personal Property (Abated)	\$ 2,725,950	\$ 1,362,975	\$ 15,660.58
<b>Total Value/Tax</b>		<b>\$ 7,186,265</b>	<b>\$ 5,823,290</b>	<b>\$ 41,285.09</b>

Property ID #	Property Description	(City of Temple)		
		2012 Assd. Value	Taxable Value	City Tax @ \$ 0.0057450
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ 341.49
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ 423.25
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ 5,081.57
347245	Personal Property	\$ 3,442,680	\$ 3,442,680	\$ 19,778.20
Abated BPP	Personal Property (Abated)	\$ 2,711,430	\$ 1,355,715	\$ 15,577.17
<b>Total Value/Tax</b>		<b>\$ 7,171,745</b>	<b>\$ 5,816,030</b>	<b>\$ 41,201.68</b>

Property ID #	Property Description	(City of Temple)		
		2013 Assd. Value	Taxable Value	City Tax @ \$ 0.0057450
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ 341.49
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ 423.25
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ 5,081.57
347245	Personal Property	\$ 3,442,680	\$ 3,442,680	\$ 19,778.20
Abated BPP	Personal Property (Abated)	\$ 2,710,430	\$ 1,355,215	\$ 15,571.42
<b>Total Value/Tax</b>		<b>\$ 7,170,745</b>	<b>\$ 5,815,530</b>	<b>\$ 41,195.93</b>

Property ID #	Property Description	(City of Temple)		
		2014 Assd. Value	Taxable Value	City Tax @ \$ 0.0057450
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ 341.49
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ 423.25
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ 5,081.57
347245	Personal Property	\$ 3,442,680	\$ 3,442,680	\$ 19,778.20
Abated BPP	Personal Property (Abated)	\$ 2,694,630	\$ 1,347,315	\$ 15,480.65
<b>Total Value/Tax</b>		<b>\$ 7,154,945</b>	<b>\$ 5,807,630</b>	<b>\$ 41,105.16</b>

Property ID #	Property Description	(City of Temple)		
		2015 Assd. Value	Taxable Value	City Tax @ \$ 0.0057450
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ 341.49
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ 423.25
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ 5,081.57
347245	Personal Property	\$ 3,442,680	\$ 3,442,680	\$ 19,778.20
Abated BPP	Personal Property (Abated)	\$ 2,673,650	\$ 1,336,825	\$ 15,360.12
<b>Total Value/Tax</b>		<b>\$ 7,133,965</b>	<b>\$ 5,797,140</b>	<b>\$ 40,984.63</b>

# Akzo Nobel Paints LLC

## Temple Part 3 Question 1

Project will meet test of 50% expansion of existing facility & 1 million investment in taxable assets.

Property ID #	Property Description	2010 Assessed Value	2011 Assessed Value	Increase in Assessed Value	% Change
41266	Plant Land (6.257ac)	\$ 59,442	\$ 59,442	\$ -	
41267	Vacant Land (7.755ac)	\$ 73,673	\$ 73,673	\$ -	
347242	Inventory & Supplies	\$ 884,520	\$ 884,520	\$ -	
347245	Existing Personal Property	\$ 3,442,680	\$ 3,442,680	\$ -	
	New Personal Property (before 50% Abatement)	\$ -	\$ 2,725,950	\$ 2,725,950	

**Total Value/Tax**      \$ 4,460,315    \$ 7,186,265    \$ 2,725,950    61.12%

Abatement Year	Tax Year	Original Cost of Eligible Equip.	Assessed or Market Value for Tax Purposes	% Abated	Taxable Value
1	2011	\$5,000,000	\$2,725,950	50%	\$1,362,975

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE,  
TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX  
ABATEMENT AGREEMENT WITH AKZO NOBEL PAINTS LLC –  
LIQUID NAILS DIVISION, FOR PERSONAL PROPERTY ON TWO  
TRACTS OF LAND LOCATED AT 3410 AND 3602 LUCIUS MCCELVEY  
DRIVE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City adopted a Resolution dated June 15, 1989, stating that it elects to be eligible to participate in tax abatement;

**Whereas**, on March 5, 2009, the City Council adopted Ordinance No. 2009-4284, establishing a comprehensive economic development policy for the City of Temple, which policy includes criteria and guidelines for granting tax abatement within the City of Temple in accordance with Chapter 312 of the Tax Code;

**Whereas**, Akzo Nobel Paints LLC – Liquid Nails Division, is the owner of property within the City’s Tax Abatement Reinvestment Zone Number Sixteen, and has requested that the City consider granting tax abatement for proposed improvements to said personal property;

**Whereas**, the contemplated use by Akzo Nobel Paints LLC – Liquid Nails Division, of the property, as hereinafter described, and the contemplated improvements to said property in the form and amounts set forth in the agreement, are consistent with encouraging economic development, and in accordance with the criteria and guidelines for tax abatement in the City’s Economic Development Policy;

**Whereas**, as required by law the City has notified the other taxing entities of its intent to enter into the agreement; and

**Whereas**, the City Council has considered the matter and finds that the proposed tax abatement with Akzo Nobel Paints LLC – Liquid Nails Division, is in compliance with State law and the City’s *Guidelines and Criteria* governing tax abatement, and that the proposed improvements said company are feasible and likely to attract major investment and expand employment within the City.

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

**Part 1:** The City Manager, or his designee, is authorized to execute a tax abatement agreement on eligible personal property between the City of Temple and Akzo Nobel Paints LLC – Liquid Nails Division, after approval as to form by the City Attorney, governing two tracts of land consisting of approximately 6.257 and 7.755 acres located at 3410 and 3602 Lucius McCelvey Drive.



**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(L)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-35: Consider adopting an ordinance authorizing a zoning change from Agriculture (A) to Neighborhood Service (NS) on a 0.72 ± acre tract of land situated in the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection of State Highway 36 and Moffat Road.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zone change from A to NS 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. Land Use Policy 14 of the Comprehensive Plan recommends that small scale neighborhood retail and service uses be located at the intersections of collector and arterial streets.
3. The request complies with the Thoroughfare Plan.
4. Public and private facilities serve the property.

Chair Pilkington and Commissioner Hurd were absent.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-35, from the Planning and Zoning meeting, August 2, 2010. The applicant proposes to establish a small retail and office center on the subject property.

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes*
	Land Use Policy 14 - Smaller-scale neighborhood retail and service uses should be located at intersections of collector and arterial streets	Yes
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes*
	Map 5.2 - Thoroughfare Plan	Yes*
STP	NA	NA

\* = See Comments Below    CP = Comprehensive Plan    STP = Sidewalk and Trails Plan

#### Future Land Use and Character (CP Map 3.1)

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 (CP Map 5.2)

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

#### Availability of Public Facilities (CP Goal 4.1)

Moffat Water Supply, the area's water provider, states that a 1 ½" water line serves the property. An on-site septic facility is proposed for the property. Public and private facilities are available.

**PUBLIC NOTICE:** Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 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 July 22, 2010 in accordance with state law and local ordinance.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Notice Map

Response Letter

P&Z Staff Report (Z-FY-10-35)

P&Z Minutes (08/02/10)

Ordinance



**Z-FY-10-35**

Cedar Ridge Crossing

Hwy 53/Airport Rd, N of Moffat Rd



Feet 0 100 200 300 400

J Stone 6.16.10

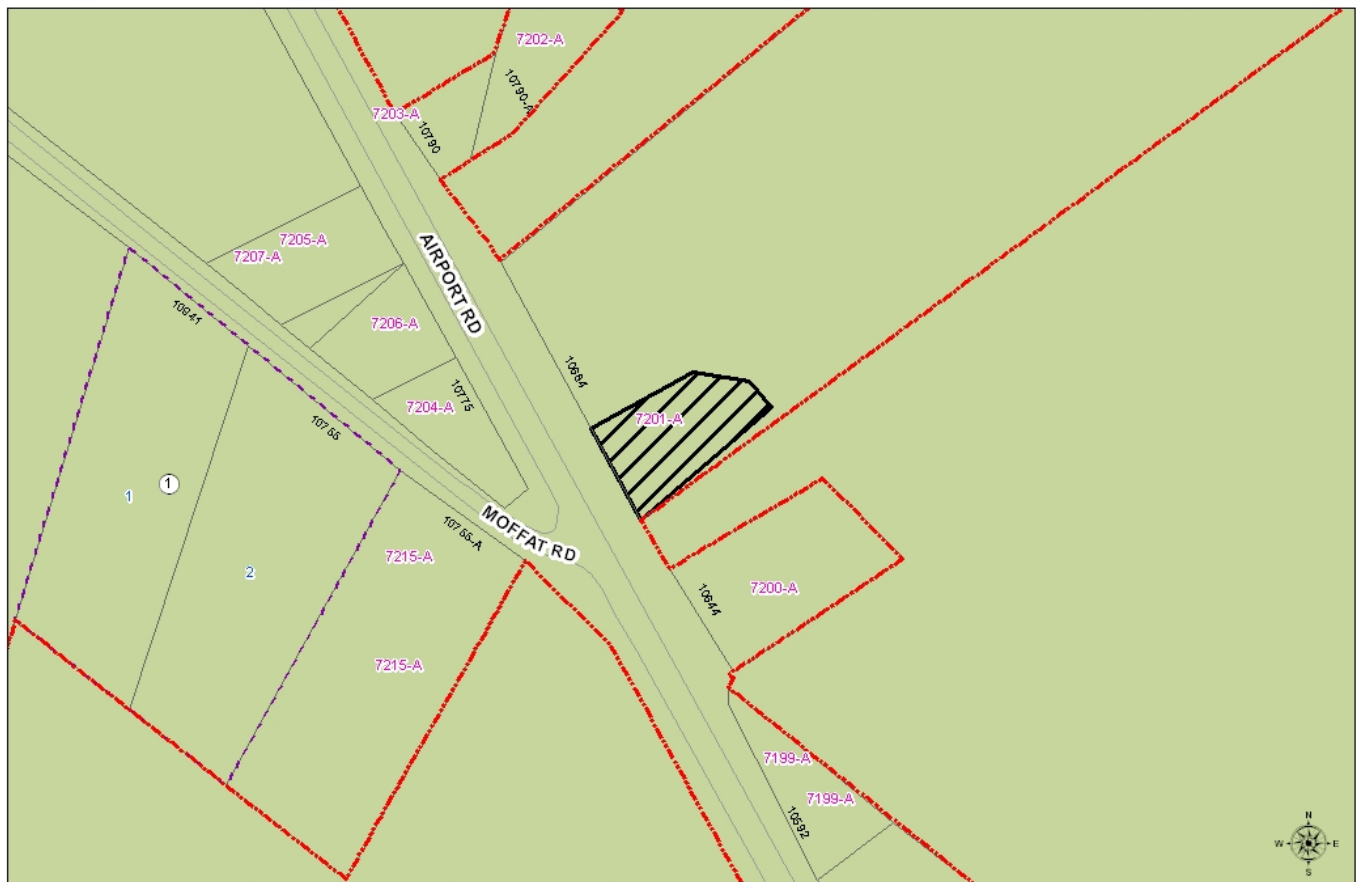
 ZFY1035



**Z-FY-10-35**

Cedar Ridge Crossing

Hwy 53/Airport Rd, N of Moffat Rd



- |                           |                         |                       |                                   |                      |         |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|---------|
| Neighborhood Conservation | Auto-urban Residential  | Auto-Urban Commercial | Temple Medical Education District | Public/Institutional | ZFY1035 |
| Estate Residential        | Auto-Urban Multi-Family | Suburban Commercial   | Industrial                        | Parks and Open Space |         |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business park                     | Agricultural/Rural   |         |

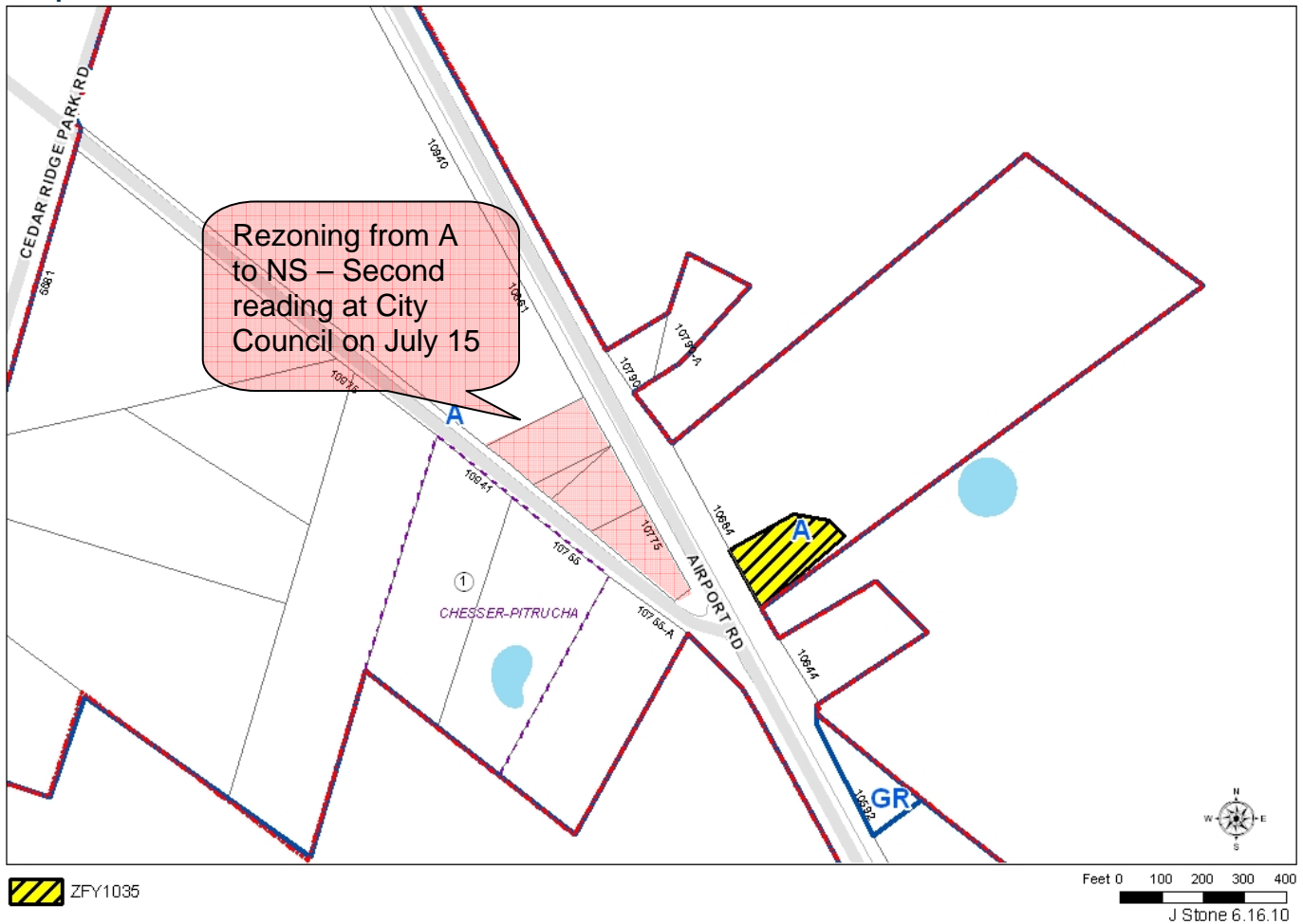
1 inch = 200 feet  
J Stone 7.19.10

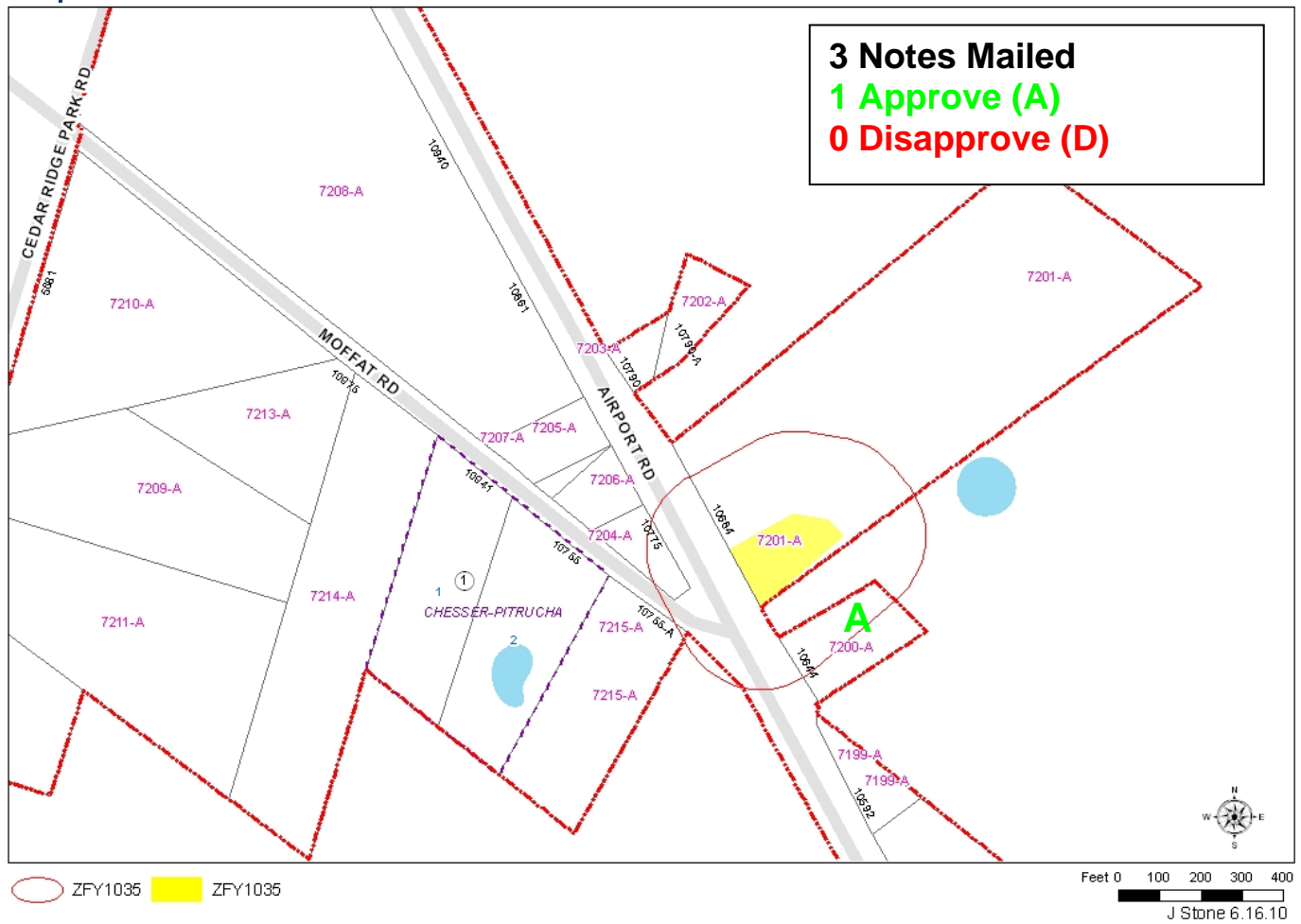


**Z-FY-10-35**

Cedar Ridge Crossing

Hwy 53/Airport Rd, N of Moffat Rd









## 2<sup>nd</sup> RESPONSE TO PROPOSED REZONING

### CITY OF TEMPLE

Sheran Lewis  
5796 Cedar Ridge Park Road  
Temple, Texas 76502

**Zoning Application Number:** Z-FY-10-35

**Project Manager:** Brian Mabry

This 2<sup>nd</sup> notice of a public hearing is being sent to you because the Planning and Zoning Commission did not have enough members to conduct a meeting on July 19, 2010. The Planning and Zoning Commission will consider this rezoning request on August 2, 2010.

The proposed rezoning is the area shown in yellow and blue marking on the attached map. This rezoning will allow the construction of a strip center. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval ( ) denial of this request.

**Comments:**

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Signature

  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than August 2, 2010.

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

**RECEIVED**

JUL 27 2010

City of Temple  
Planning & Development

Number of Notices Mailed: 3

Date Mailed: July 22, 2010



# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10  
Item #8  
Regular Agenda  
Page 1 of 3

**APPLICANT:** Christopher Bean



**CASE MANAGER:** Brian Mabry, AICP, Interim Planning Director

**ITEM DESCRIPTION:** Z-FY-10-35 – Hold a public hearing to discuss and recommend action on a rezoning from Agriculture (A) to Neighborhood Service (NS) on a 0.72 ± acre tract of land situated in the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection of State Highway 36 and Moffat Road.



**BACKGROUND:** The applicant proposes to establish a small retail and office center on the subject property.

## **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)	Undeveloped	
North	A with ETJ in the distance	Undeveloped with storage in the distance	

**Double Sided**

Direction	Zoning	Current Land Use	Photo
South	ETJ with A in the distance	Undeveloped with manufactured home in the distance	
East			
West	NS with CUP for off-premise beer & wine consumption	Convenience store and fuel sales	

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes*
	Land Use Policy 14 - Smaller-scale neighborhood retail and service uses should be located at intersections of collector and arterial streets	Yes
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes*
	Map 5.2 - Thoroughfare Plan	Yes*
STP	NA	NA

\* = See Comments Below    CP = Comprehensive Plan    STP = Sidewalk and Trails Plan

#### Future Land Use and Character (CP Map 3.1)

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 (CP Map 5.2)

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

Availability of Public Facilities (CP Goal 4.1)

Moffat Water Supply, the area's water provider, states that a 1 ½" water line serves the property. An on-site septic facility is proposed for 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.

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

**PUBLIC NOTICE:** Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 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 July 22, 2010 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning for case Z-FY-10-35 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. Land Use Policy 14 of the Comprehensive Plan recommends that small scale neighborhood retail and service uses be located at the intersections of collector and arterial streets.
3. The request complies with the Thoroughfare Plan.
4. Public and private facilities serve the property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

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

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 8: Z-FY-10-35:** Hold a public hearing to discuss and recommend action on a rezoning from Agriculture (A) to Neighborhood Service (NS) on a 0.72 ± acre tract of land situated in the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection of State Highway 36 and Moffat Road. (Applicant: Christopher Bean)

Commissioner Staats stated he would need to abstain from this case.

Mr. Mabry stated this request was for a proposed small retail office building. The area was annexed in 2008 and this was the first proposed rezoning for the area and located on Airport Road near Moffat Road.

A convenience store lay to the west, undeveloped land with some storage facilities to the north (owned by the applicant), and undeveloped land to the south and east with one manufactured home.

The Future Land Use and Character Map designated this property as agricultural and rural, however, toward the end of summer a Future Land Use amendment would be submitted to the Commission which would propose the area as suburban/commercial to accommodate the existing commercial activity taking place in the area. Airport Road is a major arterial and Moffat is a collector on the Thoroughfare Plan. Moffat Water Supply would be the water supplier with a 1.5" water line serve the property and on-site septic facilities are available.

Three notices were mailed: one was returned in favor of the request and zero were opposed.

Staff recommended approval of this rezoning request for the following reasons:

1. The Comprehensive Plan recommended the NS zoning district to complement rural and urban residential areas since it is the most restrictive and least intense commercial zoning district.
2. Land Use Policy 14 of the Comprehensive Plan recommended that small scale neighborhood retail and service uses be located at the intersections of collector and arterial streets.
3. The request complied with the Thoroughfare Plan.
4. Public and private facilities serve the property.

Vice-Chair Talley opened the public hearing. There being no speakers, Vice-Chair Talley closed the public hearing.

Commissioner Barton made a motion to approve Z-FY-10-35 with the Staff recommendations and Commissioner Pope made a second.

*Motion passed: (6:0)*

Commissioner Staats abstained; Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-35]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO NEIGHBORHOOD SERVICE (NS) ON AN APPROXIMATELY 0.72 ACRE TRACT OF LAND SITUATED ON THE SARAH FITZHENRY SURVEY, ABSTRACT NO. 312, BELL COUNTY, TEXAS, LOCATED EAST OF THE INTERSECTION OF STATE HIGHWAY 36 AND MOFFAT ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Agricultural District (A) to Neighborhood Service (NS) on an approximately 0.72 acre tract of land situated on the Sarah Fitzhenry Survey, Abstract No. 312, Bell County, Texas, located east of the intersection 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 **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(M)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-39: Consider adopting an ordinance authorizing a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303, South 31st Street. Suite 101.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant with the following conditions:

1. General Conditional Use Permit provisions in Sec. 7-611 of the Zoning Ordinance apply to the property.
2. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Chair Talley and Commissioner Hurd were absent.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-39, from the Planning and Zoning meeting, August 2, 2010. The applicant requests the Conditional Use Permit in order to sell beer, wine and mixed drinks for on-premise consumption with more than 50% and less than 75% of total gross revenue coming from alcohol sales. The restaurant, Camino Real, just recently opened in lease space in the shopping center on the subject property.

The nearest "protected use" (e.g. church, school or hospital) is approximately 400 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet.

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Map F4- Local connector trail/sidewalk along S. 31 <sup>st</sup> St.	N*

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

**Future Land Use and Character (CP Map 3.1)**

The request conforms to the Future Land Use and Character Map which designates the property as Auto-Urban Commercial.

**Thoroughfare Plan (CP Map 5.2)**

This request conforms to the Thoroughfare Plan since the subject property has access to South 31<sup>st</sup> Street, which is designated as an Arterial street.

**Availability of Public Facilities (CP Goal 4.1)**

A 12-inch water line and a 15-inch sewer line serve the site.

**Citywide Sidewalk and Trails Master Plan (Spine Trail Map)**

The Citywide Trails Master Plan calls for a Community-Wide Connector Trail or Sidewalk that is 8 to 10 feet wide and which may be composed of concrete or other materials, along this portion of South 31<sup>st</sup> Street. The existing sidewalk, which is in good condition and installed in late 2000, is 6 feet in width. While it does not meet the plan's recommendation, requesting an additional 2' in sidewalk width along the 360 feet of frontage for the entire shopping center would not be in proportion with the fairly simple, small-scale request that the applicant is making to serve alcohol in the lease space.

**PUBLIC NOTICE:** Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 at 5 PM, no notices were returned in favor of and no were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Utility Map

CUP Site Plan

CUP Floor Plan

Notice Map

P&Z Staff Report (Z-FY-10-39)

P&Z Minutes (August 2, 2010)

Ordinance



**Z-FY-10-39**

3519 SF of Lot 1, Block 1, Westward LTD Addition

4303 S 31st St, Suite 101



Feet 0 50 100 150 200

JStone 6.30.10



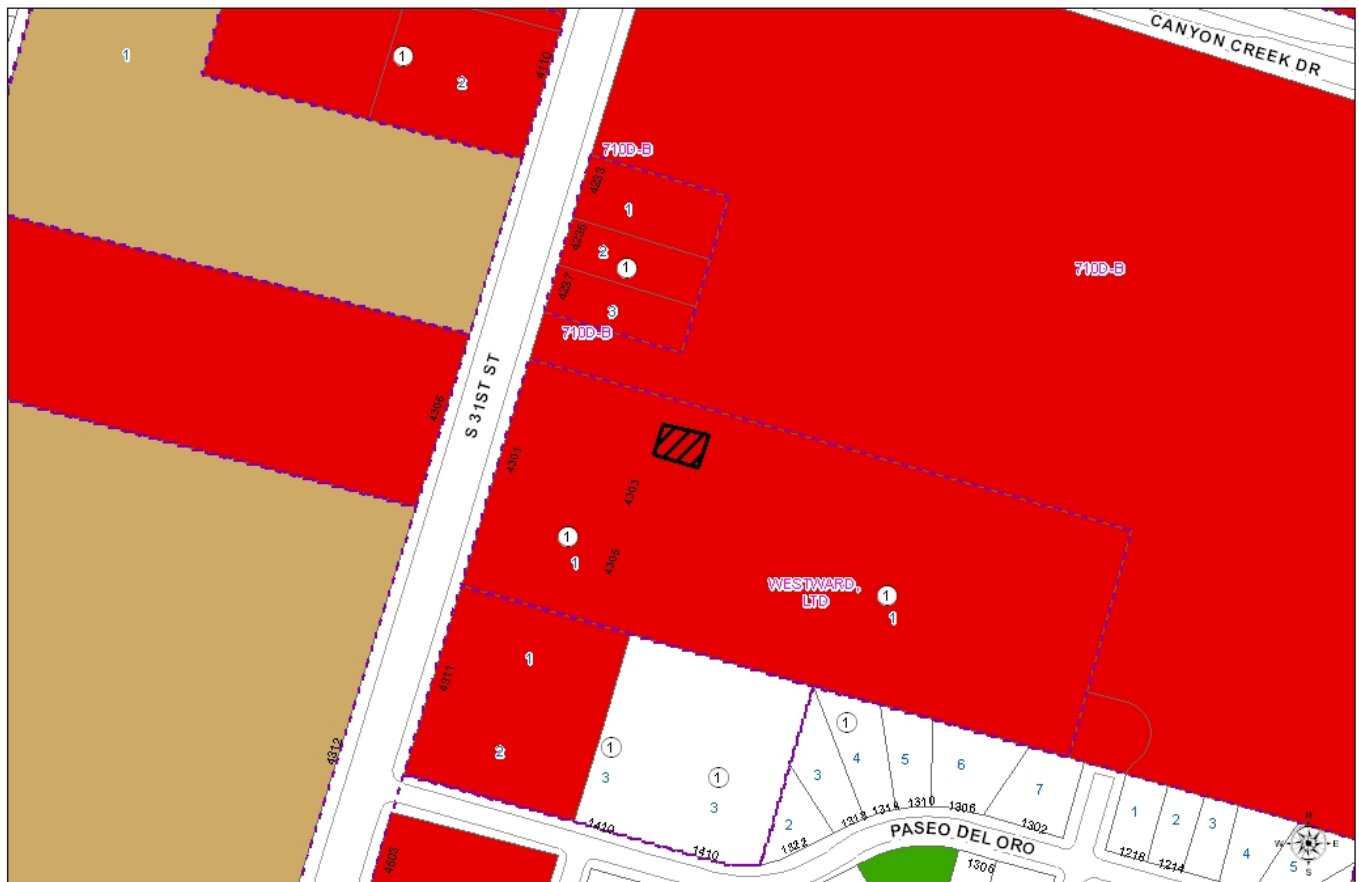
ZFY1039



**Z-FY-10-39**

3519 SF of Lot 1, Block 1, Westward LTD Addition

4303 S 31st St, Suite 101



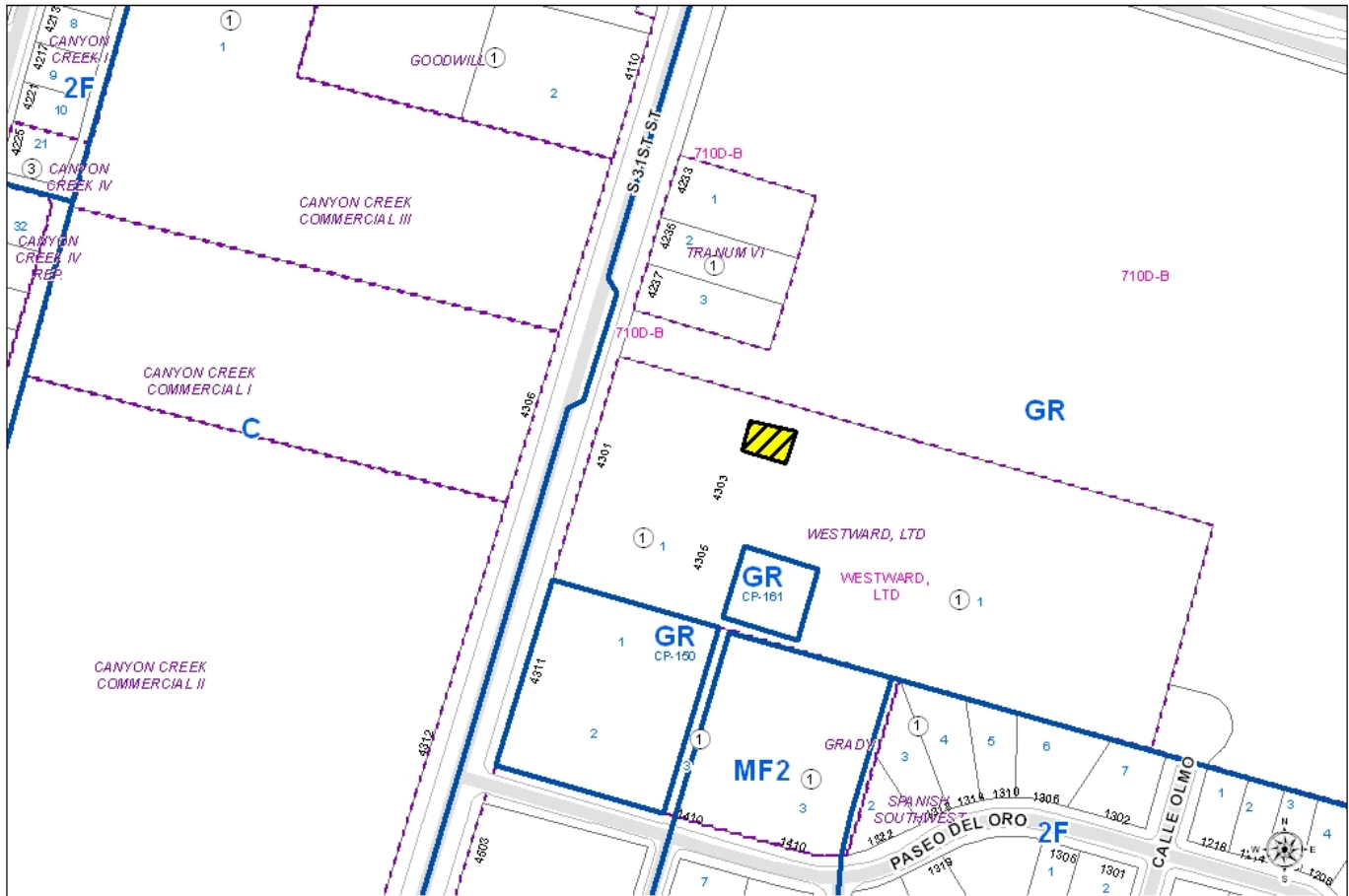
Neighborhood Conservation	Auto-urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public/Institutional	ZFY1039	1 inch = 200 feet
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks and Open Space		J Stone 6.30.10
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business park	Agricultural/Rural		



**Z-FY-10-39**

3519 SF of Lot 1, Block 1, Westward LTD Addition

4303 S 31st St, Suite 101



Feet 020406080  
JStone 6.30.10





**Z-FY-10-39**

3519 SF of Lot 1, Block 1, Westward LTD Addition

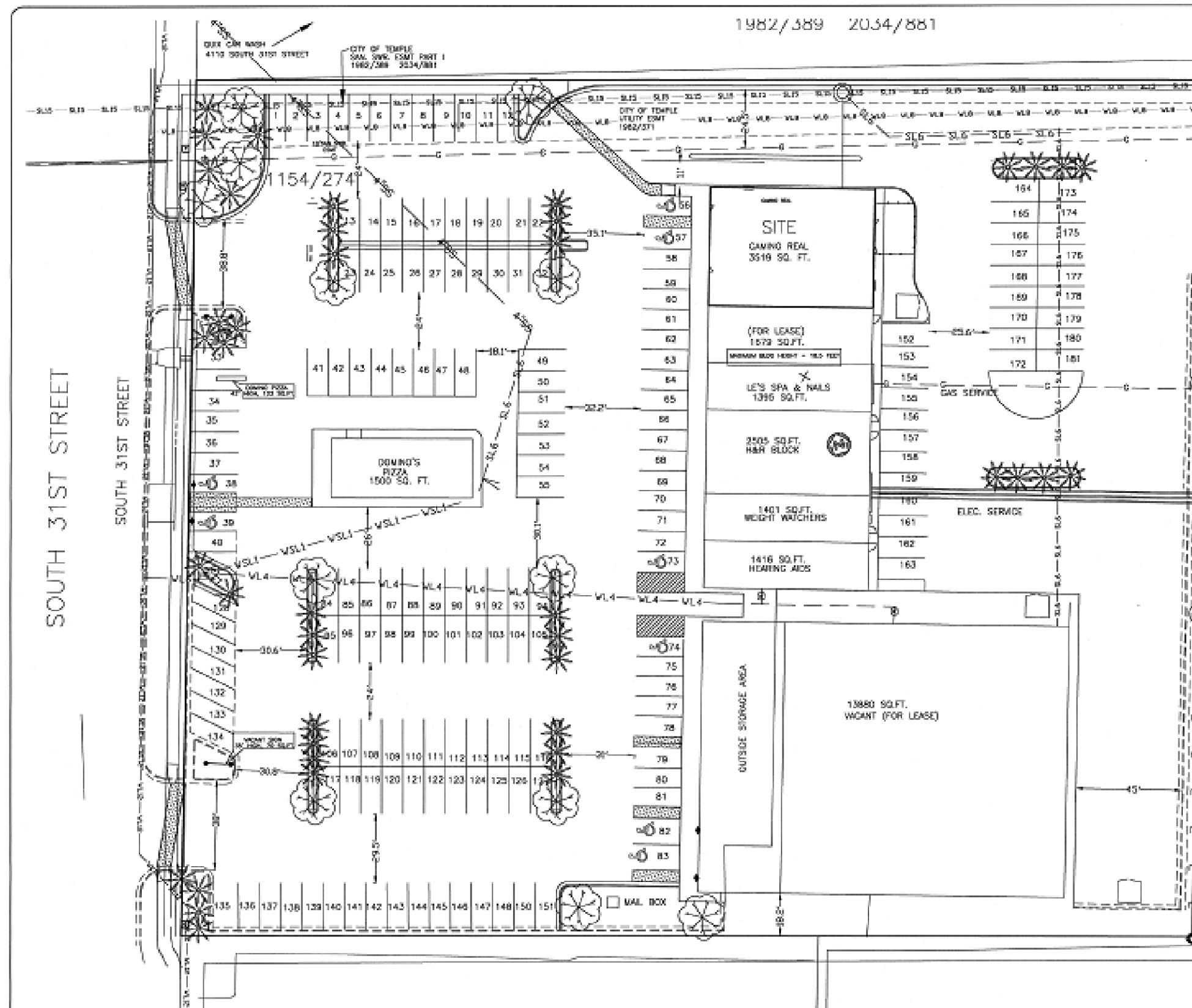
4303 S 31st St, Suite 101



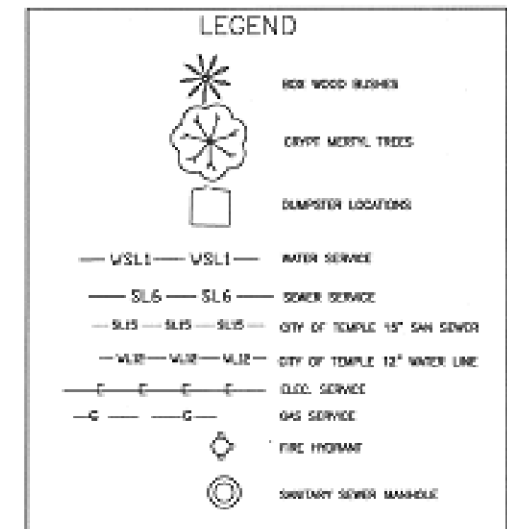
— WATER LINE — SEWER LINE X ZFY1039

Feet 0 50 100 150 200

JStone 6.30.10



**PARKING SUMMARY**  
 TOTAL CANYON CROSSING LEASE SPACE = 27295 SQ. FT.  
 EXIST. HANDI-CAP SPACES = 8  
 EXISTING PARKING SPACES = 173  
 TOTAL PARKING SPACES = 181  
 TYPICAL PARKING SPACE = 9' X 20'  
 PARKING RATIO = 1 SPACE/ 150.8 SQ. FT. FLOOR AREA



NO.	DATE	REVISION	BY

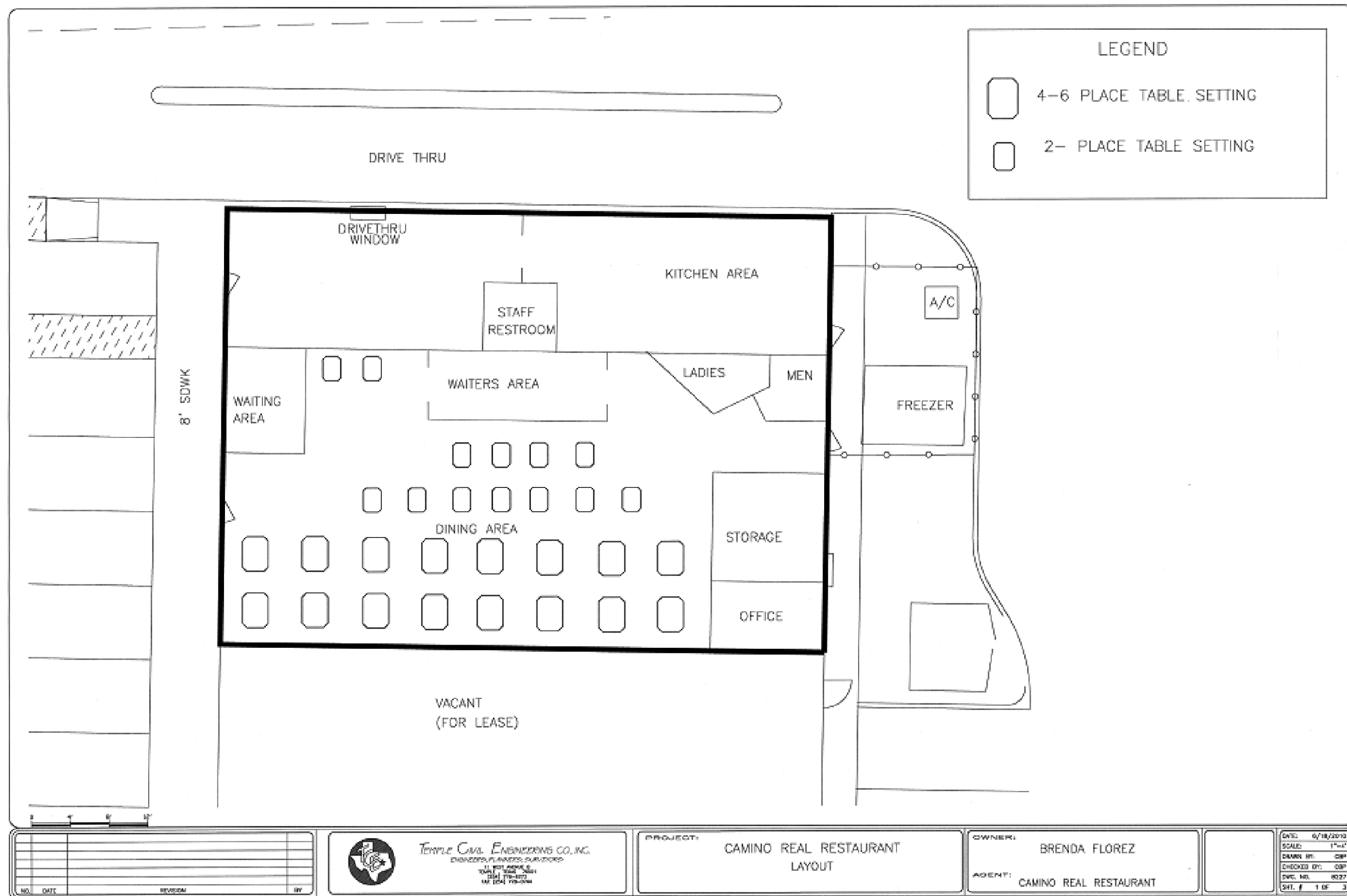
**TEMPLE CIVIL ENGINEERING COMPANY INC.**  
 ENGINEERS, PLANNERS, SURVEYORS  
 11 WEST AVENUE 3  
 TEMPLE, TEXAS 76781  
 PHONE 798-4272  
 FAX 798-4274

PROJECT: CANYON CREEK CROSSING  
 SITE PLAN  
 TEMPLE, BELL COUNTY TEXAS

CLIENT: CAMINO REAL RESTAURANT  
 AGENT: CAMINO REAL RESTAURANT

DATE: 9-18-2010  
 SCALE:  
 DRAWN BY: CBP  
 CHECKED BY: CBP  
 DWG. NO.: 8227  
 SHEET # 2 OF 3



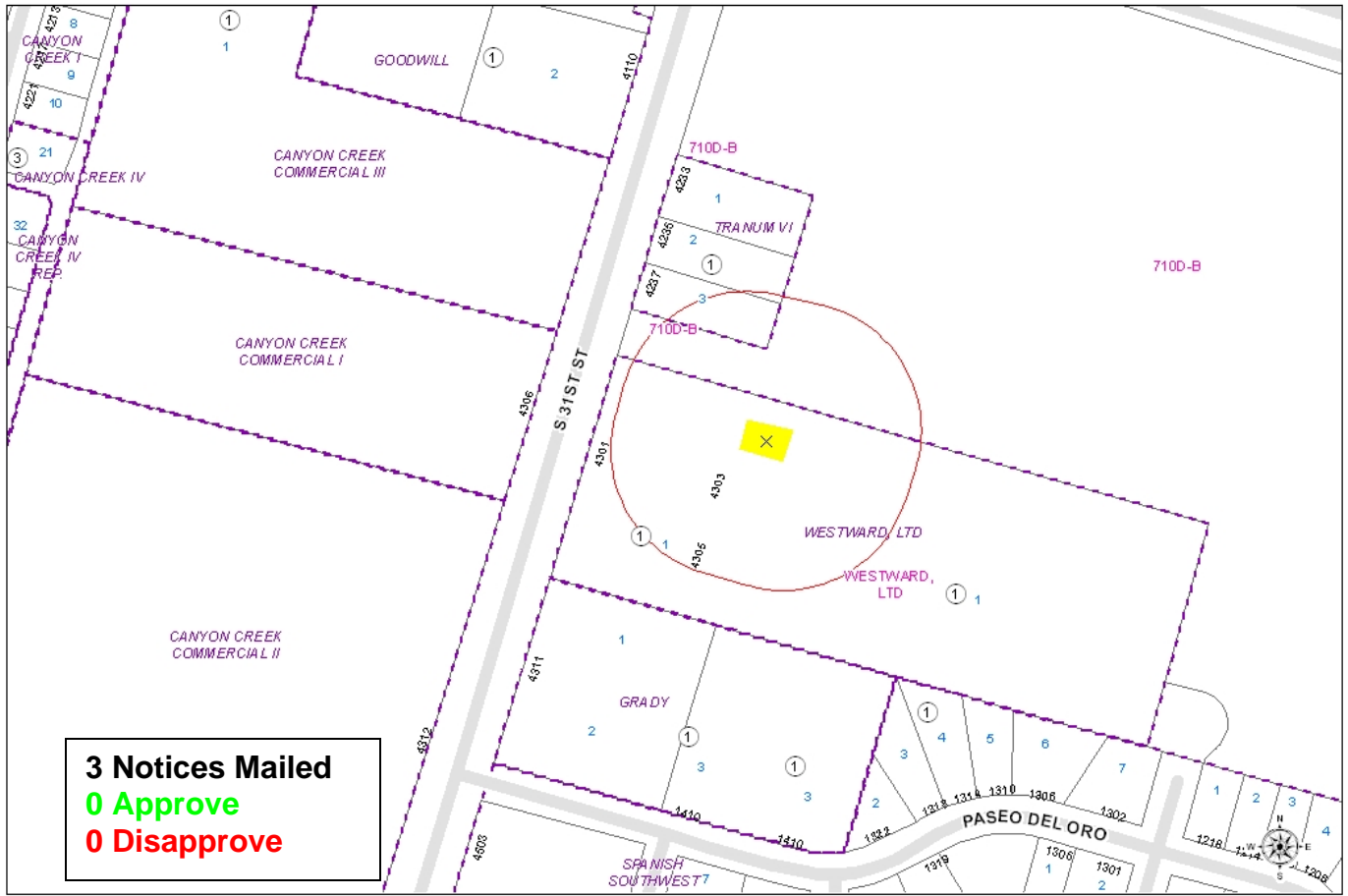




**Z-FY-10-39**

3519 SF of Lot 1, Block 1, Westward LTD Addition

4303 S 31st St, Suite 101



○ 200' Buffer    ■ ZFY1039

Feet 0 50 100 150 200

JStone 6.30.10



# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10  
Item #9  
Regular Agenda  
Page 1 of 4

**APPLICANT / DEVELOPMENT:** Juan Flores for Eagle Eye Investments, LLC

**CASE MANAGER:** Brian Mabry, AICP, Interim Planning Director

**ITEM DESCRIPTION:** Z-FY-10-39 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303, South 31st Street. Suite 101.


**BACKGROUND:** The applicant requests the Conditional Use Permit (CUP) in order to sell beer, wine and mixed drinks for on-premise consumption with more than 50% and less than 75% of total gross revenue coming from alcohol sales. The restaurant, Camino Real, just recently opened in lease space in the shopping center on the subject property.





The nearest “protected use” (e.g. church, school or hospital) is approximately 400 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet. A CUP for on-premise consumption of alcohol was granted in 2003 for what was recently “Hank’s Town” when that building was proposed to be a movie theater with food and beverages.

A total of 124 parking spaces are required for the shopping center (1 space per 250 sq ft retail; 1 space per 3 seats in a restaurant). A total of 181 spaces are provided on the site. The existing landscaping and screening on the property meets or exceeds the requirements of the Zoning Ordinance.

**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 (CUP proposed)	Restaurant in shopping center lease space	

Direction	Zoning	Current Land Use	Photo
North	GR	Car wash	
South	GR	Nail shop in shopping center lease space	
East	GR	Undeveloped	
West	C	Church (across S. 31 <sup>st</sup> St.)	

#### **COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
CP	Map 5.2 - Thoroughfare Plan	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y
STP	Map F4- Local connector trail/sidewalk along S. 31 <sup>st</sup> St.	Y

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

#### **Future Land Use and Character (CP Map 3.1)**

The request conforms to the Future Land Use and Character Map which designates the property as Auto-Urban Commercial.

#### Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject property has access to S. 31<sup>st</sup> Street, which is designated as an Arterial street.

#### Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line and a 15-inch sewer line serve the site.

#### Citywide Sidewalk and Trails Master Plan (Spine Trail Map)

The Citywide Sidewalk and Trails Master Plan calls for a local connector trail/sidewalk, which may be composed of concrete that is 6 to 8 feet in width along the S. 31<sup>st</sup> Street Corridor. The existing sidewalk that is 6 feet in width meets this requirement.

#### **CUP APPROVAL CRITERIA**

Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs. They are listed below the P&Z's consideration:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

#### **PUBLIC NOTICE:**

Three notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 at 5 PM, no notices were returned in favor of and no were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of Z-FY-10-39, a CUP to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its CUP. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
3. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.

4. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior.
5. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
6. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
7. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
8. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
CUP Site Plan  
CUP Floor Plan  
Notice Map  
Response Letters

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 9: Z-FY-10-39:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303 South 31st Street. Suite 101. (Applicant: Juan Flores for Eagle Eye Investments LLC.)

Mr. Mabry stated this request was for on-premise consumption of beer, wine and mixed drinks in a restaurant. If approved, this item would go to City Council on August 19th for first reading and September 2nd for second reading and final action. This was a standard request for a restaurant to serve all three types of alcohol.

Surrounding properties have a nail shop to the south, undeveloped land to the east, a church to the west, and a car wash to the north. The Future Land Use and Character Map showed the property as auto/urban/commercial. The Thoroughfare Plan showed South 31st as an arterial and a 12" water line, an 8" water line, and a 15" sewer line would serve the property.

The nearest "protected use" (e.g. church, school or hospital) was approximately 400 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet.

A total of 124 parking spaces are required for the shopping center (1 space per 250 sq ft retail; 1 space per 3 seats in a restaurant). A total of 181 spaces are provided on the site. The existing landscaping and screening on the property met or exceeded the requirements of the Zoning Ordinance.

The Citywide Sidewalk and Trails Master Plan called for a local connector trail/sidewalk, which may be composed of concrete that is 6 to 8 feet in width along the S. 31st Street Corridor. The existing sidewalk that is 6 feet in width met this requirement.

Three notices were mailed: zero were return in favor or in opposition.

Staff recommended approval of Z-FY-10-39, a CUP to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its CUP. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
3. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
4. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior.
5. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
6. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
7. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
8. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Commissioner Staats asked if Eagle Eye owned other restaurants in the area and who was the applicant. Mr. Mabry stated they owned the entire shopping center and were out of California. He was not certain what other properties they owned. The restaurant owner made the application but a representative of the property owner signed off on the application.



Vice-Chair Talley opened the public hearing. There being no speakers, Vice-Chair Talley closed the public hearing.

Commissioner Staats stated he was quite familiar with this area and this looked to be a thriving business.

Commissioner Pope made a motion to approve Z-FY-10-39 CUP to include with Staff conditions and Commissioner Secrest made a second.

*Motion passed: (7:0)*

Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-39]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES, MORE THAN 50% AND LESS THAN 75% OF THE TOTAL GROSS REVENUE, FOR ON-PREMISE CONSUMPTION IN A RESTAURANT LOCATED IN A 3,519 SQUARE FEET LEASE SPACE ON A PORTION OF LOT 1, BLOCK 1, WESTWARD LTD SUBDIVISION AT 4303 SOUTH 31<sup>ST</sup> STREET, SUITE 101; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

**Whereas**, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 4303 South 31<sup>st</sup> Street, Suite 101, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located in a 3,519 square feet lease space on a portion of Lot 1, Block 1, Westward LTD Subdivision at 4303 South 31<sup>st</sup> Street, Suite 101, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

- (a) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (b) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (c) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (d) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
- (e) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (f) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- (g) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (h) 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.
- (i) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of

property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

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

**Part 3:** The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 4:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

**Part 6:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 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

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09/02/10  
Item #9(N)  
Consent Agenda  
Page 1 of 4

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-40: Consider adopting an ordinance amending the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet on Lot 1, Block 1, Northland Synergy Addition at 4875 Wendland Road.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010 meeting, the Planning and Zoning Commission voted 6/0 in accordance with staff recommendation to recommend approval of an amendment to the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products. The original conditions of Ordinance No. 2009-4296 continue to apply to the subject property. They are:

1. The development of the property shall conform to the site plan, attached hereto as Exhibit B.
2. The permittee is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in the Zoning Ordinance, Section 7-300 (Noise).
4. Site illumination shall be designed and located so that lighting sources are not directly visible from Wendland Road – lighting shall not cast glare on adjacent properties.
5. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house
6. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state or federal regulations.
7. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
8. Final “as built” drawings shall be delivered to the City of Temple Construction Services Department upon completion.

9. The permittee shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
10. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
11. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with City Code requirements.
12. The conditional use permit runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
13. The City Council may revoke, suspend or modify a conditional use permit after notice to property owner and hearing before the City Council if the City Council finds evidence of fraud or deception, violation of conditions of the conditional use permit, or as provided in Sections 7-609 and 7-610 of the Zoning Ordinance.

Commissioner Staats abstained. Chair Pilkington and Commissioner Hurd were absent.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-40, from the Planning and Zoning meeting, August 2, 2010. The applicant requests the Conditional Use Permit (CUP) in order to expand upon a previously approved CUP site plan. Construction on-site has not yet occurred. The original CUP was approved June 4, 2009. The following table shows the differences between the approved CUP site plan and the proposed plan.

Approved CUP Site Plan	Proposed Amended CUP Site Plan
Trailer parking on gravel: 31 spaces	Trailer parking on gravel: 41 spaces
Manufacturing and dist. space: 25,500 sq ft	Manufacturing and dist. space: 76,900 sq ft
Loading docks: 8	Loading docks: 15
Dumpster location: rear of building	Dumpster location: rear and to the side of bldg

The number of parking spaces is unchanged from the original submittal to the current one, but the number of spaces is still adequate. The Planning and Zoning Commission staff report shows other elements of the site plan that remain unchanged.

The conditions in the Planning and Zoning Commission Recommendation above are the City Council-approved conditions from the original submittal.

**COMPREHENSIVE PLAN COMPLIANCE:**The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
CP	Land Use Policy 15 - Industrial activities should be conducted within enclosed structures whenever possible and outdoor activities and storage should be properly screened from public view.	Y
CP	Objective 7.3.2 - Promote investment in the North Temple Industrial Park	Y
STP	NA	NA

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Industrial.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject property has access to Wendland Road, which is designated as a Minor Arterial street.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line and an 8-inch sewer line serve the site.

**PUBLIC NOTICE:** One notice of the Planning and Zoning Commission public hearing were sent out. As of Monday, August 9 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
Proposed CUP Site Plan  
Originally Approved CUP Site Plan  
CUP Ordinance No. 2009-4296  
Notice Map  
P&Z Staff Report (Z-FY-10-40)  
P&Z Minutes (08/02/10)  
Ordinance





**Z-FY-10-40**


Northland Synergy Addition

10.5 acres

4875 Wendland Rd



 ZFY1040

Feet 0 100200300400  
  
JStone 6.30.10



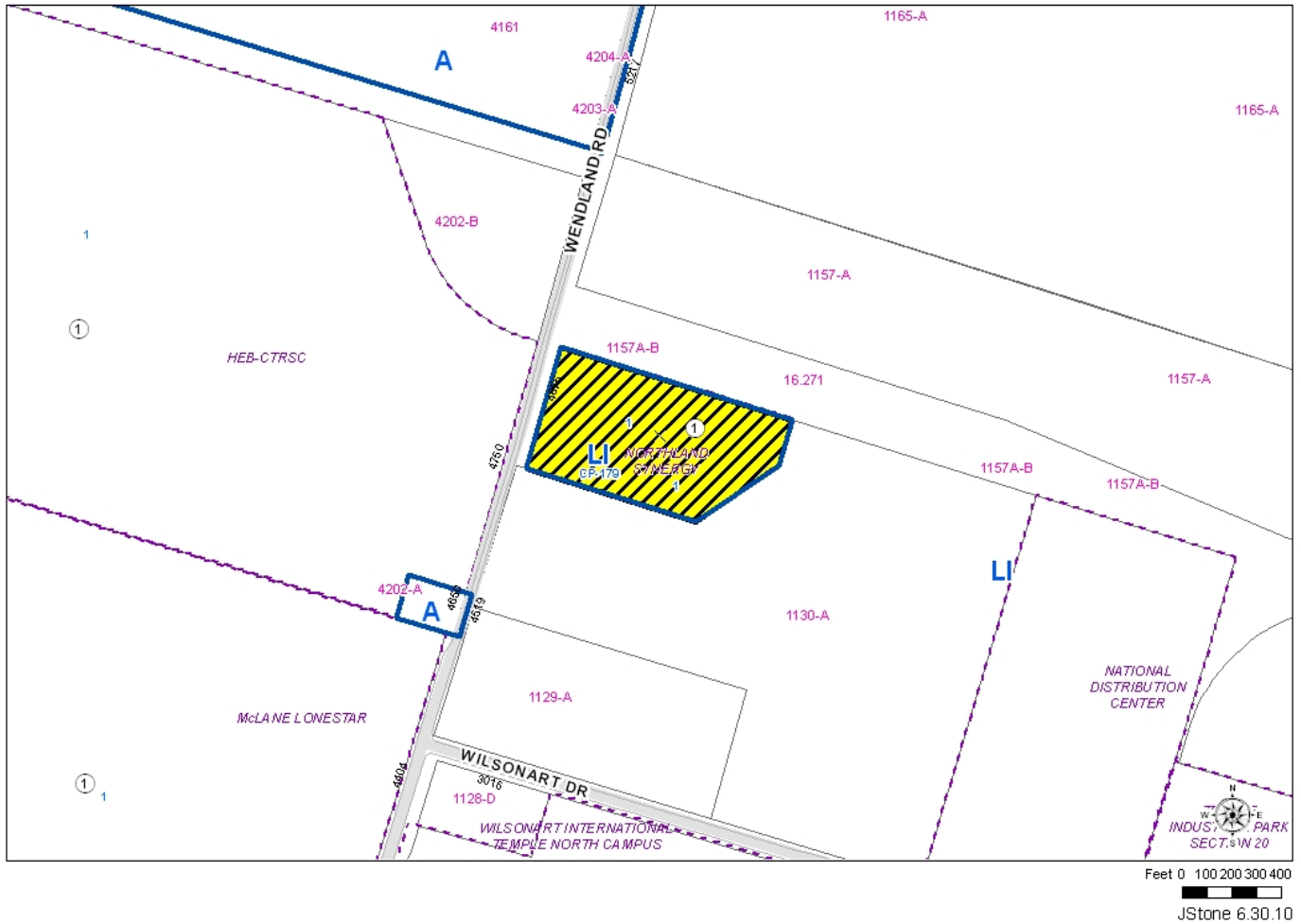


**Z-FY-10-40**

Northland Synergy Addition

10.5 acres

4875 Wendland Rd





**Z-FY-10-40**

Northland Synergy Addition

10.5 acres

4875 Wendland Rd

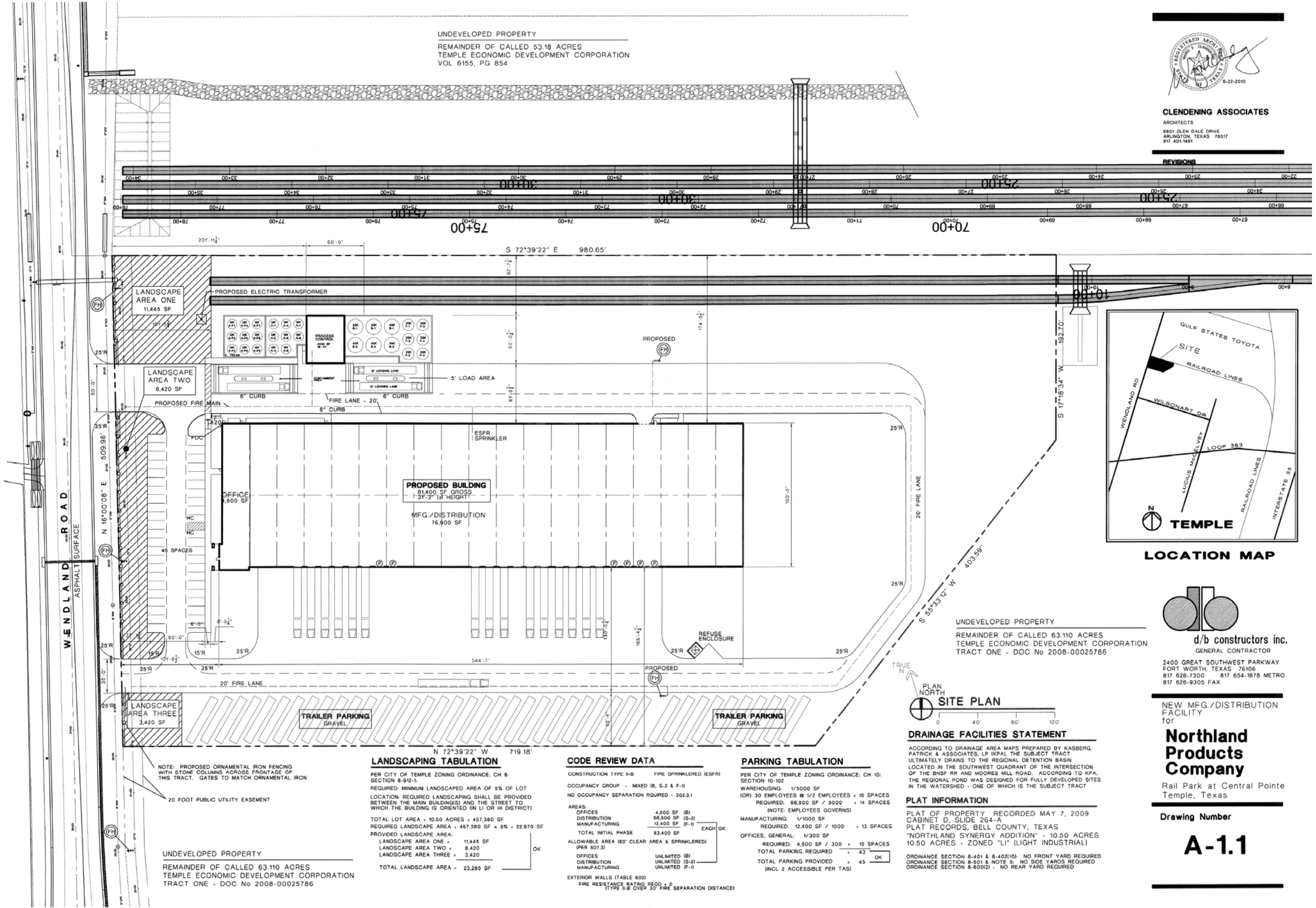


— WATER LINE — SEWER LINE ZFY1040

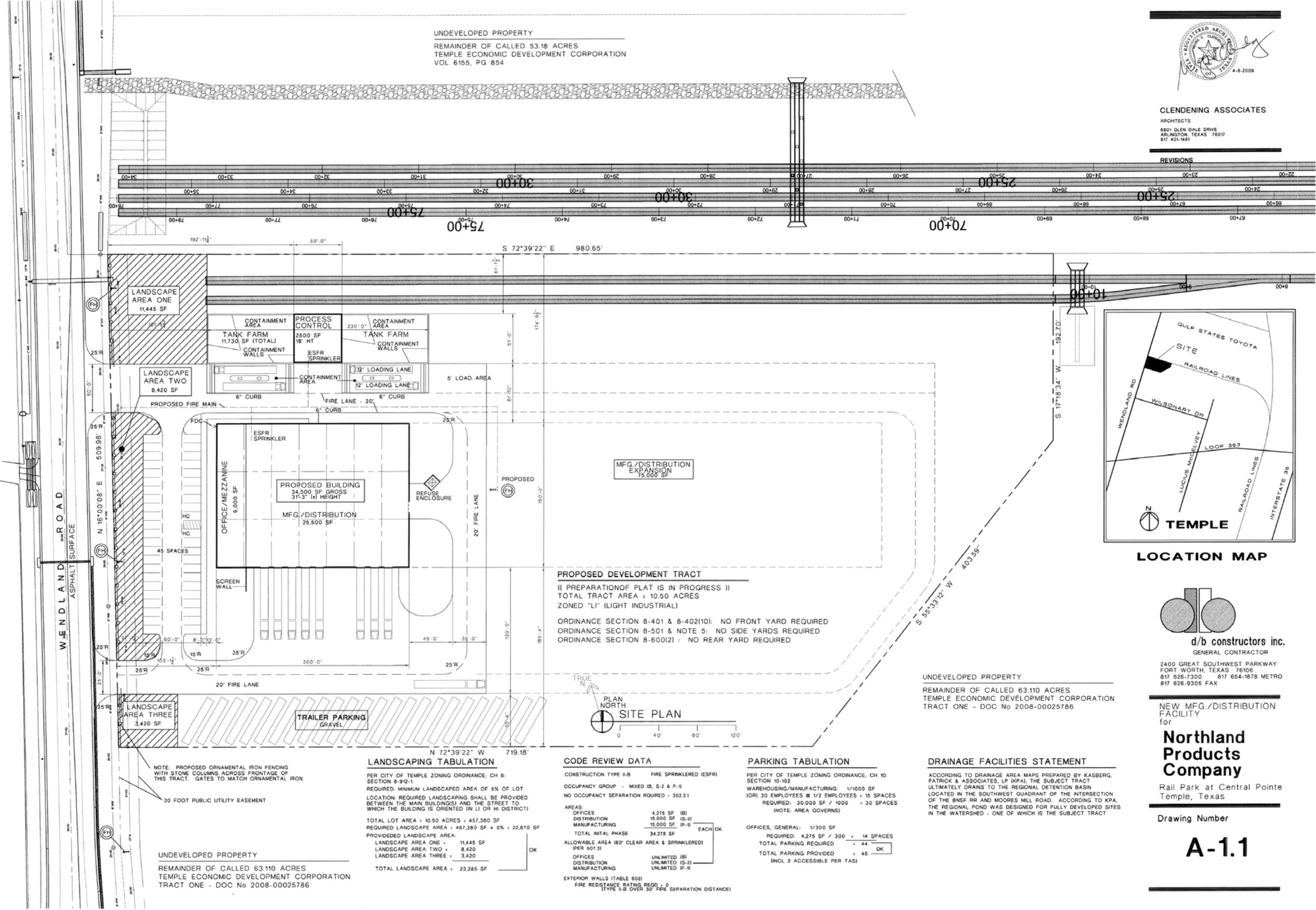
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JStone 6.30.10



Proposed CUP Site Plan



Originally Approved CUP Site Plan



[PLANNING NO. Z-FY-09-21]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR PETROLEUM STORAGE AND COLLECTING FACILITIES AND THE MANAGEMENT OF PETROLEUM PRODUCTS ON A TRACT OF LAND CONSISTING OF APPROXIMATELY 10.5 ACRES LOCATED ON THE EAST SIDE OF WENDLAND ROAD BETWEEN MOORE'S MILL ROAD AND WILSONART DRIVE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of land consisting of approximately 10.5 acres located on the east side of Wendland Road between Moore's Mill Road and Wilsonart Drive, recommends that the City Council approve the application for this Conditional Use Permit for petroleum storage and collecting facilities and for the management of petroleum products; 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 petroleum storage and collecting facilities and the management of petroleum products on a tract of land consisting of approximately 10.5 acres located on the east side of Wendland Road between Moore's Mill Road and Wilsonart Drive, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

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

- A. The development of the property shall conform to the site plan, attached hereto as Exhibit B.
- B. The permittee is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
- C. All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in the Zoning Ordinance, Section 7-300 (Noise).
- D. Site illumination shall be designed and located so that lighting sources are not directly visible from Wendland Road – lighting shall not cast glare on adjacent properties.
- E. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house
- F. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state or federal regulations.
- G. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
- H. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.
- I. The permittee shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
- J. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
- K. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with City Code requirements.



L. The conditional use permit runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.

M. The City Council may revoke, suspend or modify a conditional use permit after notice to property owner and hearing before the City Council if the City Council finds evidence of fraud or deception, violation of conditions of the conditional use permit, or as provided in Sections 7-609 and 7-610 of the Zoning Ordinance.

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

**Part 4:** The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **21<sup>st</sup>** day of **May**, 2009.

PASSED AND APPROVED on Second Reading on the **4<sup>th</sup>** day of **May**, 2009.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

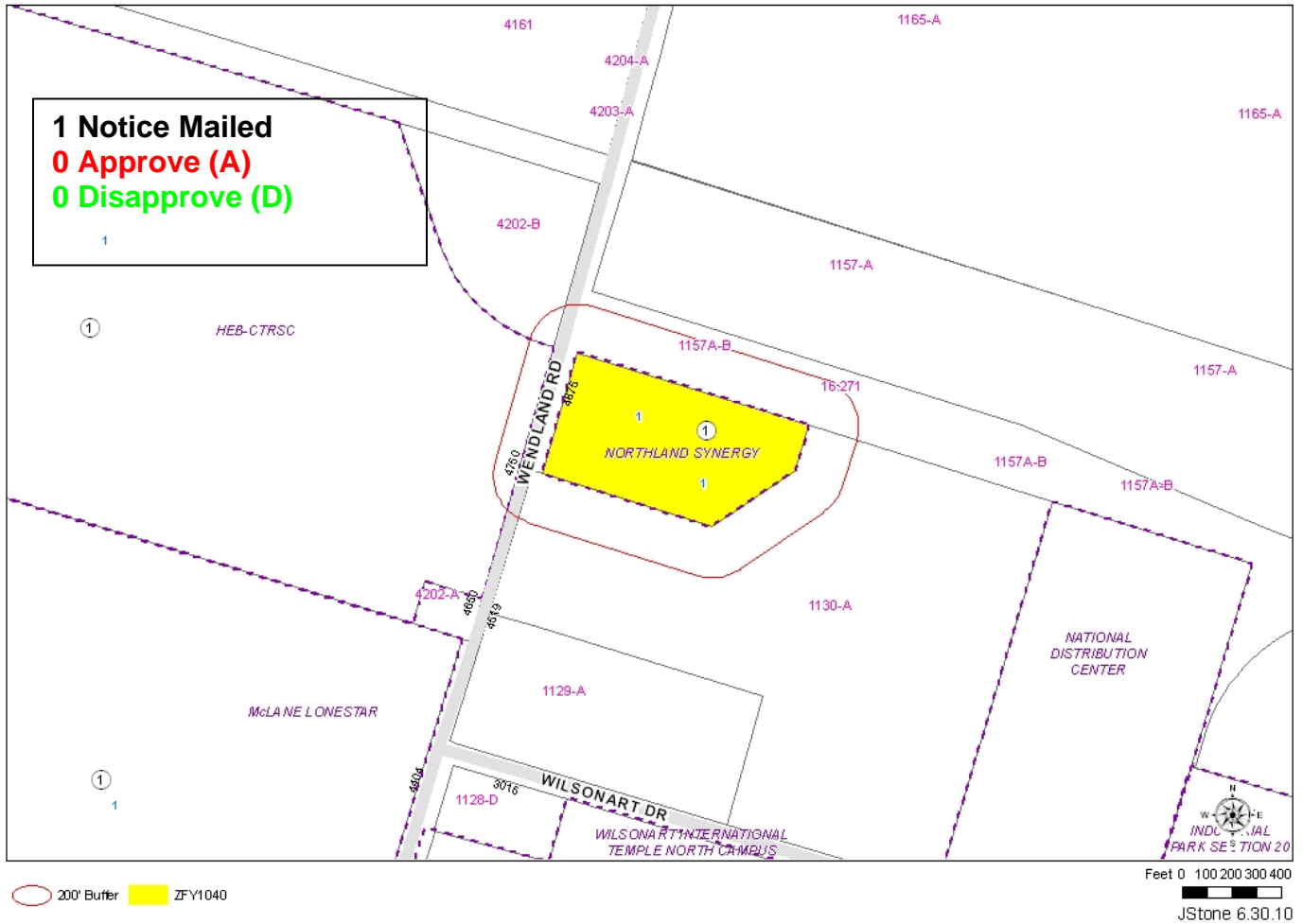
\_\_\_\_\_  
Jonathan Graham  
City Attorney

**Z-FY-10-40**

### Northland Synergy Addition

10.5 acres

4875 Wendland Rd





# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10  
Item #10  
Regular Agenda  
Page 1 of 4

**APPLICANT / DEVELOPMENT:** Jeffrey L. Toon for Northland Synergy

**CASE MANAGER:** Brian Mabry, AICP, Interim Planning Director

**ITEM DESCRIPTION:** Z-FY-10-40 Hold a public hearing to discuss and recommend action to amend the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet on Lot 1, Block 1, Northland Synergy Addition at 4875 Wendland Road. Zoning: LI

**BACKGROUND:** The applicant requests the Conditional Use Permit (CUP) in order to expand upon a previously approved CUP site plan. Construction on-site has not yet occurred. The original CUP was approved June 4, 2009. The following table shows the differences between the approved CUP site plan and the proposed plan.

Approved CUP Site Plan	Proposed Amended CUP Site Plan
Trailer parking on gravel: 31 spaces	Trailer parking on gravel: 41 spaces
Manufacturing and dist. space: 25,500 sq ft	Manufacturing and dist. space: 76,900 sq ft
Loading docks: 8	Loading docks: 15
Dumpster location: rear of building	Dumpster location: rear and to the side of bldg

Parts of the proposed site plan that remain the same as their counterparts on the originally approved site plan include:





- A single-story process control center with a height of 18' and floor area of 2,500 square feet
- An office and administration building with a height of 31' and floor area of 9,000 square feet
- 23,285 square feet of landscaping along Wendland Road
- Vehicular ingress and egress from two points along Wendland Road
- An ornamental iron fence with stone columns to screen the truck dock and parking from Wendland Road
- All buildings 100% fire sprinklered
- 45 off-street parking spaces

The original submittal provided much more parking than was required, 45 spaces. This proposed CUP site plan provides exactly the number of off-street parking spaces required according to the gross floor area of the building, which is, again, 45 spaces. Masonry exterior standards do not apply for industrial buildings.

The conditions in the Staff Recommendation below are the City Council-approved conditions from the original submittal.

## **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	LI (CUP for petroleum storage and management)	Undeveloped	
East	LI	Undeveloped (across railroad tracks)	
North	LI	Undeveloped (across railroad tracks)	
South	LI	Undeveloped	
West	LI	Distribution facility (across Wendland Rd)	

**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
CP	Map 5.2 - Thoroughfare Plan	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y
CP	Land Use Policy 15 - Industrial activities should be conducted within enclosed structures whenever possible and outdoor activities and storage should be properly screened from public view.	Y
CP	Objective 7.3.2 - Promote investment in the North Temple Industrial Park	Y
STP	NA	NA

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

**Future Land Use and Character (CP Map 3.1)**

The request conforms to the Future Land Use and Character Map which designates the property as Industrial.

**Thoroughfare Plan (CP Map 5.2)**

This request conforms to the Thoroughfare Plan since the subject property has access to Wendland Road, which is designated as a Minor Arterial street.

**Availability of Public Facilities (CP Goal 4.1)**

A 12-inch water line and an 8-inch sewer line serve the site.

**PUBLIC NOTICE:**

One notice of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, July 28 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of Z-FY-10-40, an amendment to the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products. The original conditions of Ordinance No. 2009-4296 continue to apply to the subject property. They are:

1. The development of the property shall conform to the site plan, attached hereto as Exhibit B.
2. The permittee is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in the Zoning Ordinance, Section 7-300 (Noise).
4. Site illumination shall be designed and located so that lighting sources are not directly visible from Wendland Road – lighting shall not cast glare on adjacent properties.
5. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house

6. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state or federal regulations.
7. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
8. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.
9. The permittee shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
10. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
11. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with City Code requirements.
12. The conditional use permit runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
13. The City Council may revoke, suspend or modify a conditional use permit after notice to property owner and hearing before the City Council if the City Council finds evidence of fraud or deception, violation of conditions of the conditional use permit, or as provided in Sections 7-609 and 7-610 of the Zoning Ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
Proposed CUP Site Plan  
Originally Approved CUP Site Plan  
CUP Ordinance No. 2009-4296  
Notice Map

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 10: Z-FY-10-40:** Hold a public hearing to discuss and recommend action to amend the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet on Lot 1, Block 1, Northland Synergy Addition at 4875 Wendland Road.

Commissioner Staats stated he needed to abstain from this item.

Mr. Mabry stated the applicant requested the CUP to expand upon a previously approved CUP site plan. The HEB distribution center was on the opposite side of Wendland, railroad tracks to the north and east, and to the south lay undeveloped property. The Future Land Use and Character Map showed the area to be industrial, and Wendland Road was designated as a minor arterial. There was a 6" water line and 8" sewer line to serve the property.

Staff recommends approval of Z-FY-10-40, an amendment to the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow an expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products. The original conditions of Ordinance No. 2009-4296 continue to apply to the subject property. They are:

1. The development of the property shall conform to the site plan, attached hereto as Exhibit B.
2. The permittee is responsible for compliance with all applicable local, state and federal rules and regulations, and must obtain all appropriate permits and approvals.
3. All operations will be conducted in a manner which conforms to the maximum permissible environmental noise levels specified of 75 decibels received stated in the Zoning Ordinance, Section 7-300 (Noise).
4. Site illumination shall be designed and located so that lighting sources are not directly visible from Wendland Road – lighting shall not cast glare on adjacent properties.

5. A commercial building permit will be required for concrete foundations related to stabilization of equipment and containment devices, and scale house
6. An emergency spill response plan shall be established for the new site prior to the commencement of operation. In the event of a spill or waste generated during the move, the company shall designate the waste as per state or federal regulations.
7. Prior to building permit issuance the City of Temple Fire Department shall verify that storage of combustible and flammable liquids shall comply with applicable Fire Code and Building Code regulations.
8. Final "as built" drawings shall be delivered to the City of Temple Construction Services Department upon completion.
9. The permittee shall be responsible for preventing mud, dirt, dust and debris from leaving the site, including storm water runoff from being tracked or otherwise discharging onto the public right-of-way or adjacent properties.
10. The internal circulation plan shall be approved by the City of Temple Fire Marshal as part of the construction plan review/acceptance process.
11. Prior to building occupancy, the engineer of record shall provide written certification that the above improvements have been completed in conformance with City Code requirements.
12. The conditional use permit runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
13. The City Council may revoke, suspend or modify a conditional use permit after notice to property owner and hearing before the City Council if the City Council finds evidence of fraud or deception, violation of conditions of the conditional use permit, or as provided in Sections 7-609 and 7-610 of the Zoning Ordinance.

Vice-Chair Talley opened the public hearing.

Mr. Wayne Klemdenning, Architect, 2400 Great SW Parkway, Ft. Worth, stated he was available to answer any questions.

There being no further speakers, Vice-Chair Talley closed the public hearing.



Commissioner Pope made a motion to approve amendments to Z-FY-10-40 to include the Staff conditions; Commissioner Barton made a second.

*Motion passed: (6:0)*

Commissioner Staats abstained; Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-40]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE SITE PLAN APPROVED BY CONDITIONAL USE PERMIT ORDINANCE NO. 2009-4296, JUNE 4, 2009, TO ALLOW AN EXPANSION OF THE PROPOSED BUILDING AREA FOR PETROLEUM STORAGE AND COLLECTING FACILITIES AND THE MANAGEMENT OF PETROLEUM PRODUCTS FROM 34,500 SQUARE FEET TO 81,400 SQUARE FEET ON LOT 1, BLOCK 1, NORTHLAND SYNERGY ADDITION AT 4875 WENDLAND ROAD; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on June 4, 2009, the City Council approved Conditional Use Permit Ordinance No. 2009-4296 for petroleum storage and collecting facilities and the management of petroleum products on a tract of land consisting of approximately 10.5 acres located on the east side of Wendland Road between Moore's Mill Road and Wilsonart Drive;

**Whereas**, the applicant requested an amendment to the Conditional Use Permit site plan to allow for the expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet;

**Whereas**, at its August 2, 2010 meeting, the Planning & Zoning Commission voted to approve the request to amend the site plan approved by the Conditional Use Permit Ordinance No. 2009-4296; and

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

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

**Part 1:** The City Council approves an amendment to the site plan approved by Conditional Use Permit Ordinance No. 2009-4296, June 4, 2009, to allow for the expansion of the proposed building area for petroleum storage and collecting facilities and the management of petroleum products from 34,500 square feet to 81,400 square feet, more fully described in the new site plan, attached hereto as Attachment A.

**Part 2:** The original conditions of Ordinance No. 2009-4296 continue to apply to the subject property.

**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 **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

---

Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(O)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, Interim Planning Director  
Tammy Lyerly, Planner

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-34: Consider adopting an ordinance authorizing a zoning change from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1), on a 6.76 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, located at 1000 South Knob Street.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010, meeting, the Planning and Zoning Commission voted 6/0 (Commissioner Staats abstained; Commissioner Hurd and Chair Pilkington were absent) to recommend approval of a zone change from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1) with the following conditions:

1. No housing construction or disturbance of vegetation other than periodic maintenance may take place within the 50 foot wide buffer zone along the west property line adjacent to the railroad;
2. Development must be based on the PD-SF1 site plan; and
3. Development and land use must follow SF1 District regulations

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-34, from the Planning and Zoning meeting, August 2, 2010. The applicant, Ratchnee France, is pursuing this zone change request to allow her to build a log cabin for her family and possibly additional log cabins in the future. Since the SF1 District only allows one single-family home per lot, any future residential development will require the establishment of additional residential lots through the platting process.

The applicant agreed to pursue a PD-SF1 because of staff's concerns of homes adjacent to the railroad. The attached Planned Development site plan shows a 50-foot wide "no housing construction" buffer from the west property line along the railroad right-of-way, as well as potential future homes out of the 100-year flood plain along the east property line adjacent to the concrete channel that borders her east property line.

The applicant addressed the Planning and Zoning Commission, but no else spoke at the public hearing.

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
	Map 5.2 - Thoroughfare Plan	Yes
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	Yes
	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	Yes
STP	Page F4- Local connector trail along adjacent concrete channel to the east	Yes

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

**Future Land Use and Character (Cp Map 3.1)**

Although the Future Land Use and Character Map designates the subject property as Parks and Open Space, the Parks and Leisure Department currently has no plans to turn the applicant's property into a park. The applicant's intent is to keep an open space or woodsy environment with log cabins. Since the Comprehensive Plan recommends the use of Auto-Urban and Suburban residential districts for a range of development options with the incorporation of open space, 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, which is projected to take place in late Summer 2010.

**Thoroughfare Plan (CP Map 5.2)**

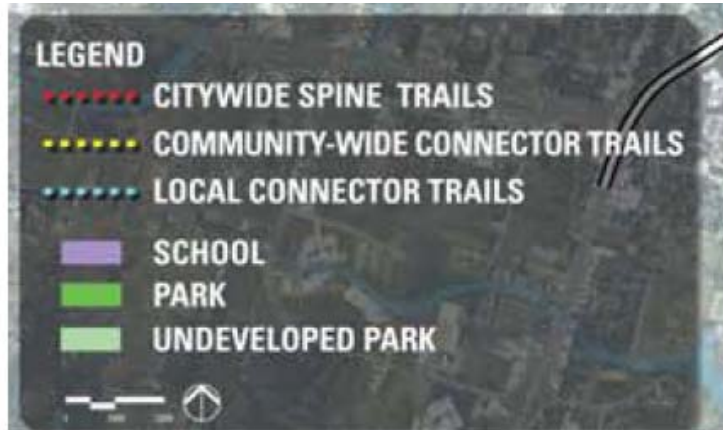
South Knob Street is a local street, which is appropriate for SF1 development.

**Availability of Public Facilities (CP Goal 4.1)**

Several 2-inch water mains, as well as 16-inch and 12-inch sewer mains are available to provide services to the property.

**Sidewalk and Trails Plan (STP pg. F3)**

The Citywide Trails Master Plan shows a local connector trail along the concrete creek channel that separates the applicant's property from the adjacent neighborhood. The Parks and Leisure Department has no plans to purchase the eastern edge of the applicant's property for the local connector trail shown below. If the property is platted in the future for additional houses, the City could acquire an easement for the local connector trail.



## *Citywide Trails Master Plan*



**PUBLIC NOTICE:** Forty-eight notices of the Planning and Zoning Commission's public hearing were sent out. As of Monday, August 9, 2010 at 3 PM, four notices were returned in favor of and two were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on Friday, July 23, 2010 in accordance with state law and local ordinance.

**FISCAL IMPACT:** NA

### **ATTACHMENTS:**

[Aerial](#)  
[Land Use and Character Map](#)  
[Zoning Map](#)  
[Utility Map](#)  
[Flood Plain Map](#)  
[Thoroughfare Map](#)  
[Notice Map](#)  
[Planned Development Site Plan](#)  
[P&Z Staff Report \(Z-FY-10-34\)](#)  
[P&Z Minutes \(August 4, 2010\)](#)  
[Ordinance](#)



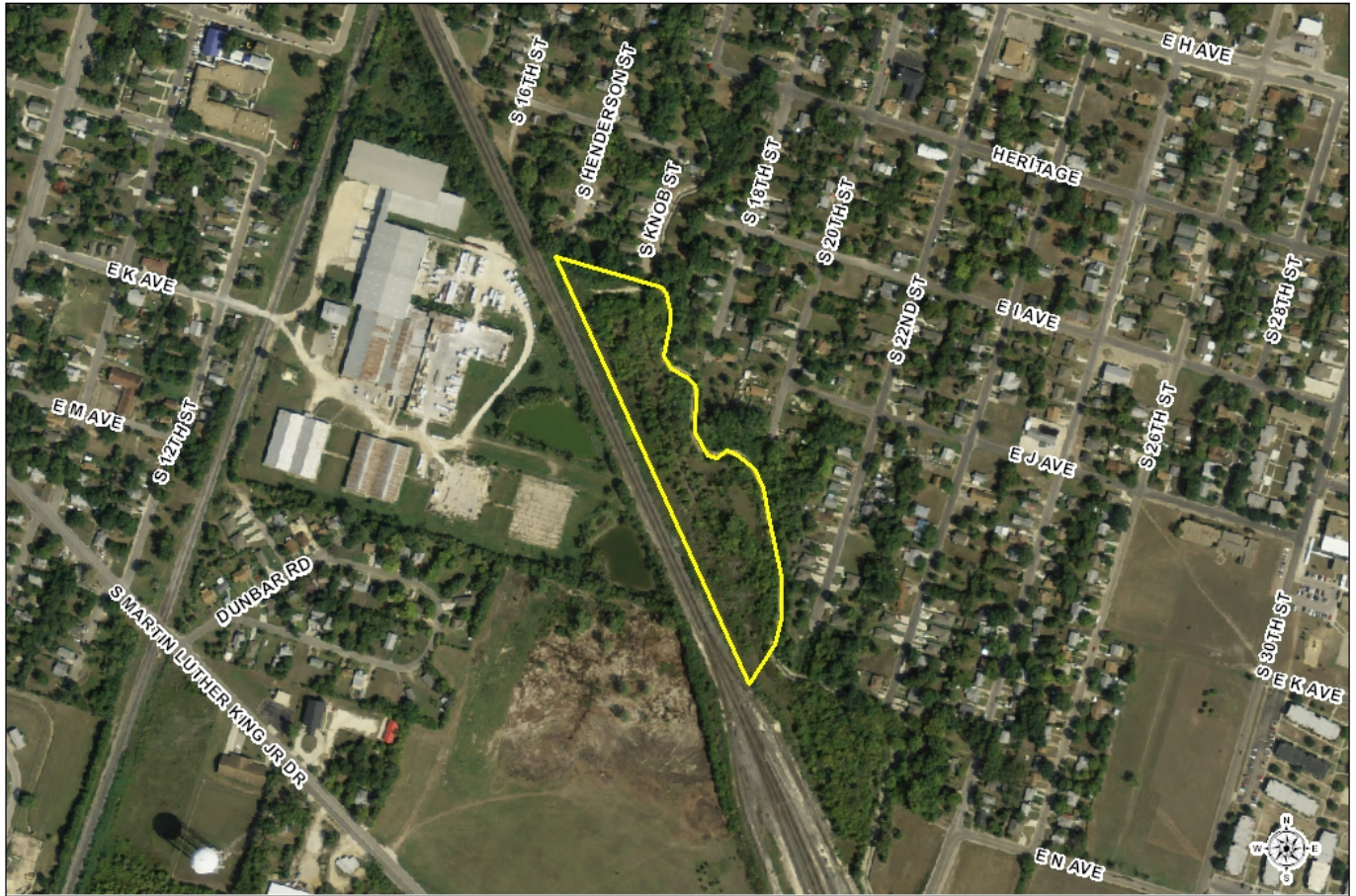


**Z-FY-10-34**

6.763 Acres

OB# 228-A

1000 S Knob St



ZFY1034

Feet 0 100 200 300 400



JStone 6.18.10





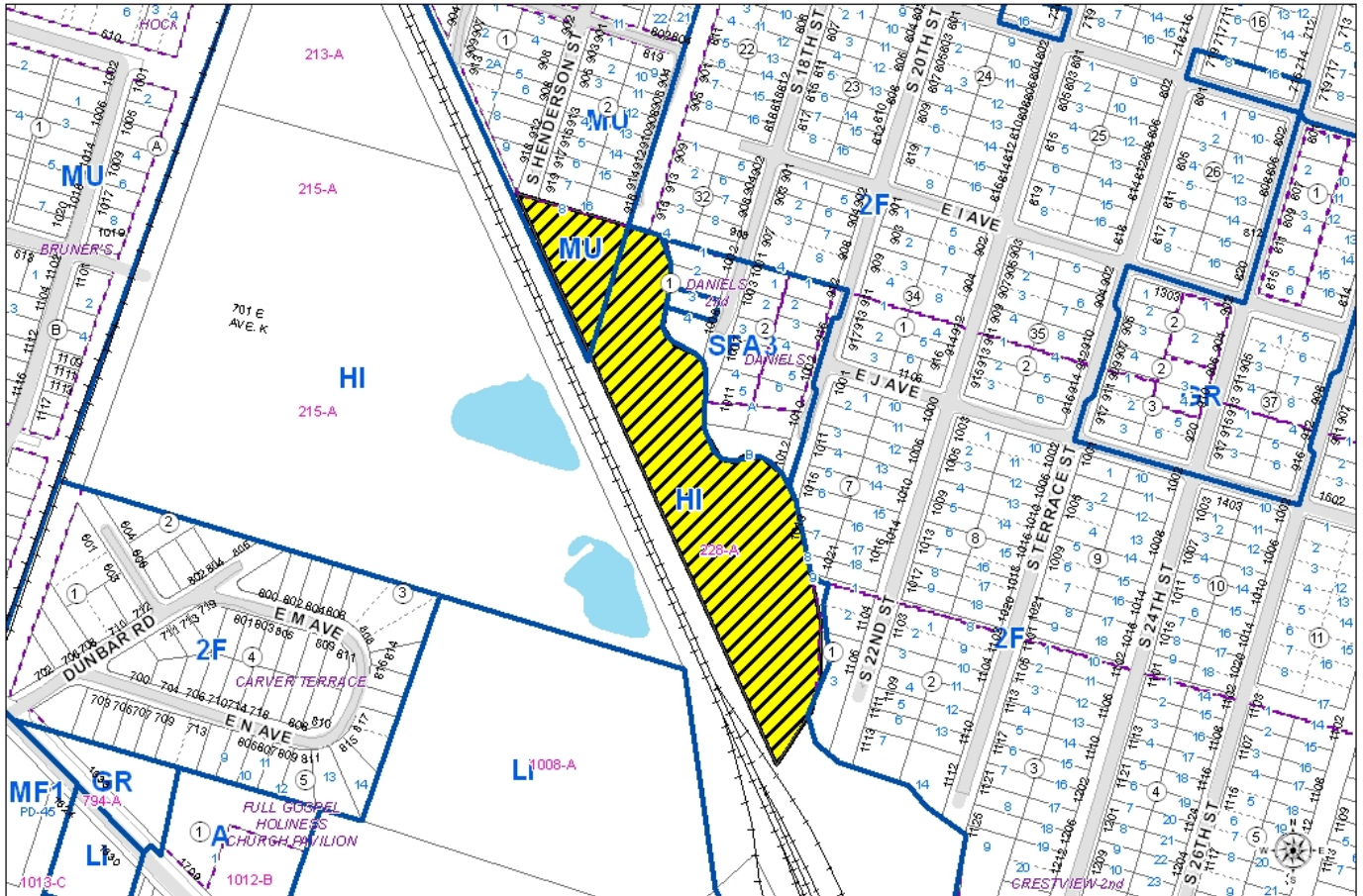


Z-FY-10-34

6.763 Acres

OB# 228-A

1000 S Knob St



Feet 0 100 200 300 400

JStone 6.18.10

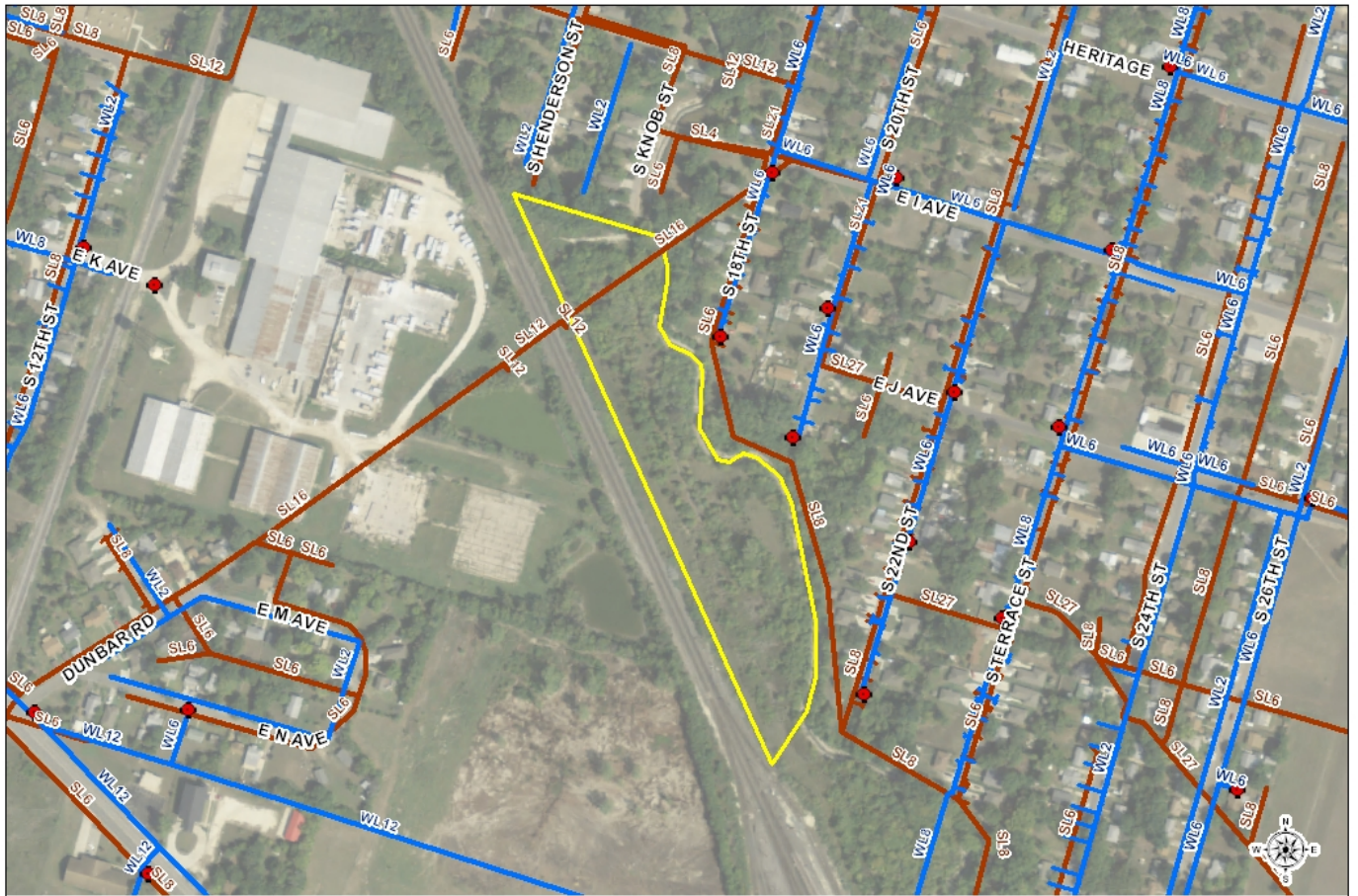


**Z-FY-10-34**

6.763 Acres

OB# 228-A

1000 S Knob St

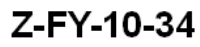


— WATER LINE — SEWER LINE — ZFY1034

Feet 0 100 200 300 400

JStone 6.18.10





OB# 228-A

Feet 0 100 200 300 400

500-year Flood Plain 100-year Flood Plain Current Temple Boundary ZFY1034

JStone 6.18.10

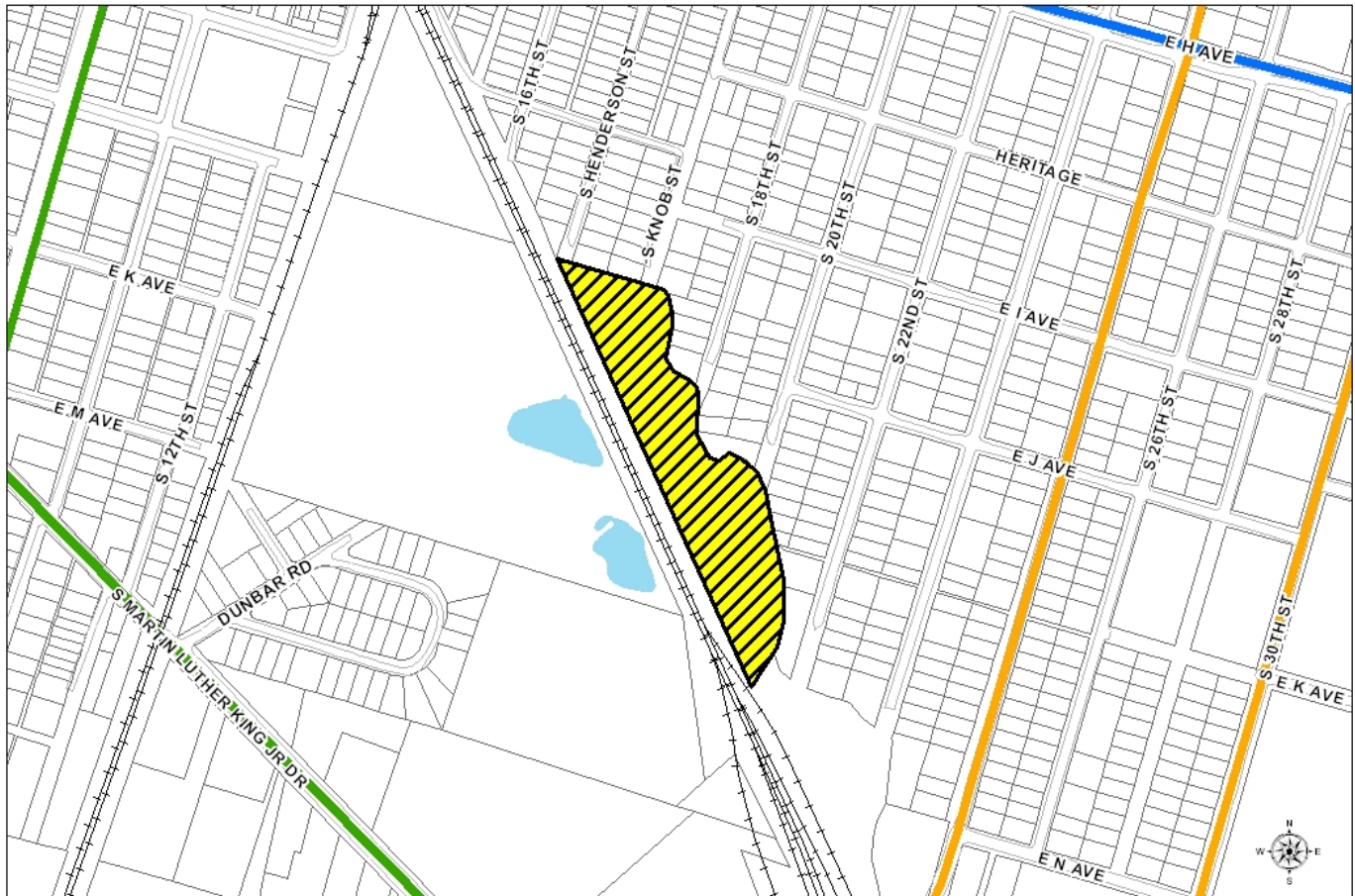


**Z-FY-10-34**

6.763 Acres

OB# 228-A

1000 S Knob St



Expressway    Proposed Major Arterial    Minor Arterial    Collector    ZFY1034  
Major Arterial    Proposed K-TUTS    Proposed Minor Arterial    Conceptual Collector

Feet 0 100 200 300 400

JStone 6.18.10



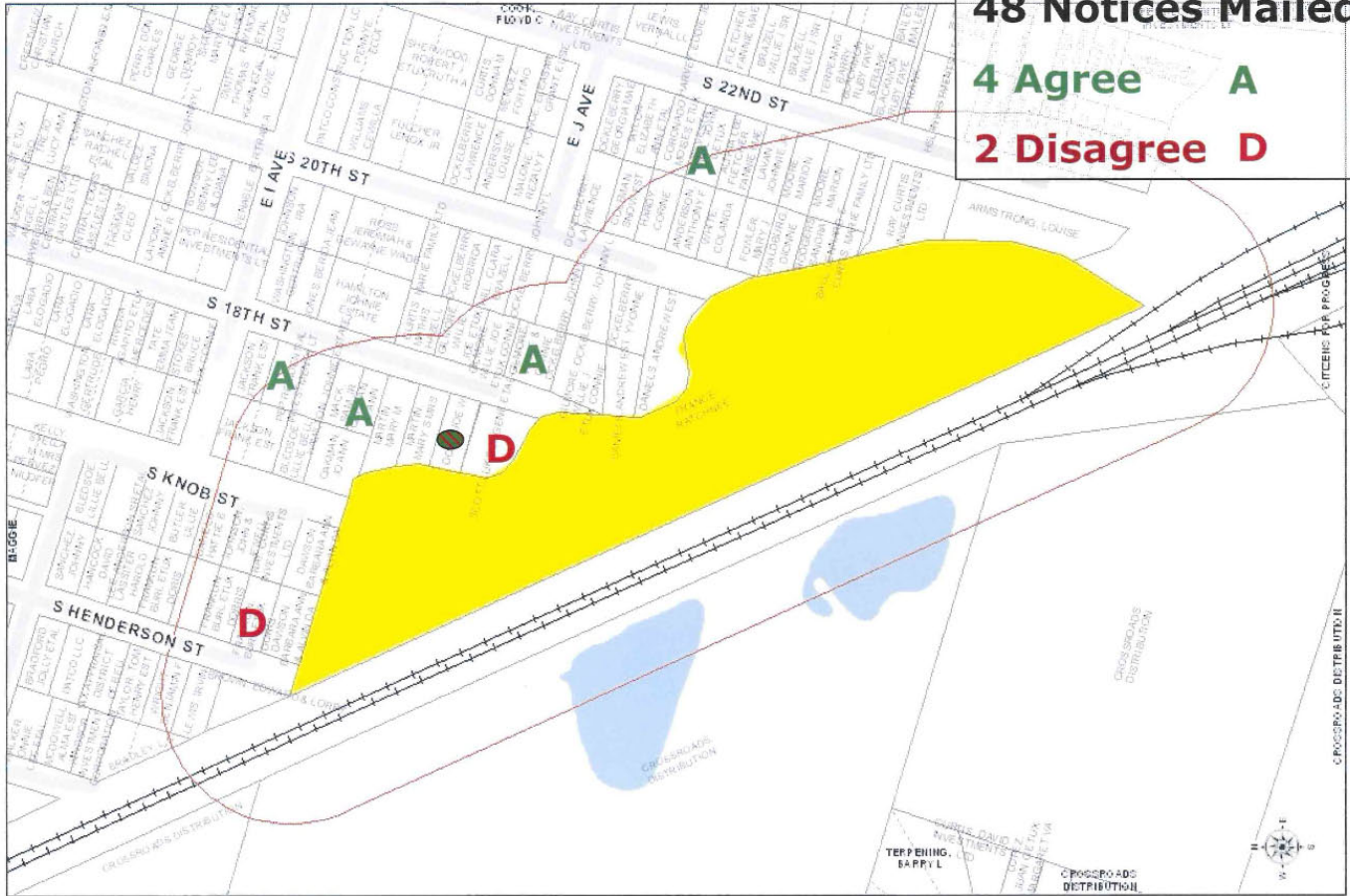
Z-FY-10-34

6.763 Acres

OB# 228-A

1000 S Knob St

**48 Notices Mailed**  
**4 Agree A**  
**2 Disagree D**



200' Buffer ZFY1034

Feet 0 50 100 150 200

JStone 6.18.10







# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10  
Item #2  
Regular Agenda  
Page 1 of 5

**APPLICANT / DEVELOPMENT:** Ratchnee France

**CASE MANAGER:** Tammy Lyerly, Planner

**ITEM DESCRIPTION:** Z-FY-10-34 – Hold a public hearing to discuss and recommend action on a rezoning from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1), on a 6.76 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14, located at 1000 South Knob Street. (Applicant: Ratchnee France)





**BACKGROUND:** The applicant, Ratchnee France, wants to build herself a log cabin on this property. She also wants to build additional log cabins in the future. Since the SF1 District only allows one single-family home per lot, any future residential development will require the establishment of additional residential lots through the platting process.

The applicant agreed to pursue a PD-SF1 because of staff's concerns of homes adjacent to the railroad. The attached Planned Development site plan shows a 50-foot wide "no housing construction" buffer from the west property line along the railroad right-of-way. The site plan also shows potential future homes out of the 100-year flood plain along the east property line adjacent to the concrete channel.

**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	HI and MU (PD-SF1)	Undeveloped	

Direction	Zoning	Current Land Use	Photo
North	MU, SFA3, and 2F	Undeveloped and Residential	
South	HI	Railroad	
East	SFA3 and 2F	Residential and Undeveloped	
West	HI	Railroad and Industrial	

#### **COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:



Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
	Map 5.2 - Thoroughfare Plan	Yes
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities.	Yes
	Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area.	Yes
STP	Page F4- Local connector trail along adjacent concrete channel to the east	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

#### Future Land Use and Character (Cp Map 3.1)

Although the Future Land Use and Character Map designates the subject property as Parks and Open Space, the Parks and Leisure Department currently has no plans to turn the applicant's property into a park. The applicant's intent is to keep an open space or woodsy environment with log cabins. Since the Comprehensive Plan recommends the use of Auto-Urban and Suburban residential districts for a range of development options with the incorporation of open space, 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, which is projected to take place in late Summer 2010.

#### Thoroughfare Plan (CP Map 5.2)

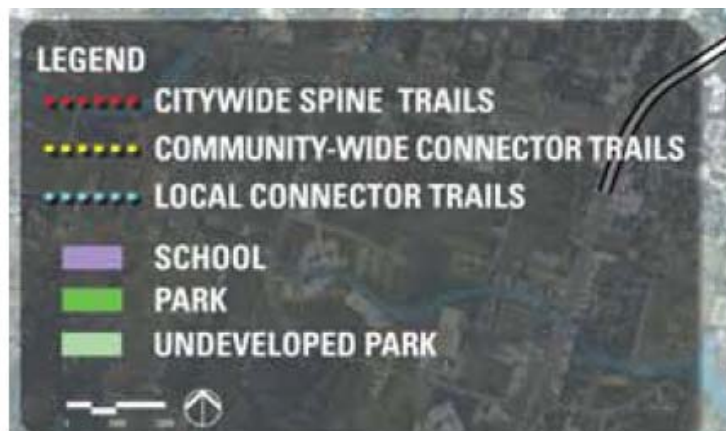
South Knob Street is a local street, which is appropriate for SF1 development.

#### Availability of Public Facilities (CP Goal 4.1)

Several 2-inch water mains, as well as 16-inch and 12-inch sewer mains are available to provide services to the property.

#### Sidewalk and Trails Plan (STP pg. F3)

The Citywide Trails Master Plan shows a local connector trail along the concrete creek channel that separates the applicant's property from the adjacent neighborhood. The Parks and Leisure Department has no plans to purchase the eastern edge of the applicant's property for the local connector trail shown below. If the property is platted in the future for additional houses, the City could acquire an easement for the local connector trail.



*Citywide Trails Master Plan*

**DEVELOPMENT REGULATIONS:**

The purpose of the SF-1 “base” zoning district is to develop average or standard single-family lots that serve as a transition between larger and smaller lot single-family districts.

Typical uses permitted are detached single-family residences and related accessory structures. Typical prohibited uses include secondary homes, duplexes, apartments, and non-residential uses.

The minimum lot area and setback requirements for the SF-1 zoning district are as follows.

<b>SF-1, Single-Family 1</b>	
<b>Min. Lot Area (sq. ft.)</b>	7,500
<b>Min. Lot Width (ft.)</b>	60
<b>Min. Lot Depth (ft.)</b>	100
<b>Max. Height (stories)</b>	2 ½ stories
<b>Min. Yard (ft)</b>	
Front	25
Side	10% width of lot - 6 min & 7.5 max
Rear	10

**PD-SF1:**

The purpose of the Planned Development Single Family One District (PD-SF1) is to allow a 50-foot wide “no construction” buffer adjacent to the west property line adjacent to the railroad. The PD-SF1 site plan also shows potential homes to not only be built out of the 50’ rear buffer zone but also out of the 100-year flood plain along the east property line. All other SF1 “base zoning district” regulations will apply.

The PD site plan shows the applicant's house plus five other potential home sites. Addition of more than six total homes would require an amendment to the PD with Planning and Zoning Commission recommendation and City Council approval.

**PUBLIC NOTICE:**

Forty-eight notices of the Planning and Zoning Commission’s public hearing were sent out. As of Friday, July 30, 2010 at 9 AM, no notices were returned in favor of and one was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on Friday, July 23, 2010 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:**

Staff recommends approval of Planned Development Single Family One District for Z-FY-10-34 subject to the following conditions:

1. No housing construction or disturbance of vegetation other than periodic maintenance may take place within the 50 foot wide buffer zone along the west property line adjacent to the railroad;
2. Development must be based on the PD-SF1 site plan; and
3. Development and land use must follow SF1 District regulations

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Utility Map

Flood Plain Map

Thoroughfare Map

Notice Map

Response Letter

Application

Planned Development Site Plan

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 2. Z-FY-10-34:** Hold a public hearing to discuss and recommend action on a rezoning from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development Single Family One District (PD-SF1), on a 6.76 ± acre tract of land in the Maximo Moreno Survey, Abstract No. 14 located at 1000 South Knob Street. (Applicant: Ratchnee France) Vice-Chair Talley opened the public hearing.

Ms. Tammy Lyerly, Planner, stated, if this were approved, it was scheduled for City Council first reading on August 19, 2010 and second reading and final action on September 2, 2010.

Commissioner Staats informed the Commission he needed to abstain from this item.

Ms. Lyerly stated this property was zoned Heavy Industrial (HI) and Mixed Use (MU) district and the request did conform to the SF1 zoning regulations. The MU district extended into the top portion of the property only and the rest was designated HI. The property was surrounded by Single Family Attached 3 (SFA3) and Two Family (2F) to the east. To the west was HI district.

The entire property had a concrete drainage channel that bordered the entire east property line. Undeveloped land lay to the south of the property and the railroad lay to the west.

The Future Land Use and Character Map showed this whole area as parks and open space next to a designated neighborhood conservation area. The Parks and Leisure Department currently have no plans to turn this property into a park. In the City wide trail plan there was a proposed local connector trail along the concrete channel but currently there are no plans in place to develop that connector trail. If the property went through the platting process then discussion would be held regarding the trail.

The transportation map showed this property to be surrounded by local streets and South Knob is classified as a local street. There are several water lines and a sewer line running through the property. If the property went through future platting process, that sewer line would have to be secured with a utility easement.

With the property being over 6 ± acres, it exceeded the SF1 zoning district lot requirements, lot width, and lot depth. The reason for the zone request was to allow the applicant to build a Single Family log cabin and presently the HI district does not allow any homes to be built. The applicant would also like to build more log cabins in the future. Since the SF1 District only allowed one single-family home per lot, any future residential development would require the establishment of additional residential lots through the platting process.

This particular Planned Development site plan required a 50 foot wide buffer along the railroad on the west property line to prevent homes from being built within 50 feet of the railroad. Along the creek channel is a 100 year flood plan area. The applicant would like to build her log cabin near the entrance of the property from S. Knob Street which is the only entrance to the property.

Two response letters had been received in favor of this request and two responses were in opposition.

Staff recommended approval of the Planned Development Single Family One District for Z-FY-10-34 subject to the following conditions:

1. No housing construction or disturbance of vegetation other than periodic maintenance may take place within the 50 foot wide buffer zone along the west property line adjacent to the railroad;
2. Development must be based on the PD-SF1 site plan; and
3. Development and land use must follow SF1 District regulations

Vice-Chair Talley opened the public hearing.

Ms. Ratchnee France, property owner, approached the lecturn and stated she would like to build a Single Family home in order to relocate to Temple.

There being no further speakers, Vice-Chair Talley closed the public hearing.

Commissioner Martin made a motion to approve Z-FY-10-34 along with the exceptions specified by the City and Commissioner Barton made a second.

*Motion passed: (6:0)*

Commissioner Staats abstained; Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-34]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM HEAVY INDUSTRIAL DISTRICT (HI) AND MIXED USE DISTRICT (MU) TO PLANNED DEVELOPMENT SINGLE FAMILY ONE DISTRICT (PD-SF1), ON AN APPROXIMATELY 6.76 ACRE TRACT OF LAND IN THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, LOCATED AT 1000 SOUTH KNOB STREET, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE ZONING ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the owner of the property consisting of approximately 6.76 acres located at 1000 South Knob Street, has requested that the property be rezoned from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development District Single-Family 1 (PD-SF1); and

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

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

**Part 1:** The City Council approves a zoning change from Heavy Industrial District (HI) and Mixed Use District (MU) to Planned Development District Single-Family 1 (PD-SF1) on a tract of land consisting of approximately 6.76 acres located at 1000 South Knob Street more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

- (a) No housing construction or disturbance of vegetation other than periodic maintenance may take place within the 50 foot wide buffer zone along the west property line adjacent to the railroad.
- (b) Development must be based on the PD-SF1 site plan, attached hereto as Exhibit B.
- (c) Development and land use must follow SF-1 District regulations.

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

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(P)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, Interim Planning Director  
Tammy Lyerly, Planner

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-36: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square foot lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 West Adams, Suite B.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010, meeting, the Planning and Zoning Commission voted 6/0 to recommend approval of a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption at 2001 West Adams, Suite B, subject to the following conditions:

1. General Conditional Use Permit provisions in Sec. 7-611 of the Zoning Ordinance apply to the property; and
2. Specific Conditional Use Permit provisions for package stores in Sec. 7-611.5 of the Zoning Ordinance apply to the property;

Commissioner Martin abstained. Chair Pilkington and Commissioner Hurd were absent.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-36, from the Planning and Zoning meeting, August 2, 2010. The applicant requests a Conditional Use Permit (CUP) to establish a package store in a new 2,190 square foot lease space within the former Albertson's Grocery Store. Access to the lease space is at the north end of the building. The property's Commercial District allows a package store with approval of a Conditional Use Permit.

The site exceeds the CUP distance requirement of 300 feet from a church, public school, or public hospital.



No one spoke at the public hearing.

**CUP APPROVAL CRITERIA:** Part of the CUP process is for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

**Package Store Standards:** In addition to the general Conditional Use Permit standards in Zoning Ordinance, Section 7-600, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store:

- Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
- Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7-566 (G);
- If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
- The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
- An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
- Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
- Window signs are prohibited; and
- Lighted advertising signs must be turned off at closing time.

The outdoor lighting and parking will comply with the Zoning Ordinance. The applicant will not have a drive-through window; customers will use the front door at the north side of the building for access. There are no internal customer doorways into or out of the proposed lease space.

**PUBLIC NOTICE:** Two notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, July 30, 2010 at 9 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance.

**FISCAL IMPACT:**

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
Applicant's CUP Site Plan Exhibits  
Notice Map  
P&Z Staff Report (Z-FY-10-36)  
P&Z Minutes (August 2, 2010)  
Ordinance



**Z-FY-10-36**

2,190 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite B



 ZFY1036

Feet 0 50 100 150 200

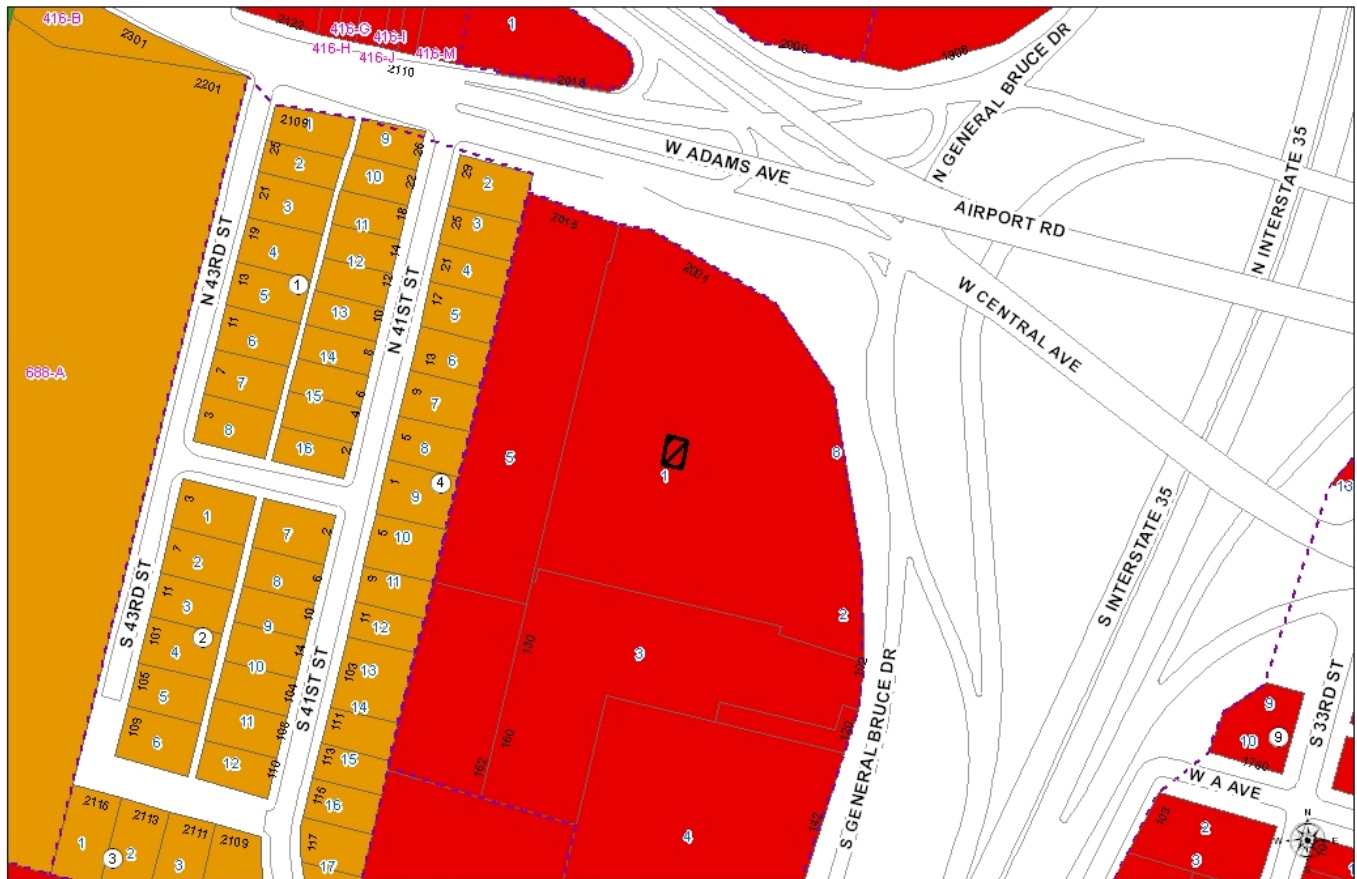
JStone 6.18.10



**Z-FY-10-36**

2,190 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite B



- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| 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 |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business park                     | Agricultural/Rural   |

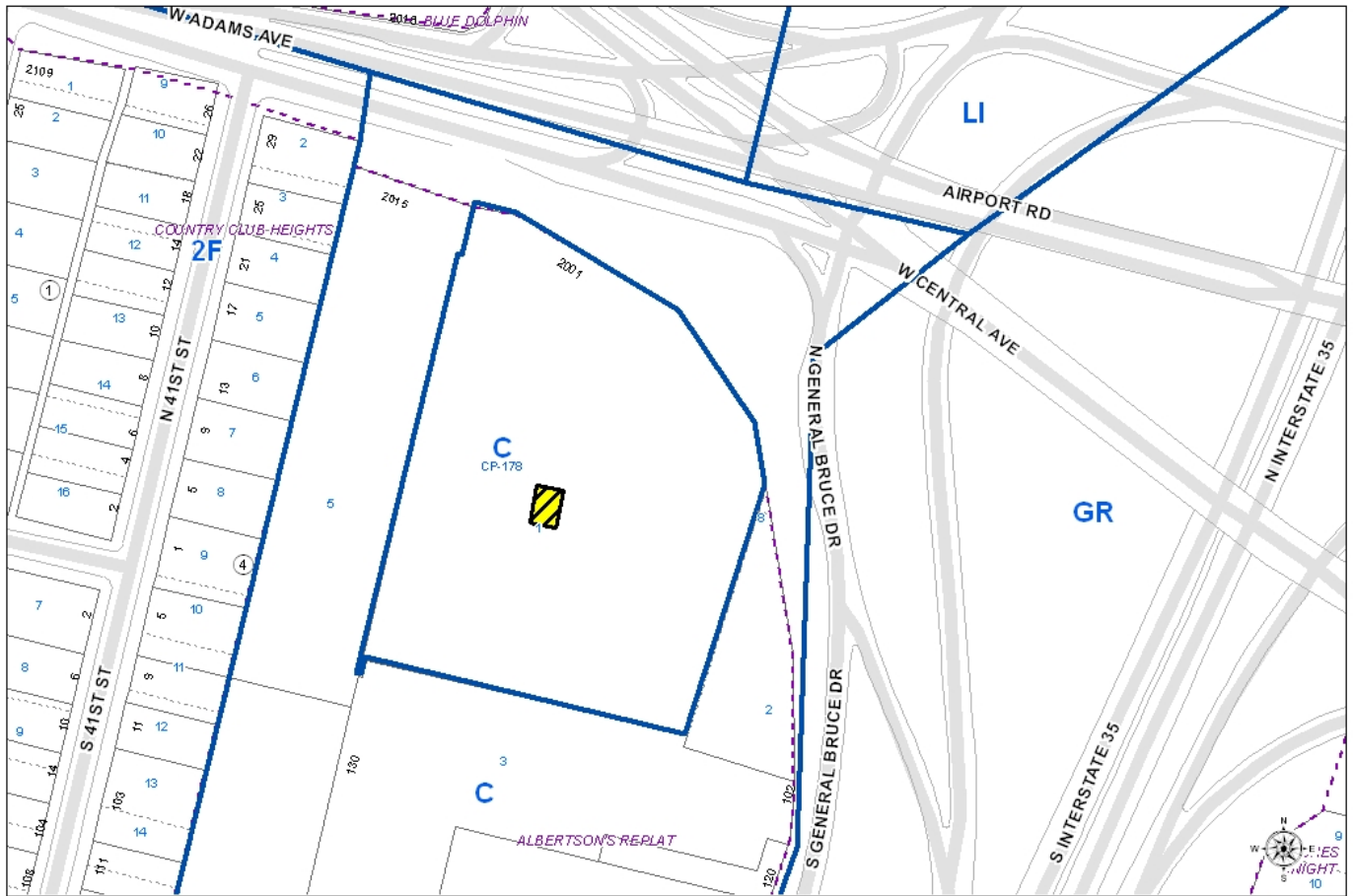
1 inch = 200 feet  
J Stone 6.18.10



**Z-FY-10-36**

2,190 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite B



Feet 0 50 100 150 200

JStone 6.18.10

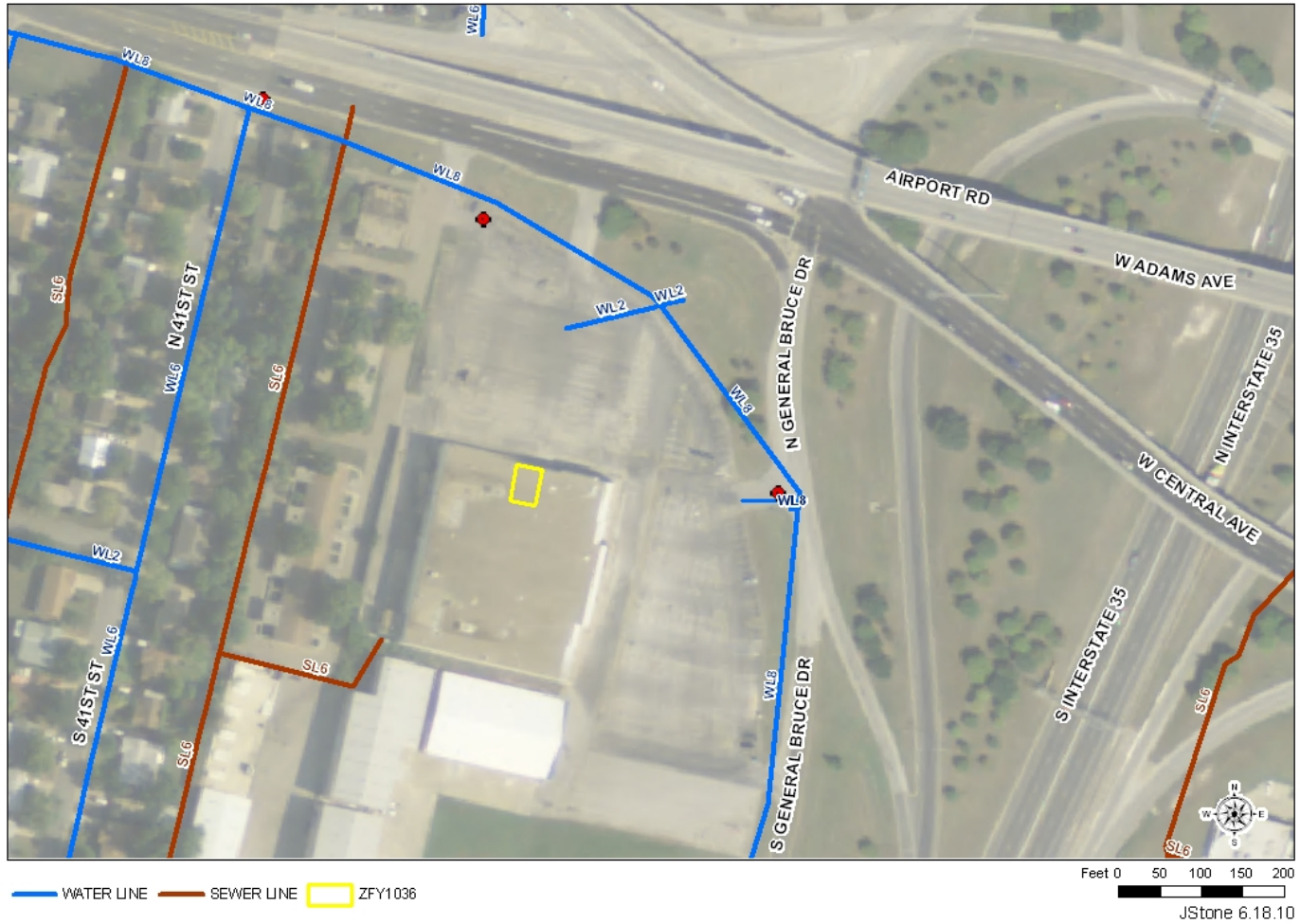




**Z-FY-10-36**

2,190 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite B



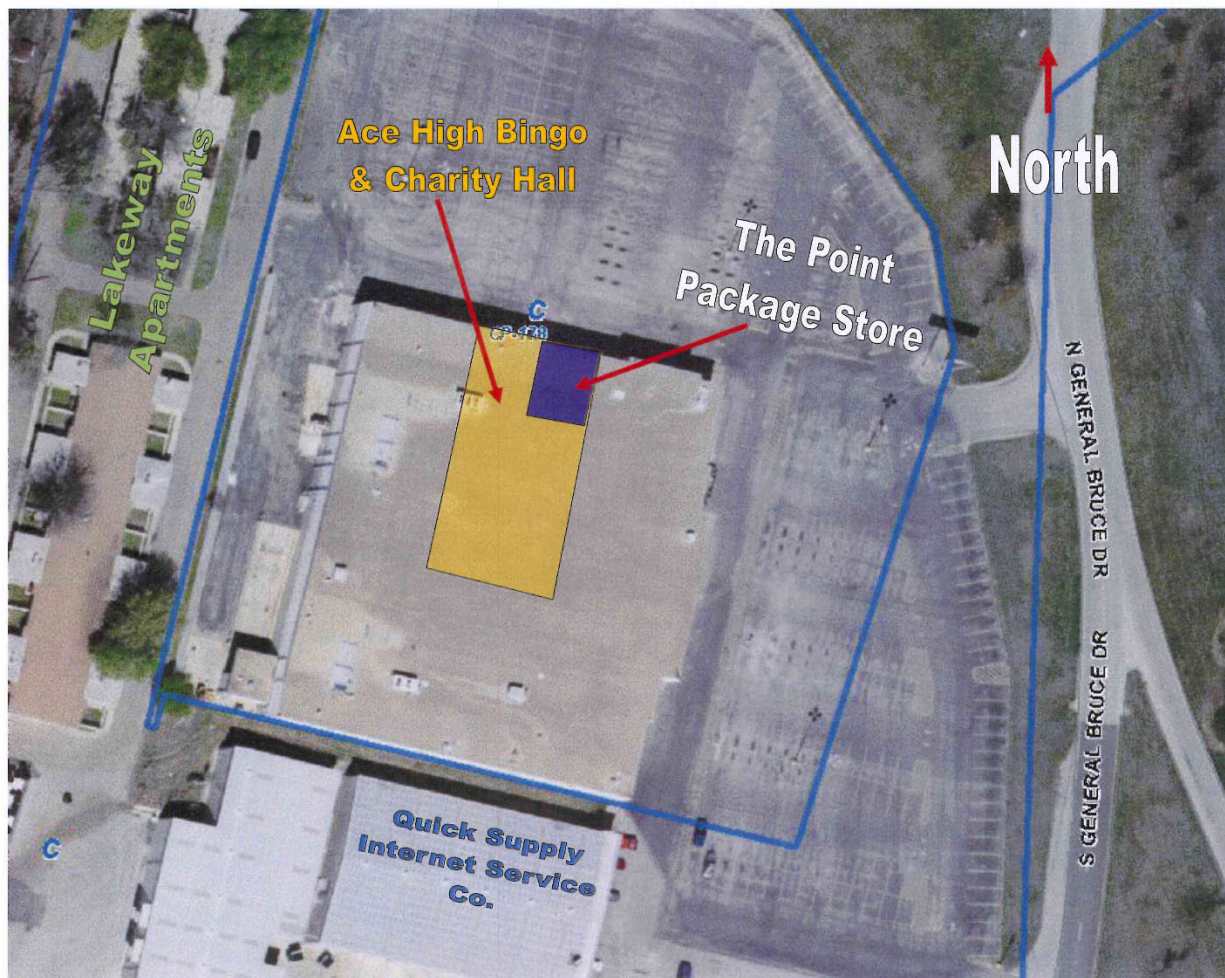




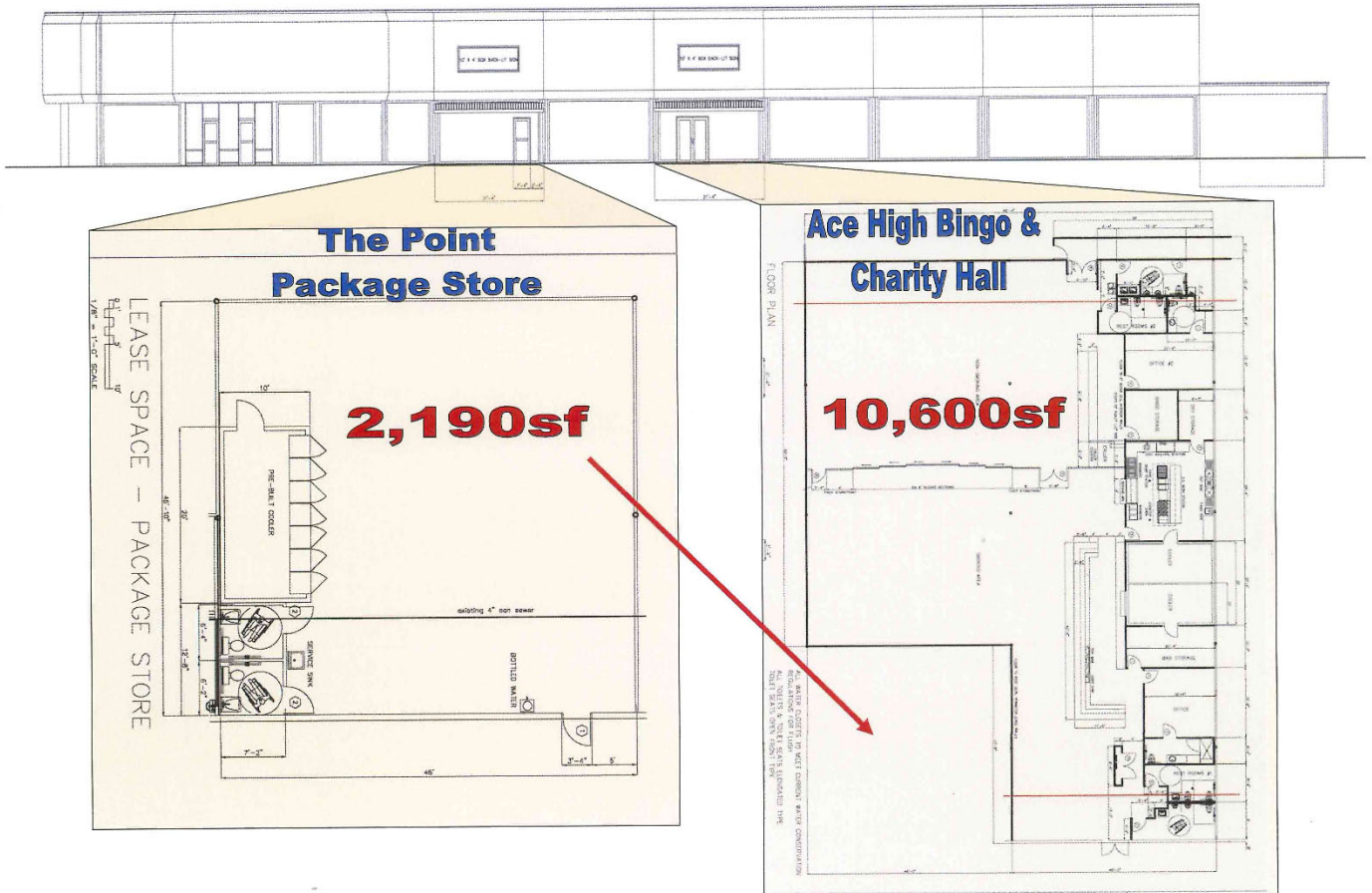
**North Side  
Facing Adams Ave**





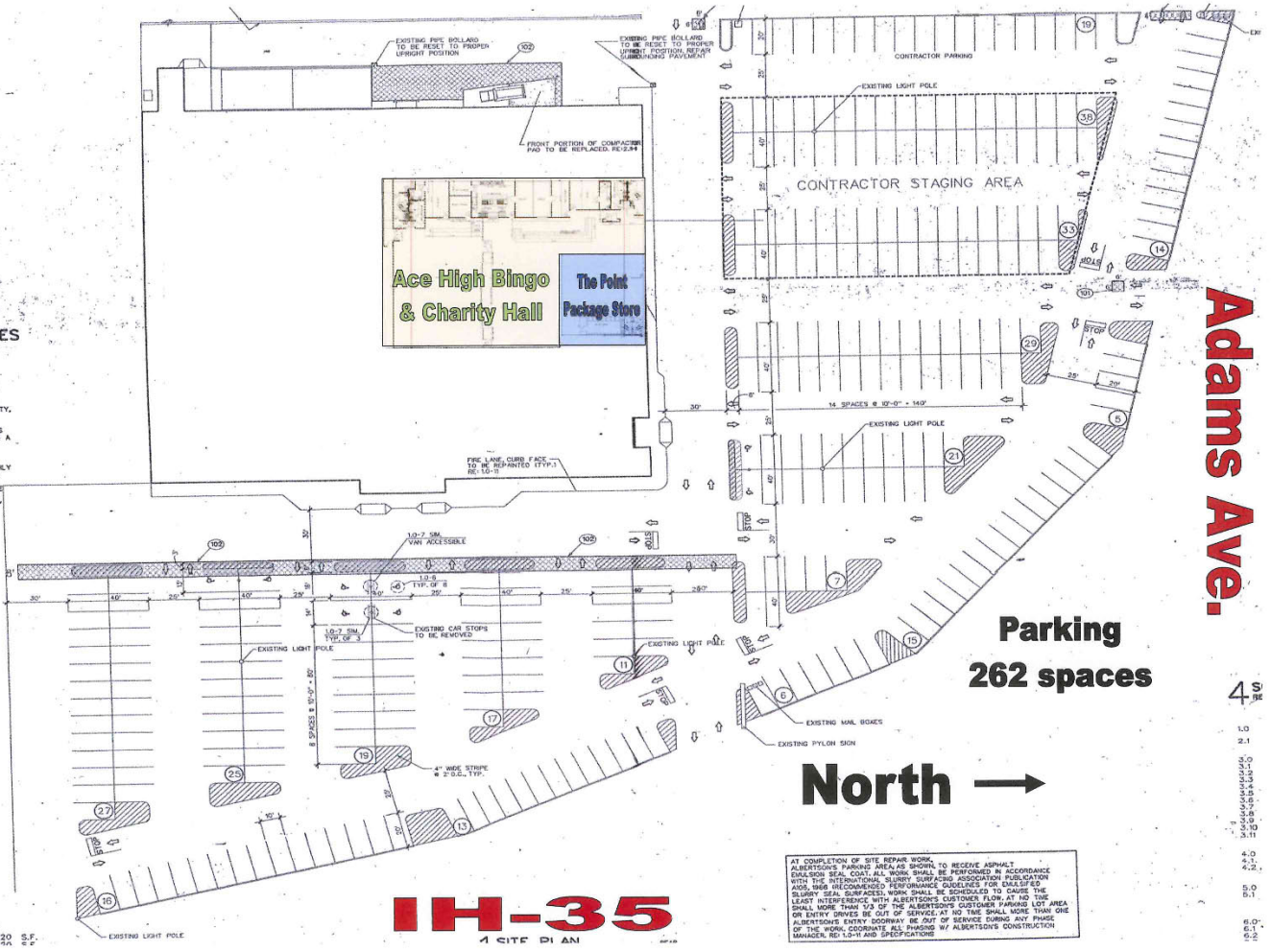


## North Side



# 4. NOTES

- 1. SEE NOTED.
- 2. REMAIN SHALL.
- 3. AT ALL FEES.
- 4. SIDE-OF-WAY.
- 5. SECTIONS OF CITY.
- 6. SECTION.
- 7. COAT, CRACKS.
- 8. REPAIR USING A.
- 9. SHOULD BE.
- 10. LOT THOROUGHLY.
- 11. VISUAL SIGNS &.
- 12. AND PIPE.
- 13. CURBS IN FINE.
- 14. FROM PARKING.
- 15. CURRENTS W/.
- 16. WORK.
- 17. SITE & BASE.
- 18. SURFACES FOR.
- 19. TEST FROM.
- 20. AT BE IN.
- 21. STAGING.
- 22. AREA.
- 23. AND.
- 24. JUNCTIONS.
- 25. RE-OPENING.



**IH-35**  
A SITE PLAN

AT COMPLETION OF SITE REPAIR WORK, ALBERTSON'S PARKING AREA IS TO BE RECEIVED ASPHALT EXHAUSTION SEAL COAT. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE INTERSTATE SURFACE ASSOCIATION PUBLICATION AASHTO RECOMMENDED PRACTICES FOR PAVEMENT CONSTRUCTION. SLURRY SEAL SURFACES SHALL BE SCHEDULED TO CAUSE THE LEAST INTERFERENCE WITH ALBERTSON'S CUSTOMER PARKED LOT AREA. SHALL MORE THAN 1/3 OF THE ALBERTSON'S CUSTOMER PARKED LOT AREA OR ENTRY DRIVE BE OUT OF SERVICE AT NO TIME SHALL MORE THAN ONE ALBERTSON'S ENTRY DRIVEWAY BE OUT OF SERVICE DURING ANY PHASE OF THE WORK. COORDINATE ALL PARKING BY ALBERTSON'S CONSTRUCTION MANAGER, RE: 10-11 AND SPECIFICATIONS.

**Adams Ave.**

**Parking  
262 spaces**

**North →**

4.5  
1.0  
2.1  
3.0  
4.0  
4.1  
4.2  
5.0  
5.1  
6.0  
6.1  
6.2

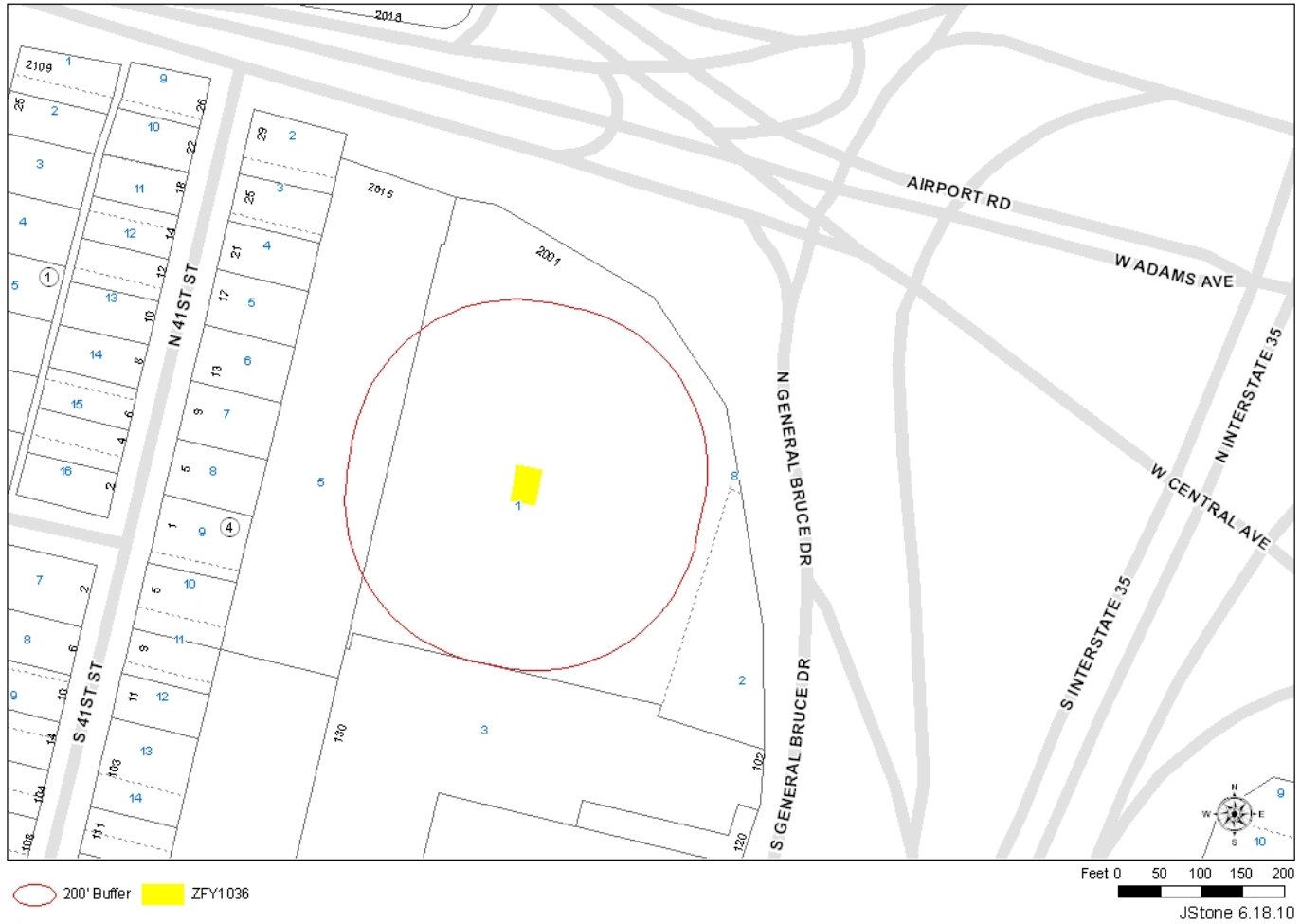




**Z-FY-10-36**

2,190 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite B





## PLANNING AND ZONING COMMISSION AGENDA ITEM

08/02/10  
Item #3  
Regular Agenda  
Page 1 of 5

**APPLICANT / DEVELOPMENT:** Brittany Williams for Salabay Inc.

**CASE MANAGER:** Tammy Lyerly, Planner


**ITEM DESCRIPTION: Z-FY-10-36** - Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square foot lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 W. Adams, Suite B. Zoning: Commercial (Applicant: Brittany Williams for Salabay Inc.)





**BACKGROUND:** The applicant requests a Conditional Use Permit (CUP) to establish a package store in a new 2,190 square foot lease space within the former Albertson's Grocery Store. Access to the lease space is at the north end of the building. The property's Commercial District allows a package store with approval of a Conditional Use Permit.

The site exceeds the CUP distance requirement of 300 feet from a church, public school, or public hospital.

**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	Commercial (CUP for package store)	Abandoned Grocery Store	

Direction	Zoning	Current Land Use	Photo
North	Light Industrial and General Retail	Expressway and Food Pantry Distribution Center	
South	Commercial	Commercial Lease Space	
East	Commercial and General Retail	I-35	
West	Commercial and Two Family	Apartment Complex	

**COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	N/A	N/A

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

#### Future Land Use and Character (CP Map 3.1)

This application conforms to the Future Land Use and Character Map's designation of Auto-Urban Commercial Uses for this property.

#### Thoroughfare Plan (CP Map 5.2)

This application conforms to the Thoroughfare Plan for access to West Adams Avenue, South General Bruce Drive, and I-35, designated as Major Arterials and Freeway.

#### Availability of Public Facilities (CP Goal 4.1)

Adequate public facilities serve this site with water and sewer.

#### I-35 Corridor Overlay District

I-35 Corridor Overlay District standards are triggered according to the following table:

Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards	Architectural Design	Landscape	Signage	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or improvement resulting in 50% or more increase in value per tax role	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 25%-49% or improvement resulting in 25%-49% increase in value per tax role	✓	✓	✓	✓		✓		✓	
Increase in gross floor area of 10%-24% or improvement resulting in 10%-24% increase in value per tax role	✓	✓		✓		✓			

If proposed interior and exterior improvements increase the appraised value of the property by 10%, then screening & wall standards and landscaping standards will apply with any subsequent building permit.

### **CUP APPROVAL CRITERIA:**

Part of the CUP process is for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Package Store Standards: In addition to the general Conditional Use Permit standards in Zoning Ordinance, Section 7-600, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store:

- Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
- Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7-566 (G);
- If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
- The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
- An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
- Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
- Window signs are prohibited; and
- Lighted advertising signs must be turned off at closing time.

The outdoor lighting and parking comply with the Zoning Ordinance. The applicant will not have a drive-through window; customers will use the front door at the north side of the building for access. There are no internal customer doorways into or out of the proposed lease space.



**PUBLIC NOTICE:**

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, July 30, 2010 at 9 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** N/A (per direction from the Package Store Subcommittee)

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

Aerial

Land Use and Character Map

Zoning Map

Utility Map

Applicant's CUP Site Plan Exhibits

Notice Map

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 3: Z-FY-10-36:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square foot lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 W. Adams, Suite B. Zoning: Commercial (Applicant: Brittany Williams for Salabay Inc.)

Commissioner Martin stated he needed to abstain from item 3.

Ms. Lyerly stated this matter was scheduled for City Council first reading on August 19, 2010 and second reading and final action on September 2, 2010.

The applicant had requested a Conditional Use Permit (CUP) to establish a package store in a new 2,190 square foot lease space within the former Albertson's Grocery Store. Access to the lease space was at the north end of the building. The property's Commercial District allowed a package store with approval of a Conditional Use Permit.

The site exceeded the CUP distance requirement of 300 feet from a church, public school, or public hospital.

Central Avenue bridge was to the north of the site, I35 lay to the east and wrapped around south along with some commercial lease space, and apartments were to the west.

The Future Land Use and Character Map recommended auto/urban commercial for this property. Adams Avenue and Central Avenue were both major arterials and I35 was an expressway giving a lot of circulation to the property. Utilities are provided for the site.

The only entrance to the package store would be on the north side facing Adams Avenue and located in Suite B. This suite would not be connected to any other suites within the building and the parking area would provide access to Adams Avenue, General Bruce Drive, and I35.

Ms. Lyerly stated the Package Store Standards, in addition to the general Conditional Use Permit standards in Zoning Ordinance, Section 7 600, the following conditions apply to Conditional Use Permits allowing an off-premise consumption package store:

- Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code;
- Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7 566 (G);
- If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
- The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
- An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
- Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);
- Window signs are prohibited; and
- Lighted advertising signs must be turned off at closing time.

The outdoor lighting and parking comply with the Zoning Ordinance. The applicant will not have a drive-through window; customers will use the front door at the north side of the building for access. There are no internal customer doorways into or out of the proposed lease space.

Part of the CUP process is for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular

and pedestrian traffic without adversely affecting the general public or adjacent development;

5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Ms. Lyerly stated the I35 Corridor Overlay District requirements would also apply and pointed out highlights which would trigger some of the regulations, which included issues such as landscaping, architectural standards, lighting, etc.

Two notices were sent out and no notices were received back.

According to directions from the Package Store Subcommittee, Staff had no recommendation for this package store request.

Vice-Chair Talley asked who received the notices and Ms. Lyerly stated Tejas Oso, Ltd., and Derek Commercial Ltd.

Vice-Chair Talley opened the public hearing. There being no speakers, Vice-Chair Talley closed the public hearing.

Commissioner Staats made a motion to approve Z-FY-10-36 and Commissioner Barton made a second.

Vice-Chair Talley asked whether the person who owned the package store was responsible for any problems or issues that arise on the property especially since the property was basically a parking lot. Ms. Trudi Dill, Deputy City Attorney, stated she did not know precisely what area the responsibility would extend to, however, the TABC licensing process involved an area of the premises which hold the licensee responsible. The TABC had drawings which are part of the application that show where the alcohol can be stored and/or served and conditions are available for the parking lot.

*Motion passed: (6:0)*

Commissioner Martin abstained; Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-36]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A PACKAGE STORE WITH ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISE CONSUMPTION IN A 2,190 SQUARE FOOT LEASE SPACE ON A PORTION OF TRACT 1, ALBERTSONS ADDITION REPLAT, LOCATED AT 2001 WEST ADAMS, SUITE B; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of a 2,190 square foot lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 W. Adams, Suite B, recommends that the City Council approve the application for this Conditional Use Permit for an off-premise consumption package store; and

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

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

**Part 1:** The City Council approves a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption in a 2,190 square foot lease space on a portion of Tract 1, Albertsons Addition Replat, located at 2001 West Adams, Suite B, 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;

**General:**

- (a) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (c) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours. (Not applicable for package stores).
- (d) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (e) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the obligations hereunder.
- (f) The establishment must provide adequate parking spaces to accommodate its members and their guests provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (g) The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- (h) The City Council may deny or revoke this conditional use permit if it affirmatively determines that the issuance of the permit 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.
- (i) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- (j) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

**Specific to Package Stores:**

- (k) Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code.
- (l) Outdoor lighting must comply with the standards in Section 7.566 (G) of the Zoning Ordinance.
- (m) If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys.
- (n) The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning.
- (o) An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane.
- (p) Parking (in any zoning district including the CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances).
- (q) Window signs are prohibited.
- (r) Lighted advertising signs must be turned off at closing time.

**Specific to this CUP:**

- (s) The permittee’s site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.

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

**Part 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 **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney





## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(Q)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, Interim Planning Director  
Tammy Lyerly, Planner

**ITEM DESCRIPTION:** SECOND READING – Z-FY-10-37: Consider adopting an ordinance authorizing the following:

1. Repealing Ordinance No. 2009-4288, dated April 2, 2009 approving a Conditional use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant to be known as Kazam's Family Entertainment Center, on Tract 1, Albertson's Addition Replat, located at 2001 West Adams Avenue; and
2. A Conditional Use Permit to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 West Adams, Suite C.

**P&Z COMMISSION RECOMMENDATION:** At its August 2, 2010 meeting, the Planning and Zoning Commission voted 6/0 (Commissioner Martin abstained; Commissioner Hurd and Chair Pilkington were absent) to recommend approval of repealing Ordinance No.2009-4288 and approval of a Conditional Use Permit to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall, for on-premise consumption at 2001 West Adams, Suite C.

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

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-37, from the Planning and Zoning meeting, August 2, 2010. This Conditional Use Permit request is to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall, for on-premise consumption in Suite C, a 10,600 square feet lease space within the former Albertson's Grocery Store, located at 2001 West Adams. The only access into and out of the lease space is at the north end of the building.

The property's Commercial District allows a bingo hall (indoor amusement) by right.

If approved, the applicants will be subject to TABC and Texas Lottery Commission regulations. The applicants plan to operate a commercial bingo hall licensed to lease premises to charitable non-profit organizations that are licensed by the State of Texas and regulated by the Texas Lottery Commission. (House rules will be that all customers will need to play to stay) Under-aged customers will not be allowed in the proposed bar area. After 7 PM, management will check customer IDs and under-aged customers will not be allowed in the bingo hall.

If approved, this request would replace the previously approved Ordinance No. 2009-4288 granting a Conditional Use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant.

The site exceeds the CUP distance requirement of 300 feet from a church, public school, or public hospital.

No one spoke at the public hearing.

**CUP APPROVAL CRITERIA:** Part of the CUP process is for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

**COMPREHENSIVE PLAN COMPLIANCE:** The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	N/A	N/A

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

This application conforms to the Future Land Use and Character Map's designation of Auto-Urban Commercial Uses for this property.

Thoroughfare Plan (CP Map 5.2)

This application conforms to the Thoroughfare Plan for access to West Adams Avenue, South General Bruce Drive, and I-35, designated as Major Arterials and Freeway.

Availability of Public Facilities (CP Goal 4.1)

Adequate public facilities serve this site with water and sewer.

**PUBLIC NOTICE:** Two notices of the Planning and Zoning Commission public hearing were sent out. As of Monday, August 9, 2010 at 11 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

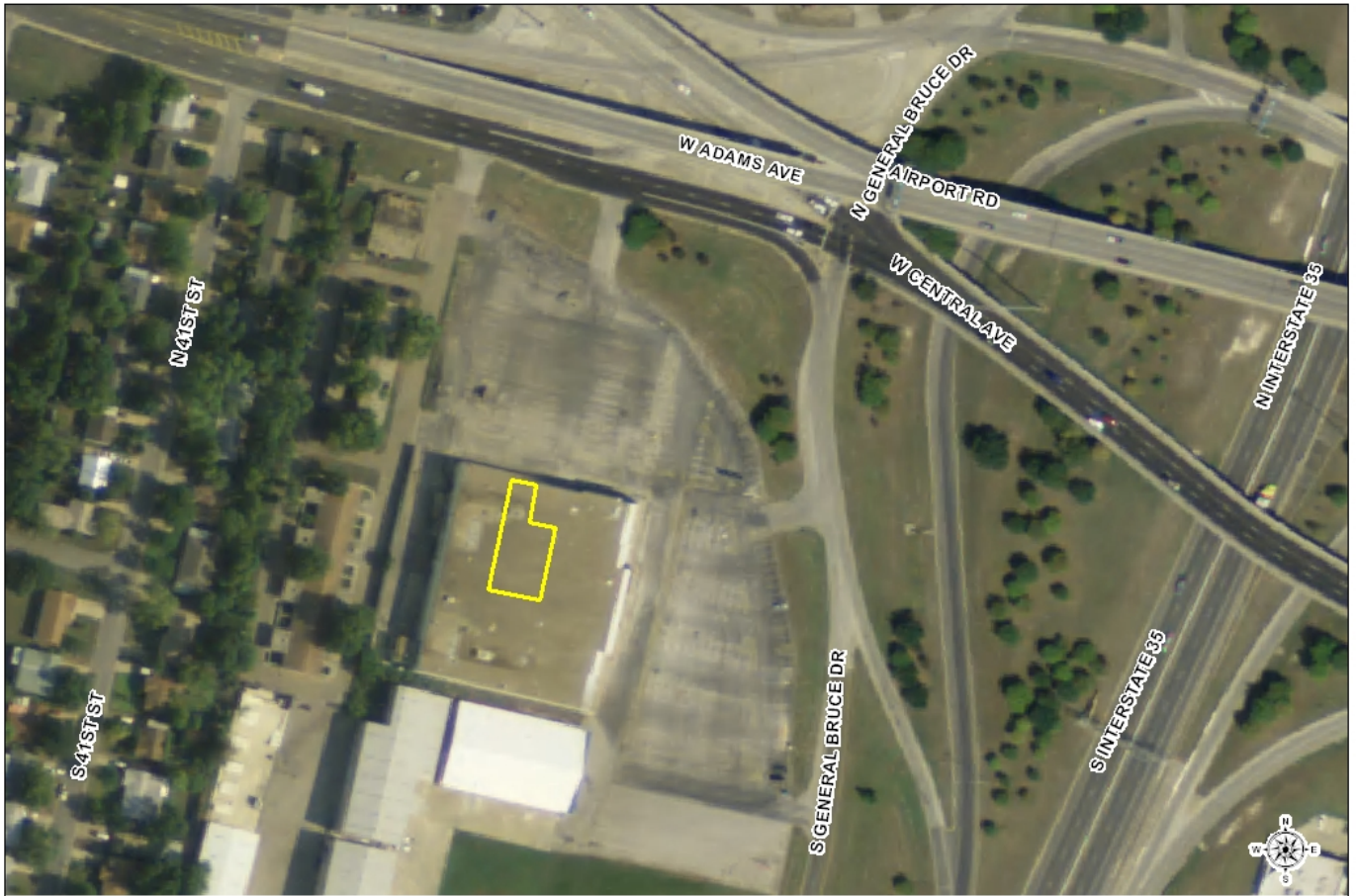
[Aerial](#)  
[Land Use and Character Map](#)  
[Zoning Map](#)  
[Utility Map](#)  
[CUP Site Plan Exhibits](#)  
[Notice Map](#)  
[P&Z Staff Report \(Z-FY-10-37\)](#)  
[P&Z Minutes \(August 2, 2010\)](#)  
[Ordinance](#)



**Z-FY-10-37**

10,600 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite C



 ZFY1037

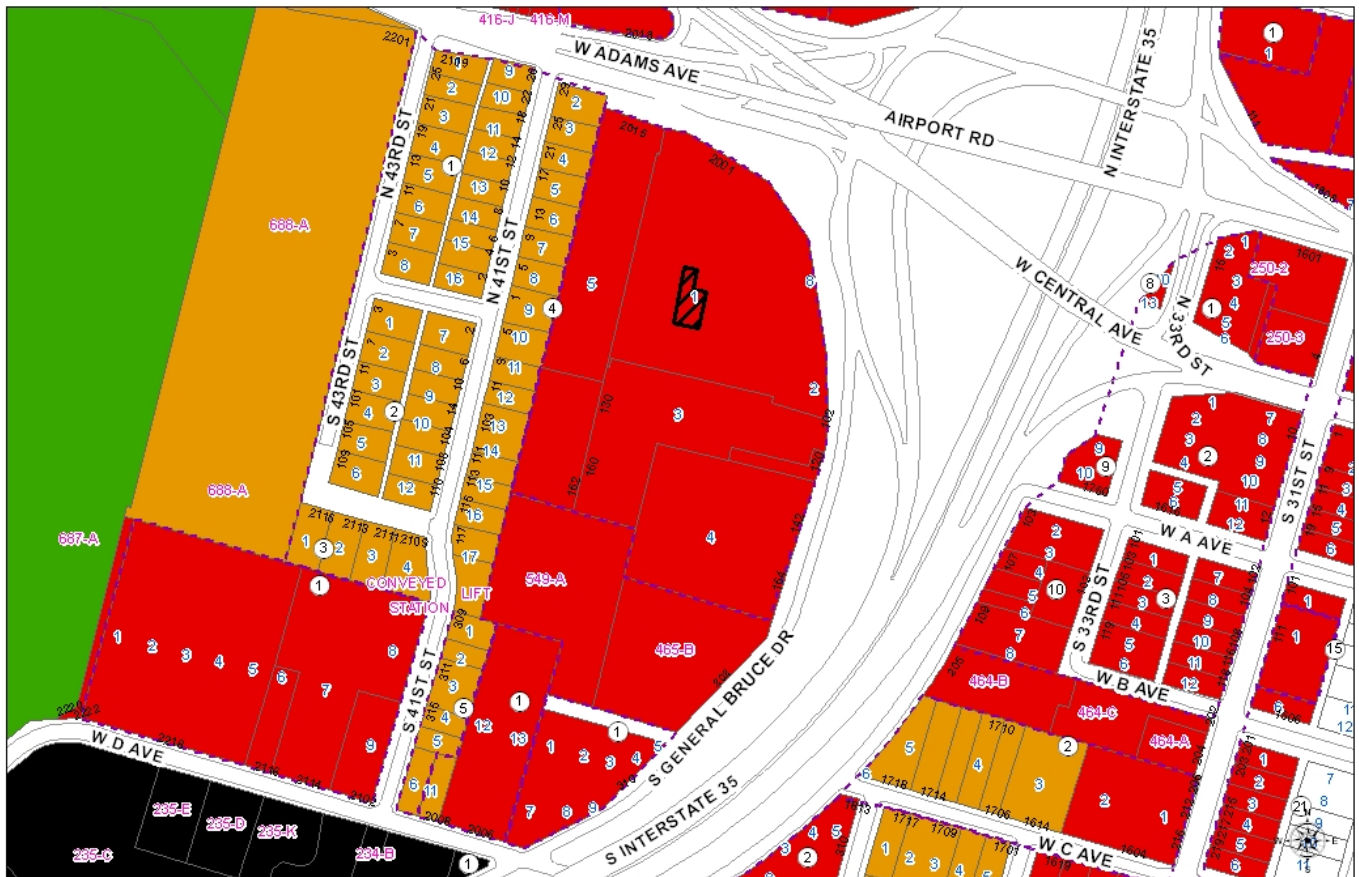
JStone 6.18.10



**Z-FY-10-37**

10,600 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite C



- |                           |                         |                       |                                   |                      |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| 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 |
| Suburban Residential      | Auto-Urban Mixed Use    | Urban Center          | Business park                     | Agricultural/Rural   |

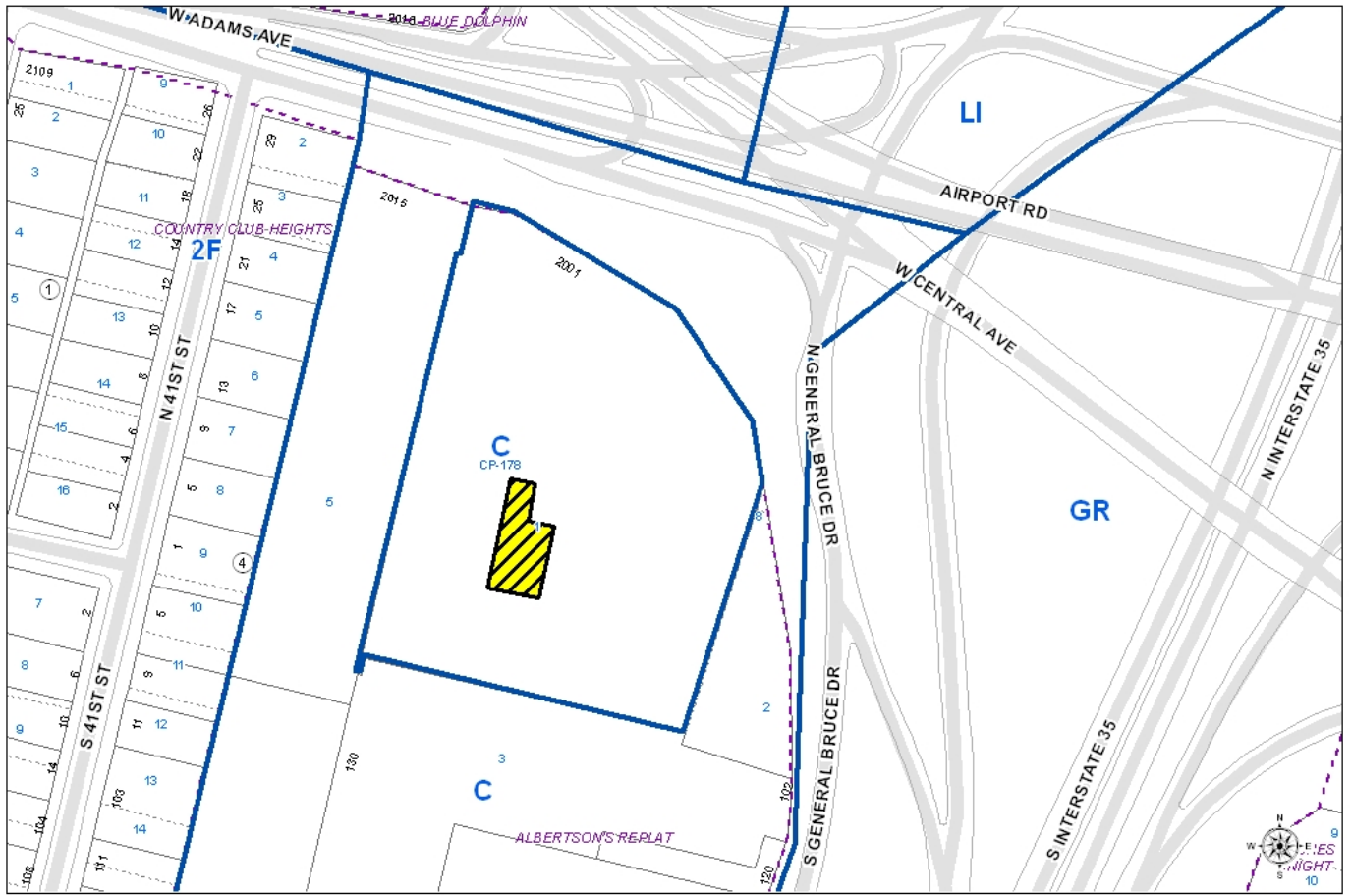
1 inch = 300 feet  
J Stone 6.18.10



**Z-FY-10-37**

10,600 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite C



Feet 0 50 100 150 200

JStone 6.18.10

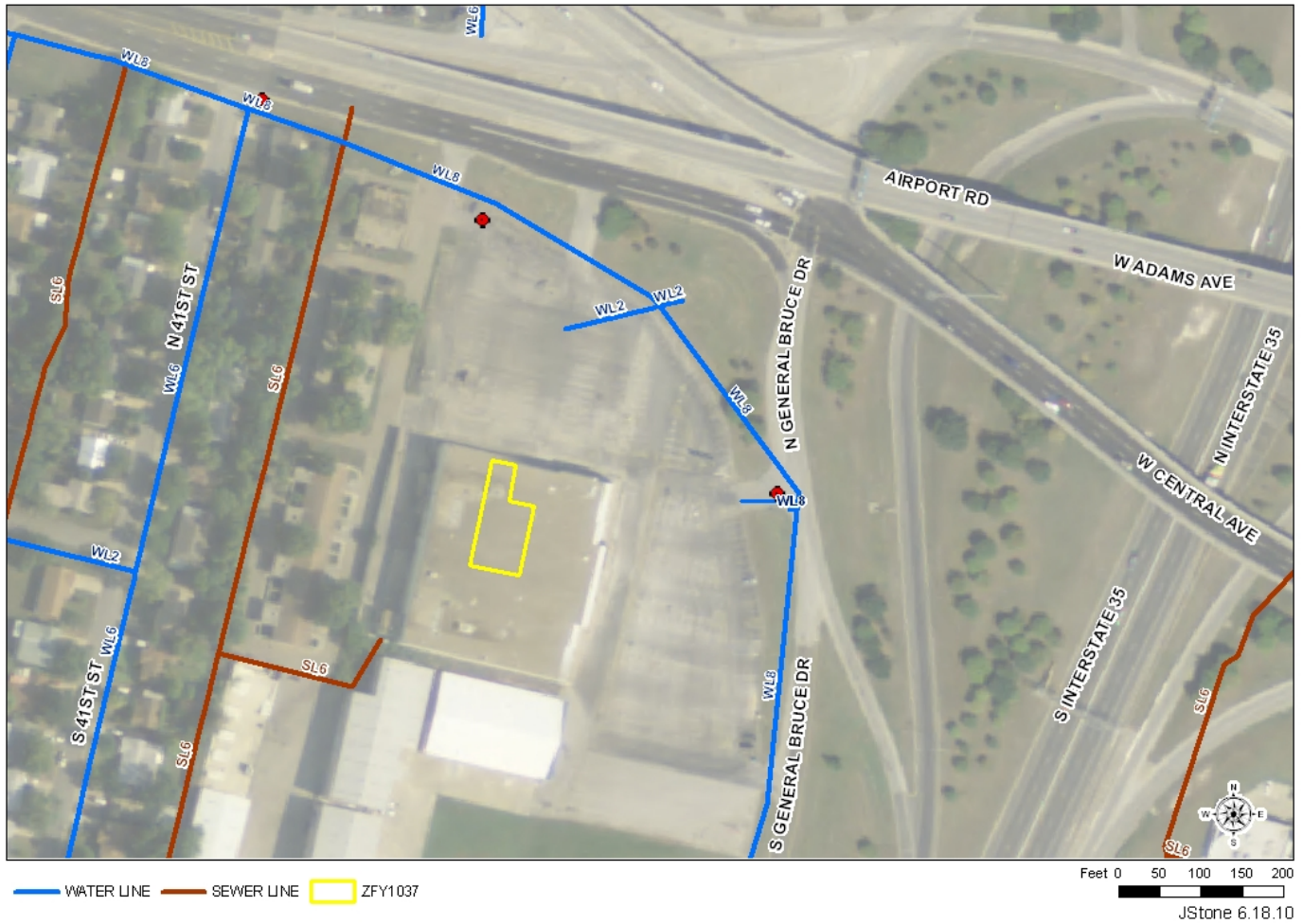




**Z-FY-10-37**

10,600 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite C

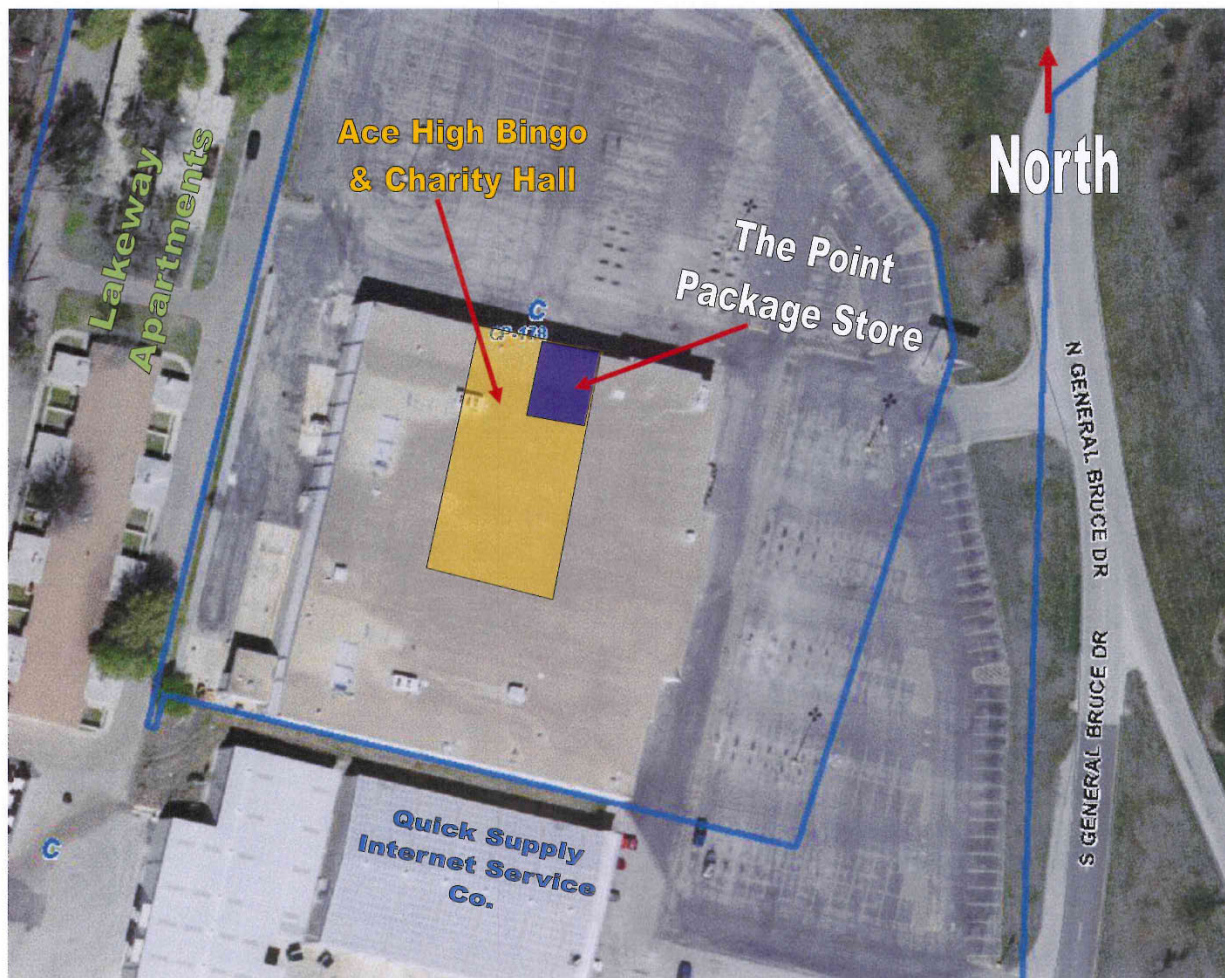






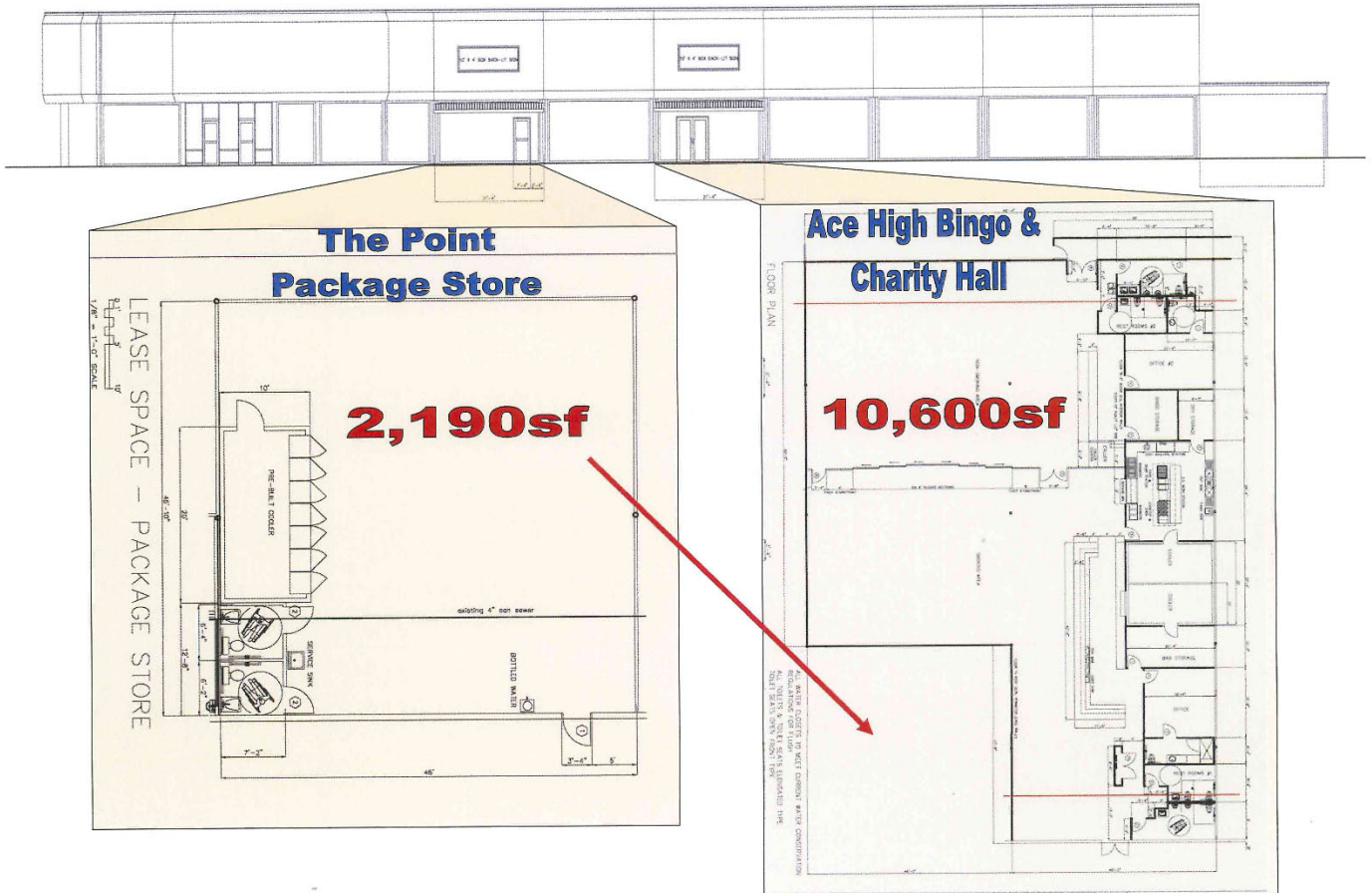
**North Side  
Facing Adams Ave**





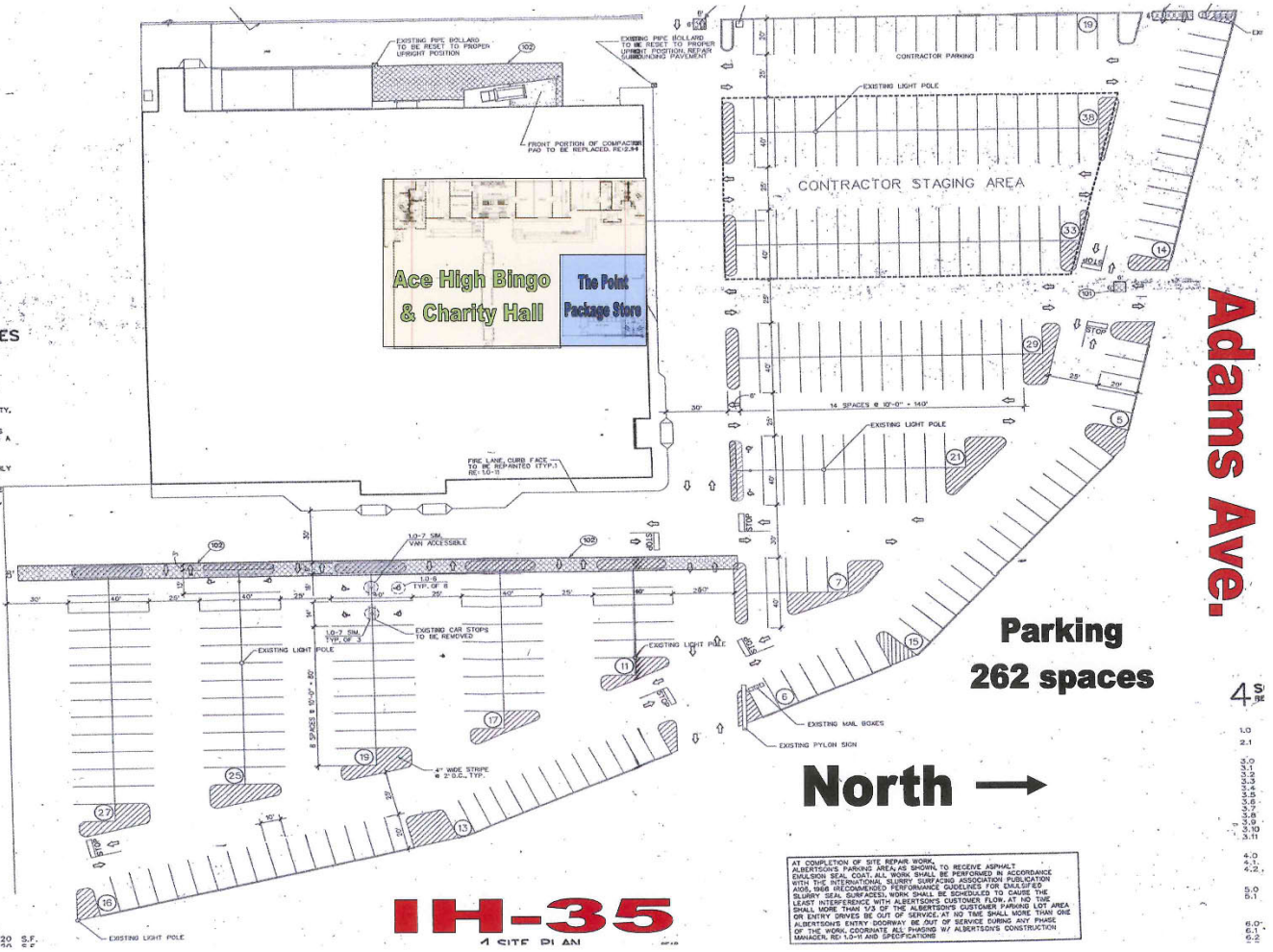


## North Side



# 4. NOTES

- 1. SEE NOTED.
- 2. REMAIN SHALL.
- 3. AT ALL FEES.
- 4. SIDE-OF-WAY.
- 5. SECTIONS OF CITY.
- 6. SECTION.
- 7. COAT, CRACKS.
- 8. REPAIR USING A.
- 9. SHOULD BE.
- 10. LOT THOROUGHLY.
- 11. VISUAL SIGNS &.
- 12. AND PIPE.
- 13. CURBS IN FINE.
- 14. FROM PARKING.
- 15. CURRENTS W/.
- 16. WORK.
- 17. SITE & BASE.
- 18. SURFACES FOR.
- 19. TEST FROM.
- 20. AT BE IN.
- 21. STAGING.
- 22. AREA.
- 23. AND.
- 24. JUNCTIONS.
- 25. RE-OPENING.



Adams Ave.

Parking  
262 spaces

North →

AT COMPLETION OF SITE REPAIR WORK, ALBERTSON'S PARKING AREA IS TO RECEIVE ASPHALT OVERLAP SEAL COAT. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THE INTERSTATE SURFACE ASSOCIATION PUBLICATION AASHTO RECOMMENDED PRACTICES FOR PAVEMENT CONSTRUCTION. ALL WORK SHALL BE SCHEDULED TO CAUSE THE LEAST INTERFERENCE WITH ALBERTSON'S CUSTOMER PARKING LOT AREA. SHALL MORE THAN 1/3 OF THE ALBERTSON'S CUSTOMER PARKING LOT AREA OR ENTRY DRIVE BE OUT OF SERVICE AT NO TIME SHALL MORE THAN ONE ALBERTSON'S ENTRY DRIVEWAY BE OUT OF SERVICE DURING ANY PHASE OF THE WORK. COORDINATE ALL PARKING BY ALBERTSON'S CONSTRUCTION MANAGER, RE: 10-11 AND SPECIFICATIONS.

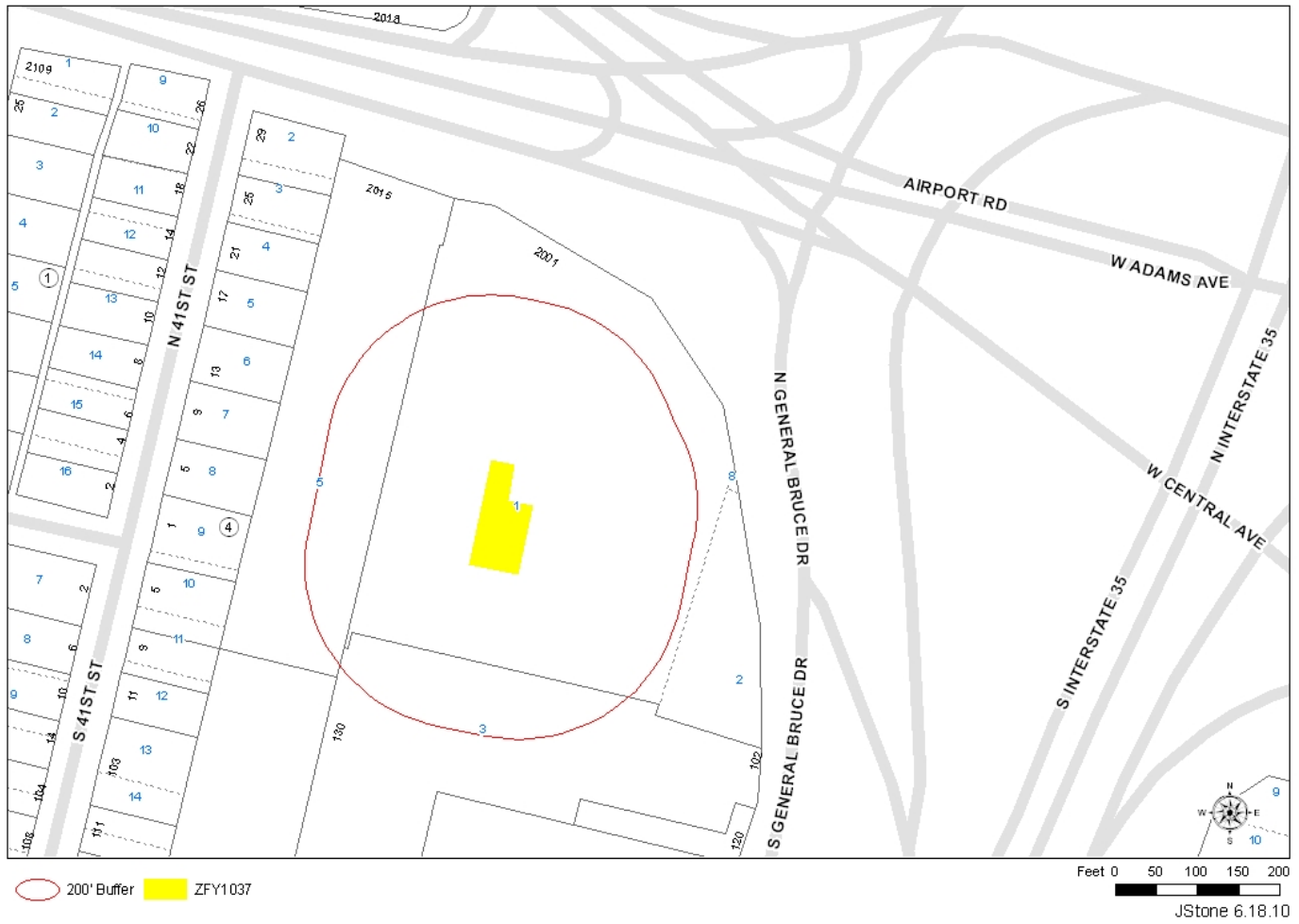
4.0  
4.1  
4.2  
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5.1  
6.0  
6.1  
6.2



**Z-FY-10-37**

10,600 SF of Albertsons Replat Addition, Lot 1

2001 W Adams Ave, Suite C





# PLANNING AND ZONING COMMISSION AGENDA ITEM

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08/02/10  
Item #4  
Regular Agenda  
Page 1 of 5

**APPLICANT / DEVELOPMENT:** Brittany Williams for Salabay Inc.

**CASE MANAGER:** Tammy Lyerly, Planner

**ITEM DESCRIPTION:** Z-FY-10-37 - Hold a public hearing to discuss and recommend action on:

- a. Repealing Ordinance No. 2009-4288, dated April 2, 2009 approving a Conditional use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant to be known as Kazam's Family Entertainment Center, on Tract 1, Albertson's Addition Replat, located at 2001 West Adams Avenue; and
- b. A Conditional use Permit to allow the sale of alcoholic beverages, more than 75% of the total gross revenue in a bingo hall, for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 W. Adams, Suite C. Zoning: Commercial (Applicant: Brittany Williams for Salabay Inc.)

**BACKGROUND:** The applicants request a Conditional use Permit to allow the sale of alcoholic beverages, more than 75% of the total gross revenue in a bingo hall, for on-premise consumption in a new 10,600 square foot lease space within the former Albertson's Grocery Store. Access to the lease space is at the north end of the building. The property's Commercial District allows a bingo hall (indoor amusement) by right.





If approved, the applicants will be subject to TABC and Texas Lottery Commission regulations. The applicants plan to operate a commercial bingo hall licensed to lease premises to charitable non-profit organizations that are licensed by the State of Texas and regulated by the Texas Lottery Commission. House rules will be that all customers will need to play to stay. No under-aged customers will be allowed in the proposed bar area. After 7 PM, management will check customer IDs and no under-aged customers will not be allowed in the bingo hall.

If approved, this request would replace the previously approved Ordinance No. 2009-4288 granting a Conditional use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on premise consumption in a restaurant.


The site exceeds the CUP distance requirement of 300 feet from a church, public school, or public hospital.

**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	Commercial (CUP for Bingo Hall with on-premise alcoholic beverage sales)	Abandoned Grocery Store	
North	Light Industrial and General Retail	Expressway and Food Pantry Distribution Center	
South	Commercial	Commercial Lease Space	
East	Commercial and General Retail	I-35	



Direction	Zoning	Current Land Use	Photo
West	Commercial and Two Family	Apartment Complex	

### **COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Yes
CP	Map 5.2 - Thoroughfare Plan	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	N/A	N/A

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

#### Future Land Use and Character (CP Map 3.1)

This application conforms to the Future Land Use and Character Map's designation of Auto-Urban Commercial Uses for this property.

#### Thoroughfare Plan (CP Map 5.2)

This application conforms to the Thoroughfare Plan for access to West Adams Avenue, South General Bruce Drive, and I-35, designated as Major Arterials and Freeway.

#### Availability of Public Facilities (CP Goal 4.1)

Adequate public facilities serve this site with water and sewer.

#### I-35 Corridor Overlay District

I-35 Corridor Overlay District standards are triggered according to the following table:



Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards	Architectural Design	Landscape	Signage	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or improvement resulting in 50% or more increase in value per tax role	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 25%-49% or improvement resulting in 25%-49% increase in value per tax role	✓	✓	✓	✓		✓		✓	
Increase in gross floor area of 10%-24% or improvement resulting in 10%-24% increase in value per tax role	✓	✓		✓		✓			

If proposed interior and exterior improvements increase the appraised value of the property by 10%, then screening & wall standards and landscaping standards will apply with any subsequent building permit.

### **CUP APPROVAL CRITERIA:**

Part of the CUP process is for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

**PUBLIC NOTICE:**

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, July 30, 2010 at 8 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on July 22, 2010 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the CUP for a bingo hall with the sale of alcoholic beverages for on-premise consumption for case Z-FY-10-37 subject to the following conditions:

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
3. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
4. The establishment must provide adequate parking spaces to accommodate its members and their guests provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
5. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
6. The City Council may deny or revoke this conditional use permit if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
7. The conditional use permit runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
8. The applicant's CUP site plan is an exhibit to the ordinance granting the CUP.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
CUP Site Plan Exhibits  
Notice Map

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

**MONDAY, AUGUST 2, 2010**

**ACTION ITEMS**

**Item 4: Z-FY-10-37:** Hold a public hearing to discuss and recommend action on:

- a. Repealing Ordinance No. 2009-4288, dated April 2, 2009 approving a Conditional Use Permit to allow the sale of alcoholic beverages, less than 75% of the total gross revenue, for on-premise consumption in a restaurant to be known as Kazam's Family Entertainment Center, on Tract 1, Albertson's Addition Replat, located at 2001 West Adams Avenue; and
- b. A Conditional Use Permit to allow the sale of alcoholic beverages more than 75% of the total gross revenue in a bingo hall for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 W. Adams, Suite C. Zoning: Commercial (Applicant: Brittany Williams for Salabay Inc.)

Commissioner Martin stated he needed to abstain from Item 4.

Ms. Lyerly stated the first half of this request is to repeal Ordinance 2009-4288 because a proposal was previously approved that never developed. In order to pursue the new zone change request, the prior request would need to be repealed. The current CUP was for a bingo hall with the sale of alcoholic beverages.

This bingo hall would be in the same building as the previous item, however, this would be proposed for Suite C. If approved, the City Council would hold the first reading on August 19th and second reading and final action would be September 2nd.

Ms. Lyerly gave the Commission a very similar presentation to the previous item and stated the area was zoned Commercial (C) district. The property had water and sewer available for the facilities. There would be no interconnection between the two suites; they would be completely separate. Suite C is located on the north side of the building and only one access was available.

If approved, the applicants will be subject to TABC and Texas Lottery Commission regulations. The applicants plan to operate a commercial bingo hall licensed to leased premises to charitable non-profit organizations that are licensed by the State of Texas and regulated by the Texas Lottery Commission. House rules would be that all customers will need to play to stay. No under-aged

customers will be allowed in the proposed bar area. After 7 PM, management would check customer IDs and under-aged customers will not be allowed in the bingo hall.

Part of the CUP process was for the Planning and Zoning Commission and City Council to utilize their discretionary abilities in making a recommendation and taking final action based on the following seven general criteria established by Zoning Ordinance Section 7-600 for evaluation of all CUPs:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Two notices were sent out and no notices were received back.

Staff recommended approval of this CUP with the conditions since it complied with the CUP regulations and the site plan served as an exhibit to the request.

Commissioner Pope asked about proposed exterior and interior improvements increasing value of property by 10%, along with the screening and landscaping standards which were part of the I35 Corridor Overlay district, and if any building permits were issued at this time. Ms. Lyerly stated permits for any renovations would need to be submitted which would allow one way of monitoring any improvements. As far as appraisal value, those would be obtained from Bell County on an annual basis.

Some discussion about property valuation, processes, and permitting.

Vice-Chair Talley opened the public hearing. There being no speakers, Vice-Chair Talley closed the public hearing.

Commissioner Staats made a motion to approve **Z-FY-10-37**, both A and B, and Commissioner Secrest made a second.

*Motion passed: (6:0)*

Commissioner Martin abstained; Chair Pilkington and Commissioner Hurd absent.

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

[PLANNING NO. Z-FY-10-37 (A)]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING ORDINANCE NO. 2009-4288, DATED APRIL 2, 2009, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION WHERE THE GROSS REVENUE FROM THE SALE OF ALCOHOLIC BEVERAGES IS LESS THAN 75% OF THE TOTAL GROSS REVENUE IN A RESTAURANT TO BE KNOWN AS "KAZAM'S FAMILY ENTERTAINMENT CENTER" LOCATED AT 2001 WEST ADAMS AVENUE ON TRACT 1, ALBERTSON'S ADDITION REPLAT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on April 2, 2009, the City Council passed Ordinance No. 2009-4288 which approved a conditional use permit to allow the sale of alcoholic beverages for on- premises consumption in a restaurant to be known as Kazam's Family Entertainment Center, located at 2001 West Adams Avenue;

**Whereas**, the applicant was not successful in establishing the restaurant, and the Staff recommends that Ordinance No. 2009-4288 be repealed since there is a new plan for development of the building; and

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

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

**Part 1:** The City Council repeals Ordinance No. 2009-4288, dated April 2, 2010, approving a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption where the gross revenue from the sale of alcoholic beverages is less than 75% of the total gross revenue in a restaurant to be known as "Kazam's Family Entertainment Center," located at 2001 West Adams on Tract 1, Albertson's Addition Replat.

**Part 2:** 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 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 **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney

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

[PLANNING NO. Z-FY-10-37 (B)]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES, 75% OR MORE OF THE TOTAL GROSS REVENUE IN A BINGO HALL, FOR ON-PREMISE CONSUMPTION IN A 10,600 SQUARE FEET LEAST SPACE ON A PORTION OF TRACT 1, ALBERTSON'S ADDITION REPLAT, LOCATED AT 2001 WEST ADAMS, SUITE C; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

**Whereas**, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 2001 West Adams Avenue, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, 75% or more of the total gross revenue in a bingo hall, for on-premise consumption in a 10,600 square feet lease space on a portion of Tract 1, Albertson's Addition Replat, located at 2001 West Adams, Suite C, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.



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

- (a) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (b) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (c) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (d) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
- (e) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (f) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- (g) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (h) 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.
- (i) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses

of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

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

**Part 3:** The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 4:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

**Part 6:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **19<sup>th</sup>** day of **August**, 2010.

PASSED AND APPROVED on Second Reading on the **2<sup>nd</sup>** day of **September**, 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

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09/02/10  
Item #9(R)  
Consent Agenda  
Page 1 of 2

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

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing acceptance of a grant for Phase II of the Mayors' Physical Fitness Council Grant Program through the Governor's Advisory Council on Physical Fitness in the amount of \$67,926.

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

**ITEM SUMMARY:** As part of Governor Rick Perry's program to improve the health and well being of Texas residents, the Governor's Advisory Council on Physical Fitness (GACPF) was developed in 2001. The purpose of the GACPF is to advise the Governor on matters related to physical fitness, sports, health and nutrition education, and exercise.

At the suggestion of GACPF members, Governor Perry worked with legislators to pass funding for the development of local physical fitness councils. This legislation directed the Texas Department of State Health Services to make \$400,000 per year in general revenue available for use by the GACPF to provide grants to Texas communities for the development of local Mayors' councils that will develop, implement and market local wellness and fitness programs in communities across the state. The grants do not require a match by the local community.

Last year, the City of Temple Parks and Leisure Services Department applied for and was awarded one of the grants for the Governor's office to assist in the development of Mayors' Fitness Council in Temple. The grant was awarded in the amount of \$11,988. The purpose of the grant was to develop the Mayors' Council on Physical Fitness, assess the wellness and fitness needs of the community and to determine the existing fitness activities and events occurring in Temple. The grant was considered Phase I of a two-phased, tiered grant program.

Members of the Temple Mayors' Council on Physical Fitness represent Temple College, TISD, BISD, Extraco Bank, Scott & White Hospital, King's Daughters Clinic, Texas A&M College of Medicine, H.E.B., various youth sports organizations, private citizens, and the Parks and Leisure Services Department. The Mayors' Council has been meeting for the past few months getting organized and planning activities.

During Phase I, the City applied for the second phase of the grant program which focuses on developing a marketing program to promote community wellness and fitness programs and encourage the development of new fitness programs in the Community. On July 9, the City was informed that it was awarded a Phase II grant in the amount \$67,926.

A work plan for Phase II will be developed and will include the following actions:

- Developing a marketing plan that reaches all segments of the population
- Developing initiatives to reach the Spanish speaking population
- Working closely with the school system to disseminate information on wellness and physical activity to the students and parents
- Developing partnerships with local corporations in order to assist with corporate wellness programs
- Developing an all encompassing website where citizens can go for information about exercising and living a healthier lifestyle, food, and nutrition
- Sponsoring existing fitness programs and events to ensure success that will be measured through increased attendance

**FISCAL IMPACT:** The City will receive \$67,926 in grant funds. The Mayors' Physical Fitness Council Grant Program is a reimbursement grant which has no matching funds requirement. A budget adjustment is presented for Council's approval appropriating the grant expenditures and grant revenue to the appropriate accounts.

**ATTACHMENTS:**

[Budget Amendment](#)  
[Resolution](#)

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
260-4100-551-11-18		Extra Help/Seasonal	\$ 8,736	
260-4100-551-21-10		Office Supplies	300	
260-4100-551-21-29		Advertising/Marketing	15,650	
260-4100-551-25-10		Contributions/Prizes	12,150	
260-4100-551-25-11		Printing/Publications	2,900	
260-4100-551-25-14		Travel & Training	190	
260-4100-551-26-23		Other Contracted Services	28,000	
260-0000-431-02-61		State Grants	67,926	
<b>TOTAL.....</b>			<b>\$ 135,852</b>	<b>\$ -</b>

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

To appropriate grant revenue and expenditures for Phase II of the Mayors' Physical Fitness Council Grant Program through the Governor's Advisory Council on Physical Fitness. The City has been awarded \$67,926 in grant funds. The purpose of the grant is to develop the Mayors' Council on Physical Fitness, assess the wellness and fitness needs of the community and to determine the existing fitness activities and events occurring in Temple. This grant is considered Phase II of a two-phased, tiered grant program that can be awarded to Temple for the Mayors' Council on Physical Fitness. The City was previously awarded \$11,988 in grant funds for Phase I of this grant.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

9/2/2010

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 ACCEPTANCE OF A GRANT IN THE AMOUNT OF \$67,926 FOR PHASE II OF THE MAYORS' PHYSICAL FITNESS COUNCIL GRANT PROGRAM THROUGH THE GOVERNOR'S ADVISORY COUNCIL ON PHYSICAL FITNESS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the City's Park and Leisure Services Department applied for a grant through the Governor's Advisory Grant Program and recently learned that it was awarded one of the grants in the amount of \$67,926 to assist in the continuation of the Mayor's Fitness Council in Temple;

**Whereas**, last year, the Parks and Leisure Services Department applied for and was awarded one of the grants from the Governor's Office to assist in the development of the Mayor's Fitness Council in Temple with a purpose of assessing the wellness and fitness needs of the community and determining the existing fitness activities and events occurring in Temple – the grant was considered Phase I of a two-phased tiered grant program;

**Whereas**, the grant does not require the City to provide matching funds, and the Staff recommends accepting the grant funds for Phase II of this program;

**Whereas**, an amendment to the FY2009-10 budget needs to be approved to appropriate the funds; and

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

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

**Part 1:** The City Council authorizes acceptance of a grant in the amount of \$11,988 for Phase I of the Mayors' Physical Fitness Council Grant Program through the Governor's Advisory Council on Physical Fitness, and authorizes the City Manager, or his designee, to execute any documents, after approval as to form by the City Attorney, that may be necessary for the grant.

**Part 2:** The City Council approves an amendment to the FY2009-10 budget, substantially in the form of the copy attached as Exhibit A, to appropriate the funds 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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(S)  
Consent Agenda  
Page 1 of 1

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

David Blackburn, City Manager

**ITEM DESCRIPTION:** Consider adopting resolution authorizing a payment to Temple Economic Development Corporation (TEDC) in the amount of \$30,000 for professional services performed for developing a grading plan on a site in the North Rail Park.

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

**ITEM SUMMARY:** Kasberg, Patrick & Associates developed a grading plan on a site in the North Rail Park. The total invoiced for the plan was \$40,000. Temple Economic Development Corporation will contribute \$10,000 towards the cost of the plan. The Reinvestment Zone No. 1 has been asked to contribute \$30,000. This plan was necessary to maximize the value of dirt that may be potentially sold as fill while leaving usable sites after the removal of the fill. If a transaction is not successfully negotiated, this plan will be used for planning future development.

The Reinvestment Zone Board No. 1 recommended approval of the payment at the August 25, 2010, Board meeting.

**FISCAL IMPACT:** The proposed payment to TEDC in the amount of \$30,000 is to be paid from funds available in professional services in the Reinvestment Zone No. 1 Financing Plan, account 795-9500-531-2616.

### **ATTACHMENTS:**

[Resolution](#)



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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PAYMENT TO THE TEMPLE ECONOMIC DEVELOPMENT CORPORATION (TEDC) IN THE AMOUNT OF \$30,000 FOR PROFESSIONAL SERVICES PERFORMED FOR DEVELOPMENT A GRADING PLAN ON A SITE IN THE NORTH RAIL PARK; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas,** Kasberg, Patrick & Associates developed a grading plan on a site in the North Rail Park – the total invoiced for the plan was \$40,000, and TEDC will contribute \$10,000 towards the cost of the plan;

**Whereas,** the Reinvestment Zone No. 1 has been asked to contribute \$30,000 since the plan was necessary to maximize the value of dirt that may be potentially sold as fill while leaving usable sites after the removal of the fill, and if a transaction is not successfully negotiated, this plan will be used for planning future development;

**Whereas,** funds are available in Account No. 795-9500-531-2616 for this payment; and

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

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

**Part 1:** The City Council authorizes a payment to the Temple Economic Development Corporation (TEDC) in the amount of \$30,000 for professional services performed for development a grading plan at a site in the North Rail Park.

**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 **2<sup>nd</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #9(T)  
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 \$174,254.

**ATTACHMENTS:**

Budget amendments  
Resolution

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
September 2, 2010

			<b>APPROPRIATIONS</b>	
<b>ACCOUNT #</b>	<b>PROJECT #</b>	<b>DESCRIPTION</b>	<b>Debit</b>	<b>Credit</b>
110-1500-515-1150		Separation Pay	\$ 117,000	
110-1500-515-6532		Contingency - Fuel		\$ 117,000
Additional funds needed to cover separation pay through the end of the fiscal year for terminating/retiring General Fund employees.				
110-1500-515-6531		Contingency - Judgments & Damages	\$ 8,000	
110-1500-515-6532		Contingency - Fuel		\$ 8,000
Transfer funds from Fuel Contingency to Judgments & Damages Contingency to cover additional expense through the end of the fiscal year.				
110-1900-519-2228		PEG Expenditures (Channel 10) - ITS	\$ 8,000	
110-0000-315-1900		Reserved for Public Education Channel (1% Cable Fee)		\$ 8,000
To fund two Quad Core Xeon Processors, Raid Array, upgrade memory, and graphics for rendering TV quality video.				
110-0000-313-0330		State Seized Funds (Police Dept.)	\$ 11,254	
110-2000-521-2537		Air Support Program		\$ 11,254
Transfer funds back into State Seized Funds from the Air Support Program that no longer exist.				
362-3200-552-2631		Contracted Services - Lot Clean Up (Recreation)	\$ 30,000	
362-3500-552-6844	100362	Lions Soccer Field (Parks)		\$ 30,000
To appropriate project savings from a completed project to fund the cost related to the demolition and fill-in of Lions Pool.				
<b>TOTAL AMENDMENTS</b>			<b>\$ 174,254</b>	<b>\$ 174,254</b>
<b>GENERAL FUND</b>				
Beginning <b>Contingency</b> Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning <b>Judgments &amp; Damages</b> Contingency			\$	77,833
Added to Contingency Judgments & Damages from Council Contingency			\$	8,000
Taken From Judgments & Damages			\$	(77,175)
Net Balance of Judgments & Damages Contingency Account			\$	8,658
Beginning <b>Fuel</b> Contingency			\$	125,000
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	(125,000)
Net Balance of Fuel Contingency Account			\$	-

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2010 BUDGET**  
**September 2, 2010**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning <b>Solid Waste - Future Capital Replacement</b> Contingency	\$	48,400
		Added to Solid Waste - Future Capital Replacement Contingency	\$	-
		Taken From Solid Waste - Future Capital Replacement Contingency	\$	-
		Net Balance of Solid Waste - Future Capital Replacement Contingency Account	\$	48,400
		<b>Net Balance Council Contingency</b>	\$	57,058
		Beginning Balance <b>Budget Sweep</b> Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		<b>WATER &amp; SEWER FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	247,423
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(34,522)
		Net Balance of Contingency Account	\$	212,901
		Beginning <b>Approach Mains</b> Contingency	\$	-
		Added to Approach Mains Contingency	\$	488,270
		Taken From Approach Mains Contingency	\$	(488,270)
		Net Balance of Approach Mains Contingency Account	\$	-
		<b>Net Balance Water &amp; Sewer Fund Contingency</b>	\$	212,901
		<b>HOTEL/MOTEL TAX FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	26,336
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(26,336)
		Net Balance of Contingency Account	\$	-
		<b>DRAINAGE FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	-
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	15,243
		Carry forward from Prior Year	\$	51,505
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(49,241)
		Net Balance of Contingency Account	\$	17,507

**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.

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**Whereas**, on the 3<sup>rd</sup> day of September, 2009, the City Council approved a  
budget for the 2009-2010 fiscal year; and

**Whereas**, the City Council deems it in the public interest to make certain  
amendments to the 2009-2010 City Budget.

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

**Part 1**: The City Council approves amending the 2009-2010 City Budget by  
adopting the budget amendments which are more fully described in Exhibit A,  
attached hereto and made a part hereof for all purposes.

**Part 2**: It is hereby officially found and determined that the meeting at which  
this Resolution is passed was open to the public as required and that public notice of  
the time, place, and purpose of said meeting was given as required by the Open  
Meetings Act.

PASSED AND APPROVED this the 2<sup>nd</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #10  
Regular Agenda  
Page 1 of 2

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING – A-FY-10-14: Consider adopting an ordinance abandoning 150 feet of the 15-foot wide alley in Block 7, Eugenia Terrace Addition, retaining a 15' wide utility easement in its place, and abandoning 100 feet of the 50-foot wide right-of-way of South 3<sup>rd</sup> Street in Block 7, Eugenia Terrace Addition, both being adjacent to the south right-of-way of West Avenue P.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for September 16, 2010.

**ITEM SUMMARY:** The Temple Housing Authority requests the abandonment of the remaining alley and street rights-of-way in Block 7, Eugenia Terrace Addition to allow construction of multi-family housing consistent with its adjacent Tembell Homes complex. The City of Temple abandoned all other alley and street rights-of-way in Block 7, Eugenia Terrace Addition by Ordinance on May 10, 1944 for construction of Federal Public Housing Units.

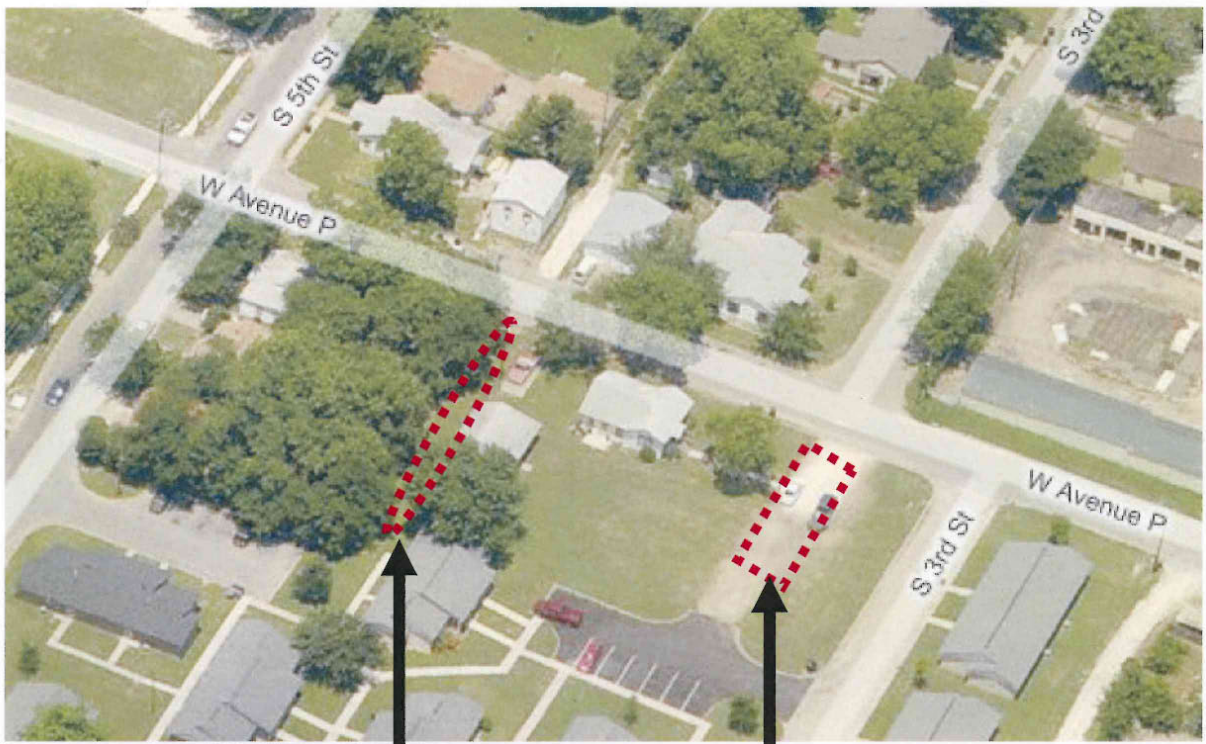
Sometime after the street and alley abandonments in 1944, the remaining portion of South 3<sup>rd</sup> Street right-of-way in this block transformed into a driveway for the existing apartment complex and for the two remaining homes on the block. A narrower street to the east of the apartment complex was created and renamed South 3<sup>rd</sup> Street.

Staff contacted all utility providers, including the City of Temple Public Works Department, regarding this abandonment request. Utilities within the alley consist of a gas main, a 6-inch wastewater main, telephone facilities, and electric facilities. Utility providers request easement protection for existing utilities in the alley. ATMOS Energy requests property owners contact them for gas line locates prior to any future fencing in the alley area. There are no utilities in the street right-of-way.

**FISCAL IMPACT:** Approval of the request would allow all abutting property owners to purchase their half of the abandoned alley, which has a fair market value of \$500. Temple Housing Authority, being the sole property owner on both sides of the street right-of-way, would be allowed to purchase the abandoned street right-of-way for the fair market value of \$3000.

**ATTACHMENTS:**

Aerial  
Abandonment Exhibit  
1944 Ordinance  
Ordinance



**150 feet of 15-foot wide alley abandonment**

**100 feet of 50-foot wide street right-of-way abandonment**





## AN ORDINANCE

AN ORDINANCE DIRECTING THE CLOSING, VACATING AND ABANDONING OF CERTAIN STREETS, AVENUES AND ALLEYS IN THE CITY OF TEMPLE, TEXAS.

WHEREAS, FEDERAL PUBLIC HOUSING AUTHORITY has made a request of the Board of Commissioners of the City of Temple, Texas, that the hereinafter described streets, avenues and alleys be closed in connection with Project TEX-41468 of said FEDERAL PUBLIC HOUSING AUTHORITY; and

WHEREAS, the Board of Commissioners is desirous of complying with said request of said FEDERAL PUBLIC HOUSING AUTHORITY as a means of cooperating with said project;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TEMPLE, TEXAS:

Section 1. That the following streets, avenues and alleys, all located in Eugenia Terrace Addition to the City of Temple, Bell County, Texas, be, and the same are hereby, ordered closed, vacated and abandoned, pursuant to the authority granted unto said CITY OF TEMPLE under and by virtue of Article III, Section 15 of the Charter of said CITY OF TEMPLE:

(a) South 3rd Street from a point one hundred feet (100') South of West Avenue P to the North boundary of West Avenue Q;

(b) South 3rd Street from the South boundary of West Avenue Q to the North boundary of West Avenue R;

(c) West Avenue Q from the East boundary of South 5th Street to the West boundary of the alley in Blocks Nos. Eight (8) and Eleven (11);

(d) West Avenue R between the East boundary of 5th Street Road to the West boundary of the alley between Blocks Eleven (11) and Fourteen (14);

(e) The alley in Block No. Seven (7) from a point one hundred fifty feet (150') South of West Avenue P to the North boundary of West Avenue Q;

(f) The alley in Block No. Ten (10) from the South boundary of West Avenue Q to the North boundary of West Avenue R;

(g) The alley in Block No. Thirteen (13) from the South boundary of West Avenue R. to the South property line of said Block No. Thirteen (13).

Section 2. That the fact that housing conditions in the City of Temple, Texas, are acute, and that there is an imperative public need and necessity for the erection and construction of FEDERAL PUBLIC HOUSING units in said City of Temple creates an emergency, and an imperative public necessity that the charter provisions of said City of Temple requiring that all ordinances be passed on three (3) separate meetings of said Board of Commissioners of the City of Temple, be suspended, and that this ordinance shall be adopted on the date of its first introduction as an emergency measure, and further that said Ordinance shall be in force and effect from and after the date of its third and final passage as an emergency measure on this the date of its introduction.

PASSED AND ADOPTED BY THE BOARD OF COMMISSIONERS OF THE CITY OF TEMPLE, TEXAS, at a special meeting, duly called, at which all members were present, on this the 10th day of May, A. D., 1944.

APPROVED:

*W. Guy Draper*  
W. Guy Draper, Mayor.

ATTEST:

*D. H. Vannoy*  
D. H. Vannoy, City Comptroller  
and Ex-officio City Secretary.

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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING 150 FEET OF THE 15-FOOT WIDE ALLEY IN BLOCK 7, EUGENIA TERRACE ADDITION, RETAINING A 15-FOOT WIDE UTILITY EASEMENT IN ITS PLACE, AND ABANDONING 100 FEET OF THE 50-FOOT WIDE RIGHT-OF-WAY OF SOUTH 3<sup>RD</sup> STREET IN BLOCK 7, EUGENIA TERRACE ADDITION, BOTH BEING ADJACENT TO THE SOUTH RIGHT-OF-WAY OF WEST AVENUE P; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, the Temple Housing Authority requests the abandonment of the remaining alley and street right-of-way in Block 7, Eugenia Terrace Addition to allow construction of multi-family housing consistent with its adjacent Tembell Homes complex;

**Whereas**, the Staff recommends that the property be abandoned, that fair market value be determined, and that the land be sold for not less than the fair market value;

**Whereas**, the land is not necessary for the purpose of serving the general public or landowners adjacent thereto for any public purposes; however, a 15 foot wide utility easement needs to be retained by the City; 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 150 feet of the 15-foot wide alley in Block 7, Eugenia Terrace Addition, and 100 feet of the 50-foot wide right-of-way of South 3<sup>rd</sup> Street in Block 7, Eugenia Terrace Addition, both being adjacent to the south right-of-way of West Avenue P, more fully described in Exhibit A, attached hereto for all purposes.

**Part 2:** The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 4, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owner, which when done, shall be and become a binding act and deed of the City of Temple.

**Part 3:** As consideration for the conveyance described in Part 1, abutting property owners shall pay their portion of an amount which is equal to or greater than the appraised fair market value of \$500 for the abandoned alley. A 15 foot wide utility easement is retained in its place in the abandoned area. Temple Housing Authority shall pay an amount which is

equal to or greater than the appraised fair market value of \$3,000 for the abandoned street right-of-way.

**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:** 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 **2<sup>nd</sup>** day of **September**, 2010.

PASSED AND APPROVED on Second Reading the **16<sup>th</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

\_\_\_\_\_  
WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
Clydetta Entzminger  
City Secretary

\_\_\_\_\_  
Jonathan Graham  
City Attorney

STATE OF TEXAS           §

COUNTY OF BELL           §

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

\_\_\_\_\_  
Notary Public, State of Texas



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #11  
Regular Agenda  
Page 1 of 4

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-10-44: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages, more than 50% and less than 75% revenue from alcohol sales, for on-premise consumption in a restaurant on the south 100 Feet of Lot 2, Block 3, W S Chapman Addition, located at 715 South 1<sup>st</sup> Street.

**P&Z COMMISSION RECOMMENDATION:** At its August 16, 2010 meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a Conditional Use Permit (CUP) for the sale of alcoholic beverages, more than 50% and less than 75% revenue from alcohol sales, for on-premise consumption in a restaurant subject to the 14 conditions listed under Staff Recommendation. Enforcement of Items 11 and 13 may be delayed until January 1, 2011 before which date a preliminary site plan with equal or better site amenities must be presented to the Planning Director.

### **General to All CUPs for On-Premise Alcohol Consumption**

1. The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
2. The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
3. The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its CUP. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
4. The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
5. The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior.
6. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.

8. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP

11. The existing sidewalk segment along South 1<sup>st</sup> Street must be extended to the nearest driveway and must be widened to 6 feet in width.
12. Proposed parking spaces must be striped according to the CUP site plan.
13. A minimum of fifteen five-gallon shrubs must be provided on the private property near the sign and on the proposed landscaped island adjacent to parking space number 12 on the CUP site plan.
14. Wheel stops must be provided for spaces along East Avenue H to prevent vehicles' front bumpers from encroaching into the traveled path of the right-of-way.
15. Implementation and enforcement of Items 11 and 13 may be delayed until January 1, 2011 before which date a preliminary site plan for the property with equal or better site amenities must be presented to and approved by the Planning Director.

Commissioner Barton was absent.

**STAFF RECOMMENDATION:** Staff recommends approval of Z-FY-10-44, a CUP for the sale of alcoholic beverages for on-premise consumption, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant subject to the following additional conditions to be added to the P&Z Recommendation:

Specific to this CUP

16. If a preliminary Site Plan with equal or better site amenities is not presented to the Planning Director by January 1, 2011, then the CUP will be presented to City Council with a Staff recommendation for revocation.
17. If a building permit application that conforms to the approved preliminary Site Plan is not submitted to the Director of Construction Safety by February 1, 2011, then the CUP will be presented to City Council with a Staff recommendation for revocation.
18. If the improvements shown on the building permit application are not installed on the subject property by April 1, 2011, then the CUP will be presented to City Council with a Staff recommendation for revocation.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-44, from the Planning and Zoning meeting, August 16, 2010. The applicants requests a Conditional Use Permit (CUP) in order to sell beer, wine and mixed drinks in their restaurant, which has been open since approximately 1999. The nearest "protected use" is a church that is approximately 540 feet away, measured front door to front door.



The Staff Recommendation differs from the Planning and Zoning Commission recommendation. The Commission made its recommendation so that the applicant could sell beer, wine and mixed drinks directly after City Council's second reading, if approved, without having to install the Staff recommended improvements prior to selling the alcohol. The Commission made this recommendation because the property owner stated in the public hearing that he did not want the applicants to unnecessarily spend money doing the improvements listed in the Staff Recommendation when he may be redeveloping the site in the near future.

However, the Commission's recommendation does not set any deadlines for building permit submittal or installation of the recommended amenities. Under the Planning and Zoning Commission's recommendation, the property owner need only submit to the Planning Director a conceptual Site Plan which shows improvements equal to or greater than those recommended by Staff. Staff maintains its initial recommendation because under the Planning and Zoning Commission's recommendation, the property owner could submit the conceptual Site Plan and never follow through with constructing the improvements shown on the plan. At that point the conditions of the CUP would have been met and the improvements may never be built.

Staff recommendations 16 through 18 above set deadlines for submittals and consequences for not following through with the Planning and Zoning Commission recommendation.

**CUP APPROVAL CRITERIA:** Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs. They are listed below the P&Z's consideration:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

Please see the P&Z Staff Report for commentary on these criteria.

**PUBLIC NOTICE:** Ten notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, August 11 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on August 5, 2010, in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
CUP Site Plan  
CUP Floor Plan  
Notice Map  
P&Z Staff Report (Z-FY-10-44)  
P&Z Minutes (August 16, 2010)  
Ordinance







Z-FY-10-44

2,867 sf of S 100' of Lot 2, Blk 3, WS Chapman Addition

715 S 1st Street



- |                       |                         |                    |                           |                                   |              |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1044               | Auto-Urban Mixed Use    | Business Park      | Neighborhood Conservation | Suburban Commercial               | Urban Center |
| Agricultural/Rural    | Auto-Urban Multi-Family | Estate Residential | Parks & Open Space        | Suburban Residential              |              |
| Auto-Urban Commercial | Auto-Urban Residential  | Industrial         | Public Institutional      | Temple Medical Education District |              |

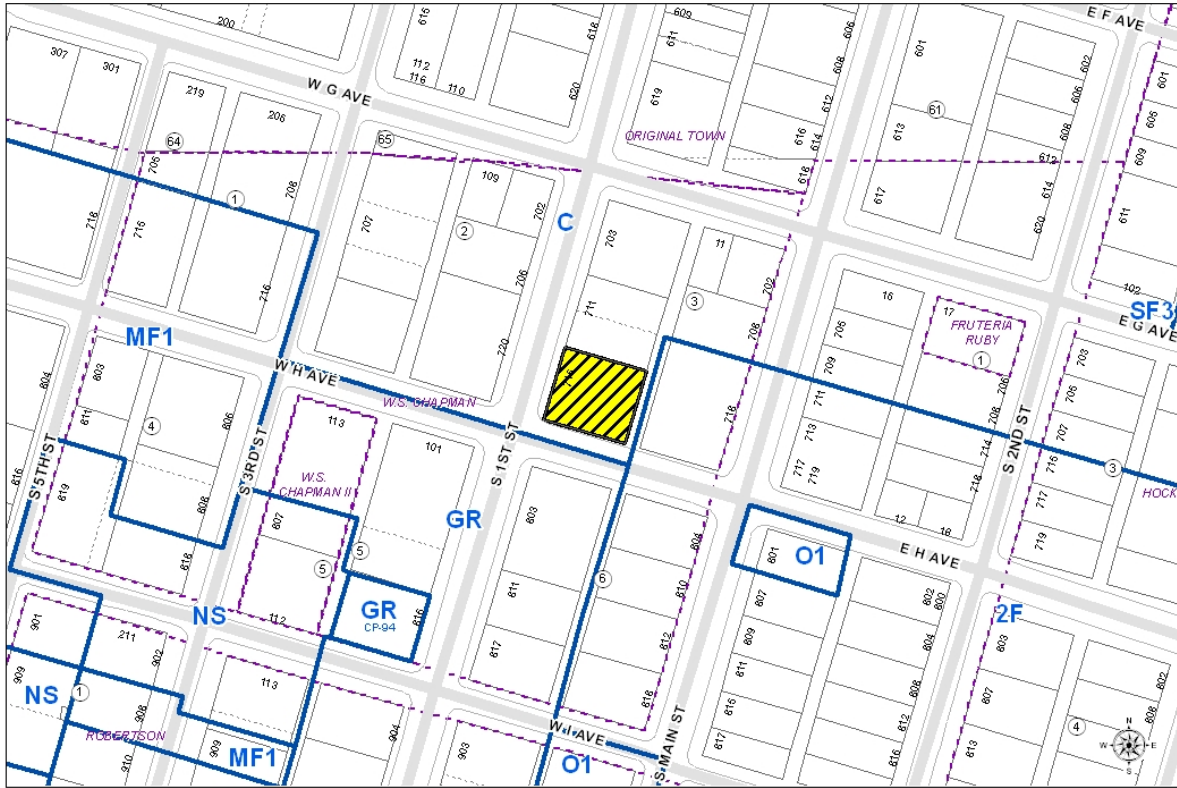
1 inch = 200 feet  
J Stone 7.19.10



**Z-FY-10-44**

2,867 sf of S 100' of Lot 2, Blk 3, WS Chapman Addition

715 S 1st Street



 ZFY1044

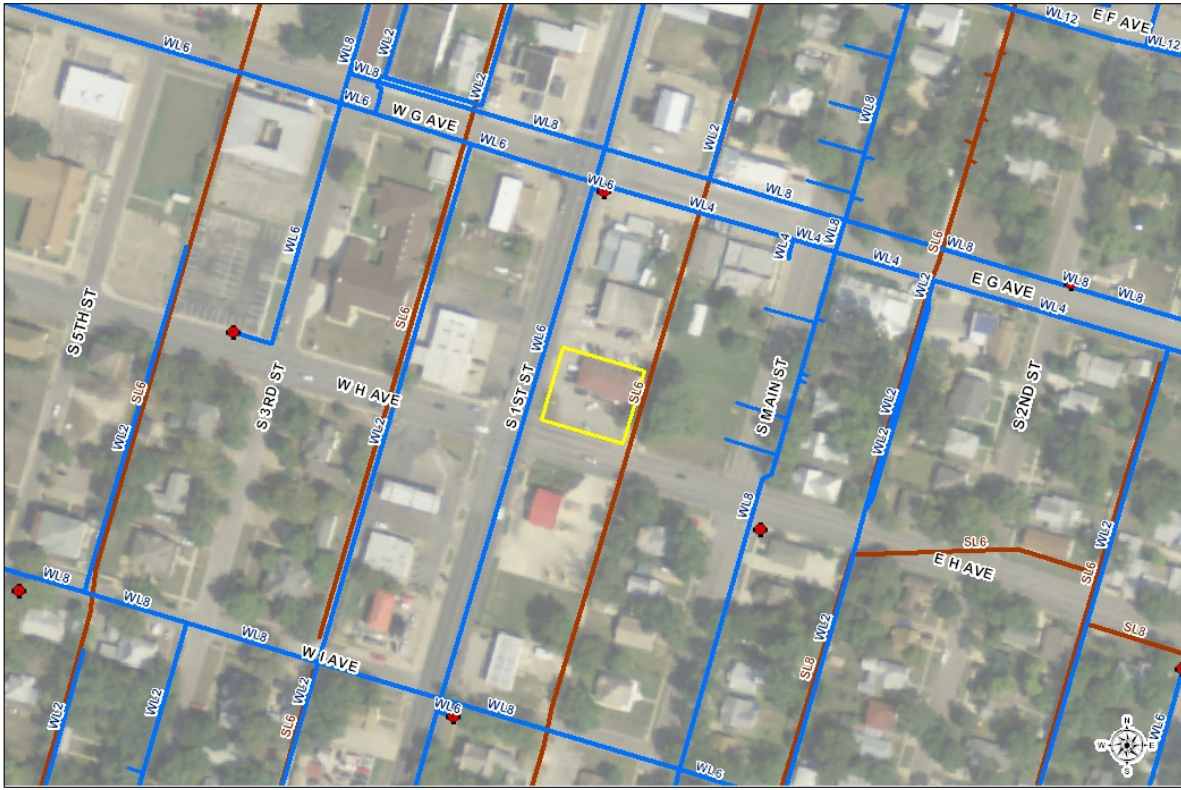
J Stone 7.19.10



**Z-FY-10-44**

2,867 sf of S 100' of Lot 2, Blk 3, WS Chapman Addition

715 S 1st Street

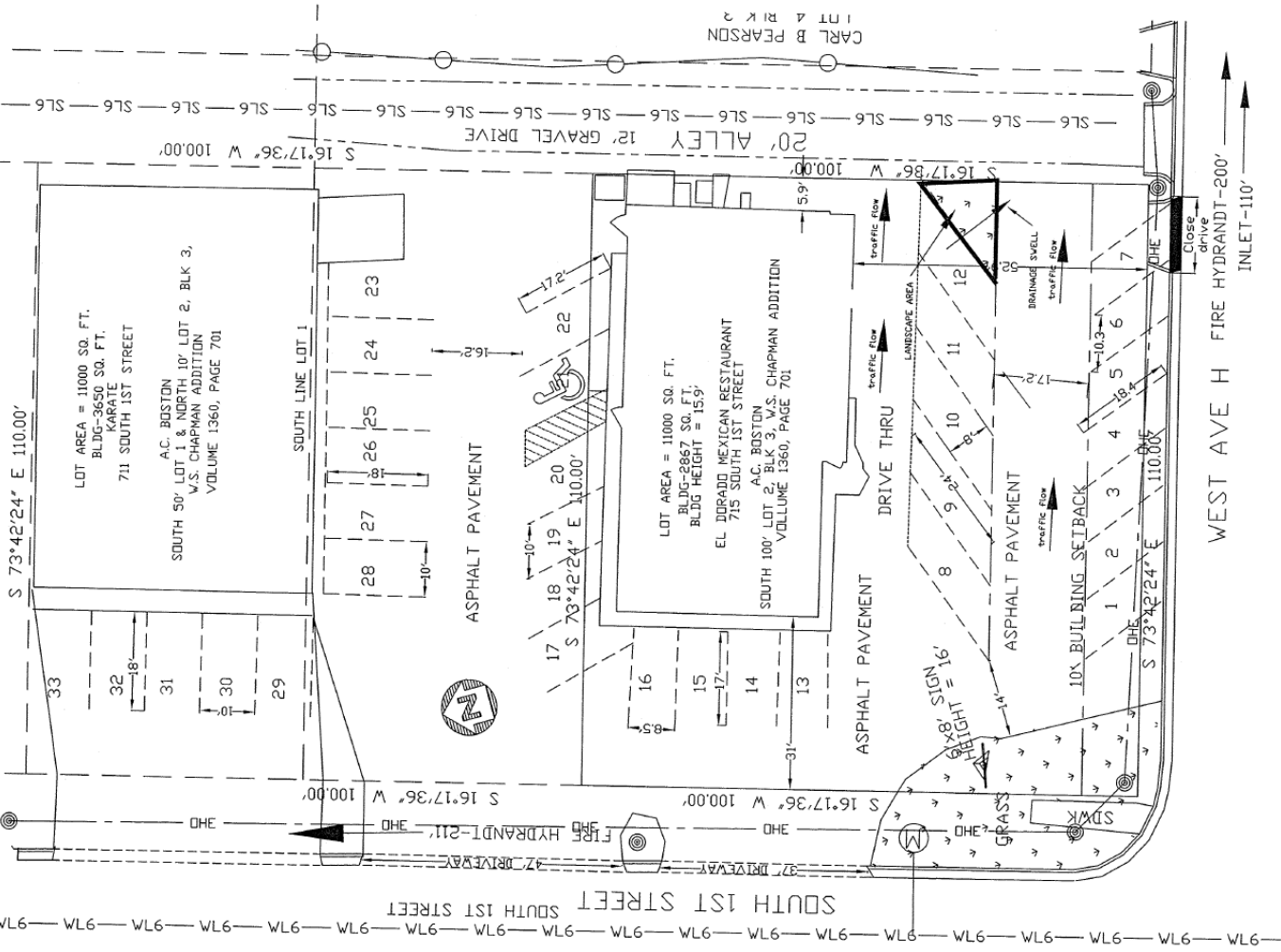


 ZFY1044  WATER LINE  SEWER LINE

Feet 0 50 100 150 200  
J Stone 7.19.10



JAMIE DAVID SALGADO  
MANUEL'S BODY SHOP  
703 SOUTH 1ST STREET  
NORTH 100' LOT 1, BLK 3, W.S. CHAPMAN ADDITION  
DOC#2007-22531



**PARKING SUMMARY**  
BLDG AREA:  
EL DORADO = 2667 SQ FT  
KARATE = 3650 SQ FT  
TOTAL = 6317 SQ FT

**PARKING SPACES**  
HANDICAP = 1 SPACE  
REGULAR = 32 SPACES  
TOTAL = 33 SPACES

RATIO : 1 SPACE / 191.4 SQ. FT. BLDG AREA  
BOTH PROPERTIES OWNED BY SAME PROPERTY OWNER.

**NOTES:**

- ZONING: COMMERCIAL
- FRONT YARD SET-BACK = MIN. 30' CENTER LN. STREET
- EXIST. SETBACK 3' TO PROPERTY LINE
- REQ. FRONT YARD SET-BACK = MIN. 30' CENTER LN. STREET
- EXIST. SETBACK 3' TO PROPERTY LINE
- REQ. SIDE YARD SET-BACK = 0 FT (10' FROM SIDE STREET)
- REQ. REAR YARD = 0 FEET
- SCREENING FENCES: NONE EXIST ON SITE.
- Leasee proposes to install curb stops, paint stripping, & landscaping.



# PROPOSED SITE PLAN EL DORADO RESTAURANT



**Temple Civil Engineering Company Inc.**  
ENGINEERS, PLANNERS, SURVEYORS  
1000 WEST 10TH STREET  
SUITE 200  
AUSTIN, TEXAS 78701



Thralls Civil Engineering Company Inc.  
ENGINEERS, PLANNERS, SURVEYORS  
1111 17th St. N.W.  
Washington, D.C. 20036  
Tel. (202) 778-2200



# EL DORADO RESTAURANT FLOOR PLAN

DRIVE-THRU



7-2-2012





# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/16/10  
Item #2  
Regular Agenda  
Page 1 of 6

**APPLICANT / DEVELOPMENT:** Elias and Manuel Ortega for A.C. Boston



**CASE MANAGER:** Brian Mabry, AICP, Interim Planning Director

**ITEM DESCRIPTION:** Z-FY-10-44 Hold a public hearing to consider and take action on Conditional Use Permit for the sale of alcoholic beverages more than 50% and less than 75% revenue from alcohol sales in a restaurant on the South 100 Feet of Lot 2, Block 3, W S Chapman Addition, located at 715 South 1<sup>st</sup> Street. Zoned Commercial District.

**BACKGROUND:** The applicants requests a Conditional Use Permit (CUP) in order to sell beer, wine and mixed drinks in their restaurant, which has been open since approximately 1999. The nearest “protected use” is a church that is approximately 540 feet away, measured front door to front door. The minimum separation distance between a business with on-premise alcohol consumption and a protected use is 300 feet.




**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	C (CUP proposed)	Restaurant	
North	C	Vacant (formerly karate academy)	

**Double Sided**



Direction	Zoning	Current Land Use	Photo
South	GR	Car wash (across E. Ave H)	
East	C	Major auto repair (across S. 1 <sup>st</sup> St.)	
West	2F	Undeveloped	

### **COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Map F4- Spine Trail along S. 1 <sup>st</sup> St. and Local Connector Trail along E. Ave. H	N*

\* = See Comments Below    CP = Comprehensive Plan    STP = Sidewalk and Trails Plan

#### **Future Land Use and Character (CP Map 3.1)**

The Future Land Use and Character Map designates the property as Urban Center. The CUP request conforms to the Future Land Use and Character Map.

#### **Thoroughfare Plan (CP Map 5.2)**

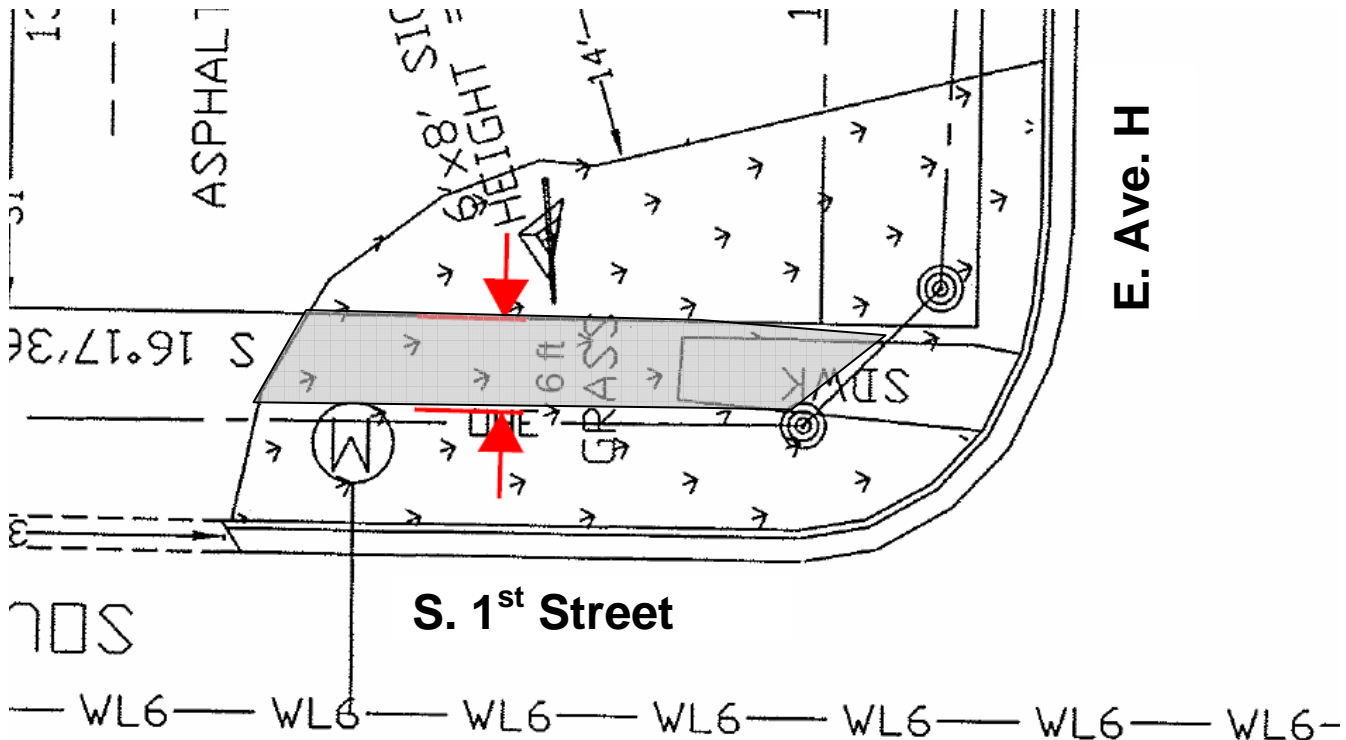
The Thoroughfare Plan designates S. 1<sup>st</sup> Street and E. Avenue H as major arterials. The CUP request conforms to the Thoroughfare Plan.

#### **Availability of Public Facilities (CP Goal 4.1)**

A six-inch water line and a six-inch sewer line serves the property. Public facilities are available for the property.

### Citywide Sidewalk and Trails Master Plan (Map F4)

The Citywide Sidewalk and Trails Master Plan calls for a spine trail/sidewalk along S. 1<sup>st</sup> St, which is to be 10 to 12 feet in width. The plan also calls for a local connector trail/sidewalk that is 6 to 8 feet in width along E. Avenue H. The property currently has a segment of a four-foot sidewalk along S. 1<sup>st</sup> Street near the intersection with E. Avenue H. The Staff Recommendation at the end of the report requires that the sidewalk be widened to six feet and be extended to meet with the nearest driveway, as conceptualized in the graphic below. Although the six-foot sidewalk does not meet the recommendation of the Sidewalk and Trails Master Plan, it does meet the requirements of the Zoning Ordinance for sidewalks along Arterial Streets. Requiring an addition four feet of sidewalk width would destroy the already scarce green space on the property. The right-of-way along E. Avenue H is not wide enough to accommodate a sidewalk.



## **CUP APPROVAL CRITERIA**

Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs. They are listed below the P&Z's consideration:

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;
2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

In regard to criterion #1 above, the Temple Police Department reports that since January of 2009 there have been 4 calls to the site that were alcohol related.

In regard to criterion #4 above, the floor plan of the restaurant shows approximately 80 seats. Per Zoning Ordinance Sec. 10-102, one parking space is required per three seats. 27 spaces are required. Only 33 spaces are available on the property and the property to the north where the vacant karate academy sits. Both properties are currently under common ownership. Future use of the former karate academy may be limited to a use that would only need six spaces under the standards of the Zoning Ordinance.

Also in regard to #4 above, Staff has observed that the front bumpers of cars parked on the property have a tendency to encroach into the traveled path of the E. Avenue H right-of-way. Therefore, staff recommends the installation of wheel stops for the parking spaces along such right-of-way.

In regard to criterion #7 above, 345 square feet of plant material currently exists on the private property near the existing sign. The applicant proposes an additional 125 square feet of landscaping near the southeast corner of the building, near the alley, as a site amenity and as a traffic management device. Staff recommends a total of 15 five-gallon shrubs be installed in the two landscaped areas. The base landscaping standards for new construction require one tree or 3 shrubs per 40 feet of street frontage. The property has 210 linear feet of street frontage, so fifteen shrubs would be required for new construction. Private property green space is shown in the graphic below.



6. The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
7. The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
8. The City Council may deny, cancel, suspend or revoke this CUP in accordance with the revocation clause set forth in Section 7-608 of the Zoning Ordinance if it affirmatively determines that the issuance of the permit is (a) incompatible with the surrounding uses of property, or (b) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
9. The CUP runs with the property. Changes in the owner or lessee of a permitted establishment do not affect the permit.
10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP

11. The existing sidewalk segment along S. 1<sup>st</sup> Street must be extended to the nearest driveway and must be widened to 6 feet in width.
12. Proposed parking spaces must be striped according to the CUP site plan.
13. A minimum of fifteen five-gallon shrubs must be provided on the private property near the sign and on the proposed landscaped island adjacent to parking space number 12 on the CUP site plan.
14. Wheel stops must be provided for spaces along E. Avenue H to prevent vehicles' front bumpers from encroaching into the traveled path of the right-of-way.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Utility Map  
CUP Site Plan  
CUP Floor Plan  
Notice Map  
Response Letters

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

**MONDAY, AUGUST 16, 2010**

**ACTION ITEMS**

**Item 2: Z-FY-10-44:** Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages more than 50% and less than 75% revenue from alcohol sales in a restaurant on the South 100 Feet of Lot 2, Block 3, W S Chapman Addition, located at 715 South 1st Street. Zoned Commercial District (Applicant: Elias & Manuel Ortega for A.C. Boston).

Mr. Brian Mabry, Interim Planning Director, stated the applicants requested this CUP in order to be able to sell beer, wine, and mixed drinks for on-premise consumption at the El Dorado Restaurant located at 715 S. 1st Street. The property was zoned Commercial (C) and had 210 feet of frontage on Avenue H and South 1st Street. The building had been functioning as a restaurant for approximately 30+ years.

Distance from the nearest protected use, St. James United Methodist Church, was 543 feet, which exceeded the 300 foot requirement. To the north lay a vacant building which was formerly a Karate Academy under the same ownership as the restaurant, to the east vacant property, to the west a major auto repair facility, and a car wash to the south.

The Future Land Use and Character Map designated the area as Urban Center. A 6-inch sewer line and 6-inch water line serve the property. The zoning map for the area show mostly non-residential zoning.

The Master Sidewalk & Trails Plan for the area showed a Citywide spine trail along South 1st and a local connector trail along Avenue H. The Plan recommended a spine trail to be a sidewalk in this area, 10 feet in width. Since the property was not developed or suited to accommodate a 10 foot sidewalk, the proposal did not quite meet the requirements or recommendations of the Trails Master Plan. Staff would make recommendations to bring it closer to compliance, by extending the existing sidewalk along South 1st Street and make it a 6 foot sidewalk segment.

Part of the CUP process was for P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action. As a guide, the Zoning Ordinance establishes seven general criteria for evaluation of all CUPs.

1. The conditional use permit will be compatible with and not injurious to the use and enjoyment of the property, nor significantly diminish or impair property values within the immediate vicinity;

2. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property;
3. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided;
4. The design, location, and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;
5. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise, and vibration;
6. Directional lighting will be provided so as not to disturb or adversely affect neighboring properties; and
7. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

In regard to criterion #1 above, the Temple Police Department reported since January of 2009 there were four (4) calls to the site that were alcohol related.

In regard to criterion #4 above, the floor plan of the restaurant showed approximately 80 seats. Per Zoning Ordinance Sec. 10-102, one parking space is required per three seats. 27 spaces are required. Only 33 spaces are available on the property and the property to the north where the vacant karate academy sits. Both properties are currently under common ownership. Future use of the former karate academy may be limited to a use that would only need six spaces under the standards of the Zoning Ordinance.

Also in regard to #4 above, Staff observed the front bumpers of cars parked on the property had a tendency to encroach into the traveled path of the E. Avenue H right-of-way. Staff recommended installation of wheel stops for the parking spaces along such right-of-way which were already in place.

In regard to criterion #7 above, 345 square feet of plant material currently exists on the private property near the existing sign. The applicant proposed an additional 125 square feet of landscaping near the southeast corner of the building, near the alley, as a site amenity and as a traffic management device. Staff recommended a total of 15 five-gallon shrubs be installed in the two landscaped areas. The base landscaping standards for new construction required one tree or 3 shrubs per 40 feet of street frontage. The property has 210 linear feet of street frontage, so fifteen shrubs would be required for new construction.

Ten notices were mailed; no notices were returned.

Staff recommended approval of Z-FY-10-44 for a CUP to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant subject to the following general conditions which apply to all CUPs for on-premise alcohol consumption:

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



10. The applicant's site plan and floor plan are exhibits to the ordinance that grants CUP.

Specific to this CUP:

11. The existing sidewalk segment along S. 1st Street must be extended to the nearest driveway and must be widened to 6 feet in width.

12. Proposed parking spaces must be striped according to the CUP site plan.

13. A minimum of fifteen five-gallon shrubs must be provided on the private property near the sign and on the proposed landscaped island adjacent to parking space number 12 on the CUP site plan.

14. Wheel stops must be provided for spaces along E. Avenue H to prevent vehicles' front bumpers from encroaching into the traveled path of the right-of-way.

Commissioner Staats asked if anything could be done about the tight turning area located at the triangular landscaping nearest the restaurant. Mr. Mabry stated that would not hamper Staff's recommendation and would be an easier way to enter and exit.

Vice-Chair Talley asked about handicapped parking and if it were sufficient. Mr. Mabry stated handicapped parking was based on the number of conventional parking spaces available on the property and believed 50 was the cutoff before a second handicapped space were required.

Chair Pilkington opened the public hearing.

Mr. Carl Pearson, Temple Civil Engineering Company, 11 W. Avenue G, stated the restaurant operator and owner of the property were available if needed and asked for the Commissioners' support on this request.

Chair Pilkington asked the applicants if they understood everything the Staff recommended or cutting the triangular corner. Mr. Pearson stated he did not have any problem with putting a radius there.

Mr. A.C. Boston, 225 Woodland Trail, Belton, Texas, owner of the property, approached and stated his question was to his tenants in open forum. "Do you understand your requirements in this request? Do you understand about planting the plants? Do you understand about the sidewalks?" (response not heard from applicants but they said yes). Mr. Boston stated to the Board he was there to protect his tenants.

Discussion about sidewalk dimensions, placement, requirements, etc.

Mr. Boston stated he had an option to buy the rest of that block, had looked at existing ordinances involved with that area, and did not want to double expenses.

Chair Pilkington asked Mr. Boston what time frame he was looking at and Mr. Boston stated he would know exactly on November 3rd, Wednesday morning.

Discussion about possible time lines to get the required work done.

Commissioner Staats asked Mr. Mabry if the applicants could be given the CUP to continue business and all of the improvements could be withheld until Mr. Boston made a commitment. Mr. Mabry stated the Commission could apply a date for the improvements, but it would need to be included as part of the motion to be enforceable.

Commissioner Staats stated Mr. Boston said it would be November 3rd before he knew anything to which Mr. Boston stated that "was mostly in jest" but January 1st would be a firm date. The Commission requested exact dates to work with. Mr. Boston asked if the improvements could be held in abeyance until January 1, 2011, Mr. Boston would have a plan on the table in Mr. Mabry's office by that date. Chair Pilkington asked how long after that date construction would begin. Mr. Boston agreed that once his plan went through the City construction would begin.

Commissioner Pope asked for clarification on "something by the first" and what did Mr. Boston mean; a plat, site plan, a plan of what he would build and Mr. Boston responded he meant he would sit down with Mr. Mabry and find out what would be required and/or recommended of him.

Commissioner Staats stated he would like to see preliminary site plans submitted by January 1, 2011 and Mr. Boston stated "I don't see a problem with that." Mr. Boston stated if he did not exercise an option or go through negotiations on the other property, he would come back to just the property he owned now.

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

Commissioner Pope made a motion to approve the CUP at the restaurant located at 715 S. 1st Street, subject to the 14 conditions listed under Staff recommendations. Items 11 and 13 would be delayed until January 1, 2011 before which date a preliminary site plan with equal or better site amenities must be presented to Planning. Commissioner Staats made a second.

*Motion passed: (8:0)*

Commissioner Barton absent

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

[PLANNING NO. Z-FY-10-44]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES, MORE THAN 50% AND LESS THAN 75% REVENUE FROM ALCOHOL SALES, FOR ON-PREMISE CONSUMPTION IN A RESTAURANT ON THE SOUTH 100 FEET OF LOT 2, BLOCK 3, W S CHAPMAN ADDITION, LOCATED AT 715 SOUTH 1<sup>ST</sup> STREET; 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 location and zoning classification of the establishment, has recommended that the City Council approve this application; and

**Whereas**, the City Council of the City of Temple, Texas, after public notice as required by law, has at a public hearing, carefully considered all the evidence submitted concerning the establishment at 715 South 1<sup>st</sup> Street, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

**Part 1:** The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% revenue from alcohol sales, for on-premise consumption in a restaurant on the South 100 feet of Lot 2, Block 3, W S Chapman Addition, located at 715 South 1<sup>st</sup> Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

**General:**

- (a) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (b) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (c) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (6) months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (d) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours.
- (e) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (f) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet his obligations hereunder.
- (g) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (h) 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.

- (i) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (j) 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.
- (k) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

**Specific to this CUP:**

- (l) The existing sidewalk segment along South 1<sup>st</sup> Street must be extended to the nearest driveway and must be widened to 6 feet in width.
- (m) Proposed parking spaces must be striped according to the CUP site plan, attached hereto as Exhibit B.
- (n) A minimum of 15 5-gallon shrubs must be provided on the private property near the sign and on the proposed landscaped island adjacent to parking space number 12 on the CUP site plan.
- (o) Wheel stops must be provided for spaces along East Avenue H to prevent vehicles' front bumpers from encroaching into the traveled path of the right-of-way.
- (p) Implementation and enforcement of items (l) and (m) may be delayed until January 1, 2011, before which date a preliminary site plan for the property with equal or better site amenities must be presented to and approved by the Planning Director.
- (q) If a preliminary Site Plan with equal or better site amenities is not presented to and approved by the Planning Director by January 1, 2011, then the CUP will be presented to the City Council with a Staff recommendation for revocation.
- (r) If a building permit application that conforms to the approved preliminary Site Plan is not submitted to the Director of Construction Safety by February 1, 2011, then the CUP will be presented to the City Council with a Staff recommendation for revocation.
- (s) If the improvements shown on the Building Permit application are not installed on the subject property by April 1, 2011, then the CUP will be presented to the City Council with a Staff recommendation for revocation.

**Part 3:** The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

**Part 4:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

**Part 6:** It is hereby officially found and determined that the meeting at which this Ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading and Public Hearing on the **2<sup>nd</sup>** day of **September**, 2010.

PASSED AND APPROVED on Second Reading on the **16<sup>th</sup>** day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #12  
Regular Agenda  
Page 1 of 2

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

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-10-45: Consider adopting an ordinance authorizing a zoning change from Urban Estate District to General Retail District on Lot 2, Block 1, Simpson Addition Phase Two, located at 11720 West Adams Avenue.

**P&Z COMMISSION RECOMMENDATION:** At its August 16, 2010 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a zoning change from UE to GR for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve or will serve the property.

Commissioner Barton was absent.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for September 16, 2010.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-10-45, from the Planning and Zoning Commission meeting, August 16, 2010. The applicants request the rezoning to establish a small office and retail development.

The request complies with the Future Land Use and Character Map, the Thoroughfare Plan and public and private facilities serve or will serve the property. The Sidewalk and Trails Plan designates Adams Avenue as a citywide spine trail from the eastern city limits to the western city limits. A citywide spine trail is already in place from H.K. Dodgen Loop 363 west to approximately Pea Ridge Road. The plan calls for a spine trail to be 10 to 12 feet in width. The current plat for the property notes that a sidewalk six feet in width is required prior to the issuance of a certificate of occupancy. There is a four to six foot discrepancy in potential sidewalk widths for property in this area. In addition, the Texas Department of Transportation has no plans for installing sidewalks along this portion of West Adams.

**PUBLIC NOTICE:** Eight notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, August 11 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on August 5, 2010 in accordance with state law and local ordinance

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

Aerial  
Land Use and Character Map  
Zoning Map  
Thoroughfare Plan Map  
Utility Map  
Notice Map  
Response  
P&Z Staff Report (Z-FY-10-45)  
P&Z Minutes (August 16, 2010)  
Ordinance





**Z-FY-10-45**

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave



 ZFY1045

Feet 0 50 100 150 200

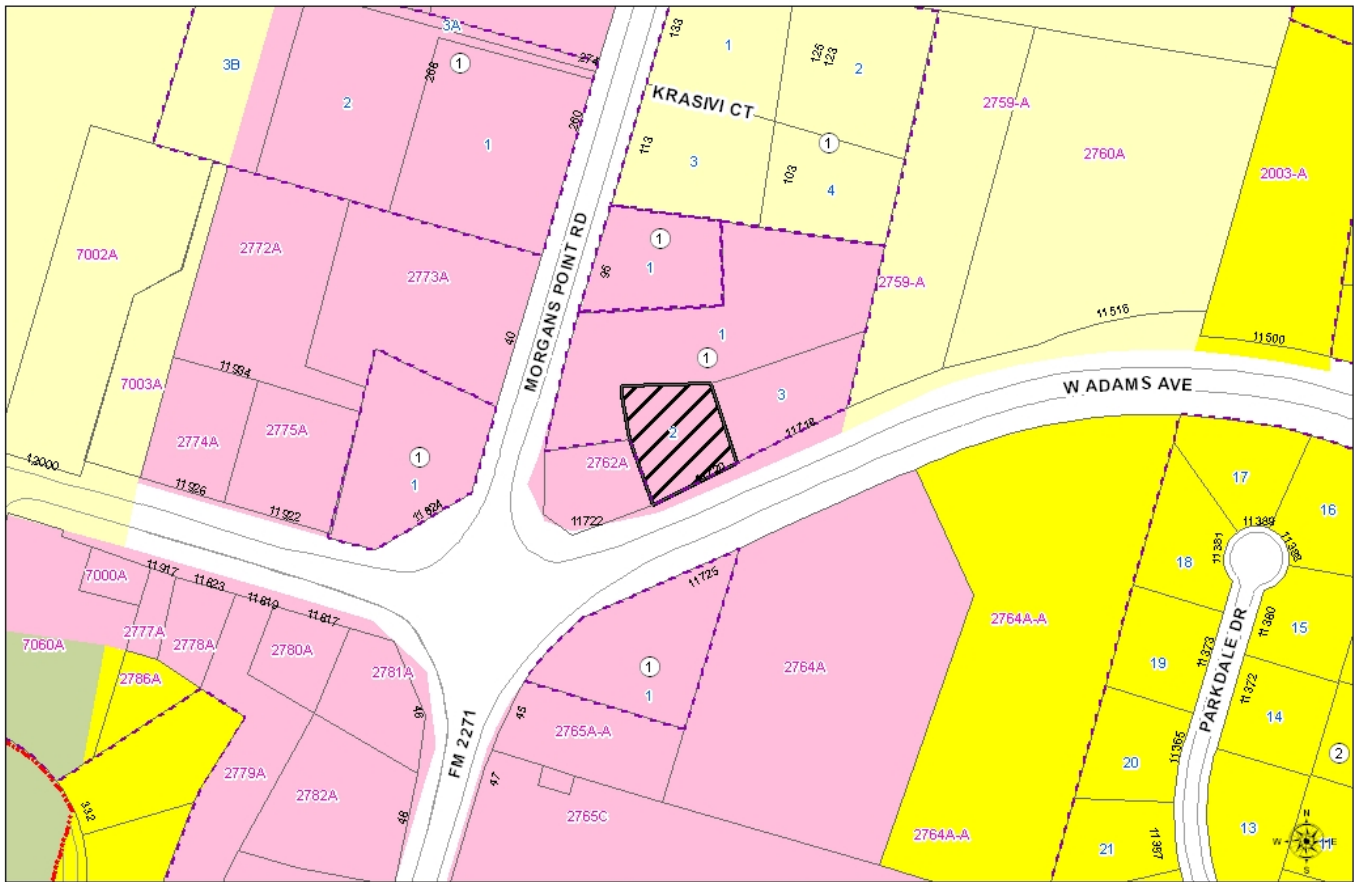
J Stone 7.19.10



Z-FY-10-45

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave



- |                       |                         |                           |                      |                                   |
|-----------------------|-------------------------|---------------------------|----------------------|-----------------------------------|
| Agricultural/Rural    | Auto-Urban Multi-Family | Estate Residential        | Parks & Open Space   | Suburban Residential              |
| Auto-Urban Commercial | Auto-Urban Residential  | Industrial                | Public Institutional | Temple Medical Education District |
| Auto-Urban Mixed Use  | Business Park           | Neighborhood Conservation | Suburban Commercial  | Urban Center                      |

ZFY1045

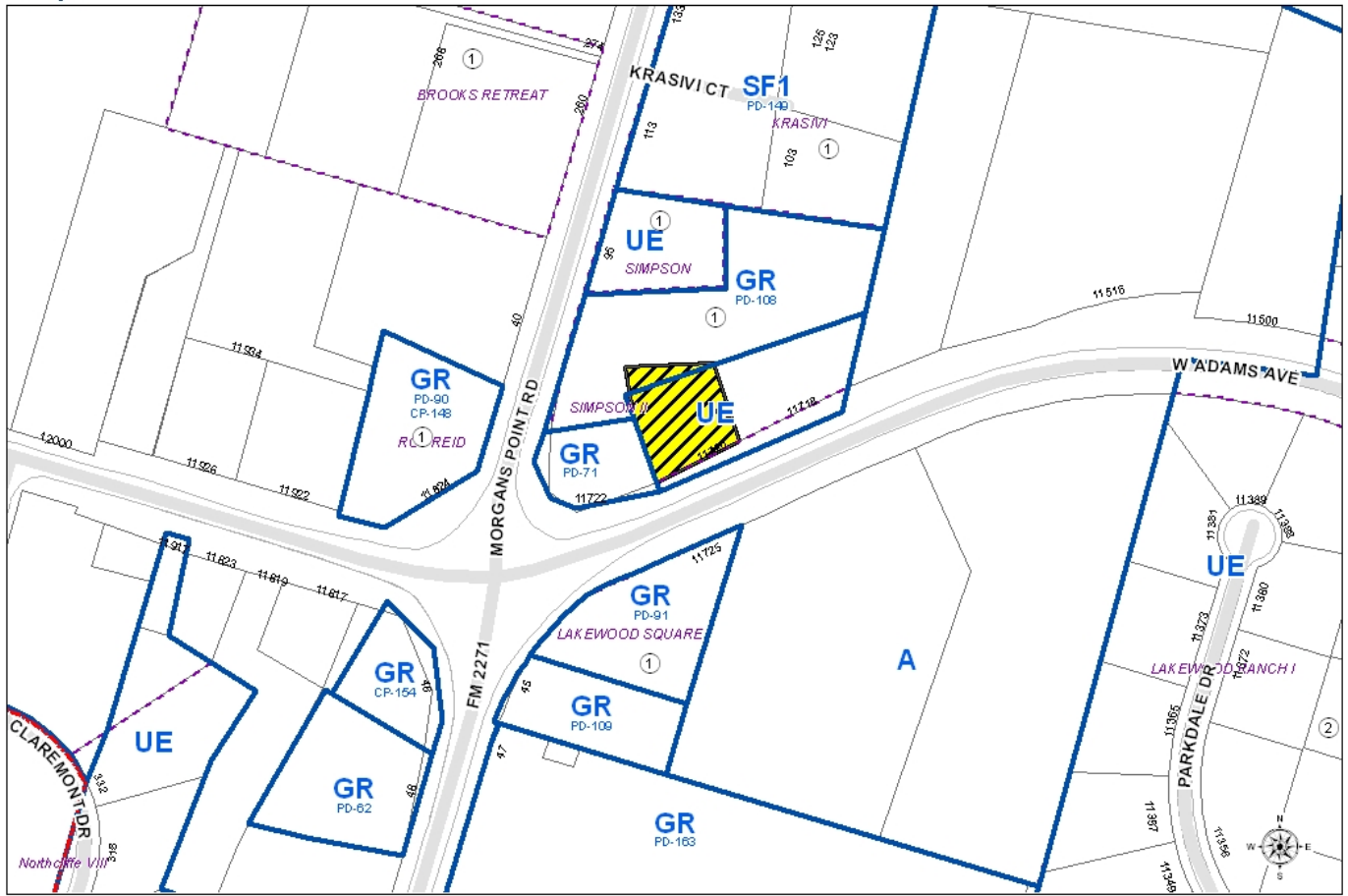
1 inch = 200 feet  
J Stone 7.19.10



Z-FY-10-45

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave



 ZFY1045

Feet 0 50 100 150 200  
J Stone 7.19.10

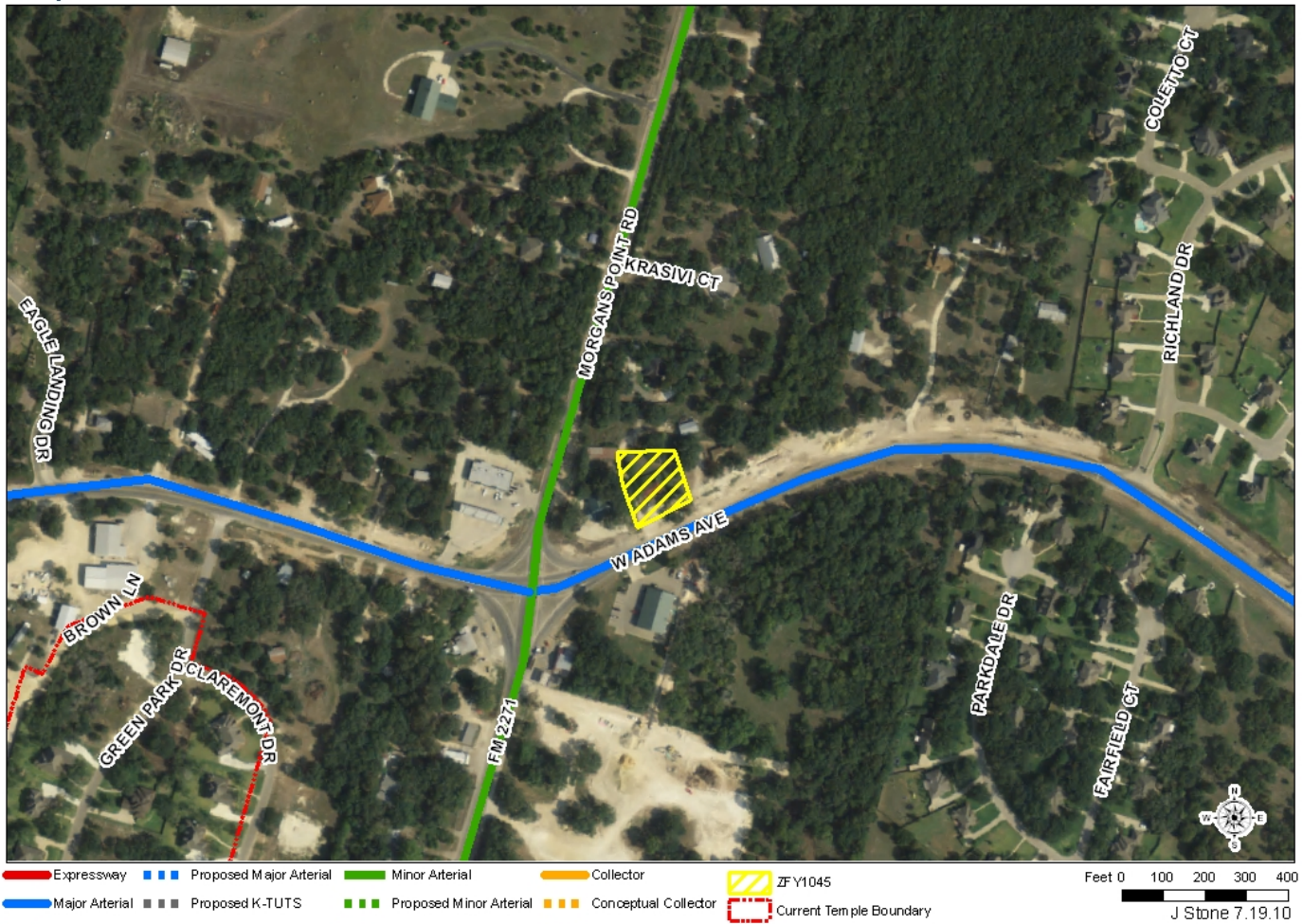




**Z-FY-10-45**

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave





**Z-FY-10-45**

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave



□ ZFY1045    — WATER LINE    — SEWER LINE

Feet 0 50 100 150 200

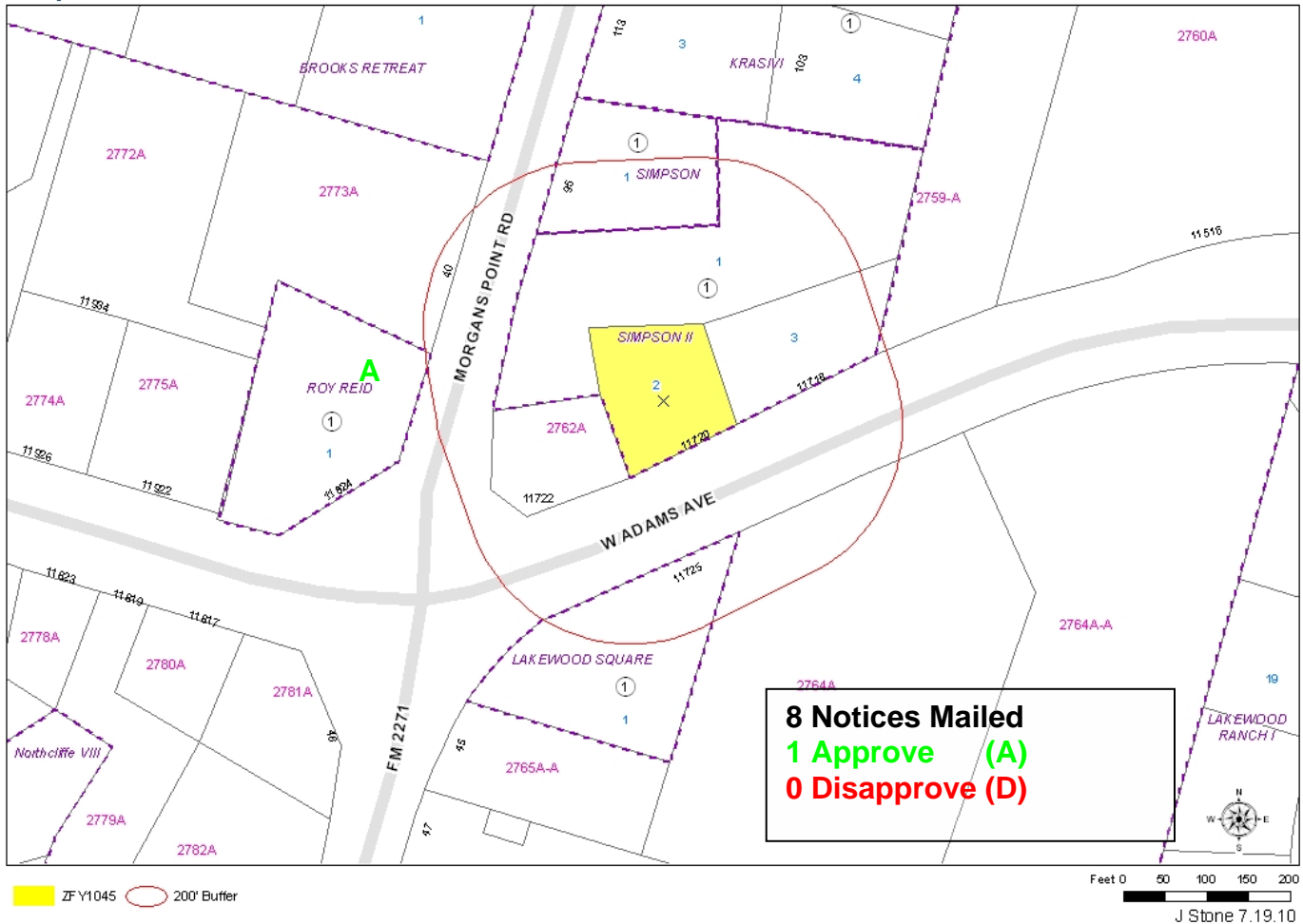
J Stone 7.19.10



**Z-FY-10-45**

Simpson Addition Phase II, Lot 2

NEC of Morgan's Point Rd and W Adams Ave







**RESPONSE TO PROPOSED  
REZONING REQUEST  
CITY OF TEMPLE**

Roy Ried Commercial Properties  
12435 FM 2305 Unit B  
Belton, Texas 76513

**RECEIVED**

AUG 12 2010

City of Temple  
Planning & Development

**Zoning Application Number:** Z-FY-10-45

**Project Manager:** Brian Mabry

The proposed rezoning will allow an office and retail development which is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend ( ☒ ) approval ( ☐ ) denial of this request.

**Comments:**

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Signature

Roy Reid  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than August 16, 2010.

City of Temple  
Planning Department  
Room 201  
Municipal Building  
Temple, Texas 76501

Number of Notices Mailed: 8

Date Mailed: August 5, 2010



# PLANNING AND ZONING COMMISSION AGENDA ITEM

08/16/10  
Item #3  
Regular Agenda  
Page 1 of 3

**APPLICANT / DEVELOPMENT:** Mark & Monica Brown




**CASE MANAGER:** Brian Mabry, AICP, Interim Planning Director

**ITEM DESCRIPTION:** Z-FY-10-45 Hold a public hearing to discuss and recommend action on a rezoning from Urban Estate District to General Retail District on Lot 2, Block 1, Simpson Addition Phase Two, located at 11720 West Adams Avenue.

**BACKGROUND:** The applicant requests the rezoning to establish a small office and retail development.

**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	UE (GR proposed)	Undeveloped	
North	GR	Residential	
South	GR	Shopping center (across FM 2305)	

**Double Sided**



Direction	Zoning	Current Land Use	Photo
East	UE	Residential	
West	GR	Veterinarian	

### **COMPREHENSIVE PLAN COMPLIANCE:**

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	N*

\* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

### **Future Land Use and Character (CP Map 3.1)**

The future land use and character map designates the property as Suburban Commercial. The rezoning request complies with the map.

### **Thoroughfare Plan (CP Map 5.2)**

The Thoroughfare Plan designates West Adams Avenue as a major arterial. The rezoning request complies with the plan.

### **Availability of Public Facilities (CP Goal 4.1)**

A 12-inch water line and an eight-inch sewer line serve the property. Public facilities are available to the property.

### **Temple Trails Master Plan Map**

The Sidewalk and Trails Plan designates Adams Avenue as a citywide spine trail from the eastern city limits to the western city limits. A citywide spine trail is already in place from H.K. Dodgen Loop 363 west to approximately Pea Ridge Road. The plan calls for a spine trail to be 10 to 12 feet in width. The current plat for the property notes that a sidewalk six feet in width is required prior to the issuance of a certificate of occupancy. There is a four to six foot discrepancy in potential sidewalk

widths for property in this area. In addition, the Texas Department of Transportation has no plans for installing sidewalks along this portion of West Adams.

**DEVELOPMENT REGULATIONS:**

The GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery store, department store, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line and 10 feet for the side yard. Any additions to the existing building would have to occur to the rear of the 15-foot front yard setback.

**PUBLIC NOTICE:**

Eight notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, August 11 at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on August 5, 2010 in accordance with state law and local ordinance

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning for case Z-FY-10-35 for the following reasons:

1. The request complies with the Future Land Use and Character Map.
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  
Thoroughfare Plan Map  
Utility Map  
Notice Map

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

**MONDAY, AUGUST 16, 2010**

**ACTION ITEMS**

**Item 3: Z-FY-10-45:** Hold a public hearing to discuss and recommend action on a rezoning from Urban Estate District to General Retail District on Lot 2, Block 1, Simpson Addition Phase Two, located at 11720 West Adams Avenue. (Applicants: Mark & Monica Brown)

Mr. Mabry stated the purpose of this rezoning was to establish a small office and/or retail establishment on approximately one-half acre with access to West Adams. A veterinarian office lay to the west, residential to the north and east, and a shopping center to the south.

The Future Land Use and Character Map designated the property as Suburban Commercial, West Adams Avenue was a major arterial, and a 12" water line and a 6" sewer line served the property.

The Sidewalk and Trails Plan designated Adams Avenue as a Citywide spine trail from the eastern city limits to the western city limits. A Citywide spine trail was already in place from H.K. Dodgen Loop 363 west to approximately Pea Ridge Road. The plan called for a spine trail to be 10 to 12 feet in width. The current plat for the property noted a sidewalk 6 feet in width was required prior to the issuance of a certificate of occupancy. There was a four (4) to six (6) foot discrepancy in potential sidewalk widths for property in this area. The Texas Department of Transportation had no plans for installing additional sidewalks along this portion of West Adams.

The GR zoning district is the standard retail district and allowed most retail sales, restaurants, grocery store, department store, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There was no minimum lot area, width or depth. The building setback for the front yard was 15 feet from the front property line and 10 feet for the side yard. Any additions to the existing building would have to occur to the rear of the 15-foot front yard setback.

Eight notices were sent out and only one notice was returned in favor of this request.

Staff recommended approval of the rezoning for case Z-FY-10-35 for the following reasons:

1. The request complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

Commissioner Staats asked for clarification on the 10 foot wide versus 6 foot wide sidewalk. Mr. Mabry stated if the property were unplatted Staff would have more leverage to request the wider sidewalk of 10 feet. Since this was a straight rezoning from one base zoning to another the Zoning Ordinance required a 6 foot sidewalk.

Chair Pilkington opened the public hearing

Mr. Lyle Gonzales, 95 Morgan's Point Road, lived next door to the subject property. Mr. Gonzales asked if the state would not build any more sidewalks out there and Mr. Mabry stated that was correct. Sidewalks would come with development of the property when a site plan was submitted.

Mr. Gonzales stated his biggest concern was safety. There were four lanes of traffic going 45-50 mph and nowhere to walk so people end up in the road making it very dangerous, especially joggers.

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

Commissioner Martin made a motion to approve the zone request for Z-FY-10-45 from UE to GR and Vice-Chair Talley made a second.

*Motion passed: (8:0)*

Commissioner Barton absent

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

[PLANNING NO. Z-FY-10-45]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM URBAN ESTATE DISTRICT (UE) TO GENERAL RETAIL DISTRICT (GR) ON LOT 2, BLOCK 1, SIMPSON ADDITION PHASE TWO, LOCATED AT 11720 WEST ADAMS AVENUE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

**Part 1:** The City Council approves a zoning change from Urban Estate District (UE) to General Retail District (GR) on Lot 2, Block 1, Simpson Addition Phase Two, located at 11720 West Adams Avenue, Temple, Bell County, Texas, 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 2<sup>nd</sup> day of **September**, 2010.

PASSED AND APPROVED on Second Reading on the 16<sup>th</sup> day of **September**, 2010.

THE CITY OF TEMPLE, TEXAS

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WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

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Clydette Entzminger  
City Secretary

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Jonathan Graham  
City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

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09/02/10  
Item #13  
Regular Agenda  
Page 1 of 2

### DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Interim Planning Director

**ITEM DESCRIPTION:** P-FY-09-14: Consider adopting a resolution approving the Preliminary Plat of Northcliffe Phase IX, 76 residential lots planned for single-family uses on 18.3± acres of land, located south of Northcliffe Drive and west of FM 2271, partially in the City of Temple, partially in the City of Temple's extraterritorial jurisdiction, and partially in the City of Belton's extraterritorial jurisdiction, with exceptions requested for street width, curb and gutter, and curve radii.

**STAFF and P&Z COMMISSION RECOMMENDATION:** The Planning and Zoning Commission voted 8/0 (Commissioner Barton was absent) to recommend approval of the Preliminary Plat of Northcliffe Phase IX, subject to the following conditions and exceptions to the Subdivision Ordinance:

1. City Council's approval of the developer's requested exceptions to the Subdivision Ordinance listed below:
  - **Section 33-93. Streets. (e) Curvilinear Streets:** to allow a proposed centerline curve radius of 160' for curve C16 in the new extension of Northcliffe Drive, instead of the minimum required 200' street centerline curve radius for local streets.
  - **Section 33-93. Streets. (k) Pavement widths and rights-of-way:** to allow the use of a rural local street section having a 22' asphalt pavement width, instead of the minimum required 31' (b-b) pavement width for a local street.
  - **Section 33-94. Curbs and gutter. (a) Standard streets shall be edged with curbs and gutters. Rural streets shall be edged with 12-inch wide concrete ribbons:** to allow the use of the rural local street section having a 22' asphalt pavement width without ribbon curbing.
2. Any additions and/or alterations to the Engineering Plans as required by the Engineering Department; and
3. A final plat may not be submitted for Development Review Committee review until the preliminary plat has been signed by all jurisdictions involved.

**ITEM SUMMARY:** The Preliminary Plat of Northcliffe Phase IX is a single family residential development consisting of 76 lots on 18.3 ± acres, located on the west side of FM 2271, south of Northcliffe Drive. This is the last phase of the Northcliffe development, located primarily outside the city limits of Temple and developed to county standards.

The developer requests exceptions to the Subdivision Ordinance to allow this last phase of the Northcliffe development to match the county standards used in the prior phases of the development. Please see the attached exceptions hardship letter with explanation of the developer's requested exceptions to the Subdivision Ordinance.

Staff verified during the Planning and Zoning Commission meeting that prior phases of Northcliffe did not have ribbon curbing.

The Development Review Committee reviewed the Preliminary Plat on January 13, 2009, February 8, 2010, and March 8, 2010. The Development Review Committee deemed the Preliminary Plat administratively complete on March 30, 2010.

**FISCAL IMPACT:** Park fees in the sum of \$13,050 (\$225 per residential lot) are required for this proposed subdivision. Requested park fees do not include the 18 lots within Belton's ETJ.

**ATTACHMENTS:**

Letter of Requested Exceptions  
Plat  
Excerpts  
Resolution



**Northcliffe, Phase IX  
Preliminary Plat  
City of Temple, Texas**

**Requested Exceptions**

The following exceptions are requested on the above mentioned project.

**Section 33-93. Streets**

**(e) Curvilinear streets:**

- (1) Curvilinear streets shall be allowed and shall meet the following standards:

Street Classification	Minimum Curve Radius to Center Line of Street (feet)
Local street	200
Collector street	375
Arterial street	725
Major thoroughfare	1000

**Section 33-10. Exceptions.**

- (1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of this land.

*Curve C16 has a proposed 100' radius in order to tie in the existing Northcliffe Drive with this newest and last phase of Northcliffe. This tie in ensures two points of connection for the last phase of the development and will help with the traffic flow on Chering Drive. There will be minimal traffic on this street with the 100' radius curve due to the fact that this is the last phase of the subdivision, this phase is looped and the streets will not be further extended.*

- (2) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

*There will be minimal traffic on this street with the 100' radius curve due to the fact that this is the last phase of the subdivision, this phase is looped and the streets will not be further extended.*

- (3) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

*The granting of the exception to the curve radii will not prevent any further subdividing in the future of any adjacent lands.*

### **Section 33-93. Streets**

#### **(k) Pavement widths and rights –of-way:**

- (1) The minimum standards for street pavement width and right-of-way are as follows:

Standard Category	Pavement Width (feet)	R.O.W. Width (feet)
Local street	31	50
Rural local street	22	50
Collector street	36	55
Rural collector street	26	55
Arterial street	49	70
Major thoroughfare	60	80

### **Section 33-10. Exceptions.**

- (4) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of this land.

*The proposed subdivision is the last phase of an already established subdivision which currently has rural local street sections. The widths of the existing roads are 22' edge of asphalt to edge of asphalt. There are no curbs along the existing roads. The developer would like to continue the established road width throughout the remaining development.*

- (5) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

*The previous phases of this development have been completed with rural street sections. This is the last phase of this development and there will be no extensions to the proposed streets. This phase consists of a loop that connects in two places to Northcliffe Drive. There should be no through traffic on these streets.*

- (6) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

*The granting of the exception to the street width will not prevent any further subdividing in the future of any adjacent lands.*

#### **Section 33-94. Curbs and gutters.**

- (a) Standard streets shall be edged with curbs and gutters. Rural streets shall be edged with 12 inch wide concrete ribbons.

#### **Section 33-10. Exceptions.**

- (7) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this chapter would have a substantial adverse impact on the applicant's reasonable use of this land.

*The proposed subdivision is the last phase of an already established subdivision which currently has rural local street sections. The widths of the existing roads are 22' edge of asphalt to edge of asphalt with no curbs along the existing roads. The developer would like to continue the established road width with no curb and gutter throughout the remaining development. This will provide a seamless transition between all phases of the development.*

- (8) That the granting of the exception will not be detrimental to the public health, safety or welfare, or injurious to other property in the area.

*The previous phases of this development have been completed with rural street sections. This is the last phase of this development and there will be no extensions to the proposed streets. This phase consists of a loop that connects in two places to Northcliffe Drive. There should be no through traffic on these streets.*

- (9) That the granting of the exception will not have the effect of preventing the orderly subdividing of other land in the area in accordance with the provisions of this chapter.

*The granting of the exception to the ribbon curb will not prevent any further subdividing in the future of any adjacent lands.*



CURVE TABLE						
CURVE	LENGTH	RADIUS	CHORD	TANGENT	DELTA	
C1	51.37'	413.30'	S 83°50'18" E 51.33'	25.72	77°15"	
C2	66.51'	300.00'	N 23°31'51" E 66.38'	33.39	12°42'11"	
C3	104.06'	320.00'	S 20°33'58" W 103.60'	52.49	18°37'56"	
C4	163.91'	590.00'	N 19°12'32" E 163.38'	82.49	15°55'3"	
C5	58.47'	300.00'	S 21°35'02" W 58.38'	29.33	11°10'3"	
C6	102.39'	275.00'	S 05°20'00" W 101.80'	51.80	21°20'0"	
C7	116.06'	420.00'	N 02°35'00" E 115.70'	58.40	15°50'0"	
C8	81.56'	1150.00'	S 13°58'05" W 81.55'	40.80	4°3'49"	
C9	116.69'	1150.00'	N 14°50'35" E 116.64'	58.39	5°48'49"	
C10	55.98'	600.00'	S 15°04'38" W 55.96'	28.01	5°20'44"	
C11	45.92'	850.00'	N 13°57'08" E 45.92'	22.97	3°5'44"	
C12	58.53'	240.00'	N 84°09'11" W 58.38'	29.41	13°58'22"	
C13	76.83'	318.00'	S 84°13'03" E 76.65'	38.60	13°50'37"	
C14	29.36'	500.00'	N 78°58'41" W 29.36'	14.68	3°21'52"	
C15	126.17'	500.00'	N 87°53'22" W 125.84'	63.42	14°27'31"	
C16	218.27'	160.00'	S 56°02'14" E 201.74'	129.94	78°9'47"	
C17	60.97'	275.00'	N 23°31'51" E 60.85'	30.61	12°42'11"	
C18	59.48'	325.00'	N 22°25'19" E 59.40'	29.82	10°29'9"	
C19	10.00'	345.00'	S 29°03'08" W 10.00'	5.00	1°39'37"	
C20	12.58'	325.00'	N 28°46'25" E 12.58'	6.29	2°13'3"	
C21	64.15'	345.00'	S 22°53'43" W 64.06'	32.17	10°39'13"	
C22	58.24'	295.00'	S 24°13'34" W 58.15'	29.22	11°18'44"	
C23	38.04'	345.00'	S 14°24'33" W 38.03'	19.04	6°19'6"	
C24	37.69'	295.00'	S 14°54'36" W 37.66'	18.87	7°19'12"	
C25	25.46'	565.00'	N 12°32'28" E 25.46'	12.73	2°34'56"	
C26	33.44'	615.00'	N 12°48'27" E 33.43'	16.72	3°6'54"	
C27	65.05'	565.00'	N 17°07'50" E 65.01'	32.56	6°35'47"	
C28	71.37'	615.00'	N 17°41'23" E 71.33'	35.73	6°38'58"	
C29	66.45'	565.00'	N 23°47'53" E 66.42'	33.27	6°44'20"	
C30	66.05'	615.00'	N 24°05'28" E 66.01'	33.05	6°9'11"	
C31	63.35'	325.00'	S 21°35'02" W 63.25'	31.77	11°10'3"	
C32	6.53'	275.00'	S 26°29'14" W 6.53'	3.27	1°21'38"	
C33	47.07'	275.00'	S 20°54'13" W 47.01'	23.59	9°48'26"	
C34	16.04'	300.00'	S 14°28'06" W 16.04'	8.02	3°3'48"	
C35	31.92'	250.00'	S 12°20'31" W 31.90'	15.98	7°18'59"	
C36	62.91'	300.00'	S 06°55'46" W 62.79'	31.57	12°0'52"	
C37	61.16'	250.00'	S 01°40'31" W 61.01'	30.73	14°1'1"	
C38	32.75'	300.00'	S 02°12'20" E 32.74'	16.39	6°15'21"	
C39	36.24'	395.00'	N 02°42'19" W 36.22'	18.13	5°15'22"	
C40	8.23'	445.00'	N 04°48'12" W 8.23'	4.12	1°3'35"	
C41	64.08'	445.00'	N 00°08'54" W 64.02'	32.10	8°15'2"	
C42	72.92'	395.00'	N 05°12'41" E 72.82'	36.56	10°34'38"	
C43	50.66'	445.00'	N 07°14'19" E 50.63'	25.36	6°31'23"	
C44	24.82'	50.00'	S 81°44'24" W 24.56'	12.67	28°26'13"	
C45	47.75'	50.00'	N 56°40'59" W 45.96'	25.87	54°43'1"	
C46	43.45'	50.00'	N 04°25'50" W 42.09'	23.20	49°47'15"	
C47	29.68'	50.00'	N 37°28'15" E 29.25'	15.29	34°0'55"	
C48	62.73'	1175.00'	S 14°28'14" W 62.73'	31.37	3°3'32"	
C49	37.71'	1125.00'	S 15°02'23" W 37.71'	18.86	1°55'15"	
C50	20.60'	1175.00'	S 12°26'19" W 20.60'	10.30	1°0'17"	
C51	42.08'	1125.00'	S 13°00'28" W 42.07'	21.04	2°8'34"	
C52	42.34'	1125.00'	N 13°00'52" E 42.34'	21.17	2°9'23"	
C53	22.73'	1175.00'	N 12°29'25" E 22.73'	11.36	1°6'30"	
C54	63.21'	1125.00'	N 15°42'08" E 63.20'	31.61	3°13'9"	
C55	64.73'	1175.00'	N 14°37'21" E 64.72'	32.37	3°9'23"	
C56	8.60'	1125.00'	N 17°31'51" E 8.60'	4.30	0°26'17"	
C57	31.77'	1175.00'	N 16°58'31" E 31.77'	15.89	1°32'57"	
C58	58.31'	625.00'	S 15°04'38" W 58.29'	29.18	5°20'44"	
C59	35.00'	575.00'	S 16°00'22" W 35.00'	17.51	3°29'16"	
C60	44.57'	825.00'	N 13°57'08" E 44.57'	22.29	3°5'44"	
C61	34.25'	875.00'	N 13°31'33" E 34.25'	17.13	2°14'34"	
C62	13.83'	50.00'	N 14°38'02" W 13.78'	6.96	15°50'38"	
C63	49.22'	50.00'	N 21°29'12" E 47.25'	26.81	56°23'50"	
C64	47.56'	50.00'	N 76°56'04" E 45.79'	25.75	54°29'54"	
C65	31.87'	50.00'	S 57°33'14" E 31.34'	16.50	36°31'31"	
C66	32.84'	265.00'	N 80°43'00" W 32.82'	16.44	7°6'1"	
C67	14.62'	215.00'	N 79°06'53" W 14.62'	7.31	3°53'47"	
C68	31.79'	265.00'	N 87°42'11" W 31.77'	15.91	6°52'21"	
C69	37.81'	215.00'	N 86°06'04" W 37.76'	18.95	10°4'35"	
C70	76.12'	293.00'	S 83°41'50" E 75.90'	38.27	14°53'3"	
C71	27.39'	343.00'	S 88°51'06" E 27.38'	13.70	4°34'31"	
C72	55.48'	343.00'	S 81°55'48" E 55.42'	27.80	9°16'6"	
C73	6.26'	475.00'	N 77°40'25" W 6.26'	3.13	0°45'19"	
C74	63.35'	475.00'	N 81°52'19" W 63.30'	31.72	7°38'30"	
C75	78.14'	475.00'	S 89°35'39" W 78.06'	39.16	9°25'33"	
C76	86.59'	185.00'	S 81°42'37" E 85.80'	44.10	26°49'2"	
C77	18.64'	575.00'	S 13°20'00" W 18.64'	9.32	1°51'28"	
C78	94.01'	525.00'	N 88°27'58" W 93.89'	47.13	10°15'36"	
C79	13.95'	525.00'	S 85°38'33" W 13.95'	6.98	1°31'22"	
C80	63.19'	135.00'	S 81°42'37" E 62.61'	32.18	26°49'2"	

LINE TABLE		
LINE	LENGTH	BEARING
L1	39.42	N 10°30'0" E
L2	31.61	N 15°30'0" E
L3	51.79	S 54°38'40" E
L4	51.77	S 41°36'3" E
L5	14.65	S 14°5'15" E
L6	7.75	N 15°30'0" E
L7	49.70	N 6°29'21" E
L8	52.75	N 11°8'44" E
L9	32.67	S 41°28'49" E
L10	53.79	N 62°11'18" E

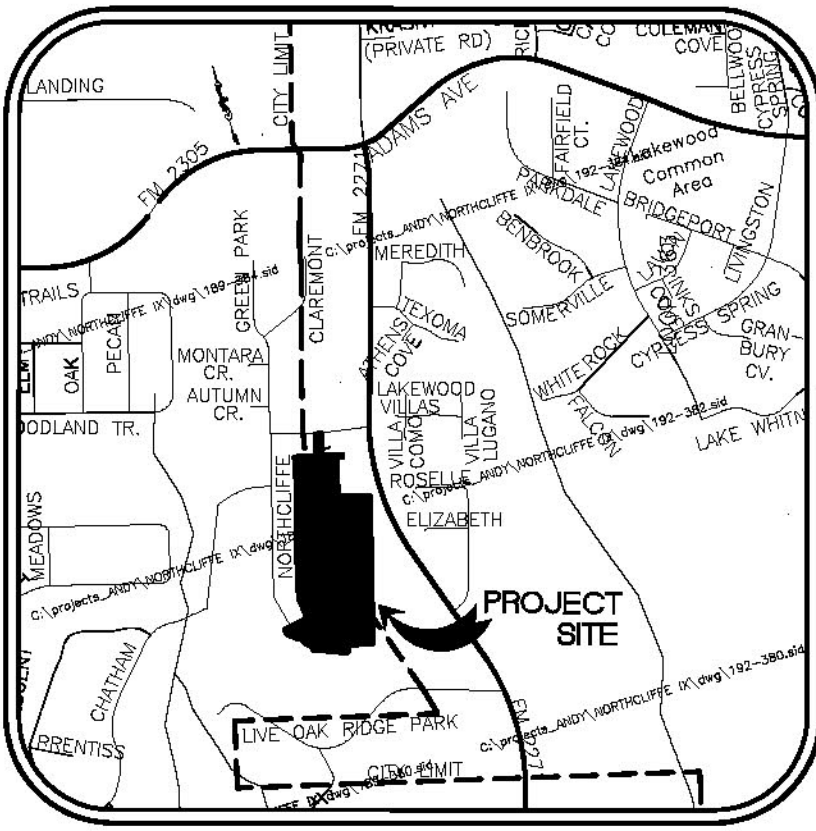
OWNERS' RESPONSIBILITIES

"In approving this plat by the Commissioners' Court of Bell County, Texas. It is understood that the building of all streets, roads, and other public thoroughfares and any bridges or culverts necessary to be constructed or placed is the responsibility of the owners of the tract of land covered by this plat in accordance with the plans and specifications prescribed by the Commissioners' Court of Bell County, Texas. Said Commissioners' Court assumes no obligation to build any of the streets, roads, or other public thoroughfares shown on this plat or of constructing any of the bridges or drainage improvements in connection therewith. The County will assume no responsibility for drainage ways or easements in the subdivision, other than those draining or protecting the road system and streets. The County assumes no responsibility for the accuracy of representation by other parties in this plat. Flood plain data, in particular, may change depending on subsequent development."

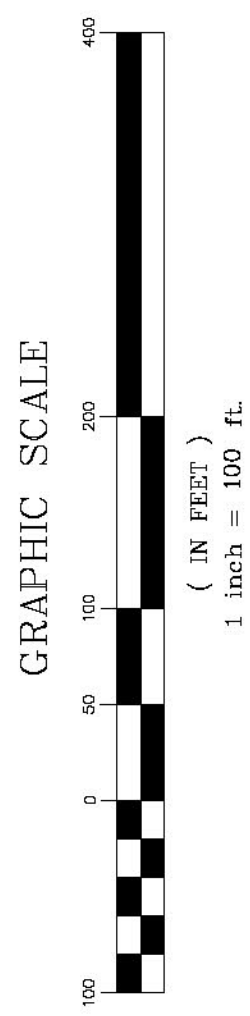


- GENERAL NOTES:
1. THIS PROPERTY IS NOT WITHIN THE SPECIAL FLOOD HAZARD AREA AS PER THE FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL INSURANCE ADMINISTRATION MAP NO. 480706C0330E, DATED SEPTEMBER 26, 2008.
  2. ZONING: PD SF-2 SEE ORDINANCE 2010-4340.
  3. SETBACKS: 25' FRONT, 5' INTERIOR SIDE, 15' STREET SIDE, AND 10' REAR, UNLESS SHOWN OTHERWISE ON PLAT.
  4. UTILITY PROVIDERS: AT&T TEXAS, ONCOR, ATMOS, TIME WARNER CABLE, CENTROVISION, TXDOT, AND US POST OFFICE HAVE BEEN PROVIDED COPIES OF THIS PLAT FOR REVIEW.
  5. STREET CROSS SECTION TO BE RURAL, 20' ASPHALTIC PAVEMENT WITH 1' CONCRETE RIBBON CURBS.
  6. 4' SIDEWALK TO BE CONSTRUCTED ON EAST SIDE OF CHERING DRIVE
  7. 7.765 ACRES LIE WITHIN TEMPLE CITY LIMITS.
  8. ALL CORNERS ARE 1/2" IRON ROD SET WITH "RPLS 2475" CAP UNLESS OTHERWISE NOTED

**BENCHMARK:** CITY OF TEMPLE MONUMENT #500  
**NOTE:** This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances unless noted, and all bearings are grid bearings. All coordinate values are referenced to City Monument No. 500. The theta angle at said monument is 01°28'27". The Combined Correction Factor (CCF) is 0.9998842. Published City Coordinates are N=10385827.497, E=3192018.104. The tie from the above City Monument to the POB is S.12°56'55"W. 3624.58 Feet  
Grid Distance= Surface Distance X CCF  
Geodetic North= Grid North + theta angle.



VICINITY MAP  
NOT TO SCALE



STATE OF TEXAS  
COUNTY OF BELL

ANSLEY CORPORATION, OWNER OF THE LAND AS RECORDED IN DOC # 2008-00039205, OFFICIAL PUBLIC RECORDS OF BELL COUNTY, TEXAS AND SHOWN ON THIS PLAT, AND DESIGNATED HEREIN AS NORTHCLIFFE PHASE IX, A SUBDIVISION IN THE CITY OF TEMPLE, TEXAS AND THROUGH ITS AUTHORIZED AGENT WHOSE NAME IS SUBSCRIBED HERETO, HEREBY DEDICATES TO THE USE OF THE PUBLIC FOREVER ALL STREETS, ALLEYS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES AS SHOWN HEREON.

V.W. BARGE III, PRESIDENT

STATE OF TEXAS  
COUNTY OF BELL

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2010 BY V.W. BARGE III.

NOTARY PUBLIC

STATE OF TEXAS  
COUNTY OF BELL

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

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

STATE OF TEXAS  
COUNTY OF BELL

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

VICTOR D. TURLEY, R.P.L.S. NO. 2475

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

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

CHAIRPERSON

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

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

DIRECTOR OF PLANNING

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

DATED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2010.

CITY SECRETARY

I hereby certify that this plat was approved this \_\_\_\_ day of \_\_\_\_\_, 2010, by the Bell County Commissioners Court, and may be filed for record in the Plat Records of Bell County, Texas by the County Clerk.

County Judge

Witness my hand this \_\_\_\_ day of \_\_\_\_\_, 2010.

Notary Public

PRELIMINARY PLAT OF:

NORTHCLIFFE PHASE IX

76 LOTS, 3 BLOCKS  
18.310 ACRES  
OUT OF THE G.W. LINDSEY  
SURVEY, ABSTRACT 513  
THE CITY OF TEMPLE  
BELL COUNTY, TEXAS

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

TURLEY ASSOCIATES, INC.  
F-1658  
(254) 773-2400  
301 N. 3rd ST. TEMPLE, TEXAS 76701  
E-MAIL: VDTURLEY@AOL.COM

ENGINEERING  
SURVEYING  
PLANNING  
MANAGEMENT

TITLE: NORTHCLIFFE PHASE IX

PREPARED FOR: ANSLEY CORPORATION

FILE NO. 12047-D  
DATE: 01/05/10  
SHEET 1 OF 1  
REVISED 03/11/10 ADB  
JOB NO. 084531 DRAWN BY: ADB



**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, AUGUST 16, 2010**

**ACTION ITEMS**

**Item 4: P-FY-09-14:** Consider a recommendation to approve the Preliminary Plat of Northcliffe Phase IX, with 76 residential lots planned for single-family uses on 18.3± acres of land with exceptions requested for street width, curb and gutter, and curve radii located south of Northcliffe Drive, and west of FM 2271. Zoned PD-SF-2, partially in the City of Temple, partially in the City of Temple's extraterritorial jurisdiction and partially in the City of Belton's extraterritorial jurisdiction.

Ms. Lyerly stated the applicant requested exceptions to the Subdivision Ordinance so this plat would move forward to City Council for approval.

The location of the subject property was partially in the City of Temple city limits, City of Temple's ETJ and Belton's ETJ, creating several jurisdictions. Ms. Lyerly explained the P&Z Commission only had authority to recommend approval of the portions within the City of Temple's jurisdiction.

On the utility map, the subdivision proposed water and sewer for the development. The Development Review Committee reviewed the Preliminary Plat on January 13, 2009, February 8, 2010, and March 8, 2010. The Development Review Committee deemed the Preliminary Plat administratively complete on March 30, 2010.

The Preliminary Plat of Northcliffe Phase IX was a single family residential development consisting of 76 lots on 18.3 ± acres, on the west side of FM 2271, south of Northcliffe Drive, with four dwelling units per acre. The portion within the Temple city limits was zoned PD-SF-2, park fees in the sum of \$13,050 (\$225 per residential lot) were required for this proposed subdivision. Requested park fees did not include the 18 lots within Belton's ETJ.

This was the final phase of Northcliffe, located primarily outside the city limits of Temple and developed to county standards.

Staff recommended approval of the Preliminary Plat of Northcliffe Phase IX, P-FY-09-14, subject to the following:

1. City Council's approval of the developer's requested exceptions to the Subdivision Ordinance listed below:
  - Section 33-93. Streets. (e) Curvilinear Streets: to allow a proposed centerline curve radius of 160' for curve C16 in the new

extension of Northcliffe Drive, instead of the minimum required 200' street centerline curve radius for local streets.

- Section 33-93. Streets. (k) Pavement widths and rights-of-way: to allow the use of a rural local street section having a 22' asphalt pavement width, instead of the minimum required 31' (b-b) pavement width for a local street.
  - Section 33-94. Curbs and gutter. (a) Standard streets shall be edged with curbs and gutters. Rural streets shall be edged with 12-inch wide concrete ribbons: to allow the use of the rural local street section having a 22' asphalt pavement width without ribbon curbing, instead of the minimum required 31' (b-b) pavement width for a local street.
2. Any additions and/or alterations to the Engineering Plans as required by the Engineering Department; and
  3. A final plat may not be submitted for Development Review Committee review until the preliminary plat has been signed by all jurisdictions involved.

Since the developer requested exceptions to the Subdivision Ordinance, City Council would be the final authority to approve Temple's portion of the proposed preliminary plat.

Staff also included the clause, any additions or alterations to the Engineering plans required would be to help with the final plat process, since this was a preliminary plat,.

Staff requested a special condition be added to this request:

- A final plat may not be submitted for DRC review until the preliminary plat had been signed by all jurisdictions involved.

Commissioner Martin made a motion to approve P-FY-09-14 with Staff exceptions and Commissioner Pope made a second.

*Motion passed: (8:0)*

Commissioner Barton absent

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

(PLANNING NO. P-FY-09-14)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE PRELIMINARY PLAT OF NORTHCLIFFE PHASE IX, 76 RESIDENTIAL LOTS PLANNED FOR SINGLE-FAMILY USES ON APPROXIMATELY 18.3 ACRES OF LAND, LOCATED SOUTH OF NORTHCLIFFE DRIVE AND WEST OF FM 2271, PARTIALLY IN THE CITY OF TEMPLE, PARTIALLY IN THE CITY OF TEMPLE'S EXTRATERRITORIAL JURISDICTION, AND PARTIALLY IN THE CITY OF BELTON'S EXTRATERRITORIAL JURISDICTION, SUBJECT TO THE DEVELOPER'S REQUESTED EXCEPTIONS TO THE SUBDIVISION ORDINANCE FOR STREET WIDTH, CURB AND GUTTER, AND CURVE RADII; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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**Whereas**, on August 16, 2010, the Planning and Zoning Commission approved the Preliminary Plat of Northcliffe Phase IX, 76 residential lots planned for single-family uses on approximately 18.3 acres of land, located south of Northcliffe Drive and west of FM 2271, partially in the City of Temple, partially in the City of Temple's extraterritorial jurisdiction, and partially in the City of Belton's extraterritorial jurisdiction, subject to the developer's requested exceptions to the Subdivision Ordinance regarding requirements for street width, curb and gutter, and curve radii; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to approve the Preliminary Plat of Northcliffe Phase IX.

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

**Part 1:** The City Council approves the Preliminary Plat of Northcliffe Phase IX, 76 residential lots planned for single-family uses on approximately 18.3 acres of land, located south of Northcliffe Drive and west of FM 2271, partially in the City of Temple, partially in the City of Temple's extraterritorial jurisdiction, and partially in the City of Belton's extraterritorial jurisdiction more fully shown on the Plat which is on file in the City's Planning Department, incorporated herein and referred to by reference, and including the following conditions and exceptions to the Subdivision Ordinance:

- (a) The City Council approves the developer's requested exceptions to the Subdivision Ordinance:

- (1) **Section 33-93. Streets. (e) Curvilinear Streets:** to allow a proposed centerline curve radius of 160 feet for curve C16 in the new extension of Northcliffe Drive, instead of the minimum required 200 feet street centerline curve radius for local streets.
- (2) **Section 33-93. Streets. (k) Pavement widths and rights-of-way:** to allow the use of a rural local street section having a 22 foot asphalt pavement width, instead of the minimum required 31 feet (b-b) pavement width for a local street.
- (3) **Section 33-94. Curbs and gutter. (a) Standard streets shall be edged with curbs and gutters. Rural streets shall be edged with 12-in wide concrete ribbons:** to allow the use of the rural local street section having a 22 foot asphalt pavement width without ribbon curbing.

(b) Any additions and/or alterations to the Engineering Plans as required by the Engineering Department; and

(c) A final plat may not be submitted for Development Review Committee review until the preliminary plat has been signed by all jurisdictions involved and filed with the Planning Director.

**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 2<sup>nd</sup> day of **September**, 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

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09/02/10  
Item #14  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the Mayor to cast an official ballot for the election of four members to the Texas Municipal League Intergovernmental Risk Pool Board of Trustees.

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

**ITEM SUMMARY:** As a member of the Texas Municipal League Intergovernmental Risk Pool, the City of Temple is entitled to vote for Board of Trustee members. Four places are up for election at this time to serve six-year terms.

Please see the attached official ballot which lists each of the candidates for each place in this election.

Staff recommends the Council adopt a resolution indicating their desired candidates for the four places on the TML Intergovernmental Risk Pool Board of Directors and authorize the Mayor to submit the official ballot on behalf of the City of Temple.

**FISCAL IMPACT:** None

### **ATTACHMENTS:**

[Official Ballot  
Resolution](#)

# **OFFICIAL BALLOT**

## **Texas Municipal League Intergovernmental Risk Pool Board of Trustees Election**

Ballots must reach the office of David Reagan, Secretary of the Board, no later than September 30, 2010. Ballots received after September 30, 2010, cannot be counted. The ballot must be properly signed and all pages of the ballot must be mailed to: Trustee Election, David Reagan, Secretary of the Board, P. O. Box 149194, Austin, Texas 78714-9194.

The names of the officials listed on this ballot have been nominated to serve a six-year term on the TML Intergovernmental Risk Pool (Workers' Compensation, Property and Liability) Board of Trustees.

Each Member of the Pool is entitled to vote for Board of Trustee members. Please record your organization's choices by placing an "X" in the square beside the candidate's name. You can only vote for one candidate for each place.

## PLACE 6

- ☐ **Peter Canney.** Mayor pro tem for Navasota (Region 14). Mr. Canney is serving his second term as a Councilmember and Mayor Pro Tem. He is a board member of the Grimes County Crimestoppers and the Board Treasurer of The Arts Council of Brazos Valley. He attended undergraduate school at Colorado State University to become a biologist and graduate school at Cornell University. After working as a scientist and a biotechnology recruiter, he formed his own recruiting and human resources consulting firm.
- ☐ **Mary Gauer.** (Incumbent). Ms. Gauer has served on the TML Intergovernmental Risk Pool Board of Trustees since 1998. She served as a member of the Harker Heights City Council from 1991 to 1998, and Mayor from 1998 to 2004. Ms. Gauer serves as an elected citizen member of the Executive Committee of the Central Texas COG. She is Past-President of the TML Association of Mayors, Councilmembers, and Commissioners, and of the Small Cities Advisory Council.
- ☐ **Sheyi I. Ipaye.** City Manager for the City of Forest Hill (Region 8). He formerly served as City Manager for Palestine, City Manager for Glenn Heights, Community Services Officer for Iberia Bank in New Orleans, and Community Development Officer and Manager for Community Investment for the Federal Home Loan Bank of Dallas. Mr. Spaye has a Bachelor's Degree in Government and Business and a Master's Degree in Urban Planning and Development.
- ☐ **Michael S. Nyren.** Risk Manager for Capital Metropolitan Transportation Authority in Austin for 15 years (Region 10). Mr. Nyren has 28 years of experience in insurance, safety, and risk management, and currently holds an All Lines Texas Adjuster's License. He has earned the Insurance Institute of America's designation of Associate in Risk Management (ARM) and Associate in Risk Management for Public Entities (ARM-P). Mr. Nyren serves on the board of the Risk and Insurance Management Society, Central Texas Chapter.
- ☐ **Frank Seffrood.** Councilmember for City of Copperas Cove (Region 9). Mr. Seffrood has served as a Copperas Cove councilmember since July, 2008, and was elected Mayor Pro Tem in July, 2009. He retired from the U.S. Army in 1979 with 22 years of service. He holds a B.S. degree in Information Systems and taught in the Computer Science Department of Central Texas College for five years. He recently retired from the U.S. Postal Service where he was employed since 1986.

**WRITE IN CANDIDATE:**

---

**PLACE 7**

- ☐ **Kevin Caddell.** (Incumbent). Mayor for the City of Dalhart (Region 2). Mr. Caddell served as a Dalhart City Councilmember for 10 years, and as Mayor since 2005. Served on the Panhandle Regional Planning Commission Board. Past President of TML Region 2 and incoming Regional Director for TML Region 2. Graduate of Texas Tech University. Owns and operates Furniture Fashions, a retail furniture and appliance outlet in Dalhart, and has other real estate and farming interests in the Dalhart area.
- ☐ **Kevin Carruth.** City Manager for Paris (Region 15). Mr. Carruth has 20 years of experience in local government and has served as City Manager for Brownwood, Daingerfield, Hillsboro, and Prosper. He also served as Senior Program Analyst and Emergency Management Coordinator for Harris County Housing and Community Development Agency and as an elected official on the Board of Directors for Fort Bend M.U.D. #41. He is an ICMA Credentialed Manager and active in the Texas City Management Association.
- ☐ **John Mitchiner.** Board of Directors of Galveston County W.C.I.D. #1 (Region 14) since 2004. Mr. Mitchiner served as Mayor for Dickinson from 1994 to 1999, as President for the Galveston County Mayors and Councilmen Assoc., as a Director for the North Galveston County Chamber of Commerce, and as President of the Mainland Association of Life Underwriters. He is a member of the Association of Water Board Directors – Texas, a member of Texas EquuSearch, and a Board Member of the Bay Area Harbour Playhouse.
- ☐ **Lawanna Williams.** Assistant Finance Director for Kilgore (Region 15). Ms. Williams has been employed by Kilgore since September of 1987. Prior to 1987, Ms. Williams worked six years in the banking industry. Member of the East Texas Municipal Clerks Association, the Government Finance Officers Association of Texas, and the East Texas City Management Association. Serves as secretary/treasurer of the Outreach Community Development Corp. and is a member and past President of the Kilgore Oilpatch Kiwanis Club.

**WRITE IN CANDIDATE:**

---

**PLACE 8**

- ☐ **Larry Melton** (Incumbent). Mayor for Odessa (Region 4) since 2001. Mr. Melton also served three years as a councilmember. He is the Chief Executive Officer of a regional public accounting firm, Johnson, Miller and Company, where he is responsible for all administrative and human resources areas of the firm. Previously, Mr. Melton was in the banking business for approximately 30 years. He is active in the United Way of Odessa and Odessa Chamber of Commerce. In 1993, he was honored as Odessa's outstanding citizen.
- ☐ **Gilbert Perales**. Deputy City Manager for the City of Arlington (Region 8). From 1978 to 1980, Mr. Perales worked in the San Antonio City Manager's Office and in the Department of Economic Development. From 1980 to 1985, he served as City Manager for the City of Carrizo Springs. From 1985 to 2001, Mr. Perales worked for the City of Dallas as Assistant to the City Manager and, later, as Assistant Director in the Department of Convention and Events Services. From 2001 to 2007, he was Assistant City Manager for Irving.

**WRITE IN CANDIDATE:**

**PLACE 9**

- ☐ **Andres Garza**. (Incumbent). City Manager for the City of Wharton (Region 14). Mr. Garza has served on the TML Intergovernmental Risk Pool Board of Trustees since 1984, serving as chairman from 1994-1996. He has served as Wharton City Manager since 1994. Mr. Garza has been in public service for over 33 years of which 30 have been as a City Manager. He serves on the TML Small City's Advisory Council, has a BBA degree from Southwest Texas State University, and is a member of TCMA and ICMA.

**WRITE IN CANDIDATE:**

# BALLOT MUST BE SIGNED TO BE COUNTED

## Certificate

I certify that the vote cast above has been cast in accordance with the will of the majority of the governing body of the public entity named below.

Witness by hand, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name of Authorized Official

\_\_\_\_\_  
Printed name of Political Entity

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE MAYOR TO CAST AN OFFICIAL BALLOT FOR THE ELECTION OF FOUR MEMBERS TO THE TEXAS MUNICIPAL LEAGUE INTERGOVERNMENTAL RISK POOL BOARD OF TRUSTEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** as a member of the Texas Municipal League Intergovernmental Risk Pool, the City of Temple is entitled to vote for Board of Trustee members – four places are currently up for election to serve six-year terms;

**Whereas,** the Staff recommends that the City Council indicate their desired candidates and authorize the Mayor to submit an official ballot

**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 Mayor to cast an official ballot, a copy of which is attached hereto as Exhibit A, for the election of four members of the Texas Municipal League Intergovernmental Risk Pool Board of Trustees.

**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 2<sup>nd</sup> day of **September**, 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

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09/02/10  
Item #15  
Regular Agenda  
Page 1 of 1

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

William A. Jones, III, Mayor

**ITEM DESCRIPTION:** Consider adopting a resolution appointing one member to the Tree Board to fill an unexpired term through March 1, 2011.

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

**ITEM SUMMARY:** Mr. Allan Talley has been serving as the Planning and Zoning Commission representative on the Tree Board since March 2008. He has recently resigned and the Planning and Zoning Commission recommends Mr. James Staats fill that position at this time.

Please see the attached board summary form for the Tree Board which list current members, purpose of the board, membership requirements, and meeting time and place.

**FISCAL IMPACT:** N/A

**ATTACHMENTS:**

[Tree Board Summary](#)



# TREE BOARD

TERM EXPIRATION: MARCH - 3 YEAR TERMS

APPOINTED BY: MAYOR/COUNCIL

MEMBER	DATE APPOINTED	EXPIRATION YEAR	ADDRESS	PHONE NUMBER
Allen Einboden (Keep Temple Beautiful) <a href="mailto:aeinboden@swmail.sw.org">aeinboden@swmail.sw.org</a>	04/05/07	2012	S&W Health Plan 2401 S. 31 <sup>st</sup> Street Temple, TX 76508	298-3030 W 780-3634 H 298-3011 F
Dr. Tom Gerik (Blackland Research Ctr) <a href="mailto:tgerik@brc.tamus.edu">tgerik@brc.tamus.edu</a> OMA	04/02/09	2012	720 East Blackland Road Temple, TX 76502-9622	774-6128 W 774-6001 fax
Doug Smith (Parks & Leisure Services Board) <a href="mailto:dougs@papergraphicsltd.com">dougs@papergraphicsltd.com</a>	10/16/08	2011	18 West Upshaw Temple, TX 76501	773-7391 W 771-1673 H 534-2943 C
H. Allan Talley (Planning & Zoning Comm.) <a href="mailto:ftalley735@aol.com">ftalley735@aol.com</a> resigned 8-18-10	03/20/08	2011	5004 Wildflower Lane Temple, TX 76502	770-2089 H
David Lockwood, Vice Chair (at large) <a href="mailto:tembelnsy@hotmail.com">tembelnsy@hotmail.com</a>	04/05/07	2013	Tem-Bel Nursery 5300 S. General Bruce Dr. Temple, TX 76502	778-5651 W 774-8489 H
Kent Boyd (Ex Officio-TISD) <a href="mailto:kent.boyd@tisd.org">kent.boyd@tisd.org</a>	07/20/09		Temple ISD 200 North 23rd Temple, TX 76504	215-6781 W
Denise Whitley (Ex Officio-BISD) <a href="mailto:denise.whitley@bisd.org">denise.whitley@bisd.org</a>	04/05/07		Belton ISD 616 East 6 <sup>th</sup> Ave Belton, TX 76513	215-2038 W
Staff: Ken Cicora, Director of Parks & Leisure Services				

Created by Ordinance 2006-4117, Section 22-92

**Purpose:** To develop public awareness and education programs relating to trees; promote Arbor Day; develop and update 5-year plan for planting trees on City property; advise Parks & Leisure Services on issues relating to planting or maintenance of trees and other landscaping on City property.

**Membership:** 5 members – (1) member of Parks and Leisure Services Advisory Board; (1) member of Keep Temple Beautiful, Inc. Board of Directors; (1) member of Planning and Zoning Commission; (1) member of Blackland Research and Extension Center; and (1) member at large. Ex Officio members from Temple ISD and Belton ISD

**Term:** 3 year terms

**Meeting Time/Place:** Board shall meet a minimum of 4 times each year