



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3RD FLOOR CONFERENCE ROOM

THURSDAY, DECEMBER 2, 2010

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 2, 2010.
2. Discuss authorizing a Chapter 380 agreement for property located at 1802 – 1818 South 1st Street.

Executive Session: Chapter 551, Government Code, § 551.087 – Economic Development Negotiations – The City Council may enter into executive session to discuss commercial or financial information received from a business prospect and to deliberate the offer of a financial or other incentive to a business prospect.

3. Discuss the construction manager-at-risk contract for renovations to the Police Headquarters facility.

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

4. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the Municipal Court Judge. No final action will be taken.

5:00 P.M.

MUNICIPAL BUILDING

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

TEMPLE, TX

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC COMMENTS

Citizens who desire to address the Council on any matter may sign up to do so prior to this meeting. Public comments will be received during this portion of the meeting. Please limit comments to 3 minutes. No discussion or final action will be taken by the City Council.

III. PRESENTATIONS & SPECIAL RECOGNITIONS

3. Recognition of the Parks and Leisure Services Department for being a finalist in the 2010 [National Parks and Recreation Association Gold Medal Competition for Excellence](#).

IV. CONSENT AGENDA

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

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

Minutes:

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

Contracts, Leases & Bids

- (B) [2010-6187-R](#): Consider adopting a resolution authorizing a construction contract for the base bid and all four alternates with TCB Construction of Austin for Sidewalk Improvements on Avenue G in the amount of \$150,633.
- (C) [2010-6188-R](#): Consider adopting a resolution authorizing the following transactions with Heritage Links of Houston related to renovations to Sammons Golf Links:
 - 1. A construction contract in the amount of \$520,798.61, which includes the base bid amount of \$398,789.61 and bid alternate #9 in the amount of \$122,000.
 - 2. A deductive change order in the amount of \$75,187.63 that reduces the scope of services in the base bid making the revised contract value \$445,610.98.
- (D) [2010-6189-R](#): Consider adopting a resolution authorizing demolition contracts with Sierra Contracting Corporation of Round Rock for the demolition of seventeen residential structures funded through the Community Development Block Grant (CDBG) in the amount of \$47,865.
- (E) [2010-6190-R](#): Consider adopting a resolution authorizing the purchase of ten marked police vehicles from Philpott Motor Company of Nederland under the Joint Venture/Cooperative Purchase Interlocal Agreement with Tarrant County, in the amount of \$273,135.80.
- (F) [2010-6191-R](#): Consider adopting a resolution authorizing a professional services agreement with Lone Star Right of Way Services, Inc., for professional services related to right of way acquisition for the Pass-Through Financing Project along NW Loop 363 from FM 2305/West Adams north up to the BNSF main line in an amount not to exceed \$291,400.
- (G) [2010-6192-R](#): Consider adopting a resolution authorizing a construction manager-at-risk contract for renovations to the Police Headquarters facility with American Constructors of Austin in the amount of \$8,000 for preconstruction phase services, 2.5% of the cost of work for construction phase services, a lump sum fee \$180,000 for general condition fees covering an 8-month construction period, a monthly fee of \$20,000 to cover general conditions should the construction period exceed 8 months, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.
- (H) [2010-6193-R](#): Consider adopting a resolution authorizing the acquisition of property in the Avenue G corridor, 9th Street, and 7th Street areas.

Ordinances – Second and Final Reading

- (I) [2010-4408](#): SECOND READING – Z-FY-10-55: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.

Misc.

- (J) [2010-6194-R](#): Consider adopting a resolution naming the baseball complex at Scott and White Park (Guthrie and Wiseman baseball fields) as the *Drayton McLane, Jr. Baseball Complex at Scott and White Park*.
- (K) [2010-6195-R](#): Consider adopting a resolution directing the Staff to prepare a municipal services plan, and asking the Planning & Zoning Commission to develop a recommendation for the City-initiated annexation containing approximately 3394.9 acres located in the City's extraterritorial jurisdiction including a portion of Lake Belton and surrounding property; adopting a schedule for the proposed annexation; and setting the dates for two public hearings on the proposed annexation.
- (L) [2010-6196-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

V. REGULAR AGENDA

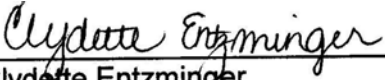
ORDINANCES

- 5. [2010-4409](#): FIRST READING – PUBLIC HEARING – Z-FY-10-56: Consider adopting an ordinance authorizing an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**
- 6. [2010-4410](#): FIRST READING – PUBLIC HEARING - Z-FY-11-02: Consider adopting an ordinance authorizing a zoning change from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street.
- 7. [2010-4411](#): FIRST READING – PUBLIC HEARING - Z-FY-11-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.727 ± acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 FM 2305.
- 8. [2010-4412](#): FIRST READING – PUBLIC HEARING - Z-FY-11-04: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Commercial District (C) on 10.18 ± acres of land with 5.18± acres out of the S. P. Terry Survey, Abstract No. 812, and 5.0± acres of land out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision.
- 9. [2010-4413](#): FIRST READING – PUBLIC HEARING - Z-FY-10-09: Consider adopting an ordinance repealing Chapter 33 of the City Code, "Subdivisions," the Appendix to Chapter 32, "Streets," and Appendix A of the City Code, "Zoning Ordinance," and replacing Appendix A of the City Code with a Unified Development Code.

10. [2010-4414](#): FIRST READING – PUBLIC HEARING – Consider adopting an ordinance electing for the City to make current service and prior service contributions to the City's account in the Municipal Accumulation Fund of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 3:15 PM, on November 29, 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

12/02/10
Item #3
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Recognition of the Parks and Leisure Services Department for being a finalist in the 2010 National Parks and Recreation Association Gold Medal Competition for Excellence.

STAFF RECOMMENDATION: Receive presentations as presented in item description.

ITEM SUMMARY: The Parks and Leisure Services Department has been recognized as a finalist in the 2010 National Parks and Recreation Association Gold Medal Competition for Excellence in Parks and Recreation Management. This is a national competition designed to recognize the best parks and recreation departments in the country.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

12/02/10
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) November 18, 2010 Special Called and Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

ITEM SUMMARY: Copies of minutes are enclosed for Council review.

FISCAL IMPACT: N/A

ATTACHMENTS:

[November 18, 2010 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

NOVEMBER 18, 2010

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, November 18, 2010 at 3:00 P.M., in the Staff Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

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

Absent:

Councilmember Danny Dunn

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

Regular Agenda items 5 and 7: Mayor Jones stated a unanimous vote of the Council will be required for approval of each of these items. If any Councilmember has a concern with either item, Mayor Jones recommended the item be tabled to allow the full Council to take action.

Consent Agenda item 4(H) - Erosion and Sedimentation Ordinance: David Blackburn, City Manager, asked that action on this item be tabled. Staff has an opportunity to streamline this process in conjunction with the Texas Commission on Environmental Quality (TCEQ) processes.

2. Discuss fourth quarter financial results for the fiscal year ended September 30, 2010.

Traci Barnard, Director of Finance, presented the fourth quarter financial results. She began with an overview of the General Fund revenues and expenditures, explaining those revenues that came in greater or less than budget. She also provided sales tax revenues for the year, historical data and regional comparisons of sales tax. Mrs. Barnard stated that \$2,295,064 will be added to fund balance at year end, bringing the total fund balance to \$3,108,314 at November 18, 2010. Water and Wastewater Fund revenues and expenses were presented, as well as those for the Drainage Fund. Mrs. Barnard also provided a brief review of the City's investments and Capital Improvement Program.

3. Discuss proposed Unified Development Code.

Brian Mabry, Planning Director, provided an overview of the Unified Development Code (UDC), noting that Phase 1 will be presented to the City Council for first reading on December 2nd and final reading and adoption on December 16th. Mr. Mabry explained the UDC is a coordinated set of regulations related to land development and includes zoning, platting, site design, building and sign permits. The UDC has

been designed to be user-friendly, eliminate inconsistencies, and provide one source for all development regulations. Phase 1 priorities included reformatting, reorganizing, clarifying, streamlining and incorporating changes in State statutes. Mr. Mabry explained how each of these priorities were achieved, emphasizing that no changes are being proposed in content with Phase 1. Phase 2, which will begin in March - April 2011, will implement existing, uncodified practices and policies of the Choices 08 Comprehensive Plan, requiring diverse public participation.

4. Discuss proposed ordinance establishing zoning and development standards within the Temple Medical and Education District (TMED).

Autumn Speer, Director of Community Services, presented this report to the City Council. She explained the purpose of the Temple Medical and Educational (TMED) zoning district is to create a unique, multi-modal community that has pedestrian oriented development, compact neighborhoods, mixed use centers, and a variety of housing options. Informational and design workshops have been conducted since March 2010 to gather input about the development of this district. The TMED zoning district will include three transect zones and four special districts at this time. Ms. Speer reviewed the applicability of the standards and the review and approval process, including warrant requests, variance requests and prohibited requests. The use standards for this district encourage and require mixed use, rowhouses, single family detached, multi-family, specific retail and services uses, limited drive throughs, hotels with specific requirements, theatres and medical uses and research facilities.

Ms. Speer continued by explaining some specific requirements for each of the following standards: circulation, parking and loading; private property landscaping; screening; fences; public frontage types; public frontage elements; general planting criteria; building design materials and architecture; common open space; and signs.

The TMED draft ordinance is currently being reviewed by staff and the TMED coordinating group, Ms. Speer explained. This ordinance will create the district and add it to the UDC. A public hearing will be conducted before the Planning and Zoning Commission on December 7th. The ordinance will then be presented to the City Council for first reading and public hearing on December 16th, with final action anticipated on January 6th. The rezoning of the TMED properties, the second part of this process, will be presented to the Planning and Zoning Commission on January 3rd, followed by a first reading and public hearing before the City Council on January 20th.

The City Councilmembers discussed the possibility of adding the vacant properties south of SW HK Dodgen Loop to the TMED zoning district before any development occurs, as it is included in the TMED boundary.

Ms. Speer explained this area can be added later. The standards for this area will need to be different from the properties north of the Loop because of the type of expected future development in that area. These standards could be developed rather quickly, replying on experience and feedback received about the standards being proposed for the areas to the north.

5. Discuss potential acquisition of properties on Avenue G.

Executive Session - Pursuant to Chapter 551, Government Code, §551.072 - Real Property - The City Council may enter into executive session to discuss

the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party.

Mayor Jones stated the Council would enter into executive session at this time, approximately 4:10 p.m.

Mayor Jones reconvened the work session at approximately 4:40 p.m., with no action being taken by the City Council.

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

Present:

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

Absent:

Councilmember Danny Dunn

I. CALL TO ORDER

1. Invocation

Father Tom Chamberlain, Our Lady of Guadalupe Catholic Church, voiced the Invocation.

2. Pledge of Allegiance

John Scharf, Deputy Police Chief, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Texas Recycles Month November, 2010

Mayor Jones presented this proclamation to Lisa Sebek, Director of Solid Waste Services, City of Temple.

III. PUBLIC COMMENTS

There were no public comments made at this meeting.

IV. CONSENT AGENDA

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

(A) November 4, 2010 Special Called and Regular Meeting Contracts,

Leases & Bids

(B) 2010-6178-R: Consider adopting a resolution authorizing a construction contract with Utility Service Co, Inc., of Perry, GA, for construction activities required to rehabilitate the Pepper Creek and Taylor elevated storage tanks located in west Temple and southeast Temple, respectively, in an amount not to exceed \$724,900.

(C) 2010-6179-R: Consider adopting a resolution authorizing a contract with Rodgers Equipment Company, Inc. of Richardson for the purchase of two new flocculation mixers for Clarifiers #1, #2 and #3 at the Conventional Water Treatment Plant in the amount of \$71,775.

(D) 2010-6180-R: Consider adopting a resolution authorizing a purchase agreement with Miller Uniforms & Emblems, Inc. for 63 ballistic vests by utilizing BuyBoard contracted pricing in an estimated amount of \$44,730.

(E) 2010-6181-R: Consider adopting a resolution authorizing the additional purchase, under the annual purchase agreement with APAC Texas, Inc of Belton, for hot mix asphalt at \$46 per ton in an estimated amount of \$35,000.

(F) 2010-6182-R: Consider adopting a resolution authorizing an agreement with the Texas State Library and Archives Commission for the Loan Star Libraries Grant in the amount of \$19,859.

(G) 2010-6183-R: Consider adopting a resolution authorizing the following:

- 1. An interlocal agreement with the City of North Richland Hills to allow for the utilization of North Richland Hills' annual contract for fire fighting protective clothing with Casco Industries, and**
- 2. The purchase of fire fighting protective clothing from Casco Industries utilizing the City of North Richland Hills annual contract in the estimated amount for FY 2011 of \$36,000.**

(H) 2010-4407: SECOND READING - Consider adopting an ordinance amending the Code of Ordinances of the City of Temple by adding a new Chapter 27, "Storm Water Management," including a section entitled "Erosion and Sedimentation Control" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

(I) 2010-6184-R: Consider adopting a resolution authorizing the carry forward of FY 2009-2010 funds to the FY 2010-2011 budget.

(J) 2010-6185-R: Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2010.

(K) 2010-6186-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

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

Motion passed unanimously.

(H) 2010-4407: SECOND READING - Consider adopting an ordinance amending the Code of Ordinances of the City of Temple by adding a new Chapter 27, "Storm Water Management," including a section entitled "Erosion and Sedimentation Control" per the City of Temple's Storm Water Management Program and as required by Texas Commission on Environmental Quality (TCEQ).

Motion by Councilmember Marty Janczak to table item (H), seconded by Councilmember Russell Schneider.

Motion passed unanimously.

(J) 2010-6185-R: Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2010.

Traci Barnard, Director of Finance, presented the fourth quarter financial results to the City Council. The General Fund ended the year at 100.8% of budgeted revenues and 94% of budgeted expenditures. Mrs. Barnard discussed sales tax revenue, providing historical data and regional comparisons. She also reviewed the operations under budget net of encumbrances, totalling \$1,594,916, and the variances with the budget. \$2,295,064 will be added to fund balance at year end, with a total fund balance at November 18, 2010 of \$3,108,314. Mrs. Barnard also provided a brief overview of the Capital Improvement Program, which totals \$106,827,093.

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

Motion passed unanimously.

V. REGULAR AGENDA

ORDINANCES

- 5. 2010-4406: SECOND READING - Z-FY-10-53: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages with more than 50% and less than 75% revenue from alcohol sales in a restaurant on Lot 10, Block 1, Hillside Addition, located at 2906 South General Bruce Drive. (Note: approval of this item will require four affirmative votes of the City Council)**

Brian Mabry, Planning Director, presented this item to the Council, noting the first reading and public hearing was conducted on November 4th. He

showed photos of the surrounding properties. The owner of the adjacent auto dealership expressed his opposition to the proposed alcohol sales during the public hearing. The site plan has been amended to include the provision for an 8' wooden privacy fence and the applicant is in agreement with this change. A super majority vote of the Council is required due to the percentage of opposition from surrounding property owners. The staff recommendation for approval remains, with the change in the site plan to indicate the placement of the fence.

Councilmember Schneider stated he felt the fence should not be required of the applicant.

Motion by Councilmember Russell Schneider to adopt ordinance as presented on second reading, eliminating the requirement for the fence, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

6. 2010-4408: FIRST READING - PUBLIC HEARING - Z-FY-10-55 - Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.

Brian Mabry, Planning Director, presented this case to the City Council. The purpose is to establish a package store in the former location of Don's Video Store. Offices make up the other lease spaces in this development and parking and landscaping requirements have been met. Mr. Mabry showed an aerial photo of the property, as well as the adjoining uses. The request complies with the Future Land Use and Character Map and the Thoroughfare Plan and public utilities are available to serve the property. Mr. Mabry reviewed the standards for a package store and displayed the site plan and interior drawing for the property. He also reviewed the general criteria relating to all conditional use permits. Four notices were mailed to surrounding property owners, with one being returned in approval and none in disapproval. The Planning and Zoning Commission recommended approval by a vote of 6-3 with the conditions outlined by Mr. Mabry.

Councilmember Janczak asked if deliveries will be made from the front parking lot.

Mr. Mabry replied he has been informed that smaller trucks will make deliveries during certain times of the day only and they will be made from the side of the building.

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

Scott Hrbacek, 1700 Moores Mill Road, stated he has an office in

Lakewood Square, where the package store is proposed to be located. His business has been there for the past 6 years and he expressed his concern with the traffic flow into and out of this property. It is a busy parking lot and there are only 3 parking spaces to serve the package store suite. Mr. Hrbacek also noted his concern with the potential of delivery trucks and boat trailers blocking access to his office and the others in that development.

Don Hinton, owner of the property, addressed the Council. He stated he had delivery trucks with his previous business, Don's Video, and they backed into the north parking area. There was plenty of parking because their business was greater when the other offices were closed, as he felt would be the case with the package store. Mr. Hinton stated he would not have a problem with prohibiting boats and trailers from entering the parking lot.

Marc Henderson, applicant in the request, stated he has met with Mr. Hrbacek to discuss his concerns. He is willing to make accommodations regarding deliveries and parking. He added there is no circular traffic flow behind the building.

Councilmember Schneider stated there are 23 parking spaces in this lot. He asked what is required.

Mr. Mabry replied the lot has 1 or 2 more spaces than required.

Councilmember Janczak asked if the conditional use permit would only apply to that particular suite.

Mr. Mabry replied yes, that suite only and not the entire property. If the Council desires to prohibit trailer parking that condition should be added to the ordinance.

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

Motion by Mayor Pro Tem Patsy E. Luna to adopt ordinance, including the condition to prohibit trailer parking on the property, with second reading and final adoption set for December 2, 2010, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

- 7. 2010-4409: FIRST READING - PUBLIC HEARING - Z-FY-10-56 - Consider adopting an ordinance authorizing an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. (Note: approval of this item will require four affirmative votes of the City Council)**

Brian Mabry, Planning Director, presented this case to the City Council. The applicant, Mohammad Kayani, has requested this amendment to the

planned development general retail district to allow the moving van and truck rental, which is already taking place illegally on the property. The existing planned developed approved in the early 1990's allows and sets parameters for the former RV dealership. The proposed planned development will allow for control of the rental vehicle parking. If not approved by Council, the rental facility must cease operation on the property. The I-35 Corridor Overlay does not address moving van/truck rental.

Mr. Mabry displayed an aerial photo of the property, as well as photos of surrounding property uses. The request complies with the Future Land Use and Character Map and Thoroughfare Plan. Public utilities are available for the property. Mr. Mabry showed a site plan for the property, noting where the smallest of the rental vehicles must be located and the required landscaping if this item is approved by the Council. The parking area must be striped to match the development plan. No tires are allowed for display or for any other purpose outside of the building. Two notices were mailed to surrounding property owners, with one being returned in approval and one in disapproval. The Planning and Zoning Commission voted 9-0 to deny the requested amendment to the planned development general retail district so approval of this item will require four affirmative votes from the City Council.

Councilmember Schneider asked if this item is not approved can tires still be sold at the location.

Mr. Mabry replied yes, that is correct.

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

Paul Bruckbauer, resident in the subdivision behind this property, addressed the Council. He stated he has no problem with the business but does have a problem with parking the large vehicles at the frontage road. There is not enough space for what they are doing on that property. More than 12 trucks were parked there today, some on the side of the road. Mr. Bruckbauer stated this is a real concern of the people who live in his subdivision as it creates an unsafe traffic condition.

Mohammad Kayani, operator of the moving van and truck rental business, stated he is prepared to lease the property across the street from Mr. Gillmeister to park all the vehicles except those few smaller ones around the building.

Mayor Jones stated the property across the street is commercial so Mr. Kayani could operate the truck rental business from that location now.

Mr. Mabry concurred.

Mayor Jones asked if the access from the mall property to Mr. Kayani's property is closed or limited if that would affect his operation.

Mr. Kayani replied that would not create a problem if he uses the

Gillmeister property for parking.

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

Councilmember Janczak stated because of the denial from the Planning and Zoning Commission, the potential controversy, and new information presented today, he would recommend this item be tabled.

Motion by Councilmember Marty Janczak to table ordinance, with public hearing suspended, seconded by Mayor Pro Tem Patsy E. Luna.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

12/02/10
Item #4(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract for the base bid and all four alternates with TCB Construction of Austin for Sidewalk Improvements on Avenue G in the amount of \$150,633.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This project is to renovate the sidewalk on the North side of Avenue G from 1st Street to 25th Street making the entire length ADA accessible. This project is part of the 2010 Community Block Grant Development (CDBG) program.

On November 16, 2010 the City of Temple received three bids for this sidewalk project. The bids ranged from a low of \$150,633 to a high of \$249,588 with TCB Construction of Austin submitting the low bid. The Parks and Leisure Services Department has worked with TCB Construction on projects in the past and have found them to be a very responsive and responsible contractor.

This project includes new concrete flatwork, new ADA ramping at intersections, new concrete curb and gutter at select locations, new pedestrian and traffic striping, new street and pedestrian signage, and other miscellaneous items relating to this project.

The result of this CDBG funded project will be a totally accessible sidewalk along Avenue G to serve the residents and businesses in this area.

FISCAL IMPACT: Funding in the amount of \$160,000 of CDBG funds was appropriated for the Avenue G Sidewalk project. After funding professional services and advertising costs, a balance of \$147,421 was available for construction. \$3,212 of CDBG funds have been reallocated from the MLK Sidewalk project to the Avenue G Sidewalk project. Funding is available in account 260-6100-571-63-15, project #100506 for the total construction contract of \$150,633.

ATTACHMENTS:

[Bid Tab](#)
[Resolution](#)

Bid Tabulation Sheet
C.D.B.G. Avenue G Sidewalk Improvements - Phase I

Bid Date: November 16, 2010

Base Bid				Patin Construction, LLC		Alpha Construction, Inc.		TCB Construction, Inc.	
No.	Item Description	Est. Quan.	UOM	Unit Price	Total Cost	Unit Price	Total Cost	Unit Price	Total Cost
Base Bid									
1	Site R.O.W. Preparation & Clearing	12	STA	\$ 1,000.00	\$ 12,000.00	\$ 375.00	\$ 4,500.00	\$ 200.00	\$ 2,400.00
2	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 7,600.00	\$ 7,600.00	\$ 3,500.00	\$ 3,500.00	\$ 9,000.00	\$ 9,000.00
3	Provide Miscellaneous Demolition	100%	LS	\$ 10,000.00	\$ 10,000.00	\$ 27,250.00	\$ 27,250.00	\$ 5,760.00	\$ 5,760.00
4	Remove & Relocate Existing Power Pole	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 2,500.00	\$ 2,500.00	\$ 1,875.00	\$ 1,875.00
5	Remove & Relocate Existing Gas Meter Assembly	1	EA	\$ 5,000.00	\$ 5,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,200.00	\$ 2,200.00
6	Provide Adjustment of Existing Manhole Ring and Lid Assembly	1	EA	\$ 350.00	\$ 350.00	\$ 375.00	\$ 375.00	\$ 500.00	\$ 500.00
7	Provide New Reinforced Concrete Pavement Section	395	SY	\$ 45.00	\$ 17,775.00	\$ 45.00	\$ 17,775.00	\$ 38.00	\$ 15,010.00
8	Provide New HMAC Pavement Section	30	SY	\$ 50.00	\$ 1,500.00	\$ 25.00	\$ 750.00	\$ 18.00	\$ 540.00
9	Provide New Concrete Flatwork Section	453	SY	\$ 36.00	\$ 16,308.00	\$ 40.50	\$ 18,346.50	\$ 32.00	\$ 14,496.00
10	Provide New Brick Paver Stamped and Stained Concrete Flatwork Section	40	SY	\$ 90.00	\$ 3,600.00	\$ 135.00	\$ 5,400.00	\$ 63.00	\$ 2,520.00
11	Provide New Concrete Curb and Gutter	757	LF	\$ 12.00	\$ 9,084.00	\$ 15.00	\$ 11,355.00	\$ 12.00	\$ 9,084.00
12	Provide New Handicap Curb Ramp	7	EA	\$ 950.00	\$ 6,650.00	\$ 1,200.00	\$ 8,400.00	\$ 750.00	\$ 5,250.00
13	Provide New Handicap Ramp	3	EA	\$ 750.00	\$ 2,250.00	\$ 1,200.00	\$ 3,600.00	\$ 250.00	\$ 750.00
14	Provide New Pedestrian and Traffic Striping	100%	LS	\$ 2,500.00	\$ 2,500.00	\$ 3,500.00	\$ 3,500.00	\$ 1,500.00	\$ 1,500.00
15	Provide & Implement a Traffic Control Plan	100%	LS	\$ 4,500.00	\$ 4,500.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00
16	Provide New Street and Pedestrian Signage	100%	LS	\$ 1,250.00	\$ 1,250.00	\$ 2,000.00	\$ 2,000.00	\$ 1,050.00	\$ 1,050.00
Total Base Bid									
C.D.B.G. Avenue G Sidewalk Improvements				\$ 105,367.00		\$ 112,251.50		\$ 73,935.00	
Bid Alternate #1 Phase I Improvements									
17	Site R.O.W. Preparation & Clearing	4	STA	\$ 1,000.00	\$ 4,000.00	\$ 375.00	\$ 1,500.00	\$ 200.00	\$ 800.00
18	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 2,000.00	\$ 2,000.00	\$ 1,200.00	\$ 1,200.00	\$ 2,000.00	\$ 2,000.00
19	Provide Miscellaneous Demolition	100%	LS	\$ 3,600.00	\$ 3,600.00	\$ 6,750.00	\$ 6,750.00	\$ 1,560.00	\$ 1,560.00
20	Provide New Reinforced Concrete Pavement Section	34	SY	\$ 45.00	\$ 1,530.00	\$ 45.00	\$ 1,530.00	\$ 38.00	\$ 1,292.00
21	Provide New Concrete Flatwork Section	165	SY	\$ 36.00	\$ 5,940.00	\$ 40.50	\$ 6,682.50	\$ 32.00	\$ 5,280.00
22	Provide New Brick Paver Stamped and Stained Concrete Flatwork Section	10	SY	\$ 90.00	\$ 900.00	\$ 135.00	\$ 1,350.00	\$ 63.00	\$ 630.00
23	Provide New Concrete Curb and Gutter	94	LF	\$ 12.00	\$ 1,128.00	\$ 15.00	\$ 1,410.00	\$ 12.00	\$ 1,128.00
24	Provide New Handicap Curb Ramp	4	EA	\$ 950.00	\$ 3,800.00	\$ 1,200.00	\$ 4,800.00	\$ 750.00	\$ 3,000.00
25	Provide New Pedestrian and Traffic Striping	100%	LS	\$ 800.00	\$ 800.00	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00
26	Provide & Implement a Traffic Control Plan	100%	LS	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 500.00	\$ 500.00
27	Provide New Street and Pedestrian Signage	100%	LS	\$ 800.00	\$ 800.00	\$ 1,500.00	\$ 1,500.00	\$ 700.00	\$ 700.00
Total Phase - Bid Alternate #1									
C.D.B.G. Avenue G Sidewalk Improvements				\$ 25,998.00		\$ 30,722.50		\$ 17,890.00	
Bid Alternate #2 Phase I Improvements									
28	Site R.O.W. Preparation & Clearing	4.5	STA	\$ 1,000.00	\$ 4,500.00	\$ 300.00	\$ 1,350.00	\$ 200.00	\$ 900.00
29	Mobilization, Bonds, Permits, & Insurance	100%	LS	\$ 2,160.00	\$ 2,160.00	\$ 1,500.00	\$ 1,500.00	\$ 2,000.00	\$ 2,000.00
30	Provide Miscellaneous Demolition	100%	LS	\$ 3,300.00	\$ 3,300.00	\$ 6,500.00	\$ 6,500.00	\$ 2,200.00	\$ 2,200.00
31	Provide Adjustment of Existing Manhole Ring and Lid Assembly	1	EA	\$ 350.00	\$ 350.00	\$ 325.00	\$ 325.00	\$ 500.00	\$

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH TCB CONSTRUCTION OF AUSTIN, TEXAS, FOR THE BASE BID AND ALL 4 ALTERNATES FOR SIDEWALK IMPROVEMENTS ON AVENUE G, IN THE AMOUNT OF \$150,633.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on November 16, 2010, the City received 3 bids sidewalk improvements on Avenue G;

Whereas, the Staff recommends accepting the base bid and all 4 alternates (\$150,633.00) received by TCB Construction of Austin, Texas, for this project;

Whereas, funds are available for this project in Account No 260-6100-571-6315, project #100506; 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 with TCB Construction of Austin, Texas, after approval as to form by the City Attorney, for the base bid and all 4 alternates for the Avenue G Sidewalk Improvement Project, in the amount of \$150,633.00.

Part 2: It is hereby officially found and determined that the meeting at which this Resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED this the 2nd day of **December**, 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

12/02/10
Item #4(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the following transactions with Heritage Links of Houston related to renovations to Sammons Golf Links:

1. A construction contract in the amount of \$520,798.61, which includes the base bid amount of \$398,789.61 and bid alternate #9 in the amount of \$122,000.
2. A deductive change order in the amount of \$75,187.63 that reduces the scope of services in the base bid making the revised contract value \$445,610.98.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This project is one that was identified in the Park Bond package that was approved by the voters in the fall of 2007. It is for the construction renovations to Sammons Golf Links.

Staff has worked closely with Jon Robinson, a landscape architect from San Antonio, on a plan to renovate the golf course. The renovations will achieve 4 primary goals:

- Add a new computerized irrigation control system around all of the greens (this was funded previously in other action approved by City Council).
- Will add length to the golf course (going from 5,850 yards to 6,548 yards). Included will be combining holes #7 and #8 into a new hole 620 yards in length and constructing a new par 3 hole 207 yards in length
- All of the greens will be resurfaced with at least the 4 top four inches of the surface being removed and replaced. A new grass (Emerald Bermuda) will replace the existing grass (Tiff Green 328) on the greens
- Having hole #9 end as close to the clubhouse as possible and #10 start near the clubhouse

As shown on the attached bid tabulation, on November 16, 2010, three bids were received with the base bids ranging from \$398,789.61 to \$644,478.40.

In order to accomplish the above with the funds that are available, a deductive change order in the amount of \$75,187.63 from the base bid is being recommended that will result in the following:

1. The greens will not be fumigated when the top 4 inches of surface are removed. We have discussed this with Morris Brown, of Champions Turf Farm, the designer of the Emerald Bermuda grass and he believes we will not need to do the fumigation. (\$23,209 savings).
2. The tees on current holes #10 and #11 will not be surfaced. (\$4,790 savings)
3. On new hole #16, the native plants seeding and fumigation of green area will be removed (\$7,871.85 savings).
4. In the storm water protection plan, we will remove the protective tree fencing (\$3,600 savings).
5. On hole #7, we will be reducing the amount of dirt imported, moved and shaped (\$35,716.78)

Heritage Links has agreed to this proposed deductive change order.

Staff is also recommending approval of Add Alternate #9 in the amount of \$122,000 for the rerouting of holes 9, 10, 11, and 18. This will accomplish having hole #9 end as close as possible to the clubhouse and hole #10 start near the clubhouse.

Heritage Links is a golf course construction company that has been in business since 1996. They are also the subcontractor chosen by Joe Bland Construction LP, the Bird Creek sewer project contractor, to do the repair work on Sammons Golf Links for the damage they will be doing to the golf course during the sewer construction work as it goes through the golf course.

In summary, staff is recommending that Council accept the low base bid of \$398,789.61 and the Add Alternate #9 in the amount of \$122,000 from Heritage Links for the renovation construction work to Sammons Golf Links and to authorize a deductive change order for \$75,187.63 to scale the project back based on the funding available.

FISCAL IMPACT: Funding in the amount of \$350,000 was designated in the 2008 General Obligation Bond Issue for improvements at Sammons Golf Links in account 362-3100-551-6840, project # 100358. After funding \$30,140 for design and consulting services, \$94,697 for the purchase and installation of irrigation equipment and advertising cost of \$185 a balance of \$224,978 is available to partially fund the construction contract.

A budget adjustment is presented for Council's approval in the amount of \$220,633 to fund the remaining amount needed for the construction contract. These additional funds are from project savings of various completed Parks bond projects in the amount of \$104,209, unallocated interest earnings from the bond proceeds in the amount of \$7,557 and General Fund Balance-Designated for Capital Projects-Unallocated in the amount of \$108,867.

ATTACHMENTS:

[Budget Adjustment](#)

[Bid Tabulation](#)

[Golf Course Redesign Site Plan](#)

[Resolution](#)

FY 2011

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	
362-3100-551-68-40	100358	Golf Course Improvements	\$ 104,209		
362-3200-551-26-31		Code Enf/Lot Cleanup		15,560	
362-3200-551-68-41	100407	Project Savings		5,274	
362-3500-552-68-38	100407	Project Savings		5,427	
362-3500-552-68-38	100356	Family Aquatics		5,337	
362-3500-552-68-39	100357	Sammons Indoor		762	
362-3500-552-68-44	100362	Lions Soccer Fields		42,453	
362-0000-315-11-16		Reserve for Future Expenditures		29,396	
		Appropriate Bond Savings			
362-3100-551-68-40	100358	Golf Course Improvements	7,557		
362-0000-461-01-11		Interest Income	87		
362-0000-315-11-16		Reserve for Future Expenditures		7,470	
		Appropriate unallocated interest			
		earnings on the 2008 GO Bonds-Pals			
362-3100-551-68-40	100358	Golf Course Improvements	108,867		
362-0000-490-25-82		Transfer In	108,867		
110-9100-591-81-62		Transfer out-Bond Fund {362}	108,867		
110-0000-352-13-45		Designated Cap Proj-Unallocated		108,867	
		Appropriate remaining funds needed			
		from General Fund Balance Designated			
		for Capital Projects - Unallocated			
		Do Not Post			
TOTAL.....			\$ 438,454	\$ 220,546	

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

This budget adjustment appropriates project savings, interest income, and General Fund Balance Designated for Capital Projects - Unallocated to fund the additional amount needed for the construction contract with Heritage Links for the renovation of Sammons Golf Links.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐ No

DATE OF COUNCIL MEETING

December 02, 2010

WITH AGENDA ITEM?

☒

Yes

☐ No

Department Head/Division Director

Date

☐ Approved

☐ Disapproved

Finance

Date

☐ Approved

☐ Disapproved

City Manager

Date

☐ Approved

☐ Disapproved

Tabulation of Bids Received
on November 16, 2010 at 2:30 p.m.
Sammons Golf Course Improvements

	Bidders		
	Duininck, Inc Prinsburg, MN	Heritage Links Houston, TX	Landscapes Unlimited, LLC Lincoln, NE
Description			
Total Base Bid	\$644,478.40	\$398,789.61	\$564,444.95
Add Alternate #1	\$10,320.00	\$2,500.00	\$4,500.00
Add Alternate #2	\$35,100.00	\$4,500.00	\$41,000.00
Add Alternate #3	\$12,200.00	\$2,000.00	\$5,000.00
Add Alternate #4	\$13,100.00	\$5,000.00	\$5,000.00
Add Alternate #5	\$5,200.00	\$2,500.00	\$3,500.00
Add Alternate #6	\$8,800.00	\$4,500.00	\$5,800.00
Add Alternate #7	\$6,900.00	\$9,200.00	\$22,500.00
Add Alternate #8	\$21,040.00	\$12,075.00	\$14,490.00
Add Alternate #9	\$196,450.00	\$122,000.00	\$325,000.00
Add Alternate #10	\$24,520.00	\$14,200.00	\$24,000.00
Add Alternate #11	\$37,500.00	\$35,800.00	\$25,000.00 *
Acknowledge Addendum	Yes	Yes	Yes
Bid Bond (required at bid opening)	5%	5%	5%

Bond Affidavit	Yes	Yes	Yes
Insurance Affidavit	Yes	Yes	Yes
Credit Check Authorization Form	Yes	Yes	Yes
Statement of Bidder's Qualifications	Yes	Yes	Yes

* Assumes hatching irr.
system currently on golf
course, pending existing
irr.as-builts

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

Belinda Mattke

16-Nov-10

Belinda Mattke, Director of Purchasing

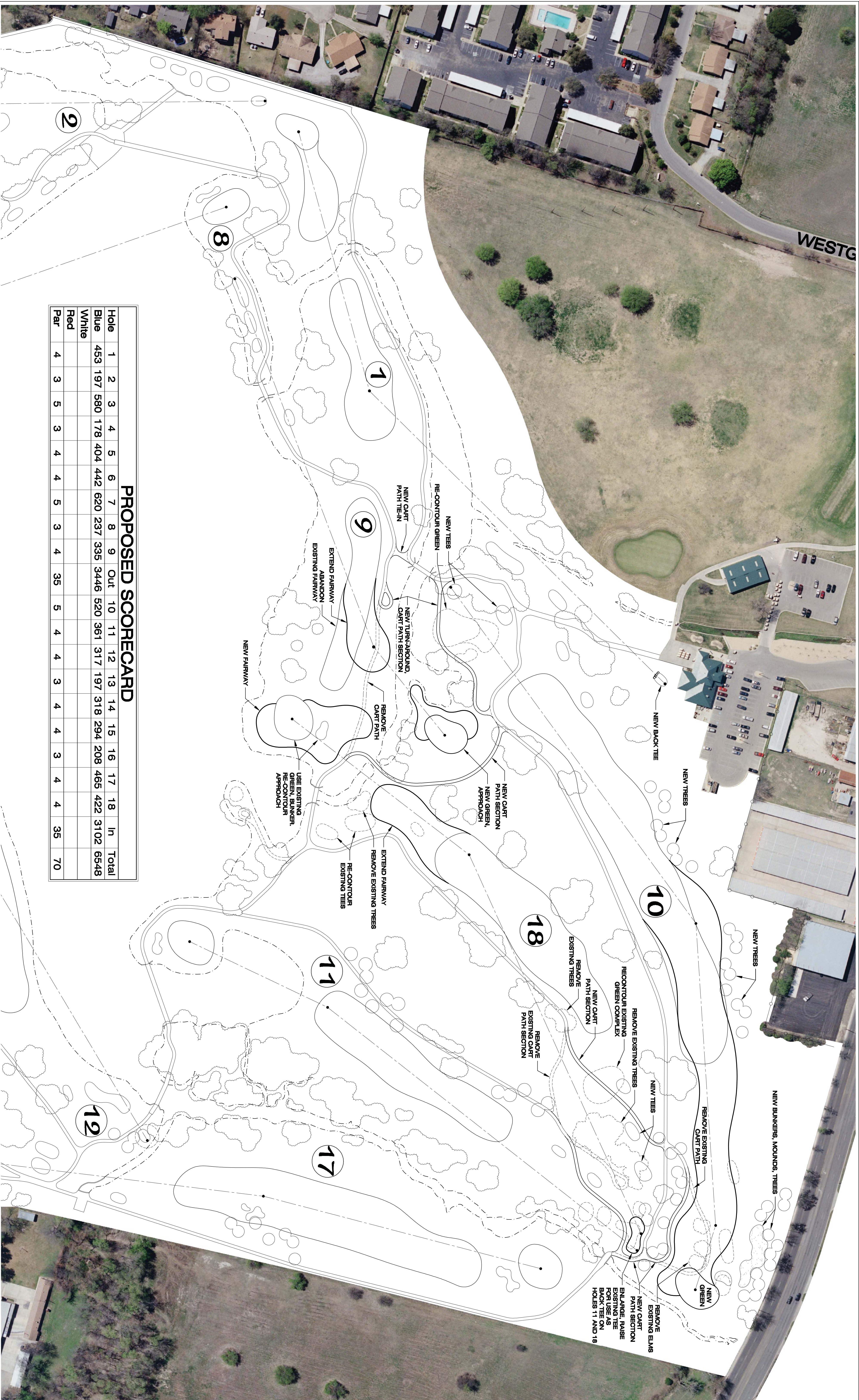
Date

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

Sammons Park Golf Course

Preliminary Schematic Design Plan - Alternate 8

PROPOSED SCORECARD																					
Hole	1	2	3	4	5	6	7	8	9	Out	10	11	12	13	14	15	16	17	18	In	Total
Blue	453	197	580	178	404	442	620	237	335	3446	520	361	317	197	318	294	208	465	422	3102	6648
White																					
Red																					
Par	4	3	5	3	4	4	5	3	4	35	5	4	4	3	4	4	3	4	4	35	70



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH HERITAGE LINKS OF HOUSTON, TEXAS, FOR SAMMONS GOLF LINKS RENOVATIONS, IN THE AMOUNT OF \$520,798.61, WHICH INCLUDES THE BASE BID AMOUNT OF \$398,789.61 AND BID ALTERNATE #9 IN THE AMOUNT OF \$122,000.00; AUTHORIZING A DEDUCTIVE CHANGE ORDER IN THE AMOUNT OF \$75,187.63 THAT REDUCES THE SCOPE OF SERVICES IN THE BASE BID, FOR A TOTAL REVISED CONTRACT AMOUNT OF \$445,610.98; AUTHORIZING A DEDUCTIVE CHANGE ORDER IN THE AMOUNT OF \$75,187.63 THAT REDUCES THE SCOPE OF SERVICES IN THE BASE BID, FOR A NET CONTRACT AWARD OF \$445,610.98; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on November 16, 2010, the City received 3 bids for renovations to Sammons Golf Links;

Whereas, the Staff recommends accepting the bid, \$520,798.61, which includes the base bid amount of \$398,789.61 and Bid Alternate #9 in the amount of \$122,000.00, received from Heritage Links of Houston, Texas, and also approving a deductive change order in the amount of \$75,187.63, to reduce the scope of services in the base bid, for a net contract award of \$445,610.98;

Whereas, funds are available for this project but an amendment to the FY2010-11 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, for an amount not to exceed \$520,798.61, between the City of Temple and Heritage Links of Houston, Texas, after approval as to form by the City Attorney, for renovations to Sammons Golf Links.

Part 2: The City Council authorizes a deductive change order in the amount of \$75,187.63 that reduces the scope of services in the base bid, for a net contract award for this project of **\$445,610.98**.

Part 3: The City Council approves an amendment to the FY2010-11 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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 **2nd** day of **December**, 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

12/02/10
Item #4(D)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Richard Therriault, Chief of Construction Safety
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing demolition contracts with Sierra Contracting Corporation of Round Rock for the demolition of seventeen residential structures funded through the Community Development Block Grant (CDBG) in the amount of \$47,865.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Included in the City's Community Development Block Grant (CDBG) Action Plan is funding for residential demolitions with the focus of eliminating blight. Up until FY 2010, the City has used Public Works to complete these demolitions. However, due to the backlog of demolitions, the City started contracting out some of these demolitions.

On November 2, 2010, competitive sealed bids were opened for the demolition of the following seventeen residential structures:

- 1207 10th Street (house & dead tree in backyard)
- 905 South 24th Street
- 518 18th Street
- 1307 South 10th Street
- 1414 South 2nd Street (house & accessory structure)
- 17 South 16th Street
- 820 East Ave C (house & accessory structure)
- 402 East Downs
- 1116 South 12th Street
- 311 East French
- 820 East Ave E (house & accessory structure)
- 602 South 18th Street (house & accessory structures)
- 715 South 24th Street
- 404 South 22nd Street (house, fence & accessory structure)
- 903 East Ave A
- 911 East Ave B (house & accessory structures)
- 916 South Knob Street (house & accessory structures)

As shown on the attached bid tabulation, the low bidder for all the above address is Sierra Contracting Corporation. Staff recommends award of these demolitions to the lowest bidder.

The City has not done business with Sierra Contracting Corp. previously. Accordingly, references were checked and Sierra was found to be a responsible vendor.

FISCAL IMPACT: Unspent funding designated for demolitions was carried forwarded from the FY 2009 and FY 2010 CDBG Action Plans in the amount of \$113,767. These funds are available in account #260-6100-571-2698.

ATTACHMENTS:

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

Tabulation of Bids Received
on November 2, 2010 at 2:30 p.m.
CDBG Residential Structure Demolitions (17 Structures)

Description	Bidders				
	AAR, Inc Liberty Hill, TX	Sierra Contracting Corp. Round Rock, TX	Precision Contractors Belton, TX	CRA Construction Co. Copperas Cove, TX	R.T. Schneider Const. Co. Belton, TX
1207 S 10th Street (house and dead tree in backyard)	\$3,930.00	\$2,000.00	\$4,249.20	\$8,000.00	\$3,600.00
905 S 24th Street (house only)	\$3,925.00	\$2,800.00	\$8,120.00	\$8,000.00	\$3,600.00
518 S 18th Street (house only)	\$3,945.00	\$2,250.00	\$4,830.00	\$8,000.00	\$3,600.00
1307 S 10th Street (house only)	\$3,975.00	\$2,400.00	\$4,646.00	\$8,000.00	\$4,920.00
1414 S 2nd Street (house and accessory structure)	\$5,250.00	\$2,875.00	\$6,697.60	\$8,000.00	\$6,675.00
17 S 16th Street (house only)	\$5,970.00	\$3,720.00	\$8,900.00	\$8,000.00	\$5,750.00
820 E Ave C (house and accessory structure)	\$5,370.00	\$3,950.00	\$7,944.20	\$8,000.00	\$6,150.00
402 E Downs (house only)	\$2,725.00	\$1,500.00	\$3,720.00	\$8,000.00	\$2,255.00
1116 S 12th (house only)	\$3,745.00	\$1,750.00	\$4,305.00	\$8,000.00	\$3,900.00
311 E French (house only)	\$3,280.00	\$1,750.00	\$3,720.00	\$8,000.00	\$2,260.00
820 E Ave E (house and accessory structure)	\$4,530.00	\$3,500.00	\$8,456.00	\$8,000.00	\$6,150.00
602 S 18th (house and accessory structures)	\$3,410.00	\$2,400.00	\$4,682.80	\$8,000.00	\$4,100.00
715 S 24th (house only)	\$4,315.00	\$2,600.00	\$4,443.00	\$8,000.00	\$3,075.00
404 S 22nd (house, fence and accessory structure)	\$5,110.00	\$3,750.00	\$7,705.60	\$8,000.00	\$7,700.00
903 E Ave A (house)	\$4,550.00	\$2,970.00	\$6,992.00	\$8,000.00	\$6,150.00
911 E Ave B (house and accessory structures)	\$5,875.00	\$3,850.00	\$6,870.00	\$8,000.00	\$6,150.00
916 S Knob (house and accessory structures)	\$5,155.00	\$3,800.00	\$6,624.00	\$8,000.00	\$6,675.00
Bid Bond (required at bid opening)	5%	5%	5%	Cashiers Check	5%

Insurance Affidavit	Yes	Yes	Yes	Yes	Yes
Bond Affidavit	Yes	Yes	Yes	Yes	Yes
Credit Check Authorization Form	Yes	Yes	No	Yes	Yes

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

Belinda Mattke

Belinda Mattke, Director of Purchasing

2-Nov-10

Date

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

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A DEMOLITION CONTRACT WITH SIERRA CONTRACTING CORPORATION OF ROUND ROCK, TEXAS, FOR THE DEMOLITION OF 17 RESIDENTIAL STRUCTURES FUNDED THROUGH THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), IN THE AMOUNT OF \$47,865; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on November 2, 2010, the City received bids for the demolition of 17 residential structures;

Whereas, the Staff recommends accepting the bid received by Sierra Contracting Corporation of Round Rock, Texas, in the amount of \$47,865 for demolition of all the structures;

Whereas, funds are available for this project in Account No 260-6100-571-2698; 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 demolition contract with Sierra Contracting Corporation of Round Rock, Texas, after approval as to form by the City Attorney, for the demolition of 17 residential structures through the Community Development Block Grant (CDBG), in the amount of \$47,865.

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 **2nd** day of **December**, 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

12/02/10
Item #4(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary O. Smith, Chief of Police Department

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of ten marked police vehicles from Philpott Motor Company of Nederland under the Joint Venture/Cooperative Purchase Interlocal Agreement with Tarrant County, in the amount of \$273,135.80.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 19, 2000, Council authorized the City to join with Tarrant County through an interlocal agreement for the purchase of aggregating a bid for police vehicles. This interlocal agreement does not expire, and therefore, we have joined with Tarrant County again this year for our annual purchase of police vehicles.

The Tarrant County Commissioner's Court has awarded the full-size police vehicles to Philpott Motor Company. The City has done business with Philpott in the past, and finds them to be a responsible vendor. The aggregation of these vehicles has allowed a price incentive that provides pricing at less than the State contract for the same vehicles.

In accordance with the police vehicle replacement schedule, ten police vehicles are due for replacement this year. Staff is pleased with the services provided by Tarrant County and desires to purchase ten units from Philpott Motor Company through the bid awarded by Tarrant County.

FISCAL IMPACT: Funding in the amount of \$350,000 is designated for the purchase of the police vehicles and related required equipment in account 110-2031-521-62-13, project #100640.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF 10 MARKED POLICE VEHICLES FROM PHILPOTT MOTOR COMPANY OF NEDERLAND, TEXAS, UNDER THE JOINT VENTURE/COOPERATIVE PURCHASE INTERLOCAL AGREEMENT WITH TARRANT COUNTY, IN THE AMOUNT OF \$273,135.80; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 19, 2000, the City Council authorized the City to join with Tarrant County through an interlocal agreement for the purchase of aggregating a bid for police vehicles – the interlocal agreement does not expire, and the Staff recommends joining with Tarrant County again this year for the annual purchase of police vehicles;

Whereas, the Tarrant County Commissioner's Court awarded the full-size police vehicles to Philpott Motor Company of Nederland, Texas;

Whereas, the Staff recommends purchasing 10 marked police vehicles from Philpott Motor Company, for a total expenditure of \$273,135.80;

Whereas, funds are available for this purchase in Account No. 110-2031-521-6213, project #100640; and

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

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

Part 1: The City Council authorizes the purchase of 10 marked police vehicles from Philpott Motor Company of Nederland, Texas, under the Joint Venture/Cooperative Purchase Interlocal Agreement with Tarrant County, in the amount of \$273,135.80.

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 are 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 2nd day of **December**, 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

12/02/10
Item #4(F)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Lone Star Right of Way Services, Inc., for professional services related to right of way acquisition for the Pass-Through Financing Project along NW Loop 363 from FM 2305/West Adams north up to the BNSF main line in an amount not to exceed \$291,400.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: During the month of September, the City and TxDOT negotiated an agreement under the Pass-Through Program for the NW Loop 363 expansion project from FM 2305/West Adams north up to the BNSF main line. On September 16, 2010, Council authorized a pass through financing agreement with TxDOT for these improvements. On September 30, 2010, TxDOT authorized approval of the agreement. General terms and conditions of the agreement were presented to Council on September 16, 2010.

The project scope is an expansion of Loop 363 to include adding two frontage roads on NW Loop 363 from FM 2305/West Adams north up to the BNSF main line, building a grade separated interchange at SH36/Airport Road, and constructing a grade separation at Wendland Road. This proposed upgrade of approximately 4 miles will create a four lane divided, continuous roadway from the northern Loop 363 interchange with I-35 to the southern Loop 363 interchange with I-35 through the western side of the City.

Initial project meetings with TxDOT were held in October to review requirements related to parcel acquisition. Federal and state standards related to any property acquisitions (purchased or donated) on this project must be met through adherence with requirements established in the Uniform Act. Any deviation from specific right of way acquisition steps defined in the Uniform Act jeopardizes future payback of pass through funds from the State. Therefore, City staff recommends securing the services of a professional consultant to handle right of way activities.

Professional services to be performed by Lone Star Right of Way related to right of way acquisition include Project Administration (communications, file management, etc), Title Services, Initial Appraisal Work, Initial Appraisal Review, Negotiation Services, and Closing Services (as needed). Lone Star ROW will make initial property owner contacts, provide necessary paperwork, and perform negotiations for all necessary parcels identified for the project (approximately 31). In addition, they will maintain all project files and respond to TxDOT audits of paperwork related to parcel acquisitions. Applicable fees proposed under this contract are on a per parcel basis, as follows:

Project Administration, Communication, File Management & Negotiation Services	\$3,800 per parcel
Title Services & Closing Services	\$500 per parcel
Initial Appraisal	\$2,800 - \$3,600 per parcel
Appraisal Review	\$900 - \$1,500 per parcel
Appraiser Services	\$175 / hour
Negotiator Services	\$150 / hour
Obtain Right of Entry	\$1,000
Value Findings as allowed under the Uniform Act	\$300 per parcel

In acknowledgement that some parcels may be acquired through donation, the proposal submitted is based upon a cost per task. Though specific steps for donations are necessary and required in conformance with the Uniform Act, donations may be accepted in accordance with established procedures. Should a donation occur, some professional services tasks related to property acquisition may not be necessary, and will therefore not occur nor be billed. Property purchase expenses are not included in this professional services agreement, and will be considered separately.

Design of this project is anticipated to be complete and ready to bid by the fall of 2011. Property acquisitions are scheduled to occur over the next several months (prior to bidding of the project). Should any parcel necessary for the project not be acquired within this timeframe, additional professional services related to eminent domain may be necessary and are not included within the scope of this professional services contract.

In consideration of various factors surrounding transportation issues within the City (including current, pending, and future TxDOT projects occurring along NW Loop 363 and I-35), implementation and completion of the NW Loop 363 Pass-Through Project is a high priority within the overall Capital Improvement Program.

FISCAL IMPACT: Funding is available through the Reinvestment Zone No. 1 Financing Plan, account 795-9700-531-2587 and account 795-9500-531-2587, project #100681 to fund this contract for right of way services,

ATTACHMENTS:

[Lone Star Right of Way Services
Proposal \(Schedule of Fees\)
Project Map
Resolution](#)

SECTION I
Statement of Work
NW Loop Project

- 1.0 **SERVICE REQUIREMENTS OF THE PROVIDER (Lone Star Right of Way Services, Inc.):** Services shall include the following activities:
- 1.1 Project Administration
- 1.1.1 Negotiation of the Scope of Services for Work Authorization
- 1.1.1.1 Provider will visit project site with Bucher, Willis and Ratliff (hereafter referred to as BWR).
- 1.1.2 Project Field Office
- 1.1.2.1 A project field office is not contemplated under this form of right of way acquisition contract. The assumption is that the provider will maintain administrative services adequate to support the timely performance of the scope of work agreed to herein.
- 1.1.3 Overhead Costs
- 1.1.3.1 All normal, reasonable and necessary administrative costs including mileage (Bell County), telephone, equipment, supplies, postage, etc. will be included in the per parcel fee.
- 1.1.3.2 Travel outside Bell County will be billed separately at \$.50 per mile plus the hourly rate as provided in the fee schedule for Lone Star Right of Way Services, Inc. All such travel will be pre-approved by the City of Temple.
- 1.1.4 Communication
- 1.1.4.1 Maintain current status reports of all parcel and project activities and provide monthly to the City of Temple, as directed.
- 1.1.4.2 Participate in monthly TxDOT project review/audit meetings at dates and times determined by TxDOT and/or City of Temple. Provider will be available to attend any additional requested meetings. Additional meetings will be billed at an hourly rate per agent in attendance plus mileage if outside of Bell County, Texas.
- 1.1.5 File Management
- 1.1.5.1 Original project and parcel files will be maintained in the office of Lone Star Right of Way Services, Inc. Executed documents (easements, deeds and any curative documents) will be delivered to the City of Temple for review and recording.
- 1.1.5.2 Prepare invoices utilizing Lone Star Right of Way Services, Inc. standard invoice for payment submissions forms with supporting documentation.
- 1.1.5.3 Maintain records of all payments to property owners including, but not limited to, warrant number, amount, and date paid, etc.

- 1.1.5.4 Maintain copies of all correspondence and contacts with property owners, and upon request, deliver copies to City of Temple.

1.2 Title Services

- 1.2.1 Secure preliminary title commitment from the Title Company that will be providing title insurance. Selection of the Title Company to provide title insurance and the above mentioned services will be by Lone Star Right of Way Services, Inc. Title insurance premium (which is based on policy amount and set by the State Insurance Board) will be a pass through expense and billed directly to the City of Temple. The title insurance premium nor the fees paid for the property are not included in the fee schedule of Lone Star Right of Way Services, Inc.

Secure title commitment updates in accordance with insurance rules and requirements for parcel payment submissions. Secure title insurance for all parcels acquired, insuring acceptable title to the City of Temple. Written approval by the City of Temple will be required for any exception. Cost of title insurance is paid by the City of Temple and is not included in the fee schedule of Lone Star Right of Way Services.

- 1.2.3 All fees charged by the title company and fees incidental to the acquisition of property as listed on the title company closing statement will be paid by the City of Temple and are not included in the fee schedule provided by Lone Star Right of Way Services, Inc.

1.3 Initial Appraisal

- 1.3.1 Appraisers will be considered sub contractors of Lone Star Right of Way Services, Inc. All appraisers will be certified by the State of Texas. Appraisers will be selected by Lone Star Right of Way Services, Inc. The fee for appraisal services will be negotiated on a per parcel basis. Appraisal services will be billed by Lone Star Right of Way Services, Inc. on their standard invoice. These fees will be billed by the last day of each month. Payment for these services is to be paid to Lone Star Right of Way Services, Inc. by the 10th day of the month following the presentation of the invoice.
- 1.3.2 Prepare and conduct personal pre-appraisal contact with interested owner(s) for each parcel using acceptable forms.
- 1.3.3 Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
- 1.3.4 Prepare complete appraisal report for each parcel to be acquired utilizing TxDOT Forms No. ROW-A-5, ROW-A-6, ROW-A-7, ROW-A-8 as applicable. These reports shall conform to TxDOT policies and procedures along with the Uniform Standards of Professional Appraisal Practices.
- 1.3.5 As necessary, prepare written notification to the City of Temple of any environmental concerns associated with the R/W to be acquired, which could require environmental remediation.

- 1.3.6 All completed appraisals will be administratively reviewed by the City of Temple and recommended for approval by the City.
- 1.3.7 As necessary, the appraiser will appear and/or testify as an Expert Witness in eminent domain proceedings and be available for pre-hearing or pre-trial meetings as directed by the City of Temple.
- 1.3.8 As necessary, Lone Star Right of Way Services, Inc. and the appraiser will coordinate with review appraiser regarding revisions, comments, or additional information that may be required.
- 1.3.10 The cost of the appraiser's expert witness testimony for hearing, preparation of an updated appraisal (if required), hearing or trial preparation, and travel expenses is not part of the contract and will be billed at an hourly rate as noted on the Fee Schedule provided by Kokel-Oberrender-Wood Appraisal, LTD.

1.4 Initial Appraisal Review

- 1.4.1 Appraisers will be considered sub contractors of Lone Star Right of Way Services, Inc. All review appraisers will be certified by the State of Texas. Appraisers will be selected by Lone Star Right of Way Services, Inc. The fee for appraisal services will be negotiated on a per parcel basis. Appraisal services will be billed by Lone Star Right of Way Services, Inc. on their standard invoice. These fees will be billed the last day of each month. Payment for these services is to be paid to Lone Star Right of Way Services, Inc. by the 10th day of the month following the presentation of the invoice.
- 1.4.2 Review all appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached and compliance with TxDOT policies and procedures and the Uniform Standards of Professional Appraisal Practices.
- 1.4.3 Prepare and submit to the City of Temple the standard "Tabulation of Values" for each appraisal.
- 1.4.4 The cost of the review appraiser's expert witness testimony for hearing, preparation of an updated review (if required), hearing or trial preparation and travel expenses is not part of this contract and will be billed at an hourly rate \$175.00 per hour.

1.5 Negotiation Services

- 1.5.1 Analyze appraisal and appraisal review reports and confirms the City's approved value prior to making offer for each parcel.
- 1.5.2 Analyze preliminary title report to identify potential title problems.
- 1.5.3 Prepare the initial and final offer letter. Note – both the initial and final offer letters will be prepared on Provider's letterhead, but must be executed by the Mayor of the City of Temple as well as the negotiator.
- 1.5.4 Prepare instruments of conveyance on promulgated forms provided by the City of Temple.
- 1.5.5 Contact each property owner or owner's designated representative, to present the written offer and deliver appraisal reports (if appraised). In circumstances where personal contact is unreasonable, the written offer

and appraisal report will be delivered by Certified Mail. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.

- 1.5.6 If appraised, provide a copy of the appraisal report for the subject property exclusively to the property owner or authorized representative at the time of the offer. Maintain original signed Receipt of Appraisal for the parcel file.
- 1.5.7 Respond to property owner inquiries within two business days.
- 1.5.8 Prepare and maintain a separate negotiator contact report for each parcel.
- 1.5.9 Maintain parcel files of original documentation related to the purchase of the real property or property interests.
- 1.5.10 Provider will make every reasonable effort to secure the property for the City of Temple in a timely and cost effective manner.
 - 1.5.10.1 Advise property owner on the Administrative Settlement process. Transmit to City of Temple any written counter offer from property owners including supporting documentation and deliver response from the City back to the property owner.
 - 1.5.10.2 Fees submitted for negotiation on a per parcel basis include negotiating up to three such counter proposals between the property owner and the City. If the City wishes the Provider to continue to negotiate after three counter proposal rejections, continuing negotiations will be billed at the hourly agent rate.
- 1.5.11 Prepare final offer letter, documents of conveyance and curative documents as necessary. These documents are to be prepared on promulgated forms provided by the City Attorney and/or title company.
- 1.5.12 The cost of the Provider appearing as an expert witness for testimony at a hearing is not part of this contract and will be billed at the hourly rate.
- 1.6 Closing Services (as needed)
 - 1.6.1 Coordinate with Title Company to obtain an updated title commitment along with other forms and certified copy of the instrument of conveyance necessary when requesting the Parcel Payment from the City.
 - 1.6.2 Provider shall attend closings and provide closing services in conjunction with Title Company. Provider will deliver all required conveyance documents, curative documents, and funds for the acquisition of the property (provided by the City of Temple) to the title company.
 - 1.6.3 All donations will be delivered to the City of Temple for acceptance and recording. Clear title is required on all parcels including donations.

2.0 SERVICE REQUIREMENTS OF CITY OF TEMPLE: Services shall include, but are not limited to the following activities:

- 2.1 Assurance of Right of Way Project Release.
- 2.2 Provide an approved Right of Way Map and original legal Descriptions for property to be acquired.
- 2.3 Provide timely reviews, signatures and approval of submissions.
- 2.4 Provide acceptance or rejection notification of any counter proposal submitted by Provider within 10 business days of receipt.
- 2.5 Provide all necessary standard forms.
- 2.6 Process and issue all checks for payment of approved purchase prices for each parcel, relocation payment and incidental expense involved in the transfer of property to the City of Temple.
- 2.7 Provide final approval for all appraisals, relocation supplements and moving payments.
- 2.8 Determine approved Initial offer amount either by approval of a submitted appraisal or by furnishing the Provider with a statement of value to be offered to the property owner. City will also furnish to provider a range they deem acceptable in order for the Provider to negotiate with the property owner before a formal written counter proposal is required.
- 2.9 Provide Bill of Sale for disposal of improvements.
- 2.10 Will pay direct cost of preliminary title commitment and title insurance for all parcels acquired.
- 2.11 Record all required documents for each parcel not closed at a title Company and for which no title insurance is to be purchased.
- 2.12 Provide Lone Star Right of Way Services, Inc. a written statement for each project as to whether or not State or Federal Funds will be utilized or will be sought in the future for reimbursement. This statement must be provided prior to initiation of any services by Lone Star Right of Way Services, Inc. This will enable the provider to determine which policies, procedures, and requirements must be met in order to best protect the interest of the City of Temple.

**EXHIBIT “A”
FEE SCHEDULE
Lone Star Right of Way Services, Inc.
NW Loop Project**

All fees are on a per parcel basis

Any item listed under the scope of services not performed on a parcel will not be charged

I. Project Administration, Communication, File Management & Negotiation Services

A. Easement or Fee acquisition or donation: \$3,800.00 per parcel

II. Title Services & Closing Services (easement or fee)

Title Insurance is required

Legal description will be delivered to Title Company in order to secure preliminary title commitment to establish current ownership. Provider will attempt to secure all documents to clear any defects in title. We will also work with the title company to remove any exceptions from “Schedule C” of the title policy that are not considered standard exception in order to provide City clear title to property. All fees charged by the title company for vesting information, preliminary title commitments and any and all closing costs charged by the title company on the closing statement, including but not limited to, title insurance premiums, recording fees, document preparation, tax certificates, courier fees, guaranty fee, overnight fees, escrow and/or closing fees will be a pass through expense and billed directly to City by the title company. Provider’s assistance in clearing title and fulfilling requirements of the title commitment results in expedited closings.

\$500.00 per parcel

Lone Star Right of Way Services, Inc. will enter into a Sub-Contract with the Appraiser and Review Appraiser in order to have appraisals prepared in accordance with TxDOT requirements. Appraisals and Appraisal Reviews will be delivered directly to us for review and distribution in accordance with TxDOT policies and procedures. The firms listed below will be utilized, provided they can complete the appraisals in a timely manner.

*Any Appraiser or Review Appraiser utilized must not only be certified by the State of Texas, but they must also be on the approved TxDOT list to qualify for this project. It should be noted that many of the Appraisers on the approved list are currently working for TxDOT on the IH 35 project.

III. Initial Appraisal (for both easement or fee)
Kokel-Oberrender-Wood Appraisal Ltd.

Vacant Land: \$2800 \$3200*
With Site Improvements: \$3200 -\$3600*

IV. Appraisal Review (easement or fee)
Property Research Network – Galen Morrison

Vacant Land: \$900 - \$1100*
With Site Improvements: \$1100 - \$1500*

V. Appraiser Services (easement or fee)

Post appraisal time: Appraiser or Review Appraiser appearing as an expert witness for testimony and/or preparation for hearing will be billed at a separate hourly rate. This rate also applies to meeting/consulting services outside the scope of services.

\$175/hour

VI. Negotiator Services

Agent and Project Manager hourly rate for services not defined in the Scope of Services provided will be billed at an hourly rate. This hourly rate also applies when an Agent of Lone Star Right of Way Services, Inc. is requested to participate in hearings, public or company meetings held outside the office of Lone Star Right of Way Services, Inc..

\$150/hr

VII. Obtain Right of Entry or Possession and Use Agreement

\$1,000.00 (Bell County)

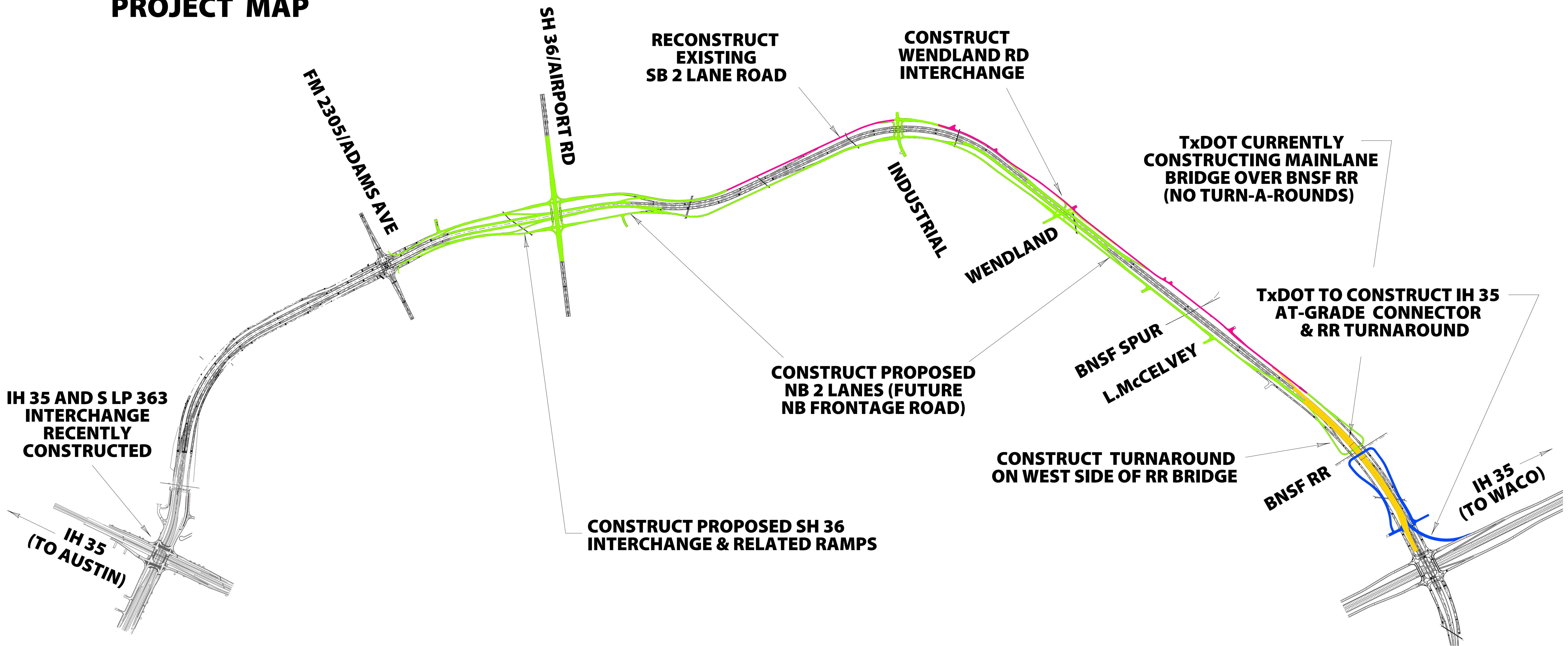
VIII. Value Findings as allowed under the Uniform Act will be charged on a per parcel basis.(In Lieu of Appraisal and Appraisal Review).





\$300.00 per parcel

*Once project right of way maps and surveys are complete, should it be determined that an appraisal including the valuation of building improvements is required, or any parcel remainder has an extensive denial of access, we will provide a revised proposed fee for such parcel(s).

**NW LOOP 363
PASS-THROUGH FINANCE
TEMPLE, TEXAS**

PROJECT MAP



-  **CURRENTLY UNDER CONSTRUCTION BY TxDOT**
-  **PTF CONSTRUCTION**
-  **PTF RECONSTRUCTION OF EXISTING ROADWAY**
-  **PROPOSED IH 35 CONSTRUCTION BY TxDOT (NOV 2011)**



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH LONE STAR RIGHT OF WAY SERVICES, INC., OF BELTON, TEXAS, FOR PROFESSIONAL SERVICES RELATED TO RIGHT OF WAY ACQUISITION FOR THE PASS-THROUGH FINANCING PROJECT ALONG NW LOOP 363 FROM FM 2305/WEST ADAMS NORTH UP TO THE BNSF MAIN LINE, IN THE AMOUNT NOT TO EXCEED \$291,400; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City and TxDOT negotiated an agreement under the Pass-Through Financing Program for the NW Loop 363 expansion project from FM 2305/West Adams north up to the BNSF main line;

Whereas, for this project, the Staff recommends securing the services of Lone Star Right of Way Services, Inc., of Belton, Texas, for professional services related to right of way acquisition;

Whereas, the City has used Lone Star Right of Way Services in the past on various Public Works projects and their services have been exceptional – the services for this project will not exceed \$291,400;

Whereas, funds are available for this service in Account No. 795-9700-531-2587 and Account No. 795-9500-531-2687, project #100681; 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 Manager, or his designee, is authorized to execute a professional services agreement between the City of Temple, Texas, and Lone Star Right of Way Services, Inc., of Belton, Texas, after approval as to form by the City Attorney, for professional services related to right of way acquisition for the Pass-

Through Financing Project along NW Loop 363 from FM2305/West Adams north up to the BNSF main line.

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 **2nd** day of **December**, 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

12/02/10
Item #4(G)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction manager-at-risk contract for renovations to the Police Headquarters facility with American Constructors of Austin, Texas, in the amount of \$8,000 for preconstruction phase services, 2.5% of the cost of work for construction phase services, a lump sum fee \$180,000 for general condition fees covering an 8-month construction period, a monthly fee of \$20,000 to cover general conditions should the construction period exceed 8 months, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 7, 2010, Council authorized a professional services agreement with Architectural Edge, Inc. to provide architectural and engineering services related to renovations needed to the Police Headquarters facility to remediate the mold from the facility and to make the necessary repairs to the facility that have allowed mold to develop.

On October 21, 2010, Council authorized the use of the Construction Manager-at-Risk (CMAR) delivery method for the construction services related to the renovations in the Police Headquarters facility. As shown on the attached tabulation of the proposals received on November 9, 2010, 13 proposals were received. The scoring criteria as defined within the RFP was as follows: 35%, contractor's proposed fees; 35%, contractor's qualifications/experience, including that of the proposed project manager and site superintendent; and 30%, contractor's prior experience with the CMAR delivery, with emphasis on experience related to building renovations.

The 13 proposals were delivered upon receipt to a 5-member proposal evaluation committee. On November 16, 2010, the evaluation committee and Architectural Edge met to discuss and share each others initial evaluation results. Based on the pre-defined evaluation criteria, the committee came to a unanimous decision to short-list the 13 proposals down to the following five (5) contractors: American Constructors of Austin; Bartlett Cocke, L.P. of Austin; Brath, Inc. of Round Rock; Cadence McShane Construction Company, LLC of Dallas; and SpawGlass Contractors, Inc. of Austin.

Each of the five (5) contractors was invited to a committee interview on Tuesday, November 23, 2010. Upon conclusion of the interviews, the committee re-evaluated the five (5) remaining firms based on each contractor's information submitted in their formal proposal along with the information acquired during the interviews. It is the evaluation committee's unanimous recommendation to award the CMAR contract to American Constructors of Austin, Texas. Through the interview process, the committee determined that all five (5) contractors were qualified to perform the work, but based on American's past experience of working on like-kind projects and American's proposed staffing for the project, the committee ended up rating American higher than the other four (4) contractors.

Unlike several of the other contractors, American will be dedicating two (2) full-time on-site construction managers, a project manager and a site superintendent. Based on the complexity and nature of this project, staff feels that this level of staffing will be very beneficial.

| The fee structure for this particular CMAR project is as follows:

- 1) **PRE-CONSTRUCTION PHASE SERVICE FEE:** a flat fee for the CMAR to assist in reviewing plans, identifying constructability issues, and estimating costs.
- 2) **CONSTRUCTION PHASE SERVICES FEE:** a percentage fee that the CMAR charges to cover his profit and overhead. This percentage fee is based on the cost of work after the contractor accepts bids for the various disciplines of the bidded project and will get rolled into the GMP (gross maximum price) that gets recommended to Council for award.
- 3) **GENERAL CONDITIONS FEE:** a flat fee that the contractor charges for his on-site management costs and any other direct costs associated with the project. On this particular project we defined the anticipated construction period as being eight (8) months so we asked contractors for a proposed fee to cover the 8 months and we also asked for a flat rate fee per month should the construction period exceed 8 months.

As shown on the attached CMAR Cost Analysis of Proposed Pricing Received, American Constructors proposed a Pre-construction Phase Fee of \$8,000, a Construction Phase Service percentage of 2.5% of the cost of work, a General Conditions Fee of \$180,000 for the anticipated 8-month construction period, and a per month General Conditions fee of \$20,000 per month should the construction period exceed 8 months. In comparing American Constructors' proposed fees to the other contractors' proposed fees, staff considers these proposed fees reasonable and recommends that Council authorize award of the CMAR contract to American Constructors with this fee structure.

FISCAL IMPACT: It is anticipated that Limited Tax Notes will be issued to fund the construction costs related to the remediation. Initial funding for this project will be allocated from General Fund Balance Designated for Capital Project-Unallocated. Once total project costs are determined, the proceeds from the Limited Tax Notes will reimburse General Fund Balance Designated for Capital Project-Unallocated.

ATTACHMENTS:

Tabulation of Proposals Received
CMAR Cost Analysis of Proposed Pricing Received
Resolution

Tabulation of Proposals Received
on November 9, 2010 at 3:00 p.m.
CMAR Services for Renovations to the Temple Police Headquarters Facility

Description	Offerors						
	Division One Construction LLC	Bartlett-Cocke L.P.	Cadence-McShane Construction Co, LLC	STR Constructors, Ltd	SpawGlass Contractors, Inc.	Byrne Pearson, A Joint Venture	MW Builders, Inc.
	Houston	Austin	Dallas	Liberty Hill	Austin	Ft. Worth	Temple
Proposed Preconstruction Phase Services Fee	\$10,000.00	\$5,480.00	\$7,500.00	\$4,500.00	\$15,000.00	\$0.00	\$15,000.00
Proposed % Fee for Construction Phase Services	3.90%	3.25%	2.50%	3.48%	3.00%	2.45%*	5.00%
Proposed Lump Sum Fee for General Conditions	\$150,000.00	\$173,621.00	\$182,584.00	\$100,000.00	\$158,350.00	\$154,886.00	\$260,000.00
Proposed Lump Sum for General Conditions after Initial 8 Months	\$15,000.00	\$21,702.00	\$22,823.00	\$12,000.00	\$19,800.00	\$19,361.00	\$35,000.00
Acknowledged Addendum	yes	yes	yes	yes	yes	yes	yes
Execution of Offer	yes	yes	yes	yes	yes	yes	yes
Proposal Affidavit	yes	yes	yes	yes	yes	yes	yes
Insurance Requirement Affidavit	yes	yes	yes	yes	yes	yes	yes
Bond Requirement Affidavit	yes	yes	yes	yes	yes	yes	yes
Credit Check Authorization	yes	yes	yes	yes	yes	yes	yes
Responses to Questionnaire	yes	yes	yes	yes	yes	yes	yes

Description	Offerors					
	FJW Construction, LLC	American Constructors	EMJ Corporation	Brath, Inc.	Rogers-O'Brien Construction Co.	Chaney-Cox Construction, Inc
	Austin	Austin	Irving	Round Rock	Austin	Temple
Proposed Preconstruction Phase Services Fee	\$12,500.00	\$8,000.00	\$6,500.00	\$10,000.00	\$5,000.00	\$0.00
Proposed % Fee for Construction Phase Services	3.75%	2.50%	3.00%	2.50%	3.90%	2.50%
Proposed Lump Sum Fee for General Conditions	\$156,000.00	\$180,000.00	\$196,883.00	\$137,283.00	\$336,200.00	\$70,000.00
Proposed Lump Sum for General Conditions after Initial 8 Months	\$19,500.00	\$20,000.00	\$24,610.00	\$16,400.00	\$40,960.00	\$9,000.00
Acknowledged Addendum	yes	yes	yes	yes	yes	yes
Execution of Offer	yes	yes	yes	yes	yes	yes
Proposal Affidavit	yes	yes	yes	yes	yes	yes
Insurance Requirement Affidavit	yes	yes	yes	yes	yes	yes
Bond Requirement Affidavit	yes	yes	yes	yes	yes	yes
Credit Check Authorization	yes	yes	yes	yes	yes	yes
Responses to Questionnaire	yes	yes	yes	yes	yes	yes

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

Belinda Mattke

9-Nov-10

Belinda Mattke, Director of Purchasing

Date

Recommended for Council Award

Renovations to the Temple Police Headquarters Facility

CMAR Cost Analysis of Proposed Pricing Received

Assumptions made in order to facilitate analysis and comparison of the proposed pricing received:

- 1) Cost of work will total \$5,000,000. Actual cost of work will be determined after the CMAR contract is awarded and the CMAR bids the various phases of the project.
- 2) The construction period will take 10 months. Actual construction period will be determined after the CMAR is engaged and the work is more thoroughly analyzed and planned out with the involvement of the CMAR, the architects, and City staff.

Requested Proposal Information	Division One Houston	Bartlett-Cocke Austin	Cadence-McShane Dallas	STR Liberty Hill	SpawGlass Austin	ByrnePearson Ft Worth	MW Builders Temple
Pre-Construction Phase Fee	\$ 10,000	\$ 5,480	\$ 7,500	\$ 4,500	\$ 15,000	\$ -	\$ 15,000
Construction Phase Services Fee-% of Cost of Work	3.90%	3.25%	2.50%	3.48%	3.00%	2.45%	5.00%
General Conditions-Initial 8 months	\$ 150,000	\$ 173,621	\$ 182,584	\$ 100,000	\$ 158,350	\$ 154,886	\$ 260,000
General Conditions-additional months	\$ 15,000	\$ 21,702	\$ 22,823	\$ 12,000	\$ 19,800	\$ 19,361	\$ 35,000
Total CMAR fees (excluding bonds)-assuming Cost of Work totaling \$5 mil & Construction Period of 10 mo	\$ 385,000	\$ 385,005	\$ 360,730	\$ 302,500	\$ 362,950	\$ 316,108	\$ 595,000

Requested Proposal Information	FJW Const Austin	American Constructors Austin	EMJ Irving	Brath Round Rock	Roger-O'Brien Austin	Chaney-Cox Temple
Pre-Construction Phase Fee	\$ 12,500	\$ 8,000	\$ 6,500	\$ 10,000	\$ 5,000	\$ -
Construction Phase Services Fee-% of Cost of Work	3.75%	2.50%	3.00%	2.50%	3.90%	2.50%
General Conditions-Initial 8 months	\$ 156,000	\$ 180,000	\$ 196,883	\$ 137,283	\$ 336,200	\$ 70,000
General Conditions-additional months	\$ 19,500	\$ 20,000	\$ 24,610	\$ 16,400	\$ 40,960	\$ 9,000
Total CMAR fees (excluding bonds)-assuming Cost of Work totaling \$5 mil & Construction Period of 10 mo	\$ 395,000	\$ 353,000	\$ 402,603	\$ 305,083	\$ 618,120	\$ 213,000

Interviewed, but not recommended for Council award.

Contractor being recommended for award of contract.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION-MANAGER-AT-RISK CONTRACT FOR RENOVATIONS TO THE POLICE HEADQUARTERS FACILITY WITH AMERICAN CONSTRUCTORS OF AUSTIN, TEXAS, IN THE AMOUNT OF \$8,000 FOR PRECONSTRUCTION PHASE SERVICES, 2.5% OF THE COST OF WORK FOR CONSTRUCTION PHASE SERVICES, A LUMP SUM FEE OF \$180,000 FOR GENERAL CONDITION FEES COVERING AN 8-MONTH CONSTRUCTION PERIOD, A MONTHLY FEE OF \$20,000 TO COVER GENERAL CONDITIONS SHOULD THE CONSTRUCTION PERIOD EXCEED 8 MONTHS; DECLARING OFFICIAL INTENT TO REIMBURSE ASSOCIATED EXPENDITURES MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THIS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 21, 2010, the City Council authorized the use of the Construction-Manager-at-Risk (CMAR) delivery method for the construction services related to the renovations to the Police Headquarters facility;

Whereas, 13 proposals for this project were received by the City on November 9, 2010, and were evaluated by a 5-member proposal evaluation committee who unanimously recommend award of the contract to American Constructors of Austin, Texas;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations;

Whereas, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

Whereas, upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; 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 to execute a construction-manager-at-risk contract for renovations to the Police Headquarters facility with American Constructors of Austin, Texas, after approval as to form by the City Attorney, in the amount of \$8,000 for preconstruction phase services, 2.5% of the cost of work for construction phase services, a lump sum fee of \$180,000 for general condition fees covering an 8-month construction period, and a monthly fee of \$20,000 to cover general conditions should the construction period exceed 8 months.

Part 2: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 3: This Resolution is a declaration of official intent under Section 1.150.2 of the Treasury Regulations by the City that it reasonably expects to reimburse the expenditures described in Part 4 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 4: The following is a general functional description of the Project for which the expenditures to be reimbursed are paid and a statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project.

Project Description

Debt To Be Issued

Renovations to the Police Headquarters facility

\$8,000 for preconstruction phase services; 2.5% of the cost of work for construction phase services; a lump sum fee of \$180,000 for general conditions

fees covering an 8-month construction period; and a monthly fee of \$20,000 to cover general conditions should the construction period exceed 8 months

Part 5: The expenditures described in Part 4 is a capital expenditure under general Federal income tax principles or a cost of issuance.

Part 6: Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City or by any member of the same controlled group to pay for the expenditures described in Part 4.

Part 7: 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 **2nd** day of **December**, 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

12/02/10
Item #4(H)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing the acquisition of property in the Avenue G corridor, 9th Street, and 7th Street areas.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Over the past few months, the City has been engaged in separate discussions with Martha's Kitchen and the Salvation Army regarding acquisition of certain properties in the Avenue G corridor area, 9th Street, and 7th Street area. General terms and conditions of the transaction were presented and discussed in closed session with the City Council on November 18th. As was indicated at that time, the specific terms and conditions of the potential transaction are still be negotiated. However, the City Manager is requesting authority at this time to proceed, under the parameters discussed in closed session, with an agreement between the parties. The specific terms and conditions of the transaction will be released upon execution of the agreement by all parties. Disclosure and release of the terms and conditions that are still be negotiated at this time would not be in the best interests of the City nor the parties.

FISCAL IMPACT:

To be determined based on the final agreement between the parties.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. 2010-6193-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE EXECUTION OF TWO CONTRACTS WITH 1) THE CITY OF TEMPLE AND SALVATION ARMY, AND 2) THE CITY OF TEMPLE AND MARTHA'S KITCHEN FOR PROPERTY ACQUISITION LOCATED AT/NEAR THE AVENUE G CORRIDOR, 9TH STREET AND 7TH STREET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has recently been engaged in separate discussions with Martha's Kitchen and the Salvation Army regarding acquisition of property in the Avenue G corridor area, 9th Street and 7th Street;

Whereas, the specific terms and conditions of the potential transaction are still being negotiated and will be released upon execution of the agreement by the parties;

Whereas, the City Manager is requesting authority at this time to proceed, under parameters discussed in a closed City Council session, with agreements between the parties; 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 between the City of Temple and Salvation Army, after approval as to form by the City Attorney, for property acquisition located at/near the Avenue G corridor, 9th Street and 7th Street.

Part 2: The City Council authorizes the City Manager, or his designee, to execute a contract between the City of Temple and Martha's Kitchen, after approval as to form by the City Attorney, for property acquisition located at/near the Avenue G corridor, 9th Street and 7th Street.

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 **2nd** day of **December**, 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

12/02/10
Item #4(I)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-10-55: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.

P&Z COMMISSION RECOMMENDATION: At its November 1, 2010 meeting, the Planning and Zoning Commission voted 6/3 to recommend approval of the requested Conditional Use Permit to allow a package store on the subject property with the following conditions:

1. A sign must be installed on the property, in accordance with the attached CUP site plan, that prohibits vehicles with trailers from entry into the south parking area.
2. The CUP site plan and floor plan are binding
3. General conditional use standards including but not limited to those related to nuisance-free operation, safety and possible revocation in Zoning Ordinance Sec. 7-611 apply; and
4. Specific use standards for package stores in Zoning Ordinance Sec. 7-611.5 apply

Chair Talley and Commissioners Pilkington and Barton voted for denial.

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-10-56, from the Planning and Zoning Commission meeting, November 1, 2010. The applicant requests this Conditional Use Permit in order to establish a package store in the 2,520 square-foot lease space formerly occupied by a video store. Retail space is proposed to total 2,160 square feet. Access to the property comes from the existing 35-foot driveway on West Adams Avenue / FM 2305. Existing landscaping on the property consists of Lantana, grass, Texas Sage and Live Oaks. One parking space is required per 250 square feet of retail area, for a total of nine parking spaces required for the package store. Adequate additional parking spaces remain for the three office lease spaces located in the building. No drive-through is proposed. Facades of the existing building are limestone. The existing site complies with the applicable package store standards set forth in the Zoning Ordinance.

CUP 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.

Thus far, Staff has received no written public input related to the criteria above. An adjacent tenant spoke at the P&Z public hearing and expressed concern related to Criteria #1 and #4. He was concerned that traffic and clientele for a package store would have a negative impact on his insurance business and that access to the property may be difficult to navigate for people with boats who are stopping at the package store on the way to the lake.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and five courtesy notices were sent to surrounding tenants. As of Wednesday, October 27 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 October 21, 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-10-56)
P&Z Minutes (11/01/10)
Ordinance



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



2008 Aerial Shown (newer image unavailable)

 ZFY1055

Feet 0 50 100 150 200

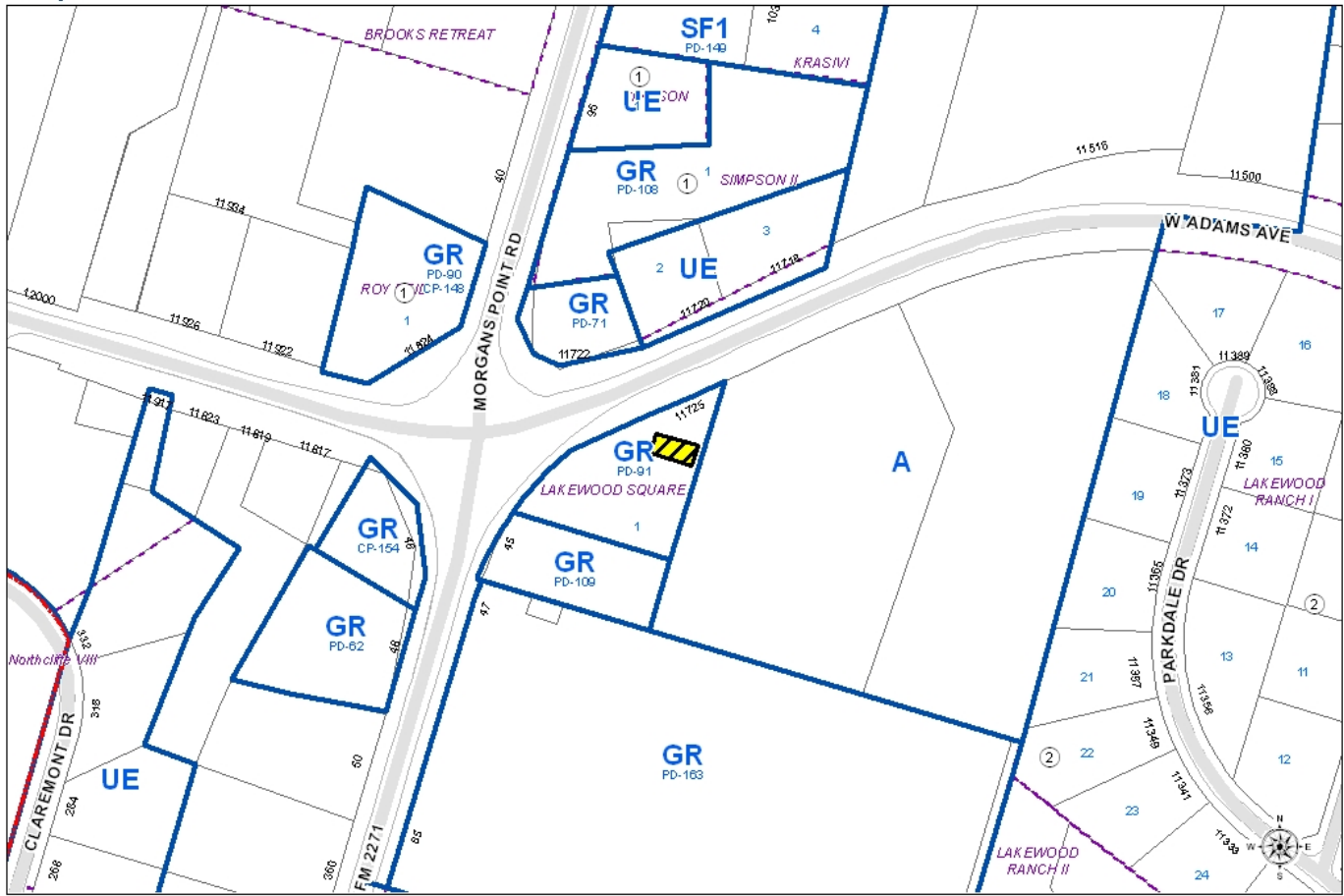
J Stone 9.29.10



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



Z-FY1055

Feet 0 50 100 150 200

J Stone 9.29.10



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A

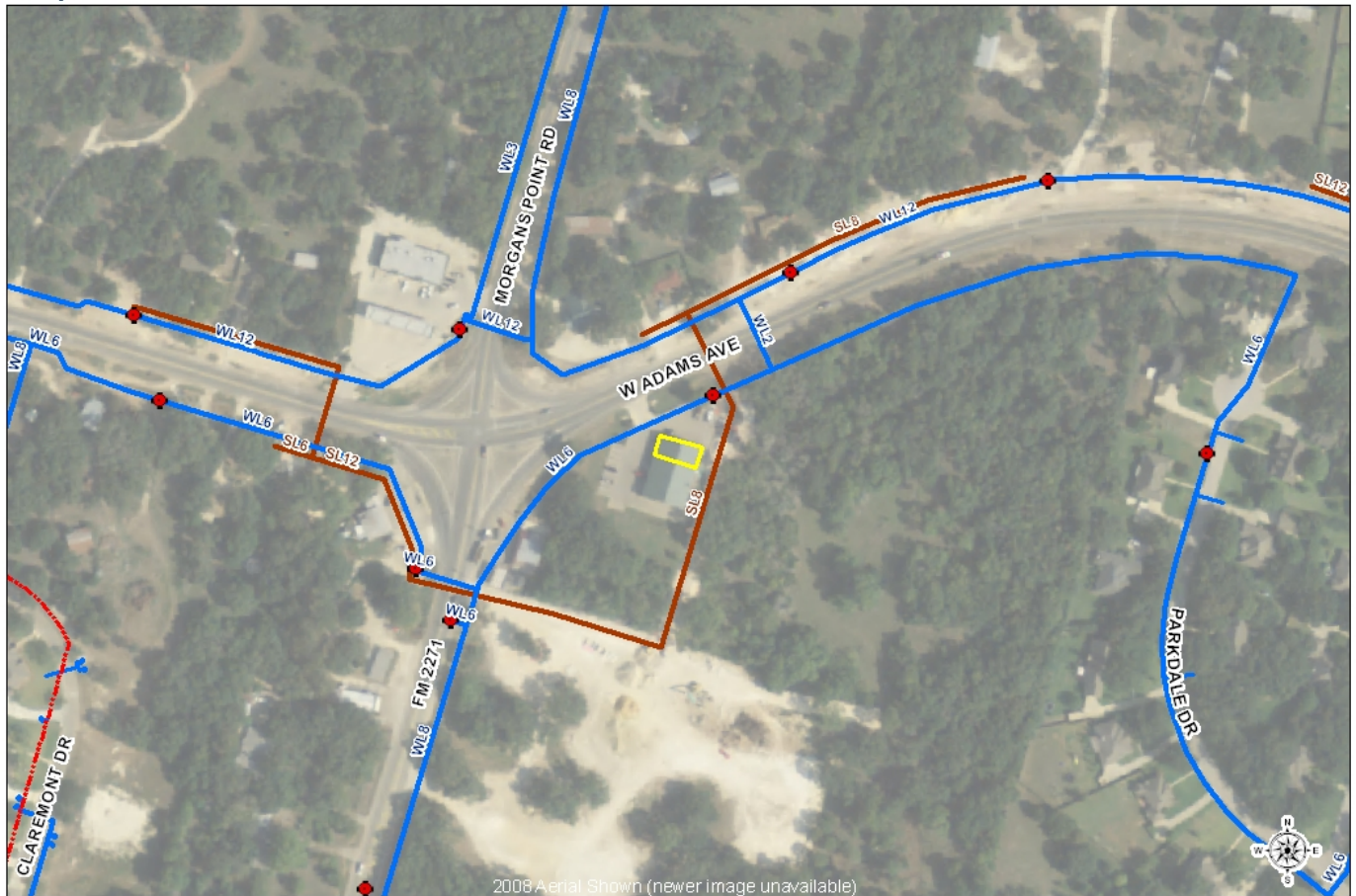




Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



 ZFY1055  WATER LINE  SEWER LINE

Feet 0 50 100 150 200
J Stone 9.29.10



RECEIVED

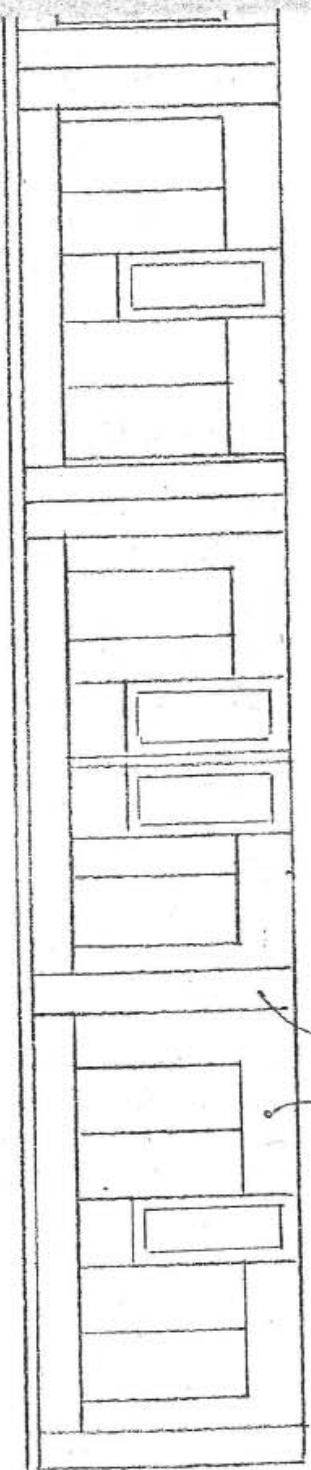
SEP 20 2010

City of Temple
Planning & Development



100'
Floor Plan
1/8" = 1'

SPLIT FRAME BLOCK
WHITE PRES w/ WHITE MOLDING
FRONT & END WALL, COLUMNS



Front Elevation
1/8" = 1'

RECEIVED

SEP 20 2010

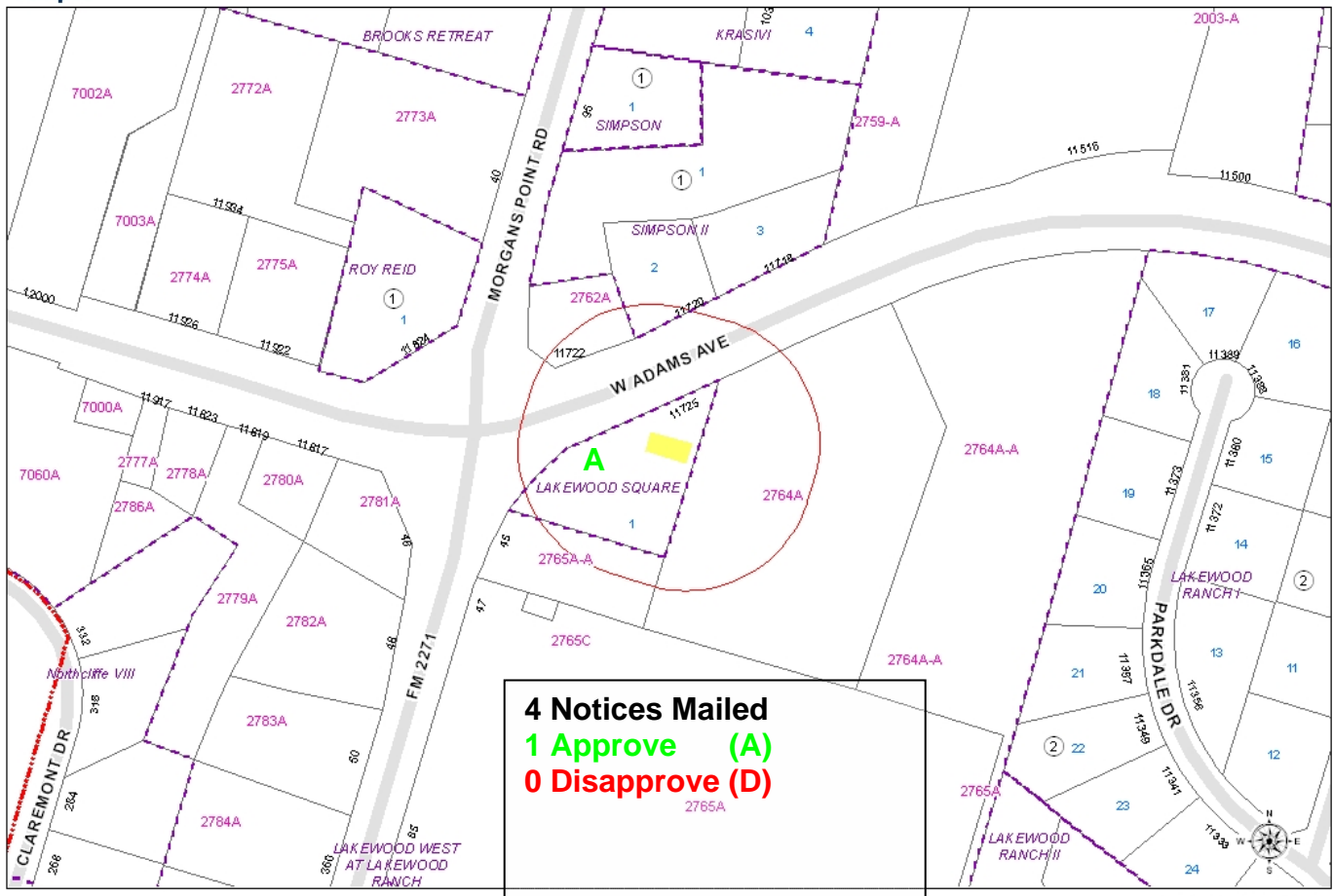
City of Temple
Planning & Development



Z-FY-10-55

2520sf of Lakewood Square, Lot 1, Block 1

11725 W Adams Ave, Suite A



4 Notices Mailed
1 Approve (A)
0 Disapprove (D)

○ 200' Buffer ■ ZFY1055

Feet 0 50 100 150 200
J Stone 9.29.10



**COURTESY NOTICE
RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE**

Farmers Insurance Group
11725 West Adams Avenue, Suite E
Belton, Texas 76513

Zoning Application Number: Z-FY-10-55

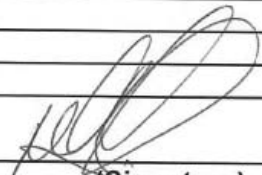
Project Manager: Brian Mabry

Proponent/Applicant: Marc Henderson for Don & Deanna Hinton

The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow an off-premise consumption package store. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

I recommend ☒ approval () denial of this request.

Comments:


(Signature)

Mike Seiler
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

OCT 25 2010

City of Temple
Planning & Development

Number of Notices Mailed: 4

Date Mailed: October 21, 2010



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/01/10
Item #2
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Applicant: Marc Henderson for Don & Deanna Hinton

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-55 - Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A.


BACKGROUND: The applicant requests this Conditional Use Permit (CUP) in order to establish a package store in the 2,520 square-foot lease space formerly occupied by a video store. Retail space is proposed to total 2,160 square feet.





Access to the property comes from the existing 35-foot driveway on West Adams Avenue / FM 2305. Existing landscaping on the property consists of Lantana, grass, Texas Sage and Live Oaks. One parking space is required per 250 square feet of retail area, for a total of nine parking spaces required for the package store. Adequate additional parking spaces remain for the three office lease spaces located in the building.

No drive-through is proposed. Facades of the existing building are limestone. The existing site complies with the applicable package store standards set forth in the Zoning Ordinance.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	PD-GR (CUP proposed)	Empty lease space	

Direction	Zoning	Current Land Use	Photo
North	PD-GR	Veterinarian	
South	PD-GR	Office lease space	
East	A	Undeveloped	
West	PD-GR & CUP	Fuel sales (across FM 2271)	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

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
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Suburban Commercial. The CUP request conforms to the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates W. Adams Ave. as a major arterial. The CUP request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eight-inch sewer line serve 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 W. Adams Ave. which is to be 10 to 12 feet in width. The Safe Routes to Schools grant that the City has received will provide a 10' sidewalk along this portion of W. Adams Avenue, on the other side of the street.

CUP 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.

Thus far, Staff has received no written public input related to the criteria above. An adjacent tenant recently spoke in person with staff and expressed concern related to Criteria #1 and #4. He was concerned that traffic and clientele for a package store would have a negative impact on his insurance business and that access to the property may be difficult to navigate for people with boats who are stopping at the package store on the way to the lake.

PUBLIC NOTICE:

Four notices of the Planning and Zoning Commission public hearing were sent out to surrounding property owners and five courtesy notices were sent to surrounding tenants. As of Wednesday, October 27 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 October 21, 2010 in accordance with state law and local ordinance

STAFF RECOMMENDATION: None, per direction from the Package Store Subcommittee; however, if approved, the following conditions must apply:

1. The CUP site plan and floor plan are binding;
2. General conditional use standards including but not limited to those related to nuisance-free operation, safety and possible revocation in Zoning Ordinance Sec. 7-611 apply; and
3. Specific use standards for package stores in Zoning Ordinance Sec. 7-611.5 apply

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Future Land Use and Character Map
Zoning Map
Thoroughfare Plan
Utility Map
CUP Site Plan
CUP Floor Plan
Notice Map
Response Letters

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

MONDAY, NOVEMBER 1, 2010

ACTION ITEMS

Item 2: Z-FY-10-55: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premises consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams Avenue, Suite A. (Applicant: Marc Henderson for Don & Deanna Hinton)

Mr. Brian Mabry, Planning Director, stated this case will go to City Council for first reading on November 18th and second reading and final action on December 2nd.

This CUP request was to establish a package store located at (the former Don's Video) leased space at FM 2305 and FM 2271. The leased space was 2,520 square feet with 2,160 square feet as retail. A CUP was required for a package store in the General Retail (GR), Commercial (C), Central Area (CA), Light Industrial (LI), and Heavy Industrial (HI) zoning districts.

Other tenants of the small shopping center included business offices. The parking and landscaping met or exceeded the requirements of the Zoning Ordinance and package stores and offices.

Surrounding properties included a veterinarian office to the north, undeveloped land to the east, a convenience store to the west, and office spaces to the south. The Future Land Use and Character Map designated the property as Suburban Commercial. West Adams was a major arterial on the Thoroughfare Plan and FM 2271 was a minor arterial. The property was served by a 6 inch water line and 8 inch sewer line.

The Zoning Ordinance established seven general criteria for evaluation of all CUPs:

1. Such use must comply with Chapter 4, "Alcoholic Beverages," of the City Code;
2. Outdoor lighting must comply with the standards in Zoning Ordinance, Section 7-566 (G);
3. If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys;
4. The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning;
5. An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane;
6. Parking (in any zoning district including in CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances);

7. Window signs are prohibited; and
8. Lighted advertising signs must be turned off at closing time.

All of the applicable standards above are reflected on the CUP site plan. This package store does not propose a pick-up window.

The site plan would be part of the ordinance that granted the CUP if approved.

Four notices were mailed out to both property owners and tenants: one (tenant) response was returned in favor and zero were returned opposed to the request.

In accordance with the Package Store Subcommittee's actions, Staff had no official recommendation for a package store. If this request were approved, the site plan and floor plan would be binding and become part of the ordinance that would grant the CUP. The General Conditional Use Standards included, but were not limited to, those related to nuisance free operation, safety, and possible revocation of the permit, and the Specific Use Standards for package stores would also apply to the property.

Chair Talley asked if a CUP were renewed on a yearly basis and Mr. Mabry stated the CUP ran with the land. A few CUPs have been renewed if City Council were hesitant to initially grant a CUP but normally a CUP will run with the land and remain in place unless revoked by City Council.

Commissioner Sears asked where the next closest CUP was located within the area. Mr. Mabry stated for a package store there were not any in the area, however, a CUP was granted further out for a convenience store to sell beer and wine but never materialized. The CUP remained in place.

Chair Talley opened the public hearing.

Mr. Scott Hrbacek, 1700 Moore's Mill, Temple, Texas stated he has had an occupied space in the subject building/property for the last six years and was speaking to the Commission as a tenant/lessee. He stated the building currently consisted of an insurance agency, his office, and a real estate agency.

Mr. Hrbacek stated he had concerns about parking and access and egress into the property. The entrance into the property had been an ongoing problem but it was on a major arterial on a curve off of FM 2271 onto 2305. Any time a trailer, a boat, or something other than a car pulled into the lot, there was no easy way to get them in and out; they pull in then have to back out. Servicing of a package store with vendors and delivery trucks coming in and out on a daily basis would be an issue for Mr. Hrbacek. Currently, people have to be stopped from pulling a big Class 6, 7, or 8 truck from pulling in and stopping in front of his business. He does not have an issue with that except when people try to get in and out. The cars are parked in such a way that they would not be able to get out until the delivery trucks were done. The location would be a challenge for those trucks servicing the package store.

Mr. Hrbacek also had a concern about the parking. The parking met the requirements but there were three functioning offices with customers, clients, and employees coming in and out

and it was a tight area. The northern part of the parking lot was not utilized at all. Mr. Hrbacek did not like the idea of his clients having to drive through the liquor store parking lot to get to his area. Mr. Hrbacek asked if there were a way to have a pull-through for deliveries made in the back, or extend the curb cut to allow bigger trucks, or if other options were available. Mr. Hrbacek was not against a business opening, he just does not want it to infringe on his business.

Commissioner Staats stated the driveway entrance width may be regulated by TxDOT and may not be able to be changed. Mr. Hrbacek suggested possibly extending the driveway all the way around the building and have the trucks service the package store from the back side.

Commissioner Pilkington asked what the traffic was like when the space was a video store. Mr. Hrbacek stated it was an issue at times but sharing the parking area was not the main problem; it was the trailers, boats, and trucks coming in creating a gridlock and interrupting his business.

Commissioner Sears asked about the back area with the AC units and dumpsters and if it was accessible. Mr. Hrbacek stated he thought the original intent was to have the ability to pull all the way around the building but the external units and air conditioners were placed in the space. The south area could be paved all the way around to have the ability to pull in and out. Commissioner Sears asked if they repaved, would a boat fit back there. Mr. Hrbacek stated it would need to be widened.

Brief discussion about property lines and area.

Commissioner Staats asked about his business hours and Mr. Hrbacek stated it was 8 to 5, but also had after hours and weekend appointments. Commissioner Hurd asked how long he had been there and the response was six years.

Mr. Marc Henderson, CUP applicant for the owner, 5882 Denmans Loop, stated he spoke with the landlord regarding parking on the side and having signage diverting traffic to the side lot were discussed, along with deliveries there, since there was enough room to get inventory in and out of the back without disrupting businesses. Hours of operation were mandated by the state and would be from 10 a.m. to 9 p.m. Mr. Henderson did not anticipate a lot of business during the day and stated the majority of traffic would probably occur after 5 and on the weekends (Friday and Saturday) after 5 and probably all day Saturday.

Mr. Henderson stated he did not want to interfere with the current tenants and had discussed it with the landlord. The plan was to use signage to divert traffic to the side lot as much as possible since there was parking available away from the building. Mr. Henderson was in total agreement that the real estate office and Mr. Hrbacek's office people could pull up, get out, and go in. Deliveries would be made down the side and hand carried off since it was a small space. Mr. Henderson did not see having daily deliveries but rather one to two a week.

Mr. Hrbacek asked if the package store front would be on the north or west side of the building and Mr. Henderson stated it would be where the video store was, on the west, the same as Mr. Hrbacek's. Mr. Henderson stated TABC required this and would not allow the other door to be

opened. Mr. Hrbacek asked how many vendors would serve the store and Mr. Henderson stated one for tobacco products, one for wine and spirits, and one for beer.

Commissioner Sears asked what type of trucks would service the store and Mr. Henderson stated a box truck was used for beer, not an 18-wheeler, liquor and wine distributors sometimes use pick ups, but overall, nothing bigger than a box truck.

Mr. Hrbacek asked the Commission to make a stipulation to the CUP regarding limitation of the size of the delivery trucks.

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

Commissioner Staats commented about possibly having the deliveries made during the time when the least amount of traffic would be parked and asked if deliveries had to be made during the business operation hours. Mr. Henderson responded yes. Mr. Henderson did not feel the daytime hours would be that busy during the work week and would try to arrange for deliveries during that time.

Commissioner Hurd made a motion to approve Z-FY-10-55 and Commissioner Staats made a second.

Motion passed: (6:3)

Commissioners Pilkington, Barton, and Chair Talley voted Nay.

ORDINANCE NO. 2010-4408

[PLANNING NO. Z-FY-10-55]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW THE SALES OF DISTILLED LIQUORS, WINES AND BEERS IN UNBROKEN ORIGINAL CONTAINERS IN A PACKAGE STORE FOR OFF-PREMISE CONSUMPTION IN A 2,520 SQUARE FOOT LEASE AREA ON A PORTION OF LOT 1, BLOCK 1, LAKEWOOD SQUARE SUBDIVISION, LOCATED AT 11725 WEST ADAMS, SUITE A; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of a 2,520 square foot lease area on a portion of Lot 1, Block 1, Lakewood Square Subdivision, located at 11725 West Adams, Suite A, 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 the sales of distilled liquors, wines and beers in unbroken original containers in a package store for off-premise consumption in a 2,520 square foot lease area on a portion of Lot 1, Block 1,

Lakewood Square Subdivision, located at 11725 West Adams, Suite A, 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.
- (t) A sign must be installed on the property, in accordance with the attached CUP site plan, that prohibits vehicles with trailers from entry into the south parking area.

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 **18th** day of **November**, 2010.

PASSED AND APPROVED on Second Reading on the **2nd** day of **December**, 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

12/02/10
Item #4(J)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Director of Parks and Leisure Services

ITEM DESCRIPTION: Consider adopting a resolution naming the baseball complex at Scott and White Park (Guthrie and Wiseman baseball fields) as the *Drayton McLane, Jr. Baseball Complex at Scott and White Park*.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: We were approached by representatives from Minute Maid and asked if there was a baseball field in Temple that was in need of major renovation. Minute Maid has the naming rights to the baseball field in Houston where the Houston Astros play. As part of their community outreach program to encourage more youth to play baseball, they renovate one field in a community each year.

In the past, the fields they have renovated were in the Houston area, but since the 10th year anniversary of Minute Maid having the naming rights to the baseball park is coming up, they wanted to see if there was a field in Temple that they could renovate in honor of Houston Astros owner, Drayton McLane, Jr.

We reached an agreement with Minute Maid on one of the youth baseball fields at Scott and White Park. The field renovations will start in 2011 so that the field can be playable in the 2012 youth baseball season. The field to be renovated will be the Billy Wiseman, Jr. field. Our estimation of the value of the work they will be doing to renovate the field is \$150,000. The field will be totally redone with new fencing, irrigation, grading of the fields and new dugouts.

Minute Maid has requested we name the two baseball field complex (Billy Wiseman, Jr and Calvin Guthrie Field) at Scott and White Park as the *Drayton McLane, Jr. Baseball Complex at Scott and White Park*.

The policy for naming park facilities encourages not naming a facility after a living person. It does allow for it with the stipulation that the person "should have made a major contribution to Temple in either deed or monetary contribution." It also allows for the naming of a facility after a person if "50% or more of the cost of development is donated by the person or organization."

The current policy adopted by City Council for the naming of a park or park facility, in part states:

Naming a park or facility after living people or an organization:

Naming a Park or park facility after a living person is not recommended, however there may be times when the community believes it to be the proper and necessary thing to do. The person should have made a major contribution to Temple in either deed or monetary contribution. The organization also should have made a major contribution to Temple in either deed or monetary contribution.

Some criteria considerations can include:

- *A significant monetary contribution toward acquisition or development of a public facility.*
- *When 50 percent or more of the value of the property is donated by the person or organization.*
- *When 50 percent or more of the cost of development is donated by the person or organization.*
- *When a major contribution has been made by the person or organization to the enhancement of the quality of life in the community.*
- *Outstanding accomplishments by an individual for the good of the community. Quality of the contribution should be considered along with the length of service by the individual.*

We believe Minute Maid has more than exceeded the above standards by contributing 100% of the renovation development costs of the field and that Drayton McLane, Jr. has demonstrated many outstanding contributions to the Temple community for many years.

At its November 16, meeting the Parks and Leisure Services Advisory Board voted unanimously to recommend naming the baseball complex in honor Drayton McLane, Jr.

We believe it is appropriate at this time that City Council approve the naming of the *Drayton McLane, Jr. Baseball Complex at Scott and White Park*.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Copy of letter of request from Minute Maid Resolution](#)



Fred H. Arnold
Manager, Strategic Alliances
Minute Maid Business Unit
Coca-Cola North America

October 8, 2010

To:

**Ken Cicora, Director of Parks and Leisure Services
City of Temple
1909 Curtis B. Elliot Drive
Temple, TX 76503**

From:

**Fred H. Arnold
Coca-Cola North America/Minute Maid Business Unit
Grand Slam For Youth Baseball
Houston, Texas**

Re: Memorandum of Intent/GSFYB 2012 Field Refurb Award

Grand Slam For Youth Baseball (GSFYB), which is a partnership between Minute Maid, the Houston Astros Baseball Club and Astros In Action Foundation, is committed to renovating one youth baseball/softball field per year over the next two decades. To date, we have rebuilt or refurbished fourteen (14) little league baseball parks. In 2012, GSFYB will focus on a field in Temple, Texas

On behalf of Coca-Cola North America, brand Minute Maid, the Houston Astros, Astros In Action Foundation and GSFYB, it is my pleasure to inform you that we have selected Billy Wiseman, Jr. Memorial Field located in Scott & White Park, 1601S. 19th Street, Temple, TX 76504 for the 2012 GSFYB Field Refurbishment Program.

Based upon our evaluation, GSFYB proposes the following:

Improvements:

- Possible field reorientation
- Field grading
- Sprinkler system installation
- Installation of new infield and outfield surfaces
- New chain link fence backstop, dugouts with covers and new concrete pads for dugouts
- Outfield fencing with polycap
- Dugout-to-Dugout Warning Track
- New Electronic Scoreboard, with the Minute Maid, Astros-in-Action Foundation and Grand Slam For Youth Baseball logos

As part of this extensive field reconstruction, we are asking the City of Temple to:

- clear the Billy Wiseman, Jr. Memorial Field of all standing backstops and concrete pads and/or reinforcements
- provide an adequate pressure water supply to the site of field sprinkler system
- provide a suitable and agreeable site for sprinkler system controls
- provide electrical connections and conduits for sprinkler and scoreboard
- provide underground conduit for scoreboard data line

Process -

GSFYB will provide all of the above improvements through GSFYB contractors in conjunction with and approval by the City of Temple Parks and Leisure Services.

GSFYB would like to begin the construction process in July of 2011, with completion in January 2012. Dedication ceremony will be scheduled to coincide with Houston Astros' Caravan event in January or February, 2012.

Additionally, we would ask that you consider naming the area where both Billy Wiseman, Jr. Memorial Field and Calvin Guthrie Field as the **Drayton McLane Baseball Complex at Scott & White Park.**

Of course, the above-listed improvements are subject to change and all proposed work will require final approval by your office and the City of Temple.

We are looking forward to further discussions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Farnold', is written over a horizontal line.

**Cc: Marian Harper
Houston Astros Baseball Club
Astros In Action Foundation
Grand Slam For Youth Baseball
Houston, Texas**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, NAMING THE BASEBALL COMPLEX AT SCOTT AND WHITE PARK (GUTHRIE AND WISEMAN BASEBALL FIELDS) AS THE *DRAYTON MCLANE, JR. BASEBALL FIELD AT SCOTT AND WHITE PARK*; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Grand Slam For Youth Baseball (GSFYB), which is a partnership between Minute Maid, the Houston Astros Baseball Club and the Astros in Action Foundation, has agreed to completely renovate the two baseball field complex (Billy Wiseman, Jr. and Calvin Guthrie Field) at Scott and White Park as part of its community outreach program to encourage more youth to play baseball;

Whereas, they requested that the newly renovated baseball complex be named in honor of Houston Astros owner, Drayton McLane, Jr.;

Whereas, the estimate of the value of work to be performed is \$150,000, and the Staff feels that this meets the criteria of the City's naming of a park or park facility which provides that a park or park facility can be named after a living person if a project makes, "a significant monetary contribution toward acquisition or development of a public facility;" 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 naming the baseball complex at Scott and White Park (Guthrie and Wiseman baseball fields) as the *Drayton McLane, Jr. Baseball Complex at Scott and White 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 2nd day of **December**, 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

12/02/10
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Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution directing the Staff to prepare a municipal services plan, and asking the Planning & Zoning Commission to develop a recommendation for the City-initiated annexation containing approximately 3394.9 acres located in the City's extraterritorial jurisdiction including a portion of Lake Belton and surrounding property; adopting a schedule for the proposed annexation; and setting the dates for two public hearings on the proposed annexation.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: As part of the City's ongoing growth management study, the City staff has continued to evaluate areas for possible future annexation into the City limits. One of the areas under consideration is an area that includes a portion of Lake Belton within the City's extraterritorial jurisdiction (ETJ) and certainly public-owned property adjacent to Lake Belton. The area includes a portion of land adjacent to (north and south of) Temple Lake Park that is owned by the Corps of Engineers (U.S. Government) and additional land area across from Temple Lake Park on a narrow strip of land that juts into Lake Belton also owned by the Corp of Engineers. The area that we are proposing to study for annexation also contains a portion of the Lake Belton—bounded on the west and north by the limits of our ETJ line. On the south the study area is either bounded by Belton's ETJ line or by the south shore of Lake Belton. [note: we are not proposing to annexing land within our ETJ on the south side of Lake Belton—the areas sometimes described as the "large & small claws." The proposed study area, to the best of our knowledge, does not include any privately owned property or residences.

The City approves plats within our ETJ, but has no authority to zone land or to regulate the use of land. Annexing land into the City limits allows the City to impose land use controls. Annexing land allows acts to extend the City's ETJ to an area that is not currently within the ETJ of another city. The area being proposed for study is one likely to see significant development in the next decade.

In our decision making process to determine whether to recommend that the City Council study the possible annexation of an area, we have considering multiple factors, including:

- protection of current community assets, e.g.,. Lake Belton/our water supply, airport and other transportation infrastructure
- current and future land use and development, or the lack thereof
- current and future municipal services

Based upon the above factors, it is timely for the Council to consider the possible annexation of this strategic area in and around Lake Belton. When the City Council directs the staff to prepare a municipal service plan for an area, the process of annexing an area is initiated. The City Council can reduce (but cannot increase) the area to be annexed) or the City Council can decide to take no action to annex property.

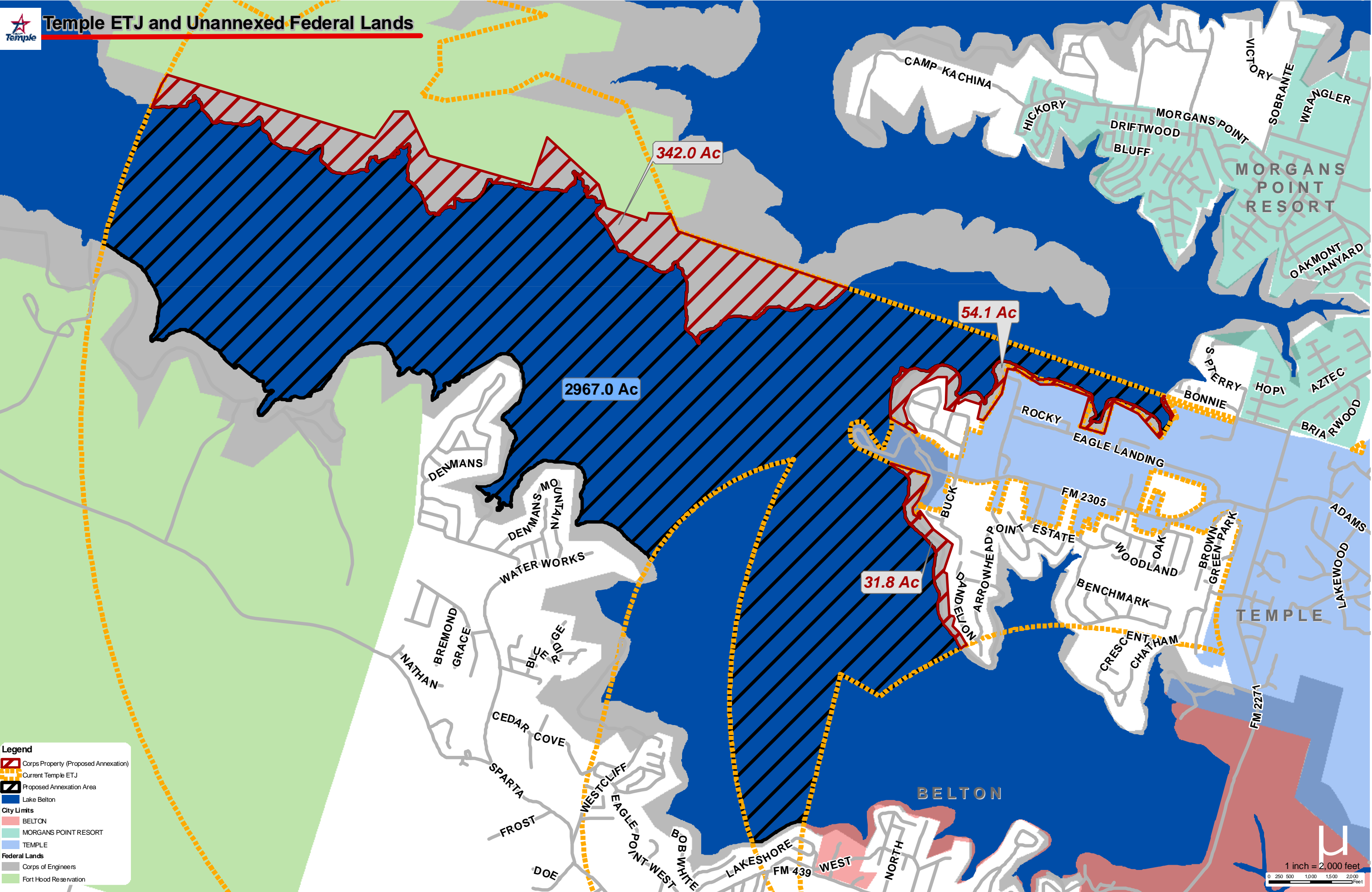
FISCAL IMPACT: Yet to be determined. Development of a municipal service plan will assist the City Council from identifying the costs of providing municipal services to the area being studied.

ATTACHMENTS:

[Map](#)
[Resolution](#)



Temple ETJ and Unannexed Federal Lands



Legend

- Corps Property (Proposed Annexation)
- Current Temple ETJ
- Proposed Annexation Area
- Lake Belton
- City Limits**
- BELTON
- MORGANS POINT RESORT
- TEMPLE
- Federal Lands**
- Corps of Engineers
- Fort Hood Reservation

RESOLUTION NO. 2010-6195-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DIRECTING THE CITY MANAGER TO DEVELOP A MUNICIPAL SERVICES PLAN, AND ASKING THE PLANNING AND ZONING COMMISSION TO DEVELOP A RECOMMENDATION FOR THE CITY-INITIATED ANNEXATION CONTAINING APPROXIMATELY 3,394.9 ACRES LOCATED IN THE CITY'S EXTRATERRITORIAL JURISDICTION INCLUDING A PORTION OF LAKE BELTON AND SURROUNDING PROPERTY; ADOPTING A SCHEDULE FOR THE PROPOSED ANNEXATION; SETTING THE DATES FOR TWO PUBLIC HEARINGS FOR THE PROPOSED ANNEXATION OF THE TRACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, as part of the City's ongoing growth management strategy, the Staff is evaluating areas for possible future annexation into the Temple City limits;

Whereas, the principal area under consideration at this time involves approximately 3,394.9 acres located in the City's extraterritorial jurisdiction including a portion of Lake Belton and surrounding property;

Whereas, the Staff recommends adopting an annexation schedule and calling public hearings on January 6, 2011, and January 7, 2011, in regard to the annexation area;

Whereas, State law requires that cities prepare a service plan to indicate the level of commitment to be made in conjunction with an annexation, and to identify public improvements necessary to serve the area proposed for annexation and how it plans to provide those services within specified time periods; and

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

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

Part 1: The schedule for the City-initiated annexation of approximately 3,394.9 acres, which is more fully described herein, attached hereto and made a part hereof for all purposes, as Exhibit A, is adopted.

Part 2: The City Manager, or his designee, is hereby directed to prepare a municipal services plan for the annexation area as follows:

The above tract is more fully described on a map which is attached hereto and made a part of this Resolution for all purposes as Exhibit B.

Part 3: The City Council hereby calls two public hearings to gather comment concerning the proposed annexation described in Section 2 above, with the first public hearing scheduled for January 6, 2011, at 5:00 PM, and the second public hearing on January 7, 2011, at 8:00 AM, both public hearings to be held in the City Council Chambers on the 2nd floor of the Municipal Building located at Main and Central in Temple, Bell County, Texas.

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

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

PASSED AND APPROVED this the **2nd** day of **December**, 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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DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2010-2011 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$37,376.

ATTACHMENTS:

[Budget amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
December 2, 2010

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-3700-524-2516		Judgments & Damages (Construction Safety)	\$ 285	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 285
Attorney fees for lawsuit filed against the City -- Centex Investments, Inc. v. City of Temple				
292-2900-534-6312	100606	Drainage Improvements	\$ 2,619	
292-0000-352-1345		Designated Capital Projects - 2010 Drainage Improvements		\$ 2,619
The budget adjustment appropriates fund balance to fund change order 3 in the amount of \$2,619 related to the construction contract with Wolff Construction, L.P., for construction services required to install the City of Temple 2010 Drainage Improvements.				
520-5100-535-2616		Professional (Water Treatment Plant)	\$ 10,266	
520-5000-535-6532		Contingency		\$ 10,266
In the FY 2011 operating budget, \$14,000 was included for the annual TCEQ inspection fee. The annual fee (administered by the TCEQ and imposed upon holders of permits and users of water) is significantly over budget. The annual inspection fee for the City of Temple for FY 2011 is \$64,265.65. The specific amount of the fee is subject to regulatory changes by the State in September of each year. After reallocation of current funds available in the professional account within the Water Treatment Plant departmental operating budget in the amount of \$40,000, an additional \$10,266 is necessary to be appropriated from the Water & Sewer Fund's contingency account.				
520-5900-535-6361	100596	Wastewater Line Replacement - 33rd to 35th from Ave H to Ave R	\$ 24,206	
520-0000-373-0411		Water & Sewer Unreserved Retained Earnings		\$ 24,206
The budget adjustment appropriates additional Water & Sewer Unreserved Retained Earnings to fund change order #1 in the amount of \$24,206 with TTG Utilities, L.P. related to the wastewater line replacement from 33rd to 35th from Avenue H to R.				
TOTAL AMENDMENTS			\$ 37,376	\$ 37,376
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	80,000
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	(10,988)
Net Balance of Judgments & Damages Contingency Account			\$	69,012
Beginning Fuel Contingency			\$	55,841
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	55,841

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
December 2, 2010

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Self Insurance Start Up Cost Contingency	\$	628,756
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(628,756)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		Net Balance Council Contingency	\$	124,853
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	50,000
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(19,433)
		Net Balance of Contingency Account	\$	30,567
		Beginning Self Insurance Start Up Cost Contingency	\$	100,365
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(100,365)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		Net Balance Water & Sewer Fund Contingency	\$	30,567
		HOTEL/MOTEL TAX FUND		
		Beginning Self Insurance Start Up Cost Contingency	\$	10,968
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(10,968)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		DRAINAGE FUND		
		Beginning Self Insurance Start Up Cost Contingency	\$	9,911
		Added to Self Insurance Start Up Cost Contingency	\$	-
		Taken From Self Insurance Start Up Cost Contingency	\$	(9,911)
		Net Balance of Self Insurance Start Up Cost Contingency Account	\$	-
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	2,284
		Carry forward from Prior Year	\$	25,229
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	27,513

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE
2010-2011 CITY BUDGET; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

Whereas, on the 2nd day of September, 2010, the City Council approved a budget for the 2010-2011 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2010-2011 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 2010-2011 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 2nd day of **December**, 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

12/02/10
Item #5
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-10-56: Consider adopting an ordinance authorizing an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. **(Note: approval of this item will require four affirmative votes of the City Council)**

P&Z COMMISSION RECOMMENDATION: At its November 1, 2010 meeting, the Planning and Zoning Commission voted 9/0 to recommend **denial** of the requested amendment to Planned Development ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed on the subject property.
2. Except as modified by the binding site development plan the use and development standards of the property must conform to the requirements of the General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

STAFF RECOMMENDATION: Conduct public hearing and **deny** the requested amendment to Planned Development Ordinance No. 1993 as presented in item description, on first reading. This item was tabled at the November 18, 2010, Council Meeting.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-10-56, from the Planning and Zoning meeting, November 1, 2010. The applicant has been operating a moving truck and van rental business on the property without the correct zoning district. This Planned Development (PD) request attempts to remedy the situation. The attached binding PD site plan shows in pink the locations where the moving van or truck rentals may park and it shows the addition of three trees along the I-35 frontage road. The I-35 Corridor Overlay zoning district does not prohibit the proposed use.

The applicant claims to only need six standard parking spaces for smaller moving truck or van parking and that other vehicles are stored off-site in the nearby Commercial zoning district, where such use is allowed by right.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approval the proposal. **In this case, owners of 40% of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP.** (See the Notification Map attached to this report)

PUBLIC NOTICE:

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, October 27 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Binding Site Development Plan
Notice Map
P&Z Staff Report (Z-FY-10-56)
P&Z Minutes (11/01/10)
Ordinance



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



 ZFY1056

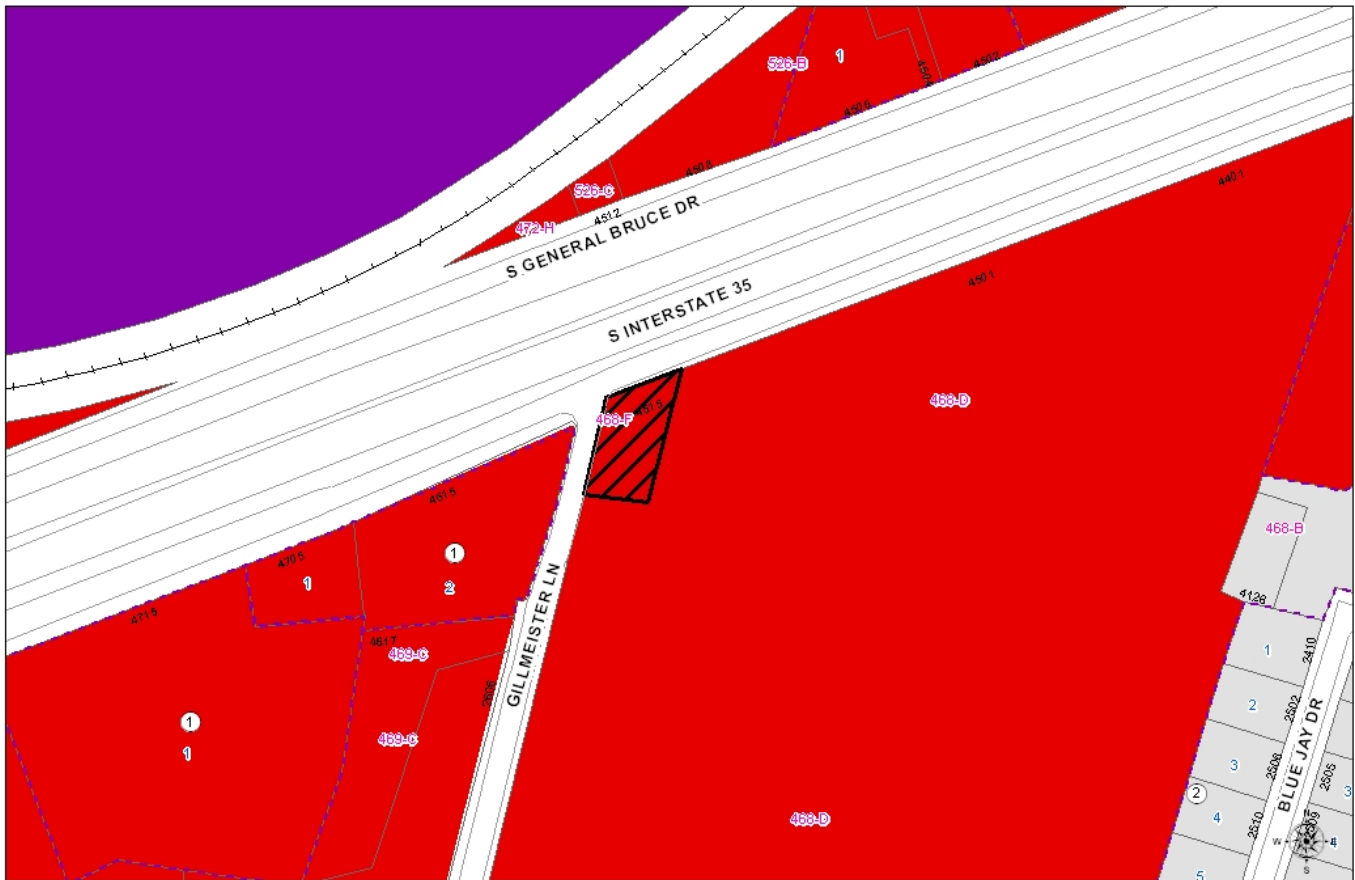
Feet 0 50 100 150 200
J Stone 9.29.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



- | | | | | | |
|-------------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ○ ZFY1056 | 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 | |

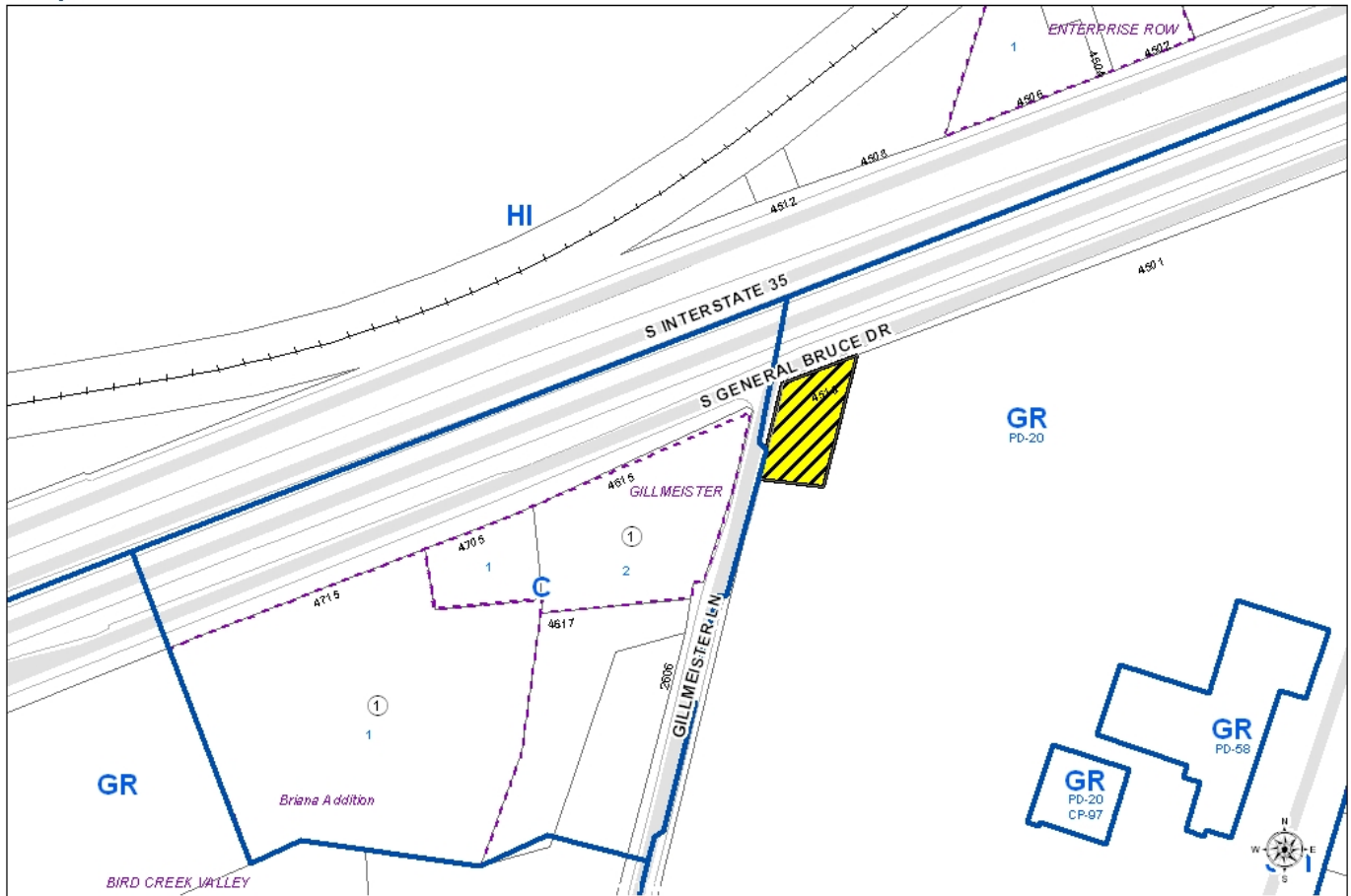
1 inch = 200 feet
J Stone 10.27.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr



ZF Y1056

Feet 0 50 100 150 200

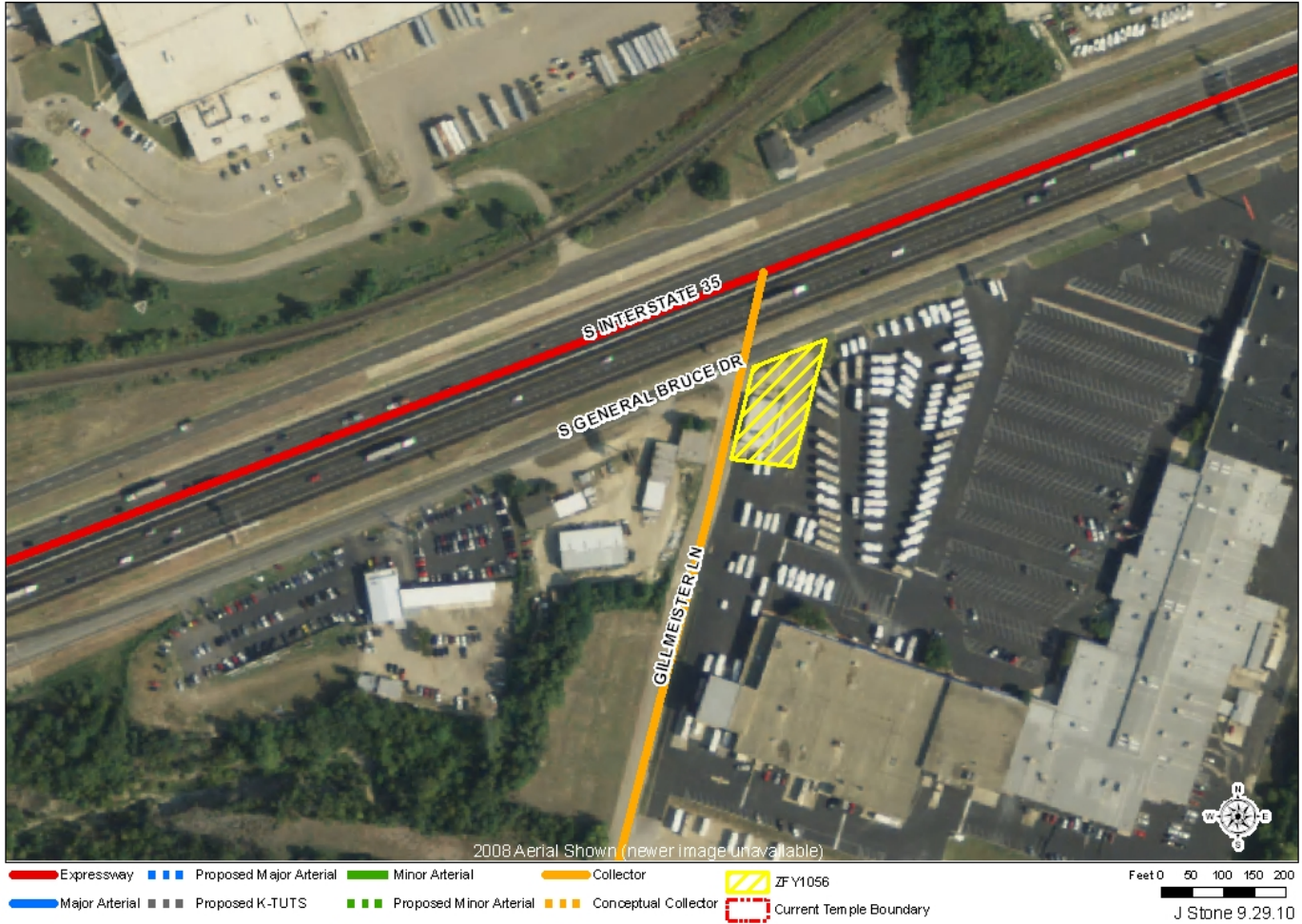
J Stone 9.29.10



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr








Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr

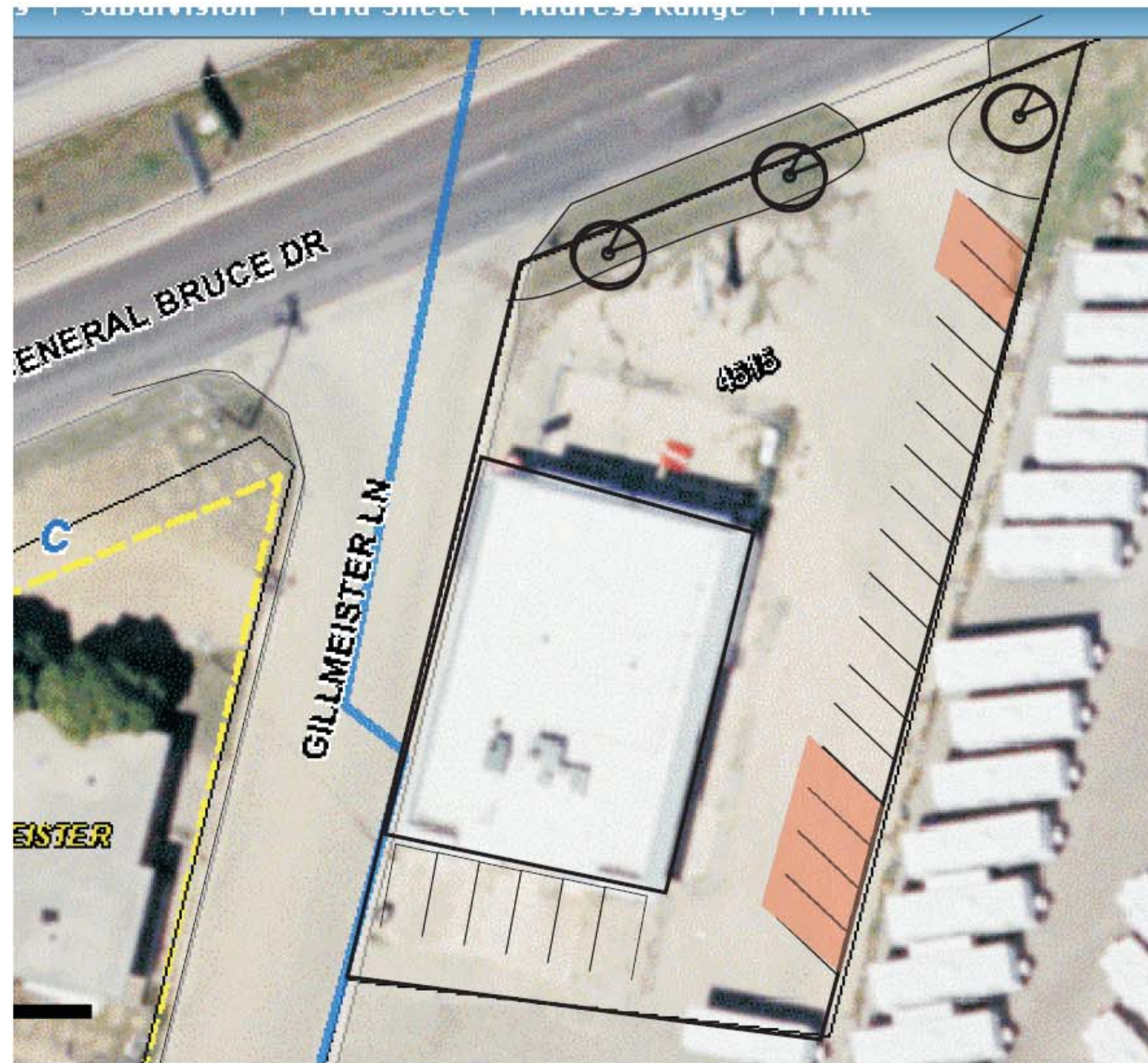


2008 Aerial Shown (newer image unavailable)

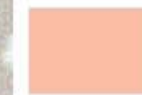
 ZFY1056  WATER LINE  SEWER LINE

Feet 0 50 100 150 200

J Stone 9.29.10



One 2" caliber, 5' tall
Red Oak planted
per 40' of I-35 frontage



Moving Van
Parking Area

Permitted, Conditional and Prohibited uses
are those listed in the GR Zoning District
and I-35 Corridor Overlay in the Zoning Ordinance.
In addition, a moving van rental facility is permitted
on the subject property.

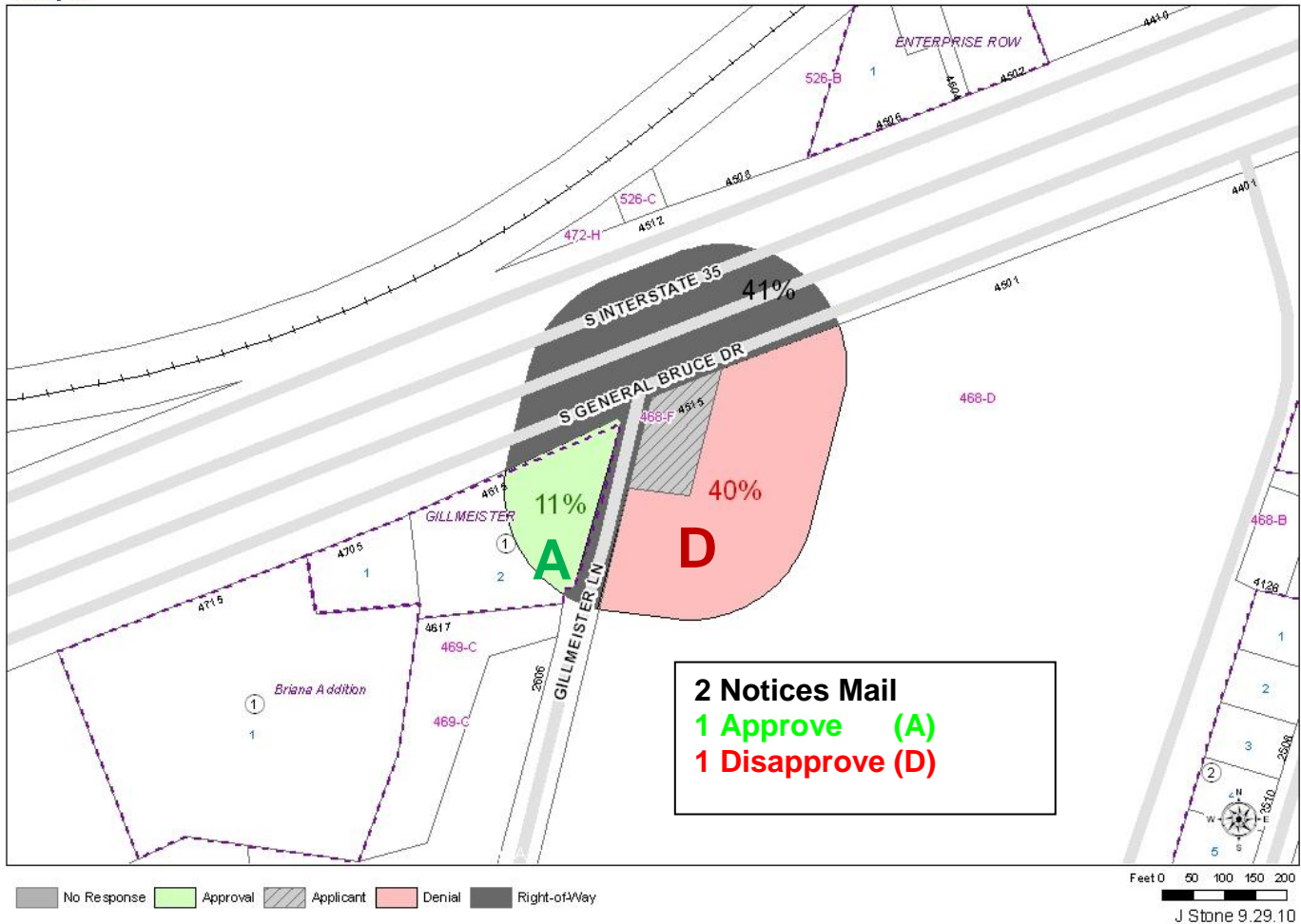
SUPER MAJORITY REQUIRED



Z-FY-10-56

Outblock #468-F

4515 S General Bruce Dr





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

RECEIVED

OCT 25 2010

City of Temple
Planning & Development

Gillmeister Properties LC
4615 South General Bruce Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-10-56

Project Manager: Brian Mabry

The proposed rezoning will allow truck rental and parking on 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:

*I highly recommend to allow truck rental
on the area as indicated.*

Leonard Gillmeister
Signature

Leonard Gillmeister
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 2

Date Mailed: October 21, 2010



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Bullish Resources Inc.
6111 Bandera Road
San Antonio, Texas 78238

Zoning Application Number: Z-FY-10-56

Project Manager: Brian Mabry

The proposed rezoning will allow development of truck rental and parking on 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 (X) denial of this request.

Comments:

See Attached Addendum "A"


Signature

10-26-10

Rod Deyoe - President of Charter
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 1, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 2

Date Mailed: October 21, 2010

Addendum "A"
Comments to Response to Proposed Rezoning Request
City of Temple
October 26, 2010

Comments:

The Owner of the formerly known Out Door America Mall, or former Ancira Mall, is in opposition to the requested zoning change allowing for truck rental storage and parking for the following reasons:

- 1) The subject owner will not be able to safely drive trucks onto his property without encroaching upon our tract of land. We have complained numerous times to the owner of U-Haul rental business to remove his vehicles and trailers from our parking lot. It is clear that he, or the people he is leasing to, is driving on our property without permission. Affectively, this particular business owner is using our parking lot as a means to operate his truck rental business, without permission and against our wishes. Please see attached pictures.
- 2) The recent addition of the State of Texas lease for the Health and Human Service Commission, as well as the Federal Governments VA Clinic, will clearly mean additional vehicular and pedestrian traffic to our facility. It is our opinion that a truck rental business in not a good fit for this. It is well known that many people that rent these large trucks are inexperienced drivers of large trucks, thus increasing the hazardous conditions even greater.
- 3) Using Gillmeister Lane as a way to back these large vehicles onto the property is not a good option, and is the only option unless they use our parking lot. The fact of the matter is, the subject property is simply too small to maneuver vehicles in a truck rental business without creating a hazardous condition to the public, or forcing the subject property owner to use the adjacent parking lot to his benefit, which he does not have permission to do so.

Therefore, we would respectfully request the City of Temple decline this rezoning request and instruct the subject property owner to remove any vehicles, or trailers, from our property. Additionally, we request that the City of Temple make every effort to stop this business owner from trespassing on our property by using our parking lot as a means to operate his truck rental business.

 10-26-10

Ancira Letter cont.







PLANNING AND ZONING COMMISSION AGENDA ITEM

11/01/10
Item #3
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: Mohammad Kayani

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-56 - Hold a public hearing to discuss and recommend action on an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive.

BACKGROUND: The applicant has been operating a moving truck and van rental business on the property without the correct zoning district. This Planned Development (PD) request attempts to remedy the situation. The attached binding PD site plan shows in pink the locations where the moving van or truck rentals may park and it shows the addition of three trees along the I-35 frontage road. The applicant and City staff agreed that a PD with a base zoning district of GR was preferable to rezoning to the Commercial (C) zoning district due to the wide range of uses that such district allows and the lack of control related to where the moving vehicles would be allowed to park.






The applicant claims to only need six spaces for moving truck or van parking and that other vehicles are stored off-site in the nearby Commercial zoning district, where such use is allowed by right.

Per State Statutes, if owners of more than 20 percent of the land area in the notification radius send in written comments disapproving of the proposal, then a super majority vote is required from City Council to approval the proposal. In this case, owners of 40% of the land in the notification area sent in negative written comments, so a super majority (at least 4 favorable votes) is required from City Council to approve this CUP. (See the Notification Map attached to this report0

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
-----------	--------	------------------	-------

Direction	Zoning	Current Land Use	Photo
Subject Property	GR (PD-GR proposed)	Tire store	
North	PD-GR	I-35	
South	PD-GR	Partially vacant shopping center	
East	PD-GR	Furniture store in shopping center	
West	C	Roofing company	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y
CP	Map 5.2 - Thoroughfare Plan	Y

Document	Policy, Goal, Objective or Map	Compliance?
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y

CP = Comprehensive Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Auto Urban Commercial. The request conforms to the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates I-35 as an expressway and Gillmeister Lane as a collector street. The CUP request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eighteen-inch sewer line serve the property. Public facilities are available for the property.

PUBLIC NOTICE:

Two notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, October 27 at 5 PM, one notice was returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-56, an amendment to Ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed on the subject property.
2. Except as modified by the binding site development plan the use and development standards of the property must conform to the requirements of the General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, NOVEMBER 1, 2010**

ACTION ITEMS

Item 3: Z-FY-10-56: Hold a public hearing to discuss and recommend action on an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on 0.404 ± acres of land being part of the George Givens Survey Abstract No. 345, located at 4515 South General Bruce Drive. (Applicant: Mohammad Kayani)

Mr. Mabry stated the purpose of this request was to allow moving van and truck rental which was already taking place on the subject property. The GR uses would be allowed as part of the Planned Development (PD), plus a rental facility taking place as part of the existing tire shop.

The existing PD was approved in the late 80's/early 90's and set parameters for the RV dealership in the main section of the shopping center. The PD would allow control of the parking of rental vehicles and required additional trees along the interstate frontage. If City Council did not approve this request, the rental facility may not take place on the property.

The surrounding properties consisted of I-35 to the north, a furniture store in the shopping center to the east, a roofing company to the west across Gillmeister Lane, and a vacant portion of the shopping center to the south. The Future Land Use and Character Map showed the property as Auto Urban Commercial. Gillmeister Lane was designated as a collector street and I-35 was an expressway. The property was served by a 6 inch sewer line and an 18 inch sewer line.

Surrounding zoning designations include Commercial (C) to the west, Heavy Industrial (HI) across I-35 and General Retail (GR) based zoning with Planned Development for the RV Center.

The parking of moving vans and trucks would be limited to the two spaces closer to the frontage road and four spaces at the back of the property. Three additional 2 inch caliper oaks would need to be planted along the interstate portion, one per 40 feet of frontage.

Some conditions that currently exist on the property are no parking in the right-of-way, whether Gillmeister or I-35 right-of-way, but it was currently taking place on the property. Also, there are tires in the front on a pole.

Two notices were mailed to property owners; one response was returned in favor of the request and one was returned in opposition. The disapproval came from the shopping

area which created enough land percentage in the notification area that a supermajority would be required of City Council to approve the PD.

Staff recommended approval of this request, an amendment to Ordinance No. 1993 to allow a moving van or truck rental facility on the subject property with the following stipulations:

1. A moving van or truck rental facility is allowed on the subject property.
2. Except as modified by the binding site development plan the use and development standards of the property must conform to the requirements of the General Retail zoning district and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2).
3. No tires are allowed for display or any other purpose outside of the building.
4. In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

Commissioner Sears asked if under the current GR zoning the van rental was permitted and Mr. Mabry stated no, under GR based standards, it would not be allowed. Applicant could have requested Commercial zoning which would open up allowable uses on the property, some of which may not have been appropriate. The more conservative approach was a PD that keeps the GR uses allowed by the base zoning but would add just the truck rental.

Commissioner Barton asked who would enforce only the six parking spaces to be used and Mr. Mabry stated in all likelihood, it would be based on complaints and Code Enforcement enforcing any violations.

Commissioner Staats stated the pictures shown already indicated more than six spaces were being used. Commissioner Barton also added that vehicles were already on another person's property.

Commissioner Pope asked if only one entry came off the access road and Mr. Mabry responded yes. Commissioner Pope asked if curb and gutter were on the east side of Gillmeister and Mr. Mabry stated he believed there was. Commissioner Pope asked if any barriers were between the mall on the east and the south side and Mr. Mabry responded he was uncertain. Chair Talley responded there was a small curb located there.

Commissioner Staats asked about the parking spaces on the south side of the building and how someone would possibly get into them. Mr. Mabry stated those standard spaces had no curb and vehicles would be coming in from the mall property to park there.

Commissioner Barton asked if Code Enforcement would be going there every day to make sure the spaces were used appropriately. Mr. Mabry stated it was his opinion that when complaints were made Code Enforcement would act upon them. Commissioner Barton asked if those trucks could be moved around without getting onto other property and what was a 'standard parking space.' A 20 foot bob-tailed truck would not fit in a standard parking place.

Commissioner Hurd asked about any dividing lines on the properties and Mr. Mabry stated a curb was located along the east property line, where the RVs were parked in the past.

Chair Talley opened the public hearing.

Mr. Rodney Deyoe, Manager for property owner, 5309 Park Hollow Lane (home), Austin, work address 3000 S. 31st Street, Temple. Mr. Deyoe stated the subject property was just too small to handle this type of business. Mr. Deyoe handed out pictures to the Commissioners which he took that morning to show the situation.

Mr. Deyoe stated he had personally asked the applicant's employees numerous times to remove their vehicles from his property. The trucks were one thing but the trailers were another; there was no way to pull into the property with one curb cut and turn around or pull in and out. When people who leased the vehicles returned them, many times it would be late, after or before hours, and were parked all over. Mr. Deyoe discussed liability issues for all concerned. The Health and Human Service Department (HHSC) had moved to their property which was 17,000 square feet and serviced well over 75 to 150 people per day. Additionally, they were in the process of building a VA clinic in the 10,000 square feet area and that would serve over 100 veterans.

Mr. Deyoe stated they were in the process of working through the HOP with public transportation. The HOP informed them they would not enter their property but if a bus stop were to be created, it would be on the service road and people would be walking from the service road to the property across the parking lot. Mr. Deyoe felt this would create a hazardous condition if a truck rental business were located on the corner. Also, drivers were not used to large trucks and would be bringing them in all hours of the day. Mr. Deyoe had no problems with a U-Haul business itself but the subject property was too small to accommodate the business. Mr. Deyoe stated there was no control either the applicant or the City had over people returning the vehicles.

Mr. Deyoe stated Mr. Gillmeister turned in his response letter since he was in communication with the applicant to lease some land behind his property to store additional U-Hauls. If Mr. Gillmeister leased the applicant additional land, there would be a real mess out there with lots of U-Hauls being dropped off on their property.

Mr. Deyoe stated if this request passed he would assure the Board there would be an iron fence erected along their property line and the south portion of the applicant's property would be totally inaccessible since there was no way to enter it, therefore, those potential parking spaces would disappear. Mr. Deyoe also stated there would be

an inappropriate number of parking spaces and the lack of striping would need to be addressed.

Commissioner Pilkington asked Mr. Deyoe if he personally asked the applicant to move the vehicles. Mr. Deyoe stated he did not believe it was the owner but an employee that worked for the applicant.

Chair Talley asked if any attempt had been made to discuss renting some of Mr. Deyoe's property and Mr. Deyoe stated the request had been made and was denied. He also stated they were currently in negotiations with USDA and a couple of other very large tenants for the 90,000 square feet area and felt sure within the next 12 months something would be done with that space, creating more people coming and going.

Mr. Muhammad Kayani, owner of the business at 4515 S. General Bruce Drive, stated this was the first time he had ever seen Mr. Deyoe, but a couple of times people from his business had asked him to move the vehicles and Mr. Kayani stated they were moved immediately.

Mr. Kayani stated that the tire business was currently not very good, was adding on the U-Haul trucks, and would not park big trucks on the lot. Mr. Kayani stated he already had a place from Mr. Gillmeister across the road which would allow for parking of big trucks. Big trucks were 20 to 26 feet and could be parked there. A small truck was 10 feet and the size of a pick up. The small trucks would be closer to the property and the big ones would be parked on Mr. Gillmeister's place. Mr. Kayani was waiting for approval from Mr. Gillmeister to park the big trucks there.

Mr. Kayani stated some of the place (shopping center) had been empty for 10-15 years and had no businesses. Now they were doing some business. There was a lot of room between his business and the other business and the U-Haul would not interrupt anyone's business. Mr. Kayani would tell his customers to park on the property across the road. Mr. Kayani would like his business to continue instead of closing down and would like to add the U-Haul portion.

Commissioner Pilkington asked Mr. Kayani if he knew the zoning for the property on Mr. Gillmeister's land and Mr. Mabry stated it was Commercial which would allow the parking. Commissioner Sears asked Mr. Kayani if he had considered moving the entire business onto the Gillmeister property and Mr. Kayani stated there was no building, just land.

Commissioner Barton asked about the procedure for notifying his customers of the parking procedures on the other property and Mr. Kayani stated it had not been started but would be started immediately.

Chair Talley asked if people ever dropped off trucks/trailers when no one was in the office and Mr. Kayani stated yes. Chair Talley asked if people were instructed immediately when they were renting what they would be doing and Mr. Kayani stated yes. Mr. Kayani stated the customers would be told when they are dropping off to drop off big trucks on that place and small trucks would be parked in front of the business.

Commissioner Pilkington asked Mr. Kayani if he realized people from the mall had spoken to his people previously and the request had been made to keep the trucks/trailers off the property. Mr. Kayani responded yes, two times, he was not personally contacted but his employees were asked to move the trucks and they were moved. Commissioner Pilkington stated the trucks were still there that morning so something was not working. Mr. Kayani stated someone may have dropped off and everyone cannot be stopped if they don't know. Both sides of the building were empty and if someone did not understand, they would just drop the trailers off and go.

Commissioner Staats asked who drew the parking spaces in the site plan and Mr. Mabry stated he did. Mr. Mabry clarified further by saying if this request were approved, the striping would need to match what was approved by City Council. He was not trying to represent the striping currently in place, but the dimensions should be correct. Commissioner Staats was asking only because the few parking spaces on the south side of the building seemed useless and wondered if the business would still meet the parking requirements. Mr. Mabry stated he did not believe there would be enough spaces if the shaded areas were not included.

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

Commissioner Sears made a motion to deny Z-FY-10-56 and Commissioner Pilkington made a second.

Motion passed: (9:0)

ORDINANCE NO. 2010-4409

[PLANNING NO. Z-FY-10-56]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING AN AMENDMENT TO ORDINANCE NO. 1993 TO ALLOW MOVING VAN AND TRUCK RENTAL IN A PLANNED DEVELOPMENT (GENERAL RETAIL) DISTRICT (PD-GR) ON APPROXIMATELY 0.404 ACRES OF LAND BEING PART OF THE GEORGE GIVENS SURVEY, ABSTRACT NO. 345, LOCATED AT 4515 SOUTH GENERAL BRUCE DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of approximately 0.404 acres of land being part of the George Givens Survey, Abstract No. 345, located at 4515 South General Bruce Drive has requested an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR);

Whereas, on November 1, 2010, the Planning and Zoning Commission voted to deny the owner's request; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 1993 to allow moving van and truck rental in a Planned Development (General Retail) District (PD-GR) on property consisting of approximately 0.404 acres of land being part of the George Givens Survey, Abstract No. 345, located at 4515 South General Bruce Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes, with the following conditions:

- (a) A moving van or truck rental facility is allowed on the subject property;
- (b) Except as modified by the binding site development plan, attached hereto as Exhibit B, the use and development standards of the property must conform to the requirements of the General Retail zoning district, the I-35 Corridor Overlay zoning district, and the specific use standards for minor vehicle servicing set forth in Zoning Ordinance Sec. 7-631(2);
- (c) No tires are allowed for display or any other purpose outside of the building;
- (d) The parking area must be striped to match the site development plan; and
- (e) In the event of a conflict between the site development plan and the text of the Planned Development ordinance, the stricter standard applies.

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 **2nd** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **16th** day of **December**, 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

12/02/10
Item #6
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-02: Consider adopting an ordinance authorizing a zoning change from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street.

P&Z COMMISSION RECOMMENDATION: At its November 15, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zone change from 2F to O-1 for the following reasons:

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

Vice-Chair Martin and Commissioner Barton were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 16, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-02, from the Planning and Zoning meeting, November 15, 2010. The applicant requests the rezoning in order to establish a small office in the existing approximately 1,100 square-foot structure on the subject property. Four parking spaces are required on the property if the rezoning is approved and the structure is converted into an office.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Objective 3.3.2 - Also consider expanding the range of permitted uses within neighborhood conservation districts to include complimentary nonresidential uses such as small-scale neighborhood commercial and office uses that add character, convenience, and vitality to a neighborhood.	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 = Comprehensive Plan * = See explanation below

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Neighborhood Conservation, which means that a mostly residential character should be retained. The subject property is just north of an area along S. 25th Street that is designated with the Auto Urban Mixed Use future land use and character category. If the applicant uses the existing structure for the office as he says he wants to, then the request conforms to the Future Land Use and Character Map. The size of the subject property, approximately 8,775 square feet, prevents it from being developed on a very large scale.

Objective 3.3.2

This objective in the text of the Comprehensive Plan recommends that in the future, the City allow complimentary nonresidential uses such as small-scale retail and office uses in existing, established residential areas. The request aligns with this recommendation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates S. 25th Street as a Minor Arterial and W. Ave. L as a Local Street. Access to the property comes from W. Ave. L. The request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eight-inch sewer line serve the property. Public facilities are available for the property.

PUBLIC NOTICE:

Sixteen notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, November 12 at 10:00 AM, two notices was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

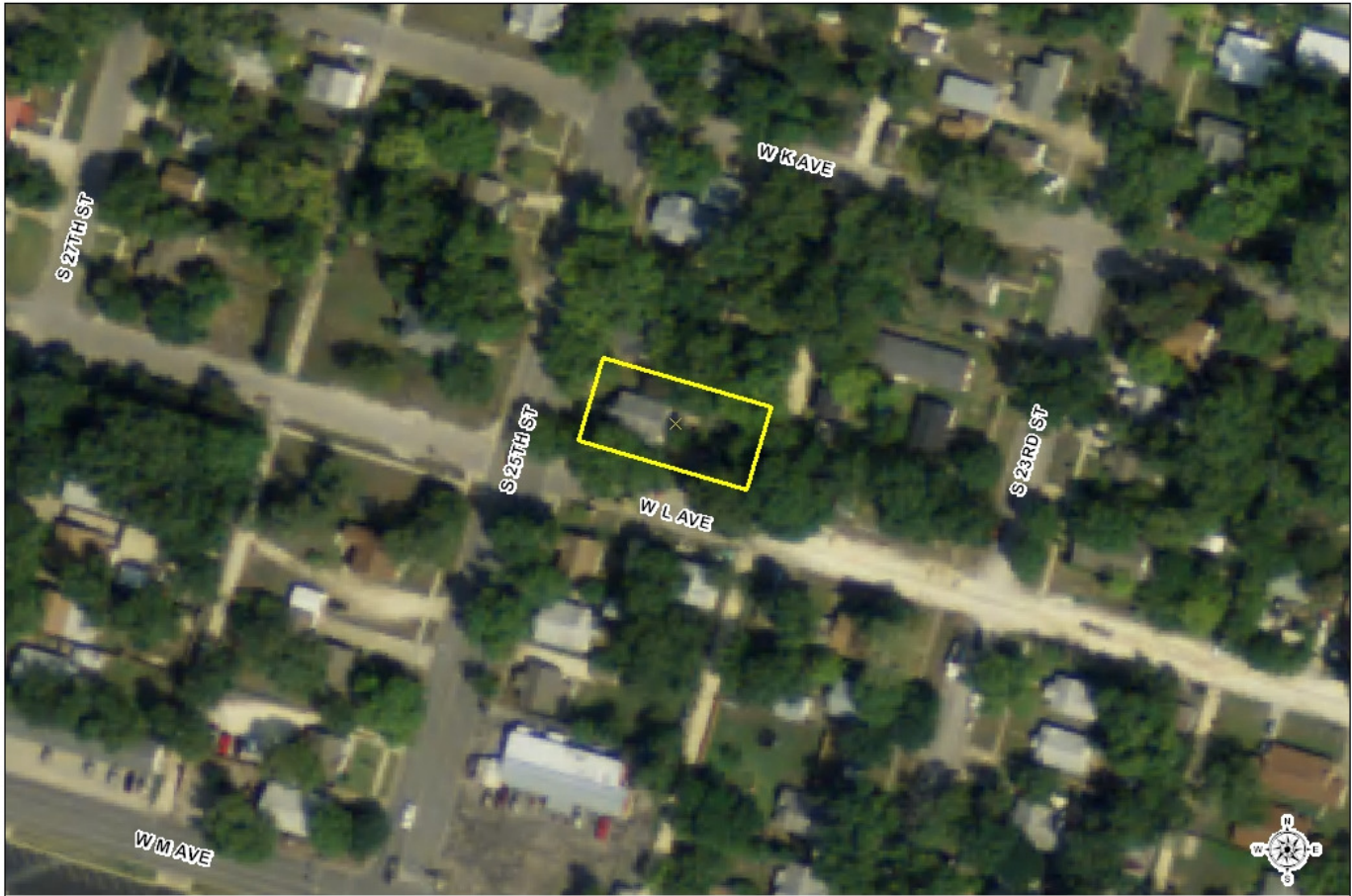
Aerial
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
Response Letters
P&Z Staff Report (Z-FY-11-02)
P&Z Minutes (November 15, 2010)
Ordinance



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



 ZF Y11 02

Feet 0 25 50 75 100
J Stone 10.12.10



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1102 | 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 | |

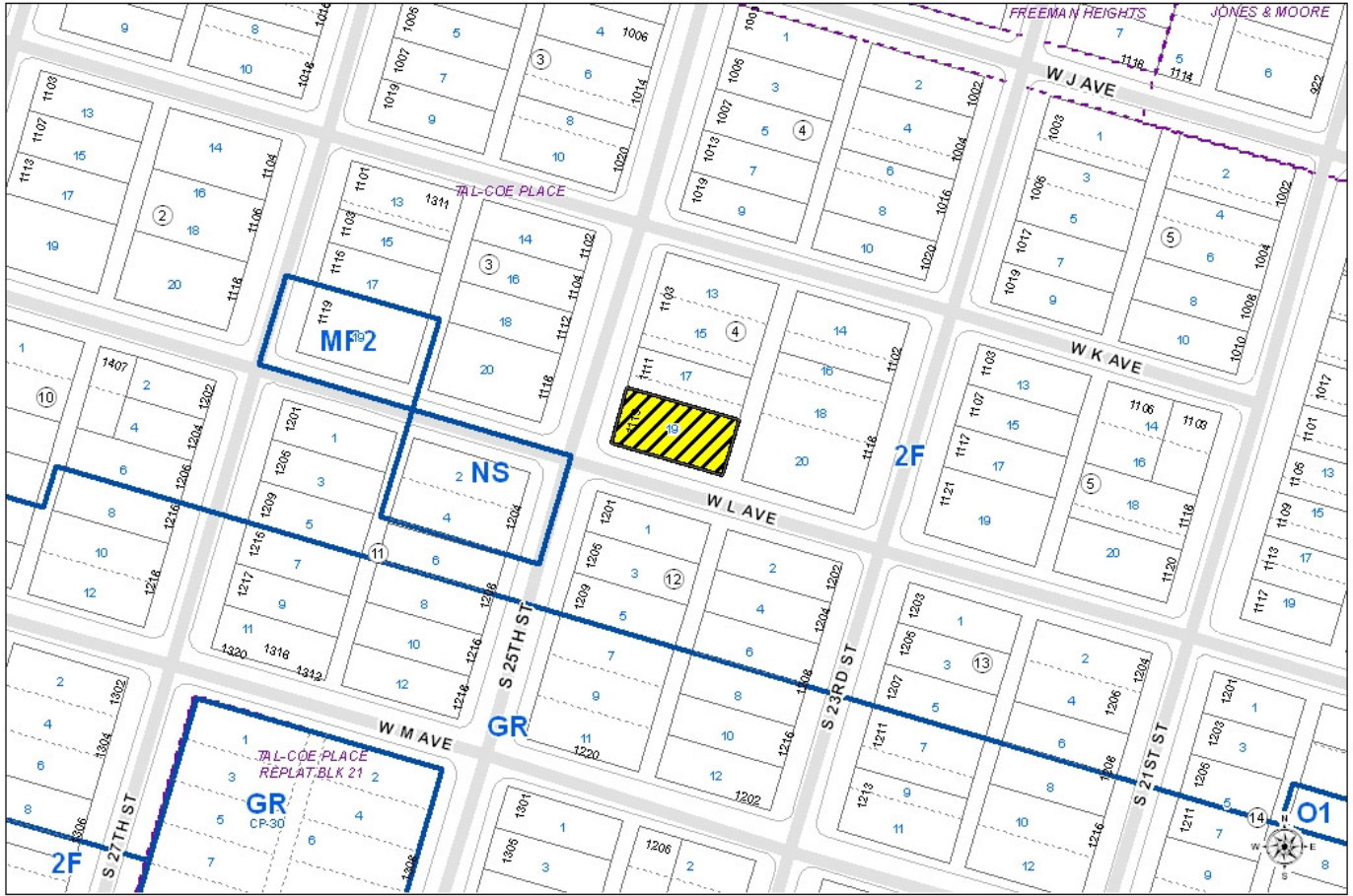
1 inch = 200 feet
J Stone 10.12.10



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



 ZFY1102

Feet 0 50 100 150 200

J Stone 10.12.10



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



- | | | | | |
|----------------|-------------------------|-------------------------|----------------------|-------------------------|
| Expressway | Proposed Major Arterial | Minor Arterial | Collector | ZFY1102 |
| Major Arterial | Proposed K-TUTS | Proposed Minor Arterial | Conceptual Collector | Current Temple Boundary |

Feet 0 50 100 150 200

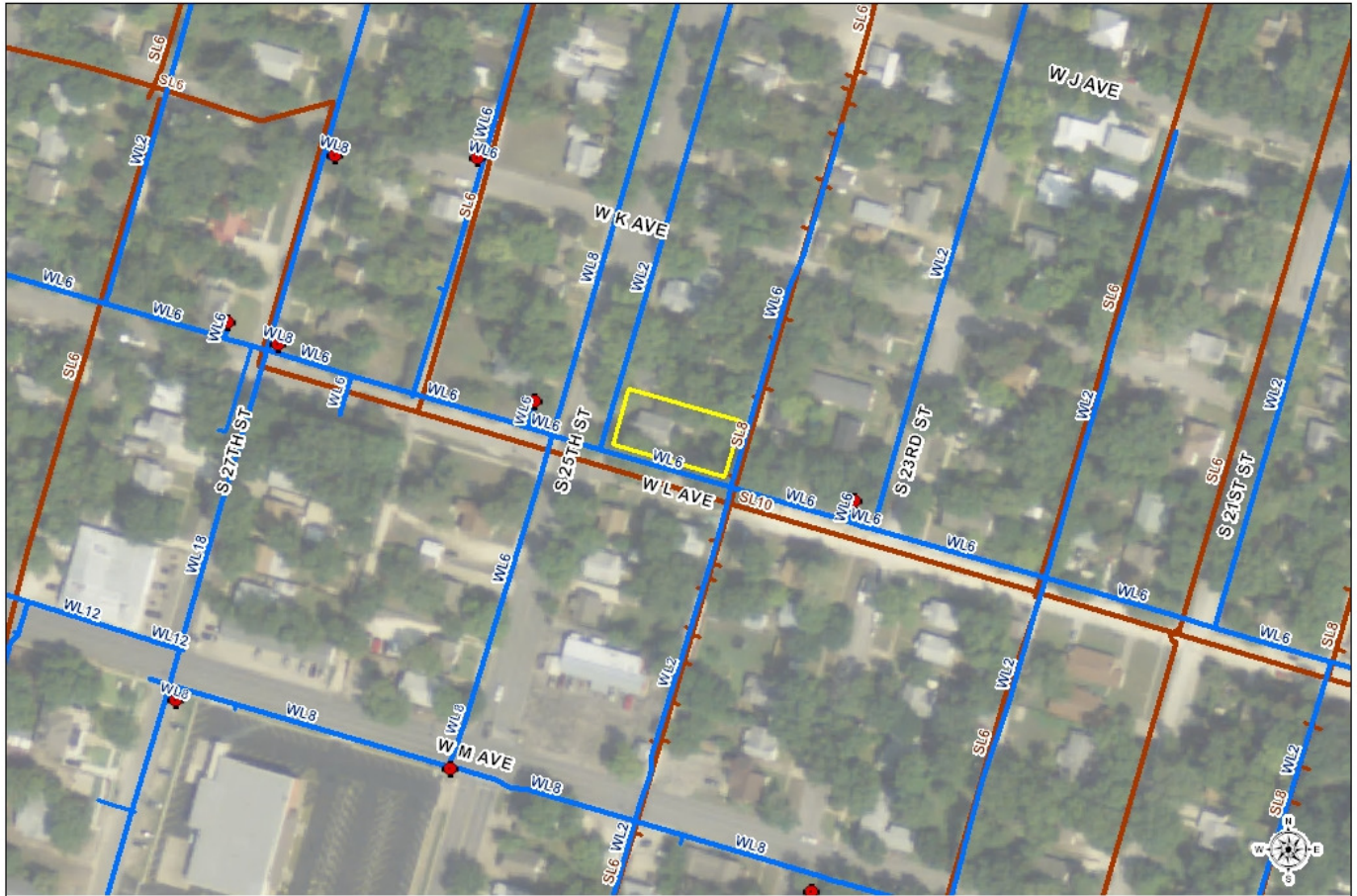
J Stone 10.12.10



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



ZF Y11 02 WATER LINE SEWER LINE

Feet 0 25 50 75 100

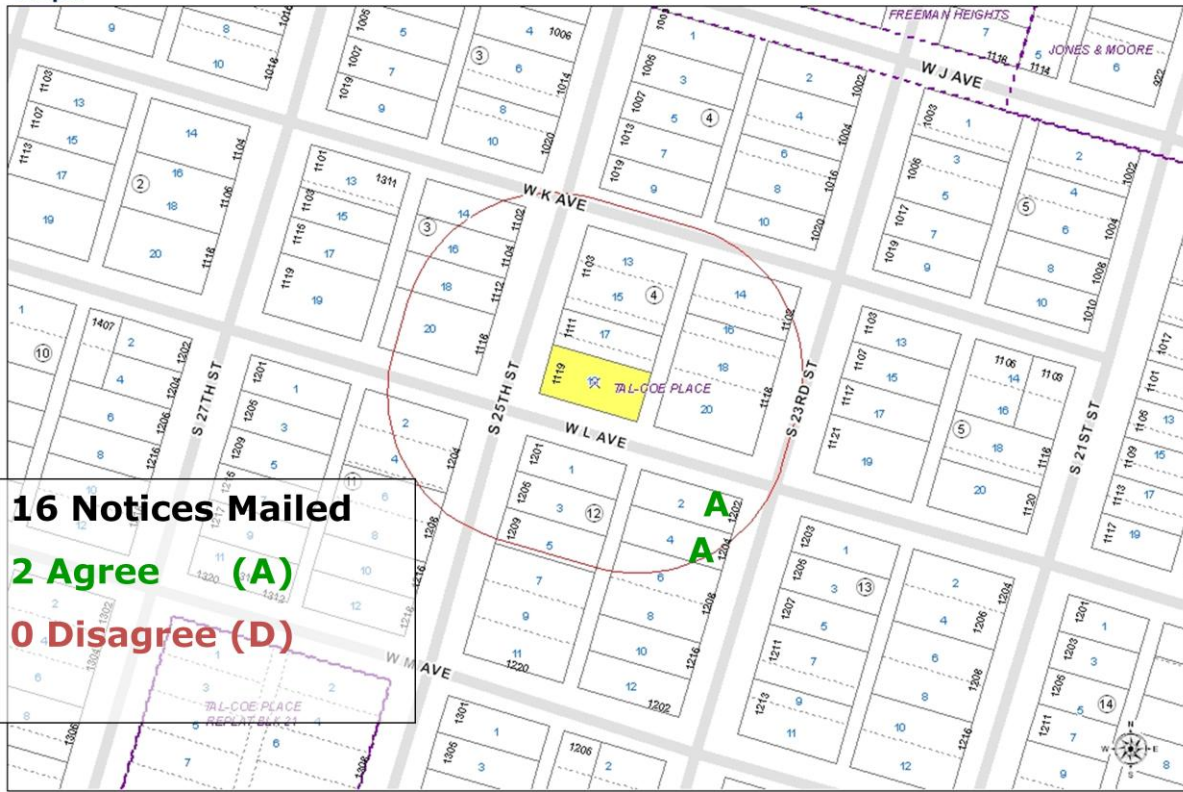
J Stone 10.12.10



Z-FY-11-02

Tal-Coe Place, Block 4, S 65' of Lot 19

1119 S 25th Street



200' Buffer ZFY1102

Feet 0 25 50 75 100

J Stone 10.12.10



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/15/10
Item #2
Regular Agenda
Page 1 of 4

APPLICANT : John Massengale



CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-11-02 - Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street.

BACKGROUND: The applicant requests the rezoning in order to establish a small office in the existing approximately 1,100 square-foot structure on the subject property. Staff has informed the applicant of off-street parking requirements that will be triggered if the rezoning is approved and a change in use occurs from a single-family dwelling to an office. Neighborhood Service and General Retail zoning districts are in the general vicinity of the subject property.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	2F (O-1 proposed)	Vacant single-family dwelling	
North	2F	Single-family dwelling	

Direction	Zoning	Current Land Use	Photo
South	2F	Single-family dwelling	
East	2F	Single-family dwelling (across alley)	
West	2F	Single-family dwelling (across S. 25 th St.)	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Objective 3.3.2 - Also consider expanding the range of permitted uses within neighborhood conservation districts to include complimentary nonresidential uses such as small-scale neighborhood commercial and office uses that add character, convenience, and vitality to a neighborhood.	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 = Comprehensive Plan * = See explanation below

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Neighborhood Conservation, which means that a mostly residential character should be retained. The subject property is just north of an area along S. 25th Street that is designated with the Auto Urban Mixed Use future land use and character category. If the applicant uses the existing structure for the office as he says he wants to, then the request conforms to the Future Land Use and Character Map. The size of the subject property, approximately 8,775 square feet, prevents it from being developed on a very large scale.

Objective 3.3.2

This objective in the text of the Comprehensive Plan recommends that in the future, the City allow complimentary nonresidential uses such as small-scale retail and office uses in existing, established residential areas. The request aligns with this recommendation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates S. 25th Street as a Minor Arterial and W. Ave. L as a Local Street. Access to the property comes from W. Ave. L. The request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A six-inch water line and an eight-inch sewer line serve the property. Public facilities are available for the property.

DEVELOPMENT REGULATIONS:

According to the purpose statement of the O-1 zoning district in the Zoning Ordinance, the district should be located convenient to residential areas and should be complimentary to the character of the residential neighborhood served. This district is designed to be a transitional zone allowing low intensity administrative and professional offices. Permitted uses are not intended to be major traffic generators.

Typical allowed uses include offices, single family detached dwellings, townhouses, two-family dwellings, banks and design studios. Prohibited uses include, but are not limited to, auto-related uses such as vehicle servicing and fuel sales and general retail type uses.

There is no minimum lot area, width or depth. The required building setback for the front yard is 25 feet from the front property line and five feet for the interior side yard and 15 feet from the side street. Any additions to the existing building would have to occur within these setbacks.

PUBLIC NOTICE:

Sixteen notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, November 12 at 10:00 AM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-11-02, a rezoning from 2F to O-1 on the subject property for the following reasons:

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

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Try C Properties
1202 West Avenue M
Temple, Texas 76504

Zoning Application Number: Z-FY-11-02

Project Manager: Brian Mabry

The proposed rezoning will allow an accounting office 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:


Signature


Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

NOV 10 2010

City of Temple
Planning & Development

Number of Notices Mailed: 16

Date Mailed: November 4, 2010



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Andrew Anderson
1204 Sout 23rd Street
Temple, Texas 76504

Zoning Application Number: Z-FY-11-02

Project Manager: Brian Mabry

The proposed rezoning will allow an accounting office 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:


Signature


Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

NOV 15 2010

City of Temple
Planning & Development

Number of Notices Mailed: 16

Date Mailed: November 4, 2010

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

MONDAY, NOVEMBER 15, 2010

ACTION ITEMS

Item 2: Z-FY-11-02: Hold a public hearing to discuss and recommend action on a rezoning from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street. (Applicant: John Massengale)

Mr. Brian Mabry, Planning Director, stated the applicant was John Massengale and, if approved, this case would go to City Council for first reading on December 2nd and second reading and final action on December 16th.

The purpose for the rezoning from Two Family (2F) to Office One (O1) was to establish an accounting/bookkeeping office in the existing structure which was currently vacant and fronted on 25th Street. The main requirement would be off-street parking, one parking space per 300 square feet of floor area for the structure, which amounted to four spaces.

Single family dwellings surrounding the subject property.

In accordance with the Future Land Use and Character Map, this property was designated as Neighborhood Conservation which meant the area should retain mostly a residential character, however, the uses may be more open-ended. The Land Use Objective 3.3.2 in the Comprehensive Plan stated expanding the range of permitted uses within the Neighborhood Conservation area to include complimentary small scale non-residential uses, such as office.

South 25th Street was designated a minor arterial on the Thoroughfare Plan and appropriate for this office use request. West Avenue L would allow additional access to the parking area.

A 6 inch water line and 8 inch sewer line would serve the property.

There were some commercial type zonings located within the vicinity of the subject property.

Dimensional standards for O1 were given.

16 notices were mailed out; two were returned in favor of this request and zero were returned in opposition. A legal notification was published in the newspaper.

Staff recommended approval of this zoning request from 2F to O1 since it complied with the Future Land Use and Character Map, the Land Use Ordinance 3.3.2, and the Thoroughfare Plan. Public facilities were available to serve the property.

Chair Talley opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Pope made a motion to approve Z-FY-11-02 and Commissioner Hurd made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Barton absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-02]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM TWO FAMILY DISTRICT (2F) TO OFFICE ONE DISTRICT (O1) ON THE SOUTH 65 FEET OF LOT 19, BLOCK 4, TAL-COE PLACE ADDITIN, LOCATED AT 1119 SOUTH 25TH STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Two Family District (2F) to Office One District (O1) on the South 65 feet of Lot 19, Block 4, Tal-Coe Place Addition, located at 1119 South 25th Street, 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 **2nd** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **16th** day of **December**, 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

12/02/10
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-03: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to General Retail District (GR) on 0.727 ± acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 FM 2305.

P&Z COMMISSION RECOMMENDATION: At its November 15, 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 GR for the following reasons:

4. The request complies with the Future Land Use and Character Map;
5. The request complies with the Thoroughfare Plan Map; and
6. Public facilities are available to serve the property.

Vice-Chair Martin and Commissioner Barton were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 16, 2010.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-03, from the Planning and Zoning meeting, November 15, 2010. The applicant requests the rezoning in order to build a car wash and oil change business on the subject property, which the City annexed in 1997. A manufactured home currently occupies the property and will be removed prior to construction of the proposed car wash and oil change business, if the City Council approves the requested rezoning.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

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	Land Use Policy 14 - Smaller-scale neighborhood retail and service uses should be located near intersections of collector and arterial streets	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes*

CP = Comprehensive Plan * = See explanation below

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 Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan Map designates W. Adams Ave. as a Major Arterial. The existing driveway that serves the property abuts the west lot line, giving it the greatest separation possible from the convenience store driveway to the east. The rezoning request complies with the Thoroughfare Plan Map.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line and a six-inch sewer line serve the property. Public facilities are available.

PUBLIC NOTICE:

Six notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, November 12, 2010, at 10:00 AM, two notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)
[Land Use and Character Map](#)
[Thoroughfare Plan Map](#)
[Zoning Map](#)
[Utility Map](#)
[Notice Map](#)
[Response Letters](#)
[P&Z Staff Report \(Z-FY-11-03\)](#)
[P&Z Minutes \(November 15, 2010\)](#)
[Ordinance](#)



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave



ZF1103

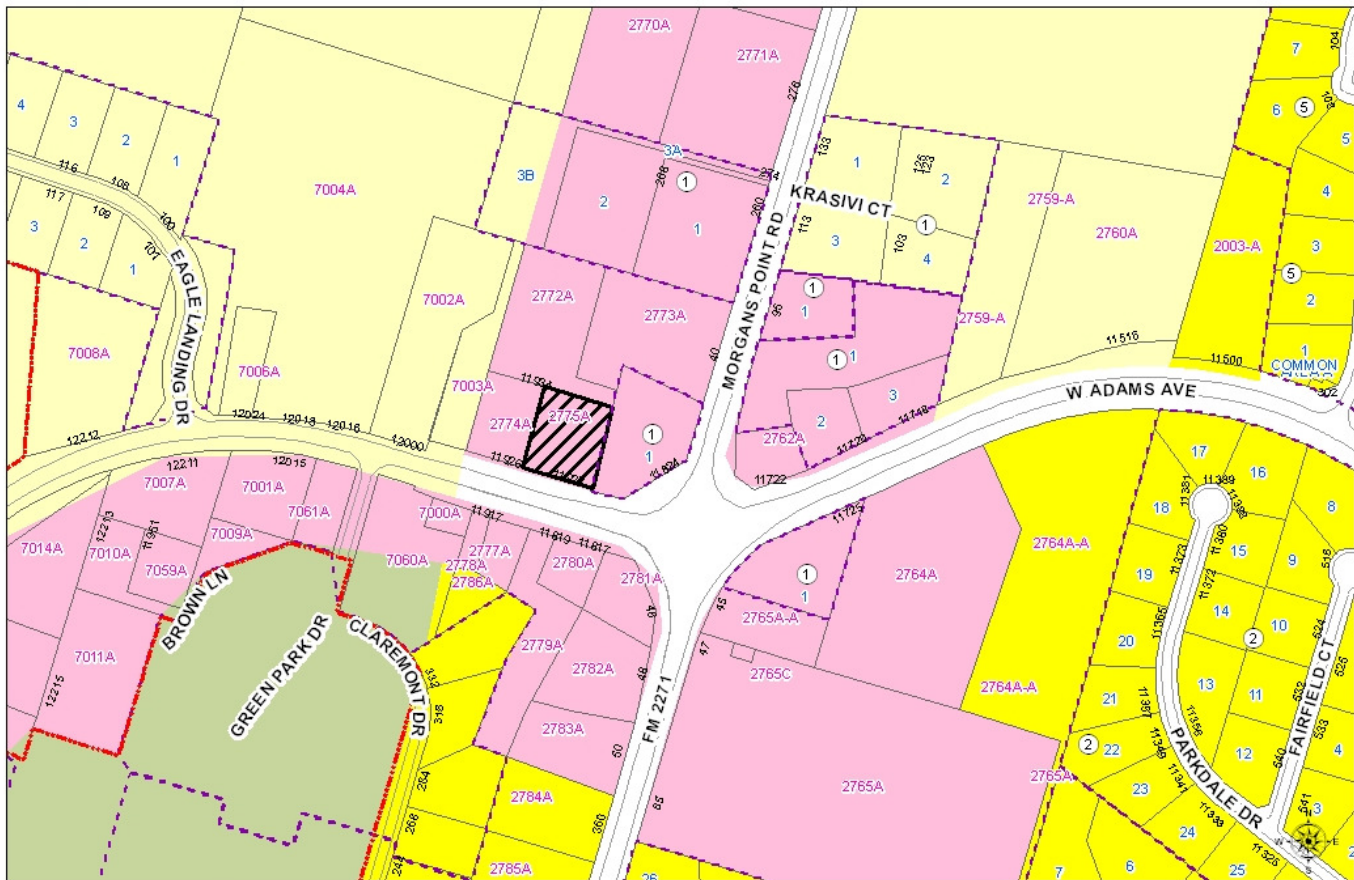
Feet 0 50 100 150 200
J Stone 10.12.10



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1103 | 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 = 300 feet
J Stone 10.12.10



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave



Expressway Proposed Major Arterial Minor Arterial Collector ZFY1103
Major Arterial Proposed K-TUTS Proposed Minor Arterial Conceptual Collector Current Temple Boundary

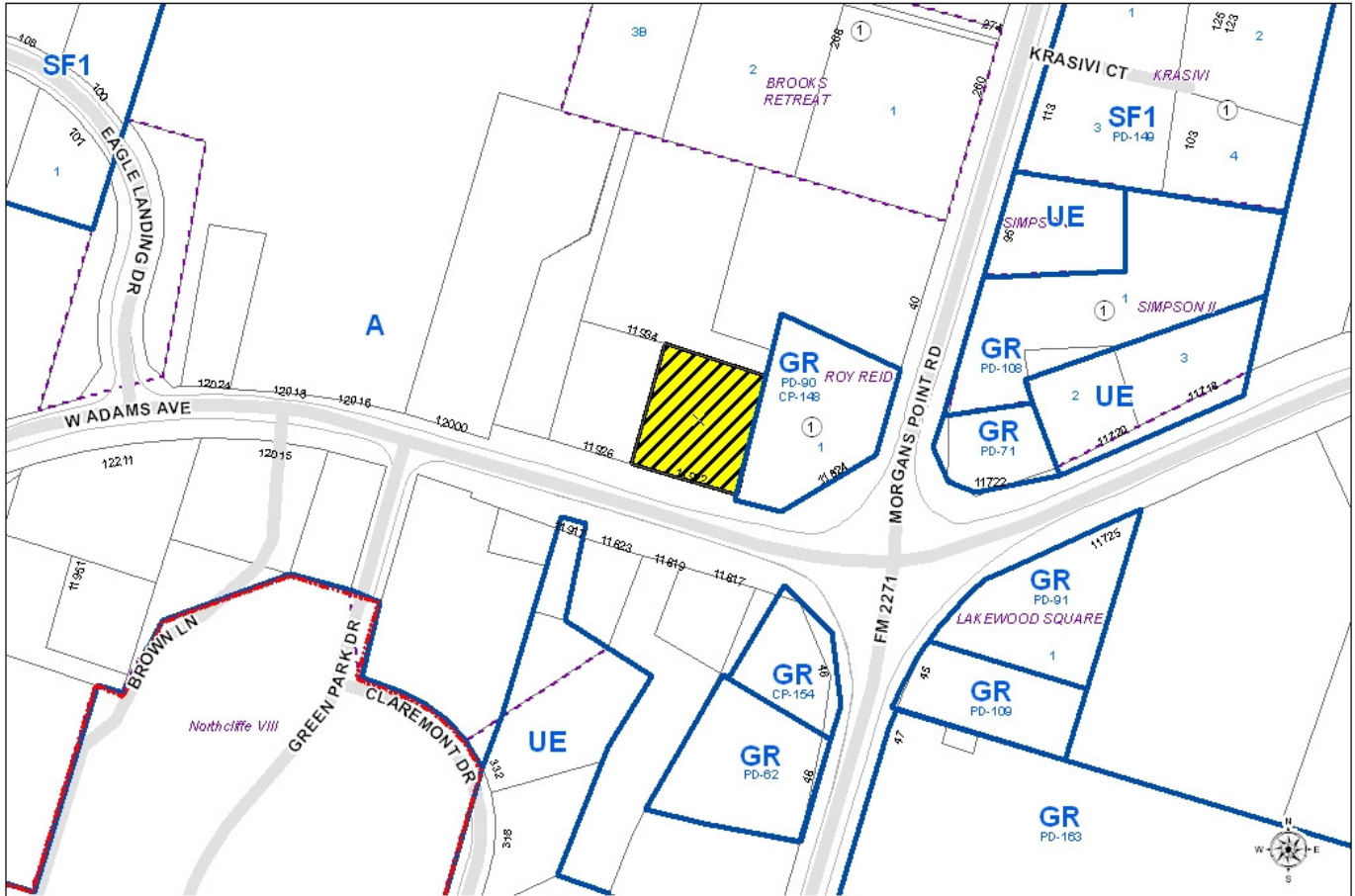
Feet 0 100 200 300 400
J Stone 10.12.10



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave



Feet 0 50 100 150 200
J Stone 10.12.10



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave



ZF1103 WATER LINE SEWER LINE

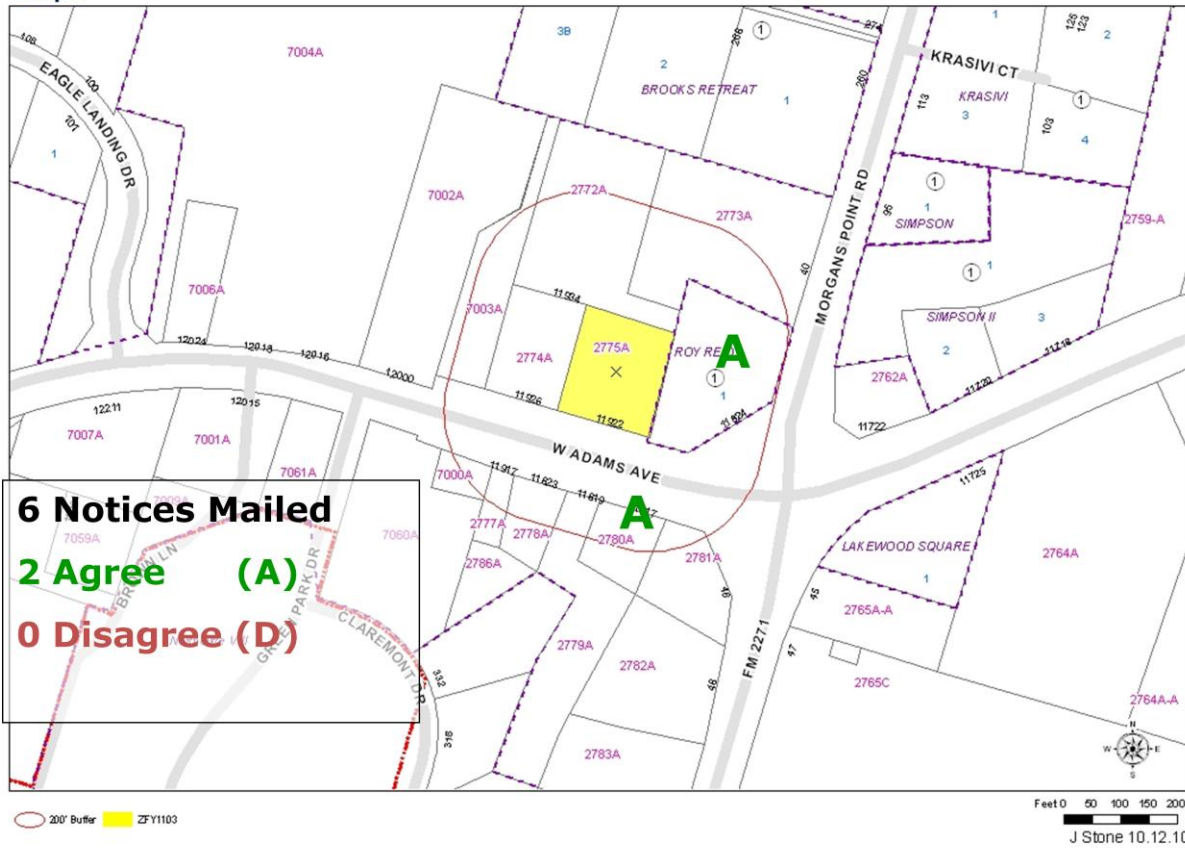
Feet 0 50 100 150 200
J Stone 10.12.10



Z-FY-11-03

Outblock #2775A

11922 W Adams Ave





**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Roy Reid Commercial Properties
12435 FM 2305 Unit B
Belton, Texas 76513

Zoning Application Number: Z-FY-11-03

Project Manager: Brian Mabry

The proposed rezoning will allow a car wash and lube center 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:

Good Idea For This Area

Roy Reid
Signature

Roy Reid
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED

NOV 10 2010

City of Temple
Planning & Development

Number of Notices Mailed: 6

Date Mailed: November 4, 2010



**RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE**

Wallace Etux Martha Bartek
431 Arrowhead Point Road
Belton, Texas 76513

Zoning Application Number: Z-FY-11-03

Project Manager: Brian Mabry

The proposed rezoning will allow a car wash and lube center 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:

WE WELCOME THE ABOVE NOTED business
And feel like it will enhance the area.

Martha Bartek
Wallace Bartek
Signature

MARTHA BARTER
WALLACE BARTER
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

RECEIVED
NOV 12 2010
City of Temple
Planning & Development



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/15/10
Item #3
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: A.C. Boston




CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-11-03 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to General Retail District (GR) on 0.727 ± acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 FM 2305.

BACKGROUND: The applicant requests the rezoning in order to build a car wash and oil change business on the subject property, which the City annexed in 1997. A manufactured home currently occupies the property and will be removed prior to construction of the proposed car wash and oil change business, if the City Council approves the requested rezoning.

SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	A (GR proposed)	Vacant manufactured home	
North	A	Undeveloped	
West	A	Single-family dwelling (across W. Adams Ave.)	

Direction	Zoning	Current Land Use	Photo
South	A	Single-family dwelling (across W. Adams Ave.)	
East	GR	Convenience store	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

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	Land Use Policy 14 - Smaller-scale neighborhood retail and service uses should be located near intersections of collector and arterial streets	Yes
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes*
CTMP	Map F4- Spine Trail along W. Adams Ave.	NA*

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan * = See explanation below

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 Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan Map designates W. Adams Ave. as a Major Arterial. The existing driveway that serves the property abuts the west lot line, giving it the greatest separation possible from the convenience store driveway to the east. The rezoning request complies with the Thoroughfare Plan Map.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line and a six-inch sewer line serve the property. Public facilities are available.

Citywide Trails Master Plan (Map F4)

The Citywide Trails Master Plan calls for a Spine Trail along W. Adams Ave., which is to be 10 to 12 feet in width.

DEVELOPMENT REGULATIONS:

The GR zoning district is the standard retail district and allows most retail sales, minor vehicle serving including the proposed car wash and oil change business, 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.

PUBLIC NOTICE:

Six notices of the Planning and Zoning Commission public hearing were sent out. As of Friday, November 12, 2010, at 10:00 AM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010, in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of rezoning request Z-FY-11-03 for the following reasons:

1. The request complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan Map;
3. The request complies with Land Use Policy 14 of the Comprehensive Plan that recommends that smaller-scale neighborhood retail and service uses be located near intersections of collector and arterial streets; and
4. Public facilities are available to serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Thoroughfare Plan Map
Trails Master Plan
Zoning Map
Utility Map
Notice Map
Response Letters

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

MONDAY, NOVEMBER 15, 2010

ACTION ITEMS

Item 3: Z-FY-11-03: Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to General Retail District (GR) on 0.727 ± acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 FM 2305. (Applicant: A.C. Boston)

Mr. Mabry stated the applicant for this (and the next case) was Mr. A.C. Boston. This rezoning would be from Agricultural (A) to General Retail (GR) so a car wash and oil change business could take place. A manufactured home currently sat on the property which was annexed in 1997.

The subject property was located near the intersection of W. Adams 2271/Morgan's Point Road. To the west lay a single family dwelling, undeveloped land to the north, single family dwelling to the south across W. Adams, and a convenience store to the east.

The Future Land Use designation for this property was Suburban Commercial and the property fronts W. Adams Avenue (2305) which was designated as a major arterial. This request complied with both of these. A 12 inch water line and 6 inch sewer line would serve the property.

Several GR zonings are located within the area and the GR dimensional standards were given.

Six notices were mailed; two were returned in favor of the request and zero responses were returned in opposition. The appropriate legal notice ran in the newspaper.

Staff recommended approval of this request since it complied with the Future Land Use and Character Map, the Thoroughfare Plan, and adequate facilities are available to the property

Chair Talley opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Pilkington made a motion to approve the rezoning of **Z-FY-11-03** and Commissioner Sears made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Barton absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-03]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO GENERAL RETAIL DISTRICT (GR) ON APPROXIMATELY 0.727 ACRES OF LAND OUT OF THE GEORGE W. LINDSEY SURVEY, ABSTRACT NO. 513, LOCATED AT 11922 FM 2305; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to General Retail District (GR) on approximately 0.727 acres of land out of the George W. Lindsey Survey, Abstract No. 513, located at 11922 Fm 2305, 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 **2nd** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **16th** day of **December**, 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

12/02/10
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-04: Consider adopting an ordinance authorizing a zoning change from Agricultural District (A) to Commercial District (C) on 10.18 ± acres of land with 5.18± acres out of the S. P. Terry Survey, Abstract No. 812, and 5.0± acres of land out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision.

P&Z COMMISSION RECOMMENDATION: At its November 15, 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 C for the following reasons:

1. Approval of the rezoning brings the zoning of the property into accord with its long-established use;
2. The request complies with the Thoroughfare Plan Map; and
3. Public and private facilities are available to serve the property.

Vice-Chair Martin and Commissioner Barton were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 16, 2010.

ITEM SUMMARY: The applicant requests the rezoning in order to build the final addition to his commercial complex already existing on the subject property since the late 1970s and which the City annexed in 2008. Various land uses on the property include: boat repair, drain cleaning service, gymnastics studio, real estate office, glass cutter, food distributor and caterer.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N*
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*
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan * = See explanation below

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 does not comply with the Future Land Use and Character Map; however, approval of the rezoning brings the zoning of the property into accord with its long-established use.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan Map designates W. Adams Ave. as a Major Arterial. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line serves the property. Wastewater is handled by on-site septic systems. Public and private facilities are available.

PUBLIC NOTICE:

Ten notices of the Planning and Zoning Commission public hearing were sent out to property owners within the City limits. Seventeen courtesy notices were sent out to owners of properties outside the City limits. As of Friday, November 12, at 10:00 AM, one notice was returned in favor of and no notices were returned in opposition to the request. One courtesy notice was returned in favor of the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)
[Land Use and Character Map](#)
[Thoroughfare Plan Map](#)
[Zoning Map](#)
[Utility Map](#)
[Notice Map](#)
[Response Letters](#)
[P&Z Staff Report \(Z-FY-10-09\)](#)
[P&Z Minutes \(November 15, 2010\)](#)
[Ordinance](#)



Z-FY-11-04

Outblocks #7016A,7015A,7012A,7011A,7010A,7059A,7007A,7001A,7013A,7014A & 7009A

12000 Blk of W Adams Ave



Feet 0 100 200

 ZFY1104

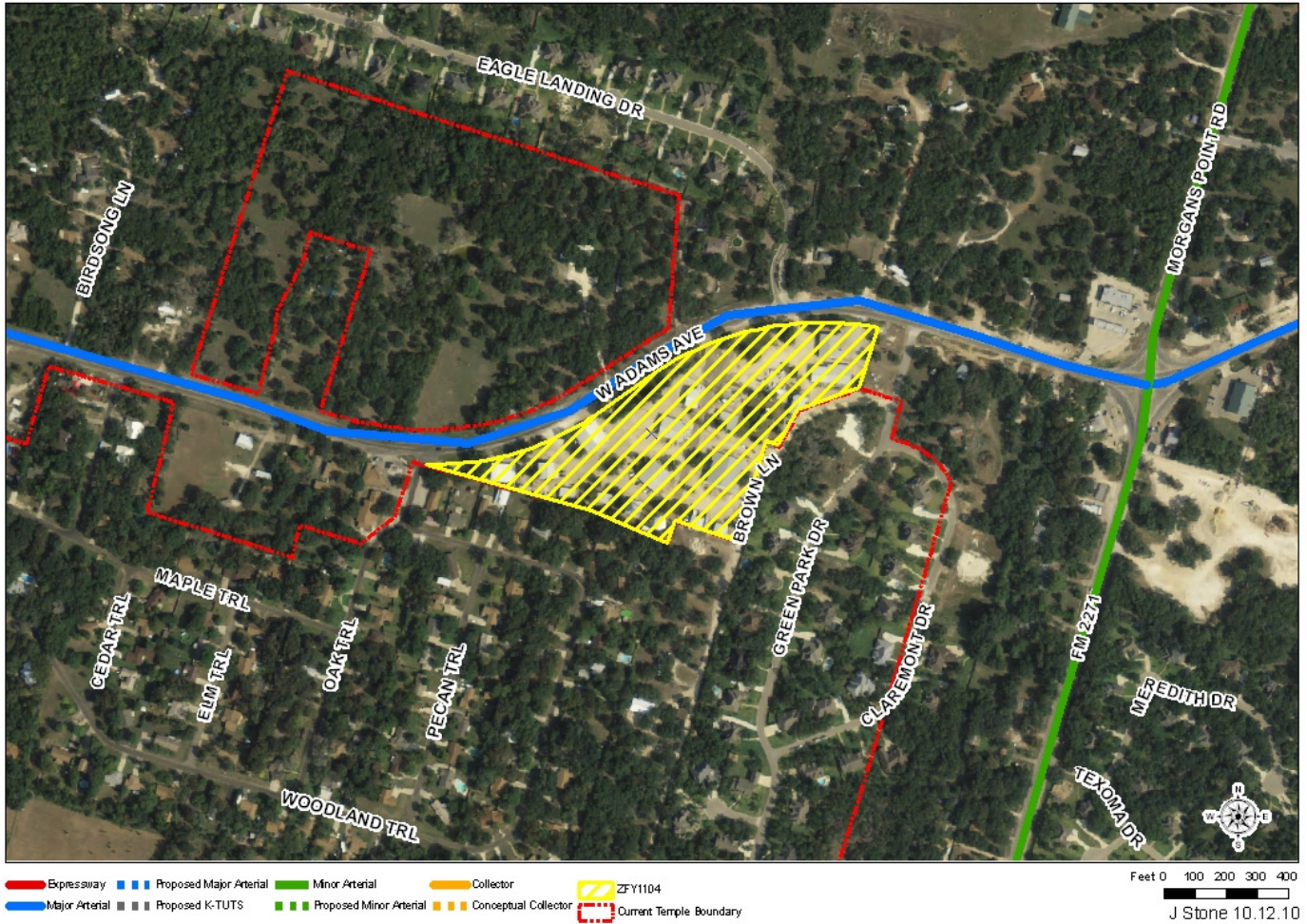
J Stone 10.12.10



Z-FY-11-04

Outblocks #7016A,7015A,7012A,7011A,7010A,7059A,7007A,7001A,7013A,7014A & 7009A

12000 Blk of W Adams Ave

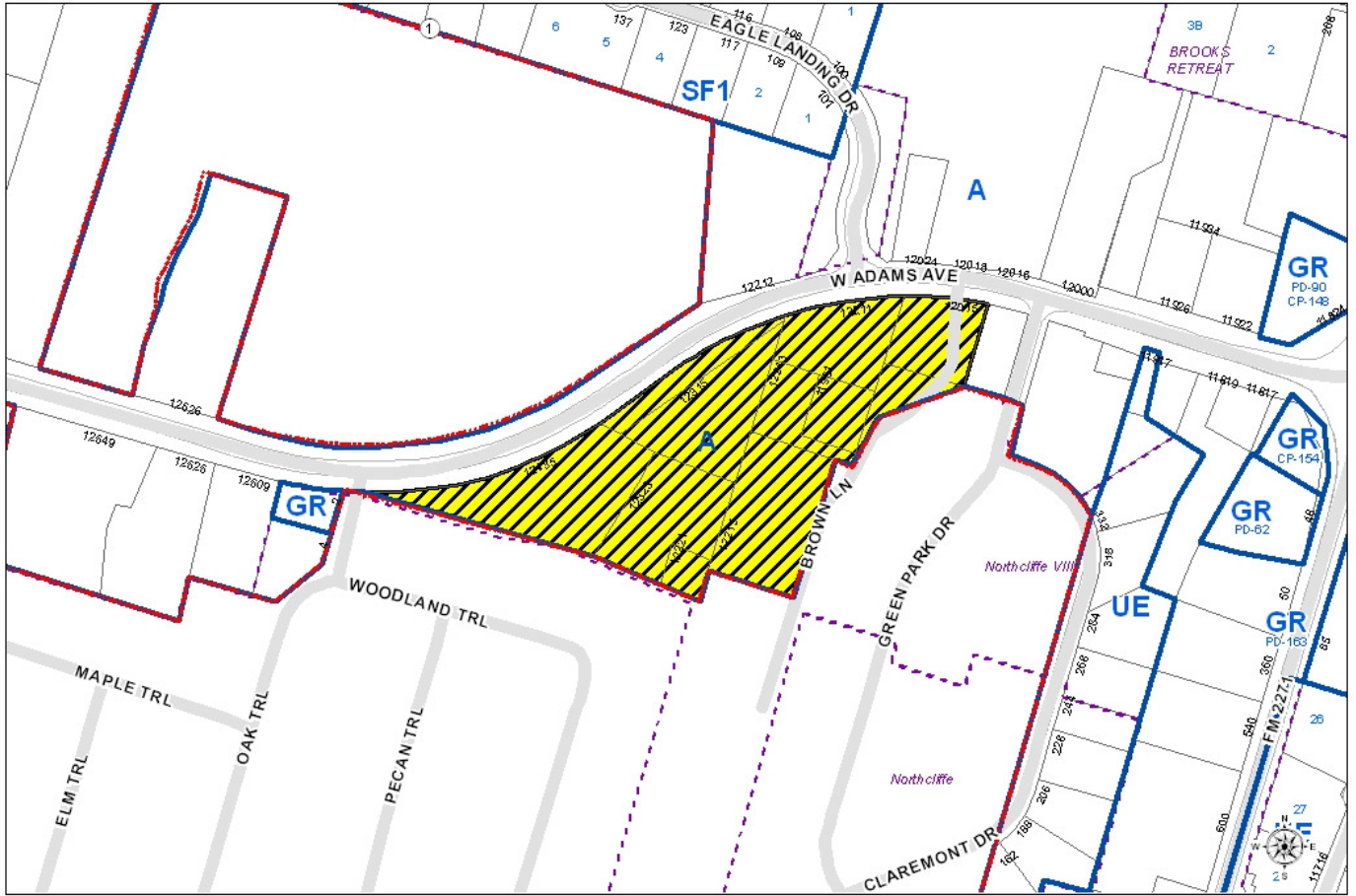




Z-FY-11-04

Outblocks #7016A,7015A,7012A,7011A,7010A,7059A,7007A,7001A,7013A,7014A & 7009A

12000 Blk of W Adams Ave



ZFY1104

Feet 0 100 200 300 400

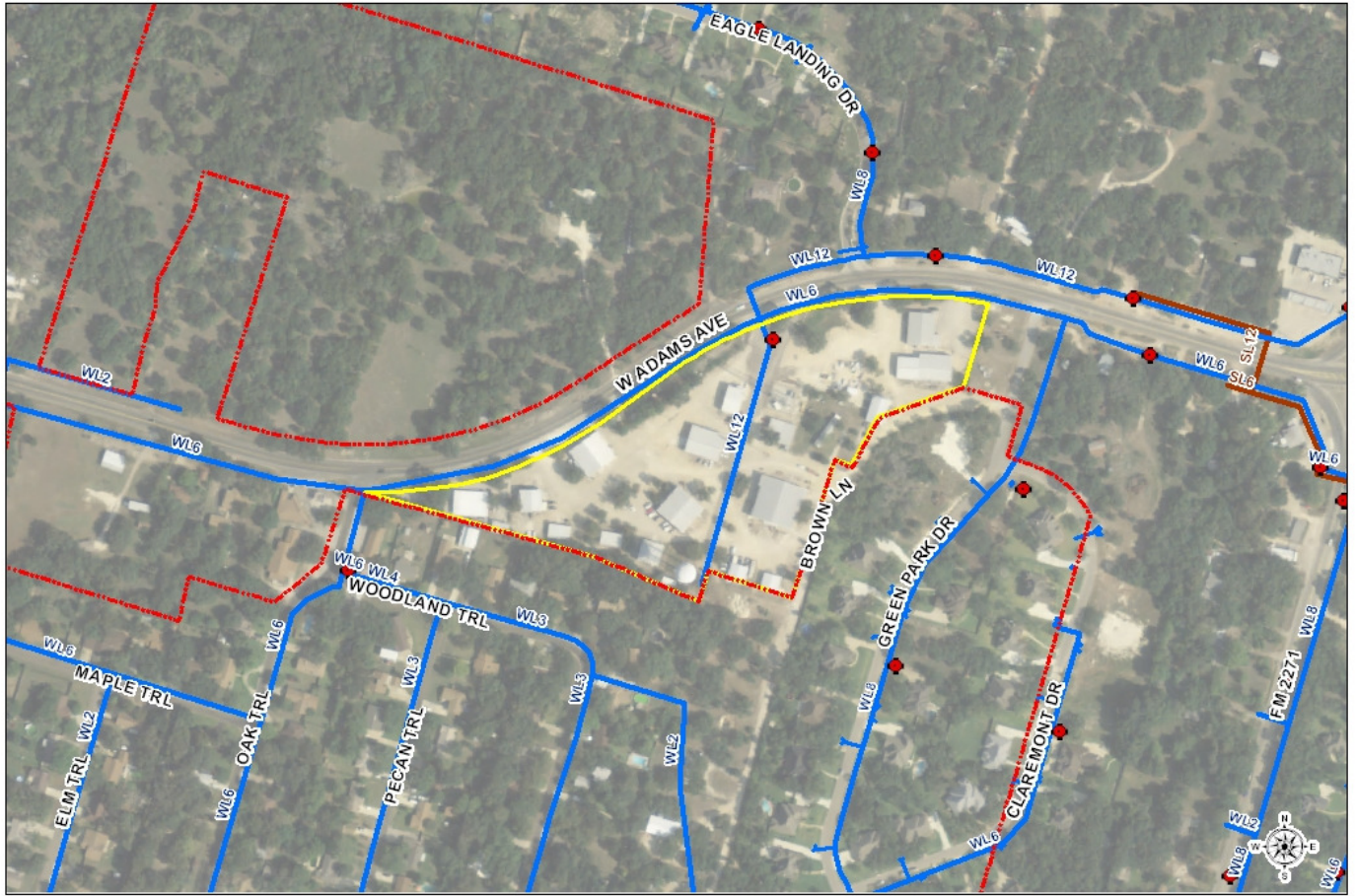
J Stone 10.12.10



Z-FY-11-04

Outblocks #7016A,7015A,7012A,7011A,7010A,7059A,7007A,7001A,7013A,7014A & 7009A

12000 Blk of W Adams Ave



■ ZFY1104 ■ WATER LINE ■ SEWER LINE

Feet 0 100 200 300 400

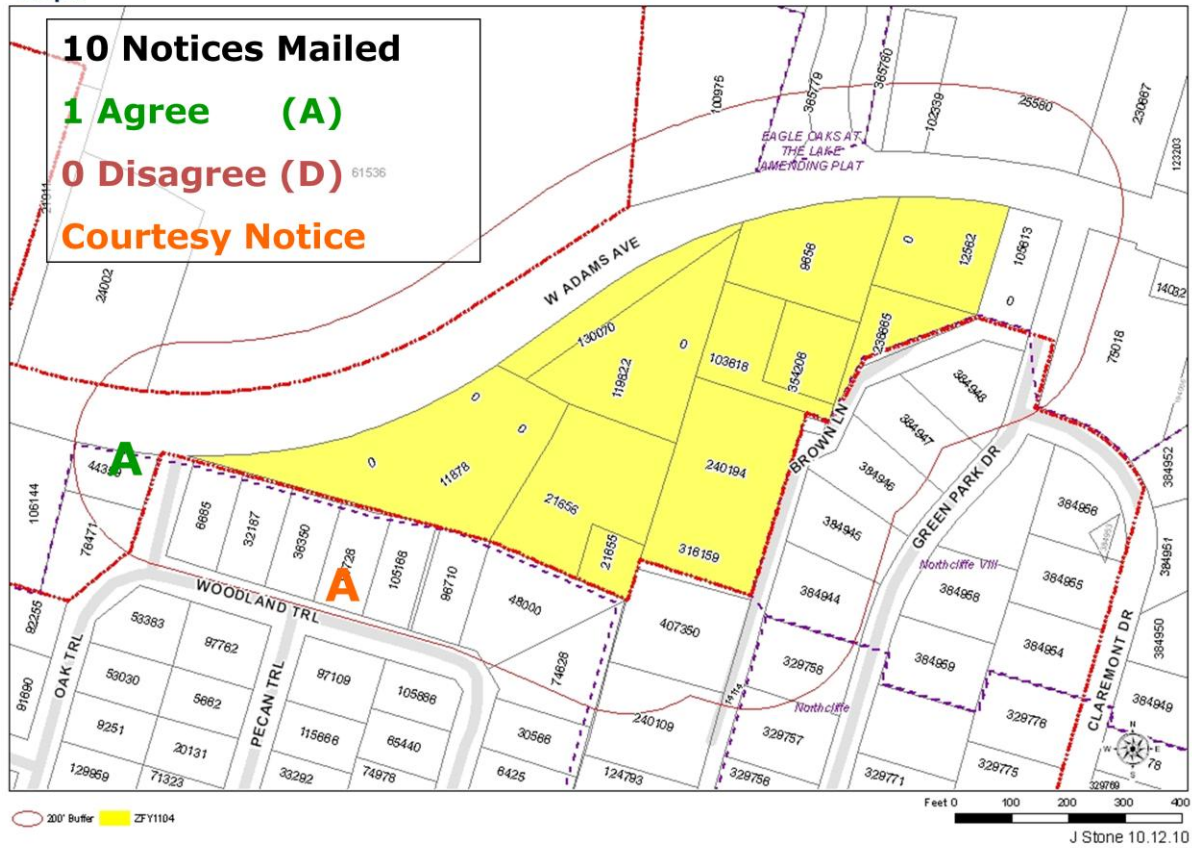
J Stone 10.12.10



Z-FY-11-04

Outblocks #7016A, 7015A, 7012A, 7011A, 7010A, 7059A, 7007A, 7001A, 7013A, 7014A & 7009A

12000 Blk of W Adams Ave





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Lake Belton VFW Post 10377
c/o Jerry L. Simpson Sr.
P.O. Box 1574
Belton, Texas 76513 - 1574

RECEIVED

NOV 10 2010

City of Temple
Planning & Development

Zoning Application Number: Z-FY-11-04

Project Manager: Brian Mabry

The proposed rezoning will allow a proposed boat repair business 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:

Charles L. Cooper (Commander) CHARLES L. COOPER
Signature Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501



**COURTESY NOTICE
RESPONSE TO PROPOSED REZONING
REQUEST
CITY OF TEMPLE**

RECEIVED

NOV 15 2010

City of Temple
Planning & Development

Roger Etux Min Suk Peeler
27 Woodland Trail
Belton, Texas 76513

Zoning Application Number: Z-FY-11-04

Project Manager: Brian Mabry

We have identified your property as being adjacent to a proposed rezoning which is the area shown in hatched marking on the attached map. Although your property is outside the Temple City Limits, this letter is sent as a courtesy.

Comments:

no Problem. With all the commercial enterprises currently in this zone I would have thought it was already "C" district


SIGNATURE

Roger L. Peeler
PRINT NAME

Please mail or hand-deliver this comment form to the address shown below, no later than November 15, 2010.

City of Temple
Planning Department
Room 201
Municipal Building
Temple, Texas 76501

Number of Notices Mailed: 17 Date Mailed: November 4, 2010

APPLICANT / DEVELOPMENT: A.C. Boston

CASE MANAGER: Brian Mabry, AICP, Planning Director





ITEM DESCRIPTION: Z-FY-11-04 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Commercial District (C) on 10.18 ± acres of land with 5.18± acres out of the S. P. Terry Survey, Abstract No. 812, and 5.0± acres of land out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision.


BACKGROUND: The applicant requests the rezoning in order to build the final addition to his commercial complex already existing on the subject property since the late 1970s and which the City annexed in 2008. Various land uses on the property include: boat repair, drain cleaning service, gymnastics studio, real estate office, glass cutter, food distributor and caterer. The aerial photo below indicates with a red outline the proposed site of the final addition to this property.



SURROUNDING PROPERTY AND USES:

The following table shows the existing zoning and current land uses for the subject property and its general vicinity:

Direction	Zoning	Current Land Use	Photo
Subject Property	A (C proposed)	Various commercial service uses	
North	A	Single-family subdivision entrance (across W. Adams Ave.)	
West	GR	Convenience store	
South	NA (ETJ)	Single-family subdivision	

Direction	Zoning	Current Land Use	Photo
East	A	Satellite receivers	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan, Trails Master Plan and other adopted plans:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	N*
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*
CTMP	NA	NA

CP = Comprehensive Plan CTMP = Citywide Trails Master Plan * = See explanation below

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 does not comply with the Future Land Use and Character Map; however, approval of the rezoning brings the zoning of the property into compliance with its long-established use.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan Map designates W. Adams Ave. as a Major Arterial. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A 12-inch water line serves the property. Wastewater is handled by on-site septic systems. Public and private facilities are available.

DEVELOPMENT REGULATIONS:

The purpose of the C, Commercial zoning district is to serve citywide or regional service areas. This district should also be located at the intersection of major thoroughfares. Permitted uses include all retail and most commercial land uses including auto dealerships with complete servicing facilities, building material sales, light industrial uses and heavy machinery sales and storage. Prohibited uses include, but are not limited to, apartments, heavy industrial uses, sexually oriented businesses, shooting ranges, and wrecker and salvage yards.

There is no minimum lot area, width or depth. The building setback for the front yard is 30 feet from the street centerline and 10 feet adjacent to any a residential zoning district.

PUBLIC NOTICE:

Ten notices of the Planning and Zoning Commission public hearing were sent out to property owners within the City limits. Seventeen courtesy notices were sent out to owners of properties outside the City limits. As of Friday, November 12, at 10:00 AM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010, in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of rezoning request Z-FY-11-04 for the following reasons:

1. Approval of the rezoning brings the zoning of the property into compliance with its long-established use;
2. The request complies with the Thoroughfare Plan Map; and
3. Public and private facilities are available to serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

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

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

MONDAY, NOVEMBER 15, 2010

ACTION ITEMS

Item 4: Z-FY-11-04: Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (A) to Commercial District (C) on 10.18 ± acres of land with 5.18± acres out of the S. P. Terry Survey, Abstract No. 812, and 5.0± acres of land out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision.

Mr. Mabry stated the purpose of the request was to build one final building in a commercial complex which had existed on the property since the late 1970's. The property was annexed in 2008. Several different uses within the complex range from boat repair, drain cleaning service, gymnastics studio, office, food distributor and large scale caterer.

Surrounding uses included a convenience store to the west across Woodland Trail, entry to the Eagle Oaks At The Lake Subdivision to the north, a single family subdivision to the south, and large satellite receiver dishes to the east.

The Future Land Use and Character Map designated the subject property as Suburban Commercial. Although the rezoning request did not comply with this designation, it was a well established existing use and two positive responses have been received to this request.

The Thoroughfare Plan designated Adams Avenue as a major arterial. There was a 12 inch and a 6 inch water line serving the property but no sewer lines. The property had a septic system.

There were some other GR designations in the area along with Agricultural (A) and some form of residential, such as Single Family One (SF1) or Urban Estate (UE).

Dimensional standards were given.

Ten notices were mailed and one response was returned in favor of this request. One courtesy notice (outside the city limits but in notification area) was also received in favor.

Staff recommended approval for this request since approval of the rezoning brings the zoning of the property into compliance with its long-established use; the request complied with the Thoroughfare Plan Map; and public and private facilities were available to serve the property.

Commissioner Staats asked about the long established use being generally accepted throughout cities and Mr. Mabry stated other rezoning requests had been approved making the same argument for approval.

Commissioner Hurd asked if wastewater were available if they wanted it and Mr. Mabry stated he did not see wastewater at the subject property. Commissioner Hurd asked if the amount of acreage could have several buildings and Mr. Mabry stated yes, however, with the required setbacks and parking needs, etc., it would take up considerable room and the applicant only wanted the one additional building.

Commissioner Sears asked if it were zoned GR, what limitations would there be on the structure versus the Commercial (C) zoning. Mr. Mabry stated it would not be so much on the structure but the uses allowed. Commissioner Sears asked about Commercial (C) parking lot material requirements, especially with the development nearby and felt the area needed to be cleaned up some. Mr. Mabry stated the proposed new building would have a paved parking requirement with a ratio of one space per 250 square feet of floor area.

Brief discussion regarding possible sewer availability.

Chair Talley opened the public hearing.

There being no speakers, Chair Talley closed the public hearing.

Commissioner Pope made a motion to approve the zone request for Z-FY-11-04 and Commissioner Hurd made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Barton absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-04]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO COMMERCIAL DISTRICT (C) ON APPROXIMATELY 10.18 ACRES OF LAND WITH APPROXIMATELY 5.18 ACRES OUT OF THE S.P. TERRY SURVEY, ABSTRACT NO. 812, AND APPROXIMATELY 0.5 ACRES OF LAND OUT OF THE GEORGE W. LINDSEY SURVEY, ABSTRACT NO. 523, LOCATED AT THE SOUTHEAST CORNER OF OAK TRAIL AND WEST ADAMS AVENUE ACROSS FROM THE ENTRANCE TO EAGLE OAKS AT THE LAKE SUBDIVISION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to Commercial District (C) on approximately 10.18 acres of land with approximately 5.18 acres out of the S.P. Terry Survey, Abstract No. 812, and approximately 0.5 acres out of the George W. Lindsey Survey, Abstract No. 523, located at the southeast corner of Oak Trail and West Adams Avenue across from the entrance to Eagle Oaks At The Lake Subdivision, 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 **2nd** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **16th** day of **December**, 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

12/02/10
Item #9
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-10-09: Consider adopting an ordinance repealing Chapter 33 of the City Code, “Subdivisions,” the Appendix to Chapter 32, “Streets,” and Appendix A of the City Code, “Zoning Ordinance,” and replacing Appendix A of the City Code with a Unified Development Code.

P&Z COMMISSION RECOMMENDATION: At its November 15, 2010 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the Unified Development Code.

Vice-Chair Martin and Commissioner Barton were absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 16, 2010.

ITEM SUMMARY: The *Choices '08* Comprehensive Plan recommends that the City adopt a Unified Development Code (UDC). At its most basic, a UDC is a consolidated set of land development regulations, related to zoning, platting and site design. This report will give an overview of the UDC Phase 1 project.

PRINCIPLES OF THE UDC PHASE 1 PROJECT:

Many of the changes proposed in the UDC Phase 1 draft have very little effect on the substantive content of the existing Zoning Ordinance and Subdivision Regulations. Staff committed to making minimal substantive changes to the standards and procedures of these existing documents. The improvements in the UDC draft relate to ***reformatting*** the look of the regulations so that they are more user-friendly, ***reorganizing*** the contents so that they are unified into a logically arranged document, ***clarifying and streamlining*** the regulations by removing redundancies and conflicts and ***incorporating State statutes*** into the regulations to comply with State statutes related to land development.

STAKEHOLDER INPUT:

Prior to making the document public, several staff members representing the Planning, Legal, Public Works, Parks and Information Technology departments reviewed each UDC module and provided comments.

Once Staff finalized a draft, we held five “learning sessions” at the Temple Area Builders Association (TABA) office. Attendance varied from as many as 20 participants to as few as 3. The purpose of these sessions was to introduce each module and go over any comments that were received from the previous module presentation. Staff received minimal stakeholder comments that required editing the UDC. The fact that Staff received minimal substantive stakeholder comments indicates that Staff has remained with the original intent to retain the existing standards of the Zoning Ordinance and Subdivision Ordinance in the UDC draft.

UDC PHASE 2:

More substantial changes are proposed for the UDC Phase II project. The changes will codify existing practices, fix administrative issues that staff sees on a frequent basis and implement many of the policies of the *Choices 08* Comprehensive Plan. Participation from a wide variety of stakeholders will be critical. Staff anticipates work commencing on Phase 2 in March or April of 2011.

FISCAL IMPACT: NA

ATTACHMENTS:

[Internal Duplications and Conflicts Addressed in UDC](#)

[City Council Draft UDC – previously provided via CD at 11-18-2010 Work Session](#)

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

[P&Z Minutes \(November 15, 2010\)](#)

[Ordinance](#)

Internal Duplications and Conflicts Addressed in the UDC

Page	Citation	Topic	Comment
ZO = Zoning Ordinance			SR = Subdivision Regulations
Module 1			
1-1	Sec. 1.2	Purpose	Similar Purpose statements in SR and ZO. Retained ZO's because it was more comprehensive.
3-1	Sec. 3.1.1.B	Application Forms	ZO and SR have application form provisions. ZO addresses application forms in a broader manner than SR. Retained ZO provisions.
3-2 & 3-15	Sec. 3.1.1.C & Sec. 3.5.7	Application Fees	ZO and SR both address application fees. ZO addresses them in a broader manner, just saying that Council establishes fees by ordinance. SR gets into internal processing. Retained ZO provisions
3-35	Sec. 3.10	Sidewalk Waiver Criteria	Identical criteria for Director of Public Works to grant a Sidewalk Exception in ZO and SR. Criteria are listed in Sec. 3-10, Sidewalk Waivers
Module 2			
5-14	Notes at the end of the use table: 1, 2, 5, 8, 13, 14, 19, 22, 25, 26, 31, 34, 35	Use Table	Inconsistent or duplicative specific use terms are in the Use Table in the ZO. Each note explains why terms were combined or differentiated.
5-19	Stricken text under Sec. 5-3-2.I	Standards for Manufactured Home Parks or Lots	ZO contains standards that are almost identical for existing parks/lot and new or expanded parks/lots. Standards were integrated into one Section.
5-21	5.3.3.E.	Lot Coverage for Multiple-Family	Table in the ZO originally contained lot coverage standards for zoning districts that do not allow multiple-family uses. Removed reference to those districts.

Page	Citation	Topic	Comment
ZO = Zoning Ordinance			SR = Subdivision Regulations
Module 3			
7-28	7.5.2	Setback clearance zone definition (stricken)	Original language sets a different visibility triangle for signs. Both are 15' back from curb intersection. Standard triangle allows no vertical encroachment between 3' above ground and 8'. Sign visibility triangle allowed no vertical encroachment between 2' and 8'. Kept the less restrictive of the two.
7-30	7.5.3(C)	Stricken text below Building Code	Sign standards had specific language on revocation of a sign permit. General revocation statement in Sec. 3.1.4 covers all.
8-11	8.2.3(A)	Sidewalks – Purpose	Identical provisions for Purpose statement in both documents.
8-11	8.2.3(B)	Sidewalks – Where Required	Similar provisions for Where Required in both documents. ZO gives more detail as to location of collector sidewalks, which are only required on one side of a collector street. All factors being equal, default is north or east side of street.
8-11 & 8-12	8.2.3(C)	Sidewalks – Dimensional & Construction Standards	Both ZO and SR require 4' for collector sidewalks and 6' for arterial sidewalks. SRs specify separation from back of curb of 2'. ZO is silent on that issue. Both documents require sidewalk construction to be finished prior to issuance of certificate of occupancy. Retained ZO language.
8-12	8.2.3(D)	Sidewalks – Cost Sharing	ZO deals with single-family residential abutting an arterial street with the City and applicant sharing the cost. SR deals with single-family residential abutting a County, State or Federal road and the City reimbursing the applicant for the entire cost. Both are kept in most recent draft.
8-12	8.2.3(E)	Sidewalks – Waiver	Identical criteria for Director of Public Works to grant a Sidewalk Exception in ZO and SR. Criteria are listed in Sec. 3-10, Sidewalk Waivers.
Module 4			
9-1	9.2.1	Nonconforming Uses & Structures	9.2.1.A and stricken paragraph below it are the same
9-3	9.3	Nonconforming Signs	Duplicates retained text in 9.2.5. regarding rebuilding if 60% or less of structure is destroyed

Page	Citation	Topic	Comment
		ZO = Zoning Ordinance	SR = Subdivision Regulations
11-1	11.2	Definitions Introduction	SR and ZO have duplicative Definitions introductions. Retained ZO because it had the cross reference to planning and engineering practices.
11-3	11.2	Alley	ZO definition calls alley secondary vehicular access. SR definitions calls it primary rear access. SR has less legalese.
11-5	11.2	Block	Combined the two in most recent draft. Kept 1 st half of second definition and second half of first definition.
11-6	11.2	Building Line (ZO) / Building Setback Line (SR)	Retained Building Setback Line. Simpler definition.
11-6 – 11-7	11.2	Child Care	Duplicate definitions within ZO.
11-7	11.2	Common Area / Common Open Space	Combined types of common areas: plazas, recreation areas, etc.
11-8	11.2	Comprehensive Plan	ZO and SR contain duplicate definitions.
11-11	11.2	Food and Beverage Sales Store	Duplicate definitions within ZO. Both deleted because not used in ZO.
11-12	11.2	Homeowners Association	ZO and SR contain similar definitions. Retained first definition in most recent draft and integrated final sentence of second definition.
11-12	11.2	Hospital (Acute) and (Chronic)	Two definitions in ZO but they are regulated the same so no need to differentiate.
11-14	11.2	Lot	ZO and SR contain similar definitions. SR relates the lot to having been platted to retained SR definition.
11-16	11.2	Park	ZO and SR contain similar definitions. Retained SR definition because it is more comprehensive.
11-17	11.2	Parent Shopping Center	Conflicting definitions within ZO. Recommend deleting both. Term is used in ZO but is not necessary.
11-17	11.2	Planning and Zoning Commission	ZO and SR contain similar definitions. Definition is probably not needed, just as one is not needed for City Manager, City Council, etc.

Page	Citation	Topic	Comment
		ZO = Zoning Ordinance	SR = Subdivision Regulations
11-19 – 11-20	11.2	Residential Lane	ZO and SR contain similar definitions. Deleted both because I was told that was intended to take place years ago.
11-21 – 11-22	11.2	Street	ZO and SR contain similar definitions for Street in general and specific street types. For street in general, retained more general definition. Retained SR definitions since that document is geared more toward regulating streets than the ZO is.
11-25	11.2	Zoo (Public) and Zoo (Private)	Zoos regulated similar in ZO so combined into one definition.



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/15/10
Item #5
Regular Agenda
Page 1 of 3

APPLICANT: Planning and Zoning Commission

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-10-09 - Hold a public hearing to discuss and recommend action on an amendment to the City Code to adopt a Unified Development Code.

INTRODUCTION: The *Choices '08* Comprehensive Plan recommends that the City adopt a Unified Development Code (UDC). At its most basic, a UDC is a consolidated set of land development regulations, related to zoning, platting and site design. City Staff have been working steadily on the UDC Phase 1 project since January 2010, with preliminary work taking place throughout 2009. During the drafting phase, the UDC was broken down into four modules in order to make it a little easier to review. Staff has updated the Planning and Zoning Commission on the UDC Phase 1 status by presenting each module of the UDC and requesting comments. This report will give an overview of the UDC Phase 1 project so that the Commission may provide a formal recommendation to the City Council.

PRINCIPLES OF THE UDC PHASE 1 PROJECT: Many of the changes proposed in the UDC Phase 1 draft have very little effect on the substantive content of the existing Zoning Ordinance and Subdivision Ordinance. The improvements in the UDC draft relate to ***reformatting*** the look of the regulations so that they are more user-friendly, ***reorganizing*** the contents so that they are unified into a logically arranged document, ***clarifying and streamlining*** the regulations by removing redundancies and conflicts and ***incorporating State statutes*** the regulations to comply with State statutes related to land development.

Reformat

Of all the laws in a City's Code of Ordinances, land development regulations are probably the most commonly used by non-attorneys. For this reason, the UDC has been formatted to make it easier for a lay person to understand while remaining legally sound. The UDC is made more user friendly by applying the following simple document formatting techniques.

- Graphics and Tables
- "Plain English" Regulations
- Indentation, White Space, Variable Fonts, Headers and Footers
- Table of Contents and Index

Reorganize

The draft UDC is organized so that procedures are separated from standards to the extent practical. For example, the procedure for receiving subdivision plat approval is in one Article, while the standard for how wide a public street in a subdivision should be is in a different Article.

The Sections of each Article are organized in a logical order, where applicable. For example, in Article 3, Development Review Procedures, the procedures are set forth to generally follow the normal sequence of development, with legislative decisions such as Rezoning or Conditional Use Permit procedures laid out first and with administrative procedures such as Sign Permit review provided toward the end of the Article.

It is also a “best practice” to not allow standards in definitions. For example, in the existing Zoning Ordinance, the definition for “Home Occupation” had several standards within it. In the draft UDC, these standards have been moved to Sec. 5.4, which deals with accessory structures and uses.

Clarify & Streamline

An important part of the creation of a UDC is to the opportunity to remove or revise conflicting or duplicative standards. These conflicts and duplications often become more obvious when the Subdivision Ordinance and Zoning Ordinance are integrated and reorganized. For example, since sidewalks are dealt with in both the existing Zoning Ordinance and Subdivision Ordinance, the likelihood of conflicting or duplicate provisions is great. Staff took great care to highlight these differences and to reconcile them. Please see the attached “Internal Duplications and Conflicts in the UDC” report for a summary of this issue.

Incorporate State Statutes

Staff incorporated changes in State statutes into the UDC Phase 1 draft. These changes are insignificant in terms of the kinds of development that the UDC requires versus what the Zoning Ordinance and Subdivision Ordinance require. The following is a list of changes related to revised State statutes.

- Updated references to Texas Local Government Code (Throughout but especially Sec. 1.3.1)
- Number of votes required for the Zoning Board of Adjustment to approve a Variance (Sec. 2.3.4.C)
- Clarified rule that a plat is deemed approved if not disapproved within 30 days of Staff deeming the plat complete (Sec. 3.1.2)
- When platting is required (Sec. 3.6.1)
- Incorporating state-mandated interlocal agreement between Temple and Bell County for plat review in the City’s ETJ (Sec. 3.6.2)
- Increased mailed and published hearing notification window from 10 days to 15 days (Sec. 3.15.3.A)
- Stated that industrialized (AKA modular) housing dimensional standards are the same as those for conventional single-family site-built dwellings. (Sec. 4.5)
- Revised terminology for child care establishments to match statutory terminology (Sec. 5.1.3 – page 3 of use table)
- Added pawn shops as an allowed use in the GR zoning district due to statutory requirement that pawn shops must be regulated the same as a department store (Sec. 5.1.3 – page 7 of use table)

STAKEHOLDER INPUT: Prior to making the document public, several staff members, representing the Planning, Legal, Public Works, Parks and Information Technology departments, reviewed each UDC module and provided comments.

Once Staff finalized a draft, we held five “learning sessions” at the Temple Area Builders Association (TABA) office. Attendance varied from as many as 20 participants to as few as three. The purpose of these sessions was to introduce each module and go over any comments that were received from the

previous module presentation. The primary comment Staff received on the entire draft related to the dimensional standards in Sec. 4.5 and 4.6. These tables show the required maximum heights and minimum lots area and setbacks for each zoning district based on the proposed housing type. In the existing Zoning Ordinance, these standards are organized in tables in a way that is probably not as useable to the average citizen as they could be. Staff re-organized the tables with an attempt to keep the numerical standards intact. Some TABA builders noticed some inconsistencies and Staff has worked to address those in the draft UDC.

The fact Staff received minimal stakeholder comments indicates that Staff has remained with the original intent to retain the existing standards of the Zoning Ordinance and Subdivision Ordinance in the UDC draft.

UDC PHASE 2: More substantial changes are proposed for the UDC Phase II project. The changes will codify existing practices, fix administrative issues that staff sees on a frequent basis and implement many of the policies of the *Choices 08* Comprehensive Plan. Participation from a wide variety of stakeholders will be critical. Staff anticipates work commencing on Phase 2 in March or April of 2011.

PUBLIC NOTICE: The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2010 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-10-09, an amendment to the City Code to adopt a Unified Development Code

FISCAL IMPACT: NA

ATTACHMENTS:

"Clean" Version of the UDC Phase 1 Draft
Internal Duplications and Conflicts Addressed in the UDC

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

MONDAY, NOVEMBER 15, 2010

ACTION ITEMS

Item 5: Z-FY-10-09: Hold a public hearing to discuss and recommend action on an amendment to the City Code to adopt a Unified Development Code. (Applicant: Planning and Zoning Commission)

Mr. Mabry stated he would touch on the high points on the UDC since all previous modules have been discussed in more detail.

Timeline was given for UDC process and a brief description of what a UDC was.

The UDC contained four modules:

Module 1 – Procedural articles of the UDC (Articles 1-3)

Module 2 – Uses in the zoning districts (Articles 4-6)

Module 3- -Design related elements of the UDC (Articles 7-8)

Module 4 – All other information such as non-conformities, enforcement, violations, penalties and definitions, etc. (Articles 9-11)

Mr. Mabry stated four reasons for having a UDC:

User friendliness; Eliminate inconsistencies; One course for development regulations; Priorities – Phase I

The draft UDC is organized so that procedures and standards were separated, put in logical order and standards were removed from definitions. Clarification and streamlining were necessary in some areas. Phase I required no substantive changes taking place, however, Phase II would involve more substantive changes. Updated State statutes were incorporated and the stakeholder input process was explained.

The area where most comments were received were related to dimensional tables dealing with setbacks, lot areas, etc. The UDC reorganized these tables for easier reading and understanding.

Phase II would implement existing, uncoded practices, implement policies of the Comprehensive Plan, and public participation would be critical, This would start taking place approximately March-April 2011

Staff recommended approval of Z-FY-10-09, the Unified Development Code, an amendment to the City Code.

Chair Talley opened the public hearing.

Mr. Pat Patterson, 2116 W. Avenue H, thanked the City Staff and Mr. Mabry for all their work on the UDC since it meant so much to TABA and provided needed guidelines.

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

Commissioner Pilkington made a motion to approve the UDC draft as presented and Commissioner Sears made a second.

Motion passed: (7:0)

Vice-Chair Martin and Commissioner Barton absent.

Chair Talley also thanked the Staff and Mr. Mabry for the hard work involved in this project.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TEMPLE BY REPEALING CHAPTER 33, ENTITLED, "SUBDIVISIONS;" REPEALING THE EXHIBIT, ENTITLED, "DRIVE APPROACH STANDARDS," TO CHAPTER 32, ENTITLED, "STREETS AND SIDEWALKS;" AND REPEALING APPENDIX A, ENTITLED, "ZONING ORDINANCE," AND REPLACING APPENDIX A TO THE CODE OF ORDINANCES WITH A UNIFIED DEVELOPMENT CODE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Choices '08 Comprehensive Plan recommended that the City adopt a Unified Development Code (UDC) which is a consolidated set of land development regulations, related to zoning, platting and site design;

Whereas, on November 15, 2010, the Planning and Zoning Commission voted to recommend amending the Code of Ordinances to adopt a Unified Development Code; 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 Code of Ordinances of the City of Temple, Texas, is amended by repealing Chapter 33, entitled, "Subdivisions;" repealing the Exhibit, entitled, "Drive Approach Standards," to Chapter 32, entitled, "Streets and Sidewalks;" and repealing Appendix A, entitled, "Zoning Ordinance," by replacing Appendix A with a Unified Development Code, a copy of which is on file in the Office of the City Secretary for the City of Temple.

Part 2: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

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 and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid 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 **2nd** day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the **16th** day of **December**, 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

12/02/10
Item #10
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance electing for the City to make current service and prior service contributions to the City's account in the Municipal Accumulation Fund of the Texas Municipal Retirement System at the actuarially determined rate of total employee compensation.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as indicated in item description, on first reading, and schedule second reading and final adoption for December 16, 2010.

ITEM SUMMARY: The TMRS Act provides a limit to the maximum rate that a city can be required to contribute for the retirement portion of its plan based on the combination of the employee deposit rate and the matching ratio (the cost of Supplemental Death Benefits is excluded from this limit). This limit, known as the statutory maximum, is not a limit of the cost of a plan, but rather is simply a limit on the maximum a city could be required to contribute for the plan. If the TMRS minimum required retirement contribution rate exceeds this limit, unless the City takes additional action as permitted under the TMRS Act, it will not be meeting the minimum contribution requirements for its TMRS plan.

The City of Temple's 2011 minimum retirement contribution rate has exceeded our statutory maximum contribution rate limit. Our statutory maximum is 15.50%. With the adoption of this ordinance, we are agreeing to fund the costs of the pension benefits included in our plan. Its adoption also allows us to impose our own "limit" on the contribution rate by using our own discretion in determining which potential plan improvements to adopt, or not adopt, based on the calculated contribution rate. The TMRS actuary will calculate the cost of future adoptions and valuation studies each year. With the removal of the statutory rate limit, our full contribution rate for 2011 is 20.15% and the phase-in rate will be 17.01% (these rates include the cost of Supplemental Death Benefits).

FISCAL IMPACT: The city is currently in year three (2011) of an eight year phase-in rate for the employer portion of the TMRS rate. TMRS legislative efforts for 2011 will recommend restructuring funds within the TMRS system. TMRS sent letters to cities in August 2010 estimating the impact of the restructuring on their city. The actuarial estimate for the reduction in the City of Temple's rate is in the range of 1.35% to 2.10%.

The FY 2011 operating budget includes funds in the amount of \$4,158,562 for all employees enrolled in the TMRS system. This amount was based upon the phase-in rate of 17.01% which is comprised of two components: the retirement rate of 16.76% and the supplemental death benefit rate of 0.25%. The supplemental death benefit component of the rate is not subject to the statutory maximum rate.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, PROVIDING FOR PARTICIPATION IN THE TEXAS MUNICIPAL RETIREMENT SYSTEM BY THE EMPLOYEES OF THE ECONOMIC DEVELOPMENT CORPORATION OF THE CITY OF TEMPLE, TEXAS, ON THE SAME BASIS UPON WHICH EMPLOYEES OF THE CITY ITSELF PARTICIPATE IN SAID SYSTEM, AND ESTABLISHING AN EFFECTIVE DATE FOR THE ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETING CLAUSE.

Whereas, House Bill 2434, Acts of the 76th Legislature, Regular Session, amended Section 23 of the Development Corporation Act of 1979 (Article 5190.6, V.T.C.S.) to provide, among other things, that any corporation created by a municipality under that Act may, with the consent of the municipality, participate in any retirement program operated or participated in by the municipality;

Whereas, the City of Temple, Texas (the “City”), is a municipality that participates in the Texas Municipal Retirement System (the “System”) pursuant to the provisions of Government Code, Subtitle G, Title 8, as amended (the “TMRS Act”); and

Whereas, the City Council of the City of Temple, Texas, finds that it will be in the best interest of the City to have the employees of the Economic Development Corporation of the City (the “Corporation”) participate in the System on the same basis upon which employees of the City participate in the System.

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

Part 1: The City Council hereby consents to the participation of the employees of the Corporation in the System on the same basis upon which employees of the City now and hereafter participate in the System.

Part 2: All persons who, on or after the effective date of this ordinance, receive compensation from the Corporation and are engaged in an appointive office or position with the Corporation that normally requires services from the person for not less than 1,000 hours per year shall be and are hereby required to become members of the System.

Part 3: All credit authorized under this ordinance shall be treated as if it were performed for the City, and all sums of money that may be computed by the System’s actuary as being necessary to fund the credit hereby granted shall constitute a charge against the City’s account in the municipality accumulation fund of the System.

Part 4: This ordinance shall be and become effective on the 1st day of January, 2011.

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.

PASSED AND APPROVED on First Reading and Public Hearing on the 2nd day of **December**, 2010.

PASSED AND APPROVED on Second Reading on the 16th day of **December**, 2010.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydetta Entzminger
City Secretary

Jonathan Graham
City Attorney