



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR - CONFERENCE ROOM

THURSDAY, APRIL 21, 2011

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 21, 2011.
2. 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. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) [Administrative Professionals Week](#) [April 24—30, 2011](#)
(B) [Parkinson's Disease Awareness Month](#) [April, 2011](#)

III. PRESENTATIONS

4. Receive presentation from Dr. Robin Battershell, Temple Independent School District, regarding the upcoming bond election.

IV. 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.

V. CONSENT AGENDA

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

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

Minutes:

- (A) [April 7, 2011 Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) [2011-6278-R](#): Consider adopting a resolution authorizing a construction contract with Alpha Constructors of Temple for Sidewalk Improvements on Avenue G in the amount of \$196,376.50.
- (C) [2011-6279-R](#): Consider adopting a resolution authorizing a guaranteed maximum price construction contract with American Constructors, Inc. of Austin, for package #2 renovations to the Police Headquarters facility in the amount of \$2,626,275, and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.
- (D) [2011-6280-R](#): Consider adopting a resolution authorizing a construction contract with Dixon Paving, Inc. of Belton, for the construction of a concrete hike & bike trail in the amount of \$461,854.25, and waiving permit fees for this project.

Ordinances – Second and Final Reading

- (E) [2011-4437](#): SECOND READING – A-FY-11-02: Consider adopting an ordinance abandoning all of North 5th Street, between West Downs Avenue and West Calhoun Avenue, located between Blocks 27 and 28 of Moore's Addition; and reserving a public drainage and utility easement in the entire abandoned right-of-way.

Misc.

- (F) [2011-6281-R](#): Consider adopting a resolution supporting the work being done on the US-190/I-10 Feasibility Study and urging adoption of the proposed Mobility/Safety Alternative.
- (G) [2011-6282-R](#): Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2011 Junior Fire Cadet Program in the amount of \$22,242.
- (H) [2011-6283-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

VI. REGULAR AGENDA

ORDINANCES

6. (A) [2011-4435](#): SECOND READING – Consider adopting an ordinance designating a certain area as City of Temple Tax Abatement Reinvestment Zone Number Twenty for commercial/industrial tax abatement.

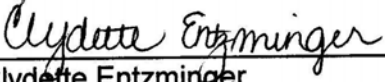
(B) [2011-6284-R](#): Consider adopting a resolution authorizing a tax abatement agreement with Panda Temple Power, LLC, for a portion of a 250 acre tract of land in the Southeast Industrial Park, south of Lorraine Drive.
7. [2011-4436](#): FIRST READING – PUBLIC HEARING – Z-FY-11-18: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.
8. [2011-4438](#): FIRST READING – PUBLIC HEARING - Z-FY-11-20: Consider adopting an ordinance authorizing an amendment to Unified Development Code (UDC) Article 6.3 TMED, Temple Medical and Education District, including additions to the use table concerning nursing home/assisted living, amending parking and garage requirements for special districts, designating specific trees for street tree application and addressing residential applicability.
9. [2011-4439](#): FIRST READING – PUBLIC HEARING - Z-FY-11-21: Consider adopting an ordinance authorizing a zoning change from TMED (T4) to TMED (T5-c) on the south 31.31 feet of Lot 9 and Lots 10, 11 and 12, Block 6, Hollywood Addition located at 2114 South 5th Street.
10. [2011-4440](#): FIRST READING – PUBLIC HEARING - Z-FY-11-22: Consider adopting an ordinance authorizing an amendment to Unified Development Code (UDC) Section 3.14, Sign Permit, related to the re-facing of signs.
11. [2011-4441](#): FIRST READING – PUBLIC HEARING - Z-FY-11-23: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF2) to Two Family District (2F) on 30.9 ± acres of land being out of the Maximo Moreno Survey, Abstract 14, City of Temple, Bell County, Texas, located along the west of South 5th Street, between Canyon Creek Drive and Silver Stone Drive.
12. [2011-4442](#): FIRST READING – PUBLIC HEARING - Z-FY-11-24: Consider adopting an ordinance authorizing a zoning change from Neighborhood Services District (NS) to General Retail District (GR) on Lot 1-A, Block 1, Canyon Creek Place II Addition, located at 1710 Canyon Creek Drive.
13. [2011-4443](#): FIRST READING – PUBLIC HEARING - Z-FY-11-25: Consider adopting an ordinance authorizing a zoning change from Light Industrial District (LI) to Central Area District (CA) on Lot One, Block 1, Original Town Plat, located at 201 South Main Street.

RESOLUTIONS

14. [2011-6285-R](#): Consider adopting a resolution granting a street use license for a proposed shed with an encroachment of 4.5 feet into the 7.5 feet wide utility easement along the rear property line of Lot 1, Block 2, Steeplechase Phase 1, located at 1505 Sturbridge Drive.

***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 10:50 AM, on April 15, 2011.


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 _____ 2011. _____



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #3(A-B)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

- | | |
|---|--------------------|
| (A) Administrative Professionals Week | April 24—30 , 2011 |
| (B) Parkinson's Disease Awareness Month | April, 2011 |

STAFF RECOMMENDATION: Present proclamations as presented in item description.

ITEM SUMMARY: (A) This proclamation will be received by the City's administrative professionals.

(B) This proclamation was requested by Christy Herff with the Scott and White Hospital Social Work Department. Ms. Herff will also receive the proclamation.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #5(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Clydette Entzminger, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) April 7, 2011 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:

[April 7, 2011 Special Called and Regular Meeting](#)

TEMPLE CITY COUNCIL

APRIL 7, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, April 7, 2011, at 4:00 P.M., in the Conference Room, 3rd Floor, Municipal Building, 2 North Main Street.

Present:

Councilmember Danny Dunn
Councilmember Marty Janczak
Mayor William A. Jones, III

Absent:

Mayor Pro Tem Patsy E. Luna
Councilmember Russell Schneider

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 7, 2011.

Regular Agenda Item 10 - Board Appointments: Mayor Jones suggested several names for appointment to these boards.

Regular Agenda Item 9 - Ordinance calling special election: Jonathan Graham, City Attorney, stated the City Council was scheduled to call a special election for May 14th based on a petition filed by the Temple Police Association and staff review of the Local Government Code. However, after receiving a different interpretation from the Secretary of State's Office, it has been determined that a longer period of time, 62 days before the election date, is needed in order to call this election. The next available election date will be in November. The City Secretary has validated the petition and informed the petitioners. Mr. Graham recommended the Council order a special election for November 2011 at a future Council meeting and that no action be taken today. The item has been posted for a public hearing and that does need to be conducted today.

Consent Agenda Item 4(R) - Budget Amendments: Traci Barnard, Director of Finance, noted that one of the budget amendments funds the operation of Clark Pool for the summer of 2011.

Regular Agenda Item 7 - Conditional Use Permit for package store: Councilmember Janczak stated this proposed package store is located in very close proximity to another package store approved by the Council. He expressed his concern with these uses being too close as in some other cities across the state.

2. Receive a presentation from the City Attorney on the redistricting process.

Jonathan Graham, City Attorney, discussed the topic of redistricting with the City Council. He began with a review of what redistricting is, which in Temple's context is the redrawing of the Council district boundaries where candidates run for a certain position and have to reside in the district. He also discussed when and why

redistricting is required, explaining the Equal Protection Clause of the 1st Amendment and the Voting Rights Act, Section 5.

Mr. Graham stated it is time to begin the redistricting process for 2011. Staff will pull out the 2001 plan, examine new population per 2010 census data, calculate the deviations and determine the ideal district size. He explained the various ways to develop a new plan, utilizing either in-house staff or an outside consultant. Public input is a very important part of that process. After the plan is developed it is submitted to the Department of Justice for their approval before the plan can be implemented.

Next, Mr. Graham discussed some of the criteria for redistricting plans, including the avoidance of retrogression, packing and cracking, respecting natural boundaries, and considering historic neighborhoods and communities of interest. Mr. Graham also offered some general observations about racial/ethnic composition in Texas based on trends, noting that he felt there would be similar trends in Temple's numbers.

Mr. Graham recommended the redistricting be handled in-ouse, with the staff doing the initial assessment. He also recommended the Council appoint a very diverse citizen advisory committee to work with staff on the development of the plan. This would be a coordinated effort with Bell County and the school districts, with a targeted completion date of September 1st.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, April 7, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Marty Janczak
Mayor William A. Jones, III
Councilmember Danny Dunn

Absent:

Mayor Pro Tem Patsy E. Lunaand
Councilmember Russell Schneider

I. CALL TO ORDER

1. Invocation

Pastor Lee Crossley voiced the Invocation.

2. Pledge of Allegiance

Kids from the Camp Fire USA Tejas Council led the Pledge of Allegiance.

II. PUBLIC APPEARANCE

3. Receive comments from Ms. Judy Callaway regarding distemper of dogs in the animal shelter.

Mrs. Linda Berg addressed the Council regarding this issue. She stated if the Animal Shelter would vaccinate and quarantine all animals coming into the Shelter it would be better for the animals and those who adopt the dogs. She explained her particular situation involving a dog she adopted from the Shelter that had distemper and had to be put to sleep within just a few days. She asked the Council to consider some of the options suggested.

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. (A) Purple Ribbon Week April 9 - 16, 2011

Jackie Wernli, Event Chairperson for Relay for Life, accepted the proclamation presented by Mayor Jones.

(B) Absolutely Incredible Kids Day April 14, 2011

Karen Allman, Camp Fire USA Tejas Council & Camp Fire Kids, accepted the proclamation presented by Mayor Jones.

(C) Earth Day April 22, 2011

Tanya Gray, Executive Director of Keep Temple Beautiful, accepted this proclamation presented by Mayor Jones.

(D) Fair Housing Month April 2011

Beth Correa, Regional Planner, Central Texas Council of Governments, accepted this proclamation presented by Councilmember Danny Dunn.

IV. PUBLIC COMMENTS

Mr. Bennie Trevino, 1003 South 13th Street, stated he was a write-in candidate for City Council District 2. He expressed his support for passage of the Temple ISD bond issue.

Milton Hensley, 301 Mitchell Drive, expressed his concern about the City mowing of the rights of way. He asked if the City will receive compensation from the state for this mowing. He also asked if local persons were considered for this mowing and if the wildflower growing season could be coordinated with the new mowing schedule.

V. CONSENT AGENDA

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

(A) March 17, 2011 Special Called and Regular Meeting

(B) 2011-6265-R: Consider adopting a resolution authorizing the purchase of ten (10) mobile digital video systems for the new police vehicles from L-3 Mobile Vision utilizing the Houston-Galveston Area Council Interlocal Cooperative, HGAC contract # EF04-09, in the amount of \$55,247.50.

(C) 2011-6266-R: Consider adopting a resolution authorizing the following purchases utilizing the BuyBoard Cooperative:

- 1. Toro Groundmaster 5900 mower from Professional Turf Products, L.P. of Euless, in the amount of \$77,952.05, and**
- 2. Two-person, 24-foot Hino Landscaper truck from Rush Truck Center of Buda, in the amount of \$70,179.**

(D) 2011-6267-R: Consider adopting a resolution authorizing the purchase of six (6) chemical pumps for the Conventional Water Treatment Plant from Environmental Improvements, Inc. of Buda, in the amount of \$40,564.

(E) 2011-6268-R: Consider adopting a resolution authorizing an amendment in the amount of \$10,522 to the professional services agreement with Kasberg, Patrick and Associates for the design of the Friar's Creek Trail Project for a total amended contract value of \$35,222.

(F) 2011-6269-R: Consider adopting a resolution authorizing a construction contract with Kraftsman Commercial Playgrounds & Water Park Equipment of Spring, for the purchase and installation of 3 new aquatic features for the West Temple Community Park splash pad in the amount of \$39,673.33 utilizing the BuyBoard Cooperative.

(G) 2011-6270-R: Consider adopting a resolution authorizing an extension of a contract through September 30, 2012, with Siemens Water Technologies Corporation of Sarasota, Florida for the service/supplier of chlorine dioxide/sodium chlorite in the estimated annual amount of \$250,000.

(H) 2011-6271-R: Consider adopting a resolution authorizing a change order to a construction contract with Utility Service Company, Inc. for construction activities required to add a PAX mixing system as part of the Taylor Road Tank Rehabilitation, in an amount not to exceed \$42,567.

(I) 2011-4430: SECOND READING - Z-FY-11-06: Consider adopting an ordinance authorizing an amendment to Articles 2, 3 and 11 of the Unified Development Code regarding final decision-making authority for sidewalk waivers and the establishment of definitions for a sidewalk and a trail.

(J) 2011-4431: SECOND READING - Z-FY-11-16: Consider adopting an ordinance authorizing a zoning change from Two-Family Dwelling District (2F) to General Retail District (GR) on Lot 1, Block 1, Jennings Addition, located at 1603 West C Avenue.

(K) 2011-4432: SECOND READING - Z-FY-11-17: Consider adopting an ordinance authorizing a zoning change from Single Family One District (SF1) to Two Family District (2F) on Lot 4, Block 1, Bruner Brothers Addition, located at 1303 South 2nd Street.

(L) 2011-4433: SECOND READING - Z-FY-11-19: Consider adopting an

ordinance authorizing a zoning change from Agriculture District (AG) to General Retail District (GR) on Outblock 726-B, located West of South 5th Street and South of Canyon Creek Drive.

(M) 2011-4434: SECOND READING - Consider adopting an ordinance amending Chapter 37, "Traffic," of the Code of Ordinances of the City of Temple, Texas, by adding Section 37-55, "Engine Brake Prohibited," prohibiting the use of an engine brake on a street or roadway within the City limits.

(N) 2011-6272-R: Consider adopting a resolution authorizing a term extension to a Chapter 380 "matching grant" agreement with Rudy and Karen Gonzales for redevelopment improvements in downtown Temple in the South 1st Street Strategic Investment Zone corridor.

(O) 2011-6273-R: Consider adopting a resolution amending a Chapter 380 "matching grant" agreement with Strasburger Enterprises for redevelopment improvements in the Temple Medical and Education District and the South 1st Street Strategic Investment Zone corridor at 1802 and 1808 South 1st Street in an amount not to exceed \$24,900 plus waiver of permit and other fees.

(P) 2011-6274-R: Consider adopting a resolution appointing election judges and setting their compensation for the City's general election to be held on May 14, 2011. Considere el adoptar de una resolución que designa a jueces de la elección y que fija su remuneración para que la elección de la ciudad sea sostenida el 14 de mayo de 2011.

(Q) 2011-6275-R: Consider adopting a resolution declaring the candidates for the May 14, 2011 District 3 City Councilmember and Mayor-at-large as unopposed and elected to office, thereby canceling the May 14, 2011 City general election for these positions. Considere el adoptar de una resolución que declara a los candidatos a la ciudad Councilmember del distrito 3 del 14 de mayo de 2011 y Alcalde-en-grande como sin oposición y haber elegido a la oficina, de tal modo cancelando la elección general de la ciudad del 14 de mayo de 2011 para esas posiciones.

(R) 2011-6276-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2010-2011.

Motion by Councilmember Marty Janczak to adopt resolution approving Consent Agenda, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

VI. REGULAR AGENDA

ORDINANCES

6. 2011-4435: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance designating a certain area as City of Temple Tax

Abatement Reinvestment Zone Number Twenty for commercial/industrial tax abatement.

Jonathan Graham, City Attorney, presented this item to the City Council. He explained tax abatement in Texas is governed by Chapter 312 of the Texas Tax Code. Property is required to be located within a tax abatement reinvestment zone to be eligible for tax abatement. This property is located in the Southeast Industrial Park, south of Lorraine Drive, and is part of a 250 acre tract owned by Panda Energy.

The proposed ordinance makes two findings: 1) that the creation of a tax abatement reinvestment zone will result in benefits to the City and the land included in the zone after the term of any agreement and that the improvements to be made are feasible; and 2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement. Mr. Graham stated he has reviewed the criteria and feels the tax abatement agreement, to be presented on the second reading of this ordinance, will lead to the retention of primary employment and create new real and personal property improvements and therefore, he recommended approval of the ordinance.

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

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

Motion by Councilmember Danny Dunn to adopt ordinance with second and final reading set for April 21, 2011, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

7. 2011-4436: FIRST READING - PUBLIC HEARING - Z-FY-11-18: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.

Autumn Speer, Director of Community Services, presented this item to the City Council. She discussed the current use of the property and showed its location and close proximity to the other package store approved on North 6th Street. Mrs. Speer also presented the proposed site plan improvements. The proposed elevation improvements include repairing and repainting the canopy and removal of the existing burglar bars within one year. Two notices were received in opposition of the request and one was received in favor. Mrs. Speer discussed the approval criteria for package stores. Both Staff and the Planning and Zoning Commission recommended approval for the request for a conditional use permit to allow a package store in this location.

Mayor Jones declared the public hearing open with regard to agenda item

7 and asked if anyone wished to address this item.

Bennie Trevino, 1003 South 13th, asked the square footage of the building and the amount of taxes to be gained.

Mr. Mohammad Naveed Usman, the applicant, replied the building is approximately 17,000 square feet in size. The cost of improvements is about \$43,000 plus the cost of the back lot.

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

Motion by Councilmember Danny Dunn to table ordinance on first reading to allow consideration by full Council on April 21, 2011, seconded by Councilmember Marty Janczak.

Motion passed unanimously.

- 8. 2011-4437: FIRST READING - PUBLIC HEARING - A-FY-11-02: Consider adopting an ordinance abandoning all of North 5th Street, between West Downs Avenue and West Calhoun Avenue, located between Blocks 27 and 28 of Moore's Addition; and reserving a public drainage and utility easement in the entire abandoned right-of-way.**

Autumn Speer, Director of Community Services, presented this item to the City Council. The request to abandon a portion of North 5th Street was filed by First Christian Church and Mrs. Speer displayed the location of this property, noting the location of the new Central Fire Station. The area would be used for parking and a youth crossing area between the church buildings. Utility easements would be reserved to protect existing utilities. There was some concern expressed by Temple Fire & Rescue about their ability to enter and leave the new station. Staff recommended the abandonment as requested, conveying the property to First Christian Church for the fair market value of \$5,000.

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

Dr. Wade Knight, 504 West Nugent, Chairman of the Board, First Christian Church, addressed the City Council. He stated First Christian Church acquired the old Soil Conservation building across the street from the church. Their request to close the street is a safety issue and the desire to provide access to the parking lot with no through traffic to make it safer for youth to go between the two facilities. Chief Wallace has indicated his support of their request to Dr. Knight but expressed concern about keeping church facilities accessible to the fire department vehicles in case of emergency.

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

Motion by Councilmember Danny Dunn to adopt ordinance, with second and final reading set for April 21, 2011, seconded by Councilmember

Marty Janczak.

Motion passed unanimously.

9. **2011-4438: FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an ordinance validating the petition submitted by the Temple Police Association and ordering a special Charter Amendment election for May 14, 2011, to be considered on an emergency basis. PRIMERA y FINAL LECTURA - AUDIENCIA PÚBLICA - considere el adoptar de una ordenanza que valida la petición sometida por la asociación del policía del templo y que ordena una elección especial de la enmienda de la carta para el 14 de mayo de 2011, ser considerado sobre una base de la emergencia.**

Jonathan Graham, City Attorney, presented this item to the City Council. He explained the Temple Police Association filed a petition with the City Secretary on April 1, 2011 proposing an amendment to the City Charter regarding minimum staffing. The petition signatures were validated and the petitioners notified. However, Mr. Graham recommended the Council take no action at this time since there is not sufficient time to call an election for May 14, 2011. Staff will present an ordinance to the City Council for consideration at a future meeting.

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

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

No action was taken regarding this item.

BOARD APPOINTMENTS

10. **2011-6277-R: Consider adopting a resolution appointing members to the following City boards and commissions:**

(A) Library Board - one member to fill an unexpired term through September 1, 2011; and

It was recommended that Jean Kubala be appointed to the Library Board to fill the unexpired term.

(B) Planning & Zoning Commission - one member to fill an unexpired term through September 1, 2011

It was recommended that David Jones be appointed to the Planning and Zoning Commission to fill the unexpired term.

Motion by Councilmember Marty Janczak to adopt resolution approving board appointments as recommended, seconded by Councilmember Danny Dunn.

Motion passed unanimously.

William A. Jones, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #5(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Alpha Constructors of Temple for Sidewalk Improvements on Avenue G in the amount of \$196,376.50.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On December 2, 2010, the City Council authorized a construction contract with TCB Construction in the amount of \$150,633 for this sidewalk improvement project. The two (2) additional bids on this project that opened on November 16, 2010, were \$227,235 and \$249,588. TCB Construction communicated to the City on March 2, 2011, that they would need to retract their bid due to their inability to bond the project based on some errors they made in the compilation of their bid. After gaining an understanding of the bidding errors, staff agreed to accept TCB's bid retraction as long as they reimbursed the City for its \$455.82 in hard costs incurred in re-bidding the project. TCB agreed with these terms.

Accordingly, on March 29, 2011, bids were opened for the re-bid of this project consisting of the renovation of the sidewalk on the north side of Avenue G from 25th Street to 1st Street making this portion of Avenue G ADA accessible. As shown on the attached bid tabulation, seven (7) bids were received on March 29, 2011 ranging from a low bid of \$198,376.50 to a high bid of \$370,383. Alpha Constructors submitted the low bid.

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. As shown on the attached map, the project was bid with a base bid taking the project from 25th Street east to approximately 17th Street. Alternate bids were included as follows:

Alternate #1 – 17th Street to 15th Street

Alternate #2 – 15th Street to the alley between 13th Street and 11th Street

Alternate #3 – Alley between 13th Street and 11th Street to alley between 9th Street and 7th Street.

Alternate #4 – Alley between 9th Street and 7th Street to 1st Street

It is staff's recommendation that the base bid along with the four (4) alternates all be constructed. This resolution will also authorize waving the permit fees for this CDBG funded project.

The Parks and Leisure Services Department has worked with Alpha Constructors on projects in the past and has found them to be a very responsive and responsible contractor.

FISCAL IMPACT: The total proposed expenditure is \$196,376.50. CDBG funding in the amount of \$167,722 is available in account 260-6100-571-63-15 project 100506. A budget adjustment is presented for Council's approval appropriating \$2,035 of prior year CDBG program income, \$6,965 of current year CDBG program income and reallocating \$19,655 of CDBG funds from the 1st Street Sidewalk project – account 260-6100-571-63-15 project 100623 to the Avenue G Sidewalk Improvement Project - account 260-6100-571-63-15 project 100506.

ATTACHMENTS:

[Bid Tabulation](#)
[Project map](#)
[Budget Adjustment](#)
[Resolution](#)

Tabulation of Bids Received
on March 29, 2011 at 2:00 p.m.
CDBG Avenue G New Sidewalk Improvements - Phase I (Re-bid)

	Bidders			
	Ken-Do Desoto, TX	Myers Concrete Wimberly, TX	Patin Construction Taylor, TX	TCB Construction Austin, TX
Description				
Total Base Bid	\$137,351.00	\$98,208.55	\$123,367.00	\$93,348.00
Add Alternate #1	\$45,373.00	\$24,548.50	\$31,998.00	\$23,580.00
Add Alternate #2	\$58,369.00	\$26,030.00	\$34,323.00	\$28,017.00
Add Alternate #3	\$56,803.00	\$26,496.95	\$38,997.00	\$25,008.00
Add Alternate #4	\$72,487.00	\$37,093.20	\$54,050.00	\$33,377.00
Total Base Bid + Alternates	\$370,383.00	\$212,377.20	\$282,735.00	\$203,330.00
Bid Bond (required at bid opening)	5%	5%	5%	5%
Bond Affidavit	Yes	Yes	Yes	None
Insurance Affidavit	Yes	Yes	Yes	Yes
Credit Check Authorization Form	Yes	Yes	Yes	Yes
Statement of Bidder's Qualifications	Yes	None	None	Yes
Contractor's Local Opportunity Plan	Yes	None	None	Yes
Proposed Contracts Breakdown	Yes	None	None	Yes
Contractor Certifications	Yes	None	None	Yes
Noncollusion Affidavit of Prime Bidder	Yes	None	None	Yes
Addendum about Bid Schedule	Yes	Yes	Yes	Yes

	Bidders			
	Shallowford Temple, TX	Alpha Constructors Temple, TX	TTG Utilities Gatesville, TX	
Description				
Total Base Bid	\$103,199.00	\$93,926.50	\$122,197.00	
Add Alternate #1	\$26,390.00	\$24,360.00	\$30,072.00	
Add Alternate #2	\$28,876.00	\$24,927.00	\$32,341.00	
Add Alternate #3	\$25,165.00	\$23,038.50	\$28,629.00	
Add Alternate #4	\$28,625.00	\$30,124.50	\$37,189.00	
Total Base Bid + Alternates	\$212,255.00	\$196,376.50	\$250,428.00	
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	None	Yes	None	
Contractor's Local Opportunity Plan	None	Yes	None	
Proposed Contracts Breakdown	None	Yes	None	
Contractor Certifications	None	Yes	None	
Noncollusion Affidavit of Prime Bidder	None	Yes	None	
Addendum about Bid Schedule	Yes	Yes	Yes	

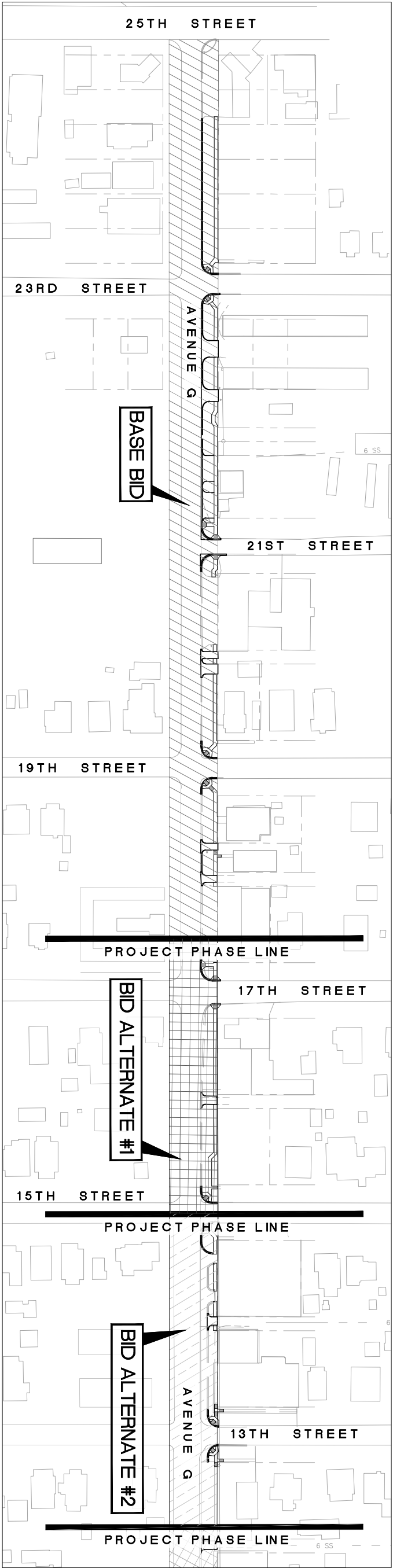
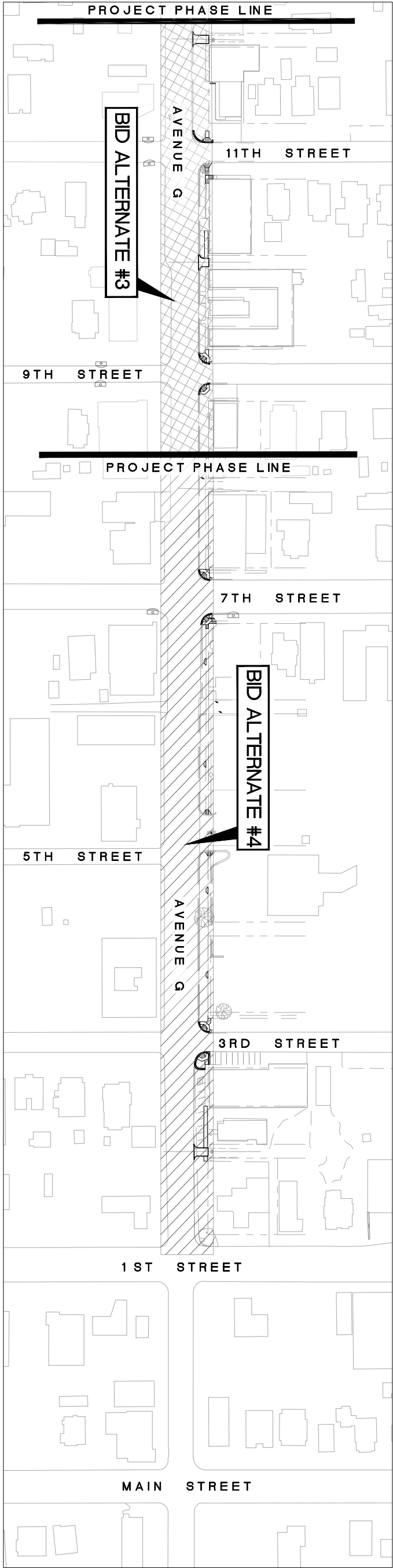
I hereby certify that this is a correct and true tabulation of all bids received.

Belinda Matthe

29-Mar-11

Belinda Matthe, Director of Purchasing

Date



LEGEND

	EXTENTS OF BASE BID
	EXTENTS OF BID ALTERNATE #1
	EXTENTS OF BID ALTERNATE #2
	EXTENTS OF BID ALTERNATE #3
	EXTENTS OF BID ALTERNATE #4

Date: _____

Revisions
Remarks: _____

0 80 160
FEET

PROJECT SITE PHASING PLAN

C3.1	Plot Date: 5-28-10	Project No: 101144.00	 Civil Engineers • Designers • Planners Tel: (254) 899-0899 Fax: (254) 899-0901 2010 SW HK Dodgen Loop, Suite 105, Temple, Texas 76504		CITY OF TEMPLE C.D.B.G. AVENUE G - SIDEWALK IMPROVEMENTS BASE BID TEMPLE, TEXAS	DRAWING STATUS THESE DRAWINGS WERE PREPARED UNDER THE AUTHORITY OF MONTY L. CLARK P.E. 90894, CLARK & FULLER, PLLC FIRM NO: F-10384... <input type="checkbox"/> FOR REVIEW THIS DOCUMENT IS RELEASED FOR THE PURPOSES OF INTERIM REVIEW ONLY AS PER DATE ON DRAWING. IT IS NOT TO BE USED FOR BIDDING OR CONSTRUCTION PURPOSES. ONLY DRAWINGS ISSUED "FOR CONSTRUCTION" CAN BE CONSIDERED COMPLETE. <input checked="" type="checkbox"/> FOR CONSTRUCTION FINAL DRAWINGS
	Drawn By: DGR	Designed By: MLC				

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	
260-6100-571-63-15	100506	Sidewalk/Curb Gutter - Ave G	\$ 28,655			
260-6100-571-63-15	100623	Streets/Alleys - 1st Street			19,655	
260-6100-571-65-32		Contingency (Prior Year Program Income)			2,035	
260-0000-461-08-30		Other Revenue	5,950			
260-0000-461-08-65		Misc Reimbursements	1,015			
TOTAL.....			\$ 35,620		\$ 21,690	

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

To allocate additional funds to the Ave. G Sidewalk project. Funds are available from the 1st Street Sidewalk project, prior year program income and current year program income.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒ Yes☐ No

DATE OF COUNCIL MEETING

4/21/2011

WITH AGENDA ITEM?

☒ Yes☐ No

Department Head/Division Director

Date

☐ Approved
☐ Disapproved

Finance

Date

☐ Approved
☐ Disapproved

City Manager

Date

☐ Approved
☐ Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH ALPHA CONSTRUCTORS OF TEMPLE, TEXAS, FOR SIDEWALK IMPROVEMENTS ON AVENUE G, IN THE AMOUNT OF \$196,376.50; WAIVING PERMIT FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 2, 2010, the City Council approved a construction contract with TCB Construction of Austin, Texas, in the amount of \$150,633 for the base bid and all 4 alternates for the Avenue G Sidewalk Improvement Project; TCB Construction was unable to obtain the necessary bonding which necessitated rebidding the project;

Whereas, on March 29, 2011, the City received 7 bids for sidewalk improvements on Avenue G;

Whereas, the Staff recommends accepting the bid received from Alpha Constructors of Temple, Texas, in the amount of \$196,376.50, and waiving the permit fees for this CDBG funded project;

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 construction contract with Alpha Constructors of Temple, Texas, after approval as to form by the City Attorney, for the Avenue G Sidewalk Improvement Project, in the amount of \$196,376.50. The City Council authorizes waiving the permit fees for this project.

Part 2: The City Council approves an amendment to the FY2010-2011 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

PASSED AND APPROVED this the **21st** day of **April**, 2011.

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

04/21/11
Item #5(C)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing a guaranteed maximum price construction contract with American Constructors, Inc. of Austin, for package #2 renovations to the Police Headquarters facility in the amount of \$2,626,275 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. Then on December 2, 2010, Council authorized a CMAR contract with American Constructors, Inc. (ACI) which appropriated \$8,000 for pre-construction phase services.

It was determined in the planning phase of this project that it would be helpful to break the project down into several bid packages due to the time required to design the mechanical system, the nature of the work, and the desire to commence this project quickly. Package #1 renovations were authorized by Council on February 17, 2011, in the amount of \$2,693,778. Package #1 included the following:

- HVAC Equipment (12-14 week lead time)
- Brick and cast stone materials (10-12 week lead time)
- Demolition of masonry
- Installation of brick and cast stone
- Removal and storage of ceiling tiles
- Demolition and mold abatement of interior walls that are impacted by remediation
- Removal/cleaning/storing/re-installation of metal panels
- Remove, flash and reinstall windows
- Installation of air barrier and waterproofing
- Repair of exterior sheathing
- Application of exterior sealants
- Construction of temporary enclosures and equipment to support reconstruction

The demolition and construction activities began on March 21, 2011.

On March 29, 2011, American Constructors opened proposals for the bid package #2 and has presented to the City a proposed Guaranteed Maximum Price (GMP) for package #2 in the amount of \$2,626,275. The GMP includes construction phase services and general conditions as specified in ACI's proposal in the amount of \$58,993 and \$155,000, respectively. ACI's cumulative line item cost sheet detailing the GMP is attached. The construction phase service fee, which covers ACI's profit and overhead, is 2.5% of the cost of work. The general condition fee covers ACI's on-site management costs and other direct costs associated with this project.

Package #2 includes the following:

- Install temporary HVAC units
- Install new HVAC equipment
- Demolition of ceiling to enable demolition of ductwork
- Demolition of HVAC ductwork that cannot be cleaned
- Remove/replace electric, plumbing, fire alarm as needed
- Clean all non-lined ductwork
- Install new ductwork
- Install new insulation and sheetrock
- Paint interior
- Make necessary parapet and roof repairs
- Make necessary elevator repairs

It is anticipated that a final GMP #3 will be coming forth to Council on July 7, 2011. GMP will include the following along with any other items that are identified during the demolition process:

- Testing of HVAC system
- Finish out interior, including re-installation of blinds, doors, ceilings, etc
- Final interior/exterior cleaning
- Repair irrigation and landscaping

It is anticipated that the project will be complete by November 21, 2011.

FISCAL IMPACT: The issuance of Limited Tax Notes in an amount not to exceed \$7,600,000 was authorized by Council on February 17, 2011. The notes are designated to finance the costs associated with construction and renovations of the Temple Police Headquarters. Initial funding of GMP #2 in the amount of \$2,626,275 will be allocated from General Fund Balance Designated for Capital Project-Unallocated. Cumulatively including this contract, \$5,787,757.91 has been encumbered or expended on this project. Once total project costs are determined, the proceeds from the Limited Tax Notes will reimburse General Fund Balance Designated for Capital Project-Unallocated.

ATTACHMENTS:
[GMP #2 Summary](#)
[Resolution](#)

Div	Description	2/4/11 Estimate	GMP 1	GMP 2	GMPs to Date
01	Temporary Construction / Protection of Existing / Safety / Trash Removal / Cleaning	257,121	66,276	127,450	193,726
02	Demolition and Mold Remediation	483,693	446,130	79,580	525,710
03	Manlifts and Scaffolding	83,000	27,500	15,000	42,500
04	Masonry	480,485	480,485	0	480,485
05	Structure for Chillers and HRU	96,960	0	102,215	102,215
06	Rough Carpentry & Millwork	54,140	0	36,800	36,800
07	Waterproofing / Roofing / Remove & Reinstall Metal Wall Panels	764,199	685,925	113,454	799,379
08	Doors & Windows	330,564	311,924	18,640	330,564
09	Finishes	435,720	0	338,436	338,436
10-13	Remove & Reinstall Signage / Lockers / Canopies / Blinds / Owner Equipment / Furnishings / Etc.	70,717	16,099	50,999	67,098
14	Elevators	76,311	0	10,000	10,000
21	Fire Sprinkler System	36,565	0	31,565	31,565
22	Plumbing	32,108	0	34,608	34,608
23	Heating, Ventilating and Air Conditioning	1,598,235	495,000	1,013,222	1,508,222
26	Electrical	472,864	8,500	252,500	261,000
27	Communications	39,316	0	60,262	60,262
28	Access Control / Video Surveillance / Fire Alarm	76,726	0	74,977	74,977
32	Remove & Reinstall Landscaping & Irrigation	61,000	0	0	0
50	General Conditions / Project Personnel	200,000	45,000	155,000	200,000
51	Allowances	75,000	0	0	0
52	Design Contingency	200,000	0	0	0
53	Bonds & Insurance	107,239	47,494	52,574	100,068
54	Preconstruction Phase Services Fee	8,000	0	0	0
55	Fee	145,799	63,446	58,993	122,439
Total		6,185,762	2,693,779	2,626,275	5,320,054

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A GUARANTEED MAXIMUM PRICE CONSTRUCTION CONTRACT WITH AMERICAN CONSTRUCTORS, INC., OF AUSTIN, TEXAS, FOR PACKAGE #2 RENOVATIONS TO THE POLICE HEADQUARTERS FACILITY IN AN AMOUNT OF \$2,626,275; 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, on December 2, 2010, the City Council authorized a Construction-Manager-at-Risk contract with American Constructors, Inc., which appropriated \$8,000 for pre-construction phase services;

Whereas, it was determined in the planning phase of this project that it would be helpful to break the project down into several bid packages due to the time required to design the mechanical system, the nature of the work, and the desire to commence the project quickly;

Whereas, on February 17, 2011, the City Council approved a guaranteed maximum price construction contract in the amount of \$2,693,778 with American Constructors for bid package #1;

Whereas, on March 29, 2011, American Constructors opened proposals for bid package #2 and has presented to the City a proposed Guaranteed Maximum Price (GMP) for bid package #2 in the amount of \$2,626,275;

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 a guaranteed maximum price construction contract with American Constructors, Inc., of Austin, Texas, for package #2 renovations to the Police Headquarters facility in an amount of \$2,626,275.

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.

<u>Project Description</u>	<u>Debt To Be Issued</u>
Renovations to the Police Headquarters	\$2,626,275

facility – guaranteed maximum price
construction contract for package #2
renovations

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 **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #5(D)
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 with Dixon Paving, Inc. of Belton, for the construction of a concrete hike & bike trail in the amount of \$461,854.25, and waiving permit fees for this project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description, contingent upon approval by the Reinvestment Zone No. 1 Board of Directors.

ITEM SUMMARY: This trail will be constructed in the TMED zone and is designed so as to provide and alternate way of transportation for students and the general public to travel from Temple College to Scott & White Hospital. Eventually, the Trails Master Plan calls for this trail to connect with the VA Hospital and the existing Friar's Creek Nature Trail that ends at South Temple Community Park.

This trail will be constructed in the same manner as the Pepper Creek Greenbelt Trail at 12 feet in width and approximately 3,600 feet in length.

Funding for this project is provided by a Department of Energy Grant and Reinvestment Zone No.1

On April 12, 2011, the City of Temple received eight bids for this trail project. Bid ranged from a low of \$461,854.25 to a high of \$994,973.05 with Dixon Paving submitting the low bid.

A grant from the Department of Energy was obtained by the City of Temple in the amount of \$413,000 for this project. \$377,600 remains of the grant funds after design and other costs. In addition to the funding from the grant to construct the concrete trail, the Reinvestment Zone No. 1 has included in its current Financing and Project Plans \$1,500,000 to enhance the trail. These enhancements include improvements, amenities, plantings, water features and trail nodes. The design of the trail was modified when the Zone became a partner in the project. The Reinvestment Zone Board agreed to fund the modifications to the design.

The Parks and Leisure Services Department has worked with Dixon Paving on several projects in the past and has found them to be a very responsive and responsible contractor.

FISCAL IMPACT: Grant funds in the amount of \$377,600 are available in account 260-1100-552-6316, project #100585, to fund a majority of this construction contract. The additional amount needed to fund the construction contract with Dixon Paving, Inc. of \$85,254 is available from the funds set aside for the trail enhancements in the Reinvestment Zone No. 1 Project Plan, Line 455. After funding this additional amount needed for the construction of the trail, \$1,414,746 will remain available to fund the enhancements for the trail.

ATTACHMENTS:

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



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
Texas Firm F-510

RICK N. KASBERG, P.E.

R. DAVID PATRICK, P.E., C.F.M.

THOMAS D. VALLE, P.E.

Temple
One South Main Street
Temple, Texas 76501
(254) 773-3731

Georgetown
3613 Williams Drive, Suite 406
Georgetown, Texas 78628
(512) 819-9478

Mr. Val Roming
City of Temple
2986 Thornton Lane
Temple, Texas 76502

Re: City of Temple
Friars Creek Hike and Bike Trail Phase I

Dear Mr. Roming:

On April 12, 2011, the City of Temple received competitive bids from eight contractors for the referenced project. A Bid Tabulation is provided for your reference.

The attached Bid Tabulation shows Dixon Paving Inc. of Belton, Texas as the low bidder with a bid amount of \$461,854.25. The average of the eight bids was \$700,462 and our Final Opinion of Probable Cost for this project was \$700,000.

We have reviewed Dixon Paving Inc. bid, similar projects and reference information and we have completed many past projects with Dixon Paving Inc. Therefore, we recommend that a contract be awarded to Dixon Paving Inc. for in the amount of \$461,854.25.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. David Patrick'.

R. David Patrick, P.E., CFM

RDP/

xc: Ms. Belinda Mattke, City of Temple (1 copy with Original Bid Documents)
2010-141-40

BID TABULATION
CITY OF TEMPLE, TEXAS

2010-141-30

FRIARS CREEK HIKE AND BIKE TRAIL

3210 E Avenue H, Bldg C, Temple, Texas
April 12, 2011, 11:00 AM

BIDDER INFORMATION									
		Dixon Paving Inc PO Box 664 Belton TX 76513		Patin Construction LP 3800 W 2nd Taylor TX 76784		Austin Pitter Systems 13653 Rutledge Spur Austin TX 78717		Alpha Constructors Inc PO Box 942 Temple TX 76768	
Item No	Estimated Quantity	Unit	Rit Data Description	Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
PART A - HIKE AND BIKE TRAIL									
A-1	100%	LS	Mobilization, Bonds & Insurance, not-to-exceed 5% of the Base Bid Amount	\$ 18,000.00	\$ 18,000.00	\$ 28,000.00	\$ 28,000.00	\$ 23,000.00	\$ 23,000.00
A-2	100%	LS	Providing Site Clearing	16,000.00	16,000.00	5,000.00	5,000.00	16,000.00	16,000.00
A-3	100%	LS	Submittal Trench Safety Plan prepared & signed by a P.E., in Conformance with State Law & OSHA	800.00	800.00	1,200.00	1,200.00	3,000.00	3,000.00
A-4	80	LP	Implement & Pullout Trench Safety Plan (Pipe)	4.00	320.00	5.00	400.00	5.00	400.00
A-5	2	EA	Furnish & Install Stabilized Construction Entrance	800.00	1,600.00	800.00	1,600.00	1,800.00	3,600.00
A-6	100%	LS	Implement & Administer Stormwater Pollution Prevention Plan, Including Submission to & Receiving Permit from TCEQ	1,600.00	1,600.00	2,000.00	2,000.00	3,500.00	3,500.00
A-7	100%	LS	Provide Project Record Drawings (As Built)	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
A-8	100%	LS	Provide DVD of right-of-way pre-construction & post construction site conditions the total project	200.00	200.00	500.00	500.00	1,800.00	1,800.00
A-9	250	LF	Furnish, Install, Maintain & Remove Rock Berm as required in the Stormwater Pollution Prevention Plan	20.00	4,600.00	40.00	9,200.00	30.00	6,900.00
A-10	2,380	LF	Furnish, Install, Maintain & Remove Silt Fence as required in the Stormwater Pollution Prevention Plan	1.85	4,403.00	1.80	4,284.00	2.00	4,760.00
A-11	1	EA	Demolish & Remove Existing Manhole	600.00	600.00	600.00	600.00	2,800.00	2,800.00
A-12	1,350	SY	Unclassified Excavation & Disposal of Existing Asphalt	2.50	3,375.00	5.00	6,750.00	1.00	1,350.00
A-13	1,100	CY	Unclassified Excavation (Trail)	5.00	5,500.00	3.00	3,300.00	11.00	12,100.00
A-14	1,550	CY	Placing & Compacting Unclassified Fill	3.00	4,650.00	4.00	6,200.00	5.00	7,750.00
A-15	185	CY	Placing & Compacting Select Fill Material, Per Detail on Sheet D01 of Plans	12.85	2,375.25	10.00	1,850.00	18.00	3,330.00
A-16	6,150	SY	Constructing 12" Wide Hike & Bike Trail, Per Detail on Sheet D01 of the Plans	25.00	153,750.00	36.00	221,400.00	32.00	196,800.00
A-17	3	EA	Constructing Handicap Pedestrian Ramps, Complete For	550.00	1,650.00	800.00	2,400.00	550.00	1,650.00
A-18	100%	LS	Furnish & Install Preconstructed Pedestrian Bridge, 80' Span, as Detailed on Sheet D04 of the Plans	98,000.00	98,000.00	86,000.00	86,000.00	107,000.00	107,000.00
A-19	800	SF	Furnish & Install Limestone Retaining Walls, as Detailed on Sheets D05 of the Plans	10.00	8,000.00	15.00	12,000.00	42.00	33,600.00
A-20	445	LF	Constructing Pedestrian Handrail, Per Detail on Sheet D01 of the Plans	60.00	26,700.00	65.00	28,925.00	92.00	40,940.00
A-21	64	LF	Furnish & Install 2 - 12" Diameter RCP, Class III, Including Bedding & Backfill	36.00	2,304.00	80.00	5,120.00	95.00	6,080.00
A-22	16	LF	Furnish & Install 18" Diameter RCP, Class III, Including Bedding & Backfill	78.00	1,248.00	70.00	1,120.00	69.00	1,104.00
A-23	28	LF	Furnish & Install 2 - 4'x3' RCB, Including Bedding & Backfill	194.00	5,432.00	210.00	5,880.00	357.00	10,376.00
A-24	70	LF	Furnish & Install 3'x2' RCB, Including Bedding & Backfill	98.00	6,860.00	160.00	11,200.00	143.00	10,010.00
A-25	8	EA	Furnish & Install Parallel Headwall 2 - 12" RCPs	800.00	6,400.00	500.00	4,000.00	1,121.00	8,968.00
A-26	2	EA	Furnish & Install Parallel Headwall 18" RCP	800.00	1,600.00	600.00	1,200.00	560.00	1,120.00
A-27	4	EA	Furnish & Install Concrete Headwall with Flared Wingwalls 2 - 4'x3' RCBs	1,800.00	7,200.00	2,500.00	10,000.00	1,400.00	5,600.00
A-28	4	EA	Furnish & Install Concrete Headwall with Flared Wingwalls 1-3'x2' RCBs	1,200.00	4,800.00	2,000.00	8,000.00	2,400.00	9,600.00
A-29	20	CY	Miscellaneous Class "A" Concrete Construction	120.00	2,400.00	120.00	2,400.00	45.00	900.00
A-30	265	CY	Furnish & Install 12" Diameter Rock Riprap	24.00	6,360.00	80.00	21,200.00	55.00	14,575.00
A-31	3,630	SF	Furnish & Install 4" Thick Mortared Limestone Facade	3.00	10,890.00	6.00	21,780.00	15.00	54,450.00
A-32	3,780	LF	Furnish & Install 4" Schedule 40 PVC Conduit Including Pull String & Caps	6.00	22,680.00	5.00	18,900.00	5.00	18,900.00
A-33	3	EA	Furnish & Install D3-1 Stop Signs	350.00	1,050.00	350.00	1,050.00	186.00	558.00
A-34	1,100	SY	Furnish & Install Bermuda Sod	4.00	4,400.00	4.00	4,400.00	5.00	5,500.00
A-35	6,000	SY	Furnish & Install Hydromulch Seeding	0.40	2,400.00	0.36	2,160.00	1.00	6,000.00
TOTAL PART A BID AMOUNT - (Items A-1 - A-35)				\$	442,649.25	\$	545,049.00	\$	631,321.00

* Written price and Unit price do not correspond. Written price prevails. ** Extended amount has been corrected. *** Total amount has been corrected.

BID TABULATION
CITY OF TEMPLE, TEXAS

2010-141-30

FRIARS CREEK HIKE AND BIKE TRAIL

3210 E Avenue H, Bldg C, Temple, Texas
April 12, 2011, 11:00 AM

			BIDDER INFORMATION							
			Myers Concrete Construction 2301 FM 3237 Wintersville TX 76676		TTG Utilities LP PO Box 299 Gageville TX 76628		Vanguard Contractors PO Box 80 Temple TX 76603		Westar Construction 4500 Williams Drive, Ste 212 Georgetown TX 78633	
Item No.	Estimated Quantity	Unit	Bid Data Description		Unit Price	Extended Amount	Unit Price	Extended Amount	Unit Price	Extended Amount
PART A - HIKE AND BIKE TRAIL										
A-1	100%	LS	Mobilization, Bonds & Insurance, not to exceed 5% of the Base Bid Amount		\$ 2,500.00	\$ 2,500.00	\$ 16,500.00	\$ 16,500.00	\$ 32,000.00	\$ 32,000.00
A-2	100%	LS	Providing Site Clearing		6,370.00	6,370.00	5,100.00	5,100.00	11,000.00	11,000.00
A-3	100%	LS	Submit Trench Safety Plan prepared & signed by a P.E., in Conformance with State Law & OSHA		938.00	938.00	650.00	650.00	500.00	500.00
A-4	80	LP	Implement & Follow Trench Safety Plan (Pipe)		1.50	120.00	8.00	640.00	10.00	800.00
A-5	2	EA	Furnish & Install Stabilized Construction Entrance		1,286.00	2,572.00	1,000.00	3,800.00	1,425.00	2,850.00
A-6	100%	LS	Implement & Administer Stormwater Pollution Prevention Plan, Including Submission to & Receiving Permits from TCEQ		983.00	983.00	950.00	950.00	900.00	900.00
A-7	100%	LS	Provide Project Record Drawings (As Buils)		5,000.00	5,000.00	5,000.00	5,000.00	5,000.00	5,000.00
A-8	100%	LS	Provide DVD of right-of-way pre-construction & post construction site conditions the total project		907.00	907.00	365.00	365.00	300.00	300.00
A-9	250	LF	Furnish, Install, Maintain & Remove Rock Berm as required in the Stormwater Pollution Prevention Plan		35.00	8,050.00	22.00	5,060.00	25.00	5,750.00
A-10	2,380	LF	Furnish, Install, Maintain & Remove Silt Fence as required in the Stormwater Pollution Prevention Plan		2.75	6,545.00	2.00	4,760.00	1.60	3,808.00
A-11	1	EA	Demolish & Remove Existing Manhole		1,258.00	1,258.00	690.00	690.00	800.00	800.00
A-12	1,350	SY	Unclassified Excavation & Disposal of Existing Asphalt		0.82	1,107.00	2.50	3,375.00	3.90	5,265.00
A-13	1,100	CY	Unclassified Excavation (Trail)		7.00	7,700.00	11.00	12,100.00	12.00	13,200.00
A-14	1,550	CY	Placing & Compacting Unclassified Fill		13.00	20,150.00	11.00	17,050.00	14.00	21,700.00
A-15	185	CY	Placing & Compacting Select Fill Material, Per Detail on Sheet D01 of Plans		47.00	8,695.00	25.50	4,717.50	35.00	6,475.00
A-16	6,150	SY	Constructing 12" Wide Hike & Bike Trail, Per Detail on Sheet D01 of the Plans		36.96	227,304.00	42.00	258,300.00	42.40	260,760.00
A-17	3	EA	Constructing Handicap Pedestrian Ramps, Complete For		1,120.00	3,360.00	730.00	2,190.00	500.00	1,500.00
A-18	100%	LS	Furnish & Install Preconstructed Pedestrian Bridge, 80' Span, as Detailed on Sheet D04 of the Plans		115,446.00	115,446.00	88,200.00	88,200.00	116,000.00	116,000.00
A-19	800	SF	Furnish & Install Limestone Retaining Walls, as Detailed on Sheets D03 of the Plans		33.30	26,640.00	29.00	23,200.00	23.50	18,800.00
A-20	445	LF	Constructing Pedestrian Handrail, Per Detail on Sheet D01 of the Plans		104.00	46,280.00	205.00	91,225.00	86.00	38,270.00
A-21	64	LF	Furnish & Install 2 - 12" Diameter RCP, Class III, Including Bedding & Backfill		85.00	5,440.00	44.00	2,816.00	48.00	3,072.00
A-22	16	LF	Furnish & Install 18" Diameter RCP, Class III, Including Bedding & Backfill		145.00	2,320.00	45.00	720.00	40.00	640.00
A-23	28	LF	Furnish & Install 2 - 4'x3' RCB, Including Bedding & Backfill		429.00	12,012.00	325.00	9,100.00	450.00	12,600.00
A-24	70	LF	Furnish & Install 3'x2' RCB, Including Bedding & Backfill		258.00	18,060.00	160.00	11,200.00	155.00	10,850.00
A-25	8	EA	Furnish & Install Parallel Headwall 2 - 12" RCPs		1,776.00	14,208.00	1,290.00	10,320.00	1,250.00	10,000.00
A-26	2	EA	Furnish & Install Parallel Headwall 18" RCP		1,806.00	3,612.00	1,415.00	2,830.00	1,250.00	2,500.00
A-27	4	EA	Furnish & Install Concrete Headwall with Flared Wingwalls 2 - 4'x3' RCBs		756.00	3,024.00	5,470.00	21,880.00	4,000.00	16,000.00
A-28	4	EA	Furnish & Install Concrete Headwall with Flared Wingwalls 1-3'x2' RCBs		3,255.00	13,020.00	3,800.00	15,200.00	2,600.00	10,400.00
A-29	20	CY	Miscellaneous Class "A" Concrete Construction		292.00	5,840.00	520.00	6,400.00	120.00	2,400.00
A-30	265	CY	Furnish & Install 12" Diameter Rock Riprap		174.00	46,110.00	70.00	18,550.00	108.00	28,620.00
A-31	3,650	SF	Furnish & Install 4" Thick Mortared Limestone Paving		9.00	32,850.00	9.00	32,850.00	14.00	50,900.00
A-32	3,780	LF	Furnish & Install 2" Schedule 40 PVC Conduit Including Pull String & Caps		8.50	32,130.00	8.40	31,752.00	10.10	38,170.00
A-33	3	EA	Furnish & Install D3-1 Stop Sign		567.00	1,701.00	550.00	1,650.00	247.00	741.00
A-34	1,100	SY	Furnish & Install Bermuda Sod		6.40	7,040.00	3.85	4,235.00	4.10	4,510.00
A-35	6,000	SY	Furnish & Install Hydromulch Seeding		0.76	4,560.00	0.75	4,500.00	0.40	2,400.00
TOTAL PART A BID AMOUNT - (Items A-1 - A-35)					\$	693,660.00	*** \$	717,695.50	*** \$	739,409.00
									*** \$	967,513.03

* Written price and Unit price do not correspond. Written price prevails. ** Extended amount has been corrected. *** Total amount has been corrected.

BID TABULATION
CITY OF TEMPLE, TEXAS

2010-141-30

FRIARS CREEK HIKE AND BIKE TRAIL

3210 E Avenue H, Bldg C, Temple, Texas
April 12, 2011; 11:00 AM

BIDDER INFORMATION															
Dixon Paving Inc PO Box 664 Belton TX 76513				Patin Construction LP 3800 W 2nd Taylor TX 76784				Austin Filter Systems 13653 Rutledge Spur Austin TX 78717				Alpha Constructors Inc PO Box 942 Temple TX 76603			
\$	30.00	\$	3,000.00	\$	45.00	\$	4,500.00	\$	45.00	\$	4,500.00	\$	41.40	\$	4,140.00
	1,200.00		9,600.00		1,500.00		12,000.00		1,500.00		11,200.00		2,445.75		19,550.00
	1,000.00		5,000.00		1,140.00		5,700.00		1,000.00		5,000.00		1,449.00		7,245.00
	400.00		1,200.00		600.00		1,800.00		700.00		2,100.00		642.85		1,928.55
	27.00		405.00		45.00		675.00		38.00		570.00		39.10		586.50
	\$		19,215.00		\$		24,675.00		\$		23,370.00		\$		33,450.00

BIDDER INFORMATION											
Dixon Paving Inc PO Box 664 Belton TX 76513			Patin Construction LP 3800 W 2nd Taylor TX 76784			Austin Filter Systems 13653 Rutledge Spur Austin TX 78717			Alpha Constructors Inc PO Box 942 Temple TX 76503		
\$		442,649.25	\$		545,849.00	\$		631,321.00	\$		646,194.11
\$		19,215.00	\$		24,675.00	\$		23,370.00	\$		33,450.05
)	\$	461,864.25	\$		569,724.00	\$		654,691.00	\$		679,644.16

Did Bidder Acknowledge Addenda No. 1?	YES	YES	YES	YES
Did Bidder Acknowledge Addenda No. 2?	YES	YES	YES	YES
Did Bidder provide Bid Security?	YES	YES	YES	YES

BID TABULATION
CITY OF TEMPLE, TEXAS

2010-141-30

FRIARS CREEK HIKE AND BIKE TRAIL

3210 E Avenue H, Bldg C, Temple, Texas
April 12, 2011; 11:00 AM

				BIDDER INFORMATION							
				Myers Concrete Construction 2301 FM 3237 Wimberly TX 78676		TTG Utilities LP PO Box 299 Gagesville TX 76528		Vanguard Constructors PO Box 80 Temple TX 76503		Westar Construction 4500 Williams Drive, Ste 212 Georgetown TX 78633	
PART B - LANDSCAPE ARCHITECTURE											
B-1	100	SY	Furnish & Install Concrete for Park Nodes	\$	71.00	\$	7,100.00	\$	45.00	\$	4,500.00
B-2	5	EA	Furnish & Install Victor Stanley Rib Series Bronze Benches		1,835.00		14,680.00		500.00		4,000.00
B-3	5	EA	Furnish & Install Victor Stanley S-42 36 Gallon Series Bronze Trash Receptacle		1,451.00		7,255.00		1,206.00		6,030.00
B-4	3	EA	Furnish & Install 48" Hinged Round Post Bollard		1,210.00		3,630.00		1,036.00		3,108.00
B-5	15	SY	Furnish & Install Concrete for Rest Areas		92.00		1,380.00		42.00		630.00
TOTAL PART B BID AMOUNT - (Items B-1 - B-5)					\$		33,895.00		\$		11,820.00
									\$		35,116.00
										\$	44,286.00

				BIDDER INFORMATION							
				Myers Concrete Construction 2301 FM 3237 Wimberly TX 78676		TTG Utilities LP PO Box 299 Gagesville TX 76528		Vanguard Contractors PO Box 80 Temple TX 76503		Westar Construction 4500 Williams Drive, Ste 212 Georgetown TX 78633	
PROJECT SUMMARY											
PART A - HIKE AND BIKE TRAIL (Items A-1 - A-35)				\$	693,660.00	\$	717,695.50	\$	739,409.00	\$	947,613.85
PART B - LANDSCAPE ARCHITECTURE (Items B-1 - B-5)				\$	33,895.00	\$	11,820.00	\$	35,116.00	\$	44,260.00
TOTAL BID AMOUNT (PART A + PART B)				\$	727,555.00	\$	729,515.50	\$	774,525.00	\$	991,873.85

Did Bidder Acknowledge Addenda No. 1?	YES	YES	YES	YES
Did Bidder Acknowledge Addenda No. 2?	YES	YES	YES	YES
Did Bidder provide Bid Security?	YES	YES	YES	YES

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

R. David Patrick 4/12/11
R. David Patrick, PE, CFM Date
Kasberg, Patrick & Associates, LP



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH DIXON PAVING, INC., OF BELTON, TEXAS, FOR CONSTRUCTION OF A CONCRETE HIKE & BIKE TRAIL, IN AN AMOUNT NOT TO EXCEED \$461,854.25; WAIVING PERMIT FEES FOR THIS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on April 12, 2011, the City received 8 bids for construction of a concrete hike & bike trail that will connect the Temple College area with Scott & White Hospital in the TMED area;

Whereas, Staff recommends accepting the bid (\$461,854.25) from Dixon Paving, Inc., of Belton, Texas;

Whereas, funds are available in Account No. 260-1100-552-6316, Project #100585; 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, for an amount not to exceed \$461,854.25, between the City of Temple and Dixon Paving, Inc., of Belton, Texas, after approval as to form by the City Attorney, for construction of a concrete hike & bike trail.

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

PASSED AND APPROVED this the **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #5(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – A-FY-11-02: Consider adopting an ordinance abandoning all of North 5th Street, between West Downs Avenue and West Calhoun Avenue, located between Blocks 27 and 28 of Moore’s Addition; and reserving a public drainage and utility easement in the entire abandoned right-of-way.

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

ITEM SUMMARY: First Christian Church requests this street abandonment to allow safer crossing for youth between its buildings along both sides of North 5th Street. Approval of this request would allow First Christian Church to close this portion of North 5th Street and convert it into parking and access between the Church proper and its new youth center on the east side of North 5th Street. First Christian Church does not plan any new buildings or excavation in the subject area.

Planning staff contacted all utility providers, including all divisions of the Public Works Department, the Fire Department, and Police Department regarding the proposed street abandonment. A blanket utility easement is needed to protect existing utilities in the right-of-way. The Fire Department has concerns that this requested street abandonment may potentially affect emergency response time for its new Central Fire Station located at this intersection.

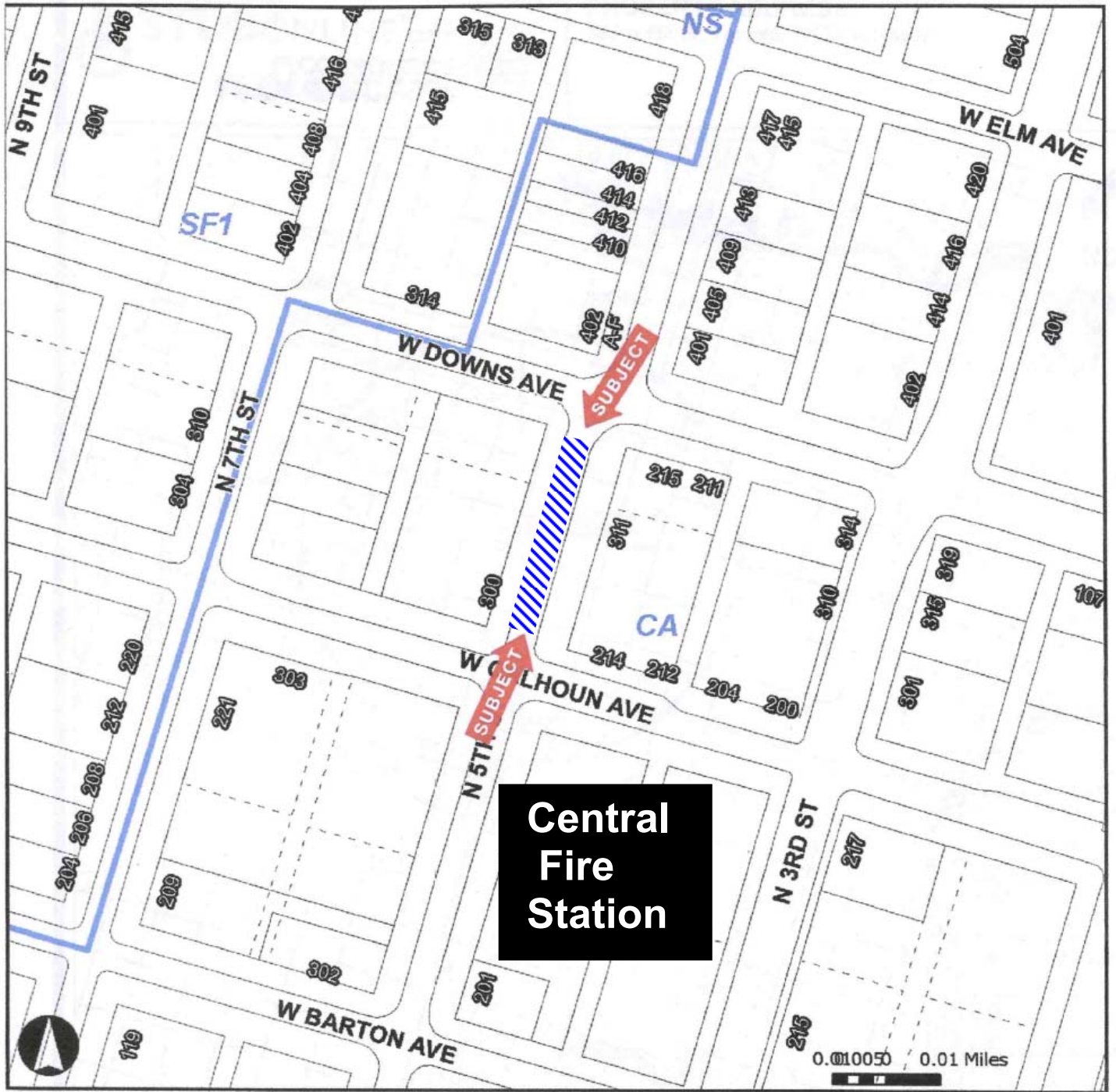
FISCAL IMPACT: If approved, First Christian Church would pay the City of Temple the fair market value of \$5,000 for the abandoned street right of way. Since First Christian Church is the only property owner along both sides of this portion of North 5th Street it is the only property owner eligible to purchase the abandoned right-of-way.

ATTACHMENTS:

[Aerial](#)
[Vicinity Map](#)
[Survey and Field Notes](#)
[Ordinance](#)



© 2008 Pictometry



Curbs

Streets Labels

TocSymbol 0

Railroad

Water Bodies

Historic Lot Lines

Ownership Parcels

Addresses

Parks

Schools

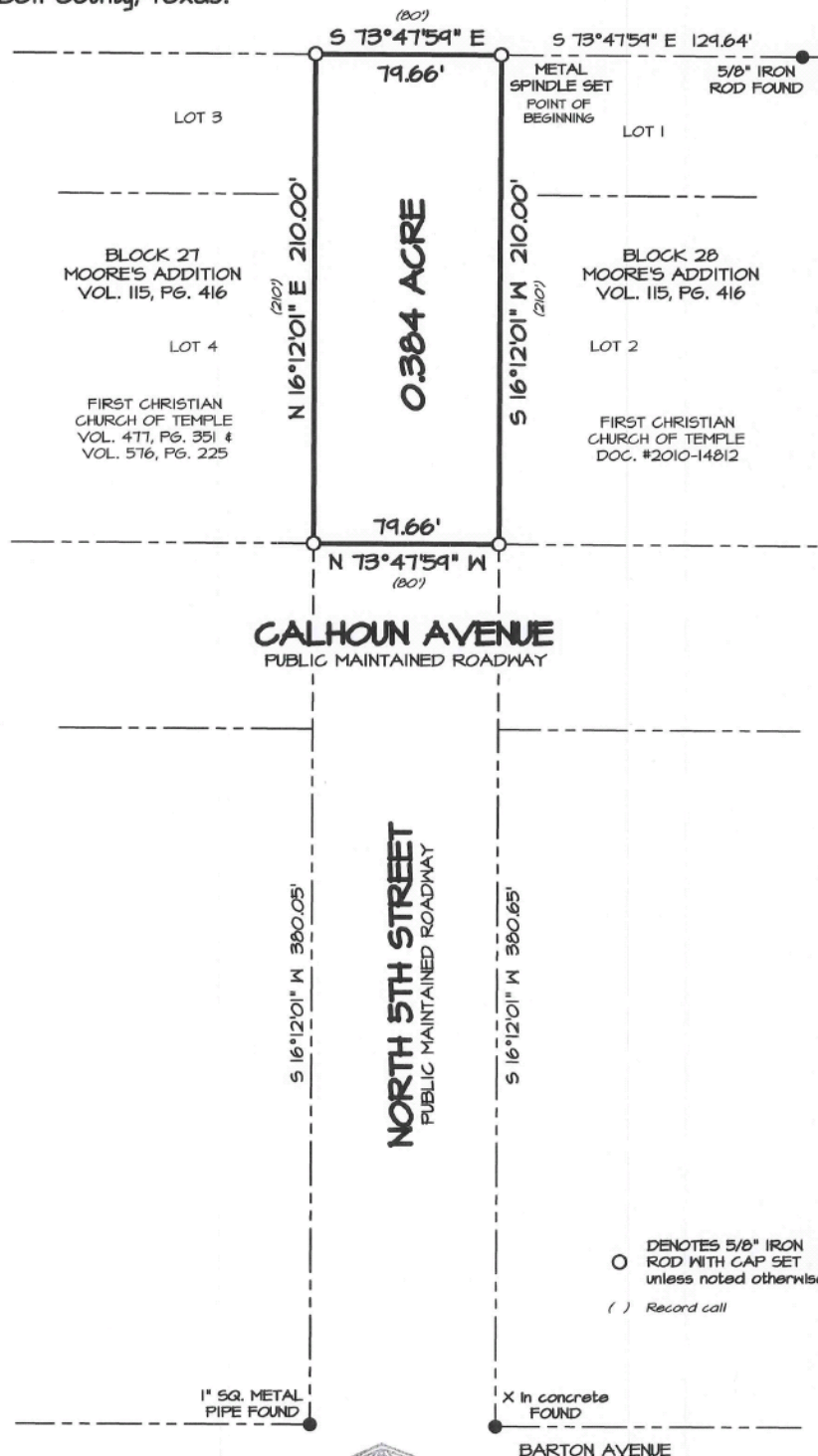
Zoning

City Limits

Temple ETJ

Temple ETJ

Surveyor's Sketch showing a 0.384 acre tract, being a portion of Moore's Addition, a subdivision in the City of Temple, Bell County, Texas, according to the plat of record in Volume 115, Page 416 of the Deed Records of Bell County, Texas.



This sketch accompanies a metes and bounds description of the herein shown 0.384 acre tract. This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, Central Zone, NAD83. All distances are horizontal surface distances and all bearings are grid bearings. All coordinates are referenced to City Monument No. 3. The theta angle at City Monument No. 3 is 01°31'42". The combined correction factor (CCF) is 0.999841. Grid distance = Surface distance x CCF. Geodetic north = grid north + theta angle. Published City coordinates for City Monument No. 3 are N=103567400.64 E=5223535.71. All distances are referenced to the City Monument No. 3 to the southwest corner of said 0.384 acre tract is N 40°30'07" E, 101754.12 feet.

○ DENOTES 5/8" IRON ROD WITH CAP SET unless noted otherwise
() Record call



ALL COUNTY SURVEYING, INC.

- Surveying
- Mapping
- Construction Layout

1303 South 21st Street
Temple, Texas 76504
254-718-2272 Killeen 254-634-4636
Fax 254-714-7608



Date: 11-2-10
Scale: 1" = 60'
Job No. 100711
Dwg No. 100711
Drawn by JMB
Surveyor JMB #5335

Copyright 2010 All County Surveying, Inc.

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

November 9, 2010

Surveyor's Field Notes for the CITY OF TEMPLE, for:

0.384 Acre, being part of the **MAXIMO MORENO SURVEY, ABSTRACT NO. 14**, in the City of Temple, Bell County, Texas, and being a portion of MOORE'S ADDITION, a subdivision of record in Volume 115, Page 416 of the Deed Records of Bell County, Texas, and being all of the right-of-way of a public maintained roadway known as NORTH 5TH STREET situated between the south right-of-way line of a public maintained roadway known as DOWNS AVENUE and the north right-of-way line of a public maintained roadway known as CALHOUN AVENUE, as shown on the plat of said MOORE'S ADDITION; said 0.384 acre tract was surveyed by All County Surveying, Inc., and is more particularly described by these metes and bounds as follows:

BEGINNING at a metal spindle set in the intersection of the east right-of-way line of said NORTH 5TH STREET and the south right-of-way line of said DOWNS AVENUE, said iron rod being the northwest corner of BLOCK 28 of said MOORE'S ADDITION, same being the northeast corner of this tract, from which a 5/8" iron rod found in the south right-of-way line of said DOWNS AVENUE bears SOUTH 73 deg 47 min 59 sec EAST, a distance of 129.64 feet.

THENCE in a southerly direction, with the east right-of-way line of said NORTH 5TH STREET, same being the west line of said BLOCK 28 (*record call 210 feet*), **SOUTH 16 deg 12 min 01 sec WEST, a distance of 210.00 feet** to a 5/8" iron rod with cap set in the intersection of the east right-of-way line of said NORTH 5TH STREET and the north right-of-way line of said CALHOUN AVENUE, same being the southwest corner of said BLOCK 28, also being the southeast corner of this tract, from which an X in concrete found in the intersection of the east right-of-way line of said NORTH 5TH STREET and the north right-of-way line of said BARTON AVENUE bears SOUTH 16 deg 12 min 01 sec WEST, a distance of 380.65 feet.

THENCE in a westerly direction, leaving the east right-of-way line of said NORTH 5TH STREET, and crossing the right-of-way of said NORTH 5TH STREET, with the north right-of-way line of said CALHOUN AVENUE (*record call 80 feet*), **NORTH 73 deg 47 min 59 sec WEST, a distance of 79.66 feet** to a 5/8" iron rod with cap set in the intersection of the west right-of-way line of said NORTH 5TH STREET and the north right-of-way line of said CALHOUN AVENUE, same being the southeast corner of BLOCK 27 of said MOORE'S ADDITION, also being the southwest corner of this tract, from which a 1" square metal pipe found in the intersection of the west right-of-way line of said NORTH 5TH STREET and the north right-of-way line of said BARTON AVENUE bears SOUTH 16 deg 12 min 01 sec WEST, a distance of 380.05 feet.

THENCE in a northerly direction, with the west right-of-way line of said NORTH 5TH STREET, same being the east line of said BLOCK 27 (*record call 210 feet*), **NORTH 16 deg 12 min 01 sec EAST, a distance of 210.00 feet** to a 5/8" iron rod with cap set in the intersection of the west right-of-way line of said NORTH 5TH STREET and the south right-of-way line of said DOWNS AVENUE, same being the northeast corner of said BLOCK 27, also being the northwest corner of this tract.

THENCE in an easterly direction, leaving the west right-of-way line of said NORTH 5TH STREET, and crossing the right-of-way of said NORTH 5TH STREET, with the south right-of-way line of said DOWNS AVENUE (*record call 80 feet*), **SOUTH 73 deg 47 min 59 sec EAST, a distance of 79.66 feet** to the Point of Beginning, containing **0.384 Acre**.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas State Plane Coordinate System, Central Zone, NAD83. All distances are horizontal surface distances and all bearings are grid bearings. All coordinates are referenced to City Monument No. 3. The theta angle at City Monument No. 3 is 01 deg 31 min 42 sec. The combined correction factor (CCF) is 0.999847. Grid distance = Surface distance X CCF. Geodetic north = Grid north + theta angle. Published City coordinates for project reference point 3 are N. = 10,368,408.89 E. = 3,225,333.77 Reference tie from City monument No. 3 to the southwest corner of this 0.384 acre tract is N 40 deg 30 min 07 sec E, 10,759.92 feet.

Surveyed November 2, 2010

ALL COUNTY SURVEYING, INC.

1 (800) 749 - PLAT

File: 100711.fns



Jeffrey M. Baylor
Registered Professional Land Surveyor
Registration No. 5335

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ABANDONING ALL OF NORTH 5TH STREET, BETWEEN WEST DOWNS AVENUE AND WEST CALHOUN AVENUE, LOCATED BETWEEN BLOCKS 27 AND 28 OF MOORE'S ADDITION; RESERVING A PUBLIC DRAINAGE AND UTILITY EASEMENT IN THE ENTIRE ABANDONED RIGHT-OF-WAY; DECLARING FINDINGS OF FACT; AUTHORIZING CONVEYANCE OF SUCH PROPERTY BY A DEED WITHOUT WARRANTY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has a request from First Christian Church to abandon 210 feet of North 5th Street between West Downs Avenue and West Calhoun Avenue to allow a safer crossing for youth between the buildings along both sides of North 5th Street;

Whereas, the City and other public utility providers need to retain a public drainage and utility easement throughout the road proposed to be abandoned;

Whereas, the road is not necessary for the purpose of serving the general public or the owners of adjacent land for purposes of vehicular access; and

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

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

Part 1: The City Council abandons all of North 5th Street between West Downs Avenue and West Calhoun Avenue, more fully described in Exhibit A, attached hereto for all purposes, and reserves a public drainage and utility easement in the entire abandoned right-of-way.

Part 2: The City Council authorizes the Mayor of the City of Temple, Texas, for the consideration set out in Part 3, to execute a Deed Without Warranty conveying the rights and interests of the City of Temple, Texas, to the abutting property owner, reserving a public drainage and utility easement in the entire abandoned right-of-way, which when done, shall be and become a binding act and deed of the City of Temple.

Part 3: As consideration for the conveyance described in Part 2 hereof, the abutting property owner shall pay to the City of Temple the fair market value of \$5,000.

Part 4: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or

applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 5: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **7th** day of **April**, 2011.

PASSED AND APPROVED on Second Reading the **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

ATTEST:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of April, 2011, by WILLIAM A. JONES, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #5(F)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution supporting the work being done on the US-190/I-10 Feasibility Study and urging adoption of the proposed Mobility/Safety Alternative.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Gulf Coast Strategic Highway Coalition (Coalition) is requesting the support of the cities along the US-190/I-10 interregional route to consider the attached resolution. Wilbur Smith Associates are conducting a feasibility study for TxDOT and has recently presented a series of development alternatives for consideration.

The attached resolution endorses the Mobility/Safety Alternative which would provide an interstate standard highway between Fort Hood and the City of Livingston; four lane divided highway westward from Fort Hood to an intersection with Interstate 10; and four lane divided highway eastward from the City of Livingston to the Louisiana-Texas border. The Coalition believes this alternative best reflects the input received from communities they talked with along the route.

FISCAL IMPACT: None

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, SUPPORTING THE WORK BEING DONE ON THE US-190/I-10 FEASIBILITY STUDY AND URGING ADOPTION OF THE PROPOSED MOBILITY/SAFETY ALTERNATIVE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the population of Texas is 25 million and is expected to increase to more than 37 million by 2030, the state will require additional transportation capacity for moving people and freight throughout Texas and to markets in surrounding states;

Whereas, the geographic triangle in the center of Texas between Houston/Galveston and Dallas/Fort Worth and Austin/San Antonio is expected to see a substantial percentage of this population growth;

Whereas, the US-190/I-10 interregional route has the potential to answer a significant need for transportation capacity to serve population and commercial growth in this geographic triangle in the center of Texas;

Whereas, as the Department of Defense is the largest employer in Texas and the US-190/I-10 interregional route will link Fort Bliss to Fort Hood to Fort Polk and to their strategic deployment ports at Corpus Christi and Beaumont;

Whereas, the development of the US-190/I-10 interregional route would provide an East/West linkage between I-35, I-45 and I-69 allowing the movement of people and freight across Texas without entering the Federal Clean Air Act non-attainment air sheds of either Houston/Galveston or Dallas/Fort Worth, thus providing a statewide benefit; and

Whereas, the development of the US-190/I-10 interregional route between Fort Hood and the City of Livingston to interstate standard and the completion of I-69 would provide uninterrupted interstate linkage between campuses of the Texas A&M University System located in Texarkana, College Station, Temple, Killeen, San Antonio, Laredo, Kingsville and Corpus Christi.

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

Part 1: The City of Temple supports the work being done on the US-190/I-10 Feasibility Study.

Part 2: The City of Temple urges adoption of the proposed Mobility/Safety Alternative which would provide an interstate standard highway between Fort Hood and the City of Livingston; four lane divided highway westward from Fort Hood to an

intersection with Interstate 10: and four lane divided highway eastward from the City of Livingston to the Louisiana-Texas Border.

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 **21st** day of **April**, 2011.

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:

Lonzo Wallace, Jr., Fire Chief

ITEM DESCRIPTION: Consider adopting a resolution authorizing funding from the Child Safety Fees for the 2011 Junior Fire Cadet Program in the amount of \$22,242.

STAFF RECOMMENDATION: Adopt resolution as presented in item description

ITEM SUMMARY: Under the authority of the Texas Transportation Code, in 2001, the Bell County Commissioners Court imposed a \$1.50 per vehicle Child Safety registration fee to be collected by our County Tax Assessor-Collector. The City of Temple's allocation is based on population. These funds must be used for a school crossing guard program if the City operates one. Since the City does not operate a crossing guard program, the funds may be spent on programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention.

Staff recommends that \$22,242.17 of the child safety fees collected be provided to the 2011 Junior Fire Cadet Program. Firefighters serve as instructors to youngsters between the ages of 9 to 13. The cadets participate in hands-on activities such as confidence building, ladders, fire hose, and CPR/first-aid. Students learn the importance of setting goals, working as a team, ethics, and respect of self and others. The goal of the program is to give kids the opportunity to improve themselves. Guest speakers explain the importance of exercise, proper nutrition, and staying in school. The Temple Independent School District has partnered with the department and has provided a campus for the program since 2002.

The department started the program in the summer of 1999 with 31 boys and girls attending the four-week long class. We quickly learned the value of this program by seeing the young faces in the classroom and feeling the difference firefighter's role models in their lives. It is impossible to put an exact value on the benefits of this program but we do know that we enrich the lives of all the people participating in the program. Funding will be used to operate the class which will last for four weeks, and one day. The proposed dates of the class are June 3 – July 1, 2011. We anticipate a class of 60-65 participants.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$22,242 to account 110-0000-452-0164, from the Child Safety Fees collected by the County on behalf of the City, to Temple Fire and Rescue's overtime account, 110-2221-522-11-19, in the amount of \$17,197; food account, 110-2221-522-21-12, in the amount of \$450; office supply account, 110-2221-522-21-10, in the amount of \$250, and Contributions and Prizes, account 110-2221-522-25-10 in the amount of \$4,345.

If funding for this expenditure is approved, there will be \$188,629 available in Child Safety Funds for future eligible expenditures.

ATTACHMENTS:
[Budget Adjustment](#)
[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	
110-0000-452-01-64		Child Safety Fee Revenue	\$ 22,242			
110-2221-522-11-19		Fire Overtime	14,643			
110-2221-522-12-20		Firemen's Pension	2,151			
110-2221-522-12-21		Medicare	193			
110-2221-522-12-23		Worker's Comp Insurance	210			
110-2221-522-21-12		Food Items	450			
110-2221-522-21-10		Office Supplies	250			
110-2221-522-25-10		Contributions and Prizes	4,345			
TOTAL.....			\$ 44,484		\$ -	

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

To appropriate Child Safety Fees received from Bell County to fund the Jr. Fire Cadet Program for 2011. The child safety fees must be used on programs designed to enhance child safety, health or nutrition, including child abuse prevention and intervention and drug and alcohol abuse prevention. The Jr. Fire Cadet Program is a four week long class in which the cadets participate in hands on activities such as confidence building, ladders, fire hose, and CPR/first aid. Students learn the importance of setting goals, working as a team, ethics, and respect of self and others. After approval of this budget adjustment, \$188,629 will remain available in Child Safety Fees for future allocation.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

4/21/2011

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director_____
Date☐
☐

Approved

Disapproved

Finance_____
Date☐
☐

Approved

Disapproved

City Manager_____
Date☐
☐

Approved

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING FUNDING FROM THE CHILD SAFETY FEES FOR THE 2011 JUNIOR FIRE CADET PROGRAM, IN THE AMOUNT OF \$22,242; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple receives an annual allocation of child safety fees from Bell County that are collected on every vehicle registered in Bell County;

Whereas, these funds must be used for programs such as school crossing guards, child safety, health or nutrition, child abuse prevention and intervention and drug and alcohol abuse prevention;

Whereas, from those funds, the Fire Department requests an amount of \$22,242 for the 2011 Junior Fire Cadet Program;

Whereas, an amendment to the FY2010-2011 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 approves providing funding from the Child Safety Fees-Bell County for the 2011 Junior Fire Cadet Program in the amount of \$22,242.

Part 2: The City Council approves an amendment to the FY2010-2011 budget, substantially in the form of the copy attached as Exhibit A, for this purpose.

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 **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Clydette Entzminger
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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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 \$6,523.

ATTACHMENTS:

Budget amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
April 21, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2011-521-2516		Judgments & Damages (Police)	\$ 1,094	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 1,094
Deductible reimbursement to the Texas Municipal League for attorney fees for a lawsuit filed against the City alleging unreasonable search and seizure by police officers of plaintiff's property and plaintiff's arrest on July 30, 2004.				
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 250	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 250
Settlement of a claim filed against the City seeking reimbursement to repair siding on claimant's home at 817 West French Avenue after the boom on a City brush truck snagged the inactive cable television drop to the house on March 23, 2011.				
110-2330-540-2516		Judgments & Damages (Solid Waste - Residential)	\$ 4,579	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 4,579
Deductible reimbursements to the Texas Municipal League for: (1) expenses related to an employee discrimination complaint filed against the City by a former employee (\$2,297.50); and (2) settlement of a claim filed against the City in connection with an accident that occurred on December 31, 2010, involving an employee driving a garbage truck in the 6500 Block of Brooks Drive (\$2,280.79).				
110-4000-555-2225		Books & Periodicals (Library)	\$ 600	
110-0000-314-1917		Reserve for Library		\$ 600
Purchase history books with MacGregor Trust funds				
TOTAL AMENDMENTS			\$ 6,523	\$ 6,523

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			\$	(59,325)
Net Balance of Judgments & Damages Contingency Account			\$	20,675
Beginning Fuel Contingency			\$	55,841
Added to Fuel Contingency			\$	-
Taken From Fuel Contingency			\$	-
Net Balance of Fuel Contingency Account			\$	55,841
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			\$	76,516

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2011 BUDGET
April 21, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		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	\$	(23,790)
		Net Balance of Contingency Account	\$	26,210
		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	\$	26,210
		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	\$	(25,478)
		Net Balance of Contingency Account	\$	2,035

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 **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING – Consider adopting an ordinance designating a certain area as City of Temple Tax Abatement Reinvestment Zone Number Twenty for commercial/industrial tax abatement.

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

ITEM SUMMARY: The proposed ordinance designates the area described as a portion of an approximately 250 acre tract of land situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located in the Southeast Industrial Park, south of Lorraine Drive, as a commercial/industrial tax abatement reinvestment zone. The designation of a tax abatement reinvestment zone lasts for five years and is a prerequisite for entering into a tax abatement agreement with a future economic development prospect.

Chapter 312 of the Texas Tax Code requires that property be within a tax abatement reinvestment zone (or an enterprise zone) to be eligible for tax abatement. The designation of a tax abatement reinvestment zone requires an ordinance, two readings and a public hearing. We are also required to give seven days prior notice to the other taxing entities before final approval of the ordinance, which will be done.

The proposed tax abatement reinvestment zone as described above, is proposed for commercial or industrial tax abatement (the property is currently zoned Commercial). Chapter 312 requires that the City make the following findings when it adopts an ordinance creating a tax abatement reinvestment zone: (1) that the creation of the tax abatement reinvestment zone will result in benefits to the City and to the land included in the zone after the term of any agreement, and that the improvements being sought are feasible; and (2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement. I have reviewed both the State law and our criteria and guidelines, and believe that the creation of the proposed reinvestment zone and subsequent approval of a tax abatement agreement with the property owner will lead to the retention of primary employment in the area, and the creation of new real and personal property improvements in the area—as contemplated by our State and local criteria. The Staff recommends approval of the ordinance for the above reasons.

FISCAL IMPACT: None at this time

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING A CERTAIN AREA AS TAX ABATEMENT REINVESTMENT ZONE NUMBER TWENTY FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the City Council of the City of Temple, Texas (the "City"), desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by creation of a reinvestment zone for commercial/industrial tax abatement, as authorized by Section 312.201 of the Texas Tax Code (hereinafter the "Code");

WHEREAS, the City held such public hearing after publishing notice of such public hearing, and giving written notice to all taxing units overlapping the territory inside the proposed reinvestment zone;

WHEREAS, the City at such hearing invited any interested person, or his attorney, to appear and contend for or against the creation of the reinvestment zone, the boundaries of the proposed reinvestment zone, whether all or part of the territory described in the ordinance calling such public hearing should be included in such proposed reinvestment zone, the concept of tax abatement; and

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone, and opponents of the reinvestment zone appeared to contest creation of the reinvestment zone.

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

Part 1: The facts and recitations contained in the preamble of this ordinance are hereby found and declared to be true and correct.

Part 2: The City, after conducting such hearings and having heard such evidence and testimony, has made the following findings and determinations based on the testimony presented to it:

A. That a public hearing on the adoption of the reinvestment zone has been properly called, held and conducted and that notices of such hearings have been published as required by law and mailed to all taxing units overlapping the territory inside the proposed reinvestment zone;

B. That the boundaries of the reinvestment zone (hereinafter "REINVESTMENT ZONE NUMBER TWENTY") should be a portion of an approximately 250 acre tract of land situated

in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located in the Southeast Industrial Park, south of Lorraine Drive, as described in the drawing attached as Exhibit "A."

C. That creation of REINVESTMENT ZONE NUMBER TWENTY will result in benefits to the City and to the land included in the zone after the term of any agreement executed hereunder, and the improvements sought are feasible and practical;

D. That REINVESTMENT ZONE NUMBER TWENTY meets the criteria for the creation of a reinvestment zone as set forth in Section 312.202 of the Code in that it is "reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the City;" and

E. That REINVESTMENT ZONE NUMBER TWENTY meets the criteria for the creation of a reinvestment zone as set forth in the City of Temple Guidelines and Criteria for granting tax abatement in reinvestment zones.

Part 3: Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing a portion of an approximately 250 acre tract of land situated in the Maximo Moreno Survey, Abstract No. 14, Bell County, Texas, located in the Southeast Industrial Park, south of Lorraine Drive, described by the drawing in Exhibit "A" attached hereto and such REINVESTMENT ZONE is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Twenty, City of Temple, Texas.

Part 4: The REINVESTMENT ZONE shall take effect on April 21, 2011, or at an earlier time designated by subsequent ordinance.

Part 5: To be considered for execution of an agreement for tax abatement the commercial/industrial project shall:

A. Be located wholly within the Zone as established herein;

B. Not include property that is owned or leased by a member of the City Council of the City of Temple, Texas, or by a member of the Planning and Zoning Commission;

C. Conform to the requirements of the City's Zoning Ordinance, the CRITERIA governing tax abatement previously adopted by the City, and all other applicable laws and regulations; and

D. Have and maintain all land located within the designated zone, appraised at market value for tax purposes.

Part 6: Written agreements with property owners located within the zone shall provide identical terms regarding duration of exemption and share of taxable real property value exempted from taxation.

Part 7: Written agreements for tax abatement as provided for by Section 312.205 of the Code shall include provisions for:

A. Listing the kind, number and location of all proposed improvements of the property;

B. Access to and inspection of property by municipal employees to ensure that the improvements or repairs are made according to the specification and conditions of the agreements;

C. Limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period that property tax exemptions are in effect; and

D. Recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements as provided by the agreement.

Part 8: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 9: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 10: Sunset provision. The designation of Tax Abatement Reinvestment Zone Number Twenty shall expire five years from the effective date of this ordinance. The designation of a tax abatement reinvestment zone may be renewed for periods not exceeding five years. The expiration of a reinvestment zone designation does not affect an existing tax abatement agreement authorized by the City Council.

Part 11: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meeting Act.

PASSED AND APPROVED on First Reading and Public Hearing on the 7th day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a tax abatement agreement with Panda Temple Power, LLC, for a portion of a 250 acre tract of land in the Southeast Industrial Park, south of Lorraine Drive.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute an agreement with Panda Temple Power, LLC, which if approved gives the company ten years of 50% tax abatement on the increased taxable value of real property improvements on a tract of land described as a 250 acre tract in the Southeast Industrial Park, south of Lorraine Drive. The tax abatement applies only to *new* real property improvements with a useful life of ten or more years.

Panda Temple Power, LLC, timely filed an application to receive tax abatement on improvements to real property proposed for a facility to be constructed on the tract described above. A separate, related item on this agenda is an ordinance designating the property on which the improvements will be located as a tax abatement reinvestment zone. Tax abatement is being sought for real property improvements consisting of the development of an electric power generating facility. The taxable value of real property with a useful life of ten or more years is estimated at \$365,154,000.

The City's Economic Development Policy sets out the criteria and guidelines for granting tax abatement. The renovations proposed meet the minimum criteria established for tax abatement consideration. The proposed improvements fall within the definition of "eligible facilities" in the criteria. The application indicates real and personal property improvements which meet the criteria for granting a 50% tax abatement for ten years.

The Staff has provided the other taxing entities involved with notice and a copy of the proposed agreement. Under State law, the other taxing entities will have 90 days to elect to enter into an agreement with identical terms. The proposed agreement is drafted for the signature of each taxing entity, but will be effective between Panda Temple Power, LLC, and any of the taxing entities which sign the agreement even if not all sign. Under State law, taxes on supplies and inventory are not eligible for tax abatement.

Additionally, the agreement has all of the other terms required by Chapter 312 of the Texas Tax Code for tax abatement agreements, including provisions: (1) listing the kind and number of improvements; (2) providing for inspections of the facility by the taxing entities; (3) requiring compliance with State and local laws; (4) recapturing abated taxes in the event of a default under the agreement; and (5) requiring Panda Temple Power, LLC, to annually certify to all the taxing entities that it is in compliance with all of the terms and conditions of the agreement.

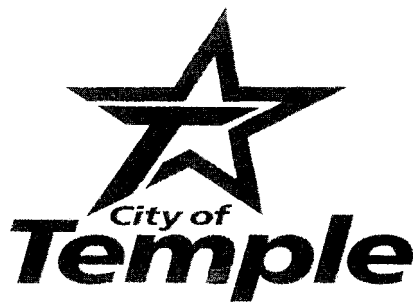
Panda Temple Power, LLC's application meets the standards for granting tax abatement on the increase in real property improvements established by the City's Criteria and Guidelines for tax abatement. The City Council has discretion whether to approve an application for tax abatement and to increase the percentage of tax abatement over the recommended percentage specified in the matrix in the City's Criteria and Guidelines for tax abatement. The agreement should add to the continued development of the City's industrial growth, which would not have occurred in the absence of tax abatement.

FISCAL IMPACT: The tax abatement agreement would have the potential of abating approximately \$2,073,710 in City taxes over the 10 year life of the agreement assuming the FY 2011 tax rate of \$0.5679 per \$100 value over the 10 years.

ATTACHMENTS:

[Application](#)
[Resolution](#)

City of Temple



**Application for
City of Temple
Tax Abatement Program**

Submitted By:
Panda Temple Power, LLC

March 15, 2011

Part One – General Information

1. Applicant: *Panda Temple Power, LLC*

Mailing Address: *4100 Spring Valley Road, Suite 1001
Dallas, TX 75244*

Contact Person: *Mr. Richard Evans
Vice President, Project Development*

E-Mail Address: *revans@pandafunds.com*

Telephone Number: *(972) 361-2000*

Fax Number: *(512) 455-3874*

2. Contact Person or Agent: *(Same as above)*

3. Current Property Owner: *(Same as above)*

Note: The ownership of the project property was transferred from to Panda Temple Power, LLC from the Temple Economic Development Corporation on December 22, 2010.

4. Property Owner's Representative: *(Same as above)*

5. Property Street Address:

The project site consists of a 250 acre parcel in Synergy Park (formerly the Southeast Industrial Park).

The legal description and plat map for this property is provided in Attachment 1.

6. Is the property located within the City of Temple? *YES*

Is the property in the City's extraterritorial jurisdiction (ETJ)? *NO*

Is the Property located inside the:

City's **Tax Increment Financing Reinvestment Zone?** *YES*

Temple ISD? *YES*

Belton ISD? *NO*

Troy ISD? *NO*

7. Description of the project. Describe the *kind* of business (e.g., manufacturing or distribution) that will be created or expanded. For purposes of drafting an agreement we will need a detailed description of the proposed real and personal property improvements that you will expect to make including **square footage, construction material, etc.**

A detailed description of the project is provided in Attachment 2.

8. Date Projected for

(a) Initiation of project: *Construction to be initiated by June 30, 2011*

(b) Completion of project: *COD for Phase 1 is currently scheduled for 2Q 2014.*

9. Percentage and duration of tax abatement requested:

Panda is requesting a 50% abatement per year over a 10 year period commencing the first calendar year after COD.

This is consistent with the Economic Development Agreement between the City of Temple and Panda Temple Power, LLC executed 12/21/10 (EDA).

Part Two – Objective Criteria

1. What is the existing appraised value of the real property and improvements?
(Contact the Bell County Appraisal District at (254) 939-5841)

Since the property has been owned by the City of Temple or the TEDC for the last 18 years, there is no recent tax appraisal information available. However, based on our understanding of recent land transactions in the area, a value of approximately \$5,000 per acre, or \$1,250,000 in total, seems to be a reasonable estimate.

2. What are the types and value of proposed improvements (broken down to show the kind and dollar value of real and personal property improvements)?

<u>Type</u>	<u>Estimated Expenditure</u>	<u>Useful Life</u>
Real Property	\$365,154,000	20 years

This figure is a preliminary estimate.

Personal Property *This estimate has not been completed at this time.*

3. How many existing jobs, if any, will be *retained* by proposed improvements?

Since this is a new project there are no existing jobs to be retained.

4. What number, job type, and estimated payroll of new jobs will be created by the proposed project?

<u>Job Type</u>	<u>Number of Jobs</u>	<u>Est. Annual Salary</u>	<u>Total Salary</u>
Management / Supervisory	5	\$100,000	\$500,000
Skilled Technicians	15	\$60,000	\$900,000

The above figures are very preliminary estimates.

In addition to the permanent staff delineated above there may be up to 400 workers both local and from other locations employed onsite during construction. There will also be temporary labor (skilled and unskilled) employed to support maintenance outages after the plant is in operation.

5. Will the newly created jobs be filled by persons residing or projected to reside within the following jurisdictions:

City of Temple	YES – 70% (est)
Temple ISD:	YES – 70% (est)
Belton ISD:	YES – 20% (est)
Troy ISD:	YES – 10% (est)
Bell County:	YES – 100% (est)

The above figures are very preliminary estimates.

6. What is the estimated amount of annual local sales taxes for the City of Temple to be generated directly? (Assume a 1 ½ % city sales tax on applicable purchases within the City).

A preliminary estimate shows that, during long term operation, the Panda facility may purchase in the neighborhood of \$(estimate is currently being developed) per year of goods and services in the City of Temple. This would generate approximately \$ _____ in annual sales tax revenue.

During the construction phase a preliminary estimate indicates the project may purchase in the neighborhood of \$ (estimate is being developed) per year of goods and services in the City of Temple. This would generate approximately \$ _____ in sales tax revenue.

7. By what amount do you estimate the valuation of the affected property will increase after your real and personal property improvements are completed? Will the increase in appraised value attributable to your improvements be at least \$500,000 (25,000 in the Downtown Development Area)?

*The estimated valuation of improvements is provided in the table in Question 2 above.
The amount is significantly greater than \$500,000.*

8. What expenditures, if any, will you request be incurred by the City of Temple to provide facilities or Services to your proposed improvements?

The only major expenditure to be incurred by the City is a shared cost for extension of Lorraine Drive as put forth in the EDA. See the response to Question #11 below.

9. What is the amount of ad valorem to be paid to the City of Temple during the Abatement period considering: (a) the existing values; (b) your proposed real and personal property improvement; (c) the percentage of new value abated; and (d) the Abatements period (assume a City tax rate of .5745).

A table containing preliminary estimates for real property improvements is provided in Attachment 3. Estimates for personal property improvements have not been developed at this time.

10. What population growth, if any, in the City of Temple do you expect to occur as a direct result of your proposed improvement?

At Phase 1 COD it is estimated that the facility will have 20 permanent employees who should live in the immediate area. After completion of Phase 2 it is estimated that the number of permanent employees is expected to increase to 30. There will also be temporary workers hired during maintenance outages and overhauls. The multiplier effect upon the local economy will also result in a positive population growth.

11. What if any, are the types and values of public improvements (e.g., streets, railroad spurs) you intend to make?

Lorraine Drive - Panda will construct the initial phase of an extension to Lorraine Drive and a connector road from Lorraine Drive to the Panda Site. The final phase of this effort will be performed by the City. This project will include potable water pipelines, waste water pipelines and stormwater drainage facilities. The estimated cost of Panda's portion of this effort is estimated to be \$1,945,000. As set forth in the EDA, Panda will be reimbursed for a portion of the cost for its share of the project in the amount of approximately \$564,000.

Doshier Reuse Water System – Panda will construct a pump station at the Doshier Farm wastewater treatment facility and install a 16" pipeline to transport treated wastewater from Doshier to the Panda site. These facilities will be constructed in accordance with City engineering standards as addressed in the EDA and in the Water Services Agreement.

Panda will bear the full cost of these improvements and will turn them over to the City. The value of these improvements is estimated to be approximately \$2,000,000.

12. Will the proposed improvements compete with existing businesses to the detriment of the local economy? Which businesses if any are likely to be impacted?

There will be no competition with existing businesses since there are no similar businesses in the local economy.

13. Is your proposed use of the underlying property in compliance with the City's Comprehensive Zoning and Subdivision Ordinances?

Yes. The property is zoned LI which is compatible with electric power generation.

Have you discussed your plans with the City's Planning or Engineering Departments?

Panda has been working with the City's Planning and Engineering Departments on an ongoing basis over for well over two years. Panda submitted and received approval for the Preliminary Plat Application and Planned Development Application in April 2010.

Part Three – Minimum Standards

1. Will the project involve a minimum increase in property value of 300% for construction of a new facility; 50% for expansion of existing facility; or an investment of at least \$1 million in taxable assets? (if outside the Downtown Area) Explain.

Yes, the project will involve an increase of over 300% for construction of a new facility and will involve an investment of over \$1,000,000. Refer to the table provided for Question 2 in Part 2 above.

2. Will the project make a substantial contribution to redevelopment efforts or special area plans by enhancing either functional or visual characteristics, (e.g., historical structures, traffic circulation, parking, facades, materials, signs, etc.)? Explain.

Not Applicable

3. Will the project have high visibility, image impact, or is it a significantly higher level of development quality? Explain.

Not Applicable

4. Is the project an area which might not get otherwise being developed because of constraints of topography, ownership patterns, site configuration, etc.? Explain.

No. The project is located in an industrial park area which is suited for development.

5. Will the project serve as a prototype and catalyst for other development of a higher standard? Explain.

Due to the large size of the project it should not be considered as a prototype for development of similar electric generating facilities in the area. However, the presence of a large electric generating facility in Temple my provide incentives for large power users to locate nearby to take advantage of potentially lower cost electricity.

6. Will the project stimulate desirable concentrations of employment or commercial activity? Explain.

The project will provide employment of management, supervisory, and skilled technical personnel.

7. Will the project generate greater employment than would otherwise be achieved, e.g., Commercial/Industrial versus residential or manufacturing versus warehousing? Explain.

The project will generate temporary employment during the approximately two-year construction phase and will employ 20 permanent personnel after Phase 1 COD and 30 permanent personnel after Phase 2 COD on an ongoing basis. . There will also be temporary workers hired during maintenance outages and overhauls. This employment will also lead to a multiplier effect on business and employment in the local economy.

ATTACHMENT 1

PROJECT SITE LEGAL DESCRIPTION

AND

PLAT MAP

FIELD NOTES PREPARED BY ALL COUNTY SURVEYING, INC.

February 27, 2006

Surveyor's Field Notes for **PANDA ENERGY**, for

230.00 ACRES, situated in the **MAXIMO MORENO SURVEY, ABSTRACT 14**, Bell County, Texas, being a portion of a called **424.00 Acre tract** conveyed to the City of Temple in Volume 3252, Page 147, Official Public Records of Real Property, Bell County, Texas and all of a called **33.748 Acre tract** conveyed to the City of Temple in Volume 4372, Page 477, Official Public Records of Real Property, Bell County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8" iron rod found at the southwest corner of the westernmost portion of a called **200 Acre tract** conveyed to the City of Temple in Volume 4572, Page 481, Official Public Records of Real Property, Bell County, Texas, being on the east line of a public roadway known as Loop 363 as conveyed in Volume 1665, Page 346, Deed Records of Bell County, Texas, for the northwest corner of the herein described tract;

THENCE, in an easterly direction, with the south line of the western portion of said **200 Acre tract**, **S 73° 40' 57" E (Record S 73° 40' 57" E, Vol. 4572, Pg. 481)**, at 1600.32, pass a 5/8" iron rod found at the southeast corner of Best Rice Subdivision, an addition in the City of Temple, Bell County, Texas, according to the plat of record in Cabinet C, Slide 124-14, Plat Records of Bell County, Texas, and continuing with the south line of a called **20.06 Acre tract** conveyed to Moore Family Enterprises, LP, in Document No. 43282, Official Public Records of Real Property, Bell County, Texas, for a total distance of **2428.14'**, to a 5/8" iron rod set, being the southwest corner of the eastern portion of said **200 Acre City of Temple tract**;

THENCE, continuing in said westerly direction, **S 73° 11' 02" E - 2844.94'**, to a 5/8" iron rod set on the east line of said **424.00 Acre tract**, which bears **S 16° 30' 57" W - 31.93'** from a 5/8" iron rod found at the southeast corner of said **200 Acre tract**, same being on the west line of a called **168.23 Acre tract** conveyed to Donald Grant Coburn and Kara Jane Coburn in Volume 5384, Page 16, Official Public Records of Real Property, Bell County, Texas, for the northeast corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said **158.22 Acre tract**, **S 16° 36' 37" W - 1013.40'** (Record S 16° 36' 36" W, Vol. 3252, Pg. 147), to a 5/8" iron rod found at the northwest corner of a called **25.801 Acre tract** conveyed to Edward J. Couhal and wife, Lavetta Couhal in Volume 3182, Page 467, Deed Records of Bell County, Texas;

THENCE, continuing in said southerly direction, with the west line of said **20.801 Acre tract**, **S 16° 20' 23" W - 778.72'** (Record S 16° 20' 15" W, Vol. 3252, Pg. 147), to a 5/8" iron rod found, being an ell corner of said **424.00 Acre tract**;

THENCE, continuing in said southerly direction, severing said **424.00 Acre tract**, **S 16° 33' 13" W - 231.79'**, to a 1" iron pipe found on the southern line of said **424.00 Acre tract** and the north line of a called **100 Acre tract** conveyed to Fley E. Baugh and wife Evelyn Baugh in Volume 851, Page 213, Deed Records of Bell County, Texas, for the easternmost southeast corner of the herein described tract;

THENCE, in a westerly direction, with the north line of said **100 Acre tract** and the north line of a called **50.2 Acre tract** conveyed to Fley Baugh in Volume 852, Page 371, Deed Records of Bell County, Texas, **N 73° 30' 47" W - 3261.64'** (Record N 73° 40' 27" W, Vol. 3252, Pg. 147), to a 1/2" iron rod found at the northwest corner of said **50.2 Acre tract** being the easternmost northeast corner of said **33.748 Acre tract**, for an ell corner of the herein described tract;

THENCE, in a southerly direction, with the west line of said **50.2 Acre tract**, **S 17° 40' 16" W - 1090.74'** (Record S 17° 34' 50" W - 1090.92', Vol. 4572, Pg. 475), to a steel oak found at an ell corner of said **50.2 Acre tract**, for the southernmost southeast corner of the herein described tract;

Surveyors Field Notes for PANDA ENERGY (continued)

THENCE, in a westerly direction, with the boundary of said 50.2 Acre tract, N 73° 59' 48" W - 269.27' (Placed N 74° 59' 33" W - 269.93' - See 4572, Pg. 477), to a 5/8" iron rod found on the northeast line of A T & B Railroad as surveyed in 1968. (Page 466, Deed Records of Bell County, Texas, for the southwest corner of the herein described tract)

THENCE, in a northwesterly direction, with the northern line of said railroad, the following right:

1. N 23° 50' 43" W - 1444.54' (Placed N 23° 50' 43" W - 1445.27' - See 4572, Pg. 477), a fence corner post found;
2. N 14° 13' 00" E - 155.13' (Placed N 13° 58' 30" E - 154.72' - See 4572, Pg. 477), a fence corner post found; and
3. N 23° 50' 58" W - 1180.63' (Placed N 23° 52' 18" W - 1180.93' - See 4572, Pg. 477), to a 3/4" iron rod found, being the northwest corner of said 13.748 Acre tract and the southwest corner of said 424.03 Acre tract.

THENCE, continuing in said northwesterly direction and with the northwest line of said railroad, N 24° 00' 42" W - 678.50' (Placed N 24° 00' 11" W - 679.36' - See 3852, Pg. 147), to a 5/8" iron rod found at the beginning of a non-tangent curve to the left.

THENCE, continuing with said railroad, with said curve to the left, having a radius of 5529.65', a deflection angle of 61° 17' 51", and a long chord which bears N 23° 19' 29" W - 125.27', an arc length of 125.22', to a 1" iron pipe found on the east line of said Loop 363, for the westernmost corner of the herein described tract.

THENCE, in a northeasterly direction, with the eastern line of said Loop 363, N 57° 14' 48" E - 382.66' (Placed N 57° 15' 00" E - 382.72' - See 3852, Pg. 147), a concrete monument, and N 49° 51' 53" E - 14.84' (Placed N 49° 51' 20" E - See 3852, Pg. 147), to the POINT OF BEGINNING and containing 250.06 Acres of land.

This project is referenced to the City of Temple Coordinate System, an extension of the Texas Coordinate System of 1983, Central Zone. All distances are horizontal surface distances, unless noted and all bearings are grid bearings. All coordinates are referenced to City Monument No. 33. The true angle of City Monument No. 33 is 01° 33' 17". The combined correction factor (CCF) is 0.866853. Grid distance = Surface distance X CCF. Grid northing = Grid north + Data angle. Projected City coordinate for City Monument No. 33 are N = 10,350,554.80, E = 5,230,506.82. Distances do from City Monument No. 33 to the northwest corner of said 13.748 acre tract is S 68° 00' 17" W, 1815.37 feet.

This document is not valid for any purpose unless signed and sealed by a Registered Professional Land Surveyor.

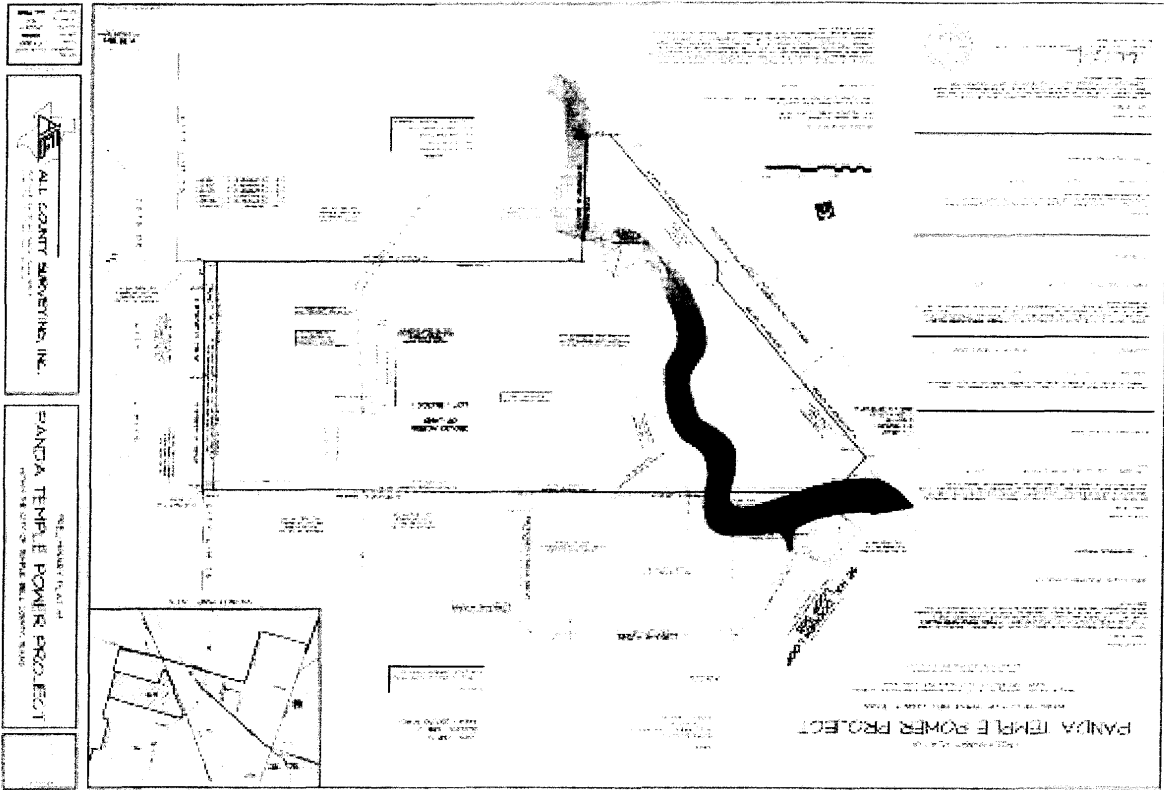
This map and bounds description is accompanied by a Surveyor's Sketch showing the herein described 250.06 Acre tract.

Surveyed February 27, 2008

ALL COUNTY SURVEYING, INC.
1-800-749-PLAT
an independent member firm of the American Land Surveyors' Association

Charles C. Lusk
Registered Professional Land Surveyor
Registration No. 4838





ATTACHMENT 2

PANDA TEMPLE POWER, LLC

PROJECT DESCRIPTION

The following is based on documents submitted with the Planned Development Application to the City in January 2010.

GENERAL PROJECT DESCRIPTION

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

Technical Description of Power Plant

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

The proposed plant will utilize the latest, most efficient and environmentally friendly power generation equipment available on the market today. It will have an overall heat rate of approximately 6900 Btu/kWh and will have one of the lowest emissions profile of any Texas power generation facility.

The general layout of plant equipment and structures on the site is shown on the Project Development (PD) Drawing presented below.

Water Supply

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

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

The pipeline will be located on easements on four parcels of City owned property and one privately held parcel. Routing and preliminary survey drawings for the easements have been completed.

Additionally, the project will be supplied with potable water from the City water system. It is planned that an eight-inch water line will be installed, running from the existing line on Lorraine Drive at the Best Rite facility to the Panda project site. Preliminary routing and designation of easements for this line have been accomplished as part of the Lorraine Drive Extension engineering effort.

Waste Water

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

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

Fuel Supply

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

Electrical Interconnection

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

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

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

Permitting

Panda received its Air Permit from the Texas Commission on Environmental Quality (TCEQ) on October 10, 2008. The permit was extended on March 1, 2010.

Onsite environmental assessments have been performed and no adverse impacts have been identified. Additional required permits will be applied for and obtained as the project goes forward.

Site Access

The primary access to the site will be via a planned extension of Lorraine Drive and a north-south connector road to the Panda site. These roadways have already been laid out and preliminary engineering (30% Review Drawings) has been completed for the City by Kasperg, Patrick and Associates. The ROW for these roadways is 80 feet.

A secondary access road is planned which will approach the site from the south. Panda will construct a construction phase access road with the City's permission on easements owned by the City. These easements run north from FM 3117 and then west to the southeast corner of the Panda site. The ROW available for this road ranges from approximately 80 feet up to approximately 200 feet.

All roads, walkways, and parking areas within the site boundary will be the responsibility of Panda. Specific locations and routings will be developed during the final site engineering phase of the project.

General Floor Area

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

Fire Hydrants

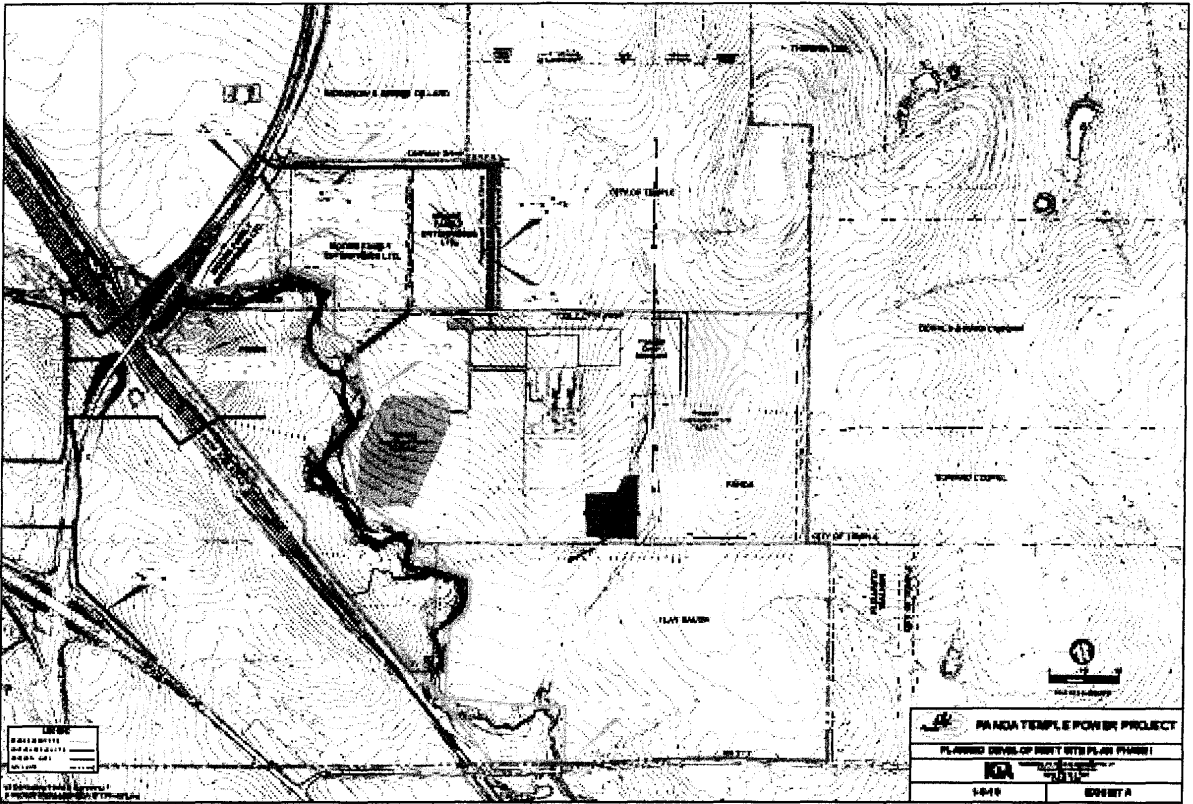
The Panda facility will have its own fire detection and protection system. The fire protection system will include fire water storage, pumps, buried loop piping, interior sprinkler systems, as well as hydrants. The fire systems will be designed and constructed in accordance with applicable provisions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

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

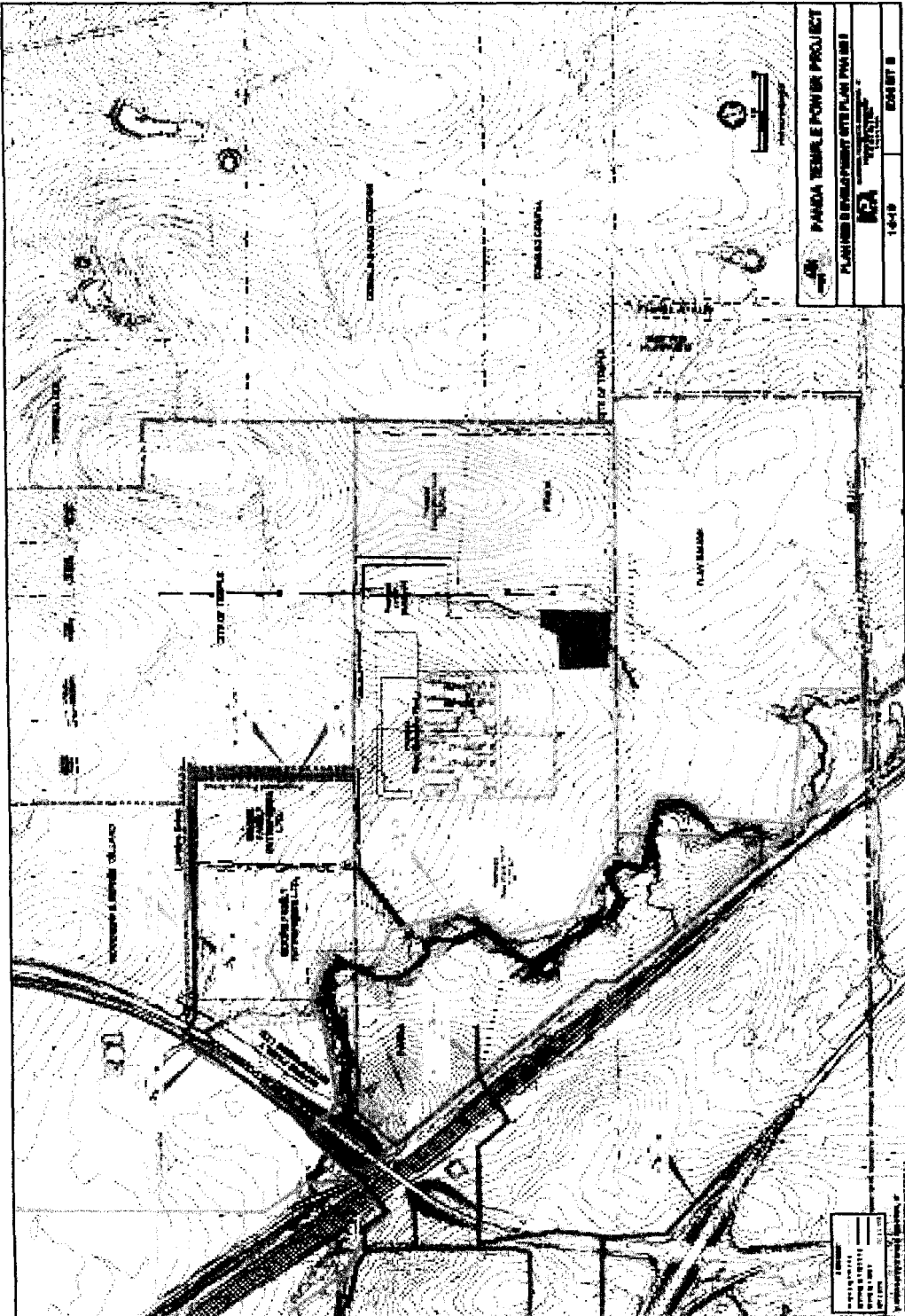
Expansion

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

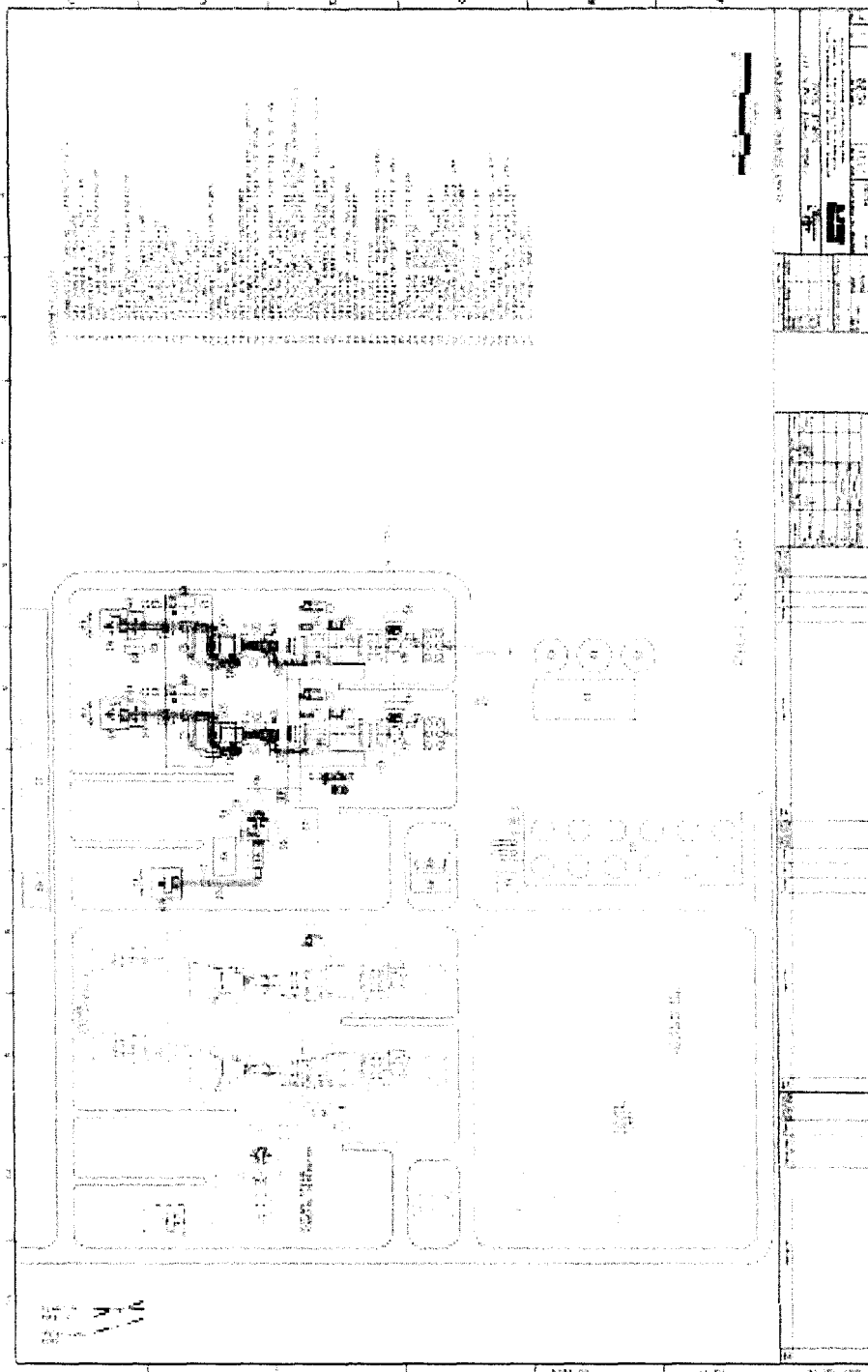
Both Phase 1 and Phase 2 are shown on the respective Project Development Drawings.



Phase 2 Planned Development Site Drawing



General Arrangement Drawing – Power Island - Phase 1



ATTACHMENT 3

**CITY PROPERTY TAX ESTIMATE
DURING ABATEMENT PERIOD**

TEMPLE POWER PROJECT
CITY PROPERTY TAX ESTIMATE DURING ABATEMENT PERIOD

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Estimated land value	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000	1,250,000
Estimated real property improvements (A)	363,904,000	359,775,000	355,049,000	349,725,000	343,805,000	337,288,000	330,173,000	322,462,000	314,153,000	305,248,000
Total estimated assessable property	365,154,000	361,025,000	356,299,000	350,975,000	345,055,000	338,538,000	331,423,000	323,712,000	315,403,000	306,498,000
City tax rate	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%	0.5745%
Estimated property tax before abatement	2,097,810	2,074,089	2,046,938	2,016,351	1,982,341	1,944,901	1,904,025	1,859,725	1,811,990	1,760,831
less 50% abatement on improvements	(1,045,314)	(1,033,454)	(1,019,878)	(1,004,585)	(987,580)	(968,860)	(948,422)	(926,272)	(902,404)	(876,825)
Net estimated property tax after abatement	1,052,495	1,040,635	1,027,060	1,011,766	994,761	976,041	955,603	933,453	909,586	884,006

NOTE - The estimate is not intended to reflect future changes in tax rates. It does include estimated changes in assessed value of improvements due to depreciation and inflation.

(A) The project is assumed to be classified for property tax purposes as industrial real property.

RESOLUTION NO. 2011-6284-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX ABATEMENT AGREEMENT WITH PANDA TEMPLE POWER, LLC, FOR REAL PROPERTY ON A PORTION OF A TRACT OF LAND IN THE SOUTHEAST INDUSTRIAL PARK, SOUTH OF LORRAINE DRIVE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City adopted a Resolution dated June 15, 1989, stating that it elects to be eligible to participate in tax abatement;

Whereas, on February 3, 2011, the City Council adopted Ordinance No. 2011-4423, establishing a comprehensive economic development policy for the City of Temple, which policy includes criteria and guidelines for granting tax abatement within the City of Temple in accordance with Chapter 312 of the Tax Code;

Whereas, Panda Temple Power, LLC, is the owner of property within the City's Tax Abatement Reinvestment Zone Number Twenty, and has requested that the City consider granting tax abatement for proposed real property improvements to said Property;

Whereas, the contemplated use by Panda Temple Power, LLC, of the property, as hereinafter described, and the contemplated improvements to said Property in the form and amounts set forth in the agreement, are consistent with encouraging economic development, and in accordance with the criteria and guidelines for tax abatement in the City's Economic Development Policy;

Whereas, as required by law the City has notified the other taxing entities of its intent to enter into the agreement; and

Whereas, the City Council has considered the matter and finds that the proposed tax abatement with Panda Temple Power, LLC, is in compliance with State law and the City's *Guidelines and Criteria* governing tax abatement, and that the proposed improvements said company are feasible and likely to attract major investment and expand employment within the City.

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

Part 1: The City Manager, or his designee, is authorized to execute a tax abatement agreement on eligible real property between the City of Temple and Panda Temple Power, LLC, after approval as to form by the City Attorney, governing a portion of a tract of land out of a 250 acre tract in the Southeast Industrial Drive, south of Lorraine Drive, consisting of _____ acres. 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 **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #7
Regular Agenda
Page 1 of 4

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Z-FY-11-18: Consider adopting an ordinance authorizing a Conditional Use Permit allowing a package store on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.

P&Z COMMISSION RECOMMENDATION: At its March 7, 2011 meeting, the Planning and Zoning Commission voted 7/0 to recommend approval of this CUP for a package store as presented with the additional condition that the burglar bars are permitted to remain one year from the issuance of the Certificate of Occupancy.

Commissioners Williams and Staats were absent.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

After conducting a public hearing for this item on April 7th, the item was tabled to allow consideration by the full City Council.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-18, from the Planning and Zoning meeting, March 7, 2011. The Applicant requests this Conditional Use Permit to establish a retail package store development.

COMPREHENSIVE PLAN COMPLIANCE REVIEW: The proposed CUP relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
	Map 5.2 - Thoroughfare Plan	Y*
STP	NA	NA

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial. This use is classed as retail and is compatible with the Future Land Use Plan, but because of its nature, requires discretionary judgment in districts which allow the use to site within them.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to E. Central Avenue and N. Martin Luther King Jr. Drive which are designated as Arterial streets. The surrounding area is in transition and most surrounding lots are underutilized. This strip center has three tenant spaces and for at least the last five years, has had two spaces empty. Traffic congestion will not be unreasonably increased by this proposed use or will it require a change in the infrastructure surrounding this lot.

Availability of Public Facilities (CP Goal 4.1)

A four- and an eight-inch water line and an eight-inch sewer line currently serve the site. No additional services are required for this use.

CONDITIONAL USE SITE PLAN REVIEW:

If the City Council approves this CUP request, the site must be developed according to the approved CUP site plan before the proposed package store may open for business. Below are some critical elements of the CUP site plan along with explanatory notes.

Parking

In Sec. 5.3.16 of the Unified Development Code (UDC), package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA, Central Area District. The regulation requires a minimum of seven spaces for a package store of the proposed size. The applicant is proposing the purchase of the adjacent lot, behind the building and fronting on Martin Luther King Drive, to provide nine off-street parking spaces. Parking behind the subject building satisfies the "on-site" parking requirement as direct access to the building is possible.

There are currently seven on-street spaces along the street perimeter of this lot, three spaces on Martin Luther King Jr. Drive and four spaces on E. Central Avenue. Staff has requested that the parking on the front of the building, which is currently head-in with vehicle maneuvering into E. Central Avenue directly into the east-bound turning queue, be re-planned to be parallel to the street. This would increase vehicle safety along this right-of-way. This also frees up an area with which to plant required landscaping and improve pedestrian access (see section below). Unlike a previous package store case for a nearby property, the subject property has enough room for landscaping and other site improvements that the adjacent on-street parking can remain in-tact, although re-configured.

Landscaping and Hardscaping

Staff has requested that the applicant improve the lot to the basic standards that are within the landscaping portion of the UDC and to complete pedestrian links to the new parking lot and the existing sidewalks from the building.

Landscaping includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian

jasmine or similar species. Because the parking is being rearranged along E. Central Avenue, part of the parking spaces on private and public right-of-way can be removed for the planting area. Additionally, along the Martin Luther King Jr. Drive side of the building, there is a portion of unpaved area that currently has minimal landscaping. Because this would be the access area for patrons parking in the proposed onsite parking area behind the building, Staff has requested the applicant to add trees and ground cover, which is shown on the site plan.

The applicant shows the requested access connections from the building to the street in the form of ADA-compliant ramps, as this building is higher than the surrounding street and sidewalk level. He has additionally provided light standards at the entrance of the parking lot in the landscaped areas that match with the City installed Acorn-styled globes and historic posts.

Building Elevation Improvements

The building was built in the early 1970's and is in need of repair. The canopy around the face of the building has damage, and Staff has requested that the entire canopy be repainted. The applicant has agreed to this, although he has not stated the final color. Additionally staff has requested that the burglar bars be removed. The note on the plan states that all burglar bars will be removed on this building.

Signs

Staff requested a mock up of the signs that the Applicant planned to install. The photos below reflect the proposed signs and will not be part of the CUP ordinance. They show that the applicant intends to place professionally-produced signs in proportion with the size of the building.

As a decision guide, the UDC establishes five general criteria for evaluation of all CUPs. They are listed below for the Council's consideration:

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. 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.
- D. Adequate nuisance prevention measures have been taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- E. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.

PUBLIC NOTICE: Fourteen notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 1st, at 5:00 PM, two notices were returned in favor of and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 7, 2011, in accordance with state law and local ordinance. Both negative public comment letters were related to Criteria A above.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial Map
Land Use and Character Map
Zoning Map
Utility Map
Parking Site Plan
Landscaping Site Plan
Notice Map
Response Letters
P&Z Staff Report with meeting handouts
P&Z Excerpts
Ordinance



Z-FY-11-18

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



2008 Bell County Aerial



Z-FY-11-18

Feet 0 50 100 150

LMatlock Planning 1.25.11



Z-FY-11-18

Portion of Lots 11, 12, and 13,
Block 25, Roach Addition

313 E. Central Avenue



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| 1118, | 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 = 88 feet

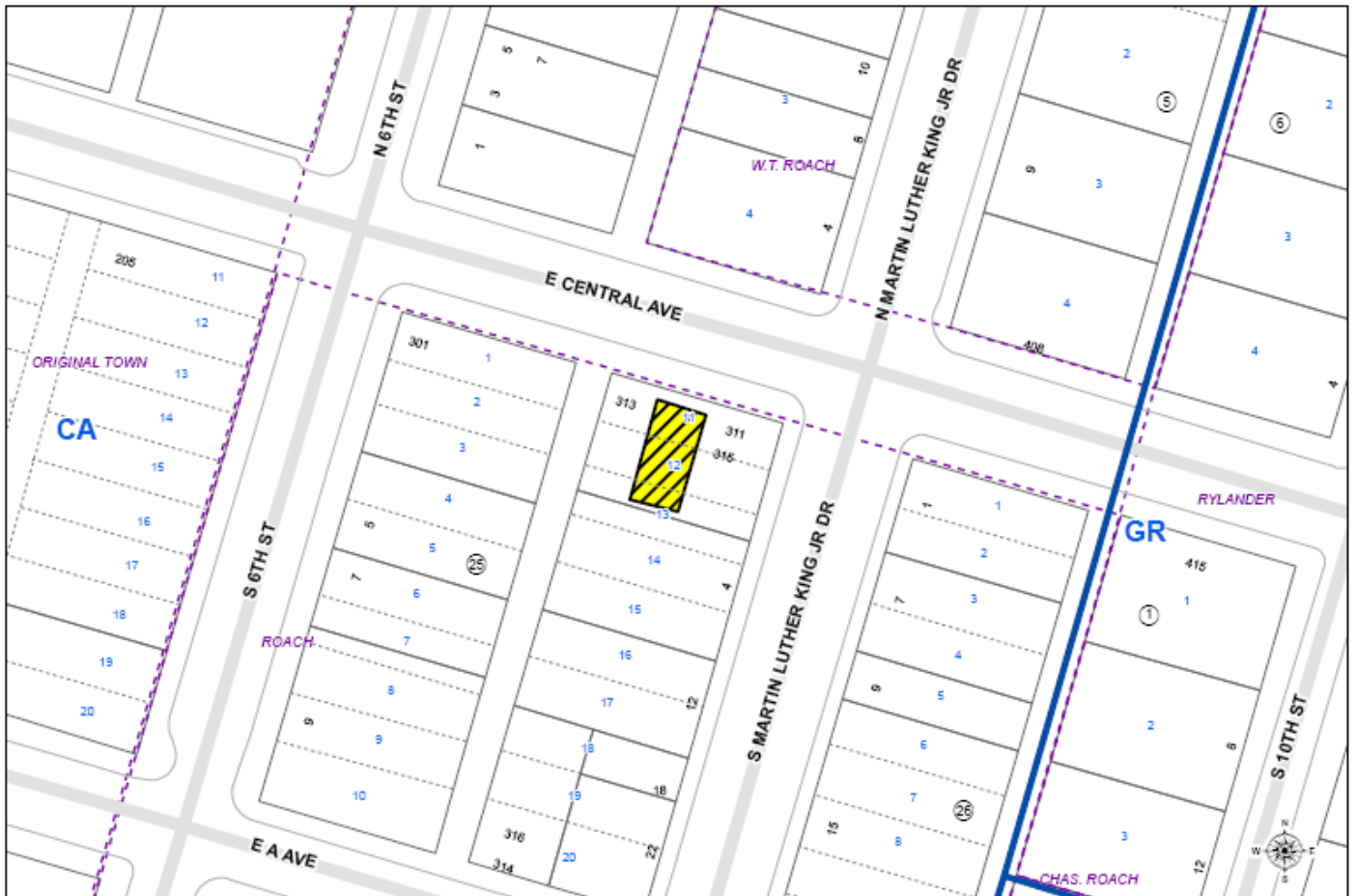
LMatlock Planning 1.25.11



Z-FY-11-18

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



Feet 0 50 100 150

LMatlock Planning 1.25.11



Z-FY-11-18

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue

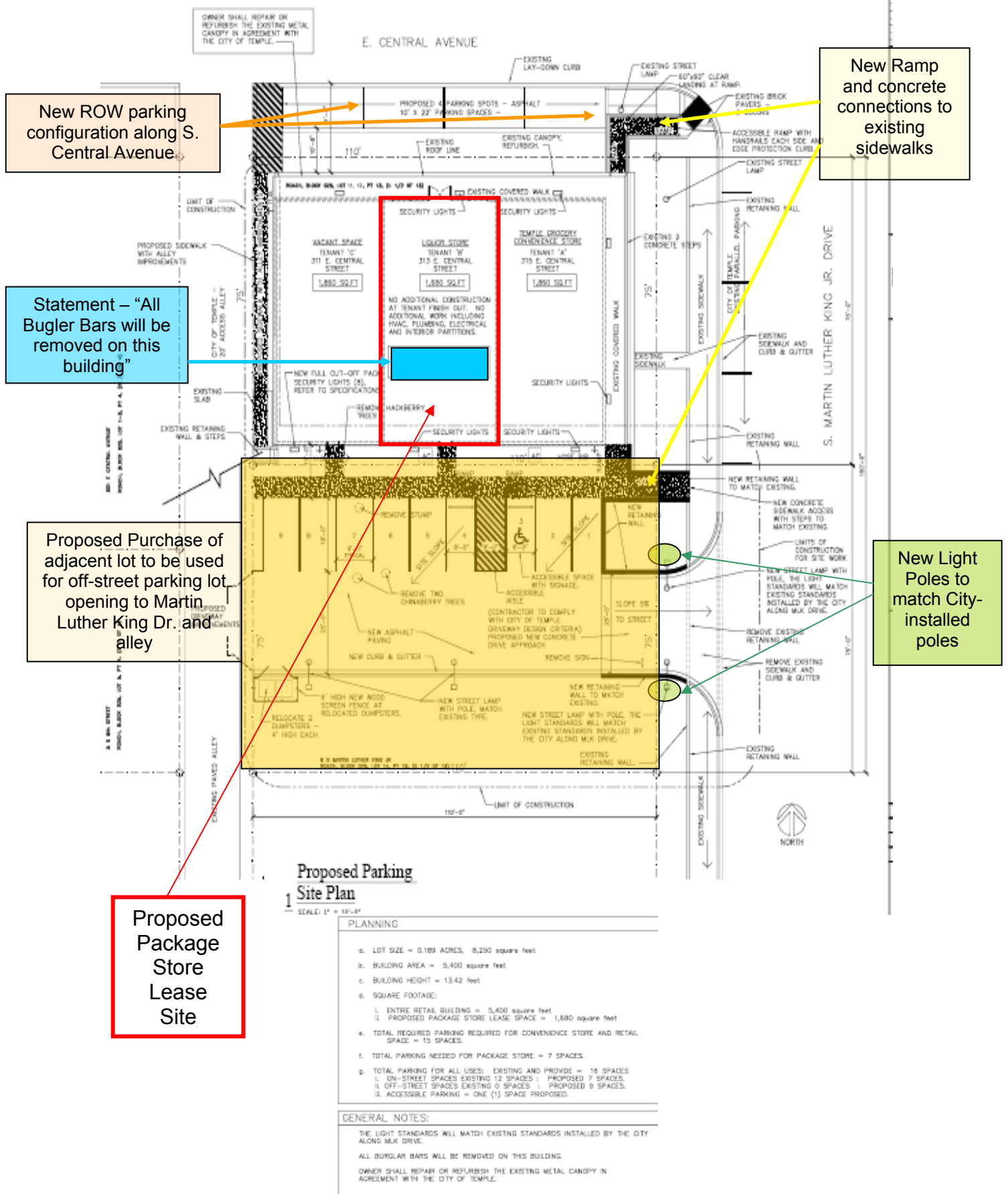


- 1118, <Null>
- WATER LINE
- FIRE HYDRANT
- SEWER LINE

Feet 0 50 100 150

LMatlock Planning 1.25.11

Proposed Galaxy Retail Package Store Parking Site Plan
Dated February 18, 2011



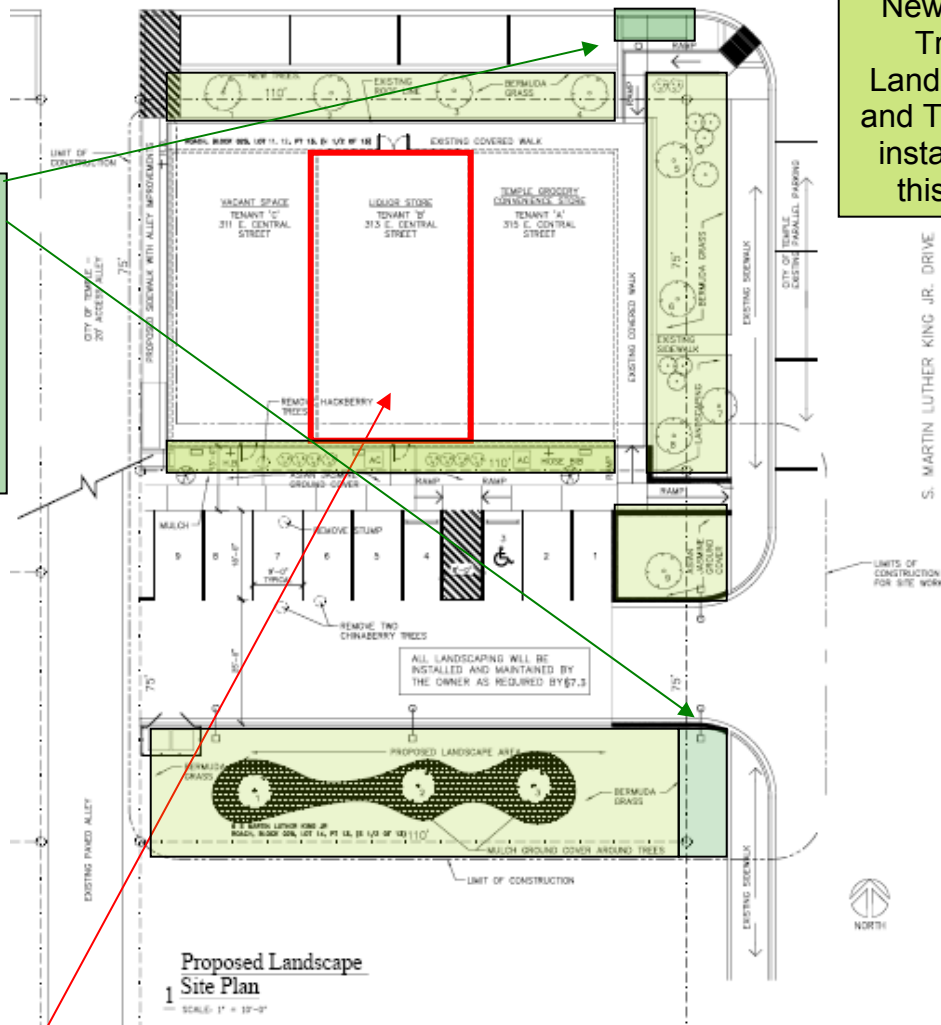
Proposed Galaxy Retail Package Store Landscape Site Plan

Dated February 18, 2011

E. CENTRAL AVENUE

Areas that should be landscaped and maintained with either shrubs or turf

New Street Trees, Landscaping and Turf to be installed for this CUP



Proposed Package Store Lease Site

PLANNING	
H. LANDSCAPING REQUIRED: 50% PROVIDED = 1.3% OF THE BUILDING SITE	PROVIDED = 36% OF PARKING LOT SITE
I. NUMBER OF TREES REQUIRED (0):	PROVIDE THREE (3) FOR LANDSCAPING.
J. NUMBER OF TREE REQUIRED SEVEN (7):	PROVIDED (9) FOR STREET FRONTAGE - SEE LANDSCAPE LEGEND
LANDSCAPE LEGEND	
PLANT / TREE SCHEDULE	
	8 - 2.5" CALIPER LIVE OAKS
	4 MULTI TRUNK CREPE MYRTLES
	2-RED / 2-WHITE
	8 - CLUMP OF NADINAS
	2 - INDIAN HAWTHORNE
	6 - CLUMP OF YUOPONS
	700 SQUARE FEET = MULCH AREA
	4" PINE BARK MULCH TOPPING.
	400 SQUARE FEET = PROPOSED GROUND COVER AREA
	4,300 SQUARE FEET = PROPOSED BERMUDA GRASS AREA.
	IRRIGATION: PROVIDE 3 HOSE BIBBS = 100' EACH COVERING EACH PLANTING AREA, INCLUDING GROUND COVER AREAS.

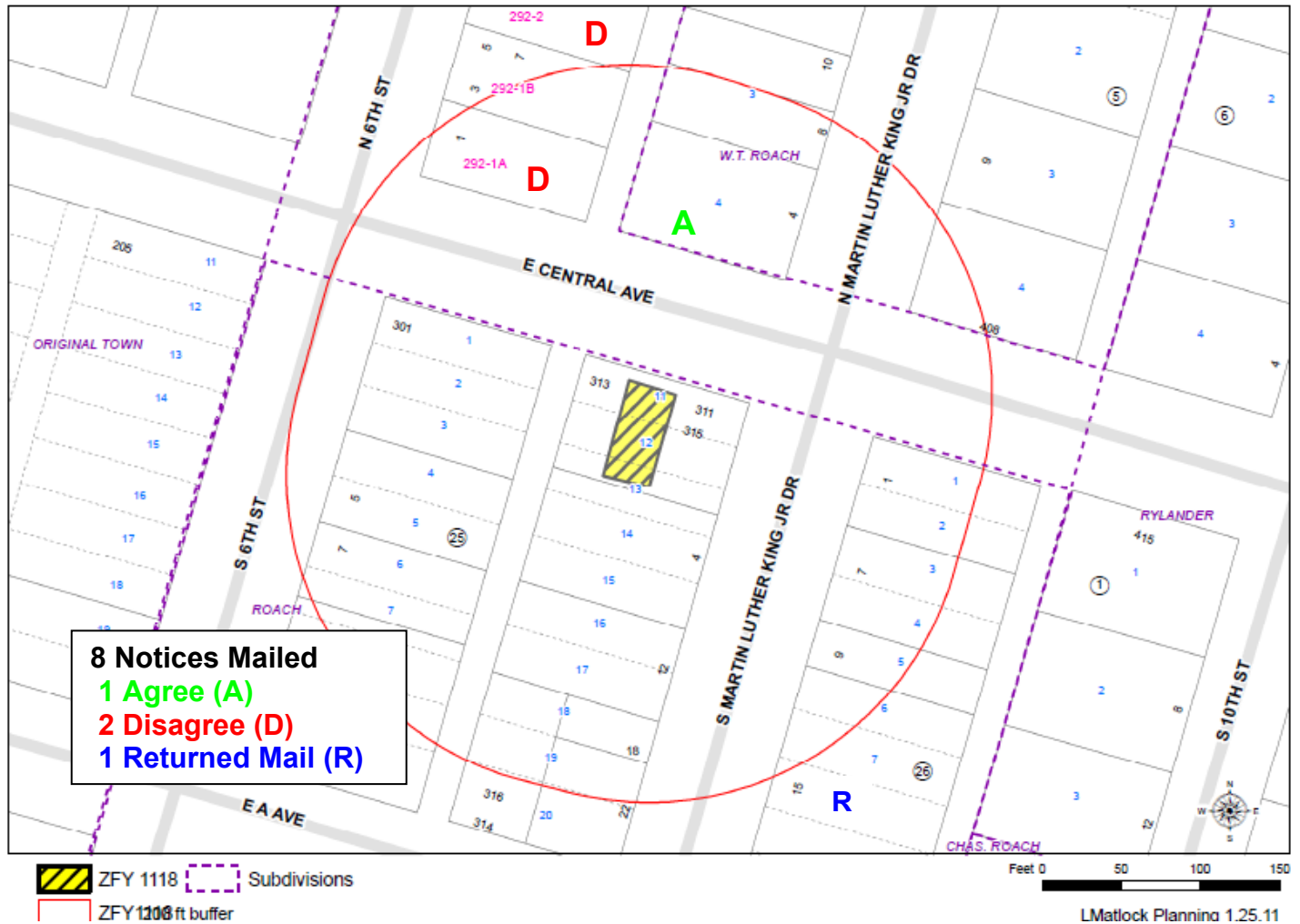
GENERAL NOTES:	
ALL LANDSCAPING WILL BE INSTALLED AND MAINTAINED BY THE OWNER AS REQUIRED BY §7.3	



Z-FY-11-18

Portion of Lots 11,12,and 13,
Block 25, Roach Addition

313 E. Central Avenue



Returned mail addressed to:

Love Outreach Pentecostal Church I
15 South Martin Luther King Drive
Temple Texas 76501



RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

1218 Richard Lewis Heating & Air Condition Ltd
1818 South 27th Street
Temple, Texas 76054

Zoning Application Number: Z-FY-11-18

Project Manager: Leslie Matlock

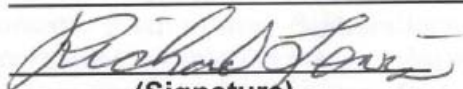
Proponent/Applicant: Muhammad Usman (Galaxy Retail Inc) for C's Investment

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:

I do not approve because I
could not use city parking I had to
buy a duplex & going to have to tear it
down & 12nd escape property at 6th &
6th st.
He does not have any parking so I do
not see how he can qualify for a
liquor store


(Signature)

Richard Lewis
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no
later than February 22, 2011.

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

RECEIVED

FEB 18 2011

City of Temple
Planning & Development

Number of Notices Mailed: 8

Date Mailed: February 10, 2010



RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

RECEIVED

FEB 17 2011

City of Temple
Planning & Development

Amanda Krcha
8917 Oak Hills Drive
Temple, Texas 76052

Zoning Application Number: Z-FY-11-18

Project Manager: Leslie Matlock

Proponent/Applicant: Muhammad Usman (Galaxy Retail Inc) for C's Investment

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:

We have enough drinks in this
area - having a liquor store would
make it worse -

Amanda Krcha
(Signature)

Amanda Krcha
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than February 22, 2011.

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

Number of Notices Mailed: 8

Date Mailed: February 10, 2010



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

Southwest Federated Inc.
1150 N Loop 1604 W
San Antonio, Texas 78248

Zoning Application Number: Z-FY-11-18

Project Manager: Leslie Matlock

Proponent/Applicant: Muhammad Usman (Galaxy Retail Inc) for C's Investment

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)

ROBERT SWENDSON, PRESIDENT
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than February 22, 2011.

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

RECEIVED

FEB 18 2011

City of Temple
Planning & Development

Number of Notices Mailed: 8

Date Mailed: February 10, 2010

To,

The City Council/Planning Department

SUBJECT: CUP Application

Dated: 03/02/2011

Dear Sir/Madam,

I as an Officer of the company wanted to add some comments to the CUP application by submitting this letter.

First of all I am a small business owner, and this will be the only Liquor store business, I will have if the CUP application is granted. Already all the TABC permits and county permits for this particular location are secured and all the furniture and Inventory is being purchased and secured on the location. Also security systems, Handicap Accessible restroom, camera systems are installed. In short I can safely say that the store is in a ready to go condition. The store can be opened within 30-60 days after the CUP application is granted and the work according to the CUP application is done.

Also I came to know that the City has approved another Liquor store in the same neighborhood. I must state that as our proposed parking is on the south side of the store so we will be catering more to the south and MLK side of the road, which is a 2-way road. I must state that the presence of 2 liquor stores will not make people buy more alcohol, but will only generate competitive prices. For example if some body wants to buy a bottle of red wine before going home, he will not buy one bottle each from both the stores but will try to buy at the store which has a better price. Also no development has been done by the other Liquor store, even approx 4 months after their CUP application approval. No application with TABC is made.

At the last I must state that after meeting with the City Planning department and working out on the plans, I have the understanding that this will be a high cost project. This project will also affect the Grocery store, which is in the same business strip as the proposed Liquor store. Their parking spaces will be reduced to almost half during the construction phase of the project. I must suggest the City to also consider the following,

1. We should be allowed up-to 5 years to keep the burglar bars as the area is still developing. There is no business around us for 200 feet but the grocery store. All are either closed or vacant lots. I must clarify as a retail business owner, that we don't like to put the burglar bars either, as it may scare away a good customer and it does not give good impression also. We will take them away as soon as possible within the time frame as suggested by the City Counsel and Planning Department.

RECEIVED

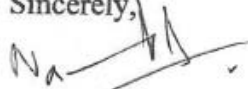
MAR 04 2011

City of Temple
Planning & Development

2. As the primary requirement for the Liquor store in this location is the parking space, which we have suggested on the south side of the store. I request that we be allowed to start the business as soon as the parking space is developed including Ramps, Handicap parking and other stuff related to proper parking requirements. But we should be allowed one year to complete the landscaping/parking part of the project, in front of the suggested store. This should allow our next-door store to operate without facing hardship due to us. This will also allow us to start the business as soon as possible and manage the total expenditure of the project over the course of a year. Also taxes will be paid and at least 3 jobs will be created sooner then later.

Please note that the above points are only suggestions and hopefully City Counsel and Planning Department will take note of our viewpoint of the CUP application.

Sincerely,



Muhammad N Usman
President
Galaxy Retail Inc.

RECEIVED

MAR 04 2011

City of Temple
Planning & Development



Photo passed out of store interior by Applicant at March 7, 2011, Planning and Zoning Commission.



Photo passed out of store interior by Applicant at March 7, 2011, Planning and Zoning Commission.

APPLICANT: Mohammed Naveed Usman on behalf of Galaxy Retail, Inc.

CASE MANAGER: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-11-18 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a Portion of Lots 11,12,and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District.

BACKGROUND: This case was scheduled and notified for the February 22, 2011, meeting. Staff and the applicant requested that the case be deferred until the next regular meeting. P&Z opened the public hearing and then tabled the item until this meeting.

This site is the center lease space of a three-business retail building on the southwest corner of N. Martin Luther King Jr. Drive and E. Central Avenue. It is located across the street from 1 N. 6th Street, Case Z-FY-10-33, an approved Package Store which received a Conditional Use Permit (CUP) in August of 2010. That case, Z-FY-10-33, was originally denied earlier in the same year. It was revised and brought back to the Commission and Council where it was approved. The approved CUP site plan shows demolition of the neighboring duplex for a parking lot and onsite landscaping. That business has not yet opened.







Z-FY-10-33 CUP
Approved Package Store
1 North 6th Street


Subject Property
313 East Central Avenue

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	CA	Retail Building with 3 lease spaces - Convenience Store occupying east side, proposed Package Store in center space, and vacant lease space on the west.	

Direction	Zoning	Current Land Use	Photo
Subject Property	CA	View to the west from corner of N. Martin Luther King Jr. Drive and E. Central Avenue to front of subject building and entrance of subject proposal.	
North	CA	Vacant Commercial Metal Building siding on E. Central Avenue.	
South	CA	Vacant Lot (Proposed site of additional off-street parking lot to be added if approved)	
East	CA	Vacant Commercial Building (former church)	

Direction	Zoning	Current Land Use	Photo
West	CA	Alley and Paved Lot	

COMPREHENSIVE PLAN COMPLIANCE REVIEW: The proposed CUP relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
	Map 5.2 - Thoroughfare Plan	Y*
STP	NA	NA

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The request conforms to the Future Land Use and Character Map which designates the property as Auto Urban Commercial. This use is classed as retail and is compatible with the Future Land Use Plan, but because of its nature, requires discretionary judgment in districts which allow the use to site within them.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to E. Central Avenue and N. Martin Luther King Jr. Drive are designated as Arterial streets. The surrounding area is in transition and most surrounding lots are underutilized. This strip center has three tenant spaces and for at least the last five years, has had two spaces empty. Traffic congestion will not unreasonably increased by this proposed use or will it require a change in the infrastructure surrounding this lot.

Availability of Public Facilities (CP Goal 4.1)

A four- and an eight-inch water line and an eight-inch sewer line currently serve the site. No additional services are required for this use.

CONDITIONAL USE SITE PLAN REVIEW:

If the City Council approves this CUP request, the site must be developed according to the approved CUP site plan before the proposed package store may open for business. Below are some critical elements of the CUP site plan along with explanatory notes.

Parking

In Sec. 5.3.16 of the Unified Development Code (UDC), package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA, Central Area District. The regulation requires a minimum of seven spaces. The applicant is proposing the purchase of the adjacent lot, behind the building and fronting on Martin Luther King Drive, to provide nine off-street

parking spaces. Parking behind the subject building satisfies the “on-site” parking requirement as direct access to building is possible.

Although the entire retail building would require 22 off-street spaces, UDC Sec. 7.4.4, allows that the normal off-site parking requirements do not apply the CA District. There are currently seven on-street spaces along the street perimeter of this lot, three spaces on Martin Luther King Jr. Drive and four spaces on E. Central Avenue. Staff has requested that the parking on the front of the building, which is currently head-in with vehicle maneuvering into E. Central Avenue directly into the east-bound turning queue, be re-planned to be parallel to the street. This would increase vehicle safety along this right-of-way. This also frees up an area with which to plant required landscaping and improve pedestrian access (see section below).

Landscaping and Hardscaping

Staff has requested that the applicant improve the lot to the basic standards that are within the landscaping portion of the UDC and to complete pedestrian links to the new parking lot and the existing sidewalks from the building.

Landscaping includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian jasmine or similar species. Because the parking is being rearranged along E. Central Avenue, part of the parking spaces on private and public right-of-way can be removed for the planting area. Additionally, along the Martin Luther King Jr. Drive side of the building, there is a portion of unpaved area that currently has minimal landscaping. Because this would be the access area for patrons parking in the proposed onsite parking area behind the building, Staff has requested the applicant to add trees and ground cover, which is shown on the site plan. (The leader on the site plan showing turf installation should be extended to the existing sidewalk from the larger parking lot landscaped area and also on the other side of the ramp connecting to the intersection corner.)

The applicant shows the requested access connections from the building to the street in the form of ADA-compliant ramps, as this building is higher than the surrounding street and sidewalk level. He has additionally provided light standards at the entrance of the parking lot in the landscaped areas that match with the City installed Acorn-styled globes and historic posts.

Building Elevation Improvements

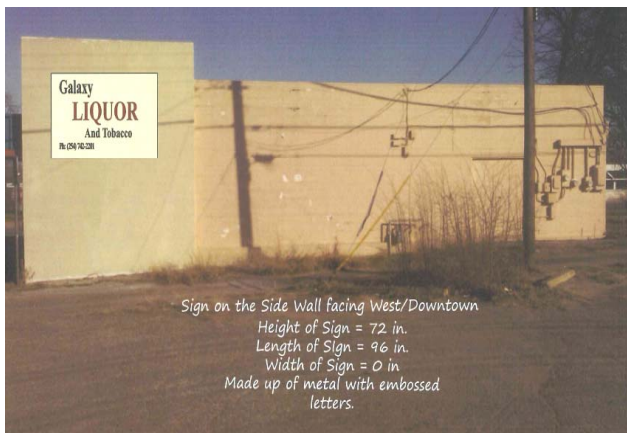
The building was built in the early 1970's and is in need of repair. The canopy around the face of the building has damage, and Staff has requested that the entire canopy be repainted. The applicant has agreed to this, although he has not stated the final color. Additionally staff has requested that the burglar bars be removed. The note on the plan states that all burglar bars will be removed on this building.

Signs

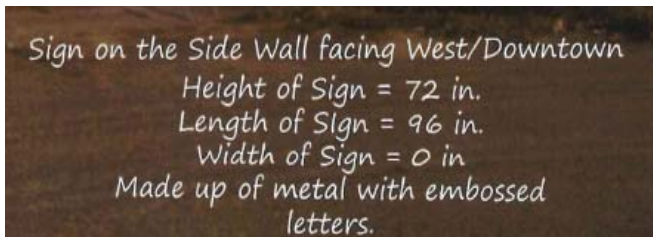
Staff requested a mock up of the signs that the Applicant planned to install. The photos below reflect the proposed signs and will not be part of the CUP ordinance. They show that the applicant intends to place professionally-produced signs in proportion with the size of the building.



Canopy
Repairs
shown
here as
completed



Alley side of the building – visible from
East Central Avenue- proposed size below



Existing window signs shown along bottom
of windows – proposed sign is on canopy– actual
sizes of window signs are below



Location

Staff has raised the concern as to whether this subject property is a good location for a package store, given the recent approval of another package store across the street. 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 decision guide, the UDC establishes five general criteria for evaluation of all CUPs. They are listed below for the P&Z's consideration:

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.

- C. 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.
- D. Adequate nuisance prevention measures have been taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- E. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.

Both negative public comment letters were related to Criteria 1 above.

PUBLIC NOTICE:

Eight notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, February 25th at 5 PM, one notice was returned in favor of and two notices were returned in opposition to the request. One notice was returned by the Post Office as undeliverable. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 11, 2011 in accordance with state law and local ordinance.

The returned undeliverable notice was addressed to the Love Outreach Pentecostal Church. Temple Code of Ordinance Section 4-2 states it is an offense for sales of alcoholic beverages within 300-feet of a Church, public school or public hospital. This section is referenced to the State Alcoholic Beverage Code. The building in question is within 300 feet from front door to front door and along property lines.

Staff referred the issue to the Deputy City Attorney who researched State Attorney General opinions. She believes that the Church has to be in operation in order for this restriction to apply to an alcoholic beverage sales business. Staff called the contact number posted in the window of the shuttered building, and followed up by calling other Pentecostal Churches in the area for a current number. Because there is no activity in the building, this Package Store has been forwarded to the Planning and Zoning Commission and the City Council for consideration.

STAFF RECOMMENDATION: NA (per direction of the City Council)

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

P&Z Minutes

Aerial

Land Use and Character Map

Zoning Map

Utility Map

CUP Site Plan

CUP Landscaping Plan

Notice Map

Response Letters

(March 8, 2011 added – Letter of Appeal from Muhammad Naveed Usman, Applicant

Photos of interior of building)

P&Z Staff Report

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

MONDAY, MARCH 7, 2011

ACTION ITEMS

Item 3: Z-FY-11-18: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a Portion of Lots 11,12,and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District. (Mohammed Naveed Usman for Galaxy Retail, Inc.)

Ms. Leslie Matlock, Senior Planner, stated this was a CUP request for a package store located at E. Central and MLK on the east side of a three store building, currently zoned Central Area (CA) and across the street from another package store.

Property surrounding the subject building includes a vacant commercial building to the north, a vacant parcel to the south (applicant's proposed parking lot), a non-residential building to the east (formerly a church), and a paved parking to the west. Land uses of surrounding areas are also given.

Ms. Matlock reads the CUP criteria for the benefit of newer Board members.

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. 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.
- D. Adequate nuisance prevention measures have been taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- E. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.

Ms. Matlock states the entrance to the package store would be along East Central Avenue and the lot boundaries are described including the lot at the rear of the building where the parking area would be located. There is some perpendicular parking available along East Central Avenue and three parking spaces along Martin Luther King Drive.

Pedestrian passageways would be connecting to the sidewalk already in place. Sidewalks and access to the building, along with a ramp, would be put in the rear of the building. Curbs and edging would be installed around the ramp in the parking lot and a new retaining wall

would be constructed between MLK and the parking lot. Applicant would install additional acorn lights to match the current City acorn lights.

The applicant has proposed to put in all required street trees with landscaping along the adjacent streets and trees and landscaping in the rear along the building and around the parking area. The applicant has proposed to repair and repaint the canopy and remove all burglar bars. The signs (not part of the CUP) will be professionally painted and proportional with the building.

Eight notification letters were mailed out: Two letters were received recommending denial and one was received in favor of the request.

Vice-Chair Martin asked about the burglar bars being removed since Mr. Usman requested in his letter that the bars be left up for five years. Ms. Matlock explained the applicant's letter arrived after the P&Z packet was finalized and sent out to the Commissioners.

Commissioner Pilkington stated the request as presented seems to meet all requirements.

Chair Talley asked if the building across the street was no longer a church and Ms. Matlock confirmed. Due diligence was done in trying to contact someone at that building but attempts was unsuccessful.

Chair Talley asked about the handicapped parking and that the applicant only showed one handicapped space. Ms. Matlock stated only one handicapped space per every five parking spaces was required. This matter would also be reviewed during the permitting process.

Vice-Chair Martin opened the public hearing.

Mr. Mohammad Naveed Usman, 406 Verona Circle, Kyle, Texas, 78640, stated the convenience store owner was concerned about no parking during the construction phase. Mr. Usman suggested switching around the areas that need work in order to accommodate the neighbor's business. Mr. Usman also stated the burglar bars would be helpful for now since there are no other businesses in the immediate area around the building and requested they not be removed for four or five years. Currently, it would be difficult to remove them. He suggested a shutter could possibly be placed on the inside.

Vice-Chair Martin asked Mr. Usman if he had any problem with the timeline of redoing the rear parking area first, rather than the rest of the work. Mr. Usman said no, the City's main concern was no provided parking for the package store and did not want the applicant to use the public parking areas as they currently were laid out. It would take approximately a month to complete each section of work.

Mr. Usman stated someone has some concern about another liquor store across the street but that building is empty and nothing has been started yet.

Commissioner Rhoads asked for the customers who park in the back, would they would still need to walk around to the front to enter the store or would there be a rear entry and Vice-Chair Martin asked if the rear door would be opened to the public. Mr. Usman stated according to TABC law, he could not open the rear door to the public since the rear door was

specifically for loading and unloading. A store was required to have two entries: one for the rear for loading and unloading and one in the front for customers.

Commissioner Pope asked what portion of the work Mr. Usman was asking to be delayed for a year and Mr. Usman stated the landscaping and everything on the south side should be completely finished first.

Ms. Matlock stated in the CO (Certificate of Occupancy) process, starting at the time that a building permit is issued, the applicant only had six months to build whatever he was going to build. The CO would be issued after the building was finished if it complied with the approved CUP site plan and approved building permit. Vice-Chair Martin stated and clarified Mr. Usman would have only six months, not one year, to complete everything he needed to do after the building permit is approved. Mr. Usman stated he understood. Vice-Chair Martin stated in order to get a CO, all of the work, landscaping, parking, etc., was to be completed before the business would be able to open and Mr. Usman again concurred.

Mr. Brian Armstrong, 117 East Bob White Lane, Harker Heights, Texas 76548, stated he had some pictures of the site as it currently sits and they were ready to open for business. (Handed out pictures to the Board). Mr. Armstrong felt it would be better to leave the burglar bars on for now since the store currently contained inventory and stock and the time requested to leave the bars up (4-5 years) would allow them an opportunity to find another method of securing the premises.

Commissioner Rhoads stated the applicant had a lot to do with the landscaping and parking lot before opening for business. Mr. Armstrong stated that the work could be done within the six month period. Vice-Chair Martin asked Mr. Armstrong if he understood the business would not be opened until all of the work was done and Mr. Armstrong stated he understood.

Mr. Armstrong stated they were requested by staff to take down the burglar bars. Ms. Matlock explained the business was originally opened, without a CUP, and the applicant was asked to close the business and go through the process to obtain a CUP which is why the store looks ready to open. Mr. Armstrong stated there was also a request to take their business sign down and it was removed. (Hands out pictures to Board).

Commissioner Rhoads asked how long the business had been opened. Mr. Usman stated approximately 30 to 40 minutes and then they were asked to shut down because they needed a permit. Mr. Usman stated they were not currently opened and did not know they needed a permit.

Commissioner Sears asked if a permit was ever pulled for the initial construction (remodeling) inside. Ms. Autumn Speer, Director of Community Services, stated they did not pull a permit but have been very cooperative since asking them to shut down and go through the permit process. Chair Talley stated that as a business owner, Mr. Usman should have known that ahead of time. Mr. Usman stated closer to Austin, if there are no structural changes, usually you do not need a permit. Ms. Speer stated to her knowledge, no major renovation took place inside the building for the required permit. The City of Temple does not have a CO process for a change of occupancy in place, however, one is being worked on to help applicants know what is required to do business.

Commissioner Pilkington asked about the burglar bars and if the City did not want them. Ms. Speer stated burglar bars send a message about the neighborhood and the applicant was asked to remove them. Ms. Speer stated she felt the City could work with the applicant regarding the bars considering all of the circumstances involved, and a time limit was up to the Board. Commissioner Pope stated burglar bars were not an issue last year on the package store across the street and did not feel these bars should be an issue on this store.

Commissioner Rhoads asked if the other store (across the street) was opened and the response was no. Mr. Armstrong stated it was his understanding that the applicant who was granted a CUP had not yet applied for the TABC license and the store was currently empty. Mr. Armstrong stated one of the denial letters was from the applicant across the street because he did not want competition in the area.

There being no further speakers, Vice-Chair Martin closed the public hearing.

Commissioner Pilkington asked how the Board should indicate a time limit for the burglar bars and Ms. Matlock replied it could be stated in the motion and would then be included in the Ordinance. Commissioner Pilkington asked if there was an easy way to track this and Ms. Speer stated a Code Enforcement Officer would check on the applicant.

Vice-Chair Martin stated when a CUP is discussed, the phrase “diminish or impair the property within the immediate vicinity” always comes up. Vice-Chair Martin felt the applicant’s site plan covered the landscaping and parking requirements and did not feel it diminished or impaired the property in the immediate vicinity of the area. Commissioner Pilkington agreed with Vice-Chair Martin and said the area would look very nice once completed.

Commissioner Pilkington made a motion to approve the CUP for Z-FY-11-18 as presented with the additional condition that the burglar bars would be allowed to stay for up to one year after opening and then must be removed. Commissioner Sears made a second.

Commissioner Pope wanted clarification that the bars would be allowed for one year and not five years and Commissioner Pilkington stated yes. Commissioner Pope stated while the site was under construction and not opened for business, the bars could be very valuable to the applicant.

Motion passed: (7:0)

Commissioners Staats and Williams absent

ORDINANCE NO. 2011-4436

[PLANNING NO. Z-FY-11-18]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF DISTILLED LIQUORS, WINES AND BEERS IN UNBROKEN ORIGINAL CONTAINERS IN A PACKAGE STORE FOR OFF-PREMISE CONSUMPTION ON A PORTION OF LOTS 11, 12, AND 13, BLOCK 25, ROACH ADDITION, COMMONLY KNOWN AS 313 EAST CENTRAL AVENUE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

WHEREAS, the Unified Development Code 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 portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, 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 sale of distilled liquors, wines and beers in unbroken original containers in a package store for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, 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 in accordance with the standards in Section 7.4 of the Unified Development Code.
- (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 in accordance with Section 3.5 of the Unified Development Code 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 3.5. of the Unified Development Code.

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 6.7.5.H of the Unified Development Code.
- (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) The existing burglar bars may remain on the building for a maximum of one year after the Director of Construction Safety approves a certificate of occupancy for the package store.

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

Part 3: The Director of Planning is hereby directed to make the necessary changes to the City Zoning Map accordingly.

Part 4: The declarations, determinations and findings declared, made and found in the preamble of this ordinance are hereby adopted, restated and made a part of the operative provisions hereof.

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

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

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

TABLED on First Reading and Public Hearing on the **7th** day of **April**, 2011.

PASSED AND APPROVED on First Reading and Public Hearing on the **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

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

04/21/11
Item #8
Regular Agenda
Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-20: Consider adopting an ordinance authorizing an amendment to Unified Development Code (UDC) Article 6.3 TMED, Temple Medical and Education District, including additions to the use table concerning nursing home/assisted living, amending parking and garage requirements for special districts, designating specific trees for street tree application and addressing residential applicability.

PLANING AND ZONING COMMISISON RECOMMENDATION: At its March 21, 2011 meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of the proposed UDC amendments.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

ITEM SUMMARY: In February 2008, the City entered into a Letter of Understanding (LOU) with Scott & White Memorial Hospital, Central Texas Veterans Healthcare System, Temple Health & Bioscience Economic Development District, Texas A&M Health Science Center College of Medicine, and Temple College. The sponsoring entities entered into the LOU as a cooperative and collaborative relationship to jointly promote education and medical activities of Scott & White, the VA, Temple College, the Bioscience District, and Texas A&M Health Science Center and to advance the redevelopment of both residential and commercial neighborhoods surrounding the campuses. This community-wide redevelopment effort, entitled "TMED", is aimed at ensuring the long term economic vitality of a critical area in our City.

The vision for the TMED is to enhance and protect the existing opportunities for medical, educational, and research-related activity in the area, while identifying new public and private sector investment for the area. To accomplish these goals, the sponsoring entities are implementing redevelopment tools and funding sources to benefit the TMED.

The purpose of the zoning district and related specifications is to assist the City of Temple and landowners to create the unique environment for TMED by providing criteria that will coordinate the character and quality of the entire district. This coordination creates identity, quality of place and an enhanced value that will attract and retain a vibrant mixed use environment. It is a result of detailed

attention to the form and the feel of buildings and landscape design that anchors a project in its local and regional environmental setting.

The standards for the TMED District were approved on January 6, 2011 by City Council. The associated zoning map changes to the TMED districts (excluding 165 residential properties) were approved on February 3, 2011. The Public Hearing was tabled for the residential properties.

During and after the public hearing process staff has received requests and direction to amend the written standards of the TMED District. The following four major amendments to the TMED standards are proposed:

- Adding nursing home/assisted living uses to the use table (as requested during the public hearing)
- Addressing 1st floor requirements for parking structures in special districts (as requested by TC)
- Defining residential applicability (proposed by CC and the cause for the rezoning not being complete)
- Defining specific species approved for street trees (Council discussion during zoning process)

PROPOSED AMENDMENTS: The TMED zoning district includes three transect zones and four special districts. Each of the transect zones represent greater intensity of use and density permitted. The four special districts include the land owned by Scott and White Hospital and Texas A&M Health Science Center, Central Texas Veterans Health Care System, Temple College and Temple ISD.

The following summary highlights the proposed changes in the TMED zoning districts by applicable section:

Applicability: Applicability of the various sections of the ordinance is defined based on the development and or redevelopment on each property as well as specific applicability to districts stated in each section. Residential applicability is amended to require compliance with the new requirements of TMED only for new construction or a change in use from residential to non-residential uses.

General Regulations: General regulations define all setback and lot dimensions required in each district. Impervious lot coverage, primary and secondary frontage build-out is also defined. Permitted encroachments are addressed as well as structure height and minimum residential density. We have proposed an amendment to require compliance with principal frontage requirements for Special Districts on 13th/17th (TMED Avenue). This applies directly to the Scott and White property in the Greenfield area of TMED, Scott and White is aware and is comfortable with the change.

Use Standards: Uses are addressed for each of the TMED zoning districts and specific limitations are included. This section also addresses prohibited uses, outside storage and display and home occupations. This amendment proposes to add nursing home/assisted

living uses to the use table (as requested during the public hearing) in the T5e, T5-c, SD-h and SD-v districts. The use will be required to comply with non-residential standards.

The amendment concerning the 1st floor requirements for enclosed parking structures in special districts is also addressed in this section. Under the use 'parking structure' a new condition has been added for Special Districts requiring compliance with parking screening and additional ornamental trees to screen the parking structure on primary and secondary frontages.

Circulation Standards: No changes.

Parking and Loading Standards: No changes.

Bicycle Facility Standards: No changes.

Private Property Landscape Standards: This section addresses minimum landscape area and the amount of trees and shrubs required on private property. Landscaping is based on zoning district and the type of use. Landscaping is required in the parking lot and for screening parking, mechanical, loading areas and refuse containers.

This amendment includes an addition applicable to 1st Street only to include four small canopy street trees on private property in the parking lot screen area in accordance with the Design and Development Standards Manual. The requirements on 1st Street are unique in TMED because of the TxDOT row. The typical spacing of the street trees is limited and the four additional street trees will alleviate the spacing issue.

Public Frontage Standards: This section provides requirements for landscape, amenities and sidewalks in the public row.

The proposed amendment increases the requirements for pedestrian benches and trash receptacles to all intersections rather than 50% of intersections. This is for consistency and implementation purposes.

General Planting Criteria: This section provides the list for specific trees, shrubs and groundcover required, as well as installation, maintenance and irrigation requirements.

The proposed amendment includes a new category on the permitted trees table which addresses what trees are allowed as street trees.

Architectural Standards: No changes.

Private Property Common Open Space Standards: No changes.

Sign Standards: The proposed amendment includes a clarification of what applies to Special Districts (excluding the Veterans Administration). The table clarifies what signs are permitted and which signs refer to the Design and Development Standards Manual. Monument signs and directional signs will be included in the Design and Development Standards Manual. Previously all signs in the Special District were referred to in the Design and Development Standards Manual.

Street Light Standards: No changes.

Utility Standards: No changes.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011 in accordance with state law and local ordinance. No comments have been received to date.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Proposed Amendment to UDC Article 6.3 TMED \(Attachment 1\)](#)

[P&Z Minutes \(03/21/11\) \(Attachment 2\)](#)

[Ordinance](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 21, 2011**

ACTION ITEMS

Item 8: Z-FY-11-20: Hold a public hearing to discuss and recommend action on an amendment to Article 6.3, TMED, Temple Medical and Educational District, of the Unified Development Code including additions to the use table concerning nursing home/assisted living, amending parking and garage requirements for special districts, designating specific trees for street tree application and addressing residential applicability.

Ms. Speer stated the TMED standards (text of the document) were approved on January 6, 2011 then the rezoning process went through on February 3rd. 165 residential properties on Avenue M, 3rd and 5th Streets were tabled until future changes were made to residential applicability. Basically, half of TMED was rezoned but not the residential portion.

Ms. Speer briefly reviewed the changes:

General Regulations additions had to do with frontage requirements on 13th and 17th Streets specifically for Scott & White property.

Use Standards for nursing homes/assisted living were added to the table and will also address the first floor requirements for parking structures in the Special Districts.

The private property landscape addition has to do with screening trees on 1st Street.

The Public Frontage section addition includes the requirement for benches at all intersections.

The planting criteria addition talks about new less invasive tree species for street trees; and

The sign clarification addition will change the special district sign portion to be consistent with the regular sign portion..

Concern about applicability of these standards was raised regarding residential properties. Originally the Ordinance stated that if size was increased, even if it was a single family use, compliance with certain aspects of the Code was required. City Council asked for standards to only apply with change in use to non-residential or new construction. A new chart with Residential and Non-Residential Applicability Standards has been separated out. The chart still makes some things apply to residential such as the review process which is an internal staff review. General Standards deal with lot dimensions and setbacks.

§7.4.4 adds off street parking ratio that the rest of the City complies with for single family structures. The City would not regulate coming into compliance with TMED, but if the size were to double, required parking spaces would be required.

§7.7.2 cover metal façade for accessory and primary structures which also applies to the rest of the City.

Once these text amendments are approved and the residential applicability is amended, the plan is to go back to City Council and consider approval of those residential properties. Again, the only time a residential property would have to come into compliance with any of the regulations is when they change use or demolish and start over.

General Regulations for Building Frontage were a Staff initiated change. TMED Avenue (13th & 17th connecting through to Scott & White Blvd. and Avenues U and V) contain a lot of greenfield land area which is owned by Scott & White. There is some concern that the TMED regulations and standards are not being carried through to the green field area. After discussions with S&W, S&W has agreed to comply with the building frontage requirements on these areas.

In the Use Standards, Staff has added nursing home/assisted living to the use standards. This is under T5-e, T5-c, SD-h, and SD-v transects as a limited use in accordance with Commercial standards. This would not be allowed on Avenue M or 5th Street.

Parking Structures was initiated by Temple College after public hearing process. T5-8 standard says “first floor parking structure space in a primary or secondary frontage has to have a retail use.” The proposed language would say, “all structured parking on public frontages in SD districts must adhere to screening requirements (for a parking lot) and plant one additional ornamental tree every 25 feet.” Rather than having to do a retail use on the first floor of the parking structure, they would have to screen it as if it were a parking lot and add an additional ornamental tree.

The final design for street trees in this district would include four small ornamental trees at the intersections but on private property. This only applies on 1st Street due to the larger visibility triangles needed for those intersections.

Public Frontage Pedestrian Benches is a Staff initiated addition. Would require a pedestrian bench at 50% of all intersections, but which two corners would do it? The City would propose that benches are placed at all intersections, similar to downtown, in public right-of-way.

General Planting Criteria changes for street trees were initiated at City Council work session. Concern over potential damage to sidewalks and infrastructure due to tree species was expressed so the options have been limited. Large tree options include Bald Cypress, Arizona Cypress, and Cedar Elm which make for good street and shade trees. Three medium street tree options include Chinese Pistache, Texas Red Oak, and Lacy Oak. Large street trees would be required if there are no overhead utilities, otherwise, medium trees would be utilized.

Sign Standards in Special Districts was Staff initiated. Previously the Ordinance referred to the Design Manual for special district signs but did not clearly state what signs could be done since they were not included. It is proposed to treat special districts the same as the rest and can do all the various types of signs and a warrant is required for a multi-tenant sign. The Veteran's Administration is still exempt from all sign requirements.

Next steps for Code Amendment schedule will be City Council public hearing on April 21, 2011. After the Code Amendments make it through first reading the rezoning will be scheduled so the 165 properties will be rezoned and TMED Phase I will be complete.

Discussion regarding the residential "doughnut" will begin in the summer of 2011 (the hole in the middle of TMED).

Commissioner Sears thanked staff for working on this issue and asked about the benches located at the corners and would the owners of the corner lots pay for the benches? Ms. Speer stated they would. Currently there is a specific bench requirement, a Victor Stanley model, which cost approximately \$1,000 each. With benches require trash receptacles as well. In the future, the City may need to look at a way to assist with that cost, such as with grant money. This cost would not apply to residential properties, just commercial properties on 1st and 3rd Streets.

Commissioner Sears asked how the trees would be purchased and Ms. Speer stated the current Ordinance will not change for street trees. It will be the developer that supplies the landscaping. There has been some discussion about street trees and the tree farm, but it revolved around the residential properties only. Commercial development will still be required to do the street trees which they would obtain on their own. Discussion is ongoing about how to obtain these trees but they are standard trees and easy to find and purchase.

Commissioner Staats asked about the mixture of evergreens or non-evergreens and Ms. Speer stated there was a site mixture requirement for street trees and there are only a couple of evergreen species to choose from. Certain streets would also require certain tree types.

Commissioner Staats asked about the benches and trash receptacles and if there were a possibility of getting some type of locked in price. Ms. Speer stated yes and she has already taken care of that.

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

Commissioner Pope made a motion to approve **Z-FY-11-20** as described and Commissioner Sears made a second.

Motion passed: (8:0)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE "UNIFIED DEVELOPMENT CODE," SECTION 6.3, ENTITLED "TMED, TEMPLE MEDICAL AND EDUCATIONAL DISTRICT," INCLUDING ADDITIONS TO THE USE TABLE CONCERNING NURSING HOME/ASSISTED LIVING, AMENDING PARKING AND GARAGE REQUIREMENTS FOR SPECIAL DISTRICTS, DESIGNATING SPECIFIC TREES FOR STREET TREE APPLICATION AND ADDRESSING RESIDENTIAL APPLICABILITY; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the "Unified Development Code," which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its March 21, 2011, meeting the Planning and Zoning Commission voted to amend Section 6.3, TMED, of the Unified Development Code regarding additions to the use table concerning nursing home/assisted living, amending parking and garage requirements for special districts, designating specific trees for street tree application and addressing residential applicability, and the Staff recommends this action; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the "Unified Development Code," by amending Section 6.3, entitled, "TMED, Temple Medical and Educational District," regarding additions to the use table concerning nursing home/assisted living, amending parking and garage requirements for special districts, designating specific trees for street tree application and addressing residential applicability, said amendment being more fully described in Exhibit A, attached hereto for all purposes.

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 **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

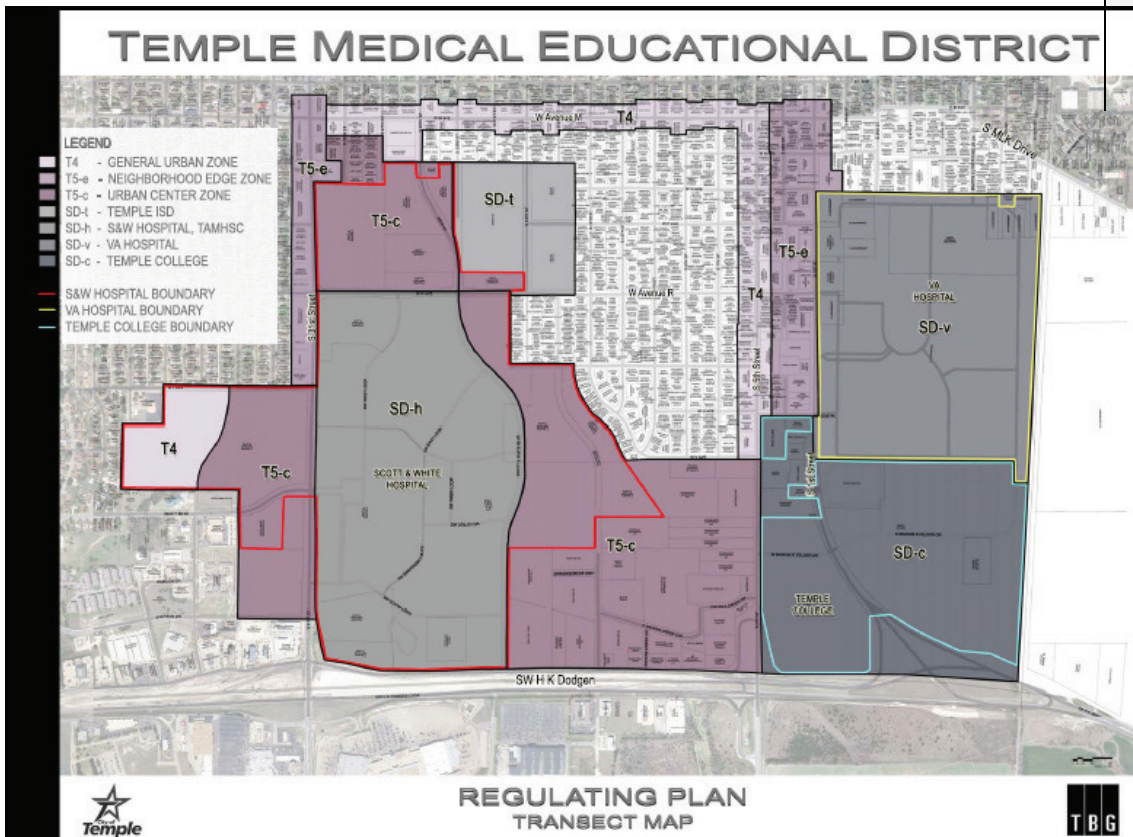
Article 6: Special Purpose and Overlay Zoning Districts

Sec. 6.3. TMED, Temple Medical and Educational

Sec. 6.3. TMED, Temple Medical and Educational

6.3.1 Boundary

The TMED zoning district is defined as shown in the map below, which is adopted by reference and declared a part of this UDC as fully as if the map were set forth in detail.



Temple, Texas Unified Development Code

Effective 12/16/10 • Last Amended 1/6/11

Article 6: Special Purpose and Overlay Zoning Districts

Sec. 6.3. TMED, Temple Medical and Educational

6.3.2 Establishment of Transect Zones

The TMED zoning district includes two transect zones plus Special Districts (SD) as defined below. The T5 zone contains two subsets, which are denoted by the T5 abbreviation in this Section when referencing both subsets. Four institutional Special Districts are established and denoted by the SD abbreviation in this Section when referencing all four Special Districts.

A. T4 General Urban Zone

This transect zone consists of a mixed use but primarily residential urban fabric. It may have a wide range of building types: single, side yard and row houses. Setbacks and landscaping are variable. Streets with curbs and sidewalks define medium-sized blocks.

B. T5-e Neighborhood Edge Zone

This transect zone consists of a mid-density mixed use but primarily commercial, retail and office urban fabric. It typically has a single row of teaser parking located in front of the principal building, with strong vehicular cross-connection among adjacent properties. It primarily has attached buildings with wide sidewalks, rhythmic street tree planting and buildings set close to the sidewalks.

C. T5-c Urban Center Zone

This transect zone consists of higher-density, mixed use buildings that accommodate retail, offices, row houses and apartments. It has a tight network of streets with wide sidewalks, rhythmic street tree planting and buildings set close to the sidewalks.

D. Special Districts

These districts consist of institutions with buildings that by their current function, disposition or configuration cannot, or should not, conform to one or more of the transect zones. The referencing to a particular institution in a Special District is as follows:

1. S&W Memorial Hospital and Texas A&M Health Science Center (SD-h)
2. The Central Texas Veterans Health Care System (SD-v)
3. Temple College (SD-c)
4. Temple Independent School District (SD-t)

6.3.3 Applicability

The provisions of the TMED zoning district apply to ~~all~~ non-residential and multi-family development as established in the table below.

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**Non-Residential &
Multi-Family
Development Type**

	Review Process	General Standards	Use Standards	Circulation Standards	Parking and Loading Standards	Bicycle Facility Standards	Private Property Landscaping Standards	Screening Standards	Public Frontage Standards	General Planting Criteria	Architectural Standards	Common Area	Sign Standards	Lighting Standards	Utility Standards
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Increase in gross floor area of 50% or more or modifications with a cost equal to or greater than 50% of the assessed value of improvements per the current tax roll	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Increase in gross floor area of 25%-49% or modifications with a cost equal to 25%-49% of the assessed value of improvements per the current tax roll	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓		
Increase in gross floor area of 10%-24% or modifications with a cost equal to 10%-24% of the assessed value of improvements per the current tax roll	✓	✓	✓		✓	✓	✓	✓		✓	✓		✓		
Restoration or rehabilitation of existing structure with no increase in gross floor area	✓					✓					✓		✓		
Interior only restoration or rehabilitation of existing structure with no increase in gross floor area (non-residential & multiple-family)															

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The provisions of the TMED zoning district apply to single family development as established in the table below.

Single-Family Residential Development Type

	<u>Review Process</u>	<u>General Standards</u>	<u>Use Standards</u>	<u>Circulation Standards</u>	<u>Parking and Loading Standards</u>	<u>Bicycle Facility Standards</u>	<u>Private Property Landscaping Standards</u>	<u>Screening Standards</u>	<u>Public Frontage Standards</u>	<u>General Planting Criteria</u>	<u>Architectural Standards</u>	<u>Common Area</u>	<u>Sign Standards</u>	<u>Lighting Standards</u>	<u>Utility Standards</u>
New construction	✓	✓	✓	✓	✓		✓		✓	✓	✓			✓	✓
Change in Use from Single-Family Residential to Multi-family and Non-residential Use (See City Code 12-18 Business Registration)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Increase in gross floor area of 50% or more or modifications with a cost equal to or greater than 50% of the assessed value of improvements per the current tax roll	✓	✓	✓		7.4.4 Applies						7.7.2 Applies				
Increase in gross floor area of 25%-49% or modifications with a cost equal to 25%-49% of the assessed value of improvements per the current tax roll	✓	✓	✓		7.4.4 Applies						7.7.2 Applies				
Increase in gross floor area of 10%-24% or modifications with a cost equal to 10%-24% of the assessed value of improvements per the current tax roll	✓	✓	✓		7.4.4 Applies						7.7.2 Applies				
Interior or exterior restoration or rehabilitation of existing structure with no increase in gross floor area															

6.3.4 TMED Site Plan Review Process

All development in the TMED zoning district must follow the site plan review process as described in Sec. 3.11.

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6.3.5 General Regulations

A. Applicability

The TMED general regulations in this Section apply to all transect zones.

B. General to all Districts

The tables below establish the general requirements for the TMED transect zones as they relate to lot dimensions, setbacks, structure configuration and type permitted.

Lot Dimensional Standards	SD				
	T4	T5-e	T5-c	SD-c; SD-t	SD-v; SD-h
Min. Lot Area	NA	NA	NA	NA	NA
Min. Lot Width (ft.)	18	18	18	NA	NA
Max. Lot Width (ft.)	120	700	700	NA	NA
Min. Lot Depth (ft.)	NA	NA	NA	NA	NA
Max. Lot Depth (ft.)	NA	NA	NA	NA	NA
Max. Impervious Lot Coverage – Res. Uses (%)	70	70	80	NA	NA
Max. Impervious Lot Coverage – Nonres. Uses (%)	80	80	80	NA	NA
Principal Street Frontage Build out (%)	60	80	80	60	NA <u>except</u> 13 th /17 th , TMED Avenue and Avenue V require 60
Secondary Street Frontage Build out (%)	30	40	40	30	NA <u>except</u> 13 th /17 th , TMED Avenue and Avenue V require 30

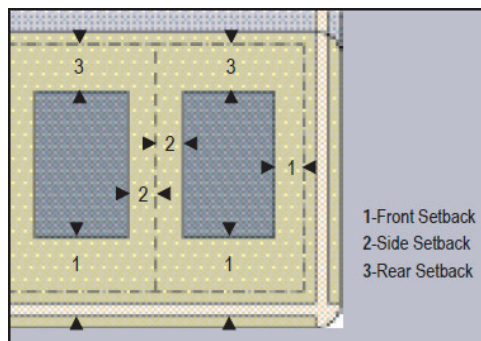
Setback Dimensional Standards	SD				
	T4	T5-e	T5-c	SD-c; SD-t	SD-v; SD-h
Min. Front Yard Setback (ft.)	6	4	4	6	NA
Min. Front Yard Private Landscape Area (see Table I I) (ft.)	6	4	4	6	NA
Max. Front Yard Setback (ft.)	16	12	12	18	NA
Min. Side Yard Setback (ft.)	0	0	0	12	NA
Max. Side Yard Setback (ft.)	NA	30	24	12	NA
Min. Side Yard Setback at Street (ft.)	6	2	2	6	NA
Max. Side Yard Setback at Street (ft.)	10	12	12	18	NA
Min. Rear Yard Setback (ft.)	3	3	3	12	NA
Min. Rear Yard Setback - Rear Entry Garage Only (ft.)	20	20	20	20	20

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**C. Permitted Encroachments Into Setbacks**

1. The table below establishes encroachments that are permitted in required setbacks. Encroachment must comply with all other standards of this and other applicable Sections of this UDC.

Type of Encroachment	T4			T5 & SD		
	Front	Side	Rear	Front	Side	Rear
Main Entry Stairways, single-family (%)	50	100	--	100	100	--
Main Entry Stairways, multifamily (%)	--	100	--	--	100	--
Balconies, 8' ground clearance required (%)	50	100	--	100	100	--
Awnings, Arcades, Galleries, 8' ground clearance required (%)	50	100	--	100	100	--
Covered Porches (%)	50	100	--	100	100	--
Bay Windows (%)	50	100	50	100	100	50
Fire Escapes (%)	--	100	--	--	100	--
Dining Areas, nonresidential (%)	100 outside of required front yard private landscape area	100	--	100 outside of required front yard private landscape area	100	--

-- = Encroachment not permitted

2. Except for row houses or townhouses, buildings are not permitted to overlap property lines.

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D. Building Configuration

The table below establishes the building configuration requirements for the TMED transect zones. In the TMED zoning district, height is measured as the distance from finished floor to the top plate.

Setback Dimensional Standards	T4	T5-e	T5-c	SD	
				SD-c; SD-t	SD-v; SD-h
Min. Building Height	1 story	1 story except S. 1 st St. requires 2 stories	2 stories	NA	NA
Max. Building Height	3 stories	3 stories	5 stories	NA	NA
Minimum Story Height	12'	12'	14'	NA	NA
Minimum Density (residential units per acre)	NA	8 units per acre	24 units per acre	NA	NA
Maximum Density (residential units per acre)	14 units per acre	24 units per acre	40 units per acre	NA	NA
Maximum Density by Warrant (residential units per acre)	24 units per acre	30 units per acre	60 units per acre	NA	NA
Maximum Residential Units Per Attached Structure	6	10	10	NA	NA
Maximum Accessory Structure	1 per residential lot	1 per residential lot	--		

-- = Not permitted

6.3.6 Use Standards**A. Applicability**

The TMED use standards in this Section apply to all transect zones.

B. Prohibited Uses

In addition to those uses prohibited in Sec. 5.1.1, the following uses are prohibited in the TMED zoning district:

1. Agricultural Uses as listed in the use table in Sec. 5.1.3;
2. Auto parts sales;
3. Commercial Uses as listed in the use table in Sec. 5.1.3;
4. Industrial Uses as listed in the use table in Sec. 5.1.3;
5. Kiosk;
6. Natural Resource Storage and Extraction Uses as listed in the use table in Sec. 5.1.3;
7. Package store;
8. Two-family dwelling (Duplex); and
9. Vehicle Sales and Service Uses as listed in the use table in Sec. 5.1.3.

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C. Legend for Interpreting Use Table

The table below establishes the meaning of the symbols used in the use table in subsection D.

Symbol	Meaning
P	Permitted by right in district indicated
L	Permitted by right subject to limitations in district indicated
C	Requires Conditional Use Permit in district indicated
[blank cell]	Prohibited in district indicated

D. Use Table

The following principal uses are permitted by right, permitted subject to limitations or require a Conditional Use Permit approved in accordance with Sec. 3.5.

	T4	T5-e	T5-c	SD-t	SD-h	SD-v	SD-c	Standards
RESIDENTIAL USES								
Multiple-family dwelling		L	L				P	T5-e: 3 T5-c: 12
Live/work unit	P	P	P					
Single-family attached dwelling, Row house or Townhouse (3 or more attached units)	P	P	P				P	
Single-family detached dwelling	P	P						
Accessory dwelling unit	L	L	L					7
NONRESIDENTIAL USES								
Educational & Institutional Uses								
<u>Assisted Living/Nursing Home</u>		<u>L</u>	<u>L</u>		<u>L</u>	<u>L</u>		<u>14</u>
Bus shelter	P	P	P	P	P	P	P	
Childcare: family home	L	L	L					9
Childcare: group day care center	L	L	L	L	L	L	L	9
Childcare: group day care home	L	L	L					9
College		P	P	P	P	P	P	
Commercial surface parking lot					L	L	L	5
Convention, conference or exhibition center		P	P	P	P	P	P	
Drug store or pharmacy (drive-thru permitted)	L	L	L		P	P		T4: 1,2 T5: 2
Fountain or public art	P	P	P	P	P	P	P	
Governmental use	P	P	P	P	P	P	P	
Hospital			P		P	P		
Library		P	P	P	P	P	P	
Medical clinic		P	P		P	P	P	
Medical office or lab	L	P	P		P	P	P	I
Museum	L	P	P	P	P	P	P	I

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	T4	T5-e	T5-c	SD-t	SD-h	SD-v	SD-c	Standards
Park, playground, open space	P	P	P	P	P	P	P	
Parking structure		L	L	L	L	L	L	T5: 8 SD: 13
Place of worship	P	P	P	P	P	P	P	
Pre-school	L	L	L	L	L	L	L	9
Public or private education facility	P	P	P	P	P	P	P	
Research facility		L	P	P	P	P	P	6
Trade or vocational school		P	P	P	P	P	P	
Entertainment & Recreation, Office and Retail Sales & Service								
Alcoholic beverage sales for on-premise consumption – Less than 50% revenue		C	C					
Alcoholic beverage sales for on-premise consumption – Less than 75% revenue			C					
Bar - Alcoholic beverage sales for on-premise consumption – More than 75% revenue			C					
Drug store or pharmacy (drive-thru permitted)	L	L	L		P	P		T4: 1, 2 T5: 2
Financial institution (drive-thru permitted)	L	L	L		L	L	L	T4: 1, 10 T5: 10 SD: 10
Fuel sales		L						11
Live Theatre (indoor)		P	P	P	P	P	P	
Live Theatre (outdoor)		P	P	P	P	P	P	
Movie Theatre			P	P	P	P	P	
Office	L	P	P	P	P	P	P	I
Outdoor Auditorium/Stadium			P	P	P	P	P	
Restaurant (no drive-thru permitted)	L	P	P		P	P	P	I
Retail Sales not listed above (no drive-thru permitted)	L	P	P		P	P	P	I
Retail Service not listed above (no drive-thru permitted)	L	P	P		P	P	P	I
Overnight Accommodations								
Hotel		L	L		L			4
Bed and breakfast (max. 5 sleeping rooms)	P							
School dormitory			P		P	P	P	

E. Specific Use Standards

The following specific limitations apply to uses with the “L” designation in the use table above.

1. Uses are limited to a maximum of gross floor area of 10,000 square feet.

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2. In addition to vehicle space in front of drive-through window, three spaces are required for stacking in the drive-through. The drive-through is only permitted to the rear or side of the principal building.
3. Multiple-family dwellings are permitted only if they are part of a mixed use development in which 40 percent of the nonresidential uses are constructed with or prior to multiple-family construction.
4. Hotels are permitted in accordance with the following provisions:
 - a. External balconies and walkways must be set back 200 feet from any residential zoning district.
 - b. Hotel staff must be present on-site 24 hours a day.
 - c. All rooms must be accessed through an internal hallway, lobby or courtyard. Exterior entrances to individual rooms are prohibited.
 - d. The hotel site must contain a minimum of three amenities from the list below:
 - i. Indoor/outdoor pool;
 - ii. Spa/sauna;
 - iii. Weight room/fitness center;
 - iv. Playground;
 - v. Sports court;
 - vi. Plaza/atrium;
 - vii. Game room;
 - viii. Conference room (1,000 square foot minimum); or
 - ix. Full service restaurant (minimum seating capacity of 35).
5. All commercial surface parking lots must adhere to screening requirements in subsection 6.3.10D.5.
6. Overhead doors are prohibited.
7. Accessory dwelling units are only permitted on lots with single-family detached structures. Accessory dwelling units are not permitted in the required garage. Accessory dwelling units must comply with all setback and coverage requirements. Accessory dwelling units count toward the maximum of one accessory structure per lot.
8. Parking structures must integrate commercial uses on the first floor on primary and secondary frontages. Parking structures must be treated the same as nonresidential structures for the application of TMED standards.
9. The Specific Use Standards in Sec. 5.3 apply to these uses.
10. The drive-through is only permitted to the rear or side of the principal building and must be screened in accordance with parking lot screening requirements in subsection ~~6.3.10D.5~~ ~~6.3.10E~~.

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11. Fuel stations are only permitted on South 31st Street. Fuel pumps must be located to the rear or side of the principal building and must be screened in accordance with parking lot screening requirements in subsection ~~6.3.10D.56.3.10E~~. The number of pumps is limited to eight fueling stations.
12. Multiple-family dwellings are not permitted on the first floor of structures fronting on collectors or arterials without approval of a Warrant.
13. All structured parking on public frontages in SD districts must adhere to screening requirements in subsection 6.3.10D.5. In addition to screening requirements, one additional ornamental tree must be planted every 25'.
14. All non-residential standards apply.

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F. Uses Not Addressed

Uses not specifically addressed in the use table above are prohibited unless the Planning Director determines the use to fall into a permitted category.

G. Outdoor Storage

Outdoor storage is not permitted in TMED. Prohibited outdoor storage includes open storage, portable containers, portable buildings or any other structure not fixed onto a permanent slab and that adheres to the architectural standards defined in Sec. 6.3.13.

H. Outdoor Retail Display

1. Commodities must not be displayed outdoors for sale in a transect zone or Special District where such sale is not an allowed use.
2. Commodities must not be displayed outdoors for sale in the TMED zoning district, except that temporary outdoor display for a sidewalk sale is permitted that does not extend more than five feet from a front façade and reserves at least five feet of sidewalk or walkway for pedestrian use.

I. Home Occupations

Home Occupations are permitted in accordance with the standards in Sec. 5.5.4.

6.3.7 Circulation Standards

A. Applicability

The TMED circulation standards in this Section apply to all transect zones unless otherwise stated in individual subsections.

B. Thoroughfare Standards

1. Cul-de-sacs are prohibited in the TMED zoning district.
2. New thoroughfares must comply with the Design and Development Standards Manual.

C. Block Perimeter

The table below establishes maximum block perimeter requirements for all newly constructed streets in the TMED zoning district.

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	T4	T5-e	T5-c	SD
Maximum Block Perimeter	2,500	2,500	2,000	NA

D. Access and Connectivity**1. General**

- a. Access and Connectivity standards do not apply to Special Districts.
- b. Nonresidential driveway connections to adjacent property must be provided.
- c. All driveway connections must be constructed and stubbed or connected to any existing stub.
- d. Driveway spacing must be based on the Design and Development Standards Manual and the appropriate alignment with any existing or proposed median breaks as approved by the City Engineer.
- e. The requirement for a driveway connection may be waived by the Planning Director when unusual topography or site conditions would make such a driveway or access easement useless to adjoining properties.

2. Specific to T5-e on First Street

In order to reduce the number of pedestrian and vehicular conflicts at sidewalk and driveway intersections, driveway cuts are limited to a maximum of two per block face, regardless of currently allotted driveway cuts.

6.3.8 Parking and Loading Standards**A. Applicability**

The TMED parking and loading standards in this Section apply to all transect zones unless otherwise stated in individual subsections.

B. Required Parking Ratios

1. Required Parking Ratios do not apply to Special Districts.
2. The standards in Sec. 7.4.4 apply with the following exceptions:
 - a. The minimum requirements for all nonresidential uses and multiple-family uses are reduced by 25 percent.
 - b. If parking in excess of 100 percent of the minimum parking spaces required is provided, additional landscaping area and planting equivalent to two percent of the parcel's impervious cover must be provided per each additional parking space.

C. Parking Space Dimensions

The standards in Sec. 7.4.5 apply to parking space dimension.

D. Parking Requirements for New or Unlisted Uses

The standards in Sec. 7.4.6 apply for uses that are determined to be permitted by the Planning Director.

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E. Off-Street Loading Regulations

The standards in Sec. 7.4.7 apply with the following exceptions:

1. Common or shared loading and delivery entrances must be provided between adjacent buildings or developments.
2. Off-street loading areas and truck staging areas must be located in the rear yard and must not be visible from the public right-of-way.

F. Shared Parking

The total amount of parking required may be adjusted according to the shared parking factor established in the table to the right to determine the effective parking. The shared parking factor is available for any two uses within any pair of adjacent property.

Use	With	Use
Residential		Residential
Overnight Accom.		Overnight Accom.
Office		Office
Retail Sales & Svc.		Retail Sales & Svc.

G. Parking Location**1. General**

All surface parking shall be constructed on-site in accordance with the following standards:

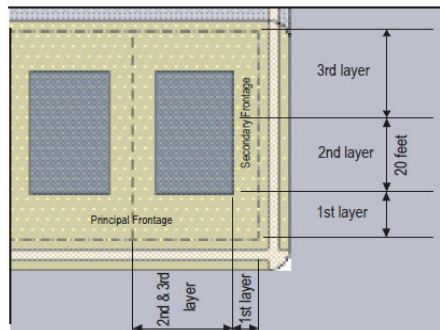
- a. Surface parking areas must be screened from all public rights of way by a building or screen in accordance with Screening Standards.
- b. Surface parking areas must be constructed with curb and gutter.

2. Single-Family Detached or Attached Dwelling, Townhouses, Row Houses and Live/Work Units

All parking areas and garages must be located at the second or third layer of the principal frontage, and must be accessed by rear alleys.

3. Mixed Use, Multiple-family and Nonresidential Uses

- a. Mixed use, multiple-family and nonresidential driveways must be no wider than 24 feet in the first layer.
- b. All parking areas and garages must be located at the second or third layer of the principal frontage, and must provide access to rear alleys.

**4. Alleys**

When alleys are not in existence, right of way must be dedicated and access drive constructed as part of the development. Alleys must be constructed in accordance with the Design and Development Standards Manual.

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H. Specific to Zone T5-e on First Street

1. A single row of teaser parking not exceeding 40 feet in pavement depth is permitted parallel to South 1st Street.
2. Where parking is located in the front of the building there must be a minimum setback of ten feet from the right-of-way line to the parking area.

I. On-Street Parking

1. On-street parking spaces may be located on streets as identified in the table in subsection 6.3.11B.5.
2. On-street parking may be used to satisfy 50 percent of the off-street parking standards for nonresidential uses excluding multiple-family dwellings.
3. On-street parking may only be achieved through parallel parking.

6.3.9 Bicycle Facility Standards**A. Applicability**

The TMED bicycle facility standards in this Section apply to all transect zones.

B. Bicycle Facilities

1. The table below establishes minimum required bicycle rack spaces.

Transect Zone	Min Required Bicycle Rack Spaces
T4	1 per 8 nonresidential spaces
T5-e	1 per 15 required parking spaces
T5-c	1 per 10 required parking spaces
SD	1 per 10 required parking spaces (not to exceed 25 per project)

2. Bicycle facilities must be placed in clearly designated, safe and convenient locations, so that no tenant entrance is greater than 200 feet from a bike facility.
3. Bike facilities must be separated from motor vehicle parking in order to protect both bicycles and vehicles from accidental damage. Facilities must be separated from the building or other walls, landscaping, other features a minimum of three feet to make such facilities easy to use.
4. Refer to the TMED Design Criteria Manual for the specific bicycle facility models and styles that are permitted in the TMED zoning district.

6.3.10 Private Property Landscape Standards**A. Applicability**

The TMED private property landscape standards in this Section apply to all transect zones.

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B. General Site Landscape

1. A minimum percentage of the total area of the private property on which development, construction or reconstruction is proposed must be dedicated to landscape area including trees, shrubs, groundcover, sod or other living plant material.
2. The table below establishes minimum site landscape requirements for the TMED transect zones.

Transect Zone	Minimum Landscape Area (%)	Minimum Trees and Shrubs Per Lot	
		Single-Family Detached or Attached Dwelling, Row House, Townhouse	Multi-family, Mixed Use or Other Uses
T4	30	2 Trees per lot 2 Shrubs per 10' front foundation	NA
T4	20	NA	1 tree and 4 shrubs per 500 sq ft landscape area
T5-e	20	2 Trees per lot 2 Shrubs per 10' front foundation	1 tree and 4 shrubs per 600 sq ft landscape area
T5-c	20	2 Trees per lot 2 Shrubs per 10' front foundation	1 tree and 4 shrubs per 600 sq ft landscape area
SD	NA	NA	1 tree and 4 shrubs per 1,000 sq ft landscape area

C. Tree Mix

1. Private property trees must be selected from the table in subsection 6.3.12B.
2. A minimum of 50 percent of required trees must be selected from the medium or large size tree list.
3. A minimum of 50 percent of required trees must be evergreen species.

D. Parking Lot Landscaping

1. Landscaped parking islands are required in all parking lots.
2. One landscaped island must be provided for every 10 parking spaces. Islands may be located throughout the parking lot except all parking rows must begin and terminate in a curbed landscape island.
3. Islands must be a minimum of 170 square feet in area and eight feet in width back-of-curb to back-of-curb. One small or medium tree from the approved planting list is required in each island.
4. All islands must be raised at least six inches, curbed and planted with approved landscaping materials.
5. Parking islands shrubs, trees and landscape area may be counted towards the general site landscaping requirements established in Sec. 6.3.10.

E. Parking Lot Screen

This subsection applies to nonresidential and multiple-family development and uses in TMED.

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1. All parking must be screened from public rights-of-way a minimum 36 inches in height, through one of the following methods:
 - a. Planting screen of evergreen shrubs;
 - b. Masonry wall;
 - c. Combination of evergreen shrubs and berm; and
 - d. Combination of evergreen shrubs and wall.
2. Planted screening must be capable of providing a solid, opaque 36-inch screen within two years, and must be planted in a prepared bed that is at least three feet in width.
3. Parking lot screening shrubs and landscape area may be counted towards the general site landscaping requirements established in Sec. 6.3.10.
- 3.4. In addition to required parking lot screen shrubs, four small canopy street trees are required in accordance with the Design and Development Standards Manual on First Street at all intersections.

F. Screening of Mechanical Equipment

This subsection applies to all nonresidential and multiple-family development and uses in TMED.

1. All roof, ground and wall-mounted mechanical equipment (e.g., air handling equipment, compressors, duct work, transformers and elevator equipment) must be screened from view or isolated so as not to be visible from any residential districts or uses, streets, rights-of-way or public park areas within 150 feet of the property line of the subject lot or tract, measured from a point five feet above grade in accordance with this Section.
2. Roof-mounted mechanical equipment must be shielded from view on all sides using parapet walls.
3. Wall or ground-mounted equipment screening must be constructed of:
 - a. Vegetative screens; or
 - b. Brick, stone, architecturally finished concrete, or other similar masonry materials; and
 - c. All fence or wall posts must be concrete-based masonry or concrete pillars.
4. Exposed conduit, ladders, utility boxes and drain spouts must be painted to match the color of the building.
5. Mechanical equipment screening shrubs and landscape area may be counted towards the general site landscaping requirements established in Sec. 6.3.10.

G. Screening of Waste Containers

This subsection applies to all nonresidential and multiple-family development and uses in TMED.

1. Waste containers must be located on the rear of the building and screened from public view to minimize visibility. If the property has two public frontages the waste container must be placed on the side of the structure.

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2. Waste containers must be located a minimum of 50 feet away from any residential use or district's property lines with the exception of multiple-family.
3. Waste containers must be screened on all four sides, using an enclosure that screens the waste container from view at the property line.
4. Screening must be at least as tall as the waste container(s) and comprised of materials and color schemes that are visually and aesthetically compatible with the overall project that incorporate the following:
 - a. Brick;
 - b. Stone;
 - c. Stucco;
 - d. Architecturally finished concrete; or
 - e. Other similar masonry materials.
5. Waste containers with fence posts must be rust-protected metal, concrete based, masonry or concrete pillars; and waste containers must have six-inch concrete filled steel pipes (bollards) that are located to protect the enclosure from truck operations and not obstruct operations associated with the waste container.
6. Waste container enclosures must have steel gates with spring-loaded hinges or the equivalent and fasteners to keep them closed. When in use, tie-backs must be used to secure the steel gates in the open position.
7. Waste container screening must be maintained by the owner at all times.
8. The ingress, egress, and approach to all waste container pads must conform to fire lane requirements.
9. Waste container pad and aprons requirements must be constructed in accordance with the Design and Development Standards Manual.
10. Waste container screening shrubs and landscape area may be counted towards the general site landscaping requirements established in Sec. 6.3.10.

H. Screening of Loading Docks

This subsection applies to all nonresidential development and uses in TMED.

1. Loading and service areas must be located at the rear of the building and screened from public view to minimize visibility. If the property has two public frontages the waste container must be placed on the side of the principal building.
2. Loading areas must not be located closer than 50 feet to any single-family lot, unless wholly within an enclosed building.
3. Off-street loading areas must be screened from view from any street or adjacent property of differing land use.
4. All loading areas must be enclosed on three sides by a wall or other screening device a minimum of eight feet in height.
5. Loading areas that are visible from any public right-of-way must also include a combination of evergreen trees and shrubs that will result in solid opaque vegetative

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screening a minimum of eight feet in height within two years of planting. The planting area must be a prepared bed that is at least three feet in width.

6. Loading dock screening shrubs and landscape area may be counted towards the general site landscaping requirements established in Sec. 6.3.10.

I. Fence and Wall Standards for All Uses

This subsection applies to all development and uses in TMED.

1. Fences and walls on the primary and secondary frontage may have a maximum height of three feet.
2. Fences and walls to the rear of the site may have a maximum height of six feet, unless they are required for loading dock screening.
3. Fencing and walls must not be placed within the required line of sight as determined by the sight triangle established in Sec. 4.4.8.
4. Chain link, barbed wire, razor wire and metal or corrugated panels are prohibited.

J. Nonresidential and Multiple-Family Uses

This subsection is applicable to all nonresidential and multiple-family development and uses in TMED.

1. Fences and walls must be constructed of decorative blocks, brick, stone, vinyl, woodcrete and wrought iron. Alternative materials may be approved by Warrant.
2. Breaks in the fence or wall must be made to provide for required pedestrian connections to the perimeter of the site and to adjacent developments.

K. Single-Family Uses

This subsection is applicable to all single family-detached or attached dwelling, row house and townhouse uses in TMED. Fences and walls must be constructed of decorative blocks, brick, stone, vinyl, wood, woodcrete and wrought iron. Alternative materials may be approved by Warrant.

6.3.11 Public Frontage Standards**A. Applicability**

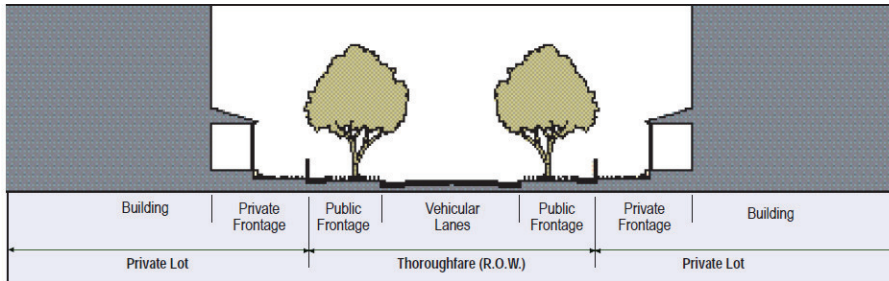
The TMED public frontage standards in this Section apply to all transect zones.

B. Public Frontage

1. Public frontage is the space between the existing or proposed back-of-curb and the property line.
2. Total public frontage depth is measured from back-of-curb. If existing right-of-way does not accommodate all requirements, private property must be used to account for the additional required depth.
3. Refer to the TMED Design Criteria Manual for examples of Public Frontage requirements.
4. Curb and gutter installation is required.

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5. The table below establishes five public frontage types and assigns standards to each public frontage type.

Public Frontage Type	On-Street Parking Permitted	Total Public Frontage Depth (ft.)	Street Yard Planting Strip (ft.)	Sidewalk Width (ft.)
Type A (Arterial)	No	20	10	10
Type B (Urban 1)	No	12	6	6
Type C (Urban 2)	Yes	14	6	8
Type D (Urban 3)	No	14	6	8
Type E (Collector/ Local)	Yes	12	6	6

C. Public Frontage Implementation

The table below assigns specific streets in the TMED zoning district with a public frontage type.

Street Name	Type A	Type B	Type C	Type D	Type E
New Streets in T4			✓		✓
New Streets in T5-c			✓		
New Streets in SD		✓	✓		✓
1st Street	✓				
5th Street from Friar's Creek to Avenue V	✓				
5th Street North of Avenue V		✓			
25th Street		✓			
S 31st Street (trail on west side)				✓	
13th Street				✓	
17th Street				✓	
West Avenue R (trail on north side)				✓	
West Avenue M					✓
All others					✓

D. Public Frontage Landscape Standards

1. Street Trees

- a. One tree per 25' linear street frontage is required. Trees must be planted in a regularly spaced pattern. Spacing of trees may be offset to allow a view corridor into the primary entry of a nonresidential use.
 - i. Type A, B, C and D Public Frontage
Street trees must be a single species selected from the table in subsection 6.3.12B.
 - ii. Type E Public Frontage.
Street trees must be an alternating species selected from the table in subsection 6.3.12B.
- b. Public frontage trees must be planted within the required street yard planting strip adjacent to the back-of-curb.
 - i. Type A Public Frontage
Trees must be planted seven and one-half feet from back-of-curb in the required planting strip.
 - ii. Type B, C, D, and E Public Frontage
Trees must be planted a minimum three feet from back-of-curb in the required planting strip.
- c. Large canopy trees must be planted if overhead utilities are not present. Medium canopy trees must be planted if overhead utilities are present.

2. Planting Area

- a. **Type A, B, C and D Public Frontage**
The street yard planting strip must be planted in evergreen groundcover as shown in the table in subsection 6.3.12C at a rate of one one-gallon container per 4 square feet of street yard planting area.
- b. **Type E Public Frontage**
The street yard planting strip must be planted in living evergreen groundcover as shown on the approved groundcover list at a rate of one one-gallon container per five square feet of street yard planting area or approved sod material as listed in General Planting Criteria.

E. Public Frontage Sidewalk Standards

- 1. Sidewalks must extend the entire length of the development's frontage on a public street and must be constructed in accordance with the Design and Development Standards Manual and related provisions in this UDC.
- 2. Sidewalks must be constructed before the Director of Construction Safety issues a Certificate of Occupancy.

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3. Sidewalks must connect to existing adjacent sidewalks, or be designed and placed to allow connection to future adjacent sidewalks.
4. Sidewalks of different widths must be transitioned within a length of sidewalk by two expansion joints not less than six feet apart as required by Texas Accessibility Standards.
5. Sidewalks must connect to parking within the lot and to primary entrances of each nonresidential building.
6. Pedestrian walkways must also connect the principal building entrances to all associated outdoor amenities, such as courtyards and other outdoor gathering places.
7. Residential sidewalks must be installed from the primary entrance of the residence to the perimeter street sidewalk system.

F. Public Frontage Amenities

In addition to required landscaping and sidewalks, pedestrian amenities are required as follows:

1. Benches must be provided at ~~50% of~~ all intersections within the public ROW surrounding the development. Refer to the TMED Design Criteria Manual for the specific bench models and styles that are permitted in the TMED zoning district.
2. Trash receptacles must be placed next to required seating areas. Refer to the TMED Design Criteria Manual for the specific trash receptacle models and styles that are permitted in the TMED zoning district.
3. Pedestrian-scale lighting must be provided at all intersections and at 100' intervals along all public and private roadways within the development. Refer to the TMED Design Criteria Manual for the specific pedestrian-scale lighting models and styles that are permitted in the TMED zoning district.

G. Public Frontage Hike and Bike Trail Implementation

Hike and bike trail dedication is required for implementation of the Citywide Trails Master Plan.

6.3.12 General Planting Criteria**A. Applicability**

The TMED general planting criteria in this Section apply to all transect zones.

B. Approved Tree List

The table below lists the tree species that are eligible to fulfill the tree planting requirements in TMED. Other species for plantings other than street trees, may be determined acceptable at the discretion of the Planning Director and City Arborist.

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Large Canopy Trees			
Common Name	Scientific Name	Type	Street Tree
American Sycamore	<i>Platanus occidentalis</i>	Deciduous	
Cypress, Bald	<i>Taxodium distichum</i>	Deciduous	Yes
Cypress, Arizona	<i>Cupressus arizonica</i>	Evergreen	Yes
Elm, Cedar	<i>Ulmus crassifolia</i>	Deciduous	Yes
Oak, Chinquapin	<i>Quercus muhlenbergii</i>	Deciduous	
Oak, Live	<i>Quercus virginiana</i>	Evergreen	
Pecan	<i>Carya illinoensis</i>	Deciduous	
Southern Magnolia	<i>Magnolia grandiflora</i>	Evergreen	
Medium Canopy Trees			
Common Name	Scientific Name	Type	Street Tree
Chinese Pistache	<i>Pistacia chinensis</i>	Deciduous	Yes
Elm, Lacebark	<i>Ulmus parvifolia</i>	Deciduous	
Oak, Lacey	<i>Quercus laceyi</i>	Deciduous	Yes
Oak, Mexican White	<i>Quercus polymorpha</i>	Deciduous	
Oak, Texas Red	<i>Quercus texana</i>	Deciduous	Yes
Small Trees			
Common Name	Scientific Name	Type	Screening Street Trees (1st Street only)
Buckeye, Mexican	<i>Ungnadia speciosa</i>	Deciduous	
Crape Myrtle	<i>Lagerstroemia indica</i>	Deciduous	Yes
Holly, Yaupon	<i>Ilex vomitoria</i>	Evergreen	Yes
Laurel, Texas Mountain	<i>Sophora secundiflora</i>	Evergreen	
Persimmon, Texas	<i>Diospyros texana</i>	Deciduous	
Pistache, Texas	<i>Pistacia texana</i>	Deciduous	Yes
Plum, Mexican	<i>Prunus mexicana</i>	Deciduous	
Possumhaw Holly	<i>Ilex decidua</i>	Deciduous	
Redbud, Eastern	<i>Cercis canadensis</i>	Deciduous	Yes
Southern Wax Myrtle	<i>Myrica cerifera</i>	Evergreen	
Vitex (Chaste Tree)	<i>Vitex agnus castus</i>	Deciduous	
Willow, Desert	<i>Chilopsis linearis</i>	Deciduous	

C. Approved Groundcover List

The table below lists the groundcover species that are eligible to fulfill the groundcover planting requirements in TMED.

Groundcover		
Common Name	Scientific Name	Type
Asian Jasmine	<i>Trachelospermum asiaticum</i>	Evergreen
English Ivy	<i>Hedera helix</i>	Evergreen
Liriope	<i>Liriope muscari</i>	Evergreen
Monkey Grass (Mondo Grass)	<i>Ophiopogon japonicus</i>	Evergreen

D. Approved Shrubs

Shrubs must be appropriate perennial and evergreen species for the Central Texas region.

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E. Landscape Installation

1. Trees

- a. All required large trees must be a minimum of three inches in diameter at breast height or 65-gallon container size at planting.
- b. All required medium trees must be a minimum of two and one-half inches in diameter at breast height at planting.
- c. All required small trees must be a minimum of two inches in diameter at breast height at planting at planting.

2. Shrubs

All required shrubs must be a minimum three-gallon container size at planting.

3. Groundcover

All required groundcover must be a minimum one-gallon container size at planting.

4. Lawn Grass

- a. Grass areas must be planted with drought resistant species normally grown as permanent lawns, such as Bermuda, Zoysia or Buffalo.
- b. Grass areas must be sodded, plugged, sprigged, or seeded. However, solid sod must be used in swales, berms or other areas subject to erosion.

5. Landscape Maintenance

- a. All new plant material must be planted and maintained in accordance with the latest edition of the American National Standards Institute requirements for Tree, Shrub, and Other Woody Plant Maintenance (ANSI A300 Parts 1 through 6).
- b. All required public frontage and private frontage landscaping must be maintained in good condition after installation. The owner must replace any plant material that ever becomes diseased, deteriorates or dies within 30 days of death of the plant material.

6. Irrigation

Permanent irrigation is required for all landscape. City Code Chapter 7, Buildings, Article 7, Landscape Irrigation Standards, applies in its entirety.

6.3.13 Architectural Standards

A. Applicability

The TMED architectural standards in this Section apply to all transect zones unless otherwise stated in individual subsections.

B. Materials Required

- 1. The exterior finish material on all facades is limited to brick, stone, cementitious siding and stucco.

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2. Cementitious siding is limited to a maximum 20 percent per façade plane for multiple-family and nonresidential uses.
3. A minimum of two distinct materials are required on all facades. Materials may be combined on each facade only horizontally, with the heavier below the lighter.
4. Balconies and porches must be made of painted wood, concrete or metal.

C. Accent Materials

The following may be permitted as accent materials for a maximum of 20 percent of each façade face:

1. Tile;
2. Exterior Insulation Finishing System (EIFS);
3. Wood Siding or shingles;
4. Architecturally finished concrete block;
5. Architectural metal; and
6. Other materials may be approved by warrant.

D. Building Design

Building design standards do not apply to Special Districts. The table below establishes building design requirements based on the type of use in the T4 and T5 transect zones.

Design Element	Single-Family Detached	Single-Family Attached, Row House, Townhouse	Multiple-Family and Mixed Use Structures	Nonresidential Structures
Roof Pitch	Pitch roof – minimum 5:12			
	Flat roof – require parapet screening minimum of 42 inches high, or as required to conceal mechanical equipment			
	Shed roof, porch roof and arcade roofs - minimum 2:12.			
Permitted Roof Materials	30 year asphalt shingles Standing seam metal Tile Other materials as approved by the Planning Director			
Roof Articulation (does not apply to flat roofs)	1 Elements from the following: <ul style="list-style-type: none">• 2 roof materials:• Masonry chimneys• Dormers along public façade (1/20')• Eaves that overhang a minimum of 24" with a minimum fascia depth of 8"			
Vertical Articulation	No more than 20 linear feet (horizontally) without a minimum 5' offset	No more than 50 linear feet (horizontally) without a minimum 5' offset	No more than 50 linear feet (horizontally) without a minimum 5' offset	
Horizontal Articulation	No more than 20 linear feet (horizontally)	No more than 50 linear feet (horizontally) without a minimum 5' offset		

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Design Element	Single-Family Detached	Single-Family Attached, Row House, Townhouse	Multiple-Family and Mixed Use Structures	Nonresidential Structures
	without a minimum 5' offset Minimum one horizontal offset per building	Minimum one horizontal offset per building		
Transparency (windows and doors)	Minimum 30% of all public facades must be doors and windows Burglar bars or other exterior coverings are prohibited Overhead or roll up doors are prohibited on primary or secondary frontages.			
Window and Door Treatment	Minimum 4" trim required on all windows and doors appropriate to style of structure			NA
Window Articulation	50% of all public façade windows must include one of the following: <ul style="list-style-type: none">• Balcony (accessible for single units) minimum 2' deep• Trellis• Shed roof awning• 20" projection• Bay window• Transom Windows• Shutters	25% of all public façade windows must include one of the following: <ul style="list-style-type: none">• Balcony (accessible for single units) minimum 2' deep• Trellis• Shed roof awning• 20" projection• Bay window• Transom Windows• Shutters		NA
Façade Repetition	No elevation shall be repeated on the same block	All units must be designed to have distinct characteristics	Residential units must be designed to appear as townhome units with entries onto the public façade	NA
Top Floor Articulation	Shall contain a distinctive finish, consisting of cornice, banding or other architectural termination			
Building Orientation	All buildings must be oriented towards the public right of way or public open space			
Primary Entry Location	Main entrances must be from a public sidewalk or common open space (if not adjacent to Public ROW)			
Entry Articulation	Entry must be covered or inset with distinct architectural detail such as:			
Building Access – Ground Floor Residential Units	50% of residential entrances must be raised from the finished ground floor level of the sidewalk a minimum of 15"	50% of all ground floor units adjacent to a public ROW must have exterior entrances from a public sidewalk or common open space. Entrances must be raised from the finished ground		NA

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Design Element	Single-Family Detached	Single-Family Attached, Row House, Townhouse	Multiple-Family and Mixed Use Structures	Nonresidential Structures
			floor level of the sidewalk a minimum of 15"	
Building Access – Above Ground Floor Residential Units	NA		Multi-family uses above the ground floor shall have interior unit entrances from a centralized corridor except: Exterior stairs are permitted for access to second and third floor units only if they are oriented towards a central courtyard not visible from any street	NA

6.3.14 Parking and Garage Standards

The table below establishes parking and garage standards. Parking and garage standards do not apply to Special Districts.

Design Element	Single-Family Detached	Single-Family Attached, Row House or Townhouse	Multiple-Family and Mixed Use Structures
Enclosed Garage Required	1 (20x20) space per unit	1 (10x20) space per unit	1 (10x20) space per 2 units
Minimum Driveway Width	20'	10'	
Garage Integration	Attached and Detached are permitted	50% of all required garages must be integrated into primary structures	
Garage Location general	Garages are not permitted to front onto Public Streets		
Garage Materials	Same materials and mix as primary structures		

6.3.15 Private Property Common Area Standards

- A. Private property common area requirements do not apply to Special Districts or single-family detached and single-family attached residential uses in T4 and T5.
- B. Common area requirements are in addition to required public and private landscaping.
- C. Multiple open space areas may be created, however all open space areas must contain a minimum of 100 sq ft.
- D. Common areas must have defined edges, either through grade change, perimeter edging or the integration of buildings as perimeter edging.

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- E. The table below establishes minimum private property common area standards for the TMED zoning district.

Design Element Multi-Family and Mixed Use Structures	
Minimum Common Area Size	Minimum 500 sq ft and additional 100 sq ft per 1000 sq ft gross floor area
Common Area Amenities	<p>For each 5,000 sq ft of open space required a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none">• 1 Water feature• 1 Pavilion, gazebo, or other covered outdoor space (minimum 144 sq ft)• Sculpture garden <p>For each 200 sq ft of open space provided a minimum of 1 amenities from the following:</p> <ul style="list-style-type: none">• 1 Bench or seating area (4 seats minimum)• 1 Dining area (4 seats minimum)• 1 Tree (3" caliper at the time of planting)• 2 Large Planters• Decorative paving (2 locations) (minimum 64 sq ft)• Decorative lighting (2 locations) (above ground)
Complex Amenities Required	<p>Required Community Amenities:</p> <ul style="list-style-type: none">• Washer and dryer hookup in every unit <p>For every 50 units provided a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none">• Resident Clubhouse• Community Garden Area• Swimming Pool• Tennis Court• Basketball Court• Volleyball Court• Billiards Room• Amphitheatre• Gazebo or other covered shelter• Exercise Facility• Office Center• Media Room – Theatre• Sauna• Racquetball Court• Other amenity as approved by Planning Director
Minimum Common Area Size	Minimum 100 sq ft and additional 50 sq ft per 1,000 sq ft gross floor area
Common Area Amenities	<p>For each 5,000 sq ft of open space required a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none">• 1 Water feature• 1 Pavilion, gazebo, or other covered outdoor space (minimum 144 sq ft)• Sculpture garden <p>For each 200 sq ft of open space provided a minimum of 1 amenity from the following:</p> <ul style="list-style-type: none">• 2 Benches or seating area (4 seats minimum)• 1 Dining areas (4 seats minimum)• 1 Tree (3" caliper at the time of planting)• 2 Large Planters

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Design Element	Multi-Family and Mixed Use Structures
	<ul style="list-style-type: none">• Decorative paving (2 locations) (minimum 64 sq ft)• Decorative Lighting (2 locations) (above ground)

6.3.16 Sign Standards**A. Applicability**

The TMED sign standards in this Section apply to all Special Districts and transect zones with the exception of SD-v.

B. Permitted Sign Types

The table below establishes the sign types that are permitted in the TMED zoning district.

Sign Type	T4	T5-e	T5-c	SD
Sandwich Board	✓	✓	✓	✓
Projecting Sign	✓	✓	✓	✓
Wall Sign	✓	✓	✓	✓
Monument Sign	✓	Warrant		See TMED Design Criteria Manual
Multi-Tenant Sign	✓	Warrant		Warrant
Directional Sign		Warrant	Warrant	See TMED Design Criteria Manual

✓ = Permitted sign type

C. Specific Sign Type Standards**1. Sandwich Board Sign**

One sandwich board sign may be used during normal operating hours for each business. The sign must be placed on private property and not interfere with pedestrian access. Sandwich board signs may not exceed a total of six square feet.

2. Projecting Sign

One projecting sign for each business may be permanently installed perpendicular to the facade within the first layer. Projecting signs may not exceed a total of four square feet in T4 and six square feet in T5. Projecting signs must have a minimum clearance of eight feet above the sidewalk or walkway.

3. Wall Sign

A single permanent attached band sign, board sign, window sign or painted wall sign may be applied to the facade of each building. Attached signs may be a maximum of three feet in height by 50 percent of the total length of the tenant space or building, whichever is less. Wall signs have a minimum clearance of 12 feet above the sidewalk or walkway. Attached signs must not extend past the top of the structure.

4. Monument Sign

- a. Monument signs may be approved by Warrant only. If approved, they are limited to one per lot with a maximum of 50 square feet per sign face, a maximum height of six feet and a maximum width of two feet.

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- b. A monument sign must not interrupt the required tree planting and spacing or be located within three feet of a hike and bike trail.
- c. Sign material must consist of a limestone or brick base and columns that are architecturally compatible to the principal building. Other materials may be approved by Warrant if architecturally compatible.

5. Multi-Tenant Sign

- a. Multi-tenant signs may be approved by Warrant only. If approved they must be limited to one per lot and a maximum of 60 square feet per sign face, 8 feet in height and 2 feet in width.
- b. Such sign must not interrupt the required tree planting and spacing or be located within 3 feet of a Hike and Bike Trail.
- c. Signage material must consist of limestone or brick that is architecturally compatible to the Principal Building. Other materials must be approved by warrant if architecturally compatible.

6. Directional Sign

Directional signs may be approved by warrant only. Directional signs may not be located off-site. If approved, they are limited to a maximum of eight square feet per sign face, a maximum height of four feet and a maximum width of two feet. Directional signs must comply with the standards in the Traffic Manual of Uniform Control Devices.

7. Exceptions

Entertainment and recreational uses such as movie theaters or bowling alleys may have a neon or specially designed sign if approved by Warrant.

8. Lighting

Monument signs must be externally illuminated, except for signs within the shop front windows, which may be neon-lit.

9. Prohibited Signs

Signs other than those stated in the table in paragraph B above are prohibited.

6.3.17 Street Light Standards**A. Applicability**

The TMED lighting standards in this Section apply to all TMED transect zones.

B. Street Light Policy

Street light design and installation must comply with the City's Street Light Policy.

6.3.18 Utility Standards**A. Applicability**

The TMED utility standards in this Section apply to all transect zones.

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B. Underground Utilities Required

All proposed new electric, telephone and cable television wires along the public street right-of-way must be located underground.

(Ord. 2010-4415)



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11

Item #9

Regular Agenda

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DEPT. / DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-21: Consider adopting an ordinance authorizing a zoning change from TMED (T4) to TMED (T5-c) on the south 31.31 feet of Lot 9 and Lots 10, 11 and 12, Block 6, Hollywood Addition located at 2114 South 5th Street.

P&Z COMMISSION RECOMMENDATION: At its March 21, 2011, meeting, the Planning and Zoning Commission voted 8/0 in accordance with staff recommendation to recommend approval of a rezoning from TMED (T4) to TMED (T5-c).

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

Staff recommends approval of Z-FY-11-21, a rezoning from TMED (T4) to TMED (T5-c), for 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. Adequate public facilities are available to serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-21 from the Planning and Zoning meeting, March 21, 2011. The applicant requests a zoning change from TMED (T4) to TMED (T5-c) to allow the existing apartment complex use to remain in compliance with permitted uses. The TMED zoning change that was approved on February 3, 2011 identified this property as T4. However, T4 does not allow multi-family uses. The property is also directly north of the newly created T5-c zone which does permit multi-family uses. The applicant made mention of this early on in the zoning change process and Staff requested they pursue the zoning change with full support from Staff to correct the mapping issue.

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
AMP	NA	NA
CTMP	NA	NA

CP = Comprehensive Plan
Master Plan

AMP = Airport Master Plan

CTMP = Citywide Trails

Future Land Use and Character (CP Map 3.1):

The Future Land Use and Character Map designates the property as Temple Medical and Educational District (TMED). The TMED District encourages a blend of housing types within an urban context. The proposed zoning change is compatible with this designation.

Thoroughfare Plan (CP Map 5.2):

The site has existing access to South 5th Street, a minor arterial and West Avenue V, a local street.

Availability of Public Facilities (CP Goal 4.1):

Water and sewer services are currently serving the property.

PUBLIC NOTICE: Staff mailed nine notices of the Planning and Zoning Commission public hearing. As of March 16, 2011 at 9 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on Thursday, February 10, 2011, in accordance with state law and local ordinance

FISCAL IMPACT: N/A

ATTACHMENTS:

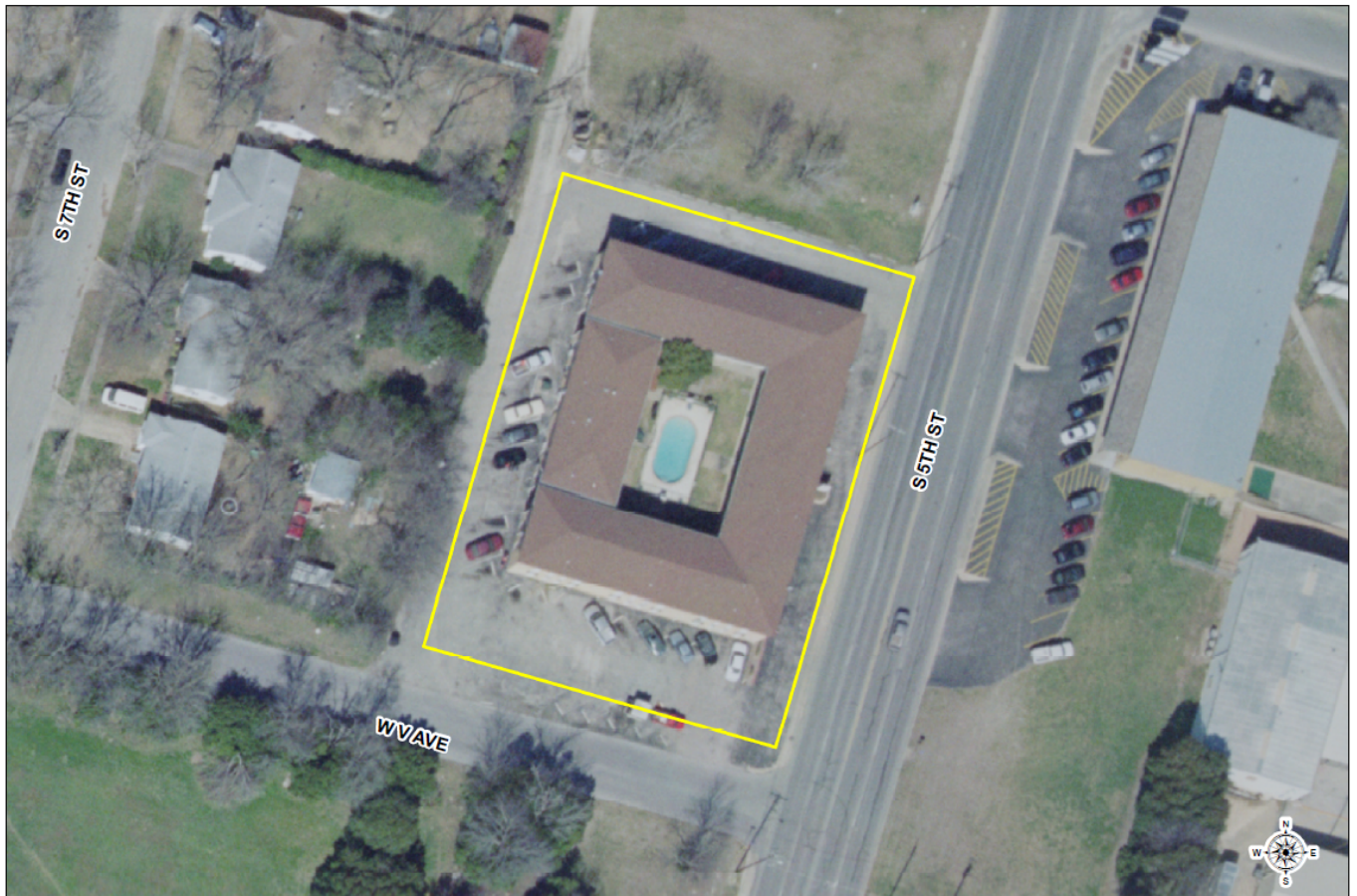
Aerial Map
Land Use and Character Map
Zoning Map
Thoroughfare Map
Utility Map
Notice Map
P&Z Staff Report
P&Z Minutes (3-21-11)
Ordinance



Z-FY-11-21

Part of Lot 9, and Lots 10, 11, and
12, Block 6, Hollywood Addition

2114 South 5th Street



2008 Bell County Aerial

Feet 0 50 100 150

LMatlock Planning 2.23.11



Z-FY-11-21

Part of Lot 9 and Lots 10, 11, and
12, block 6, Hollywood Addition

2114 South 5th Street



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1121, <Null> | 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 = 96 feet

LMatlock Planning 2.25.11



Z-FY-11-21

Part of Lot 9, and Lots 10, 11, and
12, Block 6, Hollywood Addition

2114 South 5th Street



2008 Bell County Aerial

 Minor Arterial

Feet 0 50 100 150

LMatlock Planning 2.23.11







Z-FY-11-21

Part of Lot 9, and Lots 10, 11, and
12, Block 6, Hollywood Addition

2114 South 5th Street



- | | |
|--|--|
|  Sanitary Sewer |  Domestic Water |
|  Case number Z FY 11-21 |  Fire Hydrant |

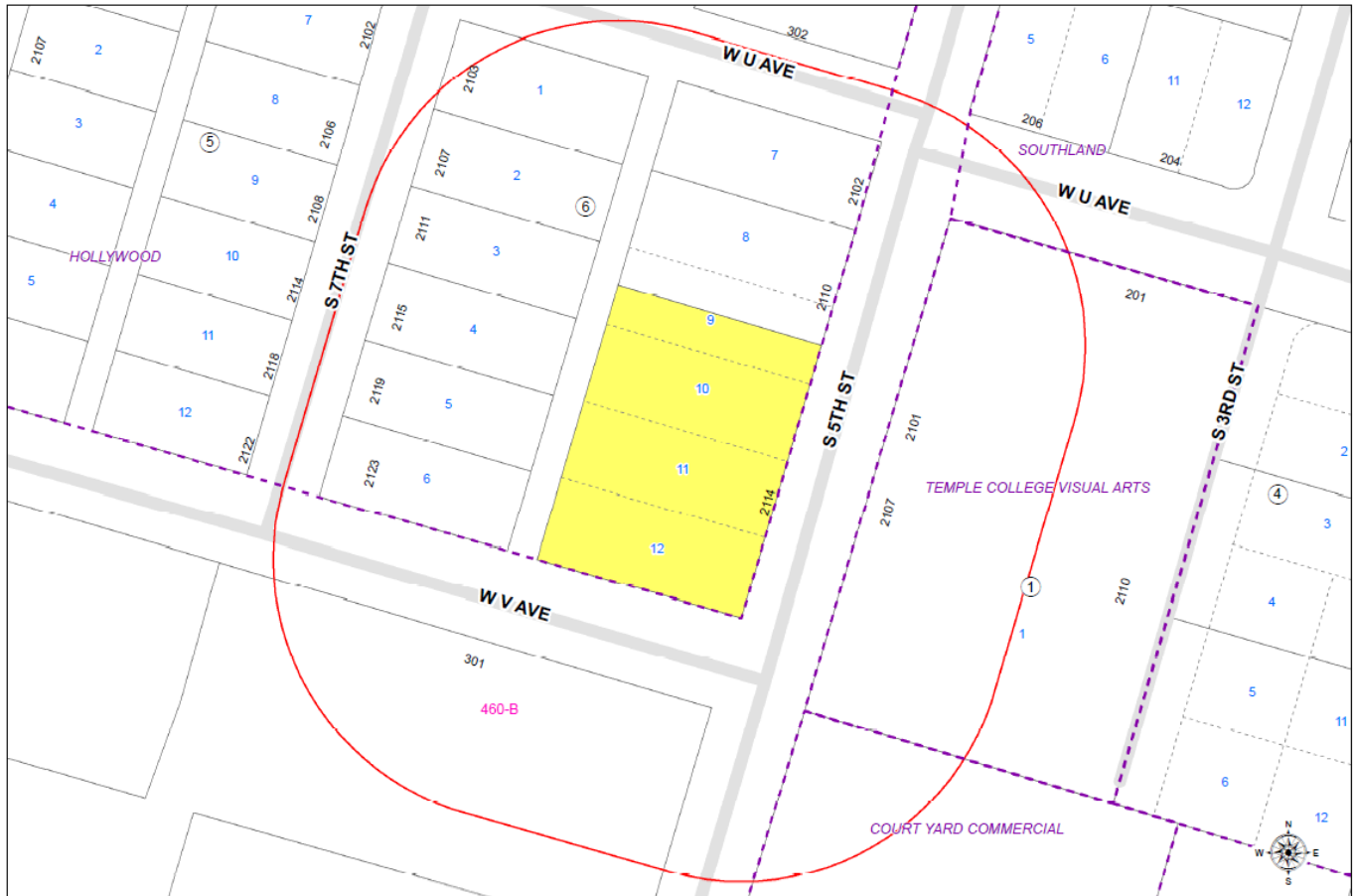
Feet 0 50 100 150
LMatlock Planning 2.23.11



Z-FY-11-21

Part of Lot 9, and Lots 10, 11, and
12, Block 6, Hollywood Addition

2114 South 5th Street



— 200' buffer — Lot Line
— Case number Z FY 11-21 - - - - Historic Lot Line

Feet 0 50 100 150
LMatlock Planning 2.23.11



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/21/11

Item #7

Regular Agenda

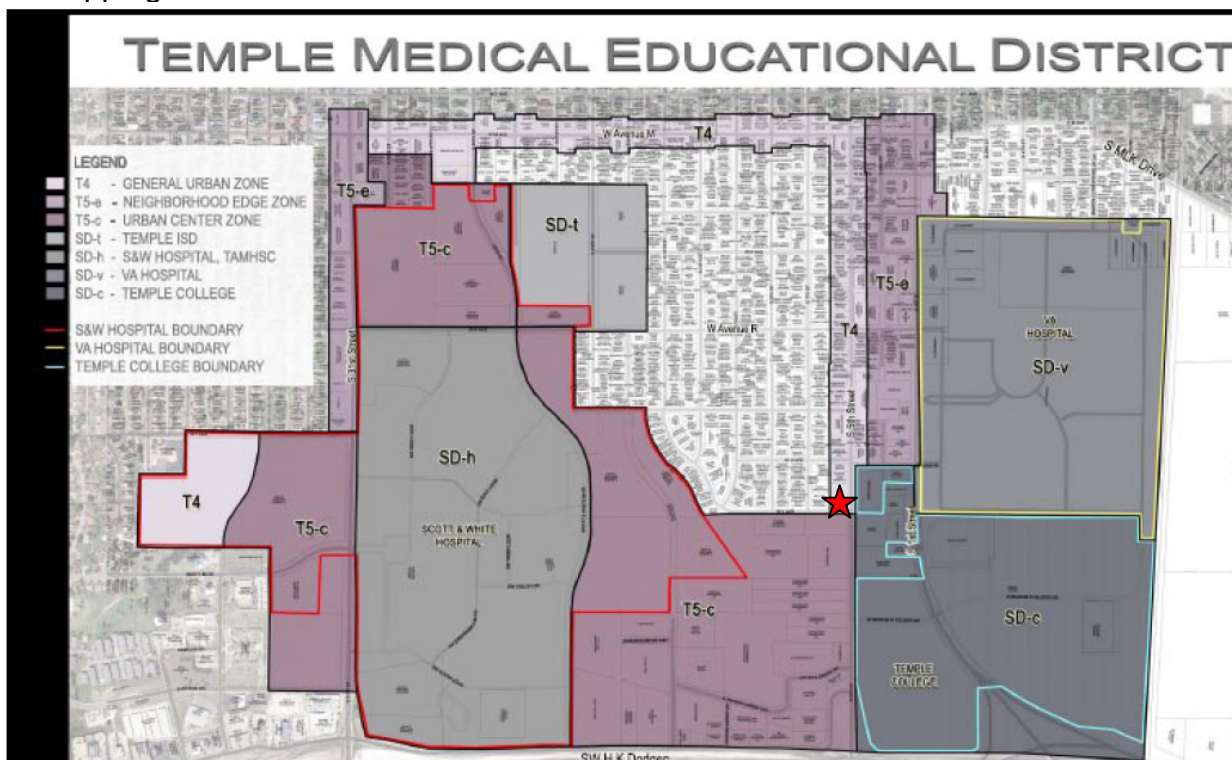
Page 1 of 4

APPLICANT / DEVELOPMENT: Debra Campbell for Pat Campbell

CASE MANAGER: Autumn Speer, Director of Community Services



ITEM DESCRIPTION: Z-FY-11-21 Hold a public hearing to discuss and recommend action on a rezoning from TMED (T4) to TMED (T5-c) on the South 31.31 Feet of Lot 9 and Lots 10, 11 and 12, Block 6, Hollywood Addition located at 2114 South 5th Street. (Debra Campbell for Pat Campbell)

BACKGROUND: The applicant requests a rezoning from TMED (T4) to TMED (T5-c) to allow the existing apartment complex use to remain in compliance with permitted uses. The TMED zoning change that was approved on February 3, 2011 identified this property as T4. However, T4 does not allow multi-family uses. The property is also directly north of the newly created T5-c zone which does permit multi-family uses. The applicant made mention of this early on in the rezoning process and staff requested they pursue the zoning change with full support from staff to correct the mapping issue.



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	T4 (Proposed T5-c)	Harmony Court Apartment Complex	
North	T4	Vacant – Duplex permitted	
South	T5-c	Vacant	

Direction	Zoning	Current Land Use	Photo
East	SD-C	Temple College Visual Arts	
West	2F	Single Family	

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
AMP	NA	NA
CTMP	NA	NA

CP = Comprehensive Plan AMP = Airport Master 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 Temple Medical and Educational District (TMED). The TMED District encourages a blend of housing types within an urban context. The proposed zoning change is compatible with this designation.

Thoroughfare Plan (CP Map 5.2):

The site has existing access to South 5th Street, a minor arterial and West Avenue V, a local street.

Availability of Public Facilities (CP Goal 4.1):

Water and sewer services are currently serving the property.

PUBLIC NOTICE:

Staff mailed nine notices of the Planning and Zoning Commission public hearing. As of March 16, 2011 at 9 AM, no notices were returned in favor of and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on Thursday, February 10, 2011, in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-11-21, a rezoning from T4 to T5-c on the subject property for the following reasons:

1. The request is compatible 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 Map](#)

[Utility Map](#)

[Notice Map](#)

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

MONDAY, MARCH 21, 2011

ACTION ITEMS

Item 7: Z-FY-11-21: Hold a public hearing and discuss and recommend action on a rezoning from TMED (T4) to TMED (T5-c) on the South 31.31 Feet of Lot 9 and Lots 10, 11 and 12, Block 6, Hollywood Addition located at 2114 South 5th Street.

Ms. Autumn Speer, Director of Community Services, stated this property was originally identified as T4 which does not allow multi-family uses. T5-c is a request made early on in the TMED process which would allow the apartment complex to remain in compliance. Ms. Speer stated she was representing the applicant requesting this change.

To the north of the subject property is a vacant lot which has been staked out for a duplex, across the street is the Temple College Fine Arts building.

Nine notices were sent out: one response was received in denial.

Staff recommends approval of this zoning request since it complies with the Comprehensive Plan, Thoroughfare Plan, and utilities are already on site.

Commissioner Sears asked if the only changes any existing structures, houses, apartment complexes, etc., would have to undergo would be if they increased their size and Ms. Speer agreed. If the applicant makes any physical changes to the property, she would have to comply with the standards but the primary reason for the request is for the use itself.

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

Commissioner Sears made a motion to approve **Z-FY-11-21** from T4 to T5-c and Commissioner Staats made a second.

Motion passed: (8:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-21]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM TMED (T4) TO TMED (T5-c) ON THE SOUTH 31.31 FEET OF LOT 9 AND LOTS 10, 11 AND 12, BLOCK 6, HOLLYWOOD ADDITION, LOCATED AT 2114 SOUTH 5TH 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 rezoning from TMED (T4) to TMED (T5-c) on the south 31.31 feet of Lot 9 and Lots 10, 11, and 12, Block 6, Hollywood Addition, located at 2114 South 5th 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 **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #0
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-22: Consider adopting an ordinance authorizing an amendment to Unified Development Code (UDC) Section 3.14, Sign Permit, related to the re-facing of signs.

PLANING AND ZONING COMMISISON RECOMMENDATION: At its March 21, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the proposed UDC amendments to:

1. Section 3.14, Sign Permit, related to the re-facing of signs.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

ITEM SUMMARY: Staff presented this item for informational purposes at the Planning and Zoning Commission workshop on March 7, 2011. The general consensus from the Commission was that it is a good idea to require a Sign Permit to re-face a sign, even if no structural changes are proposed.

Currently, Section 3.14, Sign Permit, of the Unified Development Code (UDC) does not require a sign permit for re-facing a sign, provided that no structural alteration occurs to the existing sign. Planning Staff requests that the UDC be amended to require a Sign Permit for such action.

Requiring review prior to re-facing a sign would allow Construction Safety staff to perform a quick check on the sign structure to make sure that it is free from rust, chipped paint and other maintenance deficiencies. This amended procedure allows Staff to better keep track of nonconforming signs and to ensure that new, additional sign faces are not being proposed to be added to already nonconforming signs.

In addition, this process would allow Staff to more proactively require existing signs to meet maintenance requirements when an owner is making an investment in a new sign face, rather than relying on Code Enforcement patrols alone to require compliance.

Administratively, Construction Safety would not charge a fee for this review (the usual Sign Permit fee is \$15 for non-illuminated signs and \$20.75 per illuminated sign) and would provide a fast turnaround of three business days for approving or denying the re-facing request.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011 in accordance with state law and local ordinance. No comments have been received to date.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Proposed Amendment to UDC Sec. 3.14, Sign Permit \(Attachment 1\)](#)

[Proposed Sign Modification Review Application and Process \(Attachment 2\)](#)

[P&Z Minutes \(03/21/11\)](#)

[Ordinance](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 21, 2011**

ACTION ITEMS

Item 9: Z-FY-11-22: Hold a public hearing to discuss and recommend action on an amendment to Section 3.14, Sign Permit, of the Unified Development Code related to the re-facing of signs.

Mr. Brian Mabry stated this case, and all the others, will go forward to City Council on April 21, 2011 for first reading and in May for second reading. This case is related only to sign permitting related to refacing of signs and does not include the I35 standards.

This amendment is to clarify the existing provisions relating to refacing of signs and requirements. The applicability provisions for a sign permit currently in the sign regulations state a permit is not required if you are physically changing out a panel of a sign and not doing any structural alteration. Also a permit is not required if changing the message or copy on a sign and not doing any structural alteration. Staff proposes the requirement of a review whenever someone does either of the previous two changes. (Mr. Mabry gave examples on the Powerpoint).

There is currently no opportunity for staff to review signs for maintenance or condition of the existing sign structure, such as rust, dilapidation, etc., and this would allow an opportunity to review the signs to be in compliance with the standards. It would also allow tracking of new panels added to existing signs.

Staff's proposal is to change sign provisions in the UDC so a simple administrative review would be required if the panel were changed out without structural alteration, if the copy were changed out on a sign face without structural alteration, or if there were an addition of a panel to an existing structure.

If approved, the impact of this would:

- Allow staff to perform a quick check for maintenance issues;

- Would ensure new additional panels were not added to a sign that was already a non-conforming sign;

- Provide a more proactive stance for City Staff in catching signs possibly in bad shape rather than relying on Code Enforcement or complaints; and

- Not apply to billboards or message boards (where the copy changes on a frequent basis)/

The normal sign permit is approximately \$21.00 but there would be no fee request for this review.

Staff recommends approving the proposed amendment to the UDC Section 3.14 Sign Permit requiring a sign permit for the refacing of an existing sign or the replacement of a sign.

Commissioner Staats stated if the fee is nominal to begin with, there would be additional cost to the City for Staff time, travel, gas, vehicle, etc., so why not have a nominal fee involved. Mr. Mabry stated Commissioner Staats was correct that the fee is nominal. The original recommendation was made in anticipation of an easy administrative review.

Commissioner Staats' recommendation was to consider charging a fee for this action. Commissioner Pope asked if the Board had the authority to change fees and Mr. Mabry stated it was up to City Council. Mr. Mabry would prefer to wait until further presentations and studies were made before any recommendations or suggestions regarding fees were discussed.

Vice-Chair Martin stated he did not think charging a fee was a good idea since there were several multi-tenant properties throughout the City and a lot of those signs are just face plates with no logo, just letters. It was not fair to any citizen who owns multi-tenant properties to pay money to the City just to change out a face panel from 21 characters of the same font to 16 characters of the same font.

Ms. Speer stated that was why a fee was not proposed. This request is primarily coming from Code Enforcement which spends more money reactively looking for signs. The multi-tenant users may fax or email in a permit request and the turnaround would be quick. There will probably only be a 10-15% chance that one would actually require a trip to look at the sign(s). Once a sign is registered into a database, the citizen can call in, relay what they are going to change on the copy, and hopefully get quick approval. The purpose is to catch the 10-15% that is causing the violations. Ms. Speer stated most of the work could be done without actually having to travel to a site.

Commissioner Pope asked if the City worked with the sign companies as far as permits. Ms. Speer stated most of the sign companies do everything correctly or will call first to ask. The problem is with the people that do not work with the sign companies who have issues. The City would rather help those people spend more money on a nice sign than to charge them fees.

Commissioner Staats stated that the City should not have to incur additional costs that are unfunded and a nominal fee would be appropriate. Ms. Speer stated she did not believe it would cost the City anything. Front line people are available to train for this and Code Enforcement Officers are already out in the field so it would balance out.

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

Commissioner Pilkington asked about the turnaround time for review and would like something in place that was more substantial and concrete for protection. Mr. Mabry stated tying a definite time period might be difficult and may cause unintended consequences. If the images submitted are clear enough and there are no problems, it should only take a day or so.

Vice-Chair Martin clarified all the citizens would have to do is send in, email, or fax, a pdf of the current sign and attach a copy of the new sign face and once that was reviewed, that permit could be returned to the applicant stating if it was approved or not. Mr. Mabry confirmed this was correct and it was also a way to make sure the current signs are in good maintenance, repair, and compliance.

Commissioner Staats stated now the Planning Department, Code Enforcement and Construction Safety are all involved and Ms. Speer stated she envisioned the permits coming through Construction Safety, with a few selected and trained people who look for certain issues and either approve it or send out a Code Enforcement Officer, only if needed. Otherwise, it should be a very quick process.

Commissioner Staats stated he believed it was a good process and would support it, but felt a fee should be put in place.

Commissioner Rhoads made a motion to approve **Z-FY-11-22** as described and Commissioner Sears made a second.

Motion passed: (7:0)

Commissioner Pope left the meeting before vote was taken.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” SECTION 3.14, ENTITLED “SIGN PERMIT,” RELATED TO THE RE-FACING OF SIGNS; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 16, 2010, the City of Temple adopted Ordinance No. 2010-4413, the “Unified Development Code,” which is a consolidated set of land development regulations related to zoning, platting and site design;

Whereas, at its March 21, 2011, meeting the Planning and Zoning Commission voted to amend Section 3.14, entitled, “Sign Permit,” related to the re-facing of signs, and the Staff recommends this action; and

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

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

Part 1: The City Council approves an amendment to Ordinance No. 2010-4413, the “Unified Development Code,” by amending Section 3.14, entitled, “Sign Permit,” related to re-facing of signs, said amendment being more fully described in Exhibit A, attached hereto for all purposes.

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 **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

Attachment 1: Proposed Amendment to UDC Sec. 3.14, Sign Permit

Sec. 3.14. Sign Permit

3.14.1 Applicability

- A. It is unlawful for any person to erect, relocate, ~~or~~ structurally alter, or change the face panel or copy of any sign within the City, ~~any sign for which that requires~~ a Sign Permit ~~is required~~ without first obtaining a Sign Permit.
- B. A Sign Permit is not required for repair, repainting or maintenance that does not entail structural change or for changing the copy on a permitted message board sign as described in Sec. 7.5.
- ~~C. The modification of a sign face does not require a Sign Permit in accordance with this Section, provided that such modification does not increase the sign area or height or change the sign type.~~

3.14.2 Review Process

A. Planning Director Review

The Planning Director must review the submitted application and make a recommendation to the Director of Construction Safety.

B. Director of Construction Safety Final Action

The Director of Construction Safety must approve, approve with conditions or deny the Sign Permit.

3.14.3 Review Criteria

In determining whether to approve, approve with conditions or deny a Sign Permit, the review bodies listed in Sec. 3.14.2 above must consider whether the proposed sign complies with the sign standards in Sec. 7.5 and all other standards of the City.

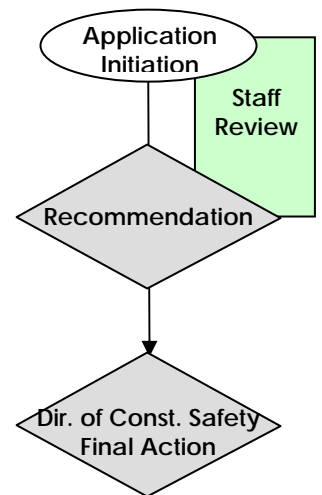
3.14.4 Expiration

If the work authorized under a Sign Permit is not completed within six months after the date of issuance, the permit becomes null and void.

3.14.5 Sign Permit Application Contents

Application for a Sign Permit must be made upon a form that the Director of Construction Safety provides and must contain the following information:

- A. Name, address and telephone number of the applicant and name and firm of person erecting sign;
- B. If applicant is not the owner of real property where sign is proposed to be erected, written consent of the property owner;
- C. Location of building, structure, address or legal lot and block to which or upon which the sign or other advertising structure is to be attached or erected;
- D. Site plan, indicating street frontage, property lines, sight visibility triangles, proposed and existing public street rights-of-way, location of sign on property, relationship of



proposed sign to ingress and egress points and relationship of proposed sign to any other sign within 15 feet spacing of the proposed sign;

- E.** Copy of stress diagrams or plans containing information necessary for the Director of Construction Safety to determine safety and structural integrity of sign;
- F.** Indicate whether the sign will require electricity, and if so, obtain an electrical permit as required;
- G.** Copy of Texas Department of Transportation approved permit if state law requires a state permit; and
- H.** Such other information as the Director of Construction Safety may require to show full compliance with this Section and all other City standards.



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #11
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-23: Consider adopting an ordinance authorizing a zoning change from Single Family Two District (SF2) to Two Family District (2F) on 30.9 ± acres of land being out of the Maximo Moreno Survey, Abstract 14, City of Temple, Bell County, Texas, located along the west of South 5th Street, between Canyon Creek Drive and Silver Stone Drive.

P&Z COMMISSION RECOMMENDATION: At its March 21, 2011, meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a zoning change from SF2 to 2F.

Commissioner Staats abstained.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

Staff recommends approval of Z-FY-11-23, a zoning change from SF2 to 2F, for the subject property for the following reasons:

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-23 from the Planning and Zoning meeting, March 21, 2011. The Applicant requests this zoning change to establish a two-family residential development on 30.9 ± acres. There is no preliminary plat accompanying this application. The 2F zone change will allow approximately 270 lots, or 540 duplex units, on the parcel. The existing SF2 zoning would allow approximately 202 single family units.

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
STP	Map F4- Proposed City-wide Spine Trail at south side of property	*N

CP = Comprehensive Plan STP = Sidewalk and Trails Plan * = See below for explanation

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the subject property as Auto-Urban Residential. The request complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Canyon Creek Drive as a Major Arterial and Hartrick Bluff Road appears as a Collector. Silver Stone Drive is a Local Street.

According to the Institute of Transportation Engineers (ITE,) there are, statistically, approximately 9.75 single family household vehicle trips per day. If the approximately 30.9 acres were developed to full capacity into the minimum of 4,000-sq. foot duplex lots, 270 lots (or 540 total units) would be possible. Approximately 5,265 weekday vehicle trips would be added to the existing street network from a fully-developed duplex subdivision. The difference between the daily trips from 2F duplex to the existing SF2 zoning would be 3,220 weekday vehicle trips.

Hartrick Bluff Road should continue to be classed as a collector street through this neighborhood. Hartrick Bluff opens to both Canyon Creek and Waters Dairy Drive. Waters Dairy is also classed as a Collector. While this request could ultimately increase traffic to the local road system, the surrounding roads are being under-utilized. The request is in compliance with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

There are 8" water lines and 8" and 10" sewer lines in place that can serve the subdivision adjacent to the property.

Citywide Sidewalk and Trails Master Plan (Map F4)

The Citywide Sidewalk and Trails Master Plan calls for a Local Connector Trail at the southern property line of this parcel. Dedication of trail land will be taken up at the time of plat review by the Development Review committee and the Parks and Leisure Department.

PUBLIC NOTICE: Thirty-six notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 16, at 5 PM, two notices were returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance

FISCAL IMPACT: N/A

ATTACHMENTS:

[Aerial Map](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Notice Map](#)
[Notice Responses](#)
[P&Z Staff Report](#)
[P&Z Minutes \(3-21-11\)](#)
[Ordinance](#)



Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive



2008 Bell County Aerial

Feet 0 100 200 300 400 500

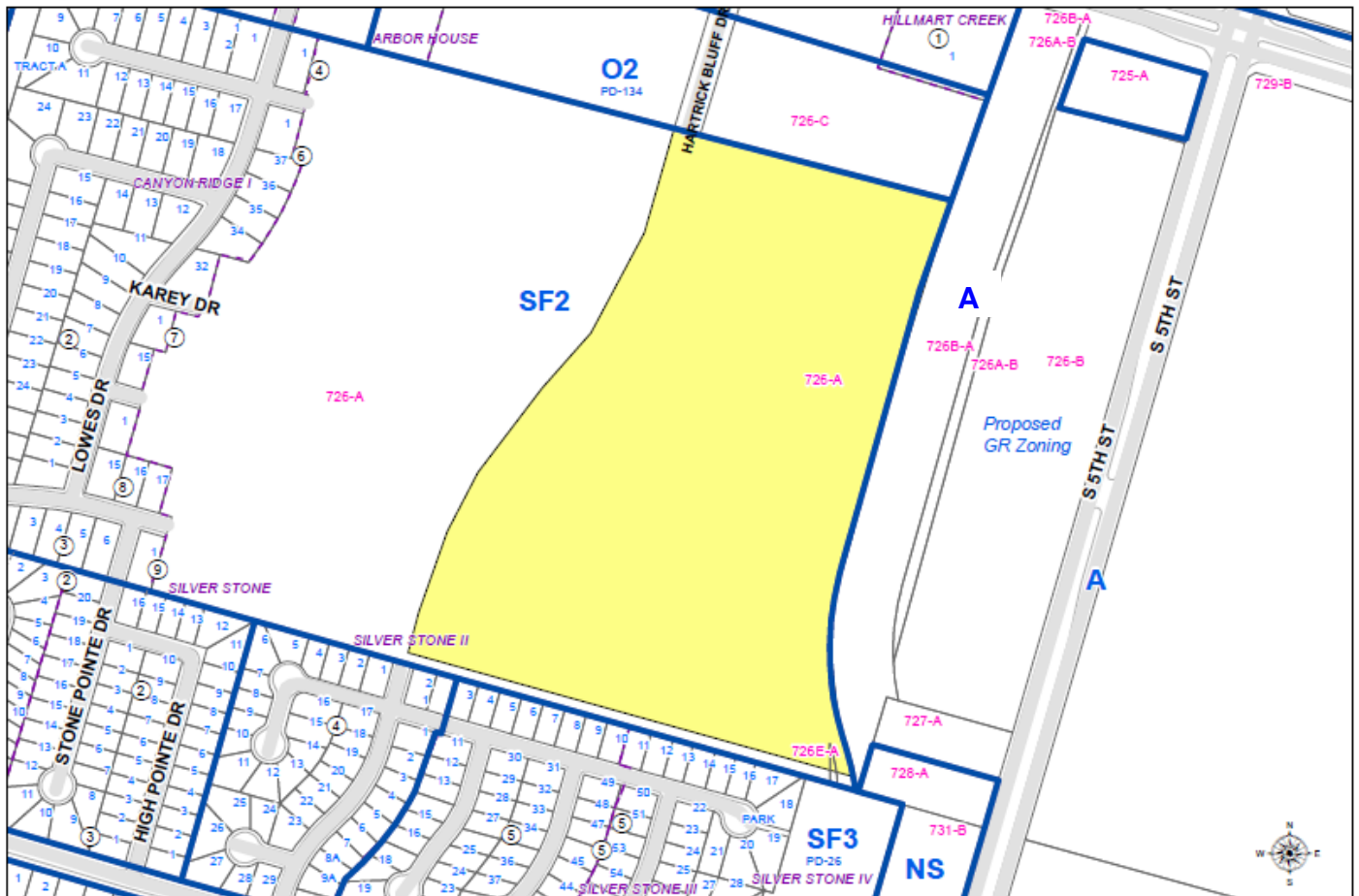
LMatlock Planning 2.23.11



Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive



Z FY 11-23
 Streets

123 Lots
 5 Blocks
 123 Outblocks
 Addition Subdivisions

Feet 0 100 200 300 400 500

LMatlock Planning 2.23.11



Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive



Z FY 11-23

Major Arterial

Local Streets

Collector

Feet 0 100 200 300 400 500

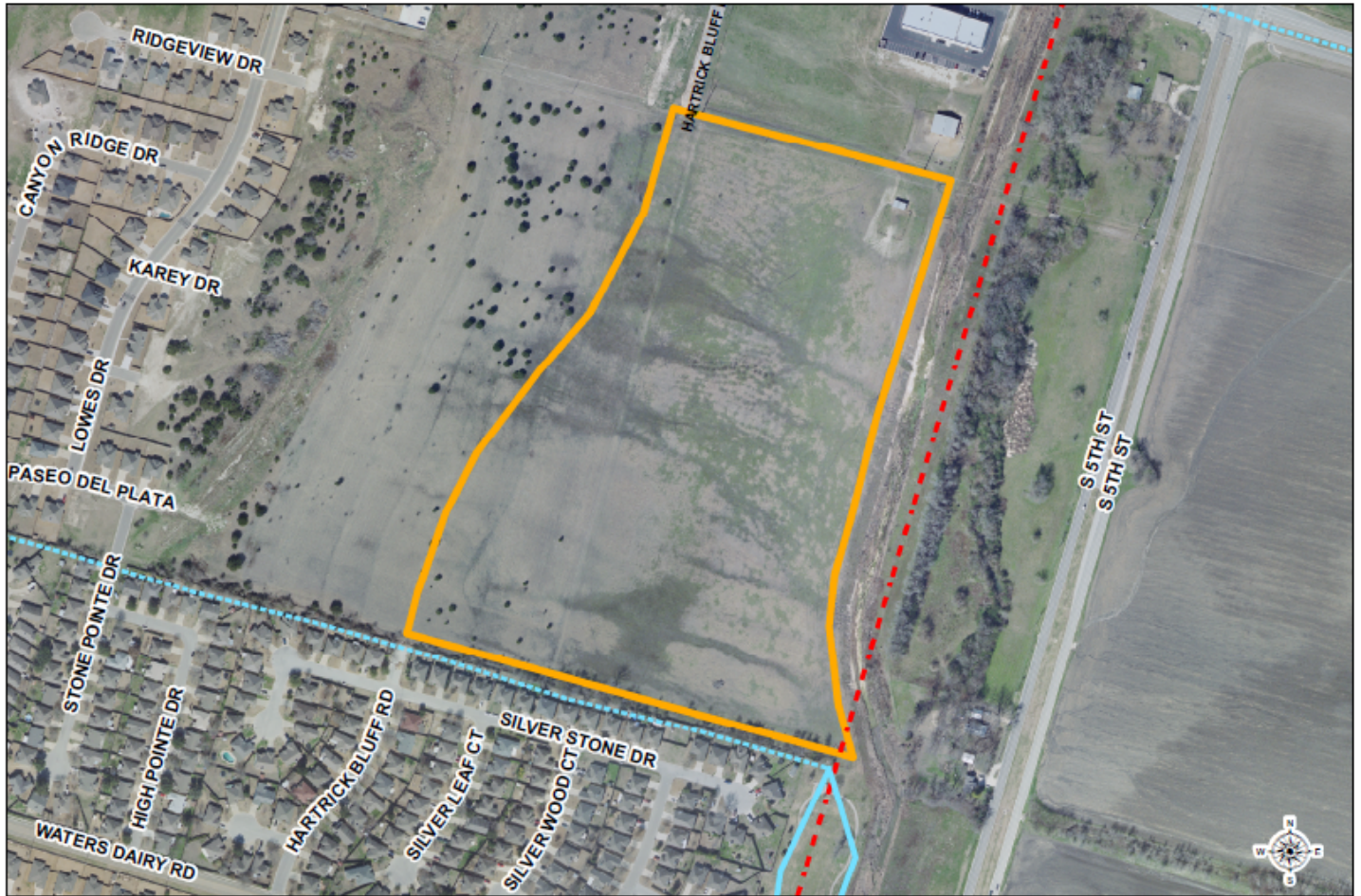
LMatlock Planning 2.23.11



Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive



- Z FY 11-23
- Proposed City Wide Spine Trail
- Existing Local Connector Trail
- Proposed Local Connector Trail

Feet 0 100 200 300 400 500

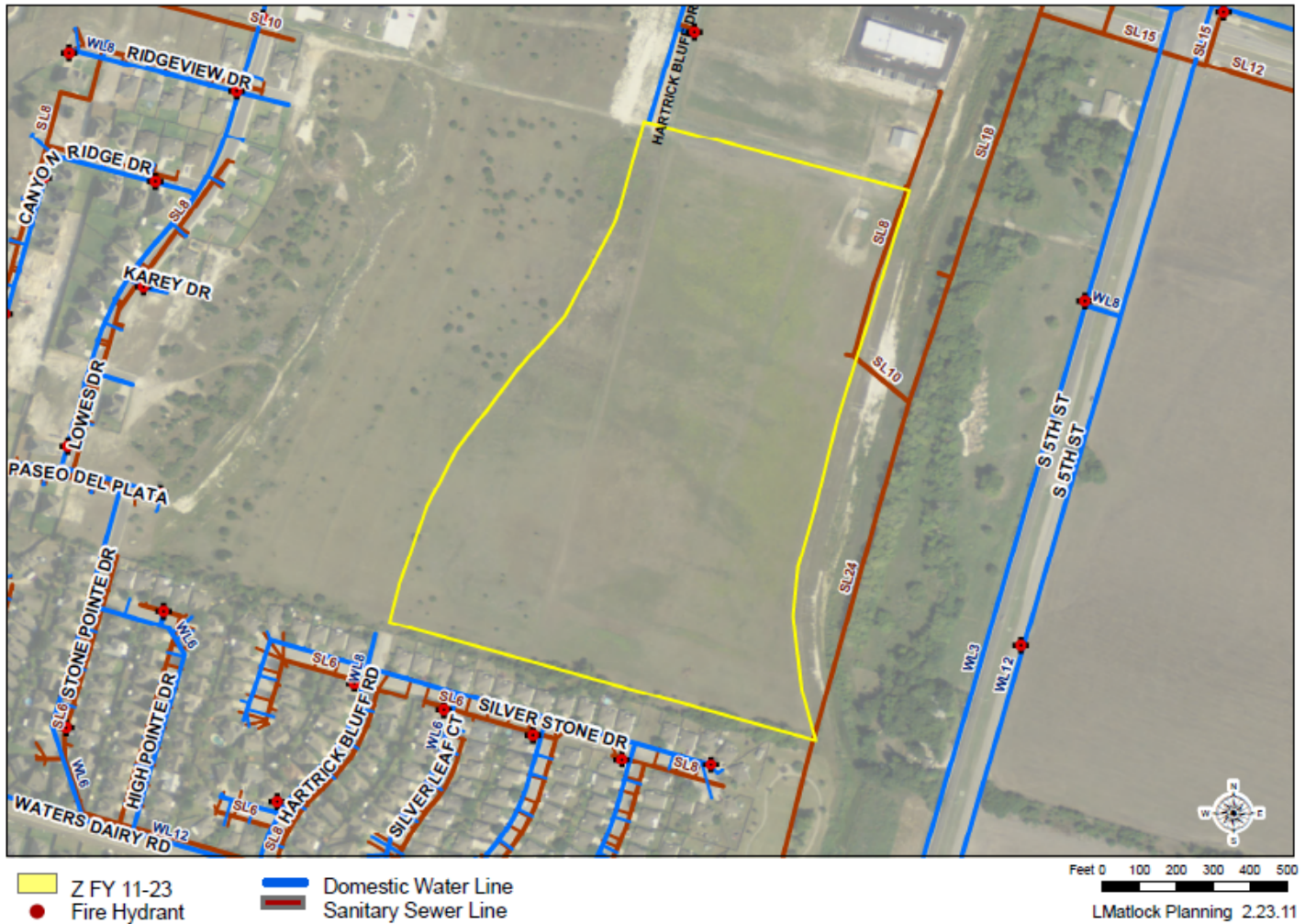
LMatlock Planning 2.23.11



Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive

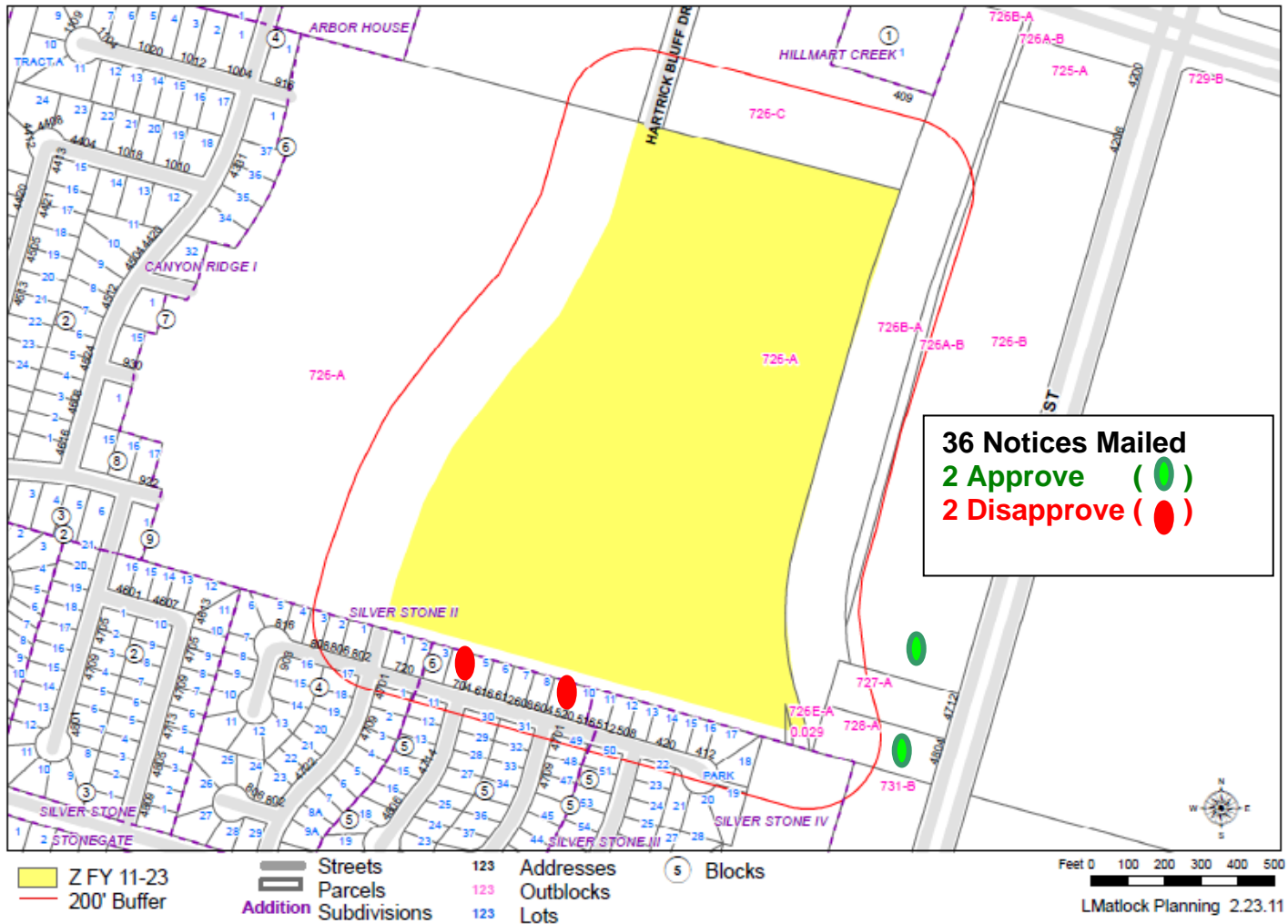




Z-FY-11-23

30.9 Acres, Maximo Moreno Survey,
Abstract 14, Outblock 726-A

West of S. 5th Street
Between Canyon Creek Drive
and Silver Stone Drive





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Charlene E. Lee
520 Silver Stone Drive
Temple, Texas 76502

*I request that this objection
be read at the April 21 + May 5
meetings (or whatever dates you may
select to substitute.)*

Zoning Application Number: Z-FY-11-23

Project Manager: Leslie Matlock

The proposed rezoning will allow a residential development which is in 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.

(Deja vu!)

Comments:

*I protested with a petition of a majority
of residents in this area requesting logical
commercial zoning on Canyon Creek several
years ago - It was passed negatively.
I'm sure nothing we say will influence this
proposal either - It's just like Wisconsin,
you'll do whatever you want to do whether
a majority of constituents disapprove or not.*

Charlene E. Lee

Signature

Charlene E. Lee

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later
than March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

James Jr. Etux Andrea Cyrus
704 Silver Stone Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-23

Project Manager: Leslie Matlock

The proposed rezoning will allow a residential development which is in 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:

Thank You

A Cyrus
Signature

James + Andrea Cyrus
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development



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

Jack V. Etux Dorothy Collier
1296 Pecan Creek Road
Killeen, Texas 76549

Zoning Application Number: Z-FY-11-23

Project Manager: Leslie Matlock

The proposed rezoning will allow a residential development which is in 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 March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development

Number of Notices Mailed: 36

Date Mailed: March 9, 2011



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/21/11
Item #4
Regular Agenda
Page 1 of 3

APPLICANT: Clark and Fuller on behalf of McLean Commercial LTD




CASE MANAGER: Leslie Matlock, AICP, Senior Planner



ITEM DESCRIPTION: Z-FY-11-23 Hold a public -hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Two Family District (2F) on 30.9 ± acres of land being out of the Maximo Moreno Survey, Abstract 14, City of Temple, Bell County, Texas, located along the west of South 5th Street, between Canyon Creek Drive and Silver Stone Drive.

BACKGROUND: The Applicant requests this rezoning in order to build a two-family (duplex) development, with a minimum 4,000-sq.ft. lots, north of the Silver Stone single-family addition.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	SF2	Undeveloped	
East	A	Single-family Residential Subdivision	
North	O2	Vacant Land and Strip Shopping Center Building	

Direction	Zoning	Current Land Use	Photo
South	SF3	Future City Trail and Silver Stone Single-family Residential Subdivision	
West	SF2	Undeveloped Property	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Map F4- Proposed City-wide Spine trail at south side of property	See Below

* = See Text Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the subject property as Auto-Urban Residential. The request complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Canyon Creek Drive as a Major Arterial and Hartrick Bluff Road appears as a Collector. Silver Stone Drive is a Local Street.

According to the Institute of Transportation Engineers (ITE,) there are, statistically, approximately 9.75 single family household vehicle trips per day. If the approximately 30.9 acres were developed to full capacity into the minimum of 4,000-sq. foot duplex lots, 270 lots (or 540 total units) would be possible. About 5,265 weekday vehicle trips would be added to the existing street network from a fully-developed duplex subdivision. The difference between the daily trips from 2F duplex to the existing SF2 zoning would be 3,220 weekday vehicle trips.

Hartrick Bluff Road should continue to be classed as a collector street through this neighborhood. Hartrick Bluff opens to both Canyon Creek and Waters Dairy Drive Waters Dairy is also classed as a Collector. While this request could ultimately add a lot of traffic to the local road system, the surrounding roads are being under-utilized. The request is in compliance with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

There are 8" water lines and 8" and 10" sewer lines in place that can serve the subdivision adjacent to the property.

Citywide Sidewalk and Trails Master Plan (Map F4)

The Citywide Sidewalk and Trails Master Plan calls for a Local Connector Trail at the southern property line of this parcel. Dedication of trail land will be taken up at the time of plat review by the Development Review committee and the Parks and Leisure Department.

DEVELOPMENT REGULATIONS:

The purpose of the 2F, Two-Family zoning district is to provide for smaller duplex lots which are not allowed in the SF-2, although single-family units are permitted in the 2F district. The 2F district allows lot sizes a minimum of 4,000-square feet. This duplex district may be best used as a zone of transition from the more restrictive single family district to lesser restrictive or denser residential districts such as a multi-family or retail district. As depicted on the attached zoning map sheet, the application of this district to the subject property would accomplish such a transition with the proposed duplex zoning laying between the single family zoning to the west and the proposed General Retail zoning to the east, along S. 5th Street. Additionally the trail that shows along the southern boundary of this development will be a buffer between the single family zoning district to the south and this duplex development.

Typical permitted uses include but are not limited to single-family homes and nonresidential support uses such as schools and places of worship. The following table shows the minimum dimensional requirements for the 2F zoning district.

2F, Two-Family Residential Standards	
Min. Lot Area (sq. ft.)	4,000
Min. Lot Width (ft.)	60
Min. Lot Depth (ft.)	100
Max. Height (stories)	2.5
Min. Yard (ft.)	
Front	25
Side	5
Side (street)	15
Rear	10

PUBLIC NOTICE:

Thirty-six notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 16, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-11-23 for the following reasons:

1. The request basically complies with the Future Land Use and Character Map;
2. The request complies with the Thoroughfare Plan; and
3. Adequate public facilities will 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, MARCH 21, 2011**

ACTION ITEMS

Item 4: Z-FY-11-23: Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Two Family District (2F) on 30.9 ± acres of land being out of the Maximo Moreno Survey, Abstract 14, City of Temple, Bell County, Texas, located along the west of South 5th Street, between Canyon Creek Drive and Silver Stone Drive.

Ms. Leslie Matlock, Senior Planner, stated this was Outblock 726B of the City of Temple Addition, 30.9± acres of undeveloped land currently zoned Single Family Two (SF2) detached, south of Canyon Creek Drive and north of Silver Stone Drive.

Surrounding properties include residential to the south and west and commercial to the north and east. The Future Land Use Plan shows this area as Auto-Urban Residential and this request complies.

The duplex and single family zoning have relatively the same dimensional standards. Potentially, two homes will be on each lot which would doubly impact the surrounding road systems. The Thoroughfare Plan designates Canyon Creek Drive as a major arterial and Hartrick Bluff Road is a collector. Silver Stone Drive is a local street.

The Trails Master Plan shows a proposed local connector trail running between the single family developed area and the subject property.

Thirty-six notices were mailed: two were received in denial and two were in approval of the request.

Staff recommends approval of this request since it complies with the Future Land Use and Character Map, Thoroughfare Plan, and public facilities are available to serve the property.

Commissioner Sears asked if any preliminary plats were available on this proposal and Ms. Matlock stated no.

Commissioner Pope asked about the minimum lot area for single family (SF) and two family (2F) and Ms. Matlock confirmed they were the same size.

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

Commissioner Rhoads made a motion to approve **Z-FY-11-23** and Commissioner Pilkington made a second.

Motion passed: (7:0)

Commissioner Staats abstained

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-23]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM SINGLE FAMILY TWO DISTRICT (SF2) TO TWO FAMILY DISTRICT (2F) ON APPROXIMATELY 30.9 ACRES OF LAND BEING OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT 14, CITY OF TEMPLE, BELL COUNTY, TEXAS, LOCATED ALONG THE WEST OF SOUTH 5TH STREET, BETWEEN CANYON CREEK DRIVE AND SILVER STONE DRIVE; 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 rezoning from Single Family Two District (SF2) to Two Family District (2F) on approximately 30.9 acres of land being out of the Maximo Moreno Survey, Abstract 14, City of Temple, Bell County, Texas, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

04/21/11
Item #12
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-24: Consider adopting an ordinance authorizing a zoning change from Neighborhood Services District (NS) to General Retail District (GR) on Lot 1-A, Block 1, Canyon Creek Place II Addition, located at 1710 Canyon Creek Drive.

P&Z COMMISSION RECOMMENDATION: At its March 21, 2011, meeting, the Planning and Zoning Commission voted 6/2 to recommend **denial** of the zoning from NS to GR. Commissioner Staats and Brown voted against the **denial**, however Commissioner Brown later recanted her vote.

Due the recommendation for denial from the Planning & Zoning Commission, four affirmative votes from the City Council will be required for approval of the ordinance.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

Staff recommends approval of Z-FY-11-24, a rezoning from NS to GR, for the subject property for the following reasons:

1. While the existing NS, Neighborhood Services District is the most compatible zone next to the adjacent residential district, the change to GR, General Retail District request on this lot generally 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.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-24 from the Planning and Zoning meeting, March 21, 2011. The Applicant requests this rezoning to establish a General Retail development on 0.6 ± acres in order to expand the amount and type of uses allowed.

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
STP	Map F4- Proposed City-wide Spine trail at south side of property	*Y

CP = Comprehensive Plan STP = Sidewalk and Trails 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. This General Retail rezoning request complies with this map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Canyon Creek Drive is a Collector street. Mariam Drive is classed as a local street. This collector can handle the increased load that this rezoning may create. The rezoning request complies with the plan.

Availability of Public Facilities (CP Goal 4.1)

An eight-inch water line is along Canyon Creek Drive and a six-inch sewer line serves the property to the west along Mariam Drive. Public facilities are available to the property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates property somewhere along the southern side of Canyon Creek Drive as a community-wide trail. This rezoning will not trigger the Trails Master Plan and development will not affect dedication as the property is already platted.

PUBLIC NOTICE: Seventeen notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 16th, at 5 PM, two notices were returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial Map
Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
Notice Responses
P&Z Staff Report
P&Z Minutes (March 21, 2011 and April 4, 2011)
Ordinance



Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive



Z FY 11-24
2008 Bell County Aerial

Feet 0 50 100 150 200

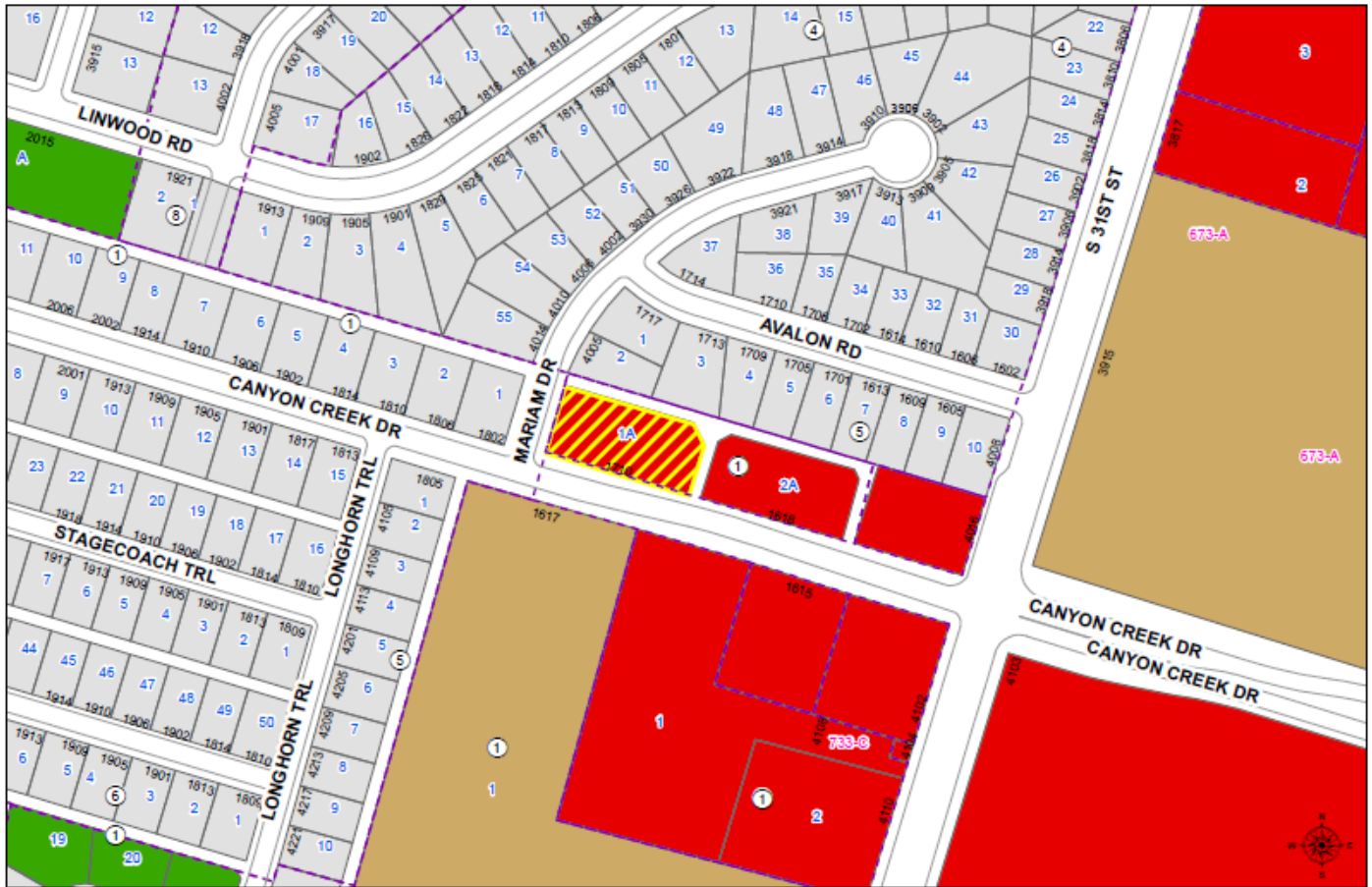
LMatlock Planning 2.25.11



Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY1124 | 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 | |

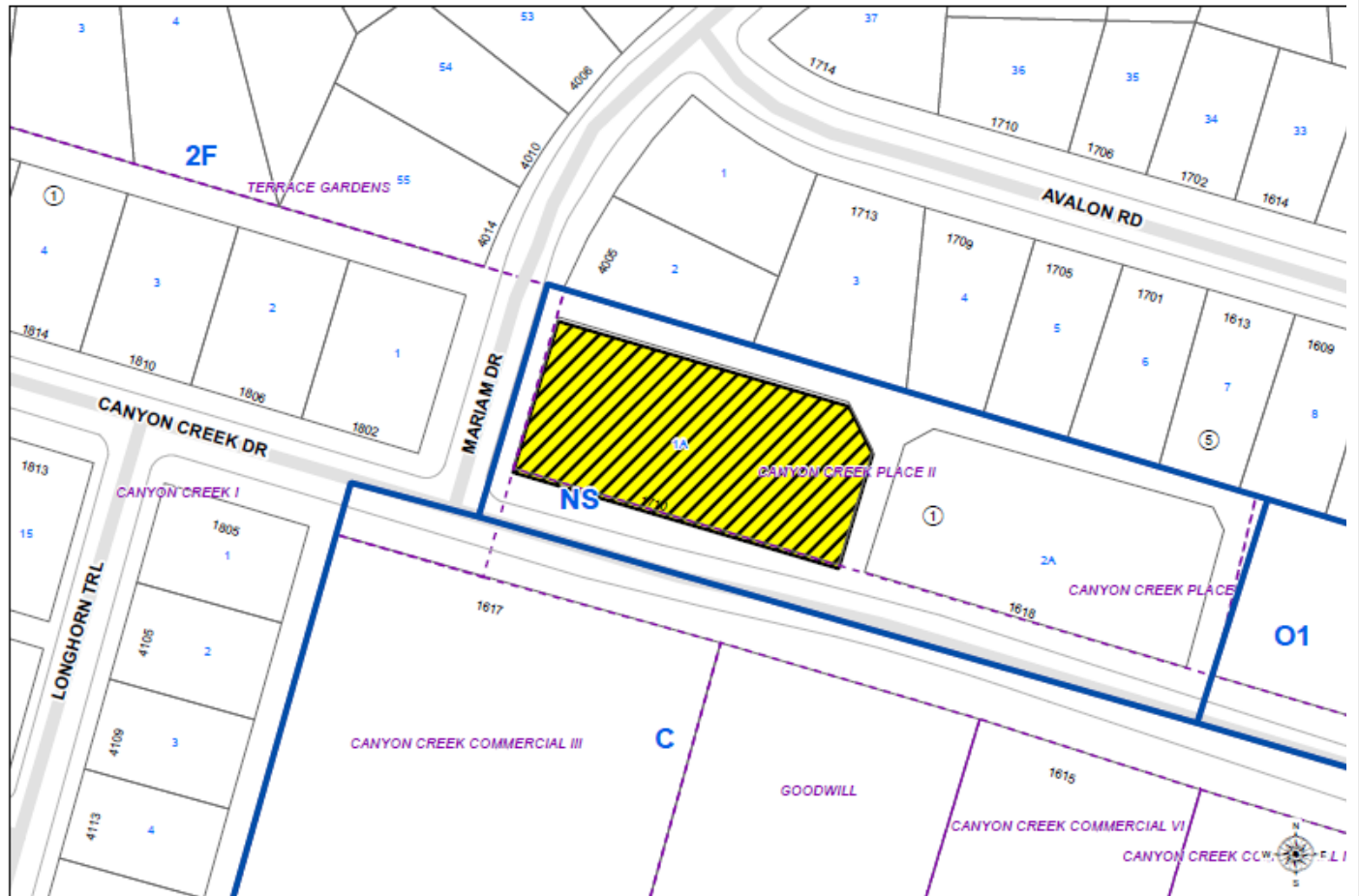
1 inch = 208 feet
LMatlock Planning 2.25.11



Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive



Z FY 11-24
Lots

123

Zoning Boundary
Blocks

S

Subdivision
Outblock

Addition
123

Addresses 321

Feet 0 50 100 150 200

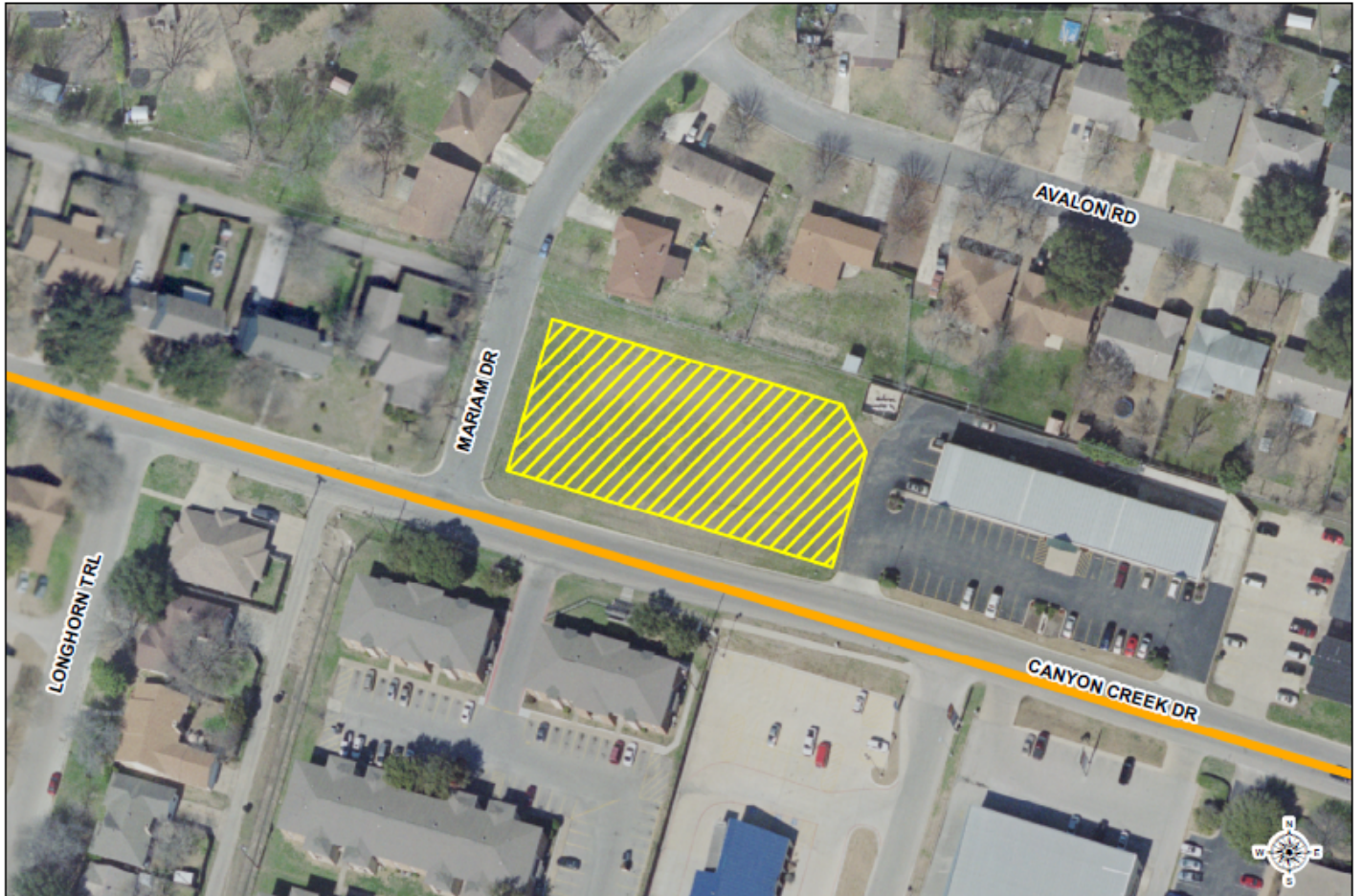
LMatlock Planning 2.25.



Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive



Z FY 11-24



Collector Street



Local Street



Feet 0 50 100 150 200

LMatlock Planning 2.25.11



Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive



Z FY 11-24
Fire Hydrants



Domestic Water Line
Sanitary Sewer Line



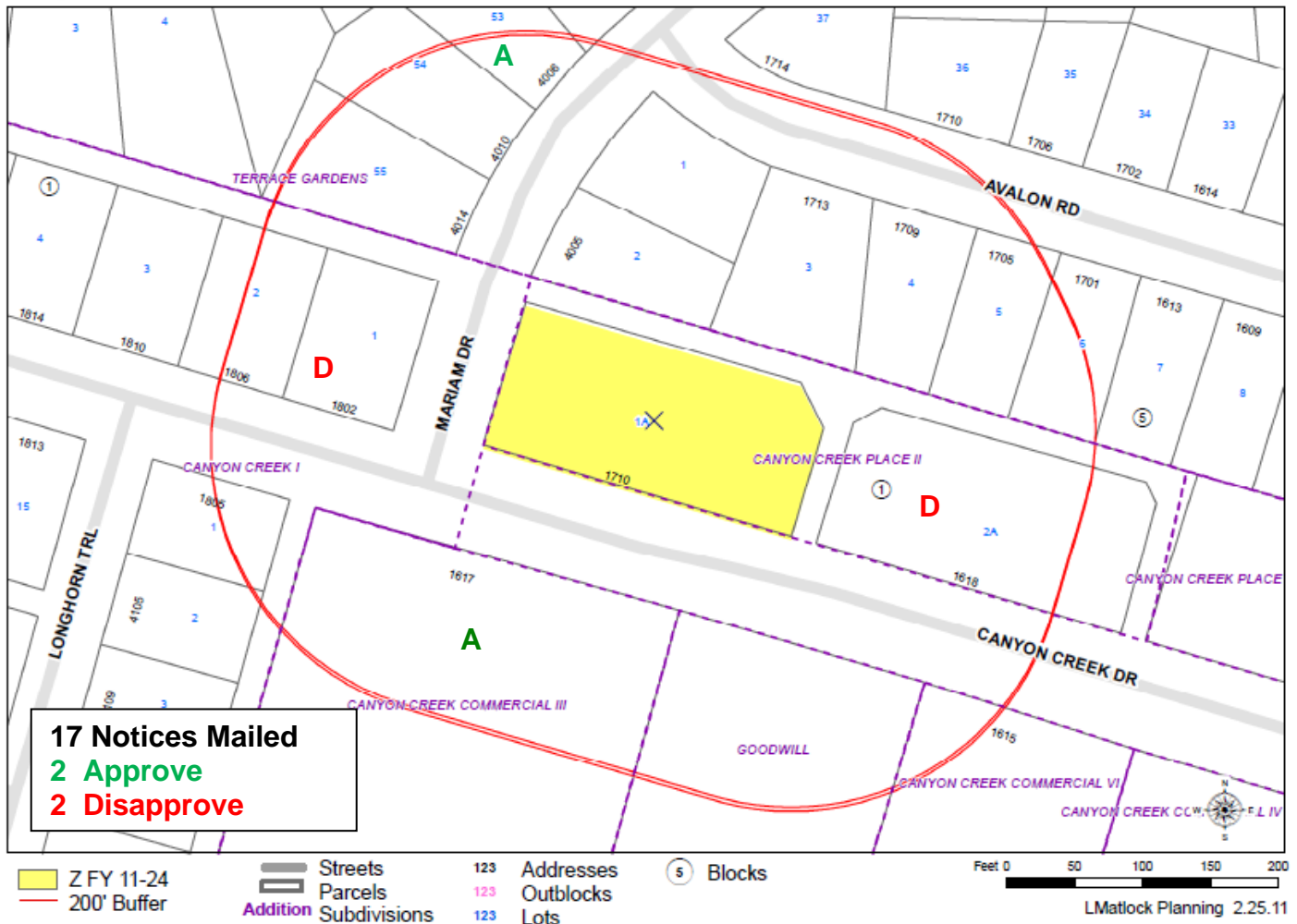
Feet 0 50 100 150 200

LMatlock Planning 2.25.11

Z-FY-11-24

Lot 1-A, Block 1,
Canyon Creek Place II

1710 Canyon Creek Drive





RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Alvin & Aleda Madden
2601 Tanglewood
Belton, Texas 76513

Zoning Application Number: Z-FY-11-24

Project Manager: Leslie Matlock

The proposed rezoning will allow retail uses in a proposed strip shopping center in 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:

How will this affect the price of the house if selling it in the future?

How will it affect my taxes?

My husband "Alvin R Madden" is deceased; therefore we cannot obtain his signature.

I do have his death certificate if necessary.

If you have any more questions please call @ 254-721-8038 OR 254-939-3473.

This would be good for this area at the time.

Thank You,

Aleda A Madden

Signature

Aleda A Madden

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development

Number of Notices Mailed: 17

Date Mailed: March 9, 2011



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Joan Smith Marek
1802 Canyon Creek Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-24

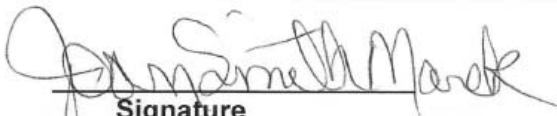
Project Manager: Leslie Matlock

The proposed rezoning will allow retail uses in a proposed strip shopping center in 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:

I WANT TO KNOW FIRST WHAT
TYPE OF STORE - NO LIQUOR STORES -
AND THEN CAN
MAKE AN INFORMED DECISION.


Signature

JOAN SMITH MAREK
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development

Number of Notices Mailed: 17

Date Mailed: March 9, 2011



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

RECEIVED
MAR 10 2011

Housing Authority of City of Temple
700 West Calhoun Avenue
Temple, Texas 76501

Zoning Application Number: Z-FY-11-24

Project Manager: Leslie Matlock

The proposed rezoning will allow retail uses in a proposed strip shopping center in 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:

Barbara B. Boyer
Signature

BARBARA BOYER
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 17 2011

City of Temple
Planning & Development

Number of Notices Mailed: 17

Date Mailed: March 9, 2011



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

Wright, Paysse Associates LC
5640 South Kegley Road
Temple, Texas 76502

Zoning Application Number: Z-FY-11-24

Project Manager: Leslie Matlock

The proposed rezoning will allow retail uses in a proposed strip shopping center in 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:

I do not feel this would be an appropriate zoning designation for this neighborhood.
A convenience store would not be in the best interest of the residential or business
office clients that reside on either side of the proposed lot. It would be
considered spot zoning and would allow several other types of businesses to be
located there.

Steve Wright
Signature

Steve Wright
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 23 2011

City of Temple
Planning & Development

Number of Notices Mailed: 17

Date Mailed: March 9, 2011



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/21/11
Item #5
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Ron Barrack for Alan Junes of Goodway Partners, Owners





CASE MANAGER: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-11-24 Hold a public hearing to discuss and recommend action on a rezoning from Neighborhood Services District (NS) to General Retail District (GR) on Lot 1-A, Block 1, Canyon Creek Place II Addition, located at 1710 Canyon Creek Drive.

BACKGROUND: The applicant requests the rezoning to establish a retail development.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	NS	Undeveloped Non-Residential Lot	
North	2F	Single Family Residential	
South	C	Multi Family Housing and Retail	
East	NS	Multiple Tenant Office Building	

Direction	Zoning	Current Land Use	Photo
West	2F	Single Family Residential	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

Document	Policy, Goal, Objective or Map	Compliance?
CP	Map 3.1 - Future Land Use and Character	Y*
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

* = See Comments Below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The future land use and character map designates the property as Suburban Commercial. This General Retail rezoning request complies with this map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Canyon Creek Drive is a Collector street. Mariam Drive is classed as a local street. This collector can handle the increased load that this rezoning may create. The rezoning request complies with the plan.

Availability of Public Facilities (CP Goal 4.1)

An eight-inch water line is along Canyon Creek Drive and a six-inch sewer line serves the property to the west along Mariam Drive. Public facilities are available to the property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates property somewhere along the southern side of Canyon Creek Drive as a community-wide trail. This rezoning will not trigger the Trails Master Plan and development will not affect dedication as the property is already platted.

DEVELOPMENT REGULATIONS:

Current Zoning

The subject property is zoned NS, Neighborhood Services. This district is a less intensive non-residential zoning district, meant to border adjacent neighborhoods. It allows limited office and retail uses that have compatible hours and noise levels similar to residential uses, although it does not allow apartments or patio homes. Setbacks are generally the same in both the existing NS District and in the proposed GR District.

Proposed Zoning

The GR, General Retail, zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments and patio homes (see comparison of uses below). The area along S. 31st Street is zoned GR. The

uses allow convenience stores with fuel sales by right if a proper street setback for the fuel pump island is maintained from the Right-of-Way. NS allows convenience stores by right but allows fuel sales conditionally. A complete list of uses permitted in GR but not in NS is given below.

Any nonresidential use would require buffering (6-8-ft fence or wall or landscaping buffer) along the residential adjacency and light trespass would not be allowed. There is no requirement in GR for early hours or heightened protection against intensity of use.

There is precedent in this area of the Canyon Creek neighborhood to have a non-residential zone at this node adjacent to a single family use, but along this block, the businesses are currently low intensity, with medical type offices having no rear lighting and are closed in the evening.

Uses Allowed in GR But Not Allowed in NS

If the requested rezoning were approved, the following uses would be allowed on the property, which are currently not allowed with its present NS zoning if use has adequate space to develop.

Uses permitted by Right

- Two family dwelling
- Alcoholic beverage sales for on premise consumption (Beer/Wine, < 75%)
- Drive-in Restaurant
- Lithographic or print shop
- Plumbing or upholstery shop
- Fairgrounds or exhibition hall
- Trade School or College
- Hospital
- Military Reserve Center
- Hotel/Motel
- Commercial Indoor amusement
- Country Club
- Roller or Ice Rink
- Indoor flea market

- Discount or Department Store
- Furniture and Appliance Sales and Service
- Hardware Store and Hobby Shop
- Retail Sales and Service uses other than listed
- Tool Rental, indoors
- Emergency Vehicle Station
- Car Wash
- Auto Leasing and Rental
- Motorcycle or Scooter Sales

Uses permitted if use is in conformance with Zoning Limitations

- Outdoor Auto Sales (L)
- Minor Vehicle Servicing (L)

Uses permitted with approved Conditional Use Permit Only

- Alcoholic Beverage Sales off-premise consumption (Package Store) (C)
- Fuel Sales (C)
- Dance Hall (C)
- Veterinary hospital with or without kennels (C)
- Institution for alcoholic or narcotic patients (C)
- Recycling Collection Location (C)
- Children's Day Camp (C)
- Commercial Swimming Pool (C)
- Commercial Parking Lot (C)
- Warehouse Office (C)
- Zoo (C)

PUBLIC NOTICE:

Seventeen notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 16th, at 5 PM, 2 notices were returned in favor of and 2 notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-11-24 for the following reasons:

1. While the existing NS, Neighborhood Services District is the most compatible zone next to the adjacent residential district, the change to GR, General Retail District request on this lot generally complies with the Future Land Use and Character Map.
2. The request generally complies with the Thoroughfare Plan.
3. Public and private facilities serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Land Use and Character Map
Zoning Map
Utility Map
Thoroughfare Plan Map
Notice Map
Responses

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 21, 2011**

ACTION ITEMS

Item 5: Z-FY-11-24: Hold a public hearing to discuss and recommend action on a rezoning from Neighborhood Services District (NS) to General Retail District (GR) on Lot 1-A, Block 1, Canyon Creek Place II Addition, located at 1710 Canyon Creek Drive.

Ms. Leslie Matlock stated this was a .6± acre non-residential parcel and currently zoned Neighborhood Services (NS) adjacent to Canyon Creek Drive and Mariam Drive. Surrounding properties include single family units to the north and west, apartment complexes to the south, and low impact offices to the east. Surrounding zoning include single family, multi-family, and retail.

NS zoning district permits limited retail services and is the most restrictive of all retail districts. It is intended to provide retail and service needs for a residential neighborhood and should be located at a corner of a local road and collector that serves the neighborhood.

General Retail (GR) allows most retail uses including retail sales, grocery stores, department stores, and offices intended to serve a larger service area and should be located at the intersection of major arterials. The adjoining zoning districts should be carefully selected due to environmental conflicts such as noise, lighting, and congestion which may be bothersome to the residential uses.

Selected uses for GR were given to show differences from NS zoning.

Seventeen notices were mailed: Two were received in favor and one was received denying the request. Two phone calls were received regarding detrimental/intense uses.

Staff recommends approval of this request for the following reasons:

1. While the existing NS, Neighborhood Services District is the most compatible zone next to the adjacent residential district, the change to GR, General Retail District request on this lot generally complies with the Future Land Use and Character Map;
2. The request generally complies with the Thoroughfare Plan; and
3. Public and private facilities serve the property.

Commissioner Staats asked how the lighting would affect the residential yards. Ms. Matlock replied it would not be allowed to trespass and the applicant would be required to build a 6 to 8 foot solid fence or install solid landscaping across the back.

Commissioner Staats asked about the noise ordinance and if it protected the citizens from this type of situation. Ms. Matlock stated no, the noise ordinance did not include this type of situation.

Ms. Matlock stated the uses currently allowed there now in NS are less intensive and the businesses tend to not stay open past eight p.m. usually. The applicant has not specified what business would be put in but indicated a strip center for retail uses on the application, and possibly a convenience store with fuel sales.

Chair Talley opened the public hearing.

Mr. Ron Barrick, 1907 Mockingbird Lane, Leander, Texas, stated he was appearing on behalf of a potential buyer of the subject property. Mr. Barrick stated the zone change was needed in order to expand the retail uses that might be considered before deciding how to use the land. GR seems to be consistent with what is already in the area and Mr. Barrick did not believe it would ever be used for residential again. Mr. Barrick stated he did not feel anything done there would be detrimental to the area and would, in fact, be advantageous, such as a convenience store or Pizza Hut which would service both the multi-family and residential area. Mr. Barrick asked that the application be approved.

Mr. Muhammed F. Khan, 3524 Cowden Dr., Austin, Texas, stated there was almost a 35 to 50 foot setback behind the proposed shopping center from the nearest neighbor due to a gas pipeline going in which has certain restrictions.

Commissioner Staats asked Mr. Khan if he had spoken to any of the residents and Mr. Khan stated 'not personally.'

Ms. Matlock stated there was a 25 foot setback on the back and a gas line that goes through the center of the property into the back and it was wider, a 50 foot blanket easement that goes through the center of the driveway. Commissioner Pilkington asked if the easement was 100% on the subject lot or split. Ms. Matlock stated it was angled and goes NW/SE and could not say what the split was.

Commissioner Rhoads asked for clarification on the approvals and denials and Ms. Matlock stated two responses were in agreement, one response asked for denial, and she received two telephone calls from citizens who were concerned about what type of business was going to be there. Ms. Matlock explained to the callers anything that was in the zoning district it was changed to would be allowed and read them the various uses.

Commissioner Staats asked if there was any type of ordinance which would protect the residential neighbors from noise. Mr. Brian Mabry, Planning Director, stated there were specific rules in the City Code about noise related to construction and starting up work and preventing night time work next to a house, however, there was nothing in the existing Unified Development Code (UDC) which required people to direct sound away from residential uses. This issue could be considered later on in the UDC projects for certain types of uses.

Commissioner Rhoads asked what the building code was for the subject area regarding masonry. Mr. Mabry stated the City's exterior building provision requirements gives a long list of acceptable masonry materials.

Commissioner Sears asked if under the current NS zoning, would a strip center be allowed and Ms. Matlock said it would, but the uses would be less intense. Commissioner Rhoads asked what some of the NS uses were and Ms. Matlock stated such businesses as a florist, medical, convenience store with no gas sales, small retail business, etc. Commissioner Rhoads asked if these would possibly be businesses that did not close past six o'clock p.m. and Ms. Matlock confirmed that was correct, unless it was a convenience store with no fuel sales.

Commissioner Staats stated he appreciated the effort of the applicant to invest in the community and would ask that the applicants be considerate of the neighbors as the property was being developed and the impact of various businesses.

Chair Talley closed the public hearing.

Commissioner Pilkington stated he felt the NS zoning designation fit the area and did not want to open up the uses. Commissioner Pope stated under Staff recommendations that NS was the most compatible zoning next to the residential district was appropriate.

Vice-Chair Martin made a motion to deny Z-FY-11-24 zone change request from NS to GR and Commissioner Rhoads made a second.

Motion passed: (6:2)

Commissioners Brown and Staats voted against.

[Commissioner Brown stated to Mr. Mabry after the meeting she voted incorrectly on this motion and meant to vote in favor of the denial.]

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-24]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM NEIGHBORHOOD SERVICES DISTRICT (NS) TO GENERAL RETAIL DISTRICT (GR) ON LOT 1-A, BLOCK 1, CANYON CREEK PLACE II ADDITION, LCOATED AT 1710 CANYON CREEK DRIVE; 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 rezoning from Neighborhood Services District (NS) to General Retail District (GR) on Lot 1-A, Block 1, Canyon Creek Place II Addition, located at 1710 Canyon Creek Drive in the City of Temple, Bell County, Texas, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: 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 **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

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

04/21/11
Item #13
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-25: Consider adopting an ordinance authorizing a zoning change from Light Industrial District (LI) to Central Area District (CA) on Lot One, Block 1, Original Town Plat, located at 201 South Main Street.

P&Z COMMISSION RECOMMENDATION: At its March 21, 2011, meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of the rezoning from NS to GR.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for May 5, 2011.

Staff recommends approval of Z-FY-11-25, a zoning change from LI to CA, for 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.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-25 from the Planning and Zoning meeting, March 21, 2011. The Applicant requests this zoning change to develop an establishment that serves beer and wine only, with a maximum of 75% of sales in alcohol, which is permitted by right in both the current and the proposed district, in order that the business not have to comply with the parking requirements of the Light Industrial (LI) district zoning. The Central Area (CA) zoning district assumes right of way and private and public lot usage for parking in place of off-street parking being required on individual sites.

COMPREHENSIVE PLAN COMPLIANCE: The proposed zoning change 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 7.2 – Central Area	*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 Urban Center, which is the densest commercial area of the city. This CA rezoning request complies with this map.

Objective 7.2

This objective in the text of the Comprehensive Plan recommends that, in the future, the City foster establishing entertainment and cultural offerings in the Downtown area. The request supports this objective.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates N. Main Street and S. Ave. L as Local Roads. The request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

An eight-inch domestic water line and an eight-inch sanitary sewer line serve the property, and have capacity available for this property use.

PUBLIC NOTICE: Seven notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, April 6, at 5:00 PM, no notices were returned in favor of and two notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial Map](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Notice Map](#)
[Notice Responses](#)

P&Z Staff Report
P&Z Minutes (March 21, 2011)
Ordinance




Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



Z FY 11-25 
2008 Bell County Aerial

Feet 0 50 100 150 200

LMatlock Planning 2.25.11



Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 1125, <Null> | 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 | |

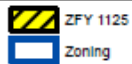
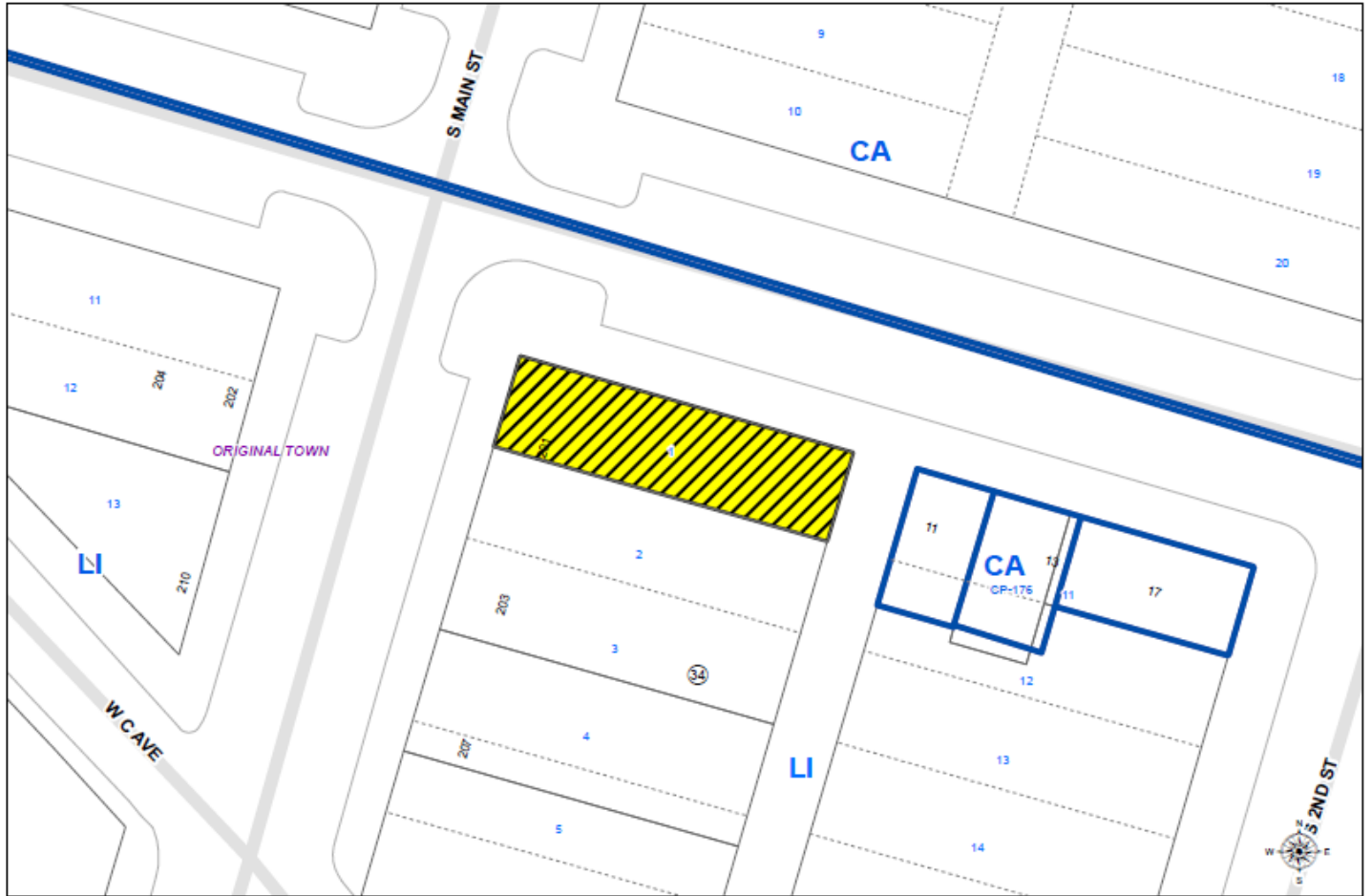
1 inch = 61 feet
LMatlock Planning 2.25.11



Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



Streets
Lot Lines

Blocks
Subdivisions

5
Addition

Feet 0 20 40 60 80

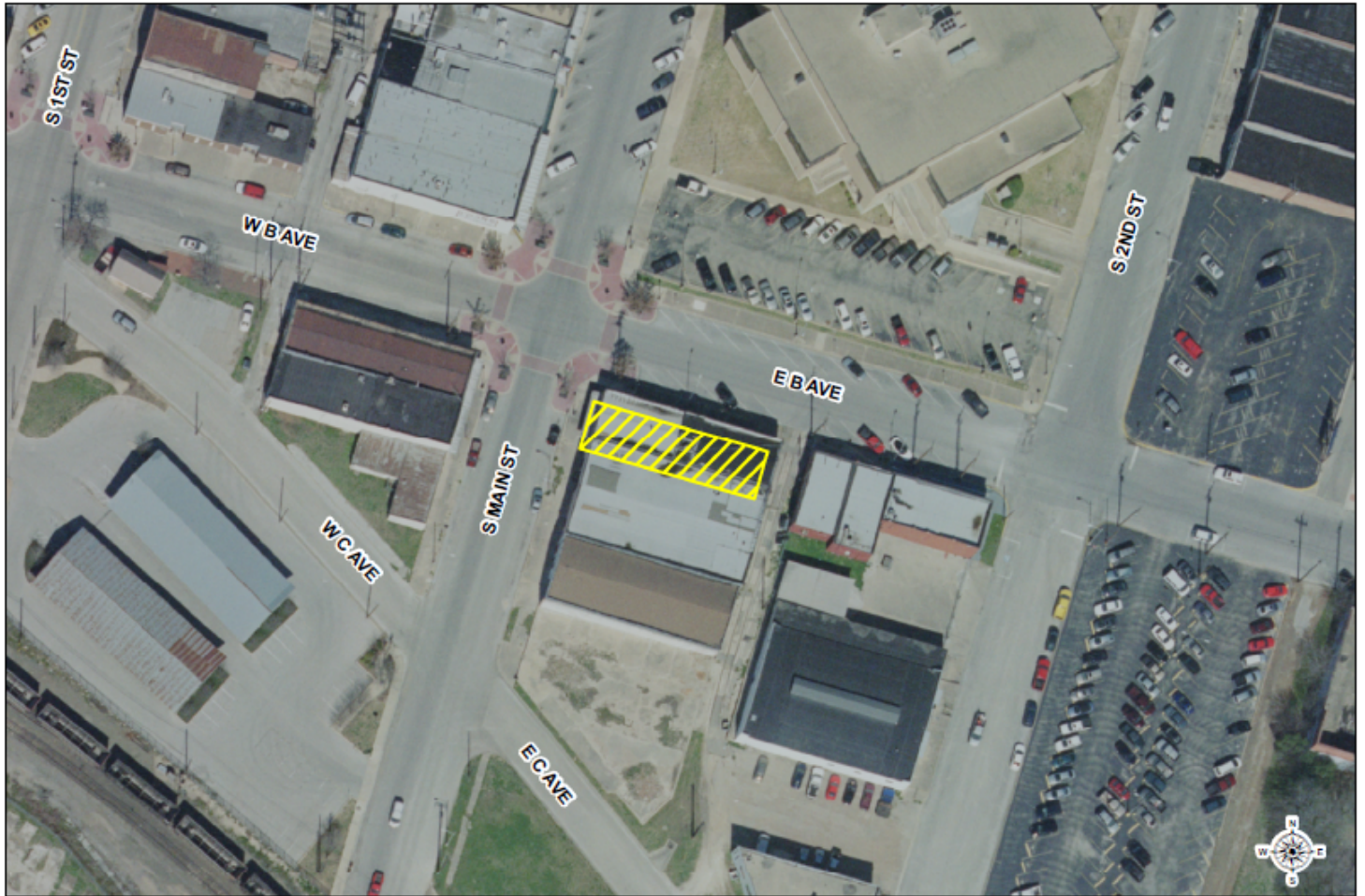
LMatlock Planning 2.25.11





Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



Z FY 11-25 
Local Roads 

Feet 0 50 100 150 200

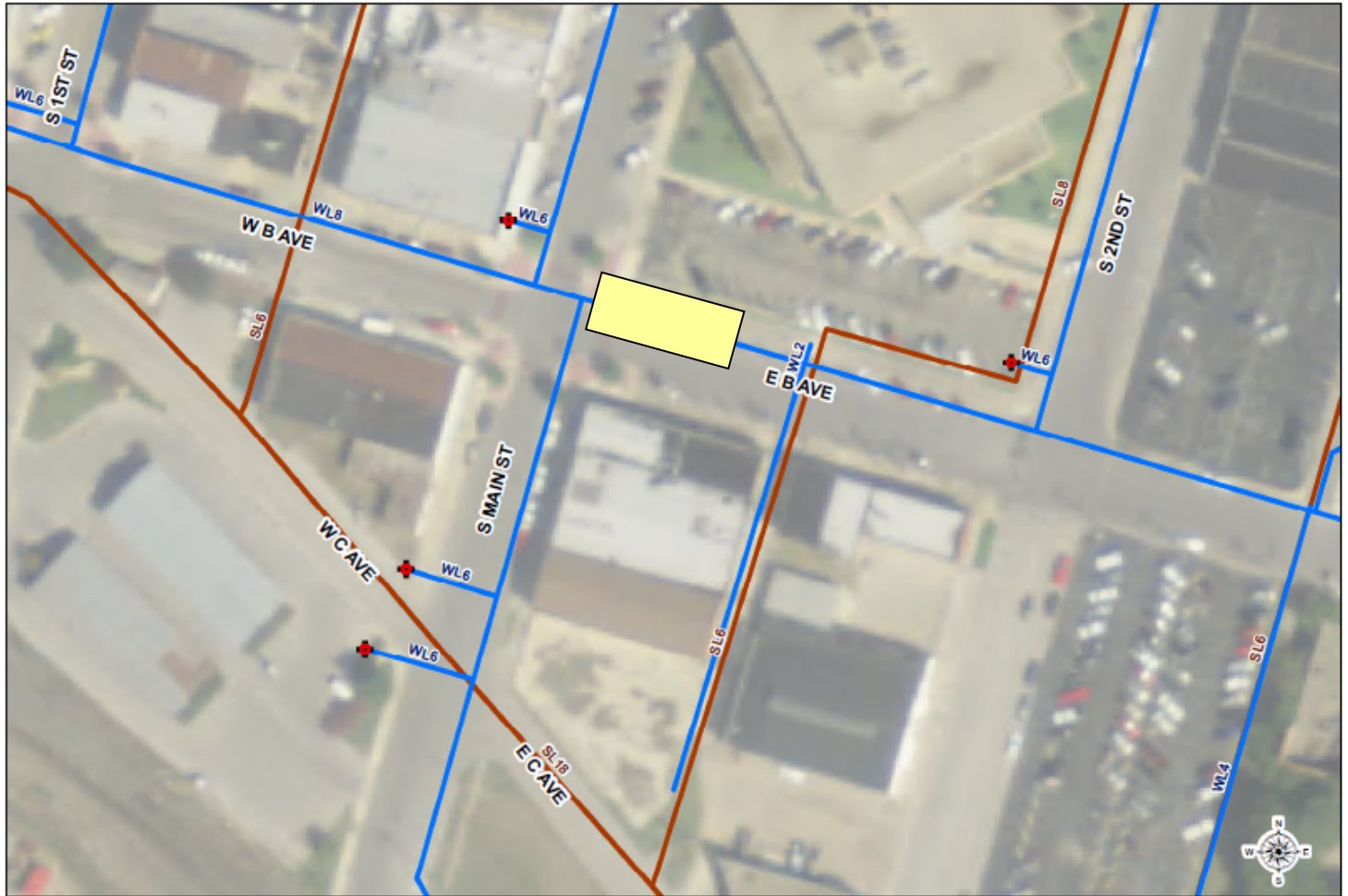
LMatlock Planning 2.25.11



Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



Z FY 11-25
Fire Hydrants



Domestic Water Lines
Sanitary Sewer Lines



Feet 0 50 100 150 200

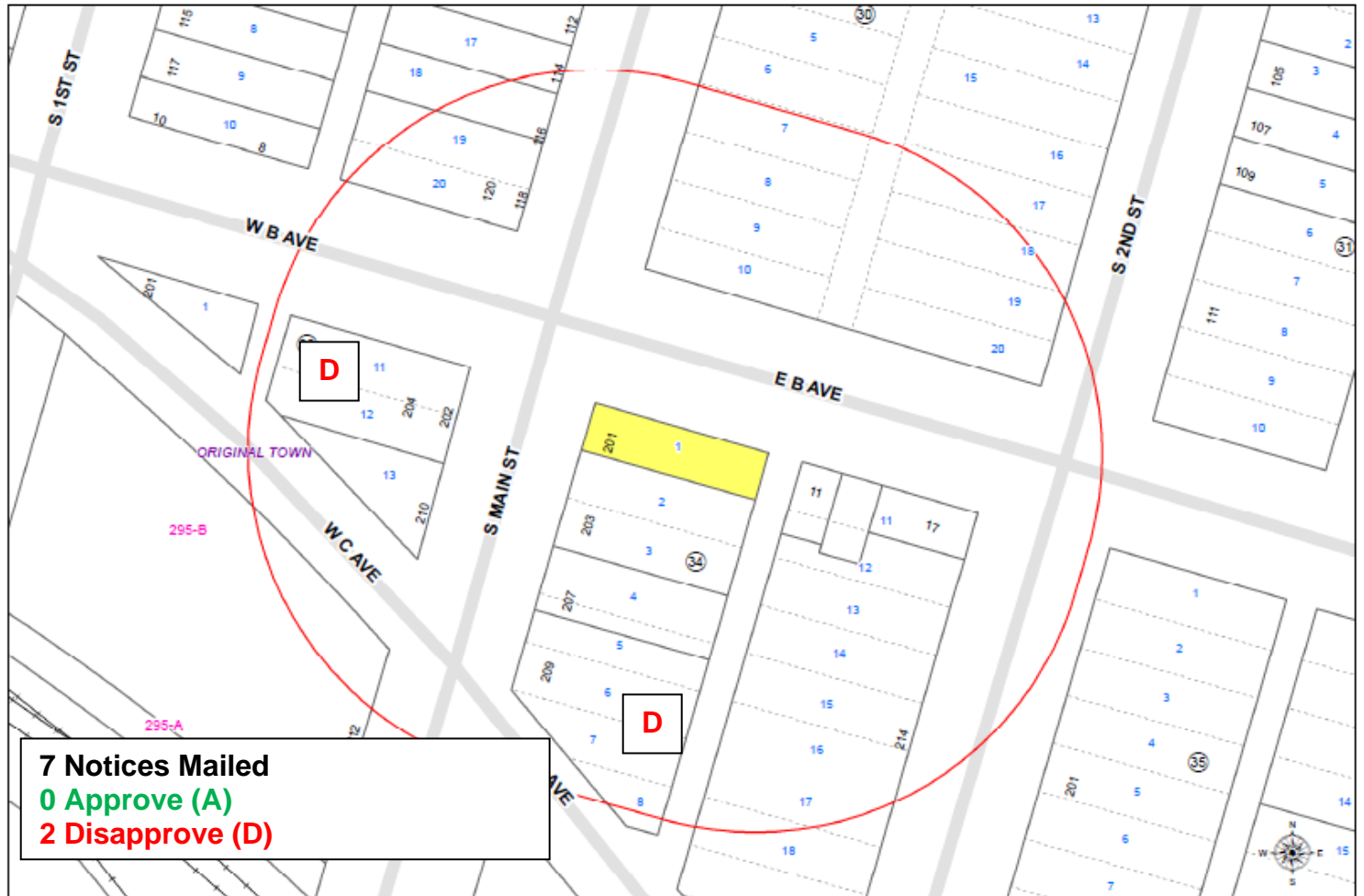
LMatlock Planning 2.25.11



Z-FY-11-25

Lot 1, Block 34,
Original Town Plat

201 S. Main Street



Yellow Z FY 11-25
Red 200' Buffer

Streets
Parcels
Addition Subdivisions

123 Addresses
123 Outblocks
123 Lots

5 Blocks

Feet 0 50 100 150 200

LMatlock Planning 2.25.11



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

R G R Inc.
Attn: R C Roberts, President
Muskogee, OK 74402

Zoning Application Number: Z-FY-11-25

Project Manager: Leslie Matlock

The proposed rezoning will allow a proposed lounge in 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:

NOT IN BEST INTEREST OF
TEMPLE DOWNTOWN

R. C. Roberts
Signature

R. C. ROBERTS
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 25 2011

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: March 9, 2011



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Joseph Etux Willie May Murray
2311 Fox Glen Lane
Temple, Texas 76502

Zoning Application Number: Z-FY-11-25

Project Manager: Leslie Matlock

The proposed rezoning will allow a proposed lounge in 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:

After careful consideration, I feel I must be in "denial of this request". I feel that "just a bar" in the down town area would not be of benefit to the downtown area.

A bar would take up already limited parking spaces for the nearby businesses. In the past, any time a bar has opened in the area there was always a problem with beer bottles and beer cans on the street and sidewalks. many times there were broken beer bottles which made it even harder to clean up.

I do not like seeing empty buildings, but for this proposal, I feel it would be of benefit only to the owner for the rental income.


Signature

JOSEPH P. MURRAY
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 21, 2011

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

RECEIVED

MAR 21 2011

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: March 9, 2011



PLANNING AND ZONING COMMISSION AGENDA ITEM

03/21/11
Item #6
Regular Agenda
Page 1 of 3

APPLICANT : Robert Flores, Applicant, on behalf of William Hurt, Owner

CASE MANAGER: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-11-25 - Hold a public hearing to discuss and recommend action on a rezoning from Light Industrial District (LI) to Central Area District (CA) on Lot One, Block 1, Original Town Plat, located at 201 South Main Street.




BACKGROUND: The applicant requests the rezoning in order to establish a lounge. The building on the subject property is approximately 3,300 square-feet in floor area and is a vacant former restaurant and bar. The building was built in 1925, according to Bell County Central Appraisal District.

The applicant proposes to serve beer and wine only in the lounge, with a maximum of 75% of sales in alcohol, which is permitted by right in both the current and the proposed district. In order to open the lounge, the applicant would have to provide off-street parking if the zoning remains LI. However, off-street parking requirements are not triggered in the requested CA district. Central Area zoning is directly adjacent to the subject property on two sides.

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	LI (CA proposed)	Vacant Nonresidential Building	 S. Main Street Entrance  E. Avenue B Entrance

Direction	Zoning	Current Land Use	Photo
North	CA	Federal Building and Parking Lot	
South	LI	Vacant Nonresidential Building	
East	LI	Nonresidential Building (across alley)	
West	CA	Nonresidential Building (across S. Main 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*

Document	Policy, Goal, Objective or Map	Compliance?
CP	Objective 7.2: Foster downtown retail development and establishing an entertainment and cultural district in downtown Temple.	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 Urban Center, which is the densest commercial area of the city. This CA rezoning request complies with this map.

Objective 7.2

This objective in the text of the Comprehensive Plan recommends that, in the future, the City foster establishing entertainment and cultural offerings in the Downtown area. The request supports this objective.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates N. Main Street and S. Ave. L as Local Roads. The request conforms to the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

An eight-inch domestic water line and an eight-inch sanitary sewer line serve the property, and are have capacity available for this property use.

DEVELOPMENT REGULATIONS:

According to the purpose statement of the CA zoning district in the Unified Development Code, the district is designed to allow most commercial, retail and office uses. Typical allowed uses include most residential, entertainment, auto, commercial and retail uses. Prohibited uses include, but are not limited to more industrial uses. Changing the zoning in this building would remove the more intense commercial uses from this property.

There is no minimum lot area, width, depth, or setback required for development in this district. This circa-1925 building is constructed to the property line and is in compliance with these requirements.

PUBLIC NOTICE:

Seven notices of the Planning and Zoning Commission public hearing were sent out. As of Wednesday, March 18, at 5:00 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 10, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-11-25, a rezoning from LI to CA 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 and Land Use
Character Map
Zoning Map

Thoroughfare Plan Map
Utility Map
Notice Map

Response Letters (if applicable)

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

MONDAY, MARCH 21, 2011

ACTION ITEMS

Item 6: Z-FY-11-25: Hold a public hearing to discuss and recommend action on a rezoning from Light Industrial District (LI) to Central Area District (CA) on Lot One, Block 1, Original Town Plat, located at 201 South Main Street.

Ms. Leslie Matlock stated this was a 3,300 square foot vacant building, zoned Light Industrial (LI), located at the southeast corner of Main Street and East B Avenue. Bars and lounges have previously occupied the building.

Surrounding properties include retail to the south and west, the Federal Building to the north and a loan company to the east. There are three restaurants in the area which are the only nighttime uses and the parking lots are available as is the street parking.

The Future Land Use Plan designates this area as Urban Center. Surrounding zoning includes Light Industrial (LI) and Central Area (CA). If the subject property were left as LI the lounge use is permitted by right, however, the applicant would have to secure parking for the use. If changed to CA, off-site parking would not be required and the ample street parking and underutilized parking lots could be used.

Seven notices were mailed out: one response was returned in denial. One telephone call was received from a citizen concerned about lounges in the area and Code Enforcement issues.

Staff recommends approval from LI to CA as the request complies with the Future Land Use and Character Map, the Thoroughfare Plan, and public facilities are available to serve the property. The parking is not an issue at this location since adjacent uses are daytime uses and significant parking surrounds this area.

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

Commissioner Staats made a motion to approve **Z-FY-11-25** from LI to CA and Commissioner Pope made a second.

Motion passed: (8:0)

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-25]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM LIGHT INDUSTRIAL DISTRICT (LI) TO CENTRAL AREA DISTRICT (CA) ON LOT ONE, BLOCK 1, ORIGINAL TOWN PLAT, LOCATED AT 201 SOUTH MAIN 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 rezoning from Light Industrial District (LI) to Central Area District (CA) on Lot One, Block 1, Original Town Plat, located at 201 South Main Street in the City of Temple, Bell County, Texas, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: 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 **21st** day of **April**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **May**, 2011.

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 MEMORADUM

04/21/11
Item #14
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Director of Community Services

ITEM DESCRIPTION: Consider adopting a resolution granting a street use license for a proposed shed with an encroachment of 4.5 feet into the 7.5 feet wide utility easement along the rear property line of Lot 1, Block 2, Steeplechase Phase 1, located at 1505 Sturbridge Drive.

STAFF RECOMMENDATION: Staff recommends denial of the requested street use license due to opposition from Oncor Electric Delivery.

ITEM SUMMARY: The applicants, Gordon E. and Myrlene Mullen, request this street use license to allow an 8'x10' shed on skids with an encroachment of 4.5 feet into a portion of the 7.5 feet wide utility easement described above in the item description. The proposed encroachment is the result of maintaining a separation distance of 10 feet from the existing house, as required by UDC Section 5.5.2 for detached accessory structures.

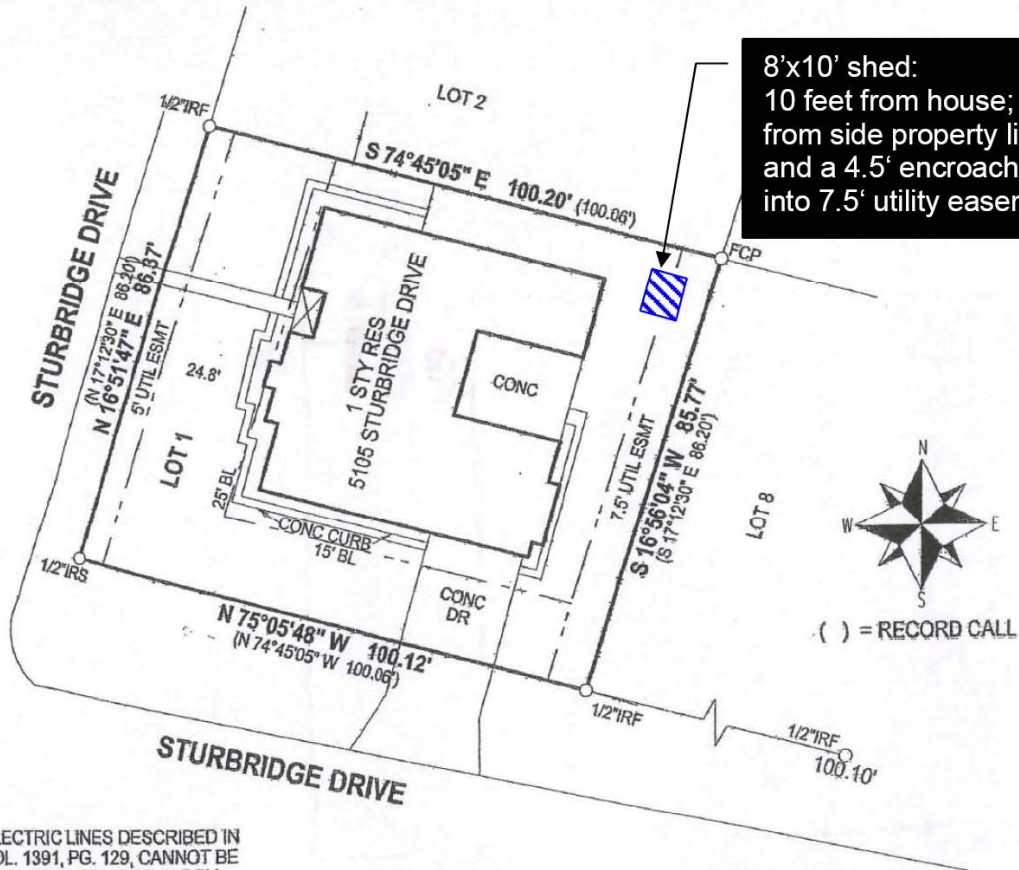
Staff notified all utility providers, including the City of Temple Public Works Department, regarding the applicants' requested street use license. AT&T Texas and Oncor Electric Delivery have buried cable facilities in the subject easement. Oncor Electric Delivery objects to the proposed storage shed being located over its underground electric line. Oncor Electric Delivery suggested the property owners call 1-800-DIG-TESS for utility locates as their underground service line could be impacted as well by the placement of the proposed storage shed. AT&T Texas does not object to the request if the storage building is on skids and moveable, but requests the applicants call AT&T Texas prior to any digging to verify exact locations of buried cables.

FISCAL IMPACT: Street use licenses require a \$150.00 fee for a 15-year term.

ATTACHMENTS:

Exhibit
Resolution

LOT ONE (1), BLOCK TWO (2), STEEPLECHASE PHASE I, A SUBDIVISION
IN THE CITY OF TEMPLE, BELL COUNTY, TEXAS, ACCORDING TO THE
MAP OR PLAT OF RECORD IN CABINET A, SLIDE 354-D, PLAT RECORDS
OF BELL COUNTY, TEXAS.



8'x10' shed:
10 feet from house; 3 feet
from side property line;
and a 4.5' encroachment
into 7.5' utility easement

ELECTRIC LINES DESCRIBED IN
VOL. 1391, PG. 129, CANNOT BE
LOCATED ON THIS TRACT BY
RECORD DESCRIPTION.

THIS SURVEY WAS MADE ON THE
GROUND. THERE IS NO VISIBLE
EVIDENCE OF EASEMENTS OR
CONFLICTS, EXCEPT AS SHOWN
HEREON.

RONALD E. OWINGS
DATE 3/9/2005
COPYRIGHT BY: RONALD E. OWINGS



CENTRAL TOPOGRAPHIC SERVICE

RONALD E. OWINGS, RPLS P.O. BOX 1801 BELTON, TX 76513
254-939-3700 FAX 254-939-3931

BY ACCEPTING THIS PLAT, THE PARTIES
LISTED HEREON AGREE THAT IT WILL NOT
BE USED FOR ANY OTHER TRANSACTION
OR PURPOSE, AND WILL NOT BE COPIED
FOR ANY REASON.

BUYER KAY S. MATOUS
LENDER DATA NOT PROVIDED
TITLE CO. CENTRALAND TITLE COMPANY
GF NO. C0542983

DATE OF LAST REVISION _____

SCALE 1" = 30'

UNIT 1 OF 1

FILE NO. 13252

Kay S. Matous

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A STREET USE LICENSE TO GORDON E. AND MYRLENE MULLEN, OR ANY SUCCESSORS IN INTEREST, TO OCCUPY, MAINTAIN AND UTILIZE PROPERTY AT 1505 STURBRIDGE DRIVE, FOR A PROPOSED 4.5 FOOT ENCROACHMENT INTO A 7.5 FOOT WIDE UTILITY EASEMENT ALONG THE REAR PROPERTY LINE OF LOT 1, BLOCK 2, STEEPLECHASE PHASE 1, FOR A PROPOSED SHED; PROVIDING FOR THE TERMS AND CONDITIONS OF THIS LICENSE; PROVIDING FOR COMPENSATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, a Street Use License has been requested for property located at 1505 Sturbridge Drive to allow a 4.5 foot encroachment into a 7.5 foot wide utility easement along the rear property line for a proposed shed;

Whereas, the use of the property is not inconsistent, nor will it interfere, with any present City use of the property; however, the Staff recommends denial of the requested street use license due to the opposition from Oncor Electric Delivery; and

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

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

Part 1: A Street Use License is granted to **Gordon E. and Myrlene Mullen**, or any successors in interest, hereinafter "Licensee," to occupy, maintain, and utilize property at 1505 Sturbridge Drive, to allow a 4.5 foot encroachment into a 7.5 foot wide utility easement along the rear property line of Lot 1, Block 2, Steeplechase Phase I, for a proposed shed, more fully shown on Exhibit "A," attached hereto and made a part hereof for all purposes. This Street Use License is approved in accordance with the following terms and conditions:

I. Term

This license is granted for a term of fifteen (15) years unless sooner terminated according to the terms and conditions herein contained. At the end of the fifteen year period, the owner may request an extension or renewal of the license.

II. Fee

Licensee shall pay to the City of Temple, Texas, the sum of One Hundred Fifty Dollars (\$150) for the fifteen (15) year term for the license herein granted upon the execution by Licensee and approval by the City of the agreement.

III. Purpose

The above-described property shall be used by the Licensee to utilize property at 1505 Sturbridge Drive, to allow a 4.5 foot encroachment into a 7.5 foot wide utility easement along the rear property line of Lot 1, Block 2, Steeplechase Phase I, for a proposed shed.

IV. Conditions of License

That the above-described license is granted subject to the following conditions, terms, and reservations:

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

(1) Licensee shall maintain the encroachment area at all times in a neat, attractive, and orderly manner. A sufficient area of the public street, right-of-way, alley, sidewalk, or other public property shall remain open after the encroachment, unobstructed and preserved for pedestrian or vehicular traffic (including access for impaired or handicapped persons), as appropriate. No other permanent structure, building, or enclosure shall be installed within the public right-of-way. Licensee shall at all times allow access to utilities and trash receptacles located within the encroachment area.

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

(3) In the event that City requests removal of the encroachment or any other physical improvement in the area of the license, Licensee shall remove said improvement at his own expense within thirty (30) days of notice thereof. In the event that Licensee fails to remove the improvements within the required thirty day period, the City reserves the right to remove the improvements, and Licensee agrees to reimburse the City for the expense of removing said improvements, and Licensee further agrees to hold the City harmless for any and all claims arising out of the removal of improvements or maintenance of the encroachment area. City shall not be required to restore the improvements, which shall be the sole responsibility of Licensee.

(b) **Right of Cancellation.**

(1) This license is made subordinate to the right of the City to use said area for a public purpose, and in addition to any other reservations made herein, it is understood and agreed that should the City of Temple deem it in the public interest to use the above area, or any portion thereof for a public purpose, or for any utility service which will require the use

of said area, then in that event, the City shall give the Licensee thirty (30) days written notice of its intention to cancel this license. Licensee shall likewise have the same right of cancellation upon giving the City thirty (30) days written notice of its intention to cancel.

In either event, upon the termination or cancellation by the City or Licensee, as the case may be, this license shall become null and void, and Licensee or anyone claiming any rights under this instrument shall remove any improvements from said area at Licensee's expense. Failure to do so shall subject Licensee to the provisions of subsection (a)(2) above. All work shall be done at the sole cost of the Licensee and to the satisfaction of the Director of Public Works. The decision of the City Council in this matter shall be final and binding upon all parties insofar as the City's determination as to the public necessity of the use of said area for public use.

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

(d) **Hold Harmless.**

(1) As a condition hereof, Licensee agrees and is bound to hold the City whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the use, occupancy and maintenance of the above-described public property by Licensee, or from any act or omission of any representative, agent, customer, or employee of Licensee, and such indemnity provision shall also cover any personal injury or damage suffered to City property, City employees, agents or officers. This license shall also cover any claim for damages that any utility, whether publicly or privately owned, may sustain or receive by reason of Licensee's use of said license for Licensee's improvements and equipment located thereon.

(2) Licensee shall never make any claim of any kind or character against the City of Temple for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water and/or sanitary sewer mains, and/or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.

(3) It is the intention of this indemnity agreement on the part of the Licensee and a condition of this license, that it shall be a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the City of Temple by reason or a consequence of having granted permission to Licensee to use and maintain the above described public property. Licensee hereby agrees to defend any and all suits, claims, or causes of action brought against the City of Temple on account of same, and discharge any judgment or judgments that may be rendered against the City of Temple in connection herewith.

V. Acceptance by Licensee

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

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

PASSED AND APPROVED on the **21st** day of **April**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of April, 2011, by William A. Jones, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas

AGREEMENT OF LICENSEE

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

We, **Gordon E. and Myrlene Mullen**, hereby accept the terms and conditions of Resolution No. _____ granting a Street Use License for property located at 1505 Sturbridge Drive, to allow a 4.5 foot encroachment into a 7.5 foot wide utility easement along the rear property line of Lot 1, Block 2, Steeplechase Phase I, for a proposed shed.

Gordon E. Mullen

Myrlene Mullen

County of Bell §

State of Texas §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Gordon E. Mullen and Myrlene Mullen.

Notary Public, State of Texas