



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, NOVEMBER 3, 2011

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 3, 2011.
2. Receive an updated on the Sustainability Plan.
3. 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 City Attorney. No final action will be taken.

5:00 P.M.

MUNICIPAL BUILDING

**2 NORTH MAIN STREET
CITY COUNCIL CHAMBERS – 2ND FLOOR
TEMPLE, TX**

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Recognize State Representative, Ralph Sheffield, District 55
(B) Municipal Court Week November 7–11, 2011
(C) “Recycle On The Go” November 11, 2011
4. Recognize the City of Temple for receiving the 2011 Municipal Excellence Award from the Texas Municipal League.
5. Recognize the City of Temple’s Finance Department for receiving the Certificate of Achievement for Excellence in Financial Reporting.

III. PUBLIC COMMENTS

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

IV. CONSENT AGENDA

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

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

Minutes

- (A) [October 20, 2011 Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) [2011-6468-R](#): Consider adopting a resolution authorizing the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.
- (C) [2011-6469-R](#): Consider adopting a resolution authorizing a contract for a professional services agreement with Kasberg, Patrick & Associates, LP., to design a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway, in an amount not to exceed \$63,600.
- (D) [2011-6470-R](#): Consider adopting a resolution endorsing the continuation of the existing pretreatment program as required by 40 CFR 403 for the Doshier Farms Wastewater System.
- (E) [2011-6471-R](#): Consider adopting a resolution authorizing amendments to the 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 \$22,300 plus waiver of permit and other fees.

Ordinances – Second & Final Reading

- (F) [2011-4483](#): SECOND READING - Z-FY-11-47: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development – Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 South General Bruce Drive.

Misc.

- (G) [2011-6472-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

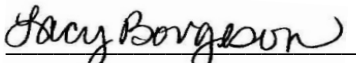
V. REGULAR AGENDA

ORDINANCES

7. FIRST READING – PUBLIC HEARING - Consider adopting ordinances amending:
- (A) [2011-4484](#): Chapter 7, “Buildings,” of the Code of Ordinances, by adopting the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.
 - (B) [2011-4485](#): Chapter 12, “Fire Prevention and Protection,” of the Code of Ordinances, by adopting the 2009 International Fire Code.
 - (C) [2011-4486](#): Chapter 21, “Minimum Housing Standards,” of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.
8. [2011-4487](#): FIRST READING-PUBLIC HEARING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans to appropriate \$600,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue U from S&W Boulevard to 1st Street to the 13th to 17th connector from Avenue R to Loop 363.
9. [2011-4488](#): FIRST READING – PUBLIC HEARING - Z-FY-11-50 - Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Road South of Conner Park and North of Brandon Drive.
10. [2011-4489](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending the City’s strategic investment zones incentive policies.

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 5:00 PM, on October 28, 2011.



Lacy Borgeson
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

11/03/11
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

- (A) Recognize State Representative, Ralph Sheffield, District 55
- (B) Municipal Court Week November 7-11, 2011
- (C) "Recycle On The Go" November 11, 2011

STAFF RECOMMENDATION: Present proclamation as presented in item description.

ITEM SUMMARY: (A) This proclamation will be received by State Representative, Ralph Sheffield, District 55.

(B) This proclamation was requested by, and will be received by, Municipal Court Judge Kathleen Person.

(C) This proclamation was requested by, and will be received by, Tanya Gray, Executive Director of Keep Temple Beautiful.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager

ITEM DESCRIPTION: Recognize the City of Temple for receiving the 2011 Municipal Excellence Award from the Texas Municipal League.

STAFF RECOMMENDATION: Present recognition as presented in item description.

ITEM SUMMARY: At the recent Texas Municipal League Annual Conference and Exhibition, held in Houston on October 11-14, the City of Temple was presented the 2011 Municipal Excellence Award in City Spirit for cities of more than 25,000 population. The award recognizes the city for its Strategic Investment Zone Program. A short video that was played at the award ceremony will be shown.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #5
Regular Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Recognize the City of Temple's Finance Department for receiving the Certificate of Achievement for Excellence in Financial Reporting.

STAFF RECOMMENDATION: Present recognition as presented in item description.

ITEM SUMMARY: The Certificate of Achievement for Excellence in Financial Reporting was awarded to the City of Temple by the Government Finance Officers Association of the United States and Canada for its comprehensive annual financial report (CAFR). The certificate is the highest form of recognition in the area of governmental accounting and financial report. Its attainment represents a significant accomplishment by a government and its management.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #6(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) October 20, 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:

October 20, 2011 Special Called and Regular Meeting

TEMPLE CITY COUNCIL

OCTOBER 20, 2011

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 20, 2011, at 3:00 P.M., at the Municipal Building, 2 North Main Street, in the 3rd Floor Conference Room.

Present:

Councilmember Perry Cloud

Councilmember Danny Dunn

Mayor Pro Tem Russell T. Schneider

Councilmember Judy Morales

Mayor William A. Jones, III

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 20, 2011.

Mayor Jones discussed this item. Items #6(C),(L),(Q-2),(U) and (W) were discussed.

Regular Agenda Item 6(C) - Contract with Patin Construction, for Phase 2 of the Water Treatment Plant Emergency Power Improvements: Mayor Pro Tem Schneider inquired on adding the alternate which would change the contract award to Alpha Constructors.

Regular Agenda Item 6(L) - Professional Services Agreement with Carollo Engineers, PC of Austin: Mayor Pro Tem Schneider asked that this item be tabled for time to gather more information. Ms. Torralva, Director of Public Works noted there was no immediate need and this would not pose a problem for this project.

Regular Agenda Item 6(Q-2) - Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plan- Airport Corporate Hanger Project: Mayor Pro Tem Schneider asked that this item be pulled for voting purposes.

Regular Agenda Item 6(U) - Construction contract with Patin Constructions, LLC for Airport Corporate Hangar development: Mayor Pro Tem Schneider asked that this item be pulled for voting purposes.

Regular Agenda Item 6(W) - Lease agreement with McLane Company for aircraft hangar: Mayor Pro Tem Schneider asked that this item be pulled for voting purposes.

2. Receive an update on the Curbside Recycling Program.

Nicole Torralva, Director of Public Works gave a brief presentation on the

program. She noted the pilot program has been in place since July 2011. Out of 26 collection routes, one was selected for the pilot program. This route is along Canyon Creek Drive to Stratford Drive; approximately 1,200 homes. This area allows for review of possible long term issues. We are using current staff and collection trucks for this program. Ms. Torralva stated that we are in the 90-day evaluation period at this point and are currently gathering performance measures for several areas to include customer participation, weekly landfill diversion, quality, operations, and satisfaction. She added that we are diverting about 20% from the landfill.

Ms. Lisa Sebek, noted that with more education to the citizens, this number will improve.

Mr. Bauchmeyer, Temple Iron & Metal noted 20% is a good number for Temple.

Ms. Torralva continued with noting that the City's operation has worked smooth and appears the program is working.

Mayor Pro Tem Schneider asked if the city was paying any additional dollars for this program?

Ms. Torralva replied no.

Mayor Pro Tem Schneider also inquired on placing the cans on one side of the street, which could possibly reduce the time and obstacles for the drivers.

Ms. Sebek stated that was a possibility and would need to be researched further.

Ms. Torralva noted the next and last community meeting would be Monday, October 24, 2011 at the Church of Christ on 31st Street. Ms. Torralva followed with recommendations to continue the existing route and expanding to another 1,200 homes.

David Blackburn noted there is about 93% participation with a 20% diversion. He also commented that this is considered an enhanced level of service for our residence, which they have accepted. Mr. Blackburn also noted that by expanding the program the city may acquire additional costs.

- 3. Discuss the landfill expansion. Executive Session ? Pursuant to Chapter 551, Government Code, §551.072 ? Real Property ? The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party**

Mayor Jones stated the City Council would enter into an executive session at this time, approximately 3:45 p.m.

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

Mayor Jones reconvened the worksession at approximately 5:00 p.m., with no action being taken by the City Council.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 20, 2011 at 5:00 PM in the Council Chambers, Municipal Building, 2nd Floor, 2 North Main Street.

Present:

Councilmember Perry Cloud
Councilmember Danny Dunn
Mayor Pro Tem Russell Schneider
Councilmember Judy Morales
Mayor William A. Jones, III

I. CALL TO ORDER

1. Invocation

Pastor Dana Wilhelmsen, Immanuel Lutheran Church voiced the Invocation.

2. Pledge of Allegiance

Pastor Dana Wilhelmsen, led the Pledge of Allegiance.

II. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Community Planning Month October, 2011

Mayor Jones presented the proclamation to Brian Mabry, Director of Planning and Staff Members

**(B) Make A Difference Day & October 22, 2011
E-Waste Event**

Mayor Jones presented the proclamation to Tanya Gray, Executive Director of Keep Temple Beautiful.

Ms. Gray introduced Jennifer Lawyer, CTCOG, Joan Reeves, E-Waste Disposal. She also invited everyone to Holy Trinity Catholic High School - October 22nd from 9:00 am -12:00 pm to participate in the electronic waste and household item event.

4. Recognize Tracy Klusacek, Temple Parks and Leisure Services Athletics Coordinator for receiving the "Young Professional of the Year" award.

Ken Cicora, Director of Parks and Leisure Services recognized Tracy Klusacek for being selected as the recipient of this award. Ms. Klusacek received the Texas Amature Athletics Association, Young Professionals Award on Saturday, September 19, 2011. Ms. Klusacek has served as Temple's Athletic Coordinator since 2001 and has helped to grow the program by adding events. Mr. Cicora noted that Tracey is an asset to the department.

III. PUBLIC COMMENTS

No public comments

IV. BONDS

5. 2011-4482: FIRST & FINAL READING - PUBLIC HEARING - Consider adopting an Ordinance Authorizing the issuance of City of Temple, Texas General Obligation Refunding Bonds, Series 2011A; Approving an Official Statement, a Paying Agent/ Registrar Agreement, a Bond Purchase Agreement and an Escrow Agreement; Establishing the Procedures for selling and delivering the bonds; and Authorizing Other matters Relating to the Bonds.

Traci Barnard, Director of Finance presented this item and introduced Dan Wegmiller and Jana Edwards. She noted that is an opprotunity to have seven existing bond issues.

Dan Wegmiller, Specialized Public Finance, Inc. gave a brief presentation to the Council and Staff. Mr. Wegmiller stated this is for a delegation for up to \$50 million for various pieces of existing debt. The state has authorized the City to delegate that authority and enter the market when the timing is right to do so. Mr. Wegmiller noted that at this stage we are looking at \$13.5 million that hit within the parameters of savings for the city; we are estimating \$700,000 in savings by refinancing the existing debt. We hope to get bond ratings back next week and then go to the market.

Jana Edwards, McCall, Parkhurst and Horton commented on the

ordinance and the parameters described by Mr. Wegmiller. Ms. Edwards added this delegation ordinance is good for six months, extending to April 20, 2012.

Mayor Jones declared the public hearing open with regard to agenda item 5 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Judy Morales adopt ordinance as presented on first and final reading, seconded by Councilmember Danny Dunn.

V. CONSENT AGENDA

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

(A) October 6, 2011 Special Called and Regular Meeting

(B) 2011-6447-R: Consider adopting a resolution ratifying an emergency construction contract with K&S Backhoe Services of Gatesville for emergency repair of approximately 40 water leaks in various locations throughout the City in the amount of \$56,000.

(C) 2011-6448-R: Consider adopting a resolution authorizing a construction contract with Patin Construction, of Taylor for activities required to construct the maintenance building, Phase 2A of the Water Treatment Plant Emergency Power Improvements, in an amount not to exceed \$571,175.

(D) 2011-6449-R: Consider adopting a resolution authorizing the purchase of a Caterpillar 420E ITC4S backhoe loader from Holt Caterpillar utilizing the BuyBoard in the amount of \$88,813, and authorizing the trade-in of a 2004 backhoe against this purchase in the amount of \$35,000, for a net cost of \$53,813.

(E) 2011-6450-R: Consider adopting a resolution authorizing the purchase of a Caterpillar D4K LGP dozer from Holt Caterpillar utilizing the BuyBoard in the amount of \$107,138, and authorizing the trade-in of a 2000 dozer against this purchase in the amount of \$32,000, for a net cost of \$75,138.

(F) 2011-6451-R: Consider adopting a resolution authorizing a renewal to the purchase agreement with Casco Industries for the purchase of fire fighting protective clothing utilizing the City of North Richland Hills annual contract in the estimated amount for

FY 2012 of \$37,140.80.

(G) 2011-6452-R: Consider adopting a resolution authorizing an annual purchase agreement with E Z Seal, LLC of Van Alstyne for cold pour crack sealant at \$404.96 per 55-gallon drum for FY 2012 in the estimated annual amount of \$48,595.20.

(H) 2011-6453-R: Consider adopting a resolution authorizing the purchase of an annual maintenance contract for FY2012 with Environmental Systems Research Institute (ESRI) for GIS Software in the amount of \$26,074.

(I) 2011-6454-R: Consider adopting a resolution authorizing the purchase of an annual maintenance contract for FY2012 with Sungard HTE in the amount of \$148,173.10.

(J) 2011-6455-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, (KPA) for engineering services required for Rehabilitation of Nugent Tank in north Temple in an amount not to exceed \$84,500.

(K) 2011-6456-R: Consider adopting a resolution authorizing a professional service agreement with Clark & Fuller, PLLC, of Temple for engineering services including design, surveying and construction administration required for Wastewater Line Replacement on North 6th from the Cemetery to Jackson Trunk Main in an amount not to exceed \$133,770.72.

(L) 2011-6457-R: Consider adopting a resolution authorizing a professional services contract with Carollo Engineers, PC, of Austin for engineering services required for Water Treatment Rehabilitation Project #1 (Chemical Feed and Sludge Handling Improvements Project), in an amount not to exceed \$817,901.

(M) 2011-6458-R: Consider adopting a resolution authorizing a professional service agreement with Clark & Fuller, PLLC, of Temple for engineering services including design, surveying and construction administration required for Wastewater Line Replacement on Marlandwood Road to Canyon Creek between South 31st Street and Cole Porter in an amount not to exceed \$162,558.23

(N) 2011-6459-R: Consider adopting a resolution authorizing an Interlocal Agreement with the Temple Independent School District to reimburse costs for Juvenile Case Managers associated with the operation of a Teen Court Program.

(O) 2011-6460-R: Consider adopting a resolution authorizing the Solid Waste Services Division of the Department of Public Works to apply for a grant in the amount of \$20,000 through an Interlocal Agreement with the Central Texas Council of Governments to perform a household hazardous waste collection event in Temple for a spring time date.

(P) 2011-6461-R: Consider adopting a resolution authorizing the renewal of the Emergency Management Performance Grant (EMPG) for FY2011, which funds a portion of the administration cost for Emergency Management for the City of Temple.

(Q) 2011-4477: SECOND READING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:

- 1. Appropriating \$450,000 to the Pepper Creek Trail Connection to Scott & White by recognizing a contribution from Scott & White Healthcare in the amount \$350,000 and reallocating \$100,000 from Professional Services.**
- 2. Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.**
- 3. Appropriating \$400,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue R-S&W Blvd, Avenue R - 19th Street Intersections.**

(R) 2011-4478: SECOND READING - Consider amending the Code of Ordinances by repealing the current Article V, "Industrial Wastes Standards," of Chapter 38, "Water, Sewers and Sewage Disposal," and adopting a new Article V, "Industrial Wastes Standards," of Chapter 38, "Water, Sewers and Sewage Disposal," and authorizing any other changes to the Industrial Pre-Treatment Program as required by law.

(S) 2011-4480: SECOND READING - Z-FY-11-44: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development - Two-Family District (PD-2F) on Lot 1, Block 1, West Ridge Commercial Addition, Phase 1, being 3.384 - acres located on the southwest corner of 205 Loop

and East Ridge Boulevard.

(T) 2011-4481: SECOND READING - Z-FY-11-45: Consider adopting an ordinance authorizing a rezoning from Agricultural District (AG) to Commercial District (C) on 10.143 ± acres of land, located at the northeast corner of Martin Luther King, Jr. Drive and State Highway 36.

(U) 2011-6462-R: Consider adopting a resolution authorizing a construction contract with Patin Construction, LLC of Taylor related to the construction of the Airport corporate hangar development area:

- 1. A construction contract in the amount of \$2,560,520.50, which includes the base bid amount of \$2,403,235.50 and bid alternates C and F in the amount of \$157,285; and**
- 2. A deductive change order in the amount of \$506,870 that reduces the scope of services in the base bid making the revised contract value \$2,053,650.50.**

(V) 2011-6463-R: Consider adopting a resolution authorizing submission of an application for funding through the U.S. Department of Transportation, National Infrastructure Investment Grant (TIGER III) in the amount of \$14,230,000, with \$10,000,000 reimbursed to the City through federal funding, to execute the construction of the 1st Street and Loop 363 project, and the construction of hike and bike trails along 1st Street and south along Friar's Creek Trail

(W) 2011-6464-R: Consider adopting a resolution authorizing the City Manager to execute a lease agreement between the City of Temple and McLane Company, Inc., permitting the Lessee to lease a 300 foot x 334.75 foot tract of land and construct a 230 foot x 107 foot private aircraft hangar at the Draughon-Miller Central Texas Regional Airport.

(X) 2011-6465-R: Consider adopting a resolution adopting ethical standards and training standards for Juvenile Case Managers employed by the City of Temple, providing for implementation of said standards, and providing for periodic review to ensure implementation of the requisite standards.

(Y) 2011-6466-R: Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

Motion by Councilmember Perry Cloud adopt resolution approving Consent Agenda with exception of item #6(C), (L), (Q-2), (U) and (W). seconded by Mayor Pro Tem Russell Schneider.

(C) 2011-6448-R: Consider adopting a resolution authorizing a construction contract with Patin Construction, of Taylor for activities required to construct the maintenance building, Phase 2A of the Water Treatment Plant Emergency Power Improvements, in an amount not to exceed \$571,175.

Mayor Pro Tem Schneider commented on the bid package. He noted this was awarded without the add alternate for drainage work that is necessary for the area. Motion to award contract to Alpha Constructors Inc. with add alternate for an amount of \$594,333.

Mayor Jones asked Ms. Torralva, Director of Public Works if this would be of benefit for the area to move as suggested by Mayor Pro Tem Schneider.

Ms. Torralva, stated this area is in need of this work and would be acceptable.

Mayor Pro Tem Schneider motioned to award a contract to Alpha Contractors with the add alternate in the amount of \$594,333 and submitting the necessary budget amendment.

Motion by Mayor Pro Tem Russell Schneider adopt resolution as presented by Mayor Pro Tem Schneider seconded by Councilmember Judy Morales.

(L) 2011-6457-R: Consider adopting a resolution authorizing a professional services contract with Carollo Engineers, PC, of Austin for engineering services required for Water Treatment Rehabilitation Project #1 (Chemical Feed and Sludge Handling Improvements Project), in an amount not to exceed \$817,901.

Mayor Pro Tem Schneider requested this item be tabled for additional information.

Nicole Torralva, Director of Public Works advised there was not an immediate need to award the contract at the meeting.

Motion by Mayor Pro Tem Russell Schneider to table resolution seconded by Councilmember Danny Dunn.

(Q) 2011-4477: SECOND READING - Consider adopting an ordinance authorizing amendments to the Tax Increment

Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:

2. Appropriating \$800,000 to the Airport Corporate Hangar Project by reallocating \$450,000 from Public Improvements in North Zone, \$300,000 from the Outer Loop, and recognizing \$50,000 in revenue from a TxDOT RAMP grant.

Mayor Pro Tem Russell T. Schneider abstained all others voted aye.

Motion by Councilmember Perry Cloud adopt ordinance on second and final reading, seconded by Councilmember Judy Morales.

(U) 2011-6462-R: Consider adopting a resolution authorizing a construction contract with Patin Construction, LLC of Taylor related to the construction of the Airport corporate hangar development area:

- 1. A construction contract in the amount of \$2,560,520.50, which includes the base bid amount of \$2,403,235.50 and bid alternates C and F in the amount of \$157,285; and**
- 2. A deductive change order in the amount of \$506,870 that reduces the scope of services in the base bid making the revised contract value \$2,053,650.50.**

Mayor Pro Tem Russell T. Schneider abstained and all others voted aye.

Motion by Councilmember Perry Cloud adopt resolution seconded by Councilmember Danny Dunn.

(W) 2011-6464-R: Consider adopting a resolution authorizing the City Manager to execute a lease agreement between the City of Temple and McLane Company, Inc., permitting the Lessee to lease a 300 foot x 334.75 foot tract of land and construct a 230 foot x 107 foot private aircraft hangar at the Draughon-Miller Central Texas Regional Airport.

Mayor Pro Tem Russell T. Schneider abstained and all others voted aye

Motion by Councilmember Danny Dunn adopt resolution seconded by Councilmember Judy Morales.

VI. REGULAR AGENDA

ORDINANCES

7. **2011-4483: FIRST READING - PUBLIC HEARING - Z-FY-11-47: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development - Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 South General Bruce Drive.**

Brian Mabry, Director of Planning presented this case to the Council. Mr. Mabry gave background on this case. Subject property is for an auto showroom with existing storage in the rear. This proposal for Planned Development is to allow a larger sign than what is allowed through the I-35 Overlay Zoning District. Currently monumental signs are allowed in this zoning district. With direction from Council, Staff will look at amending the I-35 Corridor regulations regarding signs in the future. Mr. Mabry presented photos of the surrounding properties and land uses. The Land Use map designates this area as auto-urban commercial with the use and sign being appropriate for that designation. The proposed sign will have a 16-foot set back from the front property line; with a rock planter and stone pole vanier. Mr. Mabry added the proposed sign is to be 24-feet in heighth, and approximately 14-feet in width. Mr. Mabry noted that on September 19, 2011, the Planning and Zoning Commission recommended approval of the planned development proposal. Mr. Mabry also added that given the speed and elevation of I-35, the staff recommends approval.

Mayor Jones asked if this was within the I-35 Overlay Area?

Mr. Mabry responded yes.

Mayor Jones inquired on any expansions on the frontage roads.

Mr. Mabry stated that work is more concentrated in the Northern sections of the interstate.

Mayor Jones declared the public hearing open with regard to agenda item 7 and asked if anyone wished to address this item. There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Danny Dunn adopt ordinance, with second and final reading set for November 3, 2011, seconded

by Councilmember Perry Cloud.

RESOLUTIONS

8. **2011-6467-R: P-FY-11-45: Consider adopting a resolution authorizing the Final Plat of Saddle Brook Subdivision, a 10.91± acre, 32-lot residential subdivision, with developer's requested exception to Section 8.5.1 of the Unified Development Code requiring perimeter street fees, located at the southwest corner of Hogan Road and South Pea Ridge Road.**

Brian Mabry, Director of Planning presented this case to Council and noted the applicant as Fryer's Ridge Limited. Mr. Mabry presented photos of the area showing boundaries of the subject property; also adding the drainage tract that borders the south-west sides. This application was considered administratively complete on September 12, 2011 with it being approved by Planning and Zoning on September 19th along with the requested exceptions. Mr. Mabry added this property is zoned Office-Two; and the plat is for residential which is an accepted use. The subject property is 11 acres, 32 residential lots with 64 units if built as duplexes. Mr. Mabry stated the applicant is requesting exception to the UDC and the perimeter street fee requirement. Mr. Mabry presented photos and drawings of the area. Hogan is a collector street which requires 55-foot of right of way and 36-foot wide paved width. This particular portion of Hogan has a 60-foot wide right of way and 26-foot paved width with no curb and gutter. The paved width is 10 feet short; this triggering the perimeter street fees. Mr. Mabry stated the applicant estimates the perimeter street fees to be \$43,750 to widen the street and has proposed donating to the City, the drainage tract which the applicant values at \$45,000. Mr. Mabry noted that Staff does not support the request since the City is not in need of this drainage tract. Mr. Mabry added the easement serves that purpose.

Mayor Jones clarified that staff recognizes there not being a need for tract as being proposed in place of fees.

Mr. Mabry replied yes and noted the right of way is wide enough as is.

Mayor Jones inquired on the City's plans for expansion of Hogan in the future.

Mr. Mabry stated Hogan was not on the Capital Improvement Plan but is on a mobility report as a higher priority road.

Mayor Pro Tem Schneider asked where the property line was in relation to the drainage channel.

Mr. Mabry stated it is on the property as an existing easement.

Mayor Pro Tem asked, if not dedicated to the City, can we still access that drainage channel?

Mr. Mabry, yes Sir.

Mayor Pro Tem Schneider asked who would maintain that channel from Hogan, just short of Pea Ridge?

Mr. Mabry, the City would maintain.

Councilmember Dunn asked if applicant pays taxes on the property with the easement?

Mr. Mabry, yes but if dedicated as a tract, it will become City property.

Mayor Jones inquired on what the city has collected for perimeter street fees in this area.

Mr. Mabry replied there have been a few cases.

Pat Patterson, 4212 South 5th Street, Temple stated this is a small lot development with 32 lots. Over the years many developments have been granted the exception to the street fees. Mr. Patterson noted that 15 years ago he paid the city perimeter street fees for a development and no improvements have been made by the city. There are many issues with this ordinance and it needs to be revised. Mr. Patterson noted that easement was part of the purchase and has very little value to him or the City; but citizens benefit from it being maintained by the city. This project will upon completion will be valued close to \$4-million dollars added Mr. Patterson, which will produce \$24,000-\$25,000 in property taxes for the city. Mr. Patterson added he is in favor of revising the ordinance and requests exception to the perimeter street fees for this development.

David Blackburn, City Manager noted that this ordinance is being looked at and Mr. Patterson is not the only one requesting relief of the fees. He noted that he was looking at Council's comments as criteria for the other cases requesting exception to the fees.

Jonathan Graham, City Attorney commented that yes, this ordinance needs to be revised and staff is working on that. Mr. Graham, stated that each case has a tailored look and no two cases are handled the same. Mr. Graham added that he has offered another approach in lieu of waiving fees, by posting a letter of credit with a bank for a period of time.

Councilmember Dunn agreed that each case needs to be reviewed, but also that we need to revise the ordinance. He stated that he is not comfortable to ask the applicants to hold off of development while the City addresses the issue.

Councilmember Cloud agreed.

Mayor Jones asked if the lots faced Hogan Road.

Mr. Patterson, yes.

Mayor Pro Tem Schneider asked if the driveways will be backing onto Hogan?

Mr. Patterson, yes the 8 lots will be.

Mayor Pro Tem Schneider asked if this is allowed?

Mr. Mabry, stated yes it is allowed on a collector street.

Councilmember Morales commented that yes, we need to review the ordinance without holding back the developers.

Mayor Jones, stated there is a policy in place and no one has to be held back.

Mayor Pro Tem Schneider voiced concerns about backing onto Hogan Road.

Mr. Patterson stated the lots are small but it could be looked at.

Mayor Jones asked if there would be street parking?

Mr. Patterson stated there were no curbs or gutters.

Randy Harrell, 2106 Bird Creek Dr. addressed the ordinance and policy regarding number of street fee waivers and the lack of consistency by the City.

Mayor Pro Tem Schneider noted his concerns for traffic and

backing onto Hogan Road. He asked Mr. Patterson, again if there was anyway to redesign the driveways and there could be pullouts.

Mr. Patterson stated he could look at it.

Motion by Councilmember Danny Dunn adopt resolution seconded by Councilmember Judy Morales.

Mayor Jones voted naye

- 9. 2011-6445-R: Consider adopting a resolution appointing one member to serve as the City's representative on the Board of Directors of the Tax Appraisal District of Bell County for a two year term beginning January 1, 2012.**

Mayor Jones led this discussion with Council recommendation to appoint Dr. Sue Hamby.

Motion by Councilmember Judy Morales adopt resolution as recommened seconded by Councilmember Perry Cloud.

William A. Jones, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary



COUNCIL AGENDA ITEM MEMORANDUM

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Item #6(B)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution authorizing the City Manager to enter into a Municipal Maintenance Agreement with the Texas Department of Transportation.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This Municipal Maintenance Agreement authorizes the State (TxDOT) to maintain and operate the state highways within the city limits of the City of Temple. Similar agreements have been entered into in the past. This item is a renewal of such agreements.

This agreement assigns responsibility to TxDOT for maintaining the surface and foundation of all state highways within the city limits. In turn, the City is responsible for installing, operating, and maintaining signage, pedestrian crosswalks, school safety devices, and traffic signals; perform routine clean up including mowing, litter pickup, street sweeping and snow and ice control; and maintaining all sidewalks and ramps to ADA standards. The amount of maintenance TxDOT is responsible for is dependent on the population of the City. Legislatively, municipalities with populations over 50,000 are required to perform many functions of highway maintenance that are routinely performed by TxDOT on other areas of the highway system. Execution of this agreement solidifies these additional requirements, which are absorbed into the City's operations and maintenance.

FISCAL IMPACT: The costs for maintaining and operating the state highways within the city limits are part of the City's Street Department operating budget.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUNICIPAL MAINTENANCE AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the public convenience, safety and necessity of the City of Temple, and the people of the City of Temple require that State Highway routes within the City of Temple be adequately maintained;

Whereas, the City of Temple has requested that the State of Texas enter upon and contribute financially to the maintenance of said project;

Whereas, the State of Texas has made it known to the City of Temple that it will, with its own forces and equipment and at its sole cost and expense, enter upon and maintain said project, conditioned upon the provisions concerning liabilities and responsibilities for maintenance, control, supervision and regulation;

Whereas, the Staff recommends entering into a Municipal Maintenance Agreement for this purpose – the costs for maintaining and operating the state highways within the city limits are part of the City’s Street Department operating budget; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a Municipal Maintenance Agreement, after approval as to form by the City Attorney, with the Texas Department of Transportation for the maintenance, control, supervision, and regulation of certain State Highways and/or portions of State Highways in the City of Temple.

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 3rd day of November, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #6(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works

Michael Newman, P.E., CFM, Asst. Director of Public Works / City Engineer

ITEM DESCRIPTION: Consider adopting a resolution to authorize a contract for a professional services agreement with Kasberg, Patrick & Associates, LP. to design a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway, in an amount not to exceed \$63,600.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Reinvestment Zone No. 1 Board met on October 26, 2011 to recommend to Council. The 2022 TRZ Master Plan identified development of a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway as a priority project. Project design will utilize the existing dam structure to develop the proposed regional detention pond, which will mitigate drainage impacts of area developments. The existing dam structure will be increased and stabilized, with construction of outlet control structures ultimately achieving the desired detention for future development. The pond is located in the drainage area of Pepper Creek, North of McLane Parkway, and adjacent to the existing and proposed HEB distribution centers.

KPA will coordinate this project with the City of Temple, Temple Reinvestment Zone, Temple Economic Development Corporation, and HEB. KPA will also develop and submit permits to the necessary entities. The scope of work, at this time, will only include preparing shelf ready documents to be bid and constructed at a later date. Consultant services recommended under this resolution include the following tasks and costs:

Design Services

Design Surveys	\$ 6,500
Geotechnical Investigations	\$ 12,000
Environmental Investigations and submittal	\$ 8,500
Archaeological Investigations and submittal	\$ 8,000
Final Design	\$ 28,600

TOTAL **\$ 63,600**

FISCAL IMPACT: Funds are available in the Reinvestment Zone No. 1 Financing Plan, Line 50, Account # 795-9500-531-2616, for this professional services contract in the amount of \$63,600.

ATTACHMENTS:

[Engineer's Proposal](#)
[Project Area Map](#)
[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

October 17, 2011

Mr. Michael Newman, P.E., C.F.M.
City of Temple
3210 East Avenue H, Building A
Temple, Texas 76501

Re: City of Temple, Temple Reinvestment Zone #1
Pepper Creek Main Stem Regional Detention Pond North of McLane Parkway
Final Design

Dear Mr. Newman:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this proposal for the above referenced project. This project will design the regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway. (See attached exhibit). The final product will be shelf ready plans, specifications and estimates.

This project will design, prepare specifications and develop construction estimates for the project. The scope of work, at this time, will only include preparing shelf ready documents to be bid and constructed at a later date. Meetings and discussions with City of Temple Staff, The Temple Reinvestment Zone #1, TEDC and HEB, are included in the work. Included in the project will be surveying, geotechnical investigations, environmental investigations, archaeological investigations, dam analysis, hydrology and hydraulics for the area of the watershed, design for the detention of storm water for the watershed to include the 50%, 10%, 4%, 2% and 1% chance storm events as described in the City of Temple Drainage Manual, design of a maintenance access road that can be used as a trail, design of a water feature fountain, final opinion of probable cost, final plans and specifications and bidding documents. We will coordinate this project with the City of Temple, Temple Reinvestment Zone, Temple Economic Development Corporation and HEB.

This project will be developed in accordance with the Temple Reinvestment Zone 2022 Master Plan. From our initial review of the project site and performed preliminary environmental investigations, we have determined the most cost effective construction for the detention facility will be to utilize the existing dam structure to develop the proposed regional detention pond. Design will include increasing and stabilizing the existing dam structure in combination with construction of outlet control structures to achieve the desired detention for future development. A Nation Wide Permit (NWP 43) will be developed and submitted to the U.S. Army Corps of Engineers (USACE). The USACE will review the NWP 43 to determine if they are in concurrence with the project team's assessment for applicability. If their determination is it does not qualify for NWP 43 additional costs will be necessary to acquire clearance from the USACE. Archaeological investigations are also included in this proposal which will be submitted to the Texas Historical Commission (THC). Like the USACE the THC will review the findings and determine if additional investigations are required.

If their determination is additional investigations must be done additional costs will be required for these efforts as well. We will keep City Staff, members of the TRZ and TEDC included in the entire project process. Final design can be completed within one hundred eighty calendar days after the notice to proceed, although the USACE and the THC may not have rendered their findings in this time frame. This also anticipates the meetings with the various entities to complete this project and incorporate the comments, provided the entities are cooperative in scheduling meetings.

The scope of services for this project will include the following:

Final Design and Project Documents

- Design surveys.
- Geotechnical investigations.
- Environmental investigations.
- Archaeological investigations.
- Dam structural analysis.
- Hydrologic and Hydraulic Drainage analysis for the project limits.
- Detention design of storm water flows with in the described drainage area for the 50%, 10%, 4%, 2% and 1% chance storm events as described in the City of Temple Drainage Manual.
- Design for storm water conveyance design to existing facilities and waterways.
- Cut and fill quantities for the project.
- Control structure design.
- Grading plan.
- Design of a maintenance road to the facility.
- Design of a fountain for the detention facility.
- Meetings with City of Temple Staff, the Temple Reinvestment Zone, TEDC and HEB.
- Project plans and specifications construction of the Project.

Phase I Preliminary Design

Design Surveys	\$	6,500
Geotechnical Investigations	\$	12,000
Environmental Investigations and submittal	\$	8,500
Archaeological Investigations and submittal	\$	8,000
Final Design	\$	28,600
Total Design Services		\$ 63,600

Mr. Michael Newman, P.E., CFM
October 17, 2011
Page Three

Please see the attached exhibit for location of the project

We can complete all the tasks represented for the lump sum cost of \$63,600 for shelf ready plans and specifications ready to bid the project.

As always, we look forward to working with you on the project and to the enhancement that it will bring to the City of Temple.

Sincerely,

A handwritten signature in black ink, appearing to read "R. David Patrick", with a stylized flourish at the end.

R. David Patrick, P.E., C.F.M.

RDP/crc

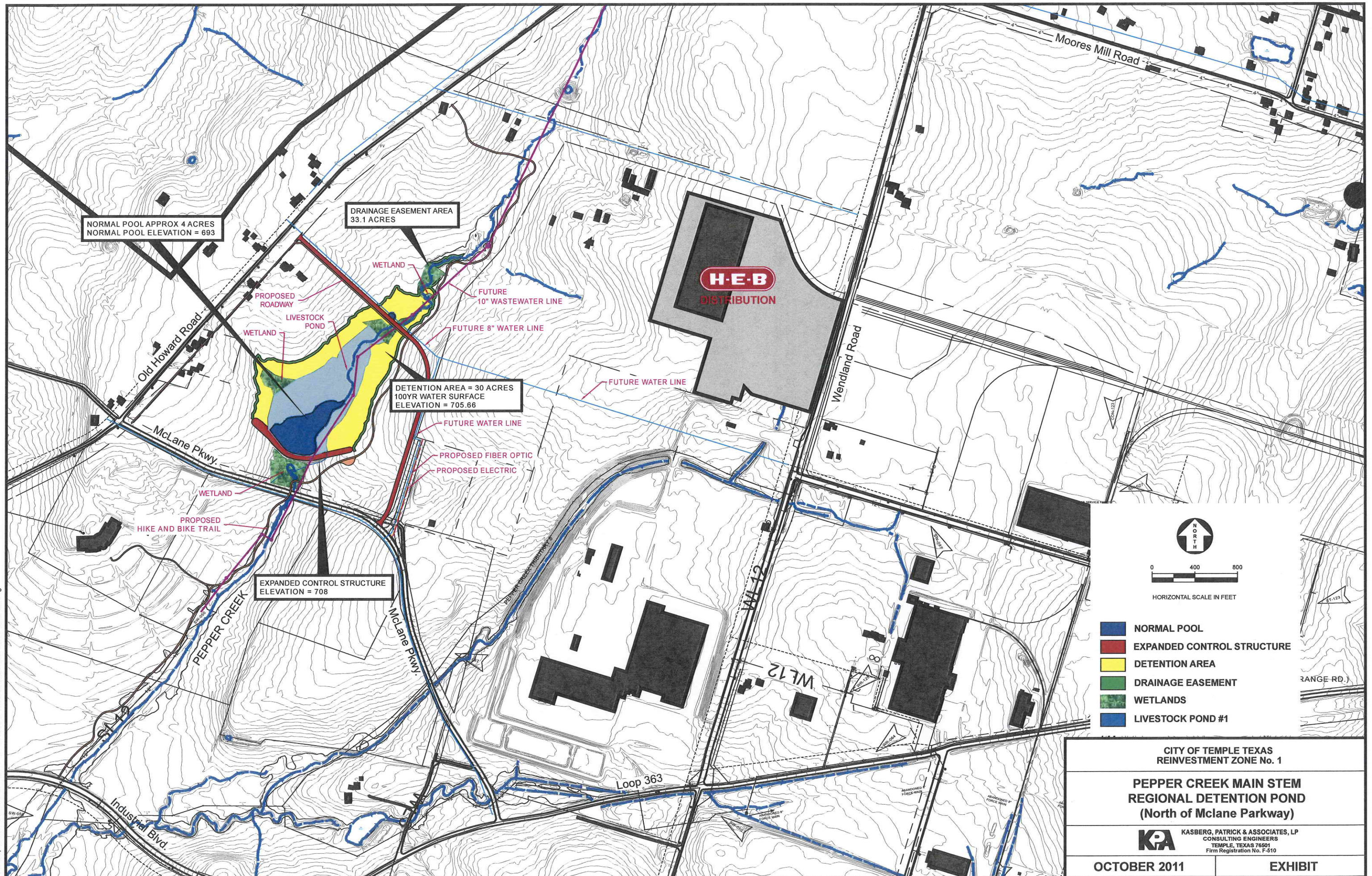
EXHIBIT "B"

Charges for Additional Services

**City of Temple
Pepper Creek Main Stem Regional Detention Pond
North of McLane Parkway
Final Design**

<u>POSITION</u>	<u>MULTIPLIER</u>	<u>SALARY COST/RATES</u>
Principal	2.4	\$ 60.00 – 80.00/hour
Project Manager	2.4	45.00 – 58.00/hour
Project Engineer	2.4	40.00 – 45.00/hour
Engineer-in-Training	2.4	32.00 – 40.00/hour
Engineering Technician	2.4	22.00 – 40.00/hour
CAD Technician	2.4	18.00 – 40.00/hour
Clerical	2.4	13.00 – 25.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	95.00 – 120.00/hour
Registered Public Surveyor	1.0	110.00/hour
On-Site Representative	2.1	30.00 – 40.00/hour

P:\Temple Reinvestment\2011\2011-127\CAD\HEB EXHIBIT\MCLANE DET POND ex.dwg



CITY OF TEMPLE TEXAS
REINVESTMENT ZONE No. 1

**PEPPER CREEK MAIN STEM
REGIONAL DETENTION POND
(North of McLane Parkway)**



KASBERG, PATRICK & ASSOCIATES, LP
CONSULTING ENGINEERS
TEMPLE, TEXAS 76701
Firm Registration No. F-510

OCTOBER 2011

EXHIBIT

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TEMPLE, TEXAS, AND KASBERG, PATRICK & ASSOCIATES, L.P., FOR ENGINEERING, SERVICES TO DESIGN A REGIONAL DETENTION POND FOR THE DRAINAGE AREA OF THE PEPPER CREEK MAIN STEM UPSTREAM OF MCLANE PARKWAY, IN THE AMOUNT NOT TO EXCEED \$63,600; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the 2022 City of Temple Reinvestment Zone No. 1 Master Plan identified development of a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway as a priority project;

Whereas, Kasberg, Patrick & Associates, L.P. will coordinate this project with the City of Temple, Temple Reinvestment Zone, Temple Economic Development Corporation, and HEB;

Whereas, Kasberg, Patrick & Associates, L.P., submitted a proposal for engineering, bidding and construction services for this project in the amount of \$63,600, and the Staff recommends accepting it;

Whereas, funds are available for this project in the Reinvestment Zone No. 1 Financing Plan, Line 50, Account No. 795-9500-531-2616; 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 professional services agreement, not to exceed \$63,600, between the City of Temple, Texas, and Kasberg, Patrick & Associates, L.P., after approval as to form by the City Attorney, for development of a regional detention pond for the drainage area of the Pepper Creek Main Stem upstream of McLane Parkway.

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 **3rd** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

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

ITEM DESCRIPTION: Consider adopting a resolution endorsing the continuation of the existing pretreatment program as required by 40 CFR 403 for the Doshier Farms Wastewater System.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: At the October 20, 2011 City Council meeting you adopted an ordinance modifying the existing pre-treatment program as required by the EPA and TCEQ. An additional requirement of the adoption of the ordinance and pre-treatment program is your approval of the continued funding of this program.

FISCAL IMPACT: NA

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ENDORSING THE EXISTING PRETREATMENT PROGRAM AS REQUIRED BY 40 CFR 403 FOR THE DOSHIER FARMS WASTEWATER SYSTEM; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on June 26, 1978, the United States Environment Protection Agency Published a rule (amended October 14, 2005), which established mechanisms and procedures for enforcing National Pretreatment Standards controlling the introduction of wastes from non-domestic sources into Publicly Owned Treatment Works (POTWs);

Whereas, this rule 40 CFR 403, requires that a Pretreatment Program be developed for the Doshier Farms Wastewater System;

Whereas, the City, as a contracting party of the Doshier Farms Wastewater System, has entered into a Wastewater Contract with the CH2M HILL OMI, whereby the City has enacted ordinances that are necessary to implement and enforce the National Pretreatment Standards; and

Whereas, 40 CFR 403.9 (b) requires a statement or resolution reflecting the endorsement or approval of the local boards or councils responsible for supervising and/or funding the POTW.

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

Part 1: The City Council hereby endorses the existing pretreatment program as required by 40 CFR 403 for the Doshier Farms Wastewater System with such program to continue as long as 40 CFR 403 remains in effect.

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

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 3rd day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager
Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing amendments to the 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 \$22,300 plus waiver of permit and other fees.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Strasburger retail center, located at 1802-1808 First Street, is situated in the Temple Medical and Education District and is within the South 1st Street Strategic Investment Zone. City Council approved the original incentive agreement on July 1, 2010. Council provided an amendment to the agreement on April 7, 2011. The amended agreement expired on October 1, 2011 without improvements being installed. Strasburger has submitted a letter requesting an extension to the agreement and revisions to the design and associated grant amount.

The construction and demolition startup date must not be later than one month after receipt of TXDOT and City permits, and the construction and demolition completion date must not be later than four months later. Failure to meet either deadline will be considered a default. The design still incorporates TMED standards for sidewalks and landscaping on South First Street, but does not include sidewalks or landscaping on Avenue R. Grant agreement history is as follows:

Grant Type	7-01-10 agreement “up to grant”	4-7-11 revised agreement “up to grant”	11-3-11 proposed agreement “up to grant”
Landscape/irrigation	\$10,000	\$10,000	\$9,800
Sidewalks	\$10,000	\$10,000	\$10,000
Tree grates	\$4,200	\$0	\$0
Demo	\$0	\$2,500	\$2,500
Total Grant	\$24,200	\$22,500	\$22,300
Plus: OP Sidewalks Ave R	\$1,200	\$2,400	\$0

Strasburger's proposed total project investment remains at \$800,000. Under this amendment, the maximum City contribution including the matching funds and demolition contribution is \$22,300.

FISCAL IMPACT: The total maximum grant match by the City is \$22,300 plus waiver of permit and other fees. Funds for this project are still available in account 110-1500-515-2695.

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

ATTACHMENTS:

[Grant Agreement & Design-Second Revision](#)
[Location map and picture](#)
[Resolution](#)



South 1st Street Strategic Investment Zone Chapter 380 Development Agreement – Amendment #2

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

City and Owner agree to amend the original agreement as follows:

Section 1. Purpose. Pursuant to authority granted to home rule cities under Chapter 380 of the Local Government Code and pursuant to a program established for the South 1st Street Strategic Investment Zone under City Ordinance Number 2009-4285, the City and the Owner enter into this Agreement to promote economic development within the South 1st Street Strategic Investment Zone. As an inducement to Owner to make certain specified improvements to the property located at 1802-1818 South 1st Street (hereinafter the “Property”), City and Owner agree to assume the responsibilities set forth below.

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

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

Owner originally agreed to complete said Improvements on or before March 31, 2011. The revised deadline as outlined in the First Amendment was October 1, 2011. Pursuant to this Revised Agreement #2, the construction and demolition

startup date must not be later than one month after receipt of TXDOT and City permits, and the construction and demolition completion date must not be later than four months later. Failure to meet either deadline will be considered a default. As a condition to receiving the matching grants from the City described in Section 3, Owner further agrees to complete the improvements described in each subpart of Section 3.

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

- (a) **Landscaping Improvement Grant.** The City will make a grant of up to \$10,000.00 on a 1:1 matching basis (estimated grant of \$9,800) for the installation of a new landscaping and irrigation system on the Property. To be eligible, the landscaping must meet or exceed the attached revised design which substantially meets the City's landscaping requirements for TMED (see **Attachment "A"**), as the same may be established from time to time. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, irrigation, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences), landscape medians, and material and construction (including labor) costs, but specifically exclude design costs.

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

Install landscaping, landscape islands, ,planting strip, and irrigation system as per **Attachment "A"**.

- (b) **Sidewalk Improvement Grant.** The City will make a grant of up to \$10,000.00 on a 1:1 matching basis for the demolition and disposal of existing sidewalks, construction of new sidewalks, curb and guttering, and handicap ramps along South First Street. Sidewalk improvement costs eligible for reimbursement include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically exclude design costs.

Sidewalk Improvement design and construction to be completed by Owner is as follows: Sidewalks on 1st Street will be a minimum of 10

feet wide and meet the requirements as listed and depicted on **Attachment “A.”**

- (c) **Demolition:** The City will contribute \$2,500 toward complete demolition of the building and foundation known as the “El Corral” building which is located on the northern portion of the site.
- (d) **Waiver of Platting, Zoning and Permit Fees.** The City will waive platting, zoning, water and wastewater tap fees, and building permit fees related to the Improvements on the Property.

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

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

Section 5. Maintenance of Improvements. Owner, or its successors and assigns, agree to maintain the Improvements described in Section 2 and the subparts of Section 3. Landscaping must not be removed or allowed to die. In the event such occurs, Owner will replace landscaping in the same or greater plant size and configuration.

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

|

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

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

City of Temple, Texas

Owner

David A. Blackburn
City Manager

Gregg Strasburger
For Strasburger Enterprises

Attest:

Approved as to form:

| _____
Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

State of Texas §

County of Bell §

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

Notary Public

State of Texas §

County of Bell §

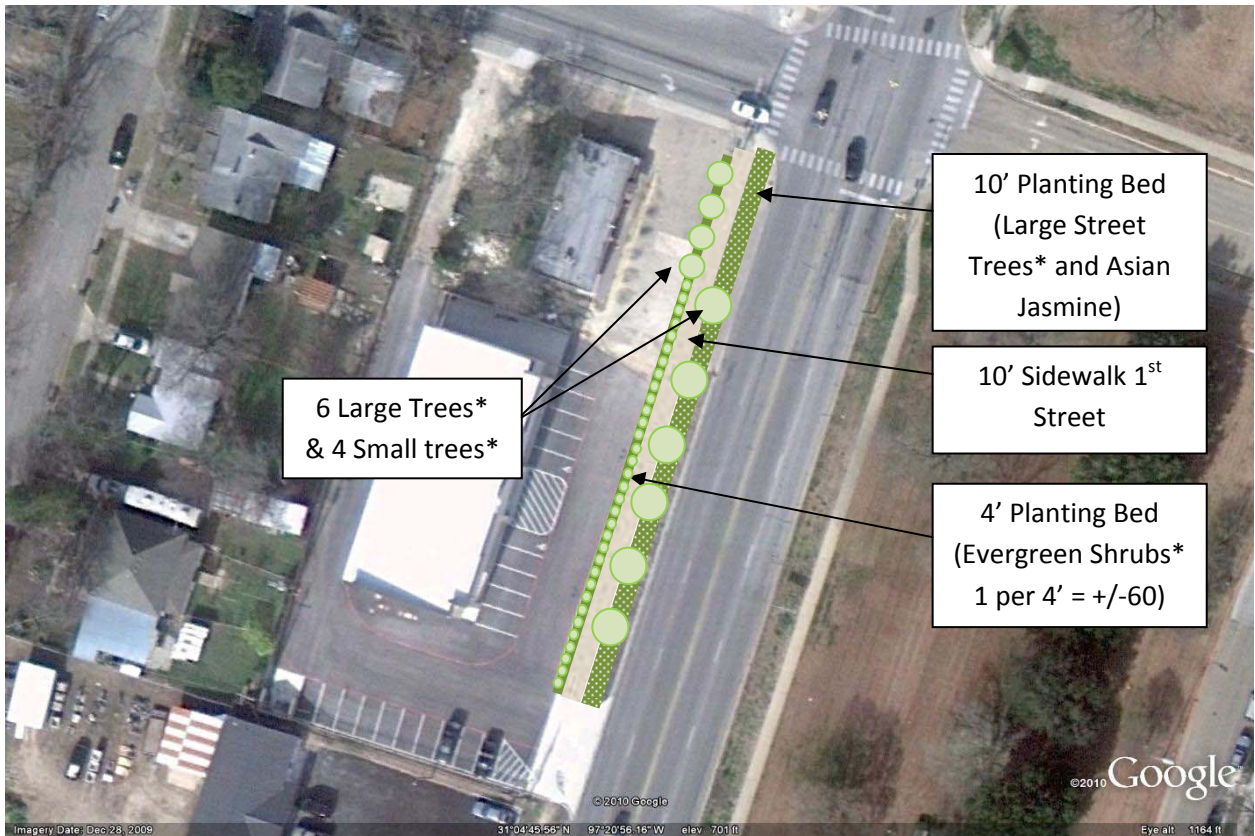
This instrument was acknowledged before me on the ____ day of _____, 20__ by _____.

Notary Public

Attachment “A”
Landscaping, Streetscape, and Sidewalk Design

Attachment "A"

Landscape, Streetscape, and Sidewalk Design



*Species as outlined in TMED regulations

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO A CHAPTER 380 “MATCHING GRANT” AGREEMENT BETWEEN THE CITY OF TEMPLE AND STRASBURGER ENTERPRISES FOR REDEVELOPMENT IMPROVEMENTS IN THE TEMPLE MEDICAL EDUCATION DISTRICT AND THE SOUTH 1ST STREET STRATEGIC INVESTMENT ZONE CORRIDOR AT 1802 AND 1808 SOUTH 1ST STREET, FOR A COST IN THE AMOUNT OF \$22,300 PLUS WAIVER OF PERMIT AND OTHER FEES; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on July 1, 2010, the City of Temple entered into a Chapter 380 “Matching Grant” agreement with Strasburger Enterprises for property located at 1802 and 1808 South 1st Street which is situated within the Temple Medical Education District and the South 1st Street Strategic Investment Zone;

Whereas, an amendment to the revised incentive agreement expired on October 1, 2011, without improvements being installed – the owner has submitted a letter requesting an additional extension to the agreement and revisions to the design and associated grant amount;

Whereas, the revisions to the design still incorporates newly adopted TMED standards for sidewalks and landscaping, but does not include sidewalks or landscaping on Avenue R;

Whereas, the total matching grant is \$22,300 plus waiver of permit and other fees – funds are available in Account No. 110-1500-515-2695; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute an amendment to the Chapter 380 “matching grant” agreement, between the City of Temple and Strasburger Enterprises, after approval as to form by the City Attorney, for an additional extension to the original agreement and revisions to the design improvements in the Temple Medical Education District and the South 1st

Street Strategic Investment Zone corridor, for a cost in the amount of \$22,300, plus waiver of permit and other fees.

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 **3rd** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #6(F)
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-11-47: Consider adopting an ordinance authorizing a rezoning from Commercial District (C) to Planned Development – Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 South General Bruce Drive.

P&Z COMMISSION RECOMMENDATION: At its September 19, 2011 meeting, the Planning and Zoning Commission voted 8:0 in accordance with staff recommendation to recommend approval of the requested Planned Development rezoning.

Commissioner Pope was absent.

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-47, from the Planning and Zoning meeting, September 19, 2011. The applicant, Wayland Chapman of Belco Signs, Inc. on behalf of Tranum Auto Group, proposes to construct a different type of sign than is presently allowed in the I-35 overlay district. A Planned Development is the only way for a business to have a larger sign until an amendment to the I-35 corridor sign standards is approved by the City Council. Staff would welcome the opportunity to begin drafting such amendment. A sign of the proposed size, with masonry elements and landscaped base could be a model for amendments to the sign section of the I-35 overlay.

Tranum Auto Group is rebranding the subject building and wishes to place a new sign on the property that recently housed the Tranum VW dealership. The largest sign allowed in the I-35 overlay district is an 8-foot monument sign, and the applicants wish to have a 24-foot tall pylon sign with a landscaped base.

The applicant proposes a stone pole cover and a drip irrigated planter surrounding the cover as an additional benefit to the City, in order to mitigate the pole sign being permitted in this overlay district.

As shown on the attached sign drawing, the planter shows Burford Holly shrubs in the planter, which would provide a solid line of shrubs at the base of the sign

COMPREHENSIVE PLAN COMPLIANCE REVIEW: The proposed Planned Development 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 a permitted Vehicle Sales and Service use and is compatible with the Future Land Use Plan. A sign of the proposed height of 24 feet is appropriate for an area oriented toward mostly automobile travel.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to S. General Bruce Drive, an expressway with frontage roads. The frontage road is a southbound one-way street in front of this building, but cross access through the neighboring lots gives access From Midway Drive/ S. Kegley Road, which is classed as a minor arterial. It appears that traffic will not be affected by this proposed sign nor will it require a change in the infrastructure surrounding this lot.

Availability of Public Facilities (CP Goal 4.1)

Domestic water and sanitary sewer currently serve the site. No additional public services are required for this use or because of this zoning request.

PUBLIC NOTICE:Five notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, September 14, at 5 PM, no notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 8, 2011 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Future Land Use Map
Zoning
Thoroughfare Plan
Utilities
Notice Map
PD Site Plan Exhibits
P&Z Staff Report (Z-FY-11-47)
P&Z Minutes (September 19, 2011)
Ordinance





Z-FY-11-47

C to PD- C 0.543 Acres
George Givens Survey

5508 S. General Bruce Drive



 ZFY 11-47

 Streets

Imatlock 8-30-11



Z-FY-11-47

C toPD- C 0.543 Acres
George Givens Survey

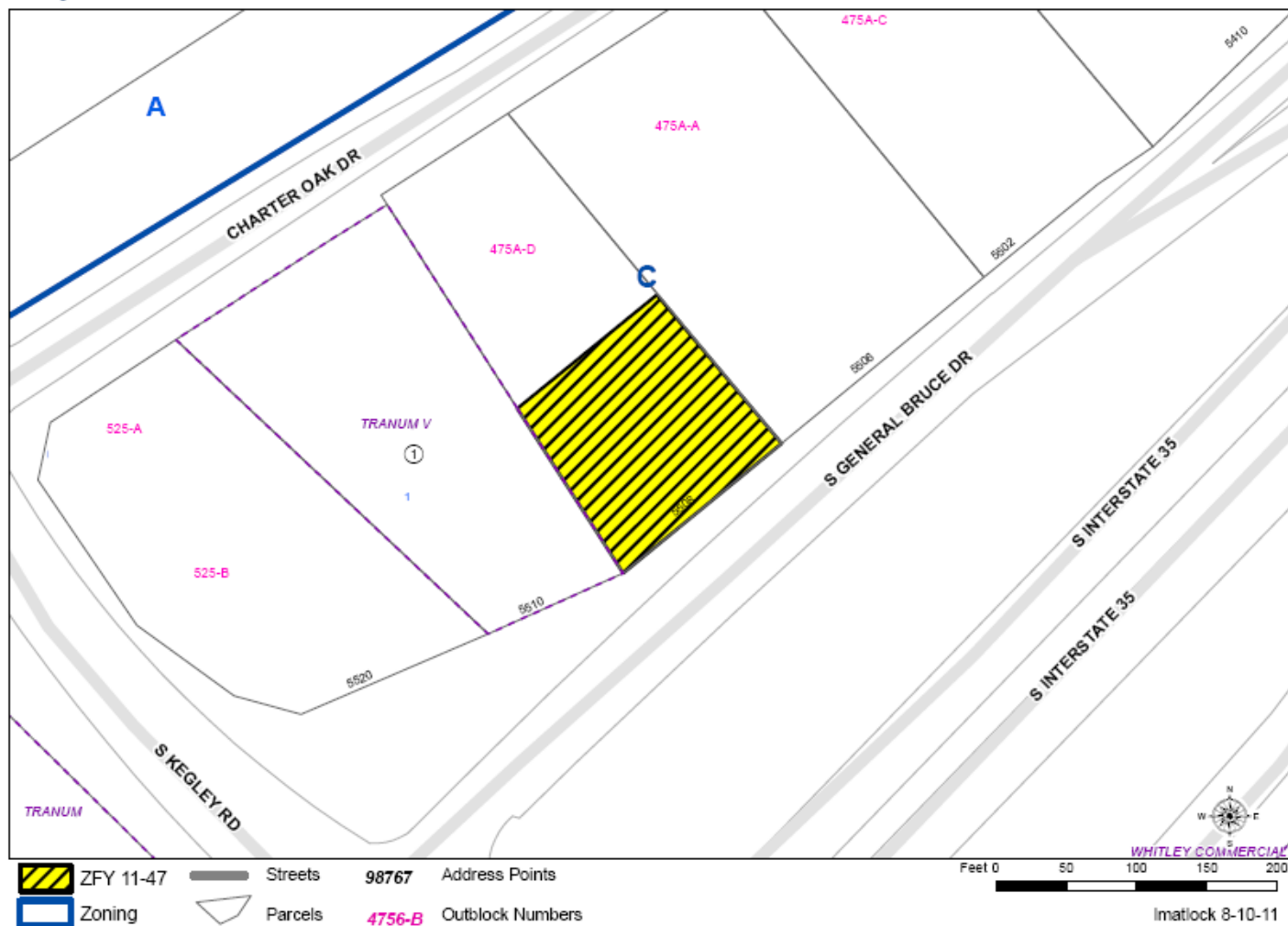
5508 S. General Bruce Drive



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-47 | Auto-Urban Mixed Use | Business Park | Neighborhood Conservation | Suburban Commercial | Urban Center |
| Agricultural Forest | 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 = 189 feet

LMatlock Planning 08.30.11

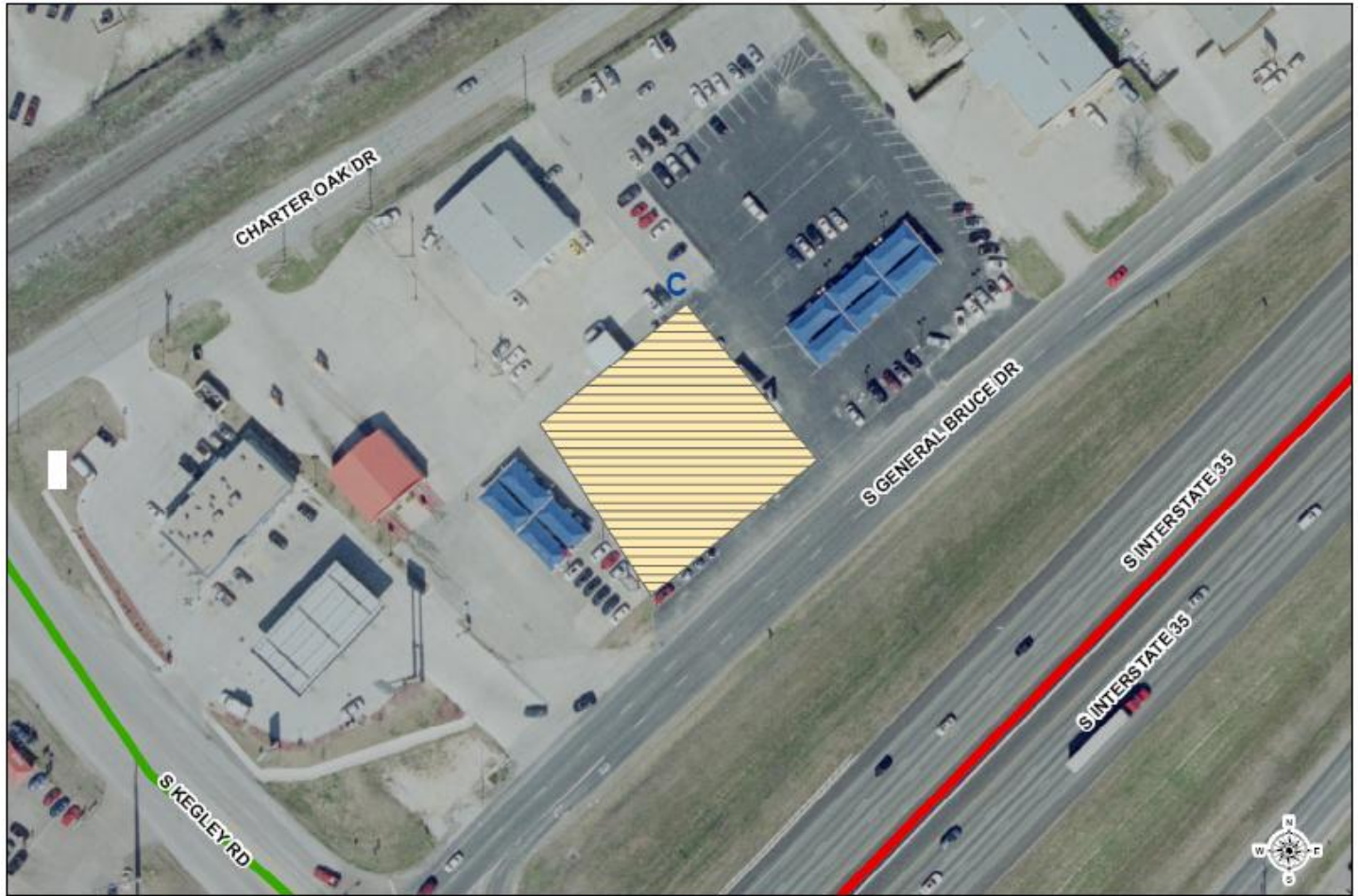




Z-FY-11-47

C to PD- C 0.543 Acres
George Givens Survey

5508 S. General Bruce Drive



- | | |
|--|--|
|  ZFY 11-47 |  Expressway |
|  Streets |  Minor Arterial |

Feet 0 50 100 150 200

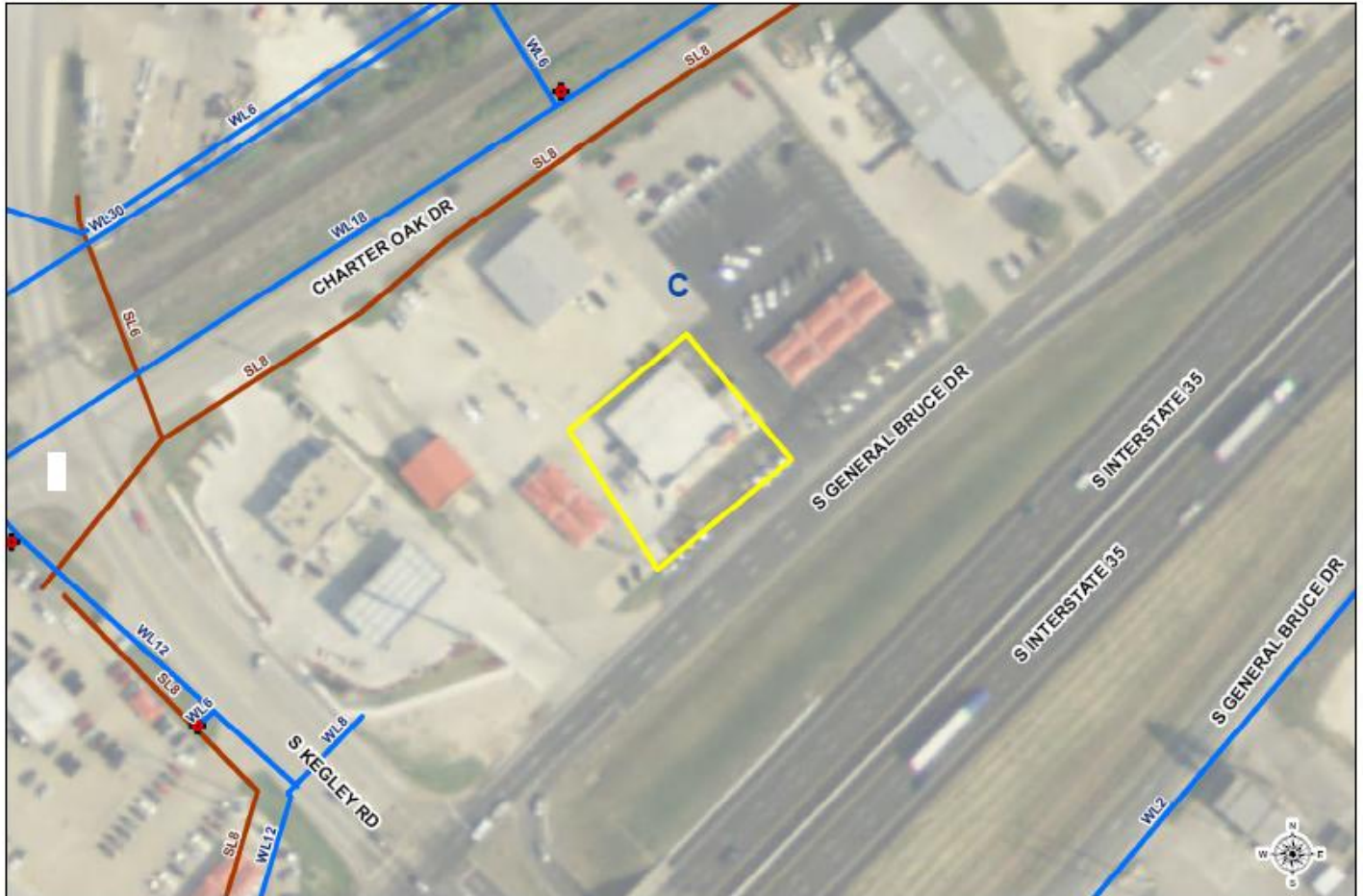
Imatlock 8-30-11





Z-FY-11-47

C to PD- C 0.543 Acres
George Givens Survey

5508 S. General Bruce Drive

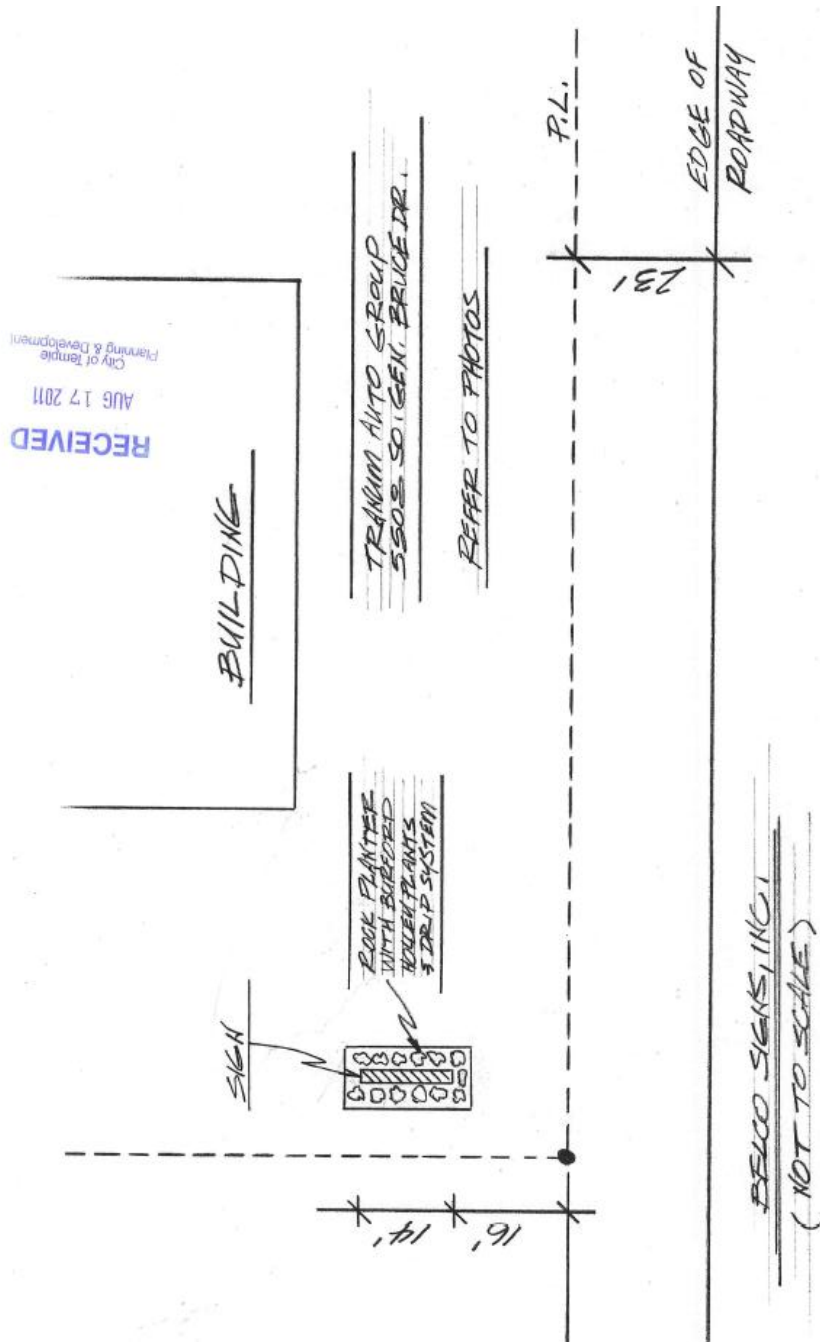


 ZFY 11-47

 Domestic Water Line
 Sanitary Sewer Line

Feet 0 50 100 150 200

Imatlock 8-30-11

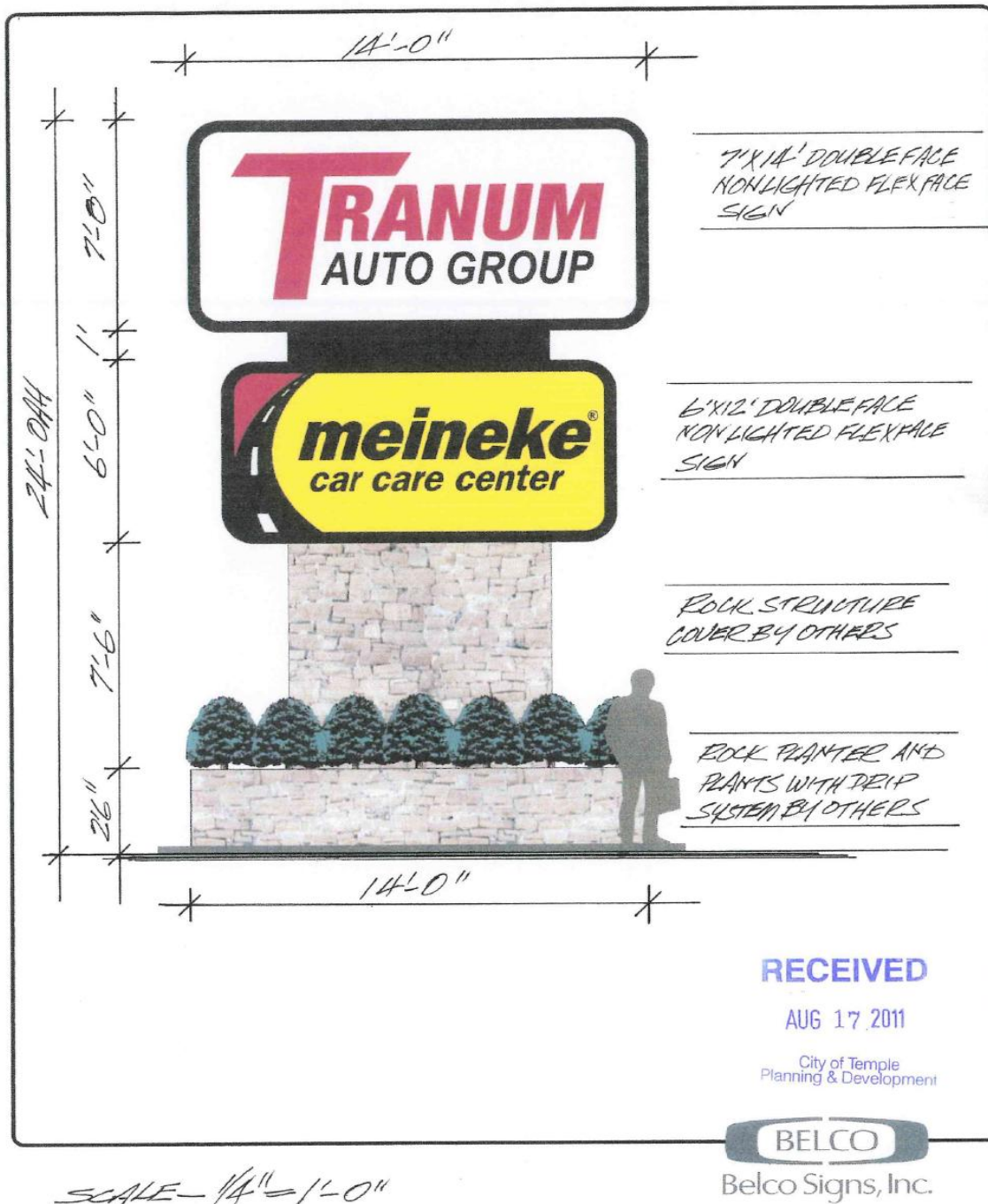




"X" marks proposed area of sign placement looking to the northwest



"X" marks proposed area of sign placement looking North along S. General Bruce Drive





PLANNING AND ZONING COMMISSION AGENDA ITEM

9/19/11
Item #3
Regular Agenda
Page 1 of 6

APPLICANT: Wayland Chapman of Belco Signs, Inc. for Trnum Auto Group

CASE MANAGER: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-11-47 Hold a public hearing to discuss and recommend action on a rezoning from Commercial District (C) to Planned Development – Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 S. General Bruce Drive.


BACKGROUND: This application is submitted in order to construct a different type of sign than is presently allowed in the I-35 overlay district. This district was established by City Council in 2009 to help improve the look of the I-35 corridor and, as a result, the impression of Temple to those visitors that travel through our city.



The I-35 overlay district is applicable to any new business or any established business that is adding a certain level of improvements or placing a new sign onsite. Depending on the amount of floor area increase or percentage of improvements to the appraised value of the property, the ordinance may affect plans for the landscaping and parking layout, the façade treatment of new buildings, service bay locations, mechanical and service equipment, and lighting placement and intensity. Signs are limited to wall and smaller monument signs. Pole signs are not permitted.

Trnum Auto Group is rebranding the subject building and wishes to place a new sign on the property that recently housed the Trnum VW dealership. The largest sign allowed in the I-35 overlay district is an 8-foot monument sign, and the applicants wish to have a 24-foot tall pylon sign with a landscaped base. A Planned Development is the only way for a business to have a larger sign until an amendment to the I-35 corridor sign standards is approved by the City Council. Staff would welcome the opportunity to begin drafting such amendment.

Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	C	Auto Dealership	
North	C	Car Display Lot	
South	C	Car Wash and Convenience Store	

Direction	Zoning	Current Land Use	Photo
East	C	I-35	
West	C	Repair Building on separate lot at Auto Dealership	

COMPREHENSIVE PLAN COMPLIANCE REVIEW: The proposed Planned Development 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 a permitted Vehicle Sales and Service use and is compatible with the Future Land Use Plan. A sign of the proposed height of 24 feet is appropriate for an area oriented toward mostly automobile travel. See Photos below for a comparison to surrounding signs.



View of nearest approximately 18-ft. tall existing Lochridge-Priest Air Conditioning/Heating sign to north of proposed sign location. 80-ft. tall Trantum flag pole can be seen slightly above and behind tree.



View of 80-ft. tall existing Trantum flag pole with the larger approximately 97-ft tall Valero Gas Sign to the south. Photo taken from edge of Trantum property.

Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to S. General Bruce Drive, an expressway with frontage roads. The frontage road is a southbound one-way street in front of this building, but cross access through the neighboring lots gives access From Midway Drive/ S. Kegley Road, which is classed as a minor arterial. It appears that traffic will not be affected by this proposed sign nor will it require a change in the infrastructure surrounding this lot.

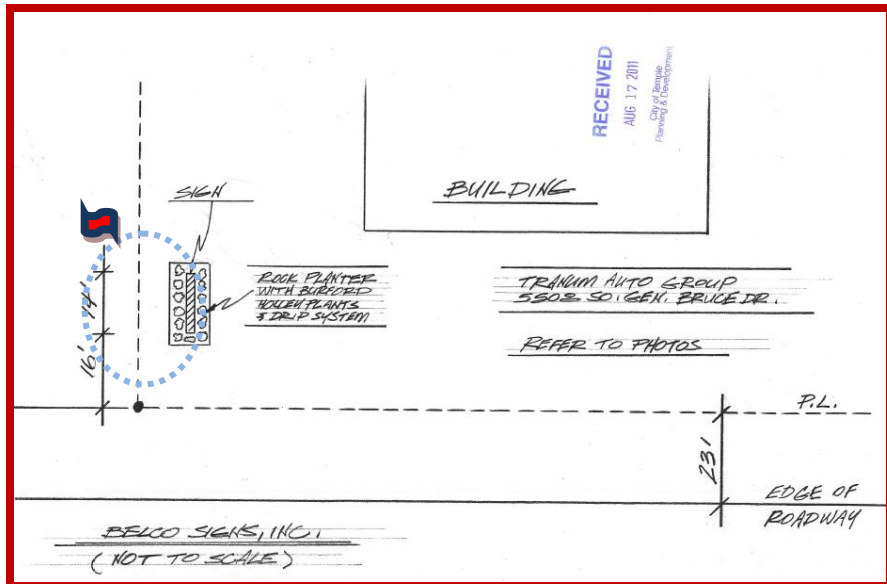
Availability of Public Facilities (CP Goal 4.1)

Domestic water and sanitary sewer currently serve the site. No additional public services are required for this use or because of this zoning request.

PLANNED DEVELOPMENT SITE PLAN REVIEW:

If the Planning and Zoning Commission recommends and City Council approves this PD sign request, it must be built according to the approved PD site plan. The sign will be placed in the southeast area of the lot, 16-ft from the eastern property line. The sign exhibit provided by the applicant is shown below.

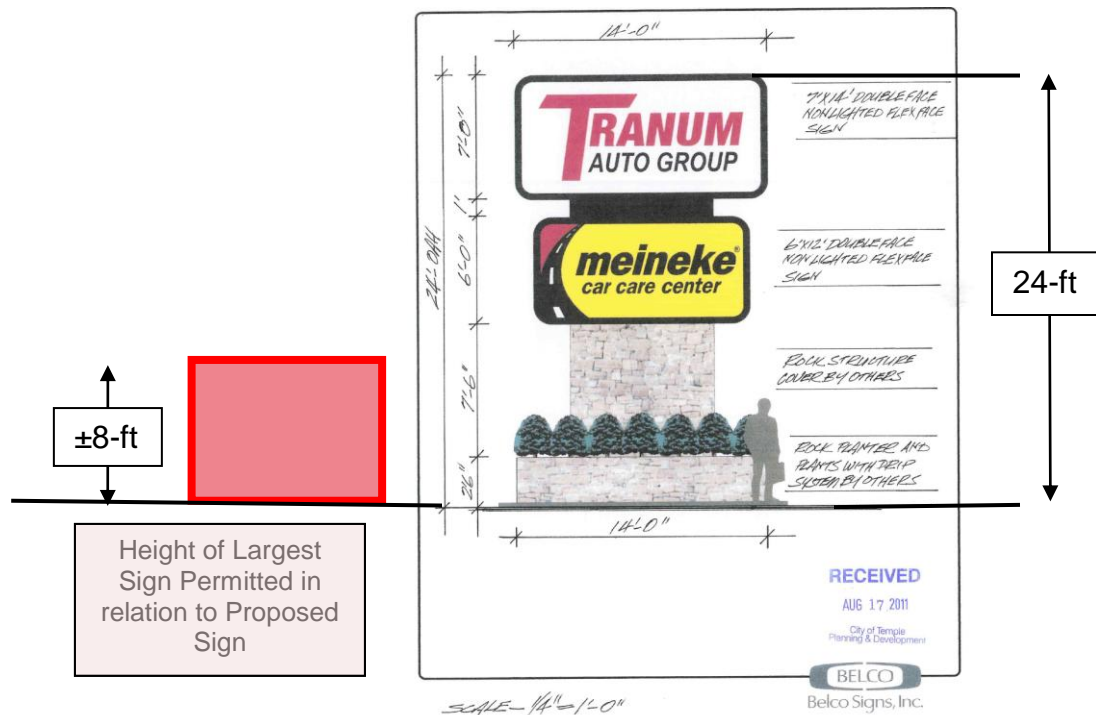
The applicant proposes a stone pole cover and a drip irrigated planter surrounding the cover as an additional benefit to the City, in order to mitigate the pole sign being permitted in this overlay district. The planter shows Burford Holly shrubs in the planter, which would provide a solid line of shrubs at the base of the sign. Full scale exhibits are attached to the end of this report.



Site Placement Exhibit



- Approximate Existing Flag Pole Location



Sign Elevation Exhibit

PUBLIC NOTICE:

Five notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, September 14, at 5 PM, no notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 8, 2011 in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the requested PD for a pylon sign that is 14 feet wide, 24 feet tall, has a landscaped base, and solid stone pole cover subject to the design and placement shown on the PD exhibits.

Staff recommends approval because:

1. The request complies with Future Land Use Map
2. The request complies with the Thoroughfare Plan.
3. Public facilities serve the property.
4. Given the traffic speed and the elevated highway fly-over crossing at this intersection, the eight-foot sign would have minimal visibility.
5. Proposed landscaping will enhance the sign.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Thoroughfare Map](#)

[Utility Map](#)

[Notice Map](#)

[Full-Sized Applicant PD Exhibits \(3 pages\)](#)

[Conceptual Staff Sign Height Comparison](#)

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

MONDAY, SEPTEMBER 19, 2011

ACTION ITEMS

Item 3: Z-FY-11-47 – Hold a public hearing to discuss and recommend action on a rezoning from Commercial District (C) to Planned Development-Commercial (PD-C) for placement of a sign on 0.543 ± acres, more commonly known as 5508 S. General Bruce Drive. (Tranum Auto Group)

Ms. Leslie Matlock, Senior Planner, stated this was a request for a Planned Development for a pole sign. Tranum Auto Group is the owner and would like to erect a new sign. City Council will have the first reading on October 20th and second and final action on November 3rd.

The PD request is due to the applicant wanting a taller sign than is allowed in the I35 Overlay District. Ms. Matlock shows various signs and heights in the subject area.

Surrounding properties include Tranum's car display area to the north, I35 to the east, Laser Tag Car Wash and Valero to the south, and part of Tranum's property to the west.

The Future Land Use and Character Map designate this area as Auto Urban Commercial since it is off an expressway. Surrounding zoning is all Commercial and across Charter Oak is Agricultural. The Thoroughfare Plan shows Kegley as a minor arterial and I35 as an expressway. Public water and sewer currently serve this site.

The requested sign would be 24 feet tall and 14 feet wide. The pole cover would be stone veneer with a planter underneath (at the bottom) with drip irrigation. The tallest signs in the area would be the Valero sign at approximately 92 feet and the Lockridge Priest sign is 18 feet.

Five notices were mailed out and zero were returned in favor or opposition.

Staff recommends approval of this request since it complies with the Future Land Use and Character Map, Thoroughfare Plan, and public facilities serve the lot. The traffic speed and elevated highway flyover located there, an eight foot sign would have minimal impact. Proposed landscaping would enhance the site and sign.

Chair Martin asked if a future owner of the Valero business wanted to have a new face on the existing 90± foot sign, would they get to keep the sign and just apply for a permit. Ms. Matlock stated yes, the sign faces may change; however, a new sign would be subject to the Ordinance.

Commissioner Pilkington stated it was the intent of the Ordinance to not have a great big sign on a very small pole but this sign request looks very good and very acceptable.

He also stated a monument sign would not be effective, even at ground level, due to the speed and separation of access roads. Commissioner Rhoads asked if 24 feet would be adequate and Ms. Matlock stated 24 feet was taller than the applicant's building.

Chair Martin opened the public hearing.

Ms. Anna Kessler, 5508 S. General Bruce Dr., Temple, Texas, asked the Board to support this request and it would be a very attractive sign, which would also set a precedent for signs.

Commissioner Staats asked about drip irrigation and the cost of a water line. Ms. Kessler stated the water would be taken from an interior reserve which would be filled up occasionally.

Mr. Wayland Chapman, President of Belco Signs, 217 E. Cox Drive, Harker Heights, Texas, stated they were the contractor for the Trantum sign. Mr. Chapman stated it was surprising to see the changes in the Ordinance. This was a dual purpose sign—two different businesses would be using this sign. Mr. Chapman stated other Texas cities allow a certain height from the majority roadway as opposed to the elevation of the particular property and this would probably apply to this subject property.

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

Commissioner Rhoads made a motion to approve Item 3, Z-FY-11-47 from Commercial to Planned Development-Commercial for the stated sign and Commissioner Sears made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-11-47]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM COMMERCIAL DISTRICT (C) TO PLANNED DEVELOPMENT - COMMERCIAL DISTRICT (PD-C) FOR PLACEMENT OF A SIGN ON APPROXIMATELY .0543 ACRES, MORE COMMONLY KNOWN AS 5508 SOUTH GENERAL BRUCE 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 zoning change from Commercial District (C) to Planned Development – Commercial District (PD-C) on approximately .0543 acres, more commonly known as 5508 South General Bruce Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: In accordance with Section 3.4 of the Unified Development Code (UDC) of the City of Temple, the City Zoning Map is amended by changing the zoning classification of the property described in Part 1 above, to Planned Development Commercial District. The planned development shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- a. Except as varied by the approved Planned Development site plan, attached hereto as Exhibit B, the use and development standards of the property shall conform to the requirements of the Commercial zoning district and the I-35 Corridor overlay zoning district.
- b. In the event of a conflict between the Planned Development site plan and the text of this Planned Development ordinance, the stricter standard applies.
- c. All standards of the Unified Development Code apply unless the development plan or the text of the Planned Development ordinance specifically modifies such standards.

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

Part 3: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

Part 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

Part 5: This zoning change 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 zoning change 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 **20th** day of **October**, 2011.

PASSED AND APPROVED on Second Reading on the **3rd** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #6(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution authorizing budget amendments for fiscal year 2011-2012.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2011-2012 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$990,504.

ATTACHMENTS:

Budget amendments
Resolution

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
November 3, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-xxxx-5xx-1xxx 110-1500-515-6536		General Fund - Lump Sum Payment Contingency - Compensation	\$ 828,585	\$ 828,585
520-xxxx-535-1xxx 520-5000-535-6536		Water & Wastewater Fund - Lump Sum Payment Contingency - Compensation	\$ 84,685	\$ 84,685
292-2900-534-1xxx 292-2900-534-6536		Drainage Fund - Lump Sum Payment Contingency - Compensation	\$ 12,386	\$ 12,386
240-4400-551-1xxx 240-4400-551-6536		Hotel/Motel Tax Fund - Lump Sum Payment Contingency - Compensation	\$ 9,855	\$ 9,855
260-1100-513-1xxx 260-0000-431-0163		City Manager Grant - Lump Sum Payment Federal Grants Revenue	\$ 1,565	\$ 1,565
260-6000-515-1xxx 260-6000-515-6532		Community Development - Lump Sum Payment Contingency	\$ 1,074	\$ 1,074
<p>This budget adjustment appropriates funds for the 3% Lump Sum Payment for all eligible employees as of October 1, 2011. Funds are available in the compensation contingency accounts for each fund with the exception of the Department of Energy (DEO) Grant. The lump sum payment is grant eligible therefore this budget adjustment recognizes the additional revenue for the lump sum payment for the DOE Grant. There will be future quarterly budget adjustments to appropriate funds for the employees that will become eligible for the lump sum payment contingent upon their successful completion of their introductory period prior to September 30, 2012.</p>				
110-1800-525-6221	100830	Computer Software (Municipal Court)	\$ 17,200	
110-0000-317-0000		Municipal Court Restricted Fees - Judicial Efficiency Funds		\$ 9,000
110-0000-317-0000		Municipal Court Restricted Fees - Technology Fee Funds		\$ 8,200
<p>This budget adjustment appropriates \$9,000 of Judicial Efficiency Restricted Funds and \$8,200 of Technology Fee Restricted Funds to pay for software modifications to the current computer system. This modification will provide the Court a "paperless" warrant system. This will save an average of 2,000 pages per month as well as time spent filing, moving, storing, retrieving and shredding documents.</p>				
110-2034-521-2127		OCU Seized Funds - State (Police Dept.)	\$ 4,085	
110-0000-313-0330		Reserved for Seized Funds - State		\$ 4,085
<p>Need additional funds to purchase ballistic vest for SWAT. Take out of State Funds.</p>				
520-5000-535-6545 520-5000-535-6369	100652	Contingency for Approach Mains Capital Building & Grounds - Approach Mains - FY 2011	\$ 31,069	\$ 31,069
<p>To correct budget adjustment that was taken to Council on October 6, 2011, appropriating funds from Contingency Approach Mains. The funds should have been taken from the Approach Mains capital account instead of the contingency account.</p>				
TOTAL AMENDMENTS			\$ 990,504	\$ 990,504

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
November 3, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		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	\$	(5,000)
		Net Balance of Judgments & Damages Contingency Account	\$	75,000
		Beginning Compensation Contingency	\$	863,600
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(828,585)
		Net Balance of Compensation Contingency Account	\$	35,015
		Net Balance Council Contingency	\$	110,015
		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	\$	-
		Net Balance of Contingency Account	\$	50,000
		Beginning Compensation Contingency	\$	97,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(84,685)
		Net Balance of Compensation Contingency Account	\$	12,315
		Net Balance Water & Sewer Fund Contingency	\$	62,315
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	79,303
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	79,303
		Beginning Compensation Contingency	\$	11,300
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(9,855)
		Net Balance of Compensation Contingency Account	\$	1,445
		Net Balance Hotel/Motel Tax Fund Contingency	\$	80,748
		DRAINAGE FUND		
		Beginning Compensation Contingency	\$	13,200
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(12,386)
		Net Balance of Compensation Contingency Account	\$	814

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
November 3, 2011

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
FED/STATE GRANT FUND				
		Beginning Contingency Balance	\$	24,387
		Carry forward from Prior Year	\$	-
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(1,074)
		Net Balance of Contingency Account	\$	23,313

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO
THE 2011-2012 CITY BUDGET; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

—
Whereas, on the 1st day of September, 2011, the City Council approved a
budget for the 2011-2012 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain
amendments to the 2011-2012 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 2011-2012 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 3rd day of **November**, 2011

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #7
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Autumn Speer, Community Services Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting ordinances amending:

- (A) Chapter 7, “Buildings,” of the Code of Ordinances, by adopting the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.
- (B) Chapter 12, “Fire Prevention and Protection,” of the Code of Ordinances, by adopting the 2009 International Fire Code.
- (C) Chapter 21, “Minimum Housing Standards,” of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinances as presented in item description, on first reading, and schedule second reading and final adoption for November 17, 2011.

ITEM SUMMARY: The City is currently under the 2006 version of all aforementioned codes. These are model codes which are in place to safeguard public health and safety. The new 2009 codes modify and clarify current requirements as well as make additions for new requirements as technology and needs evolve. Codes are updated every three years with the next update occurring in 2012.

The following timeline represents the discussions and meetings that have occurred over the past year to prepare for the adoption of the 2009 codes:

- International Fire Code (IFC) Presentation at TABA – November 19, 2010
- Building and Standards Review - January 4, 2011
- TABA International Residential Code (IRC) Review – March 10, 2011
- TABA International Building Code (IBC) Review – March 11, 2011
- City Council Workshop and Review - March 17, 2011

- Building Board of Appeals Review – April 2011
- TABA Internal Review – April – September 2011
- City Council Workshop – October 6, 2011

(A) Chapter 7 Amendments: The proposed amendments to Chapter 7 of the City Code include the 2009 International Building Code, 2009 International Residential Code, 2009 International Plumbing Code, 2009 International Mechanical Code, 2009 International Fuel Gas Code, and the 2009 International Energy Conservation Code.

The following summary highlights the specific amendments and or deletions based on staff review and community input:

- 2009 IRC Chapter 2, “Definitions,” “Attic, Habitable,” amended by deleting the reference to “unfinished.”
- 2009 IRC Chapter 11, “Energy Efficiency,” Section N1104, “Lighting System,” Subsection 1104.1, “Lighting Equipment,” deleted until enforcement is mandated by the State.
- 2009 International Energy Code Chapter 4, “Residential Energy Code,” Table 402.1.1, “Insulation and Fenestration Requirements by Components,” amended by deleting requirements found in the “Glazed Fenestration SHGC” in “Climate Zone 2,” until the State mandates these requirements.

(B) Chapter 12 Amendments: The proposed amendments to Chapter 12 of the City Code include the 2009 International Fire Code.

- All fire extinguishers in the City of Temple with the exception of class k for cooking equipment, will be 5 pound A:B:C for every 3,000 sq ft. or a 2.5 pound A:B:C for individual dwelling units in multifamily residences (R2 occupancies); Travel distance is 75 ft.
- Modification to sprinkler requirements for Group E (educational buildings) occupancy reduced from 20,000 to 12,000 sq ft.
- Modification to sprinkler requirements for Group M (upholstered furniture display).

(C) Chapter 21 Amendments: The proposed amendments to Chapter 21 of the City Code include the 2009 International Property Maintenance Code.

- An addition was made in the 2009 version which includes a boarding standard for covering windows and doors. This has been standard practice, but never included in the code before.

PUBLIC NOTICE:

The newspaper printed notice of the City Council public hearing on October 16 and 19, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Proposed Amendment to City Code Chapter 7](#)
[Proposed Amendment to City Code Chapter 12](#)
[Proposed Amendment to City Code Chapter 21](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 7, "BUILDINGS," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE 2009 INTERNATIONAL BUILDING CODE, THE 2009 INTERNATIONAL RESIDENTIAL CODE, THE 2009 INTERNATIONAL PLUMBING CODE, THE 2009 INTERNATIONAL MECHANICAL CODE, THE 2009 INTERNATIONAL FUEL GAS CODE, AND THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 7, "Buildings," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

CHAPTER 7

BUILDINGS

ARTICLE I. ADMINISTRATION

Section 7-1. Building Official.

Whenever reference is made to the duties of "certain officials" named within the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 International Residential Code, the ~~2006~~ 2009 International Plumbing Code, ~~2006~~ 2009 International Mechanical Code, ~~2006~~ 2009 International Fuel Gas Code, and the ~~2006~~ 2009 International Energy Conservation Code, adopted in this chapter, that designated official of Temple, Texas, who has duties corresponding to those of the named official in said Codes shall be deemed to be the responsible official insofar as enforcing the provisions of said Codes are concerned.

Section 7-2. Building Board of Appeals.

(a) Creation and Appointment. A Board is hereby established to be called the Building Board of Appeals (referred to in the ~~2006~~ 2009 International Building Code as the *Building Board of Adjustments and Appeals*), which shall consist of nine (9) members. All Board members shall be appointed by the City Council. The City Council shall endeavor to appoint, when possible, two (2) architects or engineers, one person from the mechanical or air conditioning trade, two (2) master plumbers, two (2) persons from the building industry which

may include a general contractor, engineer or other person at large from the building industry, and two (2) persons at large representing no specific trade.

(b) Term of Office. All members shall be appointed for terms of four (4) years, except the two (2) at-large positions representing no specific trade shall have an initial term of three (3) years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. When any member of the Board has been absent from the regular meeting of such Board for three (3) or more consecutive times, without just cause, as determined by the Board or the City Council, the member's office shall become vacant, and the chairman or acting chairman of this Board shall certify such record of absence and vacancy to the City Council which shall appoint a new member to fill the vacancy.

(c) Procedures and Quorum. Four (4) members of the Board shall constitute a quorum. In varying the application of any provisions of this Code or in modifying an order of the Building Official, or Plumbing Official, affirmative votes of the majority present, but not less than three (3) affirmative votes, shall be required. A Board member shall not act in a case in which he has a conflict of interest as that term may be defined in the City Charter, in Chapter 171 of the Local Government Code, or in other applicable laws or statutes.

(d) Records. The Building Official shall act as secretary of the Building Board of Appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote for each member participating therein, the absence of a member and any failure of a member to vote.

(e) Procedure. The Board shall establish rules and regulations for its own procedure not inconsistent with the provisions of this Chapter. The Board shall meet at regular intervals to be determined by the chairman, or, in any event, the Board shall meet within ten (10) days after notice of appeal has been received.

(f) Advisory Responsibility of the Board. The Board shall submit to the City Council such recommendations for the improvement and revision of the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 International Mechanical Code, the ~~2006~~ 2009 International One and Two Family Dwelling Code, the ~~2006~~ 2009 International Plumbing Code, the ~~2006~~ 2009 International Gas Code, the 2009 International Energy Code or the ~~2006~~ 2009 International Fire Code as it may from time to time deem necessary and proper in the light of the development of the new materials, methods or techniques which would result in better and more economical installations, and to keep abreast of new developments in applicable portions of the ~~2006~~ 2009 International Building Code, the ~~2006~~ 2009 Mechanical Code, the ~~2006~~ 2009 One and Two Family Dwelling Code, the ~~2006~~ 2009 International Plumbing Code, the ~~2006~~ 2009 International Gas Code, the 2009 International Energy Code and the ~~2006~~ 2009 International Fire Prevention Code. All requests for use of materials or methods not covered in this Code shall be fully supported by factual evidence, or prior approval from recognized testing agency or such other impartial qualified authority acceptable to the Board.

Section 7-3. Appeals; Time Limit.

(a) Whenever the Building Official, or his designee, shall reject or refuse to approve the mode or manner of construction purposed to be followed, or materials to be used in the erection or alteration of a building or structure, or when it is claimed that the provisions of this Code do not apply, or that an equally good more desirable form of construction can be employed in any

specific case, or when it is claimed that the true intent and meaning of this Code, or any of the regulations thereunder have been misconducted or wrongly interpreted, the owner of such building or structure, or his duly authorized agent, may appeal from the decision of the Building Official or his designee to the Building Board of Appeals. Notice of appeal shall be in writing and filed within ninety (90) days after decision is rendered by the Building Official. A fee of ten dollars(\$10.00) shall accompany the notice of appeal.

(b) In case of a building or structure, which, in the opinion of the Building Official is unsafe or dangerous, the Building Official may, in his order, limit the time for such appeal to a shorter period. Appeal hereunder shall be on forms provided by the Building Official.

Section 7-4. Decisions of the Building Board of Appeal.

(a) *Variances and Modifications.*

(1) The Building Board of Appeals, when so appealed to and after hearing, may grant a variance to the application of any provision of the ~~2006~~ 2009 *International Building Code*, the ~~2006~~ 2009 *International Residential Code*, the ~~2006~~ 2009 *International Plumbing Code*, the ~~2006~~ 2009 *International Mechanical Code*, the ~~2006~~ 2009 *International Fuel Gas Code*, and the ~~2006~~ 2009 *Energy Conservation Code* to any particular case when, in its opinion, the enforcement thereof would do manifest injustice, and would be contrary to opinion, the interpretation of the Building Official or his designee should be modified or reversed.

(2) A decision of the Building Board of Appeals to vary the application of any provision of this Code or to modify an order the Building Official or his designee shall specify in what manner such variance or modification is made, the conditions upon which it is made and the reason therefore.

(b) *Decisions.*

(1) Every decision of the Building Board of Appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity. It shall be in writing and shall indicate the vote upon the decision. Every decision shall be promptly filed in the Office of the Building Official, and shall be open to public inspection; a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the Office of the Building Official for two (2) weeks after filing.

(2) The Building Board of Appeals shall, in every case, reach a decision without unreasonable or unnecessary delay.

(3) If a decision of the Building Board of Appeals reverses or modifies a refusal, order or disallowance of the Building Official or his designee, or varies the application of any provisions of this Code, the Building Official or his designee shall immediately take action in accordance with such decision.

Section 7-5 – 7-20 Reserved.

ARTICLE II. ADMINISTRATION

Section 7-21. Building Code.

The City of Temple adopts, as part of its Building Regulations, the ~~2006~~ 2009 *International Building Code*, as it now exists and as it may be revised from time to time, including appendices. A copy of the ~~Standard Building~~ *International Building Code* shall be maintained in the office of the Building Official.

Section 7-22 Amendments.

What follows are additions, deletions and amendments to the ~~2006~~ 2009 *International Building Code*.

- (a) *Permits*. Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.2 “Work exempt from a permit” is amended as follows:

Delete sections 1, 2, and 6.

~~101.4.1 Electrical (Delete)~~

~~Refer to the 2005 National Electrical Code and the City of Temple electrical code.~~

- (b) *Temporary Structures and Uses*. Chapter 1, “Administration,” Section 108 “Temporary Structures and Uses,” ~~407.3~~ Subsection 108.3 “Temporary Power” is amended as follows:

Delete the “ICC Electrical Code” and replace with 2008 *National Electrical Code* and City of Temple Electrical Code.

- (c) *Fees*. Chapter 1, “Administration,” Section 109 “Fees,” Subsection 109.1 “Permit Fees” shall be amended as follows:

~~—108.~~ 109. Permit Fees.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the ~~2006~~ 2009 *International Building Code*, a copy of which shall be maintained in the office of the Building Official.

- (d) *Board of Appeals*. Chapter 1, “Administration,” Section 113 “Board of Appeals,” Subsection 113.1 shall be deleted and replaced with Section 7-2, “Building Board of Appeals” found within this document.

- (e) *Private garages*. Chapter 4, “Special Detailed Requirements Based on Use and Occupancy,” Section 406, “Motor-Vehicle-Related Occupancies,” Subsection 406.1 “Private garages and carports,” 406.1.2 (2) shall be amended as follows:

The fire separation distance shall be changed from 5 to 10 feet.

Section 7-23 – 7-40 Reserved.

ARTICLE III. MECHANICAL CODE

Section 7-41. Adopted.

The City of Temple adopts as part of its buildings regulations the 2006 2009 *International Mechanical Code* as it now exists and as it may be revised from time to time. A copy of the 2006 2009 *International Mechanical Code* shall be maintained in the office of the Building Official.

Section 7-42 – 7-60 Reserved.

ARTICLE IV. 2006 2009 INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELLING

Section 7-61. Adopted.

The City of Temple adopts as part of its building regulations the 2006 2009 *International Residential Code for One and Two Family Dwelling* as it now exists and as it may be revised from time to time. A copy of the 2006 2009 *International Residential Code for One and Two Family Dwelling* shall be maintained in the office of the Building Official.

Section 7-62. Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Residential Code for One and Two Family Dwelling* which amendments shall be maintained in the office of the Building Official.

~~106 Permits~~

~~106-2-7 (Delete)~~

~~109 Means of Appeal (Delete)~~

- (a) *Work exempted from permits.* Chapter 1, “Administration,” Section 105, “Permits,” R105.2 “Work exempt from permit” shall be amended as follows:

(1) Sections 1, 2, 3, 4, 5 and 10 shall be deleted.

(2) R105.2.3 be amended as follows:

The reference to four feet shall be replaced with two feet.

(3) Any reference to the “ICC Electrical Code” and replace with 2008 *National Electrical Code* and City of Temple Electrical Code, Chapter 10.

- (b) *Manufacture’s instillation instructions.* Chapter 1, “Administration,” Section 106, “Permits,” R106.1.2. Manufacture’s installation instructions shall be amended by deleting the words “on the job site.”

- (c) *Manufacture’s instillation instructions.* Chapter 1, “Administration,” Section 610, “Permits,” R106.3.1 “Approval of construction documents” shall be amended to read as follows:

When the building official issues a permit, the ~~construction documents shall be approved in writing or by a stamp which states "REVIEWED FOR CODE COMPLIANCE."~~ One set of ~~construction documents~~ so reviewed shall be retained by the ~~building official~~. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the ~~building official or his or her authorized representative~~. **construction documents shall be made available and shall be open to inspection by the Building Official or his or her authorized representative.**

- (d) *Frame and Masonry Inspection*. Chapter 1, "Administration," Section 109 "Inspections," R109.1.4 "Frame and masonry inspection" shall be amended by deleting the word masonry throughout the entire section.
- (e) Certificate of Occupancy, Chapter 1, "Administration," Section 110, "Certificate of Occupancy," shall be amended by deleting Sections R110.1; R110.4; R110.3; and R110.5
- (f) *Board of Appeals*. Chapter 1, "Administration," Section 112 "Board of Appeals," shall be deleted and replaced with Section 7-2, "Building Board of Appeals" found within this document.
- (g) *Attics*. Chapter 2, "Definitions," "Attic, Habitable," shall be amended by deleting the reference to "unfinished."
- (h) *Handrails*. Chapter 3, "Means of Egress," Section 311, "Ramps," Subsection 311.8.3, "Handrails required," 311.8.3.1, "Height," shall be amended to delete 34 and 38 inches and replace with 28 and 36 inches respectively.
- (i) *Foundation Anchorage*. Chapter 4, "Foundation," Section 403.1, "Footing," 403.1.6 "General," shall be amended as follows:

Shall extend a minimum of 8" inches in length (178mm) into ~~masonry or concrete~~ **concrete or grouted cells of concrete masonry units.**
- (j) *Foundation Elevation*. Chapter 4, "Foundation," Section 403.1, "Footing," Subsection 403.1.7, "Footing on or adjacent to slope," R 403.1.7.3 shall be deleted and individuals must comply with the City's drainage ordinance.
- (k) *Truss design drawings*. Chapter 5, "Floors," Section 502, "Wood floor framing," Subsection 502.11, "Wood Trusses," 502.11.4 "Truss design drawings," shall be amended by deleting the words "and approved," and replaced with **"on request."**
- (l) *Weepholes*. Chapter 7, "Wall Covering," Section 703, "Exterior Covering," Subsection 703.7, "Stone Masonry," 703.7.6, "Veneer Generally" shall be amended so as to delete the reference to "33 inches" and replace with **"a maximum of 48 inches."**
- (m) *Energy Efficiency*. Chapter 11, "Energy Efficiency," Section N1104, "Lighting System," Subsection 1104.1, "Lighting Equipment," shall be deleted until enforcement is mandated by the State.

- (n) *Plumbing generally.* Chapter 29, “Plumbing,” In all instances, only copper or pex-al-pex shall be used under a concrete slab.
- (o) *Water distribution pipe.* Chapter 29 “Plumbing,” Section P2905, “Materials, joints and connections,” subsection P2905.5, “Water Distribution Pipe” shall be amended by deleting “Brass pipe, Polybutylene (PB) plastic pipe and tubing, Polypropylene (PP) plastic pipe or tubing ot be used for both hot and cold water,” and adding “Aluminum Shielded pex pipe.”
- (p) *Electrical.* Chapters 34-41 shall be deleted and all references shall be replaced with Chapter 10 of the City of Temple Electrical Ordinance.

N1102.1. Thermal performance criteria.

~~Delete Maximum Glazing U-Factor column from table N 1102.1~~

R801.3. Roof drainage.

~~Delete~~

R905.2.8.3. Crickets and saddles.

~~Insert: Single piece composite flashing may be used I lieu of cricket.~~

N1102.1.6. Slab on grade floors.

P2904.5. Water Distribution pipe.

P2904.5.1. Under Concrete Slab

~~Delete: Brass, Chlorinated polyvinyl chloride (CPVC), Cross-linked polyethylene (PEX), Galvanized steep pipe, Polybutylene (PB) plastic pipe and tubing, Polupropylene (PP) plastic pipe or tubing, Stainless steel (Type 304/304L, Stainless steel (Type 316/316L) pipe.~~

~~Add: Aluminum Shielded pex pipe.~~

Section 7-63 – 7-80. Reserved.

ARTICLE V. PLUMBING CODE

Section 7-81. Amendments.

The City of Temple adopts certain amendments to the ~~2006~~ 2009 *International Plumbing Code*, which amendments shall be maintained in the Office of the Building Official.

Appendix A. Plumbing Fees.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the ~~2006~~ 2009 *International Plumbing Code*, a copy of which shall be maintained in the office of the Building Official.

Table 906.1. The distance from water closet to vent stack is five feet (5'). If the depth of the flow line of sewer yard is more than 24" at any point, double wyes or combination wyes & 1/8 bends are to be used. A sewer yard line clean out is to be installed at junction of sewer yard line and City sewer

TABLE 906.1 DISTANCE OF FIXTURE TRAP FROM VENT

Size of Fixture	Size of Trap	Falls Per Foot	Distance from Trap
1 ¼"	1 ¼"	¼"	4'
1 ½"	1 ¼"	¼"	4'
1 ½"	1 ½"	¼"	4'
2"	1 ½"	¼"	5'
2"	2"	¼"	5'
*3"	3"	1/8"	5'
*4"	4"	1/8"	5'

* Floor Drains Only 10' & 12' on 3" and 4"

(a) Chapter 6, "Water Supply and Distribution," Chapter 7, " Sanitary Drainage," and Chapter 9, "Vents," shall be amended as follows:

1. All references to air admittance valves shall be deleted.
2. All sinks and washer connections to have a cleanout at or near the foot of each vented waste or soil stack.
3. A dishwashing machine shall not be directly connected to a drainage system.
4. Cold water distribution ASTM D3309-85B may be used in readily accessible places only, not in walls, in or under slab foundations, or in attics.

Section 7-82. Plumbing Installation or Maintenance by Homeowner.

Nothing in this chapter shall prevent a homeowner from installing or maintaining plumbing within his own property boundaries, providing such plumbing work is done by himself and is used exclusively by him or his family. Such privilege does not convey the right to violate any of the provisions of this Chapter, nor is it to be construed as exempting any such property owner from obtaining a permit and paying the required fees thereof.

Section 7-83. Who May Obtain a Permit.

Permits may be issued *only* to the following:

- (a) Master plumber licensed by the State of Texas of Plumbing Examiners;
- (b) Property owner, for plumbing work to be done by him in a building owned and Occupied by him as his home;

- (c) Appliance dealer or dealer's employee, for connecting appliances to existing piping Installation;
- (d) Licensed landscape architects and irrigators.

Section 7-84 – 7-93. Reserved.

ARTICLE VI. GAS CODE

Section 7-94. Adopted.

The City of Temple adopts as part of its Building regulations, the regulations, the 2006 2009 *International Fuel Gas Code* as it exist now and as it may be revised from time to time. A copy of the 2006 2009 *International Fuel Gas Code* shall be maintained in the office of the Building Official.

Section 7-95. Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Fuel Gas Code*, which amendments shall be maintained in the Office of the Building Official.

The City Council shall adopt by resolution a schedule of the permit fees required or authorized by the 2006 2009 *International Fuel Gas Code*, a copy of which shall be maintained in the office of the Building Official.

- (a) *Air Testing Lines*. Chapter 4, "Gas Piping Installations," Section 406, "Inspection, testing and purging," Subsection 406.4 "Test pressure measurement," shall be amended as follows:

The test with a diaphragm gage on gas house piping and service lines shall be made by closing all openings and subjecting the pipes to an air pressure of 3 to 5 ounces that will support a column of mercury ten inches in height. If this column of mercury is support by the air pressure for at least fifteen (15) minutes under a constant temperature, the piping shall be considered sufficiently tight.

Section 7-96 Amendments.

The City of Temple adopts certain amendments to the 2006 2009 *International Energy Code*, which amendments shall be maintained in the Office of the Building Official.

- (a) Chapter 4, "Residential Energy Code," Table 402.1.1, "Insulation and Fenestration Requirements by Components," shall be amended by deleting requirements found in the "Glazed Fenestration SHGC" in "Climate Zone 2," until the state mandates these requirements.

Part 2: 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 3: This ordinance shall take effect on **January 1, 2012**.

Part 4: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 12, "FIRE PREVENTION AND PROTECTION," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, BY ADOPTING THE 2009 INTERNATIONAL FIRE CODE; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

Chapter 12

Fire Prevention and Protection

Article I. In General

Sec. 12-1. Appointment qualifications, general powers, and duties of the fire chief.

- a) The fire chief of Temple Fire & Rescue shall be appointed by the city manager, with approval of the city council. The fire chief shall be skilled in the management of the department and in the conduct thereof, and in the fighting and control of fires and conflagrations, and shall devote his entire time to the services of the department under such rules and regulations as may be laid down by the city manager and/or city council from time to time.
- b) The chief, under the direction of the city manager, shall have control of all fire stations and apparatus in the city, shall direct the department and preside over same in its efforts to extinguish all fires and conflagrations, and shall at all times be ready with his department for all the services which are usually expected of an efficient department.
- c) Wherever fire chief appears in this chapter, it shall mean the fire chief or his designee.

Sec. 12-2. Appointment qualifications, general powers, and duties of the fire code official

- a) The fire prevention division is hereby created. Such division shall be in Temple Fire & Rescue with the fire code official being a member of that division and reporting directly to the chief.

- b) The fire code official shall be appointed by the fire chief. The fire code official shall be skilled in investigations, inspections, management and shall devote his time to educating the public in fire safety while enforcing federal, state, and local laws as they pertain to fire prevention. The fire code official must be a licensed peace officer, in accordance with 2.12 of the Code of Criminal Procedures, unless otherwise approved by the Fire Chief.
- c) Wherever fire code official appears in this chapter, it shall mean the fire code official or his designee.
- d) When, in the opinion of the fire code official, further investigation of a fire is necessary, he shall take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing.
- e) The fire code official shall have the power to summons witness before him to testify in relation to any matter which is, by the provisions of this chapter, a subject of inquiry and investigation, and may require the production of any book, paper, document, or information deemed pertinent thereto. The fire code official is hereby authorized and empowered to administer oaths and affirmation to any persons appearing as witnesses before him.
- f) All investigations held by or under the direction of the fire code official may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.
- g) Any witness who refuses to be sworn, or who refuses to appear to testify, or who disobeys any lawful order of the fire code official, or who fails or refuses to produce any book, paper, document or information touching any matter under examinations, or who commits any contemptuous conduct during an investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as provided in this article, may be charged with a misdemeanor, and it shall be the duty of the fire code official to cause all such offenders to be prosecuted.
- h) When the fire code official determines that the condition of any premises creates a serious fire hazard dangerous to human life, he may order the utility company or companies to disconnect the utility service until the hazardous condition is removed. In cases of emergency or in situations where a utility company does not respond to or comply with the order of the fire code official shall have the authority to immediately disconnect or cause the disconnection of utility service. Any person whose property is affected by the act or order of the fire code official shall have the right of direct appeal to the city manager.

Sec. 12-3. Definitions.

In this chapter:

Fire Lane shall mean an off-street area that is accessible to the public and is to remain free

and clear of parked and standing vehicles in order to provide access to commercial buildings for emergency response purposes. This term includes specifically marked areas in public parking lots.

Private Fire Apparatus Access Road shall mean a road that extends from the property line of a private property to within 150 feet of all points on a commercial building located on that property, to include private streets and access roadways.

The route that a fire hose would be laid shall mean the routing of fire hose from either a public or approved on-site fire hydrant to the fire apparatus along the length of the public roadway and/or approved private fire lanes.

Article II. Adoption of Fire Prevention Code

Sec. 12-4. Adoption of fire prevention code.

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion, that certain code known as the International Fire Code 2006⁹, International Code Council, as well as Appendices B, D, E, F, and G, **H, I, and J** as it now exists and as it may be revised from time to time, and the whole thereof, save and except:

- A. Exclusions as noted in Article III of this chapter;
- B. Revisions as noted in Article IV of this chapter;
- C. Additions as noted in Article V of this chapter; and
- D. Such portions as are hereinafter modified and amended, of which code not less than three (3) copies have been and now are filed in the Office of the Building Official and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date of which this article shall take effect, the provisions thereof shall be controlling within the limits of the City of Temple, Texas.

Article III. Exclusions of International Fire Code 2006⁹

The following provisions of the International Fire Code 2006⁹ are excluded:

- A. Exclude Chapter 3, “General Precautions Against Fire,” Section 307, “Open Burning and Recreation Fires,” but see Section 12-14, “Controlled Burning,” herein.
- B. Exclude Chapter 5, “Fire Service Features,” Section 505, “Premises Identification,” Subsection 505.1, “Address Numbers,” but see Chapter 32, “Streets and Sidewalks,” Section 32-9, “Residence and Building Address Numbering,” from the city code.
- C. Exclude Chapter 33, “Explosives and Fireworks,” in its entirety, but see Section 12-13, “Fireworks,” herein.
- D. Exclude Chapter 5, “Fire Service Features,” Section 508⁷, “Fire Protection Water Supplies”, Subsection 508⁷.5, “Fire Hydrant Systems,” but see Section 12-16, “Fire

Hydrants,” herein.

- E. Exclude Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.6, “Required operational permits,” Part 105.6.35, “Private Fire Hydrant Exception,” but see Section 12-16, “Fire Hydrants,” herein.
- F. Exclude Chapter 3, “General ~~Precautions Against Fire~~ **Requirements**,” Section 308, “Open Flames,” Subsection 308.3, “Open Flames,” Subsection 308.3, “Open Flames,” Part 308.4 **4**, “Open-flame Cooking Devices Exception,” but see Section 12-14 b, “Recreational Fires and Outside Fires for Domestic Purposes,” herein.
- G. Exclude Chapter 9, “Fire Protection Systems,” Section 906, “Portable Fire Extinguishers,” Subsection 906.1, “Where Required Exception,” but see Section 12-9, Table 906.3 (1), “Fire Extinguishers for Fire Hazards,” and Section 12-10, Table 906.3 (2) “Flammable or Combustible Liquids with Depths of less than or equal to 0.25-inch.”

Article IV. Revisions of International Fire Code 2006-9****

Sec. 12-5. Adjustment to Chapter 1, “Administration.”

- a) Adjustment to Chapter 1, “Administration,” Section 101, “General,” Subsection 101.1, “Title,” amended to read as follows:

- 1) In the title insert “The City of Temple.”
- 2) Replace all references to “the ICC Electrical Code” with “the currently adopted edition of the City of Temple Electric Code.”

- b) Adjust Chapter 1, “Administration,” Section 105, “Permits,” Subsection 105.1, “General,” Part 105.1.1, “Permits Required,” amend to read as follows:

Permits required by this code shall be obtained from the construction safety division of the city. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official.

- c) Adjustment to Chapter 1, “Administration,” Section 108, “Board of Appeals,” Subsection 108.1, “Board of Appeals Established,” amended to read as follows:

Refer to Chapter 7, “Buildings,” of the City of Temple Code of Ordinances.

~~Sec. 12-6. Adjustment to Chapter 8, “Interior Flush, Decorative Materials and Furnishings,” Section 806, “Decorative Vegetation in New and Existing Buildings,” Subsection 806.1, “Natural Cut Trees,” amend to read as follows:~~

~~Natural cut trees shall be prohibited in all commercial occupancies as well as Group R occupancies, excluding one and two family dwellings, apartments, and townhomes.~~

Sec. 12-76**. Replace Table 906.3(1), “Fire Extinguishers for Class A Fire Hazards,” with the**

following table:

Fire Extinguisher Requirement Based on Square Footage			
	LIGHT (LOW) HAZARD OCCUPANCY	ORDINARY (Moderate) HAZARD OCCUPANCY	EXTRA (High) HAZARD OCCUPANCY
Minimum Rated Single Extinguisher	5 lb. ABC	5 lb. ABC	5 lb. ABC
Maximum Floor Area Per Unit	3,000 square feet	1,500 square feet	1,000 square feet
Maximum Travel Distance to Extinguisher	75 feet	75 feet	75 feet

Sec. 12-87. Replace Table 906.3(2), “Flammable or Combustible Liquids with Depths of Less than or Equal to 0.25-inch,” with the following table:

TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING	MAXIMUM TRAVEL DISTANCE TO EXTINGUISHERS (FEET)
Light (Low)	5 lb, ABC	75 feet
Ordinary (Moderate)	5 lb, ABC	75 feet
Extra (High)	5 lb, ABC	75 feet

**Sec. 12-9.
Adjustment**

to Chapter 14, “Fire Safety During Construction and Demolition,” Section 1404, “Precautions Against Fire,” Subsection 1404.5, “Fire Watch,” amend to read as follows:

~~When required, as determined by the fire code official, certified firefighter(s) from Temple Fire & Rescue shall be provided as an on-site fire watch for building construction or demolition.~~

Sec. 12-108. Adjustment to Chapter 33, “Explosives and Fireworks,” Section 3307, “Blasting,” Subsection 3307.1, “General,” amend to read as follows:

Blasting operations shall be conducted only by approved, competent operators familiar with the required safety precautions and the hazards involved and in accordance with the provisions of NFPA 495 and Section 12-23, “Extrication Operations Regulations.”

Sec. 12-119. Adjustment to Chapter 38, “Liquefied Petroleum Gases,” Section 3801, “General,” 3801.1 “Scope,” amend to read as follows:

Storage handling and transportation of liquefied petroleum gas (LP-gas) and the installation of LP-gas equipment pertinent to systems for such use shall comply with this chapter, the Texas Railroad Commission Rules governing LP-gas and NFPA 58. Properties of LP-gases shall be determined in accordance with Appendix B of NFPA 58.

Sec. 12-120. Adjustment to Appendix D, “Fire Apparatus Access Roads.”

a) Section D103, “Minimum Specifications,” amended as follows:

- 1) Exclude Table D103.4, “Requirements for Dead-end Fire Apparatus Roads.”
- 2) Subsection D103.4, “Dead-ends,” amend to read as follows:

Public Dead-end fire apparatus access roads in excess of 150 feet (45,720 mm) in length shall be designed in accordance with the City of Temple Design and Development Manual.

- 3) Subsection D103.5, “Fire apparatus road gates,” amended to read as follows

5. Electric gates shall be equipped with a lock box of a type approved by Temple Fire & Rescue and containing a manual release. This release will be used by Temple Fire & Rescue personnel for emergency access in the event of a power failure. Any manual release devices used for emergency access to a property shall be approved by the fire code official.

- 4) Adjustment to Section D103.6 Signs amend to read as follows:

Where required by the fire code official, private fire apparatus access roads shall be marked with permanent NO PARKING—FIRE APPARATUS ROAD signs complying with Figure D103.6. Signs shall have a minimum dimension of 12 inches (305 mm) wide by 18 inches (457 mm) high and have red letters on a white reflective background. Signs shall be posted on one or both sides of the private fire apparatus road, as required by Section D103.6.1 or D103.6.2.

b) Section D106, “Multiple-Family Residential Developments,” amend to read as follows:

- 1) D106.1, “Projects having 1-75 dwelling units.” Multiple-family residential projects having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the city’s Design & Development Standards Manual.
- 2) D106.2, “Projects having 75-150 dwelling units.” Multiple-family residential projects having more than 75-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual. The exception to this sub-section is excluded. See Article II of this chapter.
- 3) D106.3, “Projects having 151-300 dwelling units.” Multiple-family residential projects having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 4) D106.4, “Projects having 301 or more dwelling units.” Multiple-family residential projects having 301 or more dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.

c) Adjustment to Section D107, “One- or Two- Family Dwelling Residential

Developments” amend to read as follows:

- 1) D107.1, “Developments having 1-75 dwelling units.” One- or Two-family dwelling residential development having 1-75 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City of Temple Design & Development Standards Manual.
- 2) D107.2, “Development having 76-150 dwelling units.” One- or Two- Family residential having 76-150 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual. The exception to this subsection is excluded. See Article II of this chapter.
- 3) D107.3, “Developments having 151-300 dwelling units.” One- or Two- Family residential having more than 151-300 dwelling units shall have residential subdivision Entrance/Access roads designated as required by the City’s Design & Development Standards Manual.

Article V. Additions to International Fire Code 2006-9

Sec. 12-131. Fireworks

A. Definitions:

Distributor means a person who:

- a. imports fireworks into this state; or
- b. sells fireworks to:
 1. a jobber, retailer, or other distributor for resale; or
 2. a holder of a single public display permit, a multiple public display permit, or another fireworks permit.

Fireworks means a composition or device:

1. designed for entertainment to produce a visible or audible effect by combustion, explosion, deflagration, or detonation; and
2. defined by 49 C.F.R. Section 173.56(j)(1996).

Fireworks 1.3G means a large fireworks device:

1. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation; and
2. classified as a 1.3G explosive by the department in 49 C.F.R. Part 173 (1996).

Fireworks 1.4G means a small fireworks device:

1. primarily designed to produce visible or audible effects by combustion, deflagration, or detonation;
2. that complies with the construction, labeling, and chemical composition requirements of the United States Consumer Product Safety Commission in 16 C.F.R. Part 1507 (1996), or the most recently adopted version of that rule; and

3. that is classified by the department in 49 C.F.R. Part 173 (1996).

Illegal fireworks means a fireworks device possessed, sold, manufactured, discharged, or transported in violation of this chapter.

Jobber means a person who purchases fireworks only for resale to retailers.

Manufacturer means a person, firm, corporation, or association who makes fireworks.

Person means an individual or entity, including an owner, manager, officer, employee, or occupant.

Public display means the igniting of Fireworks 1.3G for public or private amusement.

Pyrotechnic operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising public displays of Fireworks 1.3G or Fireworks 1.4G.

Pyrotechnic special effects operator means an individual who, by experience, training, and examination, has demonstrated the necessary skill and ability for safely assembling, discharging, and supervising proximate displays of Fireworks 1.3G or Fireworks 1.4G.

Retailer means a person who purchases fireworks for resale only to the general public.

B. Exemptions:

This article does not apply to:

- a. a toy pistol, toy cane, toy gun, or other device that uses paper or plastic caps in sheets, strips, rolls, or individual caps that contain not more than an average of 25 hundredths of a grain of explosive composition per cap and that is packed and shipped under 49 C.F.R. Part 173 (1996).
- b. a model rocket or model rocket motor designed, sold, and used to propel recoverable aero models.
- c. the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation, or highway use;
- d. the use of a fusee or a railway torpedo by a railroad;
- e. the sale of blank cartridges for:
 1. use in a radio, television, film or theater production;
 2. a signal or ceremonial purpose in an athletic event; or
 3. an industrial purpose; or
- f. the use of a pyrotechnic device by a military organization.

C. General prohibition against possession, sale, manufacture, discharge, or transportation.
Except as otherwise specifically provided in this article, it shall be unlawful for any person to possess, sell, manufacture, discharge, transport, or otherwise assemble, store,

receive, keep, offer or have in his possession with intent to possess, sell, manufacture, transport, discharge, cause to be discharged, ignite, detonate, fire or otherwise set in action any fireworks of any description.

- D. *Permitted transportation.*** It shall be lawful for any distributor, jobber, manufacturer, pyrotechnic operator, pyrotechnic special effects operator, or retailer to transport fireworks in accordance with the interstate commerce commission regulations regarding the transportation of explosives and other dangerous articles by motor, rail, and water.
- E. *Illegal fireworks as a nuisance; seizure and destruction, etc.*** The presence of any fireworks within the jurisdiction of the city in violation of this section is hereby declared to be a common and public nuisance. The fire code official is directed and required to seize and cause to be safely destroyed any fireworks found in violation of this article and any member of the fire prevention division of the Temple Fire & Rescue Department or any police officer of the city or any other duly constituted peace officer is empowered to stop the transportation of and detain any fireworks found being transported illegally or to close any building where any fireworks are found stored illegally until the fire code official can be notified in order that such fireworks may be seized and destroyed in accordance with the terms of this section. Notwithstanding any penal provision of this article, the city attorney is authorized to file suit on behalf of the city or the fire code official, or both, for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping or use of fireworks within the jurisdiction of the city and to aid the fire code official in the discharge of his duties and to particularly prevent any person from interfering with the seizure and destruction of such fireworks, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.
- F. *Section provisions to apply within five thousand feet of the city limits.*** This section shall also be applicable and in force within the area immediately adjacent and contiguous to the city limits of the City of Temple and extending for a distance outside the city limits for a total of five thousand (5,000) feet, and it shall be unlawful to do or perform any act in violation of this Article within such area of five thousand (5,000) feet outside the city limits; provided that this Article shall not apply within any portion of such five thousand-foot area which is contained within the territory of any other municipal corporation.
- G. *Right of entry to enforce section.*** The fire code official is hereby authorized to enter any building where the unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks; but such authority does not include the right to enter a private dwelling or apartment.
- H. *Public displays; when permitted.*** A public display of fireworks shall be-permitted when made in compliance of the terms and conditions of this article.
- I. *Application for permit.*** Any adult person or any firm, co-partnership, corporation or association planning to make a public display of fireworks shall first make written application for a permit to the fire code official at least seventy-two (72) hours in advance of the date of the proposed display. No city permit shall be issued until a permit for said purposes has been issued by the State of Texas.
- J. *Issuance or denial and term of permit; permit non-transferable.*** It shall be the duty of the

fire code official or his designee to make an investigation as to whether the display as proposed by the applicant for a permit under this article shall be of such a character that it may be hazardous to property or dangerous to any person, and he shall, in the exercise of reasonable discretion, grant or deny the application, subject to the conditions prescribed in this section. In the event the application is approved, a permit shall be issued for the public display by the fire code official. The fire code official shall determine what fire protection safety measures will be required before, during and after the display and it is the responsibility of the permittee to make sure the fire protection measures are enforced, such permit shall be for a period of time designated on the permit but can be extended by the fire code official. The permit is non-transferable and shall only be good for one display. In the event the permit is denied by the fire code official, he shall notify the applicant of the denial, in writing.

- K. *Insurance or bond required.*** The applicant for a display permit under this section shall, at the time of making application, furnish proof that he carries compensation insurance for his employees, as provided by the laws of this state, and he shall file with the fire code official a certificate of insurance evidencing the carrying of public liability insurance in an amount not less than one million dollars (\$1,000,000) issued by an insurance carrier authorized to transact business in the state, for the benefit of the person named therein as assured, as evidence of ability to respond to damages in at least the amount of one million dollars (\$1,000,000), such policy to be approved by the City of Temple. In lieu of insurance, the applicant may file with the fire code official, a bond in the amount of one million dollars (\$1,000,000) issued by an authorized surety company approved by the City of Temple, conditioned upon the applicant's payment of all damages to persons or property which shall or may result from or be caused by such public display of fireworks, or any negligence on the part of the applicant or his agents, servants, employees, or subcontractors in the presentation of the public display. The City of Temple shall also be designated as an insured by the insurance policy and bonded by the bond.
- L. *Only aerial displays permitted.*** Any fireworks display authorized under this article shall be limited to an aerial display.
- M. *Storage of material prohibited in the city.*** The material to be used for a public display authorized by this article shall not be stored within the city limits, but shall be brought in on the date of the public display and then shall be taken immediately to the place of display for further handling and storage; except that such materials may be stored within the city limits in a secured storage area designated by the fire code official.
- N. *Hazardous conditions prohibited.*** Any persons overseeing a display of fireworks under this article shall be a competent, adult person, an experienced pyrotechnic operator, and approved by the fire code official. No person shall handle fireworks at a public display unless such person has been approved by to do so by the fire code official. The names of all experienced pyrotechnic operators shall be designated on the permit issued for the public display.
- O. *Firefighter to be present.*** For each public display of fireworks under this section, not less than two (2) firefighters of the city shall be in attendance during the display. The expense of such firefighters at the display shall be borne by the applicant for the permit.

Sec. 12-142. Controlled Burning

a) *Burning of debris and other inflammable materials, generally.*

- 1) Permit. It shall be unlawful for any person to burn trash, brush, tree limbs, grass, trees, leaves, paper, boards, planks, lumber, or any other character of debris or inflammable materials whatsoever in the city, except in an incinerator or container which has been approved, in writing, by the fire code official or his designee. An exception shall be considered by the fire code official on an individual basis when and after the Texas Commission on Environmental Quality (T.C.E.Q.) has issued, in writing, a permit to so burn debris and other inflammable materials.
 - i. A copy of the T.C.E.Q. letter of determination or permission to conduct a controlled burning must be presented to the fire code official or his designee.
 - ii. The fire code official or his designee shall inspect the location of a controlled burn and shall determine if the burn can be safely conducted before any actual burning occurs.
 - iii. The fire code official may require the following, depending on conditions found during the controlled burn site inspection:
 - a. A specified number of individuals be present with fire extinguishing devices and appliances;
 - b. Fire breaks to be cut around the area to be burned;
 - c. A trench to be dug and any burning be conducted in the trench; or
 - d. Any other requirements that the fire code official may be deem necessary to safely conduct the controlled burn.
- 2) A controlled burn that the T.C.E.Q. has authorized and that has been approved by the fire code official must meet criteria as outlined in the remainder of this chapter.
- 3) Burning shall be commenced when the wind will carry smoke and other pollutants away from the city or any residential, recreational, commercial, or industrial area, navigable water, public road, or landing strip which may be affected by the smoke. Burning shall not be conducted when a shift in wind direction is predicted which could produce adverse effects to persons, animals, or property during the burning period. If at any time the burning causes or may tend to cause smoke to blow onto or across a road or highway, it is the responsibility of the person initiating the burn to post a flag person on affected roads in accordance with the requirements of the Department of Public Safety.
- 4) Burning must be conducted downwind of or at least 300 feet from any structure located on adjacent properties unless prior written approval is obtained from the adjacent occupant with possessorory control.
- 5) Burning shall be conducted in compliance with the following meteorological and timing considerations:
 - i. The initiation of burning shall commence no earlier than one hour after sunrise. Burning shall be completed on the same day not later than one hour before sunset, and shall be attended by a responsible party at all times during the active burn phase when the fire is progressing. In cases where residual fires and/or

smoldering objects continue to emit smoke after this time, such areas shall be extinguished if the smoke from these areas has the potential to create a nuisance or traffic hazard conditions. In no case shall the extent of the burn area be allowed to increase after this time.

- ii. Burning shall not be commenced when surface wind speed is predicted to be less than six miles per hour (mph) (five knots) or greater than 23 mph (20 knots) during the burn period. This information can be obtained by contacting the Draughon-Miller Central Texas Regional Airport or the National Weather Service.
- 6) Per T.C.E.Q. Rules & Regulations, heavy oils, asphaltic materials, items containing natural or synthetic rubber, or any material which may produce an unreasonable amount of smoke must not be burned.
 - 7) Incinerator or container for fire. An incinerator or container used for burning of any material mentioned in this section (12-20) shall be located so that smoke will not become a nuisance to occupants of surrounding building and such incinerator or container shall not create a hazard to surrounding property. All incinerators must meet any regulation set forth by the T.C.E.Q.
 - 8) Any and all burning of debris and other inflammable materials will be extinguished immediately if determined by the fire code official to be unsafe or constituting a hazard to the environment or interferes with the reasonable use of any properties.
 - 9) The fire code official is authorized to order the extinguishment by the permit holder, another person responsible or the fire department of open burning that creates or adds to a hazardous or objectionable situation.
- b) *Recreational Fire and Outside fires for domestic purposes.*
- 1) Open burning in approved containers shall be allowed without a permit at single-family homes, duplexes, and town homes, subject to the regulations contained herein.
 - 2) Fires shall be limited to a maximum 3 feet diameter and 2 feet in height, must be contained in a non-combustible chimenea, outdoor fireplace, fire pit, or other method approved by the fire code official.
 - 3) All openings in the container or fire pit must be covered with wire mesh or other screening materials that will prevent the passage of sparks and ember.
 - 4) Fires must be kept at least 10 feet from any structure or combustible exterior wall.
 - 5) Fires must be constantly attended.
 - 6) No such fire or container used for an open burning may be used on any porch, deck, balcony, or other portion of a building; within any room space; or under any building overhang.
 - 7) The burning of yard waste, leaves, brush, vines, evergreen needles, branches smaller than 3 inches in diameter, untreated lumber, garbage, paper products, or anything

other than firewood as set forth herein is prohibited.

- 8) The fire code official, police officer, or code enforcement officer may order any open fire, or use of a chimenea, outdoor fireplace, or fire pit which creates a nuisance to be extinguished.
- 9) All chimineas must be extinguished by 1:00 A.M.
- c) *Burning of garbage, petroleum products and motor vehicles prohibited.* The burning of garbage in any form, or petroleum products, or automobiles or other motor vehicles or any part thereof for wrecking or salvage purposes in or on any lot or other premises within the city limits is hereby prohibited.
- d) *Fire prohibited in streets, alleys and on or in public property.* It shall be unlawful for any person to light or have lighted any fire in or on any street, alley, thoroughfare, or public property.

Sec. 12-153. Private Fire Apparatus Access Road and Fire Lanes

a) Maintenance

- 1) A property owner shall at all times maintain and keep in good repair all private apparatus access roads and fire lanes on the premises.
- 2) The owner shall maintain all signs and/or markings in good condition and legible at all times.

b) Abandonment of Private Fire Apparatus Access Roads and Fire Lanes. No owner or person in charge of any premises served by a private fire apparatus access road shall abandon or close any such fire apparatus access road without complying with the following procedure:

- 1) A request to the fire code official shall be made in writing by the owner stating the reason for abandonment of the private fire apparatus access road;
- 2) The fire code official shall determine if said property is no longer subject to the requirements of this code;
- 3) The fire code official shall either approve or deny the request for abandonment and notify the owner in writing within 10 days of receiving the request; and
- 4) No private fire apparatus access road may be abandoned until the fire code official has approved the abandonment, in writing.

c) Authority to Determine Location. The locations of fire lanes/private apparatus access roads shall be determined by the fire code official of the City of Temple or his designated representative, hereinafter called “the authority,” in conformity with the provisions of this article.

d) Location of Private Fire Apparatus Access Roads and Fire Lanes. No building, other than single-family or two-family dwellings, shall be constructed so that any part of the perimeter of the building is greater than one hundred and fifty (150) feet from a public way or public place unless the owner or property manager constructs and maintains a

private apparatus access road or fire lane having a minimum width of twenty (20) feet and a minimum overhead clearance throughout of no less than thirteen (13) feet six (6) inches and terminating within one hundred and fifty (150) feet from the furthestmost point of said building. The same being reflected on the first plat of the property.

e) Restrictions.

- 1) Private apparatus access road or fire lanes shall not be used as loading zones.
- 2) There shall be no parking in any private apparatus access road or fire lane at any time.

f) Posting of Signage and Markings for Fire Lanes.

- 1) All required fire lanes shall be conspicuously marked and shall have signage posted that shall read “Fire Lane—No Parking,” and all required fire hydrants on private property shall be marked “Fire Hydrant—Do Not Obstruct.”
- 2) Signage can be either rectangular signs or red striping; this to be determined by fire code official.
 - i) Rectangular signs shall be a minimum of 12” width x 18” height. They will have a white background with red lettering and be made of reflective material.
 - ii) Striping will consist of a 5” wide red strip with 4” high white letters.
- 3) Required fire lane signage shall be placed no less than thirty (30) feet and no greater than forty (40) feet apart.
- 4) Required fire hydrant markings shall be placed on both sides of a hydrant and at a distance of no less than fifteen (15) feet from the hydrant.

g) Private Dead-end Fire Apparatus Access Roads. Private dead-end fire apparatus access roads in excess of 150 feet (45 720mm) in length shall be provided with a 120 foot hammerhead, 60 foot “Y”, or 94 foot diameter cul-de-sac in accordance with figure D103.1 of the 2006-9 International Fire Code.

Sec. 12-164. Fire Hydrants

A. Authority to determine location. The fire chief or his designee, hereinafter called “the authority,” shall determine the location of fire hydrants in conformity with the provisions of this article.

B. Fire hydrants; location.

- (1) As residential zoned property is developed, fire hydrants shall be located at a maximum spacing of six hundred (600) feet as measured along the length of the roadway and no part of any structure shall be farther than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose would be laid.
- (2) As non-residential zoned property is developed, fire hydrants shall be located a maximum spacing of three hundred (300) feet as measured along the length of the roadway and no part of any structure shall be further than five hundred (500) feet from the fire hydrant as measured by the route that a fire hose is laid.

C. Restrictions.

- (1) Type of fire hydrants. All required fire hydrants shall be of the national standard three-way breakaway type no less than five and one-fourth (5 ¼) inches in size and shall conform to the provisions of the latest American Water Works Association (A.W.W.A.) specifications C-502 and shall be placed upon approved water mains of no less than six (6) inches in size.
- (2) Valves shall be placed on all fire hydrant leads.
- (3) Required fire hydrants shall be installed in such a manner that the breakaway point will be more than three (3) inches, and not greater than five (5) inches, above the ground surface.
- (4) A spacing of no less than eighteen (18) inches shall be provided between center of the barrel of the large steamer connection and the finished grade surface.
- (5) No fire hydrant located on a six-inch (6 inch) dead-end water main shall be located more than 1,800 ft. from a six-inch (6 inch) or greater main.
- (6) No six-inch looped water main shall exceed three thousand five hundred (3,500) feet in length.
- (7) Fire hydrants shall be installed on a water main that is separate from the domestic water supply, except when it is determined by the fire code official that the required maximum one (1) hour demand plus the needed minimum fire flow of one thousand (1,000) gallons per minute will be met by alternate installation.
- (8) Fire hydrants located on public property shall be located a minimum of two (2) feet and a maximum of four (4) feet behind the curb line.
- (9) Protection of fire hydrants. All fire hydrants placed on private property shall be adequately protected by either curb stops or concrete posts or other methods, as approved by the fire code official. Such stops or posts shall be maintained by the property owner or manager
- (10) All fire hydrants shall be installed so that the steamer connection faces the fire lane or street.
- (11) Fire hydrants, when placed at intersections or access drives to parking lots, when practical, shall be placed so that no part of a fire truck connected to the hydrant will block the intersection or parking lot access.
- (12) Obstructions. Post, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrant from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.
- (13) Fire hydrants located on private property shall be accessible to the fire department at all times and free of any type of obstruction that would hinder their use (i.e. vegetation). A 3-foot clear space shall be maintained around the

circumference of fire hydrants.

- (14) The fire code official shall have the authority to approve a variance of up to 10 percent of the footage requirements found at Sec. 12-23.B. parts (a) and (b).

D. Maintenance

- (1) All fire hydrants shall be inspected, flushed and painted at least once annually and such inspections, flushing and painting shall be the responsibility of Temple Fire & Rescue. Fire hydrants shall be color coded as follows:

- i. Less than 500 gpm – Red Bonnet
- ii. 500-999 gpm – Yellow Bonnet
- iii. 1000-1499 gpm – Green Bonnet
- iv. Over 1500 gpm – Blue Bonnet

- (2) Any maintenance or repairs require to keep a fire hydrant in proper working order, other than the maintenance found at a subsection above, shall be the responsibility of the property owner, or manager of the property on which the fire hydrant is located.

- E. Use; opening and closing.** The chief or his designee shall prescribe the manner in which all fire hydrants shall be opened or closed. No person shall open or close any fire hydrant unless authorized to do so by the chief or his designee.

Sec. 12-17⁵. Extraction Operations Regulations

(a) Purpose.

- (1) In order to promote the health, safety, and welfare of those who work or reside near extraction operations, and to protect air quality and the water resources of the city, the regulations in this section are applicable to extraction operations.
- (2) This section shall apply to all extraction operations conducted within the territorial limits of the city and in the extraterritorial jurisdiction within 5000 feet of said territorial limits.

(b) Definitions.

In this section:

Blasting shall mean the practice or occupation of extracting heavy masses of rock, or other materials imbedded in the ground, by means of explosives or blasting agents.

Extraction operations shall mean the use of a lot or tract of land primarily for extraction of materials (including, but not limited to, limestone, rock, sand, gravel, or soil, but not oil or natural gas).

Extraction site shall mean the location of materials or rock removal or extraction operations as delineated by a site plan or a certificate of occupancy.

Regulatory authority shall mean The Temple Fire & Rescue Department

- (c) *Blasting*. All blasting activity that falls within the scope of this Article shall comply with the following provisions;

(1) Permit required.

- i. An appropriate blasting or explosives permit must be acquired from the regulatory authority prior to any blasting activity or preparation for blasting activity at an extraction site.
- ii. A blasting or explosives permit will authorize blasting for the extraction of materials (e.g., rock or stone) only at the extraction site designated on the permit.
- iii. The extraction site operator, or designated representative, may apply for a blasting or explosives permit in accordance with the following procedures:
 1. The applicant shall submit a completed permit application form and fee, as required by the regulations contained in the 2006-9 International Fire Code, as adopted and amended by the City Council. The permit fee shall be in an amount set by resolution of the City Council.
 2. The fire code official shall have thirty (30) days in which to approve or deny a permit application.
 3. Any party aggrieved by the denial of a permit or inaction by the fire code official may appeal such decisions to the Building Board of Appeals, in writing. Upon receipt of an appeal notification, the Board shall take the actions required to review the appeal, in accordance with the 2006-9 International Fire Code.
 4. The application shall contain the following information:
 1. Name of the operator(s) conducting the blasting;
 2. Identification of extraction site;
 3. Description of conditions, if any, which may cause possible adverse blasting effects;
 4. Normal extraction operations schedule;
 5. Type of explosives or blasting agents to be used;
 6. Type of stemming;
 7. Name(s) of licensed blasters on the job;
 8. Copy of Mine Safety Health Administration (MSHA) Certificate of Training (Form 5000-23) for all personnel involved in the extraction operations.
 9. Copy of Insurance Certificate of Blasting Liability Coverage

(2) Insurance required.

i. Before a permit is issued, the applicant shall obtain and maintain general liability insurance having limits of not less than one million dollars (\$1,000,000) per occurrence for bodily injury and property damage combined with one million dollars (\$1,000,000) or greater annual aggregate throughout the permitted period for the purpose of the payment of all damages to persons or property which arise, or are caused by, the conduct of any act or omission authorized by the permit. The general liability insurance shall name the City of Temple as an additional insured with a waiver of subrogation in favor of the City of Temple. The policy shall contain a provision requiring the insurance company to furnish the City of Temple with written notification on any cancellation or nonrenewal of the policy thirty (30) days prior to the cancellation date or inception date, whichever the case may be.

ii. Evidence of compliance with this requirement shall be considered as having been met when the policy, a copy thereof, or a certificate of insurance has been filed with, and approved by, the fire code official. Such policy shall include an endorsement that the fire code official shall be notified at least thirty (30) days in advance in the event the policy or policies are canceled. The City may cancel a permit for any violation of this section.

(3) Regulatory Compliance. All blasting operations located within an extraction site shall comply with the applicable provisions of the 2006-9 International Fire Code and with this section, as well as all applicable local, state, and federal regulations concerning industrial noise and dust levels and applicable drainage, water and air standards.

(4) Annual permit renewal required.

i. In addition to compliance with local, state, or federal regulations, the operator shall be required to comply with the provisions of this section by renewing a permit annually before the anniversary date of the permit.

ii. Upon renewal, the extraction site operator shall:

1. certify in writing that the blasting activities at the permitted extraction site are anticipated to remain materially unchanged from the activities described on the permit application; or
2. provide all relevant information relating to material changes at the permitted extraction site to the fire code official for review;
3. pay the annual permit fee; and
4. file a current certificate of insurance which complies with this section.

iii. A blasting permit will remain in force and effect, provided that the blasting activities at the extraction site specified in the permit are anticipated to remain materially unchanged, the permittee has complied with the requirement of this section during the preceding permit year, and the annual renewal requirements have been met.

(5) Hours of operation. The hours during which extraction operations may take place by blasting shall be at any time during the hours between 8:00 a.m. and 5:00 p.m. Extraction by blasting shall be prohibited on Saturdays, Sundays, and legal holidays unless a variance is obtained from the fire code official based upon public safety concerns or extraordinary economic considerations.

(6) Monitoring of Blasting.

- i. The extraction site operator shall monitor each blast to accumulate data with respect to seismographic and air blast effects of the blasting activity, as required by state and federal law. The extraction site operator shall conduct independent monitoring of blasting events, if directed, and to the extent and frequency reasonably required by the regulatory agency.
- ii. Information generated in the form of reports or other data from this monitoring shall be submitted to the fire code official within seventy-two (72) hours of each blasting event.
- iii. Monitoring information shall include:
 1. actual date and time of the blast;
 2. type of explosives or blasting agents used;
 3. technical data and material safety data sheets for all explosives or blasting agents used;
 4. total pounds of explosives used in each blast;
 5. number, spacing, stemming and depth of holes;
 6. maximum pounds per delay;
 7. firing sequence, delay sequence, and typical hole load diagrams;
 8. location and distance of extraction operation from seismographs;
 9. weather conditions at time and location of blast;
 10. seismograph data;
 11. and ground vibrations or air blast records which shall include:
 1. Type of instrument, sensitivity and calibration signal of certification of annual calibration.
 2. Exact location of instrument and the date, time and distance from the blast;
 3. Name of person and firm taking the reading as well as the person analyzing the seismic record; and
 4. The vibration and air blast level recorded.

(7) Safety Standards. The extraction site operator is responsible and required to comply with all applicable provisions of any state or federal law or applicable regulations promulgated by the Occupational Safety Health Administration (OSHA), Mine Safety Health Administration (MSHA), Alcohol, Tobacco, and Firearms (ATF), or any other executive agency of the state or federal government relating to use, handling, transportation, storage, or detonation of explosives or blasting agents.

(8) Records and Inspections

- i. The holder of a blasting permit shall make the extraction operations site available to the fire code official for inspection at all times during regular business hours.
- ii. The permittee shall retain a record of all blasts and monitoring information for at least five (5) years past the to include date of a blast.
- iii. All records, including monitoring records referenced in subsection (f)(iii) above, relating to blasting activities shall be made available to the fire code official during normal business hours within seventy-two (72) hours of request.

(d) Control of Adverse Effects.

- (1) Air Blast (Noise) Limits. For the purpose of this section, the air overpressure and related noise generated by the use of explosives or blasting agents in extraction operations shall be measured by the air blast created thereby. Air blast shall not exceed 134 dB peak (\pm 3dB) at the location of any dwelling, public building, school, church, or community or institutional building outside the permit area, except as provided in subsection (e) of this section.
- (2) Ground vibration. In all blasting operations, except as otherwise authorized in subsection (e) below, the maximum ground vibration shall not exceed one (1) inch per second at the location of any dwelling.
- (3) Monitoring Requirement. The operator shall conduct monitoring to ensure compliance with the air blast standards and ground vibration standards. Air blast and ground vibration measurements of blasts must be performed to the extent required this section.
- (4) Flyrock. Flyrock traveling in the air or along the ground shall not be cast from the blasting site beyond the area under the control of the operator.
- (5) Exception. The maximum air blast and ground-vibration standards of this section shall not apply at the following locations:
 - i. At structures owned by the permittee and not leased to another person;
 - ii. At structures owned by the permittee and leased to another person, if a written waiver by the lessee has been obtained.

Sec. 12-186. Business Registration.

- i. *Purpose.* Business registration is a procedure administered by Temple Fire & Rescue, in conjunction with the Utilities department, which assures that all businesses within the City of Temple are registered for 911 services, inspected and comply with all city codes.
- ii. *Registration prerequisite to doing business in the City of Temple.* All businesses shall comply with the registration requirements of this article as a precondition of initiating or continuing any business within the City of Temple. For the purpose of this article, the term “business” includes any commercial enterprise, school, church or governmental office located within the city limits. Each occupant of a building used by a business shall

have responsibility for complying with the registration requirements of this section.

iii. Registration procedure.

- i. When a business owner applies for utilities he or she shall fill out a business registration form and return to Temple Fire & Rescue prior to the business receiving utilities or opening its doors for business.
- ii. Registration or re-registration with the city is required prior to changing the name, ownership, operator, location, or use of an existing business.

Article VI. Miscellaneous

Sec. 12-197. Establishment of limits of the fire district.

Beginning at the point of intersection of the south line of Calhoun Avenue with the east line of North 5th Street; thence in southerly direction along the east line of North 5th Street to the south line of Barton Avenue; thence in a westerly direction along said south line of Barton Avenue to the point of intersection with the east right-of-way of the Gulf, Colorado and Santa Fe Railroad; thence in a southeasterly direction along the east line of South 9th Street, if extended; thence in a southerly direction with said line to the north line of Avenue D; thence in a easterly direction with said line to the east line of South 1st Street; thence in a southerly direction along said line to the north line of Avenue E; thence in an easterly direction along said line, if extended, to the west line of 6th Street, if extended; thence in a northerly direction along said west line of 6th Street, if extended, to the north line of Avenue A; thence in an easterly direction along said line to the west line of 8th Street; thence in a northerly direction with said line to the south line of Central Avenue; thence in a westerly direction with said line to the west line of 6th Street; thence in a northerly direction along said line to the south line of Adams Avenue; thence in a westerly direction along said line to the west line of 4th Street; thence in a northerly direction along said line to the south line of Barton Avenue; thence in a westerly direction along said line to the west line of 2nd Street; thence in a northerly direction along said line to the south line of Calhoun Avenue; thence in a westerly direction along said line to the point of beginning.

Sec. 12-2018. Unauthorized use of fire apparatus.

It shall be unlawful for any person, under any pretext whatever, other than for the purposes for which they were intended in Temple Fire & Rescue, to take or use any engine, truck, ladder, fire axe, or other apparatus belonging to or in possession of the department, or any member or company thereof, or to break, deface, or injure the same.

Sec. 12-219. Injuring or driving over fire hose.

It shall be unlawful for any person to cut, deface, tear or otherwise injure, or drive any vehicle over any fire hose belonging to the City of Temple or any fire department that is providing mutual aid for the City of Temple.

Sec. 12-220. Reward for arrest and conviction of arsonists.

The city hereby offers a reward of five hundred dollars (\$500) for the arrest and conviction of

any person for the crime of arson committed within the city limits of the City of Temple. The sum of five hundred (\$500) is hereby appropriated out of any funds belonging to the city not already appropriated for some other purpose for the payment of such reward.

Sec. 12-231. New materials, processes or occupancies which may require permits.

The fire chief or his designee shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those enumerated in this chapter. The fire chief or his designee shall post such lists in a conspicuous place in their offices, and distribute copies thereof to interested persons.

Sec. 12-242. Exemptions.

Nothing contained in this Ordinance shall be construed as applying to the regular military or naval forces of the United States, the duly authorized militia of the State, or the police and fire departments of the city in the proper performance of their duties.

Sec. 12-253. Permit Fees.

The city council shall, by resolution, set the amount of all permit fees required by this chapter. A copy of any resolution setting permit fees shall be maintained in the office of the fire code official.

Sec. 12-264. Enforcement.

This chapter shall be enforced by the fire chief or his designee.

Part 2: Penalties

(a) *Criminal Offenses.* Any person or persons, firm or corporation which violates any of the provisions of this chapter may be deemed guilty of a misdemeanor and, upon conviction, shall be fined an amount not exceeding two thousand (\$2,000) dollars for each offense and each violation hereof shall be deemed a separate and distinct offense for each of said days and shall be punishable as such.

(b) The city attorney may seek remedies at law or in equity to prevent a violation of this chapter

Part 3: 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 4: This ordinance shall take effect immediately on **January 1, 2012.**

Part 5: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 21, "MINIMUM HOUSING STANDARDS," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, ADOPTING THE 2006 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE AND AMENDMENTS; PROVIDING A SAVINGS CLAUSE; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: Chapter 21, "Minimum Housing Standards," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

CHAPTER 21

MINIMUM HOUSING STANDARDS

- Art. I Administration, Sections 21-1 – 21-23**
- Art. II Violations, Sections 21-24 – 21-49**
- Art. III Building and Standards Commission, Sections 21-50 – 21-74**
- Art. IV Housing Standards, Sections 21-75 – 21-78**

ARTICLE I. ADMINISTRATION

Section 21-1. Adopted.

The City of Temple adopts, as part of its Standard Housing Regulations, the 2006 2009 International Property Maintenance Code and Amendments, save and except for the changes which are more fully described in Exhibit A, attached hereto for all purposes.

Section 21-2. Building Official.

Within the *Standard Housing Code* when reference is made to the duties of certain officials named therein, that designated official of the City of Temple who has duties corresponding to those of the named official in said code shall be deemed to be the responsible official insofar as enforcing the provisions of said Code is concerned.

Section 21-3. Intent.

The City of Temple declares every substandard building or structure as herein defined to

be a public nuisance and subject to repair, vacation or demolition to abate such nuisance as herein provided in order to protect the health, safety and welfare of the occupants and the public.

Section 21-4 - 21-23. Reserved.

ARTICLE II. VIOLATIONS.

Section 21-24. Notice of Violation - Service on Owner.

The Building Inspector shall give notice of a violation of this Code. Such notice shall be in writing and shall be via registered or certified mail to the owner as per the tax rolls of the City. If the owner's address is different than the address shown for the property involved, a notice shall also be sent to the address of the property involved, addressed to the occupant of such address. The notice shall constitute an order based upon findings of fact, directing the owner and occupant to repair, vacate, or demolish such building or otherwise comply with such order.

Section 21-25. Contents of Notice.

The notice shall contain the following:

- (1) The name of the owner, occupant, and other persons with a legal interest in the premises;
- (2) The street address or legal description of the premises;
- (3) A general description of the improvements;
- (4) An itemized statement or list of defects;
- (5) Whether or not repairs or correction of the defects shall be made so that the building will comply with the terms of this Code and, if so, a list of the required repairs, or whether the building shall be demolished;
- (6) Whether or not the building shall be vacated by the occupants and, if so, the date by which such vacation shall be effected;
- (7) Whether or not the building constitutes a fire menace; and
- (8) A statement of the time considered reasonable for the party receiving notice to commence to vacate and/or make repairs or otherwise comply with the requirements of the notice. A reasonable time shall not exceed thirty (30) days, except in cases of unusual or extenuating circumstances. The time to commence may be extended by the building inspector for an additional period of up to sixty (60) days; provided, however, an application for an extension is made by the owner, occupant, or some other person interested in the property at least five (5) days before the expiration of the time to commence vacation, repairs, or demolition or otherwise comply with the

notice. A reasonable time to complete the vacation, repair, or demolition or otherwise comply as provided in the notice and such reasonable time for completion shall not exceed ninety (90) days from the date of notice unless the time is extended by action of the Building and Standards Commission.

Section 21-26. Service of Notice When Owner Absent From City.

When the owner and/or occupant, and/or mortgagee, and/or other interested party, is absent from the City, all notices or orders provided for herein shall be sent, via registered mail or certified mail to the owner, and/or occupant, and/or mortgagee, and/or all other persons having an interest in the dwelling or building, to the last known address of each. Such mailing and, in the case of dangerous or uninhabitable buildings, the below described posting, shall be deemed adequate service.

Section 21-27. Posting of Placard on Uninhabitable, Dangerous Buildings.

(a) If the building inspector shall, upon inspection of any building within the City, find the same to be uninhabitable and dangerous, he shall place a placard on the uninhabitable and dangerous building reading as follows:

WARNING

This building has been found to be an UNINHABITABLE AND DANGEROUS STRUCTURE by the Building Inspector. This building is to be vacated immediately. This placard is to remain on the structure until it is repaired or demolished in accordance with the notice dated _____ which has been mailed to all persons having an interest in this building or property as shown by the Tax Office of the City of Temple. It is a violation of City Code Section 21-27(b), punishable by a fine up to \$2,000, for anyone to remove this placard until such notice has been complied with.

Signed _____

Housing Official

(b) No person shall occupy any building posted with such placard nor shall any person deface, destroy, or remove any such placard.

(c) A copy of such notice shall be posted in a conspicuous place on the uninhabitable and dangerous dwelling or building to which it relates.

Section 21-28. Placarded Building to be Secured.

When the placard authorized by Section 21-27 has been posted on any building in the City found to be a violation of this code, the owner or occupant thereof shall render it secure from entry by unauthorized persons.

Section 21-29. Vacation of Uninhabitable, Dangerous Buildings.

Where any building, or portion thereof, fails to comply with the provisions of this code because of the particular use of such building, it shall be unlawful for any persons to make such use or allow such use to be made of such building or portion thereof. Whenever a building is found to violate Section 21-76 of this code and to present an immediate danger requiring demolition of the premises because of potential injury to the occupants, the building inspector shall order the immediate evacuation of the building and it shall remain vacated until the danger is eliminated.

Section 21-30. Emergency Cases.

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an uninhabitable and dangerous building is immediately repaired, vacated or demolished, the building inspector shall cause the immediate repair, vacation or demolition of such uninhabitable and dangerous building or dwelling. The costs of such emergency repair, vacation, demolition or other compliance shall be collected in the same manner as provided in Section 21-77 of this Code.

Section 21-31 - 21-49. Reserved.

ARTICLE III. BUILDING AND STANDARDS COMMISSION

Section 21-50. Adoption of Subchapter C of the Local Government Code.

The City of Temple adopts the provision of Chapter 54 of the Local Government Code of the State of Texas and Subchapter C thereof, and amendments thereto if any, which is entitled "QUASI-JUDICIAL ENFORCEMENT OF HEALTH AND SAFETY ORDINANCES OF HOME-RULE MUNICIPALITY," and does declare the implementation of that Chapter.

Section 21-51. Commission Created; Membership; Term of Office.

Pursuant to the authority vested in the City under Chapter 54, Subchapter C, of the Local Government Code, a Building and Standards Commission is hereby created which shall be composed of five (5) regular members and ~~four (4)~~ **three (3)** alternative members appointed for two year terms. Such alternates shall serve in the absence of one or more regular members when requested by the Mayor or City Manager, or their representatives. In making the initial appointments, the City Council shall appoint two regular members for one year terms, and the remaining members for two year terms. Thereafter, all appointments to the Commission shall be for two year terms.

Section 21-52. Authority of Commission.

(a) The Building and Standards Commission shall have all powers, duties and responsibilities authorized by State law, it being the intent of the City of Temple to fully implement Subchapter C of Chapter 54 of the Local Government Code, including specifically the authority to hear and determine cases concerning alleged violations of City ordinances:

- (1) for the preservation of public safety, relating to the materials or methods used to

construct a building or improvement, including the foundation, structural elements, electrical wiring or apparatus, plumbing and fixtures, entrances, or exits;

(2) relating to the fire safety of a building or improvement, including provisions relating to materials, types of construction or design, warning devices, sprinklers or other fire suppression devices, availability of water supply for extinguishing fires, or location, design, or width of entrances or exits;

(3) relating to dangerously damaged or deteriorated buildings or improvements; or

(4) relating to conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents.

(b) The Building and Standards Commission as created and provided for under the provisions of State law shall, in addition to the statutory duties and responsibilities, have such additional duties and responsibilities as shall be from time to time delegated to it by the City Council of the City of Temple and shall, in addition, determine such issues and render decisions in accordance therewith which may be from time to time required of an appellate body. In such cases, a simple majority of the members of the Building and Standards Commission shall be sufficient to take action, unless by other law or ordinance a greater majority shall be required.

(1) All of the functions of the historic preservation board are hereby assigned and shall be performed by the Building and Standards Commission.

Section 21-53. Procedures.

(a) The Building and Standards Commission shall adopt rules and procedures in accordance with this ordinance governing the conduct of hearings before the Commission, providing ample opportunity for the presentation of evidence and testimony by respondents or persons opposing charges brought by the City, acting through the Building Official, relating to the violation of City ordinances.

(b) If the Building and Standards Commission finds after a hearing that a violation has occurred, the Commission may:

(1) order the repair, within a fixed period, of buildings found to be in violation of an ordinance;

(2) declare a building substandard in accordance with the powers granted by Chapter 54, Subchapter C, of the Local Government Code;

(3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal of persons or property if it is determined that conditions exist on the property that constitute a violation of an ordinance, and order action to be taken as necessary to remedy, alleviate, or remove any substandard building found to exist;

(4) issue orders or directives to any peace officer of the State, including a sheriff or constable or the Police Chief, to enforce and carry out the lawful orders or directives of the Commission; and

(5) determine the amount and duration of a civil penalty the City may recover in an amount permitted by State law.

(c) Procedures for removal of substandard structures.

(1) In cases involving the condemnation or removal of substandard structures, the Building and Standards Commission shall conduct a hearing prior to ordering the removal of a structure. The Commission shall hold an initial hearing not less than forty-five (45) days after the Building Official notifies the required parties that a building is condemned as a substandard structure, and posts a notice to that effect on the structure.

(2) At the initial hearing, if removal of the substandard structure is contested by any party of record with an interest in the property, the Building and Standards Commission shall, if it finds that the structure should be condemned, order the property owner to appear at a future date, not less than forty-five days from the date of the first hearing, and show cause why the Commission shall not order the removal of the substandard structure.

(3) If the property owner(s), or any other person interested in the property fails to appear at the initial hearing, and contest the condemnation of the structure, the finding of the Building and Standards Commission shall be final. Provided further, that, in cases involving an immediate, significant threat to the public health, safety, and welfare, the Commission may shorten the time period prior to either hearing when requested by the Building Official, provided that the requirements for notice under State law are met.

(d) The concurring vote of four members of the Commission is necessary to take any action under Chapter 54, Subchapter C, of the Local Government Code.

Section 21-54. Notice of Hearings.

(a) The Building Official shall give notice of all proceedings before the Commission by certified mail, return receipt requested, to the record owners of the affected property, and to each holder of a recorded lien against the property, as shown by the County Clerk's records. The Building Official shall give notice to all unknown owners, by posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practical.

(b) The Building Official shall mail and post each required notice at least ten (10) days prior to the date of the scheduled hearing before the Commission. The Building Official shall also cause to be published on one occasion, at least ten (10) days prior to the hearing, notice of the hearing in a newspaper of general circulation in the City.

(c) Notice required to be mailed, posted, or published under this section shall state the date, time, and place of the hearing. In addition, each notice shall contain:

- (1) The name of the owner(s), occupant(s), and other persons interested in the building;
- (2) The street address or legal description of the premises;
- (3) A general description of the improvements;
- (4) A list of defects on the property; and
- (5) A brief statement of the action to be considered by the Commission.

Section 21-55. Appeals; Finality of Decisions.

In each case, the Building and Standards Commission shall mail by first class mail, certified return receipt requested, to all parties entitled to notice of the original hearing, a copy of the final decision of the Commission. All persons aggrieved of a decision of the Building and Standards Commission may present a petition to any district court in Bell County, duly verified, setting forth that the decision is illegal, in whole or part, and specifying the grounds of the illegality. A petition of review must be presented to a district court within thirty (30) calendar days of the date copies of the final decision are sent to interested parties. If no appeals are taken from a decision of the Building and Standards Commission within the required period, the decision of the Commission is, in all things, final and binding.

Section 21-56 - 21-74. Reserved.

ARTICLE IV. HOUSING STANDARDS

Section 21-75. Elimination of Uninhabitable and Dangerous Structures.

All uninhabitable and dangerous structures, including dwellings, are hereby declared to be public nuisances, and shall be repaired, vacated, or demolished.

Section 21-76. Conditions Constituting an Uninhabitable or Dangerous Dwelling.

An uninhabitable and dangerous building or dwelling is defined as any building or dwelling:

- (1) whose walls or other vertical structural members list, lean or buckle in excess of one-eighth (1/8) inch horizontal measurement for each one foot of vertical measurement;
- (2) which, exclusive of the foundation, shows thirty-three (33) percent, or more, of damage or deterioration of the supporting member or members, or fifty (50) percent of damage or deterioration of the nonsupporting enclosing or outside walls or covering;
- (3) which has been damaged by fire, explosion, wind, vandalism or elements of nature so as to have become dangerous to life, safety, or the general health and welfare of the occupants thereof or the people of the City;

- (4) which has inadequate facilities for egress in case of fire or panic or which has insufficient stairways, elevators, fire escapes or other means of ingress or egress;
- (5) which has parts thereof which are so attached that they may fall and injure members of the public or property;
- (6) which, because of its condition is unsafe, or unsanitary, or dangerous to the health, morals, safety, or general welfare of the people of this City; or
- (7) which exists in violation of any material provision of the City's Building Code, Plumbing Code, Fire Prevention Code, Electrical Code or the statutes of the State of Texas as revised, or that fail to comply with any material provision of this Code. For the purposes of this section, a violation of a "material" provision is a violation of any section that involves a significant risk of personal injury, death, or property damage.

Section 21-77. Guide for Repair, Vacation or Demolition of Uninhabitable Buildings.

The following guide shall be followed by the Building Inspector in determining whether to order or recommend the repair or vacation or demolition of any uninhabitable and dangerous building or dwelling:

- (1) **Repair.** If a building can reasonably be repaired so that it will no longer exist in violation of the terms of this Code, the Building Inspector shall order it repaired within a reasonable time. A reasonable time shall be as defined in Section 21-25(8) of this Chapter. If the owner or occupant fails to make such repairs within the time frame allowed by Section 21-25(8), the Building Official may recommend that the Building and Standards Commission order repairs, impose fines, order the demolition of a building, or take other appropriate action to implement this Chapter.
- (2) **Vacation.** If a building is in such condition as to make it a danger to the health, safety or general welfare of its occupants or the citizens of Temple, the Building Inspector shall order it vacated. If the owner or occupant fails to vacate a building after proper notice, the Building Official may recommend that the Building and Standards Commission order the vacation of the structure, impose a fine, or take other appropriate action to implement this Chapter.
- (3) **Demolition.** The Building Inspector shall recommend that the Building and Standards Commission order a building demolished, if it:
 - (a) Is at least fifty (50) percent damaged or deteriorated, on either a structural or original value basis;
 - (b) Is an immediate danger to the life or safety of any person and is not immediately made not an immediate danger;
 - (c) Is in need of repair under Section (1) above and is not repaired within the reasonable time set forth therein; or

- (d) Is in such condition as to make it dangerous to the health, safety, or general welfare, has been ordered by vacated by the Building Inspector, and has not been cured of the defects within a reasonable time.

Section 21-78. Demolition of Building or Dwelling in City.

If, at the expiration of the time allowed for compliance with the provisions of this Code, a building or dwelling ordered demolished under the provisions of this Chapter has not been demolished, it shall be demolished by the City or its agents or contractor at the expense of the owner. If the cost of the demolition exceeds the value of the materials of such building, such excess shall be charged as a lien upon the real property on which the building had been situated.

Part 2: 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 3: This ordinance shall take effect immediately on **January 1, 2012.**

Part 4: The Code of Ordinances of the City of Temple, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney

EXHIBIT A

Changes to the 2006 International Property Maintenance Code

~~Section 102.3~~ Change “ICC Electrical Code” to “NEC Electrical Code”

~~Section 107.1~~ Delete

~~Section 107.2~~ Delete

~~Section 107.3~~ Delete

~~Section 110.2~~ Delete

~~Section 111~~ Delete entire section (111.1, 111.2, 111.2.1, 111.2.2, 111.2.3, 111.2.4, 111.2.5, 111.3, 111.4, 111.4.1, 111.5, 111.6, 111.6.1, 111.6.2, 111.7, 111.8)

~~Section 201.3~~ Change “ICC Electrical Code” to “NEC Electrical Code”

~~Section 302.4~~ Insert 9 inches where applicable

~~Section 302.8~~ Delete

~~Section 303.2~~ Delete “at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool” *REPLACE* it with “in compliance with Chapter 34 Section (h) 315 of the City of Temple Code of Ordinances”

~~Section [F] 304.3~~ Delete

~~Section 304.14~~ Insert January 1 to December 31 where applicable

~~Section 307.2.1~~ Delete

~~Section 307.2.2~~ Delete

~~Section 307.3.1~~ Delete

~~Section 307.3.2~~ Delete

~~Section 404.5~~ Add the following from the 1998 International Property Maintenance Code:

~~Table 404.5~~ Minimum area requirements

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 Occupants	3-5 occupants	6 or more occupants
Living Room (a,b)	No requirements	120	150
Dining Room (a,b)	No requirements	80	100
Kitchen (b)	50	50	60
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 square meters

(a) See Section 404.5.2 for combined living room/dining room spaces.

(b) See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping Area. The minimum occupancy area required by table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4

404.5.2 Combined Spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

~~Section 602.3~~ Insert January 1 to December 31 where applicable

~~Section 602.4~~ Insert January 1 to December 31 where applicable

~~Section 604.2~~ Change “ICC Electrical Code” to “NEC Electrical Code” AND change “60 amperes” to “100 amperes”.

Changes To the 2009 International Property Maintenance Code

Section 102 APPLICABILITY

Subsection 102.3 Application of other codes. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code.”

Section 107 NOTICES AND ORDERS

Subsection 107.1 Notice to person responsible. Delete

Subsection 107.2 Form. Delete

Subsection 107.3 Method of service. Delete

Section 110 DEMOLITION

Subsection 110.2 Notices and Orders. Delete

Section 111 MEANS OF APPEAL - Delete entire section (111.1, 111.2, 111.2.2, 111.2.3, 111.2.4, 111.2.5, 111.3, 111.4, 111.4.1, 111.5, 111.6, 111.6.1, 111.6.2, 111.7, 111.8).

Section 201 GENERAL

Subsection 201.3 Terms defined in other codes. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code.”

Section 302 EXTERIOR PROPERTY AREAS

Subsection 302.4 Change “jurisdiction to insert height in inches” to “9 inches”.

Subsection 302.8 Motor vehicles. Delete

Section 303 SWIMMING POOLS, SPAS AND HOT TUBS

Subsection 303.2 Enclosures. Change “at least 48 inches in height above the finished ground level measured on the side of the barrier away from the pool” to “in compliance with Chapter 34 Section (h) 315 of the City of Temple Code of Ordinances”.

Section 304 EXTERIOR STRUCTURE

Subsection [F] 304.3 Premises identification. Delete

Subsection 304.14 Insect screens. Insert January 1 to December 31 where applicable.

Section 308 RUBBISH AND GARBAGE

Subsection 308.2.1 Rubbish storage facilities. Delete

Subsection 308.2.2 Refrigerators. Delete

Subsection 308.3.1 Garbage facilities. Delete

Subsection 308.3.2 Containers. Delete

Section 404 OCCUPANCY LIMITATIONS – Add Table 404.5 Minimum Area Requirements, 404.5.1 Sleeping area, and 404.5.2 from the 1998 International Property Maintenance Code.

TABLE 404.5 MINIMUM AREA REQUIREMENTS			
SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^{a,b}	No requirements	120	150
Dining room ^{a,b}	No requirements	80	100
Kitchen ^b	50	50	60
Bedrooms	Shall comply with Section 404.4		

For SI: 1 square foot = 0.093 m².

^a See Section 404.5.2 for combined living room/dining room spaces.

^b See Section 404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

404.5.1 Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with Section 404.4.

404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

Section 602 HEATING FACILITIES

Subsection 602.3 Heat Supply. Insert January 1 to December 31 where applicable.

Subsection 602.4 Occupiable work spaces. Insert January 1 to December 31 where applicable.

Section 604 ELECTRICAL FACILITIES

Subsection 604.2 Service. Change “NFPA 70” to “City of Temple Chapter 10 Electrical Code” and change “60 amperes” to “100 amperes”.

Add Appendix A BOARDING STANDARD from the 2009 International Property Maintenance Code.

Appendix A103 INSTALLATION

Subsection A103.1 Boarding installation. Delete “Figures A103.1(1) and A103.1(2) and”.

Subsection A103.1 Boarding installation. Add “Figure A103.1(1) and A103.1(2) is an optional method of boarding”.

Subsection A103.3 Windows. Delete

Subsection A103.4 Door walls. Delete



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: FIRST READING-PUBLIC HEARING - Consider adopting an ordinance authorizing an amendment to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans to appropriate \$600,000 to the TMED-1st Street @ Loop 363 Project by reallocating funds from Avenue U from S&W Boulevard to 1st Street to the 13th to 17th connector from Avenue R to Loop 363.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description, on first reading and schedule second reading and final adoption for November 17, 2011.

ITEM SUMMARY: The Reinvestment Zone No. 1 Board met on October 26, 2011, to recommend to Council an amendment to the Financing and Project Plans to reprioritize funding within the Financing and Project Plans. The detail for the required amendment is shown below.

TMED-1st Street @ Loop 363, Line 454 (Project Plan):

At the September 28, 2011, Board meeting, the Financing Plan, Line 454, was amended to add \$400,000 to bring the total available funding to \$1,700,000 in FY 2011, 2012, and 2013 for the TMED-1st Street @ Loop 363 project. Kasberg, Patrick and Associates were contracted for survey and engineering services for the project in the amount of \$185,000, leaving a balance of \$1,515,000 available. The \$1,515,000 was the Zone's matching funds to be combined with TxDOT's contribution of \$1,515,000 towards the grant match. Total matching funds currently available are \$3,030,000. This amount represented a 23% grant match to the total project of \$13,030,000.

During the City's process of compiling the grant application to the U.S. Department of Transportation, it was determined that the application would receive a more favorable consideration if additional matching funds were available for the project. The total project has been increased to \$14,230,000, with \$10,000,000 (if awarded) to be reimbursed to the City through federal funding. Texas Department of Transportation (TxDOT) has committed to match Zone funds dollar for dollar.

A Financing Plan amendment is presented to reallocate an additional \$600,000, from Line 457, Avenue U from S&W Blvd to 1st St to the 13th to 17th connector from Avenue R to Loop 363 to add to the funding for the 1st Street and Loop 363 Zone's share of the grant match. This would bring the

amount of the Zone's match to \$2,115,000. TxDOT will also contribute \$2,115,000 towards the grant match.

After the amendment to the plans to increase the matching funds, a total of \$4,230,000 would be available for the matching funds. This amount represents a 30% grant match to the total project of \$14,230,000.

FISCAL IMPACT: The proposed amendment reallocates funding in FY 2012 Financing/Project Plans on Lines 454 and 457 as described above.

There is no change to unreserved fund balance at the end of FY 2012. It remains the same as previously projected which is \$694,162.

ATTACHMENTS:

[Financing Plan](#)
[Summary Financing Plan with Detailed Project Plan](#)
[Map](#)
[Ordinance](#)

FINANCING PLAN

DESCRIPTION		Y/E 9/30/11 Year 29	Y/E 9/30/12 Year 30	Y/E 9/30/13 Year 31	Y/E 9/30/14 Year 32	Y/E 9/30/15 Year 33	Y/E 9/30/16 Year 34	Y/E 9/30/17 Year 35	Y/E 9/30/18 Year 36	Y/E 9/30/19 Year 37	Y/E 9/30/20 Year 38	Y/E 9/30/21 Year 39	Y/E 9/30/22 Year 40
1	"Taxable Increment"	\$ 132,020,000	\$ 132,020,000	\$ 139,995,945	\$ 143,080,007	\$ 145,017,763	\$ 202,529,247	\$ 220,811,496	\$ 224,519,611	\$ 228,264,807	\$ 231,297,455	\$ 234,360,430	\$ 236,704,034
1	FUND BALANCE, Begin	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
2	Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-	-	-	-	-	-	-	-
3	Fund Balance Available for Appropriation	\$ 5,601,796	\$ 1,894,859	\$ 2,456,027	\$ 2,394,386	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104
SOURCES OF FUNDS:													
4	Tax Revenues	4,300,968	4,135,611	4,337,625	4,400,312	4,449,698	6,049,648	6,531,300	6,602,434	6,674,282	6,737,970	6,802,296	6,858,393
6	Allowance for Uncollected Taxes	(114,517)	(115,655)	(116,801)	(117,961)	(119,132)	(120,314)	(121,509)	(122,715)	(123,934)	(125,165)	(126,408)	(127,663)
8	Interest Income-Other	50,000	50,000	50,000	50,000	50,000	50,000	50,000	50,000	40,000	40,000	30,000	10,000
10	Grant Funds	-	50,000	-	-	-	-	-	-	-	-	-	-
12	License Fee - Central Texas Railway	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000	36,000
14	Other Revenues	175,000	175,000	-	-	-	-	-	-	-	-	-	-
16	P.I.L.O.T.	1,300,000	1,300,000	-	-	-	-	-	-	-	-	-	-
20	Total Sources of Funds	\$ 5,747,451	\$ 5,630,956	\$ 4,306,824	\$ 4,368,351	\$ 4,416,566	\$ 6,015,334	\$ 6,495,791	\$ 6,565,719	\$ 6,626,348	\$ 6,688,805	\$ 6,741,888	\$ 6,776,730
25	TOTAL AVAILABLE FOR APPROPRIATION	\$ 11,349,247	\$ 7,525,815	\$ 6,762,851	\$ 6,762,737	\$ 6,141,625	\$ 7,079,000	\$ 7,063,894	\$ 7,104,771	\$ 7,213,580	\$ 7,373,334	\$ 7,474,971	\$ 7,593,834
USE OF FUNDS:													
DEBT SERVICE													
26	2003 Bond Issue (\$11.740)	868,420	867,035	869,055	869,855	868,930	866,530	867,440	866,753	869,240	869,640	868,070	870,070
27	2008 Bond Issue (\$16.010 mil)	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	201,960	1,786,960	1,787,292	1,784,972
28	2009 Bond Refunding	370,669	1,473,669	1,474,569	1,479,969	1,499,769	1,508,775	1,510,150	1,488,750	1,485,000	-	-	-
29	2008 Bond Issue-Taxable (\$10.365 mil)	536,935	1,241,935	1,239,641	1,240,495	1,239,233	1,240,854	1,240,096	1,241,957	1,241,173	1,237,744	1,241,670	1,242,422
30	Issuance Costs	-	-	-	-	-	-	-	-	-	-	-	-
31	Refunding Bonds Proceeds	-	-	-	-	-	-	-	-	-	-	-	-
32	Payment to Refunding Bond Agent	-	-	-	-	-	-	-	-	-	-	-	-
33	Paying Agent Services	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200	1,200
40	Subtotal-Debt Service	1,979,184	3,785,799	3,786,425	3,793,479	3,811,092	3,819,319	3,820,846	3,800,620	3,798,573	3,895,544	3,898,232	3,898,664
OPERATING EXPENDITURES													
50	Prof Svcs/Proj Mgmt	161,865	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000	175,000
52	Legal/Audit	1,200	1,200	1,200	1,200	1,200	1,200	1,300	1,300	1,300	1,300	1,300	1,400
54	Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000	150,000
54	Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000	25,000
56	Rail Maintenance	177,446	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
58	Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000	100,000
60	Contractual Payments [TEDC - Marketing]	150,000	165,000	181,500	199,650	219,615	241,577	253,655	266,338	279,655	293,638	308,320	323,736
62	TISD-Joint Use facilities	174,779	22,873	23,102	23,333	23,567	23,802	24,040	24,281	24,523	24,769	25,016	25,267
65	Subtotal-Operating Expenditures	948,864	739,073	755,802	774,183	794,382	816,579	828,995	841,919	855,478	869,707	884,636	900,403
70	TOTAL DEBT & OPERATING EXPENDITURES	\$ 2,928,048	\$ 4,524,872	\$ 4,542,227	\$ 4,567,662	\$ 4,605,474	\$ 4,635,898	\$ 4,649,841	\$ 4,642,539	\$ 4,654,051	\$ 4,765,251	\$ 4,782,868	\$ 4,799,067
80	Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151	\$ 2,443,103	\$ 2,414,052	\$ 2,462,232	\$ 2,559,529	\$ 2,608,083	\$ 2,692,104	\$ 2,794,767
PROJECTS													
150	North Zone/Rail Park	14,800	50,000	250,000	250,000	250,000	-	-	-	-	-	-	-
200	Airport Park	-	125,000	625,000	-	-	-	-	-	-	-	-	-
250	Bio-Science Park	559,449	175,000	-	-	-	-	-	-	-	-	-	-
300	Outer Loop [from Wendland Rd to IH-35 North]	158,506	-	-	-	-	-	-	-	-	-	-	-
350	Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-	-	-	-	-	-	-	-
400	Synergy Park	126,200	-	-	-	-	-	-	-	-	-	-	-
450	Downtown	570,092	206,781	216,881	220,016	222,485	-	-	-	-	-	-	-
500	TMED	2,780,000	1,500,000	500,000	-	-	-	-	-	-	-	-	-
501	Major Gateway Entrances	-	-	-	-	-	-	-	-	-	-	-	-
505	Airport Corporate Hangar Development	1,850,000	250,000	-	-	-	-	-	-	-	-	-	-
600	Bond Contingency	-	-	-	-	-	-	-	-	-	-	-	-
610	Public Improvements	-	-	-	-	-	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
	Subtotal-Projects	6,989,047	2,306,781	1,591,881	470,016	472,485	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	1,875,000	2,746,995
TOTAL USE OF FUNDS		\$ 9,917,095	\$ 6,831,653	\$ 6,134,108	\$ 5,037,678	\$ 5,077,959	\$ 6,510,898	\$ 6,524,841	\$ 6,517,539	\$ 6,529,051	\$ 6,640,251	\$ 6,657,868	\$ 7,546,062
700	FUND BALANCE, End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666	\$ 568,103	\$ 539,052	\$ 587,232	\$ 684,529	\$ 733,083	\$ 817,104	\$ 47,772

Project Plan - 10/26/2011 - to Zone Board

SUMMARY FINANCING PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1Beginning Available Fund Balance, Oct 1	\$ 6,901,796	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059
20Total Sources of Funds	5,747,451	5,630,956	4,306,824	4,368,351	4,416,566
2Adjustments to Debt Service Reserve	(1,300,000)	462,707	1,761,865	1,765,643	-
25Net Available for Appropriation	11,349,247	7,525,815	6,762,851	6,762,737	6,141,625
50/52General Administrative Expenditures	163,065	176,200	176,200	176,200	176,200
54Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	150,000	150,000	150,000
54Zone Park Maintenance [maintenance]	25,000	25,000	25,000	25,000	25,000
56Rail Maintenance	177,446	100,000	100,000	100,000	100,000
58Road/Signage Maintenance	108,574	100,000	100,000	100,000	100,000
60Contractual Payments (TEDC - Marketing)	150,000	165,000	181,500	199,650	219,615
62TISD - Joint Use Facilities [look at contracts and calculation]	174,779	22,873	23,102	23,333	23,567
26Debt Service - 2003 Issue {\$11.740 mil}	869,620	868,235	870,255	871,055	870,130
27Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	201,960	201,960	201,960
28Debt Service - 2009 Issue {Refunding}	370,669	1,473,669	1,474,569	1,479,969	1,499,769
29Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	1,241,935	1,239,641	1,240,495	1,239,233
30Issuance Costs	-	-	-	-	-
31Refunding Bond Proceeds	-	-	-	-	-
32Payment to Refunding Bond Agent	-	-	-	-	-
70Total Debt & Operating Expenditures	2,928,048	4,524,872	4,542,227	4,567,662	4,605,474
80Funds Available for Projects	\$ 8,421,199	\$ 3,000,943	\$ 2,220,624	\$ 2,195,075	\$ 1,536,151

PROJECT PLAN					
	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):					
100Railroad Spur Improvements	14,800	-	-	-	-
102Elm Creek Detention Pond	-	-	-	-	-
103ROW Acquisition - Public Improvements	-	-	-	-	-
104Extension of Rail Service	-	-	-	-	-
105BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-
106Wendland Road Improvements	-	-	-	-	-
107Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-
110Public Improvements in North Zone	-	50,000	250,000	250,000	250,000
150Total North Zone/Rail Park (including Enterprise Park)	14,800	50,000	250,000	250,000	250,000
AIRPORT PARK:					
151Airport Park Infrastructure Construction	-	-	-	-	-
155Pepper Creek Trail Extention Phase I - [\$750K total project cost]	-	125,000	625,000	-	-
200Total Airport Park	-	125,000	625,000	-	-
BIO-SCIENCE PARK:					
201Greenbelt Development along Pepper Creek	34,449	-	-	-	-
202Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-	-
203Bio-Science Park Phase 1	-	-	-	-	-
204Pepper Creek Trail Connection to S&W (City of Temple portion)	525,000	175,000	-	-	-
250Total Bio-Science Park	559,449	175,000	-	-	-
300Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	158,506	-	-	-	-
350Northwest Loop 363 Improvements (TxDOT commitment)	930,000	-	-	-	-
SYNERGY PARK:					
351Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	126,200	-	-	-	-
400Total Synergy Park	126,200	-	-	-	-
DOWNTOWN:					
401Downtown Improvements [look at 1999 Ordinance]	440,092	206,781	216,881	220,016	222,485
402Rail Safety Zone Study	25,000	-	-	-	-
403Lot Identification & Signage	80,000	-	-	-	-
404Santa Fe Plaza Study	25,000	-	-	-	-
405Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-
450Total Downtown	570,092	206,781	216,881	220,016	222,485
TMED:					
451TMED - 1st Street @ Temple College - [\$2.9M total project cost]	500,000	-	-	-	-
452Master Plan Integration 2010	50,000	-	-	-	-
453Monumentation Identification Conceptual Design	30,000	-	-	-	-
454TMED - 1st Street @ Loop 363 Design/Construction - [\$2M total project cost]	300,000	1,500,000	500,000	-	-
455TMED - Friars Creek Trail 5th Street to S&W Blvd. - [\$1.9M total project cost - DOE Grant of \$400K]	1,500,000	-	-	-	-
456Avenue R - S&W Blvd, Ave R - 19th Intersections	50,000	-	-	-	-
457Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363	350,000	-	-	-	-
500Total TMED	2,780,000	1,500,000	500,000	-	-
OTHER PROJECTS:					
501Gateway Entrance Projects	-	-	-	-	-
505Airport Corporate Hangar Development	1,850,000	250,000	-	-	-
550Total Other Projects	1,850,000	250,000	-	-	-
600Undesignated Funding - Bonds	-	-	-	-	-
610Undesignated Funding - Public Improvements	-	-	-	-	-
Total Planned Project Expenditures	6,989,047	2,306,781	1,591,881	470,016	472,485
700Available Fund Balance at Year End	\$ 1,432,152	\$ 694,162	\$ 628,743	\$ 1,725,059	\$ 1,063,666



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Proposed Areas of Improvements
 → Connect to Existing Trails

PROPOSED LOOP 363, 1ST AND 5TH STREET TIGER GRANT III OPTION



TM-002

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AMENDMENTS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE NO. 1 FINANCING AND PROJECT PLANS TO APPROPRIATE \$600,000 TO THE TMED-1ST STREET @ LOOP 363 PROJECT BY REALLOCATING FUNDS FROM AVENUE U FROM S&W BOULEVARD TO 1ST STREET TO THE 13TH TO 17TH CONNECTOR FROM AVENUE R TO LOOP 363; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; DECLARING FINDINGS OF FACT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Council (the "Council") of the City of Temple, Texas, (the "City") created Reinvestment Zone Number One, City of Temple, Texas (the "Zone") by Ordinance No. 1457 adopted on September 16, 1982;

Whereas, the Council adopted a Project Plan and Reinvestment Zone Financing Plan for the Zone by Ordinance No. 1525 adopted on December 22, 1983, and thereafter amended such plans by Ordinance No. 1664 adopted on June 20, 1985, Ordinance No. 1719 adopted on November 21, 1985, Ordinance No. 1888 adopted on December 21, 1987, Ordinance No. 1945 adopted on October 20, 1988; Ordinance No. 1961 adopted on December 1, 1988; Ordinance No. 2039 adopted on April 19, 1990; Ordinance No. 91-2119 adopted on December 5, 1991; Ordinance No. 92-2138 adopted on April 7, 1992; Ordinance No. 94-2260 adopted on March 3, 1994; Ordinance No. 95-2351 adopted on June 15, 1995; Ordinance No. 98-2542 adopted on February 5, 1998; Ordinance No. 98-2582 adopted on November 19, 1998; Ordinance No. 99-2619 adopted on March 18, 1999; Ordinance No. 99-2629 adopted on May 6, 1999; Ordinance No. 99-2631 adopted on May 20, 1999; Ordinance No. 99-2647 adopted on August 19, 1999; Ordinance No. 99-2678 adopted on December 16, 1999; Ordinance No. 2000-2682 adopted on January 6, 2000; Ordinance No. 2000-2729 adopted on October 19, 2000; Ordinance No. 2001-2772 adopted on June 7, 2001; Ordinance No. 2001-2782 adopted on July 19, 2001; Ordinance No. 2001-2793 adopted on September 20, 2001; Ordinance No. 2001-2807 on November 15, 2001; Ordinance No. 2001-2813 on December 20, 2001; Ordinance No. 2002-2833 on March 21, 2002; Ordinance No. 2002-2838 on April 18, 2002; Ordinance No. 2002-3847 on June 20, 2002; Ordinance No. 2002-3848 on June 20, 2002; Ordinance No. 2002-3868 on October 17, 2002; Ordinance No. 2003- 3888 on February 20, 2003; Ordinance No. 2003-3894 on April 17, 2003; Ordinance No 2003-3926 on September 18, 2003; Ordinance No. 2004-3695 on July 1, 2004; Ordinance No. 2004-3975 on August 19, 2004; Ordinance No. 2004-3981 on September 16, 2004; Ordinance No. 2005-4001 on May 5, 2005; Ordinance No. 2005-4038 on September 15, 2005; Ordinance No. 2006-4051 on January 5, 2006; Ordinance No. 2006-4076 on the 18th day of May, 2006; Ordinance No. 2006-4118; Ordinance No. 2007-4141 on the 19th day of April, 2007; Ordinance No. 2007-4155 on July 19, 2007; Ordinance No. 2007-4172 on the 20th day of September, 2007; Ordinance No. 2007-4173 on October 25, 2007; Ordinance No. 2008-4201 on

the 21st day of February, 2008; and Ordinance No. 2008-4217 the 15th day of May, 2008; Ordinance No. 2008-4242 the 21st day of August, 2009; Ordinance No. 2009-4290 on the 16th day of April, 2009; Ordinance No. 2009-4294 on the 21st day of May, 2009; Ordinance No. 2009-4316 on the 17th day of September, 2009; Ordinance No. 2009-4320 on the 15th day of October, 2009; Ordinance No. 2010-4338 on the 18th day of February, 2010; Ordinance No. 2010-4371 on the 19th day of August, 2010; Ordinance No. 2010-4405 on November 4, 2010; Ordinance No. 2011-4429 on March 17, 2011; Ordinance No. 2011-4455 on July 21, 2011; and Ordinance No. 2011-4477 on October 20, 2011;

Whereas, the Board of Directors of the Zone has adopted an additional amendment to the Reinvestment Zone Financing and Project Plans for the Zone and forwarded such amendment to the Council for appropriate action;

Whereas, the Council finds it necessary to amend the Reinvestment Zone Financing and Project Plans for the Zone to include financial information as hereinafter set forth;

Whereas, the Council finds that it is necessary and convenient to the implementation of the Reinvestment Zone Financing and Project Plans, including the additional amendment, to establish and provide for an economic development program within the meaning of Article III, Section 52-a of the Texas Constitution ("Article III, Section 52-a"), Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including programs to make grants and loans of Zone assets or from the tax increment fund of the Zone in an aggregate amount not to exceed the amount of the tax increment produced by the City and paid into the tax increment fund for the Zone for activities that benefit the Zone and stimulate business and commercial activity in the Zone as further determined by the City;

Whereas, the Council further finds that the acquisition of the land and real property assembly costs as described in the additional amendment to the Reinvestment Zone Financing and Project Plans are necessary and convenient to the implementation of the Reinvestment Zone Financing and Project Plans and will help develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone by providing land for development of future business and commercial activity, attracting additional jobs within the City and attracting additional sales and other taxes within the City; and

Whereas, the Council finds that such amendment to the Reinvestment Zone Financing and Project Plans are feasible and conforms to the Comprehensive Plan of the City, and that this action will promote economic development within the City of Temple.

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

Part 1: Findings. The statements contained in the preamble of this ordinance are true and correct and are adopted as findings of fact hereby.

Part 2: Reinvestment Zone Financing and Project Plans. The amendment to the Tax Increment Financing Reinvestment Zone No. One Financing and Project Plans, heretofore adopted by the Board of Directors of the Zone and referred to in the preamble of this ordinance, are hereby approved and adopted, as set forth in the Amendments to Reinvestment Zone Number One, City of Temple, Texas, attached hereto as Exhibits A and B. This expenditure requires an amendment to the 2011-2012 budget, a copy of which is attached hereto, as Exhibit C.

Part 3: Plans Effective. The Financing Plan and Project Plans for the Zone heretofore in effect shall remain in full force and effect according to the terms and provisions thereof, except as specifically amended hereby.

Part 4: Copies to Taxing Units. The City Secretary shall provide a copy of the amendment to the Reinvestment Zone Financing and Project Plans to each taxing unit that taxes real property located in the Zone.

Part 5: Economic Development Program. The Council hereby establishes an economic development program for the Zone in accordance with Article III, Section 52-a of the Texas Constitution, Section 311.010(h) of the Texas Tax Code and Chapter 380 of the Texas Local Government Code to develop and diversify the economy of the Zone, eliminate unemployment and underemployment in the Zone and develop or expand transportation, business and commercial activity in the Zone including a program to make grants and loans of Zone assets or from the tax increment fund of the Zone in accordance with the provisions of Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code as directed and authorized by the Council. The Council hereby further directs and authorizes the Board of Directors of the Zone to utilize tax increment reinvestment zone bond proceeds to acquire the land and pay other real property assembly costs as set forth in the additional amendment attached hereto to help develop and diversify the economy of the Zone and develop or expand business and commercial activity in the Zone in accordance with Article III, Section 52-a, Chapter 311 of the Texas Tax Code and Chapter 380 of the Texas Local Government Code.

Part 6: Severability. 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 7: Effective Date. 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 8: Open Meetings. 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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

11/03/11
Item #9
Regular Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-11-50 - Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Road, South of Conner Park and North of Brandon Drive

P&Z COMMISSION RECOMMENDATION: At its October 3, 2011, meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a rezoning from AG to O2 for the subject property.

Commissioner Pope was absent.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinances as presented in item description, on first reading, and schedule second reading and final adoption for November 17, 2011.

Staff recommends approval of the rezoning from AG to O2 for the following reasons:

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-11-50, from the Planning and Zoning meeting, October 3, 2011.

The applicant, Todd Scott for Arturo Jimenez, is requesting the rezoning from AG to O2 on Old Waco Road, south of Conner Park and north of Brandon Drive, because he wishes to have the possibility to build offices or residences on the property in the future. Such uses are allowed in the O2 zoning district.

Some typical permitted uses in the O2 zoning district include, but are not limited to:

Residential uses

Single Family Attached
Single Family Detached
Triplex
Duplex
Apartments
Home for the aged

Nonresidential uses

Hospital
Office
Restaurant
Veterinary office (no kennels)
Bank
Gym

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

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 24" and 4" water line and by a 10" sewer line. The property is bounded to the south by an approximately 50' wide drainage tract that is part of the Old Waco Road West subdivision. Issues related to drainage, water, wastewater and other utilities for the subject property will be addressed through the platting process. Public facilities are available for this property.

DEVELOPMENT REGULATIONS:

The Office 2 zoning district permits a variety of low, mid and high rise office developments. In addition, single-family attached and detached dwellings, duplexes and apartments are allowed. Buildings in the Office 2 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional front and side setbacks. Continuous buffering is required between nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

PUBLIC NOTICE:

30 notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, September 28, at 5 PM, no notices were returned in favor of and four notices were returned in opposition to the request. However, Planning staff has received several phone calls from surrounding property owners expressing concern about the proposed rezoning. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 19, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

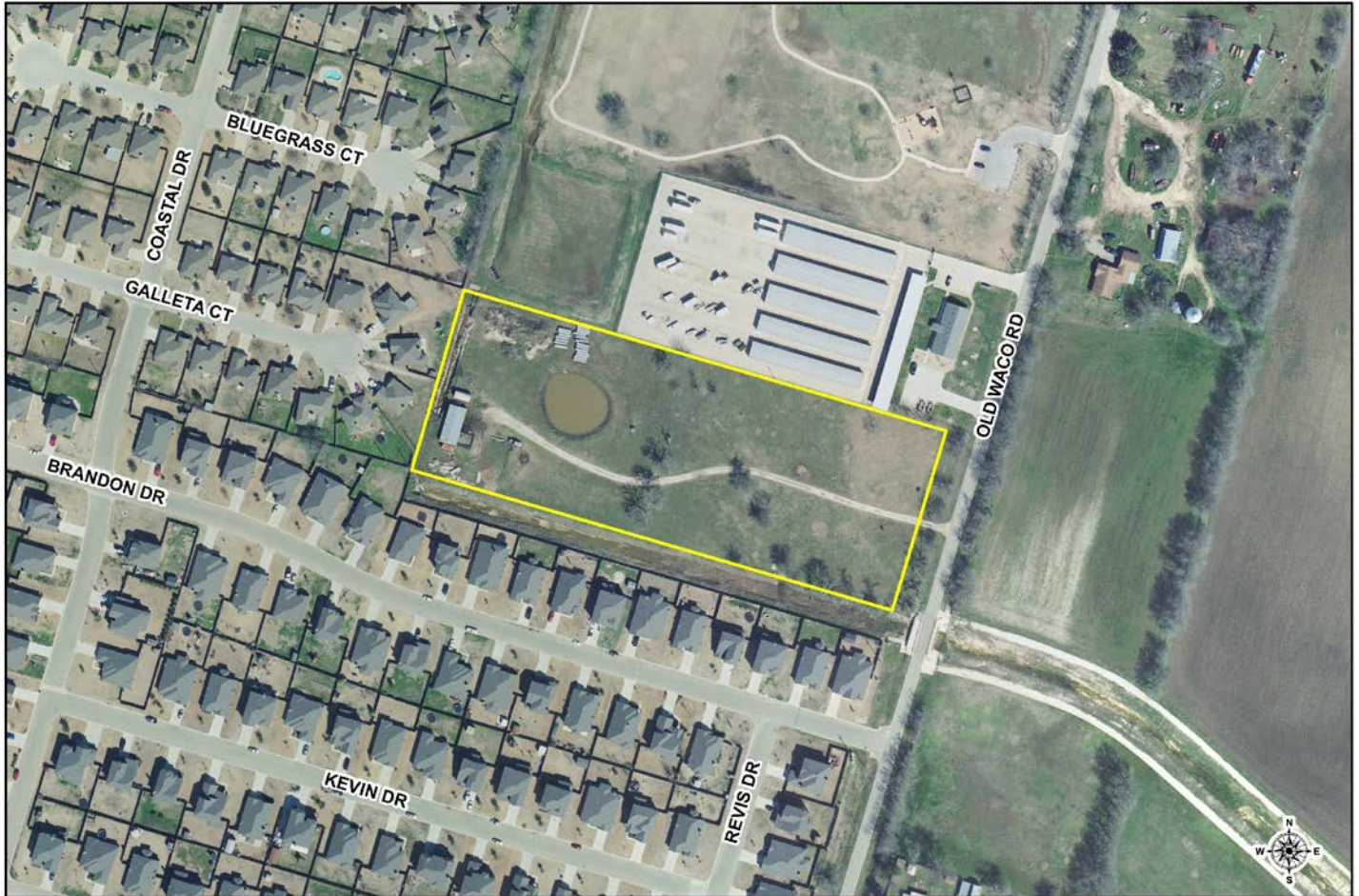
[Aerial Map](#)
[Future Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Citywide Trails Master Plan](#)
[Notice Map](#)
[Response Letters \(4\)](#)
[P&Z Staff Report \(Z-FY-11-50\)](#)
[P&Z Minutes \(October 3, 2011\)](#)
[Ordinance](#)



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



 ZFY 11-50

Feet 0 100 200 300 400 500 600

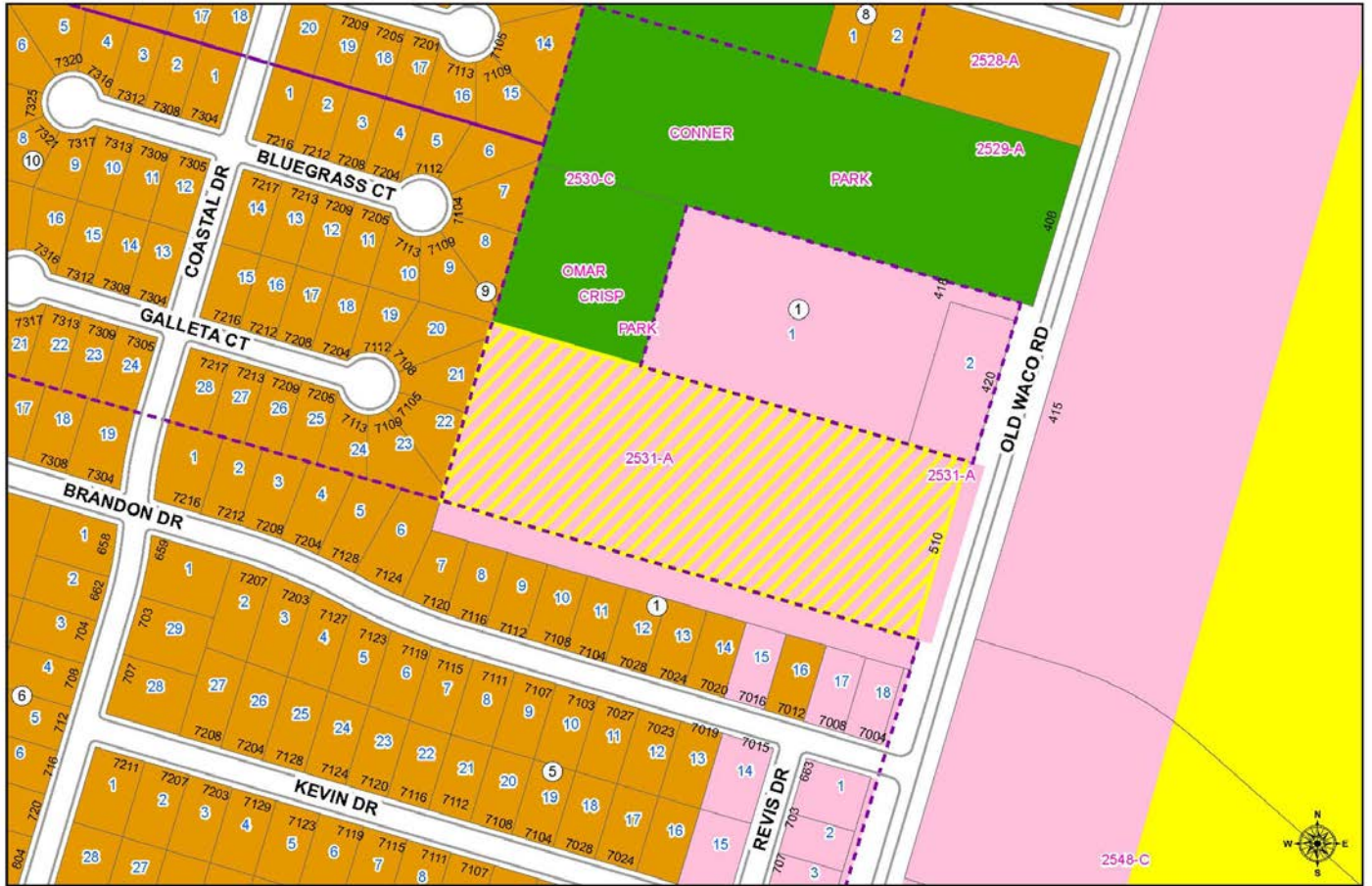
JCalhoun 09.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-50 | 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 = 210 feet

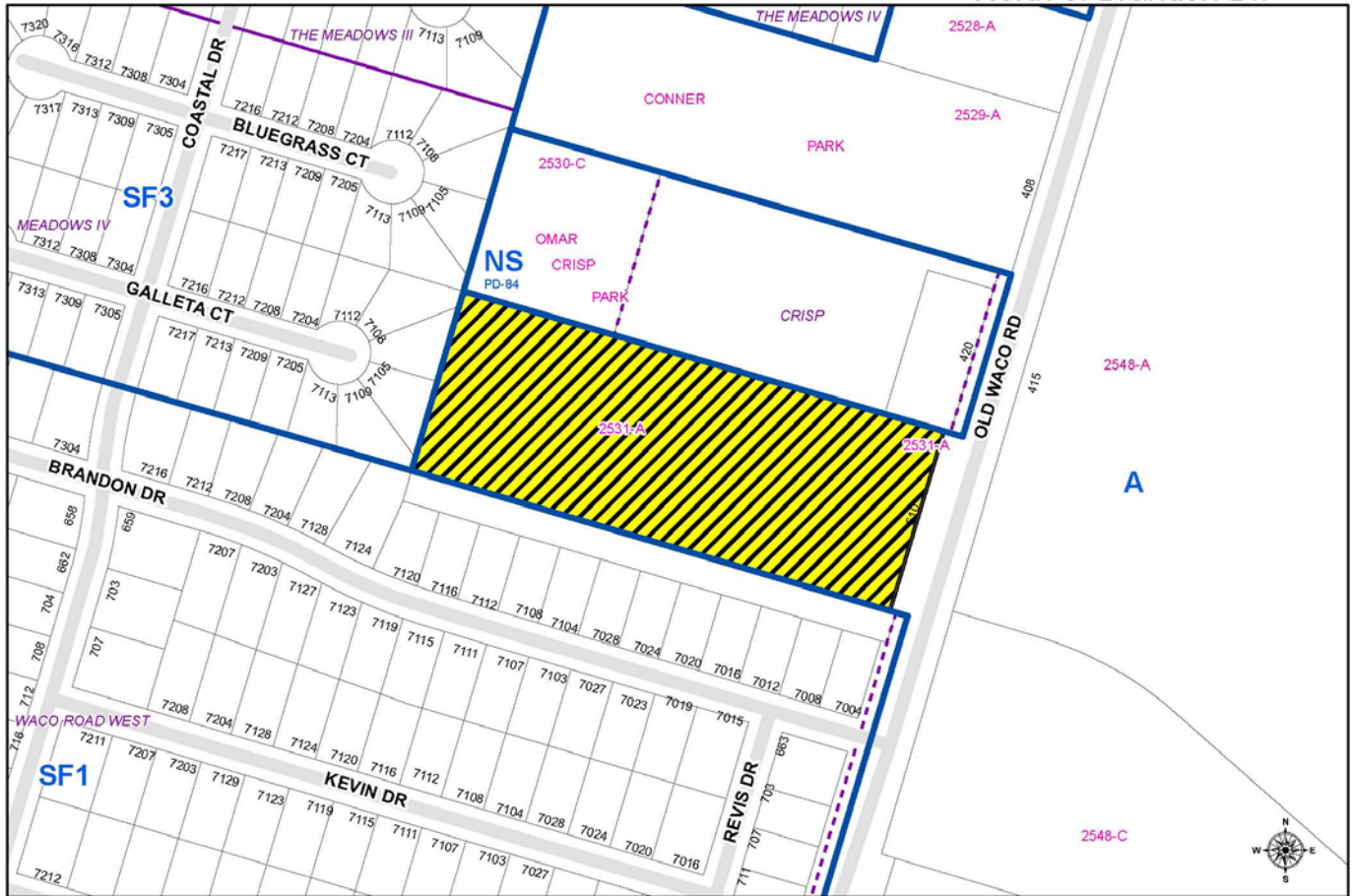
JCalhoun Planning 9.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



ZFY 11-50

Streets

Feet 0 100 200 300 400 500 600

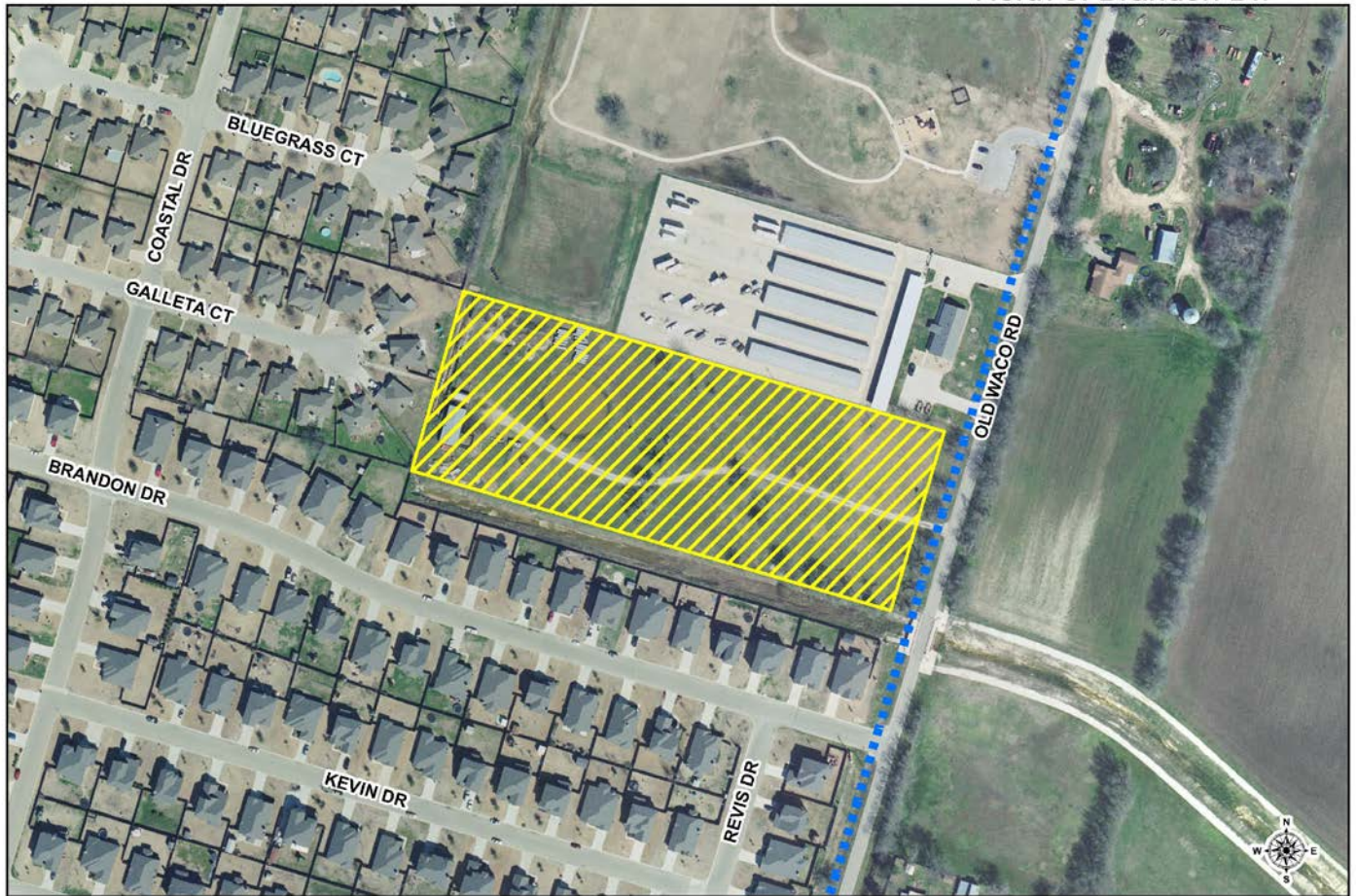
JCalhoun 09.12.11




Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



 ZFY 11-50

 Proposed Major Arterial

Feet 0 100 200 300 400 500 600

JCalhoun 09.12.11



Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.





Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.



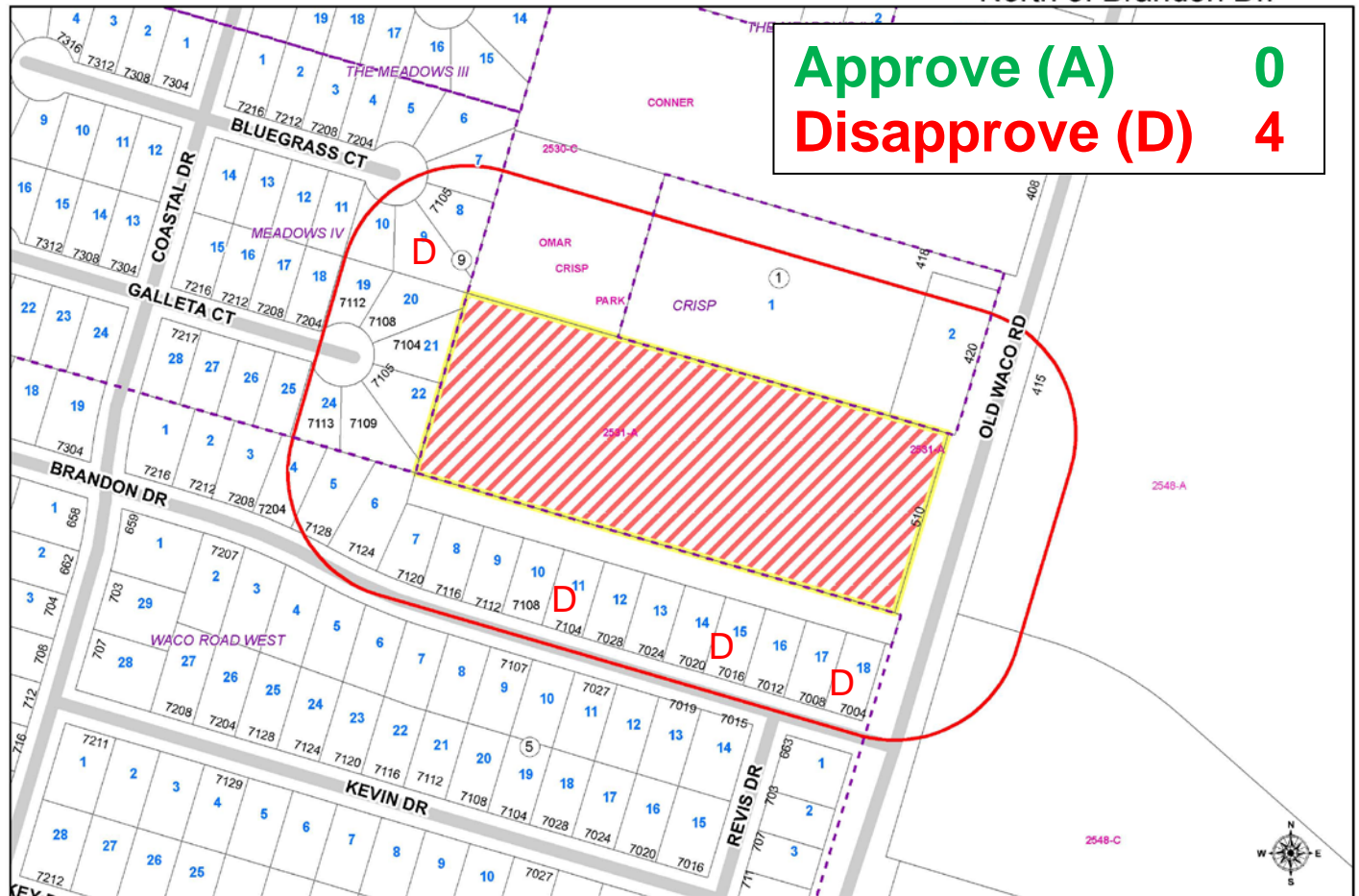


Z-FY-11-50

AG to O2
Todd Scott for Arturo Jimenez

510 Old Waco Road
South of Conner Park
North of Brandon Dr.

Approve (A)	0
Disapprove (D)	4



 ZFY 11-50
 200' Buffer

Feet 0 100 200 300 400 500 600

JCalhoun 09.12.11



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Linda D. Veale
7109 Bluegrass
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval ☒ denial of this request.

Comments:

Concerned about how noisy it would be depending
on the type of commercial business.
I would not object if the business would be standard
offices

Linda Veale
Signature

Linda Veale
Print Name
7109 Bluegrass Ct

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

RECEIVED

OCT 04 2011

City of Temple
Planning & Development

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

RECEIVED

OCT 04 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Confidential Owner
7016 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval (✓) denial of this request.

Comments:

I am strongly against this as the traffic down Old Waco will be changing when traffic is redirected off I-35. There will be large amounts of semi trucks coming down the road and additional traffic is not needed. I am not pleased with the potential thought of additional lights and people being right on the other side of my back yard. It is my belief that the only reason they are interested in this change is because they are hoping to gain more money when the expansion comes through.

Dawn Orange
Signature

Dawn Orange
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Lloyd Etux Sharon Fabianke
7104 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval

☒ denial of this request.

Comments:

Lloyd Sharon Fabianke
Signature

Lloyd and Sharon Fabianke
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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

RECEIVED

SEP 29 2011

City of Temple
Planning & Development



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

James Etux Linda Carpenter
7004 Brandon Drive
Temple, Texas 76502

Zoning Application Number: Z-FY-11-50

Project Manager: Jacob Calhoun

Location: On west side of Old Waco Road, South of Conner Park and North of Brandon Drive

The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have.

I recommend () approval

☒ denial of this request.

Comments:

James Linda Carpenter
Signature

James F. Carpenter
LINDA D. Carpenter
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than October 3, 2011

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

RECEIVED

OCT 03 2011

City of Temple
Planning & Development

Number of Notices Mailed: 30

Date Mailed: September 22, 2011



PLANNING AND ZONING COMMISSION AGENDA ITEM

10/6/11
Item #3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Todd Scott for Arturo Jimenez

CASE MANAGER: Jacob Calhoun, Planning Intern

ITEM DESCRIPTION: Z-FY-11-50 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural (AG) to Office Two (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, TX, being located at 510 Old Waco Rd. South of Conner Park and North of Brandon Drive.

BACKGROUND: The applicant is requesting the rezoning from AG to O2 because he wishes to have the possibility to build offices, residences or a retirement development in the future. All of these uses are allowed in the O2 zoning district.

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	AG	Agricultural use	

Direction	Zoning	Current Land Use	Photo
North	NS	"A" Storage Place	
South	SF1	Waco Road West Subdivision	
East	AG	Agricultural	

Direction	Zoning	Current Land Use	Photo
West	SF3	Meadows IV Subdivision	

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. The rezoning request complies with the FLUC map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates Old Waco Rd. as a major arterial. The right-of-way is approximately 100' wide adjacent to the subject property. The paved width is approximately 22'. Perimeter street fees will apply when the property is platted. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 24" and 4" water line and by a 10" sewer line. The property is bounded to the south by an approximately 50' wide drainage tract that is part of the Old Waco Road West subdivision. Issues related to drainage, water, wastewater and other utilities will be addressed through the platting process. Public facilities are available for this property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates a City Wide Spine trail in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The Office 2 zoning district permits a variety of low, mid and high rise office developments. In addition, single-family attached and detached dwellings, duplexes and apartments are allowed. Buildings in the Office 2 District may be built to any legal height. Nonresidential buildings over 40 feet in height must provide additional setback space. The Office 2 district is intended to allow for office uses in an area that is primarily business or high density residential. This district provides for professional, financial, medical and other office services and may include corporate offices and major employment centers. Uses in this district generally have low traffic generation characteristics and do not require high visibility to conduct business. Continuous buffering is required between nonresidential or multiple-family uses and residential zoning districts. Buffering must consist of either evergreen hedges a minimum of 6 feet high or a wood fences or masonry wall 6 to 8 feet high.

PUBLIC NOTICE:

30 notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, September 28, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. However, Planning staff has received several phone calls from surrounding property owners expressing concern about the proposed rezoning. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 19th, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning from AG to O2 for case Z-FY-11-50 for the following reasons:

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

FISCAL IMPACT: Not applicable

ATTACHMENTS:

[Aerial](#)
[Land Use and Character Map](#)
[Zoning Map](#)
[Thoroughfare Plan Map](#)
[Utility Map](#)
[Trails Map](#)
[Notice Map](#)

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

MONDAY, OCTOBER 3, 2011

ACTION ITEMS

Item 3: Z-FY-11-50 – Hold a public hearing to discuss and recommend action on a rezoning from Agricultural District (AG) to Office Two District (O2) on 5.50 acres in the Nancy Chase survey, Abstract No. 5, Bell County, Texas, located at 510 Old Waco Rd. South of Conner Park and North of Brandon Drive. (Todd Scott for Arturo Jimenez)

Mr. Jacob Calhoun, Planning Intern, stated the subject property was 5.5 acres and located on Old Waco Road. The applicant was requesting a zone change from Agricultural (AG) to Office Two (O2) in order to develop the following possible allowed uses:

- Offices
- Single Family homes
- Retirement setting

Surrounding properties include Single Family One (SF1) to the south, undeveloped AG to the east, mini storage to the north and SF3 to the west.

The Future Land Use and Character Map designate this area as Suburban-Commercial. Old Waco Road is proposed to be a major arterial on the Thoroughfare Plan but is currently not at that stage.

There is a 10 inch sewer line to the west and two water lines to the east, a 24 inch and 4 inch. There is also a 50 foot drainage easement in the south end of the property.

There is a proposed city wide spine trail for the area.

There were 30 notices mailed out and three were returned in opposition, zero returned in favor. Some of the concerns received included screening and buffering, Old Waco Road being proposed as a major arterial, and traffic generated on Old Waco Road from the I35 expansion, however, the traffic will be diverted to Loop 363 and not the proposed Outer Loop.

Current conditions of the road include 100 feet of right-of-way and paved width is 22 feet, which is 27 feet away from the actual major arterial with a width of 49 feet.

Some permitted uses in O2 district include, but are not limited to:

- Residential uses
- Home for the aged

Single Family Attached
Single Family Detached
Triplex
Duplex
Apartments

Nonresidential uses

Hospital
Place of Worship
Business School
Office
Bank
Gym

Staff recommends approval of the zoning request from AG to O2 because it complies with the Future Land Use and Character Map, the Thoroughfare Plan, and adequate public facilities will serve the site.

Commissioner Staats asked if the drainage to the south was truly an easement and Mr. Calhoun stated yes and was maintained by the City.

Chair Martin opened the public hearing.

Mr. Todd Scott, 5883 Denman's Loop, Belton, Texas, is the purchaser of the property and was available to answer any questions.

Commissioner Rhoads stated he had some calls from concerned citizens regarding Mr. Scott's planned intentions for the property. Mr. Scott stated he had no real set plans for the property but the O2 zoning gave him an option for possibly single family homes, garden homes, or retirement homes or he may just hold the property until he finds something he wants to do with it. The O2 zoning seem to fit with the Comprehensive Plan.

O2 does not allow for nightclub activities.

Commissioner Talley asked Mr. Scott if he was aware that the citizens were not wanting a multi-family type of dwelling there and Mr. Scott stated yes, and O2 does not allow apartments. Ms. Matlock provided correction to the applicant's statement by informing the Commission that the O2 district does indeed allow apartments.

Chair Martin closed the public hearing.

Commissioner Sears made a motion to approve Item 3, **Z-FY-11-50** and Commissioner Jones made a second.

Motion passed: (8:0)

Commissioner Pope absent

ORDINANCE NO. _____

(PLANNING NO. Z-FY-11-50)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO OFFICE TWO (O2) ON 5.50 ACRES IN THE NANCY CHASE SURVEY, ABSTRACT NO. 5, BELL COUNTY, TEXAS, BEING LOCATED AT 510 OLD WACO ROAD, SOUTH OF CONNER PARK AND NORTH OF BRANDON 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 Agricultural District (AG) to Office Two (O2) on 5.50 acres of land in the Nancy Chase survey, Abstract No. 5, Bell County, Texas, being located at 510 Old Waco Road, south of Conner Park and north of Brandon Drive, 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 **3rd** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **17th** day of **November**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending the City's strategic investment zones incentive policies.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinances as presented in item description, on first reading, and schedule second reading and final adoption for November 17, 2011.

ITEM SUMMARY: In a September workshop of the City Council, we discussed possible amendments to the City's incentive ordinances for three of the City's Strategic Investment Zones (SIZ): South 1st Street, Avenue G/H and North 3rd Street. The proposed ordinance consolidates our three existing ordinances into the City's Comprehensive Economic Development Ordinance 2010-4418, and makes certain substantive changes to our SIZ program.

The proposed substantive changes to the ordinance include:

- ❖ Revamping the application process to make the process more competitive in nature
- ❖ Adopting criteria for evaluating proposed projects and tying the amount of the grant to nature and size of the proposed investment
- ❖ Establishing new requirements for the initiation and completion of an approved SIZ project
- ❖ Creating a new process to monitor the effectiveness of previously-awarded SIZ grants and to report those findings to the City Council on an annual basis

A copy of the proposed ordinance will be made available to the City Council early next week.

FISCAL IMPACT:

ATTACHMENTS:

[Ordinance](#)