



**MEETING OF THE  
TEMPLE CITY COUNCIL**

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET**

**3<sup>rd</sup> FLOOR – CONFERENCE ROOM**

**THURSDAY, DECEMBER 1, 2011**

**3:00 P.M.**

**WORKSHOP AGENDA**

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 1, 2011.
2. Receive update on I-35.
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 Secretary. No final action will be taken.
4. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the Municipal Court Judge. No final action will be taken.

5:00 P.M.

**MUNICIPAL BUILDING**

**2 NORTH MAIN STREET  
CITY COUNCIL CHAMBERS – 2<sup>ND</sup> 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) Recognition of the Temple Police Department by US Army Corps of Engineer.  
(B) Presentation of the Centex Cup.

**III. PUBLIC COMMENTS**

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

**IV. CONSENT AGENDA**

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

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

**Minutes**

- (A) November 17, 2011 Special Called and Regular Meeting

## **Contracts, Leases & Bid**

- (B) [2011-6492-R](#): Consider adopting a resolution authorizing the purchase of two fire quick response vehicles from Philpott Motors utilizing the BuyBoard in the amount of \$247,035.50.
- (C) [2011-6493-R](#): Consider adopting a resolution authorizing the purchase and installation of five propane conversion kits from Philpott Motors of Port Neches, utilizing a BuyBoard cooperative contract in the amount of \$41,920.
- (D) [2011-6494-R](#): Consider adopting a resolution authorizing a two-year renewal to an existing inter-local agreement with Bell County for the purchase of fuel from Texas Fleet Fuel in the estimated annual amount of \$1,856,000.
- (E) [2011-6495-R](#): Consider adopting a resolution authorizing a two-year renewal to the purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links, the Water Treatment Plant, and Draughon-Miller Central Texas Regional Airport in the estimated annual amount of \$54,455.
- (F) [2011-6496-R](#): Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC, of Temple for engineering services including design, surveying, and construction administration required to rehabilitate Friar's Creek Lift Station, to include replacement of pumps, motors, electrical panels, wiring, and other fixtures, in an amount not to exceed \$68,995.60.
- (G) [2011-6497-R](#): Consider adopting a resolution authorizing a construction contract with Bauer Sport Floors, Inc. of Houston for the replacement of the gymnasium floor at the Clarence Martin Recreation Center in the amount of \$54,900.
- (H) [2011-6498-R](#): Consider adopting a resolution authorizing a contract with Scott & White Health Plan and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2012.

## **Ordinances – Second & Final Reading**

- (I) [2011-4490](#): SECOND READING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 7.6 General Development Standards to provide standards for the use of donation boxes.
- (J) [2011-4491](#): SECOND READING - Z-FY-11-48: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.
- (K) [2011-4492](#): SECOND READING - Z-FY-11-51: Consider adopting an ordinance authorizing a rezoning from Multiple-Family One District (MF1) to General Retail District (GR) on ± 0.6 acres in Abstract 5, located on the north side of West Adams Avenue/FM 2305, ±185-feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue.

## Misc.

- (L) [2011-6499-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

## V. REGULAR AGENDA

### ORDINANCES

5. [2011-4493](#): FIRST READING – PUBLIC HEARING - Z-FY-11-52: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 East Central Avenue.
6. [2011-4494](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance establishing a school zone and setting speed limits within the school zone around St. Mary's Catholic School.
7. [2011-4495](#): FIRST READING – PUBLIC HEARING - Z-FY-12-15: Consider adopting an ordinance re-naming Belmont Drive in Heritage Place Phase III to Frontier Drive.
8. [2001-4496](#): FIRST READING – PUBLIC HEARING - Consider adopting an ordinance providing for the continued taxation of goods-in-transit otherwise exempt pursuant to Section 11.253(b) of the Texas Tax Code.

### RESOLUTIONS

9. [2011-6500-R](#): P-FY-12-04: Consider adopting a resolution authorizing the second amended Preliminary Plat of Heritage Place and Heritage Place Village, 37.868± acre, 212-lot residential subdivision, located south of West Nugent Avenue, west of Bird Creek and east of Heritage Place Phase II with developer-requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced parkland dedication.

---

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

---

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 10:00 AM, on November 23, 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**

---

12/01/11  
Item #3(A-B)  
Regular Agenda  
Page 1 of 1

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

David Blackburn, City Manager

**ITEM DESCRIPTION:** (A) Recognition of the Temple Police Department by US Army Corps of Engineer.

(B) Presentation of the Centex Cup.

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

**ITEM SUMMARY:** (A) Ronnie Bruggman, USCE, will make this presentation to the Temple Police Department.

(B) Glenn Morrison, City Manager City of Killeen, will make this presentation to the City of Temple Staff.

**FISCAL IMPACT:** None

**ATTACHMENTS:** None



## **COUNCIL AGENDA ITEM MEMORANDUM**

---

12/01/11  
Item #4(A)  
Consent Agenda  
Page 1 of 1

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

Lacy Borgeson, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) November 17, 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:**

[November 17, 2011 Special Called and Regular Meeting](#)

## TEMPLE CITY COUNCIL

**NOVEMBER 17, 2011**

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, November 17, 2011, at 2:00 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 Schnieder  
Councilmember Judy Morales  
Mayor William A. Jones, III

**1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, November 17, 2011.**

Regular Agenda Item 4(H) - Street Use Licence allowing accessory building to be placed near drainage easement- Councilmember Schneider asked if this was a portable building?

Mr. Mabry replied yes.

Regular Agenda Item 6 - Donation Boxes - Ms. Speer noted that there have been several comments throughout the community.

Mayor Pro Tem Schneider asked if Ronald McDonald House had multiple boxes in various locations?

Ms. Speer replied yes.

Mayor Jones added that he has looked at several boxes as addressed in Mr. Wolfe's e-mail with concerns for wooden boxes. Is this allowed?

Ms. Speer as the ordinance is written now, wooded boxes are permitted.

Mayor Pro Tem Schneider stated this is being addressed to clean up the clutter around several of the donation boxes. He noted that metal boxes would be easier for up-keep and maintenance.

Councilmember Morales added that donation boxes for non-profit are extremely important.

Ms. Speer noted that anyone may host a collection of items.

Jonathan Graham, City Attorney noted there are issues with the First

Amendment when you are dealing with limiting solicitation.

Councilmember Dunn added that he wants to see the clutter cleaned up and in order to do so we need better regulations for donation boxes.

Councilmember Cloud didn't want to see the restriction on non-residential locations.

Mayor Pro Tem Schneider asked about the permit process and noted there would be permission by the property owner.

Councilmember Morales asked about benefiting the local communities.

Mayor Jones stated we aren't restricting others from placing a box due to City Attorney's comments on first amendment.

Ms. Foutz added that collection at any site is allowed.

Mayor Pro Tem Schneider added he believes that they should be allowed in all non-residential locations if permission is given by the property owner.

Councilmember Dunn agreed.

Regular Agenda Item #5 - rezoning Z-FY-11-50: Mayor Pro Tem Schneider advised he spoke with Mr. Scott and it didn't appear that he was willing to change is original request to O2.

Mr. Mabry stated that Mr. Scott wants to continue with the original request for O2.

Mayor Jones stated that Mr. Scott mentioned he was going to build upscale duplexes with garages; and doesn't want to change his request.

Regular Agenda Item R- Northwest Loop wet-lands and stream mitigation. Mr. Blackburn noted that this will be discussed in Nicole's upcoming presentation.

## **2. Receive update on NW Loop 363 project.**

Nicole Torralva, Director of Public Works presented this presentation to the Council. Ms. Torralva reviewed the scope of the project and noted that we are approaching the design phase of this project. This will be a potential relief route for IH-35 construction. Financing for this project is \$46 million. Ms. Torralva added this project began in the Fall of 2010 with design; we anticipate the completion in Summer of 2014. Ms. Torralva stated there are few issues that are still being addressed such as ROW Acquisition, utility coordination and environmental permit and mitigation. All property owners have been contacted and appraisals are complete. The utility companies

have also been contacted; all private utilities will be relocated between December 2011 and May 2012.

Ms. Torralva discussed the impact of wetlands and streams mitigation which is the biggest issue. You can buy credits or mitigate on site. Ms. Torralva stated we have almost one acre of wetland and 4,100 linear feet of stream impact. A bank has been identified for both, but the stream impact bank is not open.

Mayor Pro Tem Schneider asked about creating a bank.

Bill Hicks, Lochner stated setting up a bank is a legal process and is project specific. This is not a recommended process.

Ms. Barnard asked what does the City get for the \$90,000?

Mr. Hicks replied there is nothing of tangible value, as it's an agreement. It is legally binding them to do what they have to do.

Ms. Torralva added for the stream impact we can either purchase credits or develop our option. We are then held responsible for the success of that option. Many options are being explored with the U.S. Corps of Engineers.

Mr. Blackburn noted we need to explore all options to keep this project moving forward and on schedule.

**3. Discuss fourth quarter financial results for the fiscal year ended September 30, 2011.**

Traci Barnard, Director of Finance presented fourth quarter financial results. She began with an overview of the General Fund revenues and expenditures, explaining those revenues that came in greater or less than budget. Ms. Barnard also provided sales tax revenues for the year of 2011, historical data and regional comparisons of sales tax. Also noted were the Wastewater Fund revenues and expenses as well as Drainage Fund. Ms. Barnard noted that \$959,064 will be added to the fund balance at year end. Ms. Barnard also provided an overview of the City's investments and Capital Improvement Programs.

**4. Discuss Downtown Linear Park and redevelopment. 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.**

Ken Cicora, Director of Parks and Leisure Services presented this item to Council. He gave history on the downtown redevelopment which was to

design a linear park along the railroad tracks. This concept was presented in 2000 and for the city to begin acquiring land for the project. In October 2004 the Council received an updated design concept. Mr. Cicora presented some of those concepts to the Council again.

Mayor Jones stated the City Council would enter into executive session at this time approximately, 3:40 pm.

- 5. 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 Manager. No final action will be taken.**

Mayor Jones reconvened the work session at approximately 5:00, with no action being taken by the City Council.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, November 17, 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**

Chief of Police Gary Smith voiced the Invocation.

**2. Pledge of Allegiance**

Fire Chief, Lonzo Wallace led the Pledge of Allegiance.

**II. PUBLIC COMMENTS**

Public Comments: no comments

**III. ELECTION ITEMS**

- 3. 2011-6473-R: Consider adopting a resolution canvassing the returns of the November 8, 2011 Charter Amendment Election.**

Jonathan Graham, City Attorney reminded Council they are the official

canvassing body and presented the returns. There were 4,531 total votes received of which 655 were for and 3,876 were against the proposition.

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

#### **IV. CONSENT AGENDA**

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

**(A) November 3, 2011 Special Called and Regular Meeting Contracts, Leases & Bid**

**(B) 2011-6474-R: Consider adopting a resolution amending a lease agreement with ES&S (Election Systems & Software) of Omaha, NE for election equipment.**

**(C) 2011-6475-R: Consider adopting a resolution authorizing the purchase of three marked police vehicles from Caldwell County of Caldwell, utilizing a BuyBoard contract in the amount of \$111,950.83.**

**(D) 2011-6476-R: Consider adopting a resolution authorizing the purchase of a 2012 Custom Crimson with a Spartan chassis fire engine from Metro Fire Apparatus Specialists, Inc. of Houston, utilizing the Houston-Galveston Area Council Interlocal Cooperative (HGAC) in the amount of \$580,546.**

**(E) 2011-6477-R: Consider adopting a resolution authorizing the purchase of 1,450 plastic 96-gallon refuse containers for the Solid Waste Division from Toter, Inc., Statesville, NC, through the State of Texas Contract (Bid# 450-A2) in the amount of \$67,773.**

**(F) 2011-6478-R: Consider adopting a resolution authorizing a contract with the Department of Veterans Affairs, Veterans Industries/Compensated Work Therapy for the provision of temporary workers for the Parks and Leisure Services Department in the amount of \$73,478.**

**(G) 2011-6479-R: Consider adopting a resolution ratifying an emergency contract with Bell Contractors of Belton, for the emergency replacement of a 6" and 10" sewer line using the pipe bursting method in the area of North 14th Street and Lamar Avenue in the amount of \$136,404.40**

**(H) 2011-6480-R: S-FY-12-01: Consider adopting a resolution authorizing a street use license to allow the encroachment of a 140 square-foot accessory building 12 feet within a public drainage easement at Lot 41, Block 1, The Creeks at Deerfield subdivision, commonly known as 6110 Shadow Creek Cove.**

**(I) 2011-6481-R: Consider adopting a resolution authorizing the following with respect to the procurement of electricity:**

- 1. A memorandum of agreement with Texas Energy Aggregation, LLC of Waco, for consulting services related to the procurement of electricity and ongoing energy consulting services at a cost of \$.0005 per kWh; and**
- 2. The City Manager or the Director of Finance to act on behalf of the City to review pricing offers submitted for the supply of electricity, and if in the best interest of the City, enter into a contract with the lowest responsible bidder for a period of 12 to 59 months beginning for electrical meter reads after May 2012.**

**(J) 2011-6482-R: Consider adopting a resolution authorizing a contract with Perry Office Plus, of Temple to move and reassemble furniture from the Police Headquarters building back to 209 E. Avenue A in the amount not to exceed \$48,000.**

**(K) Consider adopting a resolution authorizing the following contracts related to the demolition of seven (7) properties in the Avenue G area:**

- 1. 2011-6483-R: Asbestos abatement contract to AAR, Inc. of Liberty Hill, in the amount of \$47,000;**
- 2. 2011-6484-R: Asbestos consulting contract to Austin Environmental, Inc. of Bryan, in the estimated amount of \$24,600;**
- 3. 2011-6485-R: Demolition contract for six (6) properties to Lloyd D. Nabors Demolitions, Inc. of Hutchins, in the amount of \$35,500; and**
- 4. 2011-6486-R: Demolition contract for one (1) property located at 601 South 7th Street to Precision Contractors of Troy, in the amount of \$75,000.**

**(L) SECOND READING - Consider adopting ordinances**



**amending:**

- 1. 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.**
- 2. 2011-4485: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances, by adopting the 2009 International Fire Code.**
- 3. 2011-4486: Chapter 21, "Minimum Housing Standards," of the Code of Ordinances, by adopting the 2009 International Property Maintenance Code and Amendments.**

**(M) 2011-4487: SECOND READING - 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.**

**(N) 2011-4489: SECOND READING - Consider adopting an ordinance amending the City's strategic investment zones incentive policies. Misc.**

**(O) 2011-6487-R: Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.**

**(P) 2011-6488-R: Consider adopting a resolution approving fourth quarter financial results for the fiscal year ended September 30, 2011.**

**(Q) 2011-6489-R: Consider adopting a resolution authorizing the carry forward of FY 2010- 2011 funds to the FY 2011-2012 budget.**

**(R) 1. 2011-6490-R: Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site wetland mitigation related to the Northwest Loop 363 Project.**

- 2. 2011-6491-R: Consider adopting a resolution authorizing a credit sales agreement to purchase necessary credits for off-site stream mitigation related**

**to the northwest Loop 363 Project.**

Motion by Councilmember Perry Cloud adopt resolution approving Consent Agenda. seconded by Councilmember Danny Dunn.

**V. REGULAR AGENDA**

**ORDINANCES**

- 5. 2011-4488: SECOND READING - 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.**

Brian Mabry, Director of Planning gave a brief update and presentation to the council. This case was heard by Council on November 3rd. Council expressed its concerns with the rezoning that would allow duplexes or triplexes. Mr. Mabry noted that he has had discussions with the applicant; and there is no desire by the applicant to change his request for Office-Two zoning. The applicant's representative was available for questions.

Mayor Pro Tem Schneider asked if the applicant was willing to consider changing his request and clarified this will allow for duplexes and triplexes.

Mr. Randy Harrell, 2106 Bird Creek Drive replied no, the applicant, Mr. Scott, did not want to change his request.

Mayor Pro Tem Schneider and Councilmember Morales voted nay; all other members voted for.

Motion by Councilmember Danny Dunn adopt ordinance on second and final reading. seconded by Councilmember Perry Cloud.

- 6. 2011-4490: FIRST READING - PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 7.6 General Development Standards to provide standards for the use of donation boxes.**

Autumn Speer, Director of Community Services presented this item to the Council. Ms. Speer noted that on October 6, 2011 this item was had a public hearing and was tabled. Ms. Speer

presented photos of various donation boxes and commented on the proposed guidelines for the donation boxes: they would be permitted at schools, or non-profit institutions, no time limits, 1 per 500 feet, dimensions for the box would be 4x6x6, they must be 50 feet from any right-of-way, in good repair and maintained as well as a required annual permit.

Mayor Pro Tem Schneider asked for clarification on placement requirements.

Mayor Jones commented that the disbursement rules are broader, but residential areas are prohibited from having a box.

Ms. Speer, replied yes.

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

Steve Wolfe - 2810 Wickersham Dr.- representing HOT Goodwill, vice chair- revised the permit to only allow boxes on non profit organization location and remove 'institution', metal boxes only, adding a provision making the landlord/ property owner provide written authorization allowing the box to be placed on the property, making all parties liable. Mr. Wolfe, added he is in favor of donation boxes, but would like to have very specific guidelines. Mr. Wolfe also noted that he'd like to have a provision for an impound fee if boxes are found in violation. Goodwill is willing to pickup and store boxes for impound.

Mr. Dan Neisley - 4107 Green Point, Waco, TX - commented that most boxes are operated by non profit. He added that there have been many attempts to locate the responsible parties who gave permission to place the boxes on certain properties.

Susan Bolton - 2110 North Bell Street Belton - Executive Director of Ronald McDonald House, stated all of their boxes are metal. These donation boxes are picked up 3 times a week. Over the past seven years, The Ronald McDonald House has received over \$100,000 from these boxes; every bit helps.

Mayor Jones asked Ms. Bolton if permission is granted to place boxes on the property.

Ms. Bolton responded, yes permission is granted by the property owner.

Mayor Pro Tem Russell Schneider asked if any of the donation

boxes were located in public places?

Ms. Bolton advised yes. She gave address of a few - Fat Boys BBQ, Exxon, Conoco, LakeShore, Sears Building, and Skate Haven.

David Blackburn, City Manager commented the concern appears to be the location requirements.

Ms. Bolton stated yes, we have a facility; but not a safe location for placement of the donation box.

Mayor Pro Tem Schneider commented that this was a challenge for Staff. This was intended to help clean up the clutter around the existing boxes, and not about the money received.

Councilmember Morales noted that these boxes are important to all non-profit as it is utilized as income.

Mayor Jones asked Council if the terms for location needed to be expanded?

Mayor Pro Tem Schneider replied yes.

Mayor Jones added there is no time limit, but a permit has to be renewed annually by staff.

Ms. Speer added that violations will be treated as a Code Enforcement issue and follow the cycle that already exists.

Mayor Jones inquired on the time allowed to come into compliance.

Ms. Speer noted the ordinance reads effective immediately, but the City will allow adequate time.

Mayor Jones asked for clarification on metal or wood? Mayor Jones also noted that the time to comply will be January 1, 2012 or boxes will be removed.

Councilmember Dunn noted, he has no problem with wood donation boxes as long as they are in good repair and maintained.

Mr. Wolfe commented that he was opposed to wooden boxes and would like to see all metal boxes permitted.

Jonathan Graham, City Attorney noted there are first

amendment issues with limiting solicitation which make it difficult to place limitations.

Mayor Jones added it needs to be a Texas not for profit as a requirement for the permit.

Mr. Graham commented there are businesses that do this for profit to benefit non-profits.

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

Mr. Graham, asked for clarification on the motion.

Ms. Speer commented the council has requested that they be allowed in all non-residential areas, 30 day provision to come into compliance, metal or wood so long as in good repair.

Motion by Councilmember Judy Morales adopt ordinance, with second and final reading set for December 1, 2011. seconded by Mayor Pro Tem Russell Schneider.

7. **2011-4491: FIRST READING - PUBLIC HEARING - Z-FY-11-48: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, zoned Central Area (CA) District.**

Brian Mabry, Director of Planning presented this item to Council. The applicant is Galaxy Retail Inc. and this property is zoned central area. It is currently stocked without proper approval. Mr. Mabry noted there is no off street parking required in Central District unless the property is a package store. A Conditional Use site plan has been submitted. Mr. Mabry noted the subject property has not done any work from the previously approved CUP in early 2011. The applicant proposes to remove seven existing on street parking spaces to allow four parallel parking spaces on Central; there are three existing parallel on street parking spaces on Martin Luther King; to the rear of the property is a vacant lot the applicant will convert into a true off street parking that is required for package stores. The applicant proposes nine spaces within the new parking lot. Mr. Mabry added the CUP site plan proposes to connect some areas with sidewalk connections.

Mayor Jones asked if the subject property entrance as well

as the new sidewalk would serve as both the entrance and delivery?

Mr. Mabry noted the rear is for delivery only per TABC rules and front is entry for customers. Lighting is also proposed as part of the plan with Acorn lights and poles and eight security lights around the building. Mr. Mabry added that landscaping is to be improved as well. The exterior of the building is in need of repairs on roof and paint of which the applicant agrees to do. There are three signs proposed for placement on the property. Mr. Mabry reminded Council of the general conditional use permit criteria. Mr. Mabry noted that this case was heard by the Planning and Zoning Commission on October 17th with a vote of 6/1 for approval; subject to the CUP site plan and the condition that any burglar bars be removed within one year of the opening of the store.

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

Mr. Rija, 1113 Austin Texas owner of convenient store located on the corner and is favor of this package store.

Richard Lewis, 6819 Jupiter, Temple, TX (applicant), advised that all permits have been approved and this store will be open for business in six months.

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

Councilmember Morales added that she and the applicant have spoken several times. Mr. Lewis has reassured her that this will be an improvement for the area. Councilmember Morales stated it is good to have development in this area.

Councilmember Dunn commented on his concerns for the proximity to another package store; believes this conveys the wrong message for those that might want to develop in the downtown area.

Mayor Jones added that we always have the opportunity to control what opens.

Councilmember Dunn voted nay, all other members voted in favor.

Motion by Councilmember Judy Morales adopt ordinance, with second and final reading set for December 1, 2011., be

approve, seconded by Councilmember Perry Cloud.

8. **2011-4492: FIRST READING - PUBLIC HEARING - Z-FY-11-51: Consider adopting an ordinance authorizing a rezoning from Multiple-Family One District (MF1) to General Retail District (GR) on ± 0.6 acres in Abstract 5, located on the north side of West Adams Avenue/FM 2305, ±185-feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue.**

Brian Mabry, Director of Planning presented this item to the Council. The applicant is Lisa Joshlin; this property is undeveloped and is located west of Holy Trinity High School driveway. The future land use designation is for suburban commercial and the requested zoning complies with recommendation. Mr. Mabry noted a few permitted uses and added that the existing zoning currently allows for duplex and triplex. The Planning and Zoning Commission heard this case on October 17th and voted 7/0 to recommend approval.

Mayor Jones declared the public hearing open with regards to agenda item 8 and asked if anyone wished to address this item. There being no comments, Mayor Jones declared the public hearing closed.

Motion by Councilmember Danny Dunn adopt ordinance, with second and final reading set for December 1, 2011., be approve, seconded by Councilmember Perry Cloud.

---

William A. Jones, III, Mayor

ATTEST:

---

Lacy Borgeson  
City Secretary



## COUNCIL AGENDA ITEM MEMORANDUM

---

12/01/11  
Item #4(B)  
Consent Agenda  
Page 1 of 2

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

Lonzo Wallace, Fire Chief

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase of two fire quick response vehicles from Philpott Motors utilizing the BuyBoard in the amount of \$247,035.50.

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

**ITEM SUMMARY:** On May 10, 2008, the citizens of Temple supported Temple Fire & Rescue's Bond Package in a General Election. The complete Bond Package was comprised of replacing Temple Fire & Rescue's Central Fire Station #1, building a new Fire Station #8 / Training Center / Emergency Operations Center combined facility with an Engine Company #8, and replacing Engine #1 and Engine #4.

The construction of the new Central Fire Station and Fire Station #8/ Training Center / EOC is complete. The replacement of Engines #1 and #4 is also complete. In addition, savings from the construction of the Central Station and Station #8 were used to replace Engine #2 and #8.

The Quick Response Vehicles (QRV) will be used to supplement Quint 6 and other engines on medical calls, which make up 70% of all calls for Temple Fire & Rescue. The QRVs are intended to extend the life of the larger, more expensive vehicles, and improve response times. These vehicles will also be better suited to respond to brush fires.

The proposed QRVs will be on a Ford F-550 Crew Cab, 4-wheel drive chassis, and will be outfitted with firefighting equipment by Ag-Meier of Belton. In addition to the EMS equipment needed for medical responses, these units will be outfitted with a 400-gallon water tank, class A foam system, and auxiliary pump and engine.

This vehicle purchase is being recommended utilizing a BuyBoard cooperative contract. All contracts available through the BuyBoard have been awarded by virtue of a public competitive procurement process compliant with state statutes.



**FISCAL IMPACT:** A budget adjustment is presented for Council's approval appropriating \$283,990 of savings from the construction of the new Central Fire Station to account 363-2200-522-6856 project # 100802 and 100803 for the purchase of these two quick response vehicles. The \$283,990 will cover the \$247,035.50 cost for the vehicles and will allow \$36,954.50 to outfit the trucks with needed equipment and accessories. This project was approved by Council on September 1, 2011 as part of the FY 2012 CIP.

**ATTACHMENTS:**

Budget Adjustment  
Resolution

FY **2012****BUDGET ADJUSTMENT FORM**

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

**Adjustments should be rounded to the nearest \$1.**

+

-

ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE	
363-2200-522-68-56	100802	QRV Station #8	\$ 141,995		
363-2200-522-68-56	100803	QRV Station #2	141,995		
363-2200-522-68-50	100120	Fire Station #1		283,990	
<b>TOTAL.....</b>			<b>\$ 283,990</b>	<b>\$ 283,990</b>	

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

To appropriate project savings from Central Fire Station to fund the purchase of two quick response vehicles in the amount of \$247,035.50 from Philpott Motors utilizing the BuyBoard. A balance of \$36,954.50 will remain available to purchase equipment and accessories for the vehicles. This project was approved on September 1, 2011 as part of the FY 2012 CIP.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

December 1, 2011

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF TWO FIRE QUICK RESPONSE VEHICLES FROM PHILPOTT MOTORS OF PORT NECHES, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$247,035.50; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on May 10, 2008, the citizens of Temple chose to support Temple Fire & Rescue's Bond Package in a general election – the Quick Response Vehicles (QRV) will be used to supplement Quint 6 and other engines on medical calls and are intended to extend the life of the larger, more expensive vehicles, and improve response times;

**Whereas**, the proposed QRVs will be on a Ford F-550 Crew Cab, 4-wheel drive chassis, and will be outfitted with firefighting equipment by Ag-Meier of Belton, Texas, and outfitted with a 400-gallon water tank, class A foam system and auxiliary pump and engine;

**Whereas**, Staff recommends purchasing a two fire quick response vehicles from Philpott Motors, of Port Neches, Texas, using the BuyBoard local government online purchasing cooperative in the amount of \$247,035.50;

**Whereas**, funds are available for this purchase, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the purchase of two fire quick response vehicles from Philpott Motors of Port Neches, Texas, through the BuyBoard local government online purchasing cooperative system, in the amount of \$247,035.50.

**Part 2:** The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached hereto, for this purchase.

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

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

PASSED AND APPROVED this the 1<sup>st</sup> day of **December**, 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

---

12/01/11  
Item #4(C)  
Consent Agenda  
Page 1 of 2

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

Ashley Williams, Sustainability & Grant Manager  
Sam Weed, Superintendent of Fleet Services

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing the purchase and installation of five propane conversion kits from Philpott Motors of Port Neches, utilizing a BuyBoard cooperative contract in the amount of \$41,920.

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

**ITEM SUMMARY:** The City applied for a grant through the State Energy Conservation Office (SECO) "Emerging Clean Energy Technologies for the Alternative Fuels Initiative Grant Program." The City was notified in September 2011 that the City had been awarded the grant in the amount of \$40,880, with the City contributing an additional \$10,210 as cost-sharing towards the project. Total available for the project is \$51,090. An additional \$1,601 is needed to fully fund the project costs of \$52,691.

Under this program, the City committed to convert select vehicles to propane autogas (liquefied propane gas, LPG) and install a propane autogas fueling station. Propane autogas is the best alternative fuel for medium duty vehicles. Staff has identified five vehicles that are currently available to be converted from gasoline to propane autogas, as listed below, including the cost to convert each vehicle. The cost totals \$41,920 for the kits and installation:

Department	Year	Model	Propane Autogas Conversion Kits Costs
Solid Waste	2011	F-150	\$7,380
PALs	2009	F-250	\$10,070
Water	2009	F-250	\$10,070
Police	2010	Crown Vic	\$7,200
Police	2010	Crown Vic	\$7,200

These vehicles were chosen based on grant requirements (2009 or newer model year) and current conversion options available on the market. Staff is proposing to utilize a system that converts the current gasoline fuel to a bi-fuel propane autogas system. This option allows the engine to start up using gasoline, but thereafter switch to propane autogas for operation. Gasoline will remain as a secondary back-up system, primarily operating on propane autogas. With grant assistance the City anticipates a simple payback period of less than one-year and anticipates an annual savings between \$2,500 and \$3,000 per vehicle.

The procurement and installation of the conversion kits is being recommended utilizing a BuyBoard cooperative contract. All contracts available through the BuyBoard have been awarded by virtue of a public competitive procurement process compliant with State statutes.

The City will also have StarTex of Waco install a private propane autogas fueling station, located at the Fleet Service Center. StarTex currently holds the City's term contract for supplying the City's with propane through September 2013. There is currently no easily accessible propane autogas fueling station within the City of Temple. A fueling station will allow City fleet to easily fuel-up at any time of day. The total cost for installing a fueling station is \$10,770.74.

**FISCAL IMPACT:** Funding program guidelines provide for an 80/20 match. The City was awarded grant funds in the amount of \$40,880 with a required match of \$10,220. An additional \$1,601 is needed to fully fund the project costs of \$52,691 above the grant received and grant match originally designated for the project.

A budget adjustment is presented for Council's approval appropriating grant expenditures and grant revenue to the appropriate accounts.

With this investment, the simple payback period is estimated to be under one-year, with a first year savings per vehicle of approximately \$1,550.00 due to grant assistance. Thereafter, the City should avoid an actual annual fuel cost of approximately \$2,500.00 to \$3,000.00 per vehicle, with the use of LPG.

**ATTACHMENTS:**

[Budget Adjustment  
Resolution](#)

FY 2012**BUDGET ADJUSTMENT FORM**

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

**Adjustments should be rounded to the nearest \$1.**

			+		-	
ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
260-1100-519-62-13	100833	Capital Equipment / Automotive	\$ 7,380			
260-1100-519-62-13	100834	Capital Equipment / Automotive	10,070			
260-1100-519-62-13	100835	Capital Equipment / Automotive	10,070			
260-1100-519-62-13	100836	Capital Equipment / Automotive	7,200			
260-1100-519-62-13	100837	Capital Equipment / Automotive	7,200			
260-1100-519-63-10	100838	Capital Building & Grounds / Building & Grnds	10,771			
260-0000-490-25-82		Transfer In - General Fund	11,811			
260-0000-431-02-61		State Grants	40,880			
110-9100-591-81-60		Transfer Out - Grant Fund	11,811			
110-0000-352-13-45		Desg Cap Proj - SECO Alt. Fuel Grant			10,210	
110-0000-352-13-45		Desg Cap Proj - Unallocated			711	
110-2400-519-23-45		Go Green Expenditures			890	
		<b>DO NOT POST</b>				
<b>TOTAL.....</b>			\$ 117,193		\$ 11,811	

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

To appropriate grant revenue and grant expenditures related to the Emerging Clean Energy Technologies for the Alternative Fuels Initiative Grant Program through the State Energy Conservation Office. The City will convert five fleet vehicles to liquefied petroleum (LPG), also known as propane autogas. The City will also install a LPG fueling station on site at the Fleet Service Center. The total project costs is estimated at \$52,691

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

12/1/2011

WITH AGENDA ITEM?

☒

Yes

☐

No

Department Head/Division Director

Date

☐

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE AND INSTALLATION OF FIVE PROPANE CONVERSION KITS FROM PHILPOTT MOTORS OF PORT NECHES, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$41,920; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the City applied for a grant through the State Energy Conservation Office (SECO) “Emerging Clean Energy Technologies for the Alternative Fuels Initiative Grant Program” – in September, 2011, the City was notified that the City had been awarded the grant in the amount of \$40,880, with the City contributing an additional \$10,210 as cost-sharing towards the project;

**Whereas**, the City has committed to converting five select vehicles to propane autogas and installing a private propane autogas fueling station;

**Whereas**, Staff recommends the purchase and installation of five propane conversion kits from Philpott Motors of Port Neches, Texas, using the BuyBoard Local Government Online Purchasing Cooperative, in the amount of \$41,920;

**Whereas**, grant funds are available for this purchase with a required match from the City in the amount of \$10,220 – an amendment to the FY2011-12 budget needs to be approved to transfer grant expenditures and grant revenue to the appropriate expenditure accounts; and

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

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

**Part 1:** The City Council authorizes the purchase and installation of five propane conversion kits from Philpott Motors of Port Neches, Texas, through the BuyBoard Local Government Online Purchasing Cooperative System, in the amount of \$41,920.



**Part 2:** The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached hereto, for this purchase.

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

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

PASSED AND APPROVED this the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(D)  
Consent Agenda  
Page 1 of 1

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a two-year renewal to an existing inter-local agreement with Bell County for the purchase of fuel from Texas Fleet Fuel in the estimated annual amount of \$1,856,000.

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

**ITEM SUMMARY:** On February 18, 2010, the City Council authorized an inter-local agreement with Bell County for the purchase of fuel from Texas Fleet Fuel through January 2012. The inter-local agreement allowed for an option to renew the agreement for an additional two-year period if Bell County chose to renew its contract with Texas Fleet Fuel for a like-kind term. On November 14, 2011, Bell County Commissions authorized a two-year extension to their agreement, extending the terms of their agreement through January 2014.

Bell County's contract with Texas Fleet Fuel is priced at 8 cents over the OPIS price (Oil Price Information Service) per rack price for each week, exclusive of freight. Freight varies in Temple with the majority being between 2–3 cents per gallon.

Each week the City receives a report that shows each vehicle's fueling, who fueled, where they fueled, and the price for that week. We are able to upload this information into our fleet maintenance system with little effort. This system has worked very well for the City, and staff desires to extend the inter-local agreement to continue service with Texas Fleet Fuel.

**FISCAL IMPACT:** The FY 2011-2012 adopted budget for fuel is as follows:

General Fund	\$1,542,700
Hotel/Motel Tax Fund	1,800
Drainage Fund	45,900
Water & Wastewater Fund	<u>265,600</u>
Total	<u>\$1,856,000</u>

### **ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A TWO-YEAR RENEWAL TO AN EXISTING INTERLOCAL AGREEMENT WITH BELL COUNTY FOR THE PURCHASE OF FUEL FROM TEXAS FLEET FUEL, LTD, IN THE ESTIMATED ANNUAL AMOUNT OF \$1,856,000; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on February 18, 2010, the City Council authorized an interlocal agreement with Bell County for the purchase of fuel from Texas Fleet Fuel, Ltd, through January, 2012 – the agreement allowed for an option to renew the agreement for an additional two-year period;

**Whereas**, on November 14, 2011, Bell County Commissioners chose to renew its contract with Texas Fleet Fuel, Ltd, and to authorize a two-year extension to their agreement, extending the terms of their agreement through January 2014;

**Whereas**, the Staff recommends entering into a two-year renewal to the existing interlocal agreement with Bell County to enable the City to continue service with Texas Fleet Fuel, Ltd;

**Whereas**, the FY2011-12 adopted budget for fuel is approximately \$1,856,000; and

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

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

**Part 1:** The City Manager, or his designee, is authorized to execute a two-year renewal to the existing Interlocal Agreement between the City of Temple, Texas, and Bell County, after approval as to form by the City Attorney, for the purchase of fuel from Texas Fleet Fuel, Ltd, in the estimated amount of \$1,856,000.

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

PASSED AND APPROVED this the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(E)  
Consent Agenda  
Page 1 of 2

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

Belinda Mattke, Director of Purchasing

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a two-year renewal to the purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links, the Water Treatment Plant, and Draughton-Miller Central Texas Regional Airport in the estimated annual amount of \$54,455.

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

**ITEM SUMMARY:** On May 1, 2008, the City Council authorized a 20-month purchase agreement with Triple S Petroleum of Austin for the purchase of on-site fuel for Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport. On December 17, 2009, the City Council authorized a two-year renewal to the contract.

Sammons Golf Links and the Draughton-Miller Central Texas Regional Airport each have two fuel tanks, one tank of unleaded fuel and one tank of diesel. The inter-local agreement with Bell County for the purchase of fuel from Texas Fleet Fuel does not cover transported fuel. On April 21, 2010, the City added fueling of the generators at the Water Treatment Plant to the contract. Triple S Petroleum agreed to extend our contracted price of 20 cents above OPIS for diesel with a \$175 generator fill surcharge due to the process and inherent risks of fueling generators.

The bid prices are based on the OPIS price (Oil Price Information Service) per actual unbranded rack price for that day's delivery. Unleaded fuel is priced at 18 cents above OPIS and diesel is priced at 20 cents above OPIS. This price does include the state mandated petroleum product delivery fee which is billed at .0015 cents per gallon.

The original bid allowed for two (2) additional two-year renewals. The City has been pleased with the products and service received from Triple S Petroleum. Therefore, staff recommends renewal of the purchase agreement. The renewed purchase contract will commence on January 1, 2012 and continue through December 31, 2014. This will be the last renewal available on this contract.

**FISCAL IMPACT:** On-site fuel included in the adopted FY 2012 budget: Airport operating budget \$26,316, Golf Course operating budget \$21,740, and Water Treatment Plant operating budget \$6,399, for a total estimated annual expenditures of \$54,455.

**ATTACHMENTS:**

[Resolution](#)

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A TWO-YEAR RENEWAL TO THE PURCHASE AGREEMENT WITH TRIPLE S PETROLEUM OF AUSTIN, TEXAS, FOR THE PURCHASE OF ON-SITE FUEL FOR SAMMONS GOLF LINKS, WATER TREATMENT PLANT, AND DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT, IN THE ESTIMATED ANNUAL AMOUNT OF \$54,455; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on May 1, 2008, the City Council authorized a 20-month purchase agreement with Triple S Petroleum of Austin, Texas for the purchase of on-site fuel for Sammons Golf Links and the Draughon-Miller Central Texas Regional Airport – on December 17, 2009, the City Council authorized a two-year renewal to the contract;

**Whereas**, on April 21, 2010, the City added fueling of the generators at the Water Treatment Plant to the contract with Triple S Petroleum who agreed to extend the City's contracted price due to the process and inherent risks of fueling generators;

**Whereas**, the original bid allowed for two additional two-year renewals and Staff recommends renewal of the purchase agreement with Triple S Petroleum for this purpose; and

**Whereas**, funds are available in the FY2011-12 budget for the Airport, Golf Course and Water Treatment Plant for these purchases; and

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

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

**Part 1:** The City Council authorizes a renewal to the purchase agreement with Triple S Petroleum of Austin, Texas, for the purchase of on-site fuel for Sammons Golf Links, the Water Treatment Plant and Draughon-Miller Central Texas Regional Airport, in the estimated annual amount of \$54,455.

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

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

PASSED AND APPROVED this the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(F)  
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 authorizing a professional services agreement with Clark & Fuller, PLLC, of Temple for engineering services including design, surveying, and construction administration required to rehabilitate Friar's Creek Lift Station, to include replacement of pumps, motors, electrical panels, wiring, and other fixtures, in an amount not to exceed \$68,995.60.

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

**ITEM SUMMARY:** The Friar's Creek Lift Station is a critical element in the wastewater collection system currently serving a 6.4 square mile area in South-Central Temple. The lift station, located near the intersection of Highway 93 and South 31<sup>st</sup> Street, has performed near or at capacity since 1999. Ongoing development in the Friar's Creek Lift Station sewer basin continues to add wastewater customers to this facility and strain the installation to its performance limit. Several pumps have failed and are in need of replacement. Additionally, electrical hardware proposed to be installed with this project is intended to allow the pumps to operate at ideal capacity for varying wastewater flow loading scenarios.

The proposed timeline for design completion will be 120 calendar days from the authorization of notice to proceed. Per the attachment, project tasks are broken down as follows:

Civil, Structural, Mechanical, and Electrical Engineering Design Services:	\$ 47,495.60
Project Bidding Phase Services:	\$ 1,500.00
Construction Phase Services:	\$ 3,500.00
Daily Onsite Construction Phase Services:	<u>\$ 16,500.00</u>
<b>Total</b>	<b>\$ 68,995.60</b>

The engineer's opinion of probable cost for construction of the project is approximately \$584,000, resulting in a total estimated project cost of \$653,000.

**FISCAL IMPACT:** A budget adjustment is presented for Council's approval appropriating Water & Sewer Retained Earnings designated for Capital Projects in the amount of \$68,996 to account #520-5900-535-6611, project #100805 for engineering services for the rehabilitation of Friar's Creek Lift Station. This project was identified in the FY 2012 CIP as adopted by Council on September 1, 2011. \$325,000 was included in the FY 2012 for this project.

**ATTACHMENTS:**

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

November 14, 2011

Salvador Rodriguez, P.E.  
Assistant City Engineer  
3210 E. Ave. H, Bldg. A  
Temple, TX 76501

Re: Proposal for the 2012 City of Temple Fryer's Creek Lift Station Improvements Project  
Located at the Northeast Corner of the FM 93 and South 31<sup>st</sup> Intersection

Dear Mr. Rodriguez,

We would like to thank the City of Temple for the opportunity to submit a preliminary opinion of probable cost and engineering fee proposal for the 2012 City of Temple Fryer's Creek Lift Station Improvements Project

This project will consist the following:

1. Removal and Replacement of (3) 200 hp Horizontal Dry Pit Non-Clog Pumps and (3) 200 hp Open Drip Proof (ODP) Motors.
2. Build and Install a new PLC control panel with Square D Modicon PLC and Maple Systems touch screen.
3. Remove the existing MCC Sections leaving the main breaker
4. Install (3) new 200 hp Square D Altivar 61 AC VFD's with automatic VFD bypass upon VFD fault
5. Install control wiring from new MCC to new control panel
6. Connect wiring to (3) 200 hp motors
7. Remove and Replace (3) 12" Flange Air Cushioned Check Valves
8. Provide New Hydro-Ranger Wet Well Level Sensor with Float Backup System
9. Install New Lightening Protection System on Existing Building
10. Remove Existing Overhead Dry Well Lighting and Replace with New Wall Lighting
11. Remove and Replace Existing AC Unit
12. Remove and Replace Existing Ceiling Vent
13. Remove and Replace Metal Entry Door

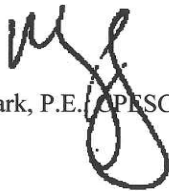
Clark & Fuller, PLLC will complete designs, construction document preparation, assist the City of Temple with project bidding, and provide construction administration and post construction record drawings. In addition, at the City of Temple's request, Clark & Fuller, PLLC can also provide daily on-site project representation and inspection services. The proposed timeline for the project design phase is 120 calendar days from the authorization of notice to proceed. We estimate a 17 week delivery on (3) new pumps. The proposed timeline for the project construction phase will be approximately 259 calendar days (including pump delivery) from the authorization of the contractors notice to proceed.

Clark & Fuller, PLLC, hereinafter Engineer, proposes to the City of Temple, hereinafter Client, Professional Civil, Mechanical, and Electrical Engineering Services for a Lump Sum Amount not to exceed \$52,495.60. We estimate the total cost of construction to be \$584,320.00 and we estimate the total cost of construction including professional services and contingencies to be \$636,815.60. In addition, if requested, daily on-site inspection services can be provided for a Lump Sum Amount not to exceed \$16,500.00. (Please refer to attached Exhibit "A", and the Preliminary Opinion of Probable Cost for an itemized breakdown and scope of services.

Please contact us if you require additional information or have further questions regarding this proposal.

Sincerely,

Monty L. Clark, P.E., PEESC



**EXHIBIT "A"**

**Proposal for 2012 City of Temple Fryer's Creek Lift Station Improvements Project  
Scope of Professional Services**

**Civil, Structural, Mechanical, and Electrical Engineering Design Phase: \$ 47,495.60**

- Prepare Final Design Construction Documents and Technical Specifications for Items stated above
- Provide Engineers Opinion of Construction Cost and Probable Days to Complete Project Construction
- Attend and Facilitate Project Coordination with the City Staff and OMI

**Project Bidding Phase: \$ 1,500.00**

- Prepare Bid Schedule and Coordinate Bidding with the City of Temple Purchasing
- Provide copies of Construction Documents to facilitate Bidding
- Attend and facilitate a Pre-Bid Meeting
- Prepare and Issue Necessary Addenda

**Construction Phase: \$ 3,500.00**

- Attend and facilitate a Pre-Construction Meeting
- Review all Contractor Submittals
- Provide Construction Administration and Project "Site" Visits to assist contractor with field construction questions
- Assist the City of Temple with Construction Questions and Respond to Requests for Information (RFI's)
- Review Contractor Applications for Payment and insure conformance with percentage of construction complete
- Respond to Requests for Information (RFI's)
- Execute Necessary Change Orders
- Attend Final Project Inspection
- Provide Final Inspection Punch List
- Prepare Record Drawings

**Daily Onsite Construction Inspection Services \$ 16,500.00**

- Provide Daily On-Site Project Representation and Inspection Services (4 Hrs. per Day)

## **PROFESSIONAL FEE SCHEDULE**

Licensed Professional Engineer	\$ 110.00/hr.
Licensed Professional Architect	\$ 125.00/hr.
Design Technician	\$ 70.00/hr.
CADD Technician	\$ 60.00/hr.
CADD Draftsman	\$ 50.00/hr.
Clerical	\$ 35.00/hr.
Licensed Professional Land Surveyor	\$ 105.00/hr.
Field Crew & Total Station	\$ 130.00/hr.
Survey Research and Schematic Production	\$ 90.00/hr.
Daily On-Site Inspection Services	\$ 40.00/hr.



**PRELIMINARY OPINION OF PROBABLE COST**

**2012 City of Temple Fryers Creek Lift Station Improvement Project**

Located within City of Temple, Texas

Date: 11-14-11

Item Description	Unit	Unit Cost	Quantity	Total
1. Mobilization, Bonds, and Permits	L.S.	\$ 22,500.00	100%	\$ 22,500.00
2. Remove and Replace Existing Pumps, Motors, and Wiring to Breaker Panels (3)	L.S.	\$ 215,000.00	100%	\$ 215,000.00
3. Provide Miscellaneous Pipe and Fittings	L.S.	\$ 7,500.00	100%	\$ 7,500.00
4. Remove and Replace 12" Flange Air Cushioned Check Valve	EA.	\$ 14,500.00	3	\$ 43,500.00
5. New PLC Control Panels, (3) 200 HP VFD's, Wiring, and Motor Connections	L.S.	\$ 212,000.00	100%	\$ 212,000.00
6. Install New Building Lightning Protection	L.S.	\$ 7,500.00	100%	\$ 7,500.00
7. Remove Existing Pump Room Overhead Lighting and Replace with Wall Pack Lighting	L.S.	\$ 4,400.00	100%	\$ 4,400.00
8. Remove and Replace Existing AC Unit & Exhaust	L.S.	\$ 18,000.00	100%	\$ 18,000.00
9. Remove and Replace Existing Metal Door	EA.	\$ 800.00	1	\$ 800.00

**SUBTOTAL: \$ 531,200.00**

**10% CONSTRUCTION CONTINGENCY: \$ 53,120.00**

**TOTAL CONSTRUCTION: \$ 584,320.00**

**CIVIL/MECHANICAL/ELECTRICAL ENGINEERING SERVICES: \$ 46,745.60**

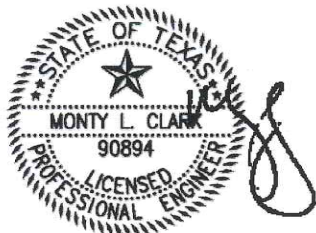
**CONSTRUCTION ADMINISTRATION: \$ 3,500.00**

**DOCUMENT, REPRODUCTION & PREPARATION OF RECORD DRAWINGS \$ 2,250.00**

**PROJECT TOTAL: \$ 636,815.60**

**INSPECTION SERVICES: \$ 16,500.00**

**PROJECT TOTAL INCLUDING INSPECTION SERVICES: \$ 653,315.60**



11/14/2011





S. 31ST STREET  
STATE HWY 1741

FRYERS CREEK  
LIFT STATION  
PROJECT LOCATION

STATE HWY 93

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH CLARK & FULLER, PLLC, OF TEMPLE, TEXAS, FOR ENGINEERING SERVICES INCLUDING DESIGN, SURVEYING AND CONSTRUCTION ADMINISTRATION REQUIRED TO REHABILITATE FRIAR'S CREEK LIFT STATION, IN AN AMOUNT NOT TO EXCEED \$68,995.60; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** the Friar's Creek Lift Station is a critical element in the wastewater collection system currently serving a 6.4 square mile area in South Central Temple – ongoing development in the Friar's Creek Lift Station sewer basin continues to add wastewater customers to this facility and strain the installation to its performance limit;

**Whereas,** several pumps have failed and are in need of replacement;

**Whereas,** Clark & Fuller, PLLC, submitted a proposal for engineering services, including design, surveying and construction administration for this project in the amount of \$68,995.60, and the Staff recommends accepting it;

**Whereas,** funds are available for this project, but an amendment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a professional services agreement between the City of Temple and Clark & Fuller, PLLC, of Temple, Texas, after approval as to form by the City Attorney, for engineering services required to rehabilitate Friar's Creek Life Station, in an amount not to exceed \$68,995.60.

**Part 2:** The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this project.



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

PASSED AND APPROVED this the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(G)  
Consent Agenda  
Page 1 of 1

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

Ken Cicora, Parks and Leisure Services Director

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a construction contract with Bauer Sport Floors, Inc. of Houston for the replacement of the gymnasium floor at the Clarence Martin Recreation Center in the amount of \$54,900.

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

**ITEM SUMMARY:** This project will result in the removal of the existing gym floor and the installation of a new wood gym floor at the Recreation Center.

On November 8, 2011, the City of Temple received three bids for this project. Bids ranged from a high of \$71,000 to a low of \$54,900 with Bauer Sport Floors providing the low bid.

This project includes removing the existing wood gym floor and installing a new wood gym floor complete with markings for basketball and volleyball. The existing volleyball standard receptacles will be removed and re-installed, and new thresholds and wall moldings will be installed.

Reference checks were completed with all respondents giving Bauer Sport Floors high marks for quality and finishing on time and within budget.

This project is being funded through a Community Development Block Grant (CDBG) and will result in a new gym floor for this Recreation Center. The Parks and Leisure Services Department utilizes this facility for basketball and volleyball league games as well as a rental facility.

**FISCAL IMPACT:** Funds have been budgeted in the amount of \$90,000 in account 260-6100-571-65-16, project #100742. Remaining funds will be available for future reallocation.

### **ATTACHMENTS:**

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

Tabulation of Bids Received  
on November 8, 2011 at 2:00 p.m.  
CDBG Clarence Martin Recreation Center Gym Floor Replacement  
Bid# 61-01-12

	Bidders		
	Jellison Inc. dba Jelco Gyms Manchaca, TX	Bauer Sport Floors, Inc. Houston, TX	Long Flooring Lubbock, TX
Description			
Total Bid Price	\$55,992.00	\$54,900.00	\$71,000.00
Acknowledged addendum	Yes	Yes	No
Bid Bond (Required at bid opening)	5%	5%	5%
Statement of Bidder's Qualifications	Yes	Yes	Yes
Contractor's Local Opportunity Plan	Yes	Yes	Yes
Proposed Contracts Breakdown	Yes	Yes	Yes
Contractor Certification	Yes	Yes	Yes
Noncollusion Affidavit of Prime Bidder	Yes	Yes	Yes
Bond Affidavit	Yes	Yes	Yes
Insurance Affidavit	Yes	Yes	Yes
Credit Check Authorization Form	Yes	Yes	Yes

**Recommended for Council award**

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

*Belinda Mattke, Director of Purchasing*

*8-Nov-11*

Belinda Mattke, Director of Purchasing

Date

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH BAUER SPORT FLOORS, INC., OF HOUSTON, TEXAS, TO REPLACE THE GYMNASIUM FLOOR AT THE CLARENCE MARTIN RECREATION CENTER, IN THE AMOUNT OF \$54,900; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on November 8, 2011, the City received three bids for replacing the gymnasium floor at the Clarence Martin Recreation Center;

**Whereas**, the Staff recommends accepting the bid (\$54,900) from Bauer Sport Floors, Inc., of Houston, Texas, for this project;

**Whereas**, funds are available for this project in Account No. 260-6100-571-65-16, Project No. 100742; and

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

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

**Part 1:** The City Council authorizes the City Manager, or his designee, to execute a construction contract in the amount of \$54,900, between the City of Temple, Texas, and Bauer Sport Floors Inc., of Houston, Texas, after approval as to form by the City Attorney, to replace the gymnasium floor at the Clarence Martin Recreation Center.

**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 **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(H)  
Consent Agenda  
Page 1 of 3

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

Randy A. Stonerod, Director of Human Resources/Civil Service

**ITEM DESCRIPTION:** Consider adopting a resolution authorizing a contract with Scott & White Health Plan and establishing rates for substitute Medicare supplement insurance for City of Temple retirees and the City's contribution thereto for calendar year 2012.

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

**ITEM SUMMARY:** Previously the trustees of the City of Temple Employee Benefits Trust adopted rates for health and dental insurance for all active employees and retirees not eligible for Medicare. City policy requires that when retirees turn 65, if they are eligible, they must enroll in the substitute Medicare supplement plan(s) offered through the City in order to receive the City's contribution. These rates are not available until the late Fall of each year, so at this time Council needs to adopt substitute Medicare supplement rates for retirees for 2012. The rates for substitute Medicare supplement insurance run from January 1<sup>st</sup> through December 31<sup>st</sup> of each year while rates for our active employees and non Medicare eligible retirees run from October 1<sup>st</sup> through September 30<sup>th</sup> of each year.

The Personnel Policies and Procedures Manual states that the City will pay an amount established during the budget process for substitute Medicare Supplement insurance for Medicare eligible retirees who have at least twenty-five (25) years of continuous service with the City of Temple. On November 15, 2011, the City received one (1) proposal. The City's consultant, Burke Sunday of City-County Benefit Services, reviewed the proposal received and recommends award to Scott & White Health Plan.

Scott & White Health Plan, the recommended carrier, offers SeniorCare as its substitute Medicare supplement. In 2007, 2008, 2009, 2010 and 2011, retirees were offered twelve Medicare supplement plans through the City. For 2012, SeniorCare will offer twenty Medicare supplement plans to over 65 retirees through the City.

In FY 2010-2011, the City Policy regarding contributions was amended to state that the City will pay an amount toward retiree insurance to be determined each fiscal year. The FY 2012 budget included funding in the amount of \$102.00 to contribute towards the cost of substitute Medicare Supplemental insurance. Staff recommends that Council authorize a contribution of 50% toward all plans up to a maximum contribution of \$102.00.

The new monthly premium recommendations for 2012 are as follows:

<b>Plan</b>	<b>Description</b>	<b>Monthly Premium</b>	<b>City's Contribution</b>	<b>Retiree's Contribution</b>
A	Senior Select – No Rx	\$40.00	\$20.00	\$20.00
B	Senior Select – Value Rx	\$70.60	\$35.30	\$35.30
C	Senior Select – Basic Rx	\$77.00	\$38.50	\$38.50
D	Senior Select – Enhanced Rx	\$133.10	\$66.55	\$66.55
E	Senior Preferred – No Rx	\$87.00	\$43.50	\$43.50
F	Senior Preferred – Value Rx	\$117.60	\$58.80	\$58.80
G	Senior Preferred – Basic Rx	\$124.00	\$62.00	\$62.00
H	Senior Preferred – Enhanced Rx	\$180.10	\$90.05	\$90.05
I	Senior VIP – No Rx	\$125.00	\$62.50	\$62.50
J	Senior VIP– Value Rx	\$155.60	\$77.80	\$77.80
K	Senior VIP – Basic Rx	\$162.00	\$81.00	\$81.00
L	Senior VIP – Enhanced Rx	\$218.10	\$102.00	\$116.10
M	Senior MedOption – No Rx	\$148.00	\$74.00	\$74.00
N	Senior MedOption – Value Rx	\$178.60	\$89.30	\$89.30

Plan	Description	Monthly Premium	City's Contribution	Retiree's Contribution
O	Senior MedOption – Basic Rx	\$185.00	\$92.50	\$92.50
P	Senior MedOption – Enhanced Rx	\$241.10	\$102.00	\$139.10
Q	Senior Premium– No Rx	\$167.00	\$83.50	\$83.50
R	Senior Premium– Value Rx	\$197.60	\$98.80	\$98.80
S	Senior Premium – Basic Rx	\$204.00	\$102.00	\$102.00
T	Senior Premium – Enhanced Rx	\$260.10	\$102.00	\$158.10

According to the consultant, this insurance should be awarded by the Council and not the Trust because it is considered an individual plan instead of a group plan and is not eligible for the tax credit.

**FISCAL IMPACT:** Budgeted amount: \$182,250 in account 110-2700-515-1231\*  
Estimated amount for FY11-12: \$53,244.00\*\*

\* Budget includes all retirees' insurance

\*\* Maximum contribution during FY 2012 for the new plan costs calculated as \$102.00 x 58 # Medicare eligible retirees (as of 11/22/11) x 9 months (Jan - Sept) = \$53,244.00; the number of retirees could change over the course of the year. The cost incurred for the Medicare Supplemental insurance from October through December was \$18,700.05.

**ATTACHMENTS:**

[Review and Analysis of Response Resolution](#)

Review of Responses to RFP No. 27-05-12

# Group Medicare Supplement and Prescription Drug Benefit 2012 Plan Year

*City of  
Temple*

Prepared by



---

## City-County Benefits Services

Burke O. Sunday, LHIC  
245 Commerce Green Blvd., Suite 290  
Sugar Land, Texas 77478  
[281] 295-3000 (Phone)  
[281] 295-3020 (Fax)





## *Group Medicare and Prescription Drug Benefit Request for Proposal # 27-05-12*

### Background Information

*City of Temple Employee Benefits Trust "Senior Care" Plan Year is January 1<sup>st</sup> through December 31<sup>st</sup>*

Reponses to Request for Proposal # 27-05-12 were received through Tuesday, November 8, 2011. The Scott & White Health Plan was the only respondent to the RFP.

### Narrative

The Scott & White Health Plan expanded the number of Medicare Supplement options from three (3) –

- Select
- Preferred
- Preferred Plus

to five (5) Medicare Supplement options for the 2012 plan year. They are –

- Select
- Preferred
- VIP (*New*)
- MedOption (*Preferred Plus in 2011 – renamed*)
- Premium (*New*)

The optional Part D Prescription Plans offered remain at three (3), the names of the plans remain the same, and the only material changes are those that were prescribed by CMS (Center for Medicare Services).

Included in this document are a "Plan and Rate" comparison of the Scott & White 2012 Medical Plans and 2012 Optional Part D Prescription Plans and the Scott & White 2011 Medical Plans and the 2011 SeniorCare Rx Medicare Part D Plans.

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONTRACT WITH SCOTT AND WHITE HEALTH PLAN AND ESTABLISHING RATES FOR SUBSTITUTE MEDICARE SUPPLEMENT INSURANCE FOR CITY OF TEMPLE RETIREES AND THE CITY'S CONTRIBUTION THERETO FOR CALENDAR YEAR 2012; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas,** on November 15, 2011, the City received 1 proposal for substitute Medicare supplement insurance for retirees for calendar year 2012;

**Whereas,** the proposal was reviewed by the City's consultant, City-County Benefits Services, who recommends accepting the proposal received from Scott and White Health Plan;

**Whereas,** the City's Personnel Policies & Procedure Manual provides that the City will pay an amount established during the budget process for substitute Medicare Supplement for Medicare eligible retirees who have at least 25 years of continuous service with the City of Temple;

**Whereas,** the estimated expenditure for FY2011-12 is \$53,244 and funds for retirees' insurance are budgeted in Account No. 110-2700-515-1231; 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 agreement with Scott and White Health Plan, after approval as to form by the City Attorney, for substitute Medicare supplement insurance for City of Temple retirees for calendar year 2012 at the following rates:

Plan	Description	Monthly Premium	City's Contribution	Retiree's Contribution
A	Senior Select – No Rx	\$40.00	\$20.00	\$20.00

B	Senior Select – Value Rx	\$70.60	\$35.30	\$35.30
C	Senior Select – Basic Rx	\$77.00	\$38.50	\$38.50
D	Senior Select – Enhanced Rx	\$133.10	\$66.55	\$66.55
E	Senior Preferred – No Rx	\$87.00	\$43.50	\$43.50
F	Senior Preferred – Value Rx	\$117.60	\$58.80	\$58.80
G	Senior Preferred – Basic Rx	\$124.00	\$62.00	\$62.00
H	Senior Preferred – Enhanced Rx	\$180.10	\$90.05	\$90.05
I	Senior VIP – No Rx	\$125.00	\$62.50	\$62.50
J	Senior VIP – Value Rx	\$155.60	\$77.80	\$77.80
K	Senior VIP – Basic Rx	\$162.00	\$81.00	\$81.00
L	Senior VIP – Enhanced Rx	\$218.10	\$102.00	\$116.10
M	Senior MedOption – No Rx	\$148.00	\$74.00	\$74.00
N	Senior MedOption – Value Rx	\$178.60	\$89.30	\$89.30
O	Senior MedOption – Basic Rx	\$185.00	\$92.50	\$92.50
P	Senior MedOption – Enhanced Rx	\$241.10	\$102.00	\$139.10
Q	Senior Premium – No Rx	\$167.00	\$83.50	\$83.50

R	Senior Premium – Value Rx	\$197.60	\$98.80	\$98.80
S	Senior Premium – Basic Rx	\$204.00	\$102.00	\$102.00
T	Senior Premium – Enhanced Rx	260.10	\$102.00	\$158.10

**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 **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(I)  
Consent Agenda  
Page 1 of 2

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

Autumn Speer, Community Services Director

**ITEM DESCRIPTION:** SECOND READING – Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 7.6 General Development Standards to provide standards for the use of donation boxes.

**CITY COUNCIL PRIOR ACTION:** At its November 17, 2011 meeting, the City Council voted to approve the proposed ordinance adding regulations for donation boxes with the following additions and changes:

- Donation boxes are permitted in all non-residential zoned properties
- Enforcement of the new standards will take place 30 days after the effective date of the ordinance

At its October 6, 2011 meeting, the City Council opened the public hearing concerning amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

Several members from the public spoke primarily concerning the specific language pertaining to shipping containers and storage on site of businesses. One member spoke in favor of the donation box amendments. After much discussion, the Public Hearing was closed and a motion was made by Councilmember Schneider to table and seconded by Councilmember Morales.

In light of this, staff is bringing each section forward to consider on its own merits. The first section for review and discussion pertains to Donation Boxes only. No changes have been made to the original proposal.

**P&Z COMMISSION RECOMMENDATION:** At its June 6, 2011 meeting, the Planning and Zoning Commission voted 7/0 to recommend approval of the requested amendment to the Unified Development Code with the exceptions of removing Special District restrictions for donations boxes so that non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period.

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

**ITEM SUMMARY:** Please refer to the Planning and Zoning Commission staff report and minutes of case Z-FY-11-30, from the Planning and Zoning meeting, June 6, 2011.

The placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address these uses.

As proposed, donation boxes would be permitted on the immediate site of an operating non-profit faith based organization, institutional use or school. These sites can offer a location to charities other than their specific organization.

A maximum of one collection box is permitted per any 500 linear feet of street frontage, regardless of property ownership. Collection boxes are not permitted in required parking spaces or landscaped areas. Collection boxes may be up to four feet in length, six feet in height or six feet in width and must be placed at least 50 feet from all public right-of-way.

All collection boxes must be maintained in repaired and painted condition or will be subject to immediate removal and regularly emptied and not allow overflow or accept large donations outside of box or will be subject to immediate removal.

An applicant must apply for and receive a permit for the placement of a collection box. The permit for such collection box must be displayed on the container. The permit expires 365 days after approval. The applicant must apply for and receive another permit prior to the expiration of the original permit. No time limits are implied; however the containers must remain in good condition and conform to the location and size specifications in this section.

**PUBLIC NOTICE:**

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Proposed Amendment to UDC](#)  
[P&Z Staff Report \(Z-FY-11-30\)](#)  
[P&Z Minutes \(June 6, 2011\)](#)  
[City Council Minutes \(October 6, 2011\)](#)  
[Ordinance](#)

## Article 7 General Development Standards

---

### 7.6.8 Outdoor Storage

....

#### C. Outdoor Collection Boxes

##### 1. Where Permitted

- a. Outdoor collection boxes are permitted ~~only in all non-residential zoning districts on the immediate site of a school, an operating non-profit organization, or other institutional use~~, in accordance with the following standards.

##### 2. Number Permitted and Location

- a. A maximum of one collection box is permitted per any 500 linear feet of street frontage, regardless of property ownership.
- b. Collection boxes are not permitted in required parking spaces.
- c. Collection boxes are not permitted in landscaped areas.

##### 3. Dimensions and Specifications

- a. The maximum dimensions for a permitted collection box are four feet in length, six feet in height or six feet in width.
- b. Permitted collection boxes must be placed at least 50 feet from all public right-of-way.
- c. Permitted collection boxes must be maintained in repaired and painted condition.
- d. Permitted collection boxes must be emptied regularly and not allowed to overflow.
- e. Items deposited outside a collection box must be removed within 24 hours from deposit.

##### 4. Permits Required

- a. An applicant must apply for and receive a permit for the placement of a collection box. The permit for such collection box must be displayed on the container. Placement of a collection box without a permit is a violation by the person who places the box, owns the box, or owns the property where the box is placed. The permittee is responsible for compliance with the standards in this section.

- b.** The permit expires 365 days after approval. The permittee must apply for and receive another permit prior to the expiration of the original permit. There is no limit on the number of renewals.





# PLANNING AND ZONING COMMISSION AGENDA ITEM

---

06/6/11  
Item #9  
Regular Agenda  
Page 1 of 2

**APPLICANT / DEVELOPMENT:** City of Temple

**CASE MANAGER:** Autumn Speer, Director of Community Services

**ITEM DESCRIPTION:** Z-FY-11-30 Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards. (City of Temple)

**BACKGROUND:** Shipping containers, also referred to as connexes have been gaining in popularity as alternative storage solutions as businesses move, outgrow their site or have a need to store seasonal items. These types of containers and others have shown up in several areas of the City. Code Enforcement and the Planning Department has had numerous requests to review the placement and length of time that shipping containers may stay in one location and what types are permitted.

There are currently no rules regulating the location, size, condition or type of storage containers. This proposed amendment is an attempt to address the different scenarios where this alternative type of storage is appropriate and what requirements need to be in place.

Staff presented this item for informational purposes at the Planning and Zoning Commission workshop on April 18, 2011. Since the workshop, staff has made some amendments to the ordinance that would remove the permit requirements for portable storage containers and removed the landscaping requirement for shipping container screening.

On a similar note, the placement of small and large donation or collection boxes has been occurring on a more frequent basis and this ordinance framework provides the opportunity to address those uses as well. Staff has included a section addressing donation boxes in the proposed ordinance.

## **SUMMARY OF ORDINANCE AMENDMENTS:**

**Article 5:** Adding the use Storage Container Sales and Rental to the use table as permitted in LI and HI Zoning districts.

**Article 7:** Adding standards for outdoor collection boxes, semi-trailers, temporary portable storage containers, and shipping containers:

**Collection Boxes** – Permitted on site of non-profit faith based organizations, institutional use or school. Not permitted in special districts. They must be no greater than 4' x 4' x 6' tall. Specific locations are outlined. No permit is required.

**Semi-trailers** – Prohibited for Temporary storage.

**Portable Storage Containers** – Permitted in all districts for 30 day periods, no more than 2 per site. Specific locations are outlined. No permit is required.

**Shipping Containers** – TEMPORARY – Permitted in all non-residential districts. Permit is required for 30 day periods, up to twice per year for one container no greater than 20X8X10. Specific locations are outlined.

**Shipping Containers** – PERMANENT – Permitted in C, LI, and HI zoning districts. Permit is required for up to three containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

**Shipping Containers** – PERMANENT LARGE FORMAT RETAIL – Permitted in non-residential districts with Large Format user (60,000 sq ft). Permit is required for unlimited containers no greater than 20X8X10. Specific locations and screening requirements are outlined.

**Existing Non-conforming Containers** – The proposed code amendment allows one year from the effective date of this ordinance to allow users time to bring existing shipping containers into compliance.

**Article 11:** Adding definitions for large format retail, permanent storage, semi-trailer, shipping container, temporary portable storage container, and temporary storage.

**PUBLIC NOTICE:**

The newspaper printed notice of the Planning and Zoning Commission public hearing on May 26, 2011, in accordance with state law and local ordinance. As of Wednesday, June 1, 2011, no citizens or property owners have provided any feedback on this proposal.

**STAFF RECOMMENDATION:** Staff recommends approval of the proposed amendment to UDC Unified Development Code Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

Attachment 1: Proposed Amendment to UDC Sections 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions

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

**TUESDAY, SEPTEMBER 6, 2011**

**ACTION ITEMS**

**Item 9: Z-FY-11-30 – Hold a public hearing to discuss and recommend action on amendments to Unified Development Code Section 5.1, Section 7.6 and Article 11 of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semitrailers, shipping containers, temporary portable storage containers and donation boxes**

Ms. Autumn Speer, Director of Community Services, stated one new item for donation boxes has been added to this issue since the last presentation. There are numerous donation boxes around town which have no consistency of standards.

Donation boxes would be permitted on the site of any non-profit faith-based organization and any institutional use or school, except they would be prohibited in Special District such as TMED, I-35, and Central Area (CA). There will be no time limit on the permit, the number of boxes would be limited to one per 500 linear feet, the limited size would be 4x4x6 and they should be placed a minimum of 50 feet from the right-of-way, located behind the primary structure.

Use of semi-trailers has not change and remains prohibited for temporary or permanent storage. They are allowed for loading and unloading of transit goods but not for storage purposes.

Portable storage containers (i.e., PODS) do not need a permit. There is a consecutive 30 day time period twice a year, two per site, standard size, five feet from property line, driveway if residential, and paved area if non-residential.

Shipping containers for all temporary uses are permitted in all non-residential uses (i.e., connexes). A permit will be required, 30 day time limit twice a year, one per site, located behind the structure and cannot be visible.

Permanent shipping containers are allowed in C, LI, HI and all large format users (45,000 square feet or over). Agricultural, rail and business park uses are exempt. A permit will be required, no time limit, one per 10,000 square feet or a maximum of three, 20x8x10 (smaller size), and located will be behind the structure, not within setbacks or in parking spaces. The Planning Director will have discretion in making exceptions for site constraints, such as Academy.

Permanent large format users (i.e., Wal-Mart, Sam's) have no maximum but they have to be screened. A permit will be required. Screening is still required but the landscaping requirements have been removed.

For non-conforming users there would be a 12-month period to comply. Code Enforcement would document existing cases, prepare a written letter with the Ordinance and requirements and allow 12 months to rectify the situation.

Commissioner Staats stated he did not agree with the donation boxes being located behind the main structure since people would not see them, making them useless. Ms. Speer stated this was only a baseline to work with and items may be changed. Staff does not want donation boxes to be right in the front of the street dropped wherever seems convenient. Chair Talley and Commissioner Pilkington were in agreement with Commissioner Staats and it was suggested having a permit, possibly free.

Commissioner Staats also disagreed with the Special Districts, especially if a church is located there, and would like that removed.

Chair Talley opened the public hearing.

Mr. Charles Viktorin, 914 Yorktown Drive, owner of PODS Central Texas stated he welcomed the standards Temple has brought to the industry. Mr. Viktorin was pleased that the permit requirement was removed.

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

Commissioner Staats made a motion to approve Z-FY-11-30 as presented with the exceptions of removing Special District restrictions and non-profit organizations still be allowed to have them, remove provision requiring location behind primary structure, and add a permit required for donation boxes, free of charge, for a 12 month period and

Commissioner Rhoads made a second.

*Motion passed: (7:0)*

Vice-Chair Martin and Commissioner Brown absent

## TEMPLE CITY COUNCIL

**OCTOBER 6, 2011**

The City Council of the City of Temple, Texas conducted a Special Meeting on Thursday, October 6, 2011, at 4:00 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 Jones

**1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, October 6, 2011.**

Regular Agenda Item 7 - Amendments to UDC establishing Storage Container standards. Councilmember Dunn asked staff about screen criteria and possible expemptions for businesses. Mayor Pro Tem Schneider inquired on grandfathering businesses. Ms. Speer advised that there were currently two business locations that had permits for the containers on their property.

Regular Agenda Item 10 - Tax Appraisal District Board Member: Mayor Jones asked if Council had any recommendations and if not than we will bring this forward at a later date.

**2. Discuss Building and Fire Codes.**

Autumn Speer, Community Services Director presented this to the Council and Staff. Ms. Speer reviewed the proposed changes to the Building and Fire Codes.

**3. Discuss Street Perimeter Fees.**

Jonathan Graham, City Attorney presented this to the Council and Staff. Mr. Graham explained what perimeter street fees were and gave background to Council. Mr. Graham focused on Exactions and how that process worked and presented case law. Mr. Graham noted that we need to consider updating our UDC.

The City Council of the City of Temple, Texas conducted a Regular Meeting on Thursday, October 6, 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**

Chief Lonzo Wallace voiced the Invocation.

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

The Jr. Fire Cadets of 2011 led the Pledge of Allegiance.

## **II. PROCLAMATIONS & SPECIAL RECOGNITIONS**

### **3. (A) Fire Prevention Week      October 9 - 15, 2011**

Mayor Jones presented Chief Wallace with the proclamation.

The Jr. Fire Cadets asked the Council a few fire safety questions.

Chief Wallace mentioned events in the City for Safety week.

## **III. PUBLIC COMMENTS**

DeAnna DeGraff, Temple Resident and President of VIP, Invited Council to the "Come Walk In My Shoes" 13th Annual event which will be held at the Temple Public Library, 3rd floor, Saturday, October 8 from 1-4pm.

Milton Hensley, 301 Mitchell Drive, Temple, TX - addressed the City Council. He thanked the City of Temple for the support shown for the Life Chain event. They had over 170 participants. Mr. Hensley thanked Chick-fil-A and Crawford Bowers Funeral Home for allowing them to use their parking lots.

## **IV. CONSENT AGENDA**

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

#### **(A) September 15, 2011 Special Called and Regular Meeting**

#### **(B) 1. 2011-6440-R: Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.**

#### **2. 2011-6441-R: Consider adopting a resolution**

**authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision.**

**(C) 2011-6422-R: Consider adopting a resolution authorizing annual purchase agreements for various forms of rock and topsoil with Superior Crushed Stone of Jarrell and Miller Springs Materials of Belton for FY 2012 in the estimated annual amount of \$26,058.**

**(D) 2011-6442-R: Consider adopting a resolution authorizing amendments to the awarded annual purchase agreements for utility supplies for FY 2012 with the following vendors:**

- 1. Municipal Water Work Supply of Royse City, \$176,121.01;**
- 2. ACT Pipe and Supply of Temple, \$108,666.73; and**
- 3. HD Supply Waterworks of Belton, \$125,331.54**

**(E) 2011-4476: SECOND READING - Z-FY-11-42: Consider adopting an ordinance authorizing amendments to Section 7.6.5 of the Unified Development Code related to electric fences within the City limits.**

**(F) 2011-6443-R: Consider adopting a resolution authorizing certain City employees to conduct investment transactions, transfer funds, and represent the City in other financial transactions.**

**(G) 2011-6444-R: Consider adopting a resolution authorizing property, liability and workers compensation insurance premiums for FY2011-12.**

Motion by Councilmember Danny Dunn adopt resolution approving Consent Agenda, except item B-1 and B-2. seconded by Councilmember Judy Morales.

**(B) 1. 2011-6440-R: Consider adopting a resolution authorizing a utility cost sharing agreement for Wyndham Hill Phase II.**

- 2. 2011-6441-R: Consider adopting a resolution authorizing a beautification agreement for Phase II of the Wyndham Hill subdivision with the Wyndham Hill**

**Home Owners' Association and Omega Community Builders for the right-of-way and median along South 5th Street adjacent to the Wyndham Hill subdivision**

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

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

**V. REGULAR AGENDA**

**ORDINANCES**

5. **2011-4477: FIRST READING - PUBLIC HEARING - Consider adopting an ordinance authorizing amendments to the Tax Increment Financing Reinvestment Zone No. 1 Financing and Project Plans as follows:**
  - A. **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.**
  - B. **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.**
  - C. **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.**

Traci Barnard, Finance Director presented this item to the Council. Ms. Barnard discussed the allocation of funds within the plan for each of the items.

David Blackburn, City Manager discussed the significance of each of the projects listed.

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

Motion by Mayor Pro Tem Russell Schneider adopt ordinance



on item 5(A) and 5(C), with second reading and final adoption set for October 20, 2011. seconded by Councilmember Judy Morales.

**B. 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.**

Motion by Councilmember Danny Dunn adopt ordinance with second and final reading set for October 20, 2011. seconded by Councilmember Perry Cloud.

Mayor Pro Tem Russell Schneider abstained. The other Councilmembers voted aye. The motion passed.

**6. 2011-4478: FIRST READING - PUBLIC HEARING - 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.**

Jonathan Graham, City Attorney presented this item to the Council. In 2005 th EPA adopted changes that applied to Cities. In July 2009 we renewed our permit with them that triggered these changes. Mr. Graham, noted there are several changes that relate to records retention and sampling requirments. This mandated and we recommended the changes.

Mayor Jones declared the public hearing open with regard to agenda item 6 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 reading and final adoption for October 20, 2011. seconded by Councilmember Judy Morales.

**7. 2011-4479: FIRST READING - PUBLIC HEARING - Z-FY-11-30: Consider adopting an ordinance authorizing amendments to Section 5.1 Use Standards, Section 7.6 General Development Standards and Article 11 Definitions of the Unified Development Code to establish Storage**

**Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes and to establish definitions related to such standards.**

Autumn Speer, Community Services Director presented this item to the Council. Ms. Speer gave background on this proposal and requirements. Historically our Code Enforcement Department has been tasked to enforce a policy that we don't have in place. Ms. Speer noted that this has been an extensive process involving the Planning and Zoning Commission as well as Local businesses. This was recommended for approval at the Planning and Zoning Commission meeting in June 2011. At this meeting amendments were made at the direction of staff to remove special restrictions for donation boxes, and location requirements as well as added a permit requirement. Ms. Speer discussed Semi-trailers, portable storage containers and shipping containers and donation boxes. Ms. Speer noted semi-trailers are prohibited for temporary or permanent storage. Portable storage containers will not require a permit from the City and are to be used on a temporary basis. Shipping containers will require a permit from the City and can be either on a temporary or permanent basis. These containers must be behind the structure and not visible from the street. Donation boxes are permitted on the site of the non-profit faith based institutions. Ms. Speer noted there is no time limit and to increase the size of boxes. Planning and Zoning added a stipulation for an annual permit. Nonconforming structures will have twelve months to comply to the standards. Policy direction is needed from Council on accessory structures.

Mayor Pro Tem Schneider inquired on the containers used for construction and remodel sites. Are they exempt? What about the units placed at home office while waiting for a job?

Ms. Speer stated this was not addressed, and could present a challenge.

Councilmember Morales commented on donation boxes and how can we keep it local.

Ms. Speer deferred to legal.

Mr. Graham stated the locations of businesses could be limited.

Councilmember Dunn commented on the need to keep the donations local, but there are several national groups that we would like to continue to allow within the city so that they are

able to receive contributions from residents.

Councilmember Morales stated we have several local organizations that have boxes and depend on the local donations.

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

Adam Soorholtz, represented the Chamber of Commerce, 1208 North 2nd Street, Temple addressed the Council. Chambers position is to beautify the city. Mr. Soorholtz noted PODS will be allowed no more than 30 days and must be on a driveway; connexes are prohibited to be in any set back or encroachment or landscaping areas or parking space. Mr. Soorholtz also noted the screening requirements of an 8 foot fence with self closing and latching gate.

John Bolin, 1719 W Avenue M, Suite C Sun Country Bicycles addressed the Council. His business currently uses three 40 foot containers for permanent storage. Mr. Bolin noted he has concerns with limiting the size and this is not good for the small business. These containers are vital to the business; without them he has no offsite storage for his bikes. Being allowed to use them as storage saves him money.

Councilmember Cloud asked Mr. Bolin where the containers are located on his property?

Mr. Bolin answered, on the side and behind the building. He also noted they are the same color as his building.

Mayor Pro Tem Schneider asked Mr. Bolin is there was adequate room behind the building to store the containers?

Mr. Bolin answered no.

Ms. Speer added he would only be allowed to have one as the ordinance is written.

Scott and Kristi Andrews, 319 South 1st Street Business, represent Armadillo Box which rents and sales storage containers. Ms. Andrews noted this proposed ordinance discourages people to come to Temple. This ordinance appears to be anti-business and will hurt the community. Mr. Andrews noted that he is very upset that his product is not mentioned in this ordinance, but a competitor is. There are many technical

issues that still need to be addressed.

Kristi Andrews made note that in 2008 they were approached by Code Enforcement to come into compliance and acquire permits or they would be fined. We are limited to deliver boxes in Temple due the size of boxes. First Baptist Church, Spice Emporium and a few other businesses have boxes and were required to have a permit on file. Mrs. Andrews addressed the overlapping terminology for definitions. Exclusion of necessary storage places an undue hardship on businesses. Mrs. Andrews also noted that screening requirements make it very difficult to manuver and deliver containers and that the definitions need to be clarified. Mrs. Andrews noted that this is selective enforcement and asked if this regulation necessary.

Mr. Andrews ask for disapproval of this ordinance or modify it so that it doesn't negatively impact the local businesses.

Mayor Pro Tem Schneider inquired on the permit for temporary or perminent?

Mrs. Andrews responded, yes we require our customers to acquire a permit from the city.

Mayor Pro Tem Schneider asked, Ms. Speer if we require permits for others?

Ms. Speer responed, currently we do not require permits for shipping and connex containers.

Mr. Andrews stated that they were told differently from the beginning.

Mayor Pro Tem Schneider inquired on Wal-Mart and how this will affect their ability to have the containers.

Ms. Speer stated yes they would have to screen as well. The Planning Director will be able to work with the individual for alternate locations.

Howard Thomas, Wal-Mart 3401 South 31st Street, addressed storage containers. He commented that this is not feasible for the store and they must have forty foot containers. The fencing requirement will limit the delivery of merchandise. Mr. Thomas stated he is not opposed to screening but only from the view of public and not the entire container. This ordinance will greatly impact our business and ask for consideration prior to adopting the ordinance.

Mayor Pro Tem Schneider asked Mr. Thomas if he receives any containers larger than forty feet.

Mr. Thomas stated no.

Susan Robison, Nolanville representing Scott and White Hospice Thrift Store, 1929 North 3rd Street. Ms. Robison currently has a container for donations and merchandise. This is needed so that merchandise can be delivered frequently. Ms. Robison suggested she be grand-fathered into this. There are too many donation boxes in the City and there is no accountability on the donations received and accepted. The donations need to stay local and not go elsewhere.

Mayor Pro Tem Schneider asked Ms. Speer what the dimensions were for donation boxes.

Ms. Speer stated, 6x4x6

Ms. Sue Hamby, 4110 Cripple Creek thanked the Council for implementing guidelines and standards for donation boxes. She encourages local donation boxes. Ms. Hamby stated the storage containers around town are not eye sores, but are extremely beneficial to the local businesses. Ms. Hamby suggested that the City Council look at small businesses and make sure the ordinance will not impact the businesses negatively and causing undue hardships.

Councilmember Dunny asked how this ordinance will affect having donation boxes in place after a natural disaster.

Ms. Speer stated no, donation boxes will be allowed on another non-profit site as the ordinance is currently written.

Ross Vest, owner of Sun Country Bicycle, at 1719 West Avenue M stated he would be happy to fence his containers, but he will have to continue using them as this is a viable part of the business.

Mayor Jones commented this is the first reading and can be amended or tabled at this state. There would be a second reading before the ordinance would be implemented. We want staff to make it the best ordinance for the community.

Mayor Pro Tem Schneider stated there are still a lot of questions that need to be addressed prior to this moving forward. Mayor Pro Tem Schneider stated that he is not comfortable voting either way at this point.

Councilmember Morales agreed. There are many issues that could impact the local businesses, and those need to be resolved.

Mayor Pro Tem Schneider noted that staff was directed by Council to fix this problem. He thanked them for the time spent in drafting this ordinance. We just need to work together to make this the right ordinance for all.

Councilmember Dunn concurred with Mayor Pro Tem Schneider. He stated this started with the best of intentions; and not to hurt local businesses. He also mentioned that he is comfortable with the donation boxes

Mayor Jones stated we are not ready to tackle this without more work from staff and recognized staff and all the work put into this at council's direction. We want to grow our community and not see the businesses negatively impacted.

Mayor Pro Tem Schneider suggested we have workshops with the community and stakeholders.

Mayor Jones declared the public hearing closed.

Motion by Mayor Pro Tem Russell Schneider to table ordinance. seconded by Councilmember Judy Morales.

8. **2011-4480: FIRST READING - PUBLIC HEARING 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.**

Brian Mabry, Planning Director presented this item to the Council. Mr. Mabry gave background for the site for rezoning. This is a proposal for a Planned Development two family. Current zoning allows duplexes but this property does not have adequate lot depth. The developer is proposing 13 duplex lots/ 24 units proposed. Mr. Mabry presented the site plan and other photos of the proposed area. It is requested that the developer add a wood fence with stone columns along 205 Loop and East Ridge Boulevard. Mr. Mabry also mentioned the landscaping requirements. This request doesn't comply with the land use map but the Planning and Zoning Commission recommended approval. Mr. Mabry noted that this proposes

a less intensive use than on the map and is near a public park which could service this development.

Mayor Pro Tem Schneider inquired on why a fence is built and how does this help the depth of the lots?

Mr. Mabry noted this is consistent with other developments that have frontage along streets and fences were erected. Staff believes this to be appropriate and the developer has agreed.

Mayor Jones inquired on the construction and maintenance of the green space.

Mr. Mabry responded yes, it would be maintained by either the Property owners Association or an HOA. Mr. Mabry stated the fence would be near the property line, with exception of row.

Mayor Jones asked Mr. Mabry about sidewalk requirements.

Mr. Mabry noted there are no requirements as part of the development and this will be optional to the developer.

Mayor Jones declared the public hearing open with regard to agenda item 8 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 reading and final adoption set for October 20, 2011. seconded by Mayor Pro Tem Russell Schneider.

9. **2011-4481: FIRST READING - PUBLIC HEARING - 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.**

Brian Mabry, Planning Director presented this item to the Council. Mr. Mabry gave background on this case. He mentioned it's location at the NE corner of MLK Dr. and SH 36 and noted that both are SIZ corridors. Mr. Mabry noted the property owner has not committed to a specific use; but there are several allowed uses for this property. Mr. Mabry presented photos of the adjacent properties. The recommended use for this property, per the land use and character map, is Auto Urban Commercial. This requests meets that recommendation. Mr.

Mabry noted that this area could in the future become TMED should Council choose to do so. The Planning and Zoning Commission recommended approval of the rezoning.

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

Rodney Deyoe, 5309 Park Hollow, Austin, addressed the Council and requested a favorable vote from council.

There being none, Mayor Jones declared the public hearing closed.

Motion by Councilmember Perry Cloud adopt ordinance, with second reading and final adoption set for October 20, 2011. seconded by Mayor Pro Tem Russell Schneider.

## **RESOLUTIONS**

- 10. 2011-6445-R: Consider adopting resolution appointing one member to the Tax Appraisal District of Bell County Board of Directors**

Mayor Jones presented this item to the Council. At this time there are no recommendations to be considered.

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

- 11. 2011-6446-R: Consider adopting a resolution authorizing the City Manager to execute a purchase contract with Bank of America for the purchase of the following three lots: 201 North 5th Street, 118 North 3rd Street, and 112 North 3rd Street.**

**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.**

Jonathan Graham, City Attorney presented this item to the Council. Mr. Graham presented background for this purchase. Bank of America currently has three properties that the City will have first right of refusal. All three tracts are located on North 3rd Street. One being adjacent to Main Fire Station, another being to the south which has a small structure to be



demolished, and the third is to the north of Jack in the Box which is also unimproved. Mr. Graham gave descriptions of each property and presented photos of improved structures. Bank of America has accepted the offer of \$125,000 to acquire the lots. Once agreement is executed there will be 45 days period for due diligence. Mr. Graham recommended we do a Phase I Environmental on all lots and an Asbestos Survey on the two improved structures.

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

---

William A. Jones, III, Mayor

ATTEST:

---

Lacy Borgeson  
City Secretary

ORDINANCE NO. 2011-4490

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” ARTICLE 7, “GENERAL DEVELOPMENT STANDARDS,” SECTION 7.6.8, “OUTDOOR STORAGE,” SUBSECTION C, “OUTDOOR COLLECTION BOXES,” TO PROVIDE STANDARDS FOR THE USE OF DONATION BOXES; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

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

**Whereas**, at its June 6, 2011 meeting, the Planning and Zoning Commission voted to amend the UDC to establish storage container sales or rental as a permitted use; to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donation boxes;

**Whereas**, at its October 6, 2011 meeting, the City Council opened the public hearing concerning amendments to Section 7.6, “General Development Standards,” and Article 11, “Definitions,” of the Unified Development Code to establish Storage Container Sales or Rental as a permitted use, to provide standards for the use of semi-trailers, shipping containers, temporary portable storage containers and donations boxes, and to establish definitions related to such standards;

**Whereas**, the City Council chose to table the item at its October 6, 2011, meeting and to bring back each section for review and discussion – the Staff recommends amending the Unified Development Code to provide standards for the use of donation boxes at this time; and

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

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

**Part 1:** The City Council approves an amendment to Ordinance No. 2010-4413, the “Unified Development Code,” by amending Article 7, “General Development Standards,” Section 7.6.8, “Outdoor Storage,” Subsection C, “Outdoor Collection Boxes,” said amendment being more fully described in Exhibit A, attached hereto for all purposes, to provide standards for the use of donation boxes.

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

**Part 3:** It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid phrase, clause, sentence, paragraph or section.

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

**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 **17<sup>th</sup>** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(J)  
Consent Agenda  
Page 1 of 3

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

Brian Mabry, AICP, Planning Director

**ITEM DESCRIPTION:** SECOND READING - Z-FY-11-48: Consider adopting an ordinance authorizing a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District.

**P&Z COMMISSION RECOMMENDATION:** At its October 17, 2011, meeting, the Planning and Zoning Commission voted 6/1, in accordance with staff recommendation, to recommend approval of the CUP subject to the CUP site plan and with the condition that any burglar bars on the entire building be removed within a year's time of the opening of this business.

Commissioner Brown was absent; Commissioner Talley voted nay.

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

If the City Council approves the CUP for the package store, Staff recommends the approval be in accordance with the P&Z recommendation.

**ITEM SUMMARY:** The Applicant, Mohammed Naveed Usman on behalf of Galaxy Retail, Inc., requests this CUP in order to establish a package store at the southeast corner of E. Central Avenue and N. Martin Luther King Blvd. This is the second time that this applicant has requested a CUP for a package store at this site. Please refer to the draft minutes of case Z-FY-11-18, from the Planning and Zoning meeting, March 7, 2011, and from the City Council meeting, April 7, 2011. These are part of the P&Z Report attached to this memo.

At the original public hearing for the request before the Planning and Zoning Commission in March, the Commission generally saw this addition as improving the area with the increased landscaping and hardscaping that the Applicant proposed. At this March meeting, the Commission unanimously voted to recommend this CUP with the condition that the burglar bars be removed within one year of opening.

During the April City Council public hearing, Council members expressed concern about the close proximity of the other package store approved on the same block face. The case did not receive a

motion for or against; therefore, it was considered denied for lack of a motion. It has been over six months since the case was originally heard, legally allowing for this new hearing.

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

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

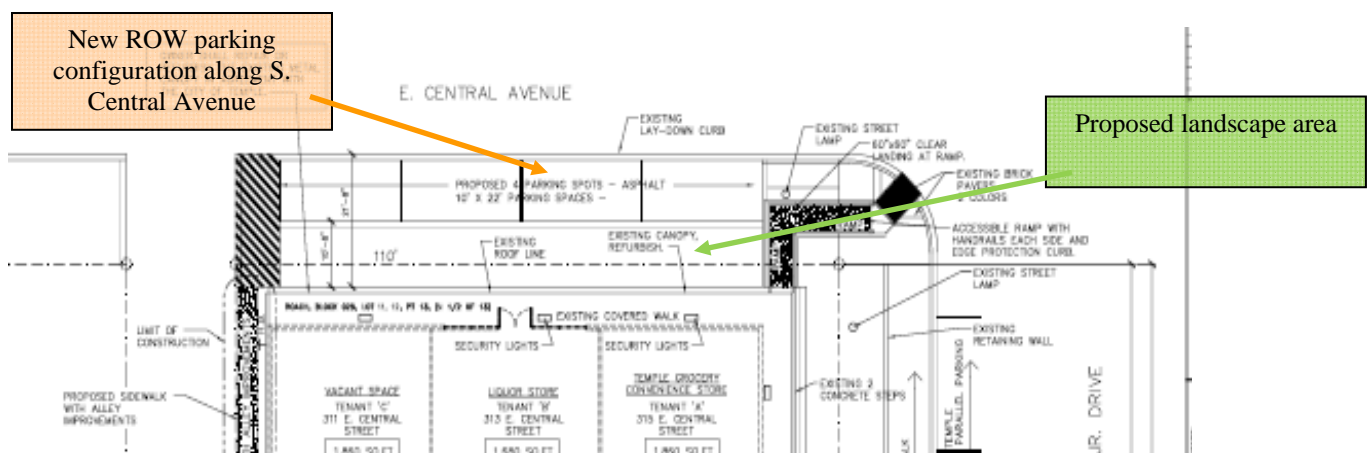
CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

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

### Parking

Package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA District, which normally does not require on-site parking. A minimum of seven spaces are required for this proposed store. The applicant has purchased the adjacent vacant lot behind the building, to provide nine spaces.

There are currently seven head-in, on-street spaces along E. Central Avenue and three parallel spaces along Martin Luther King Jr. Drive. The CUP site plan shows the perpendicular parking space frontage removed and reoriented to have four parallel spaces along Central. Parallel parking spaces increase vehicle safety and free up an area with which to plant required landscaping and improve pedestrian access. This plan is attached to the end of the report.



Landscaping and Hardscaping

The site plan shows improvements to the lot meeting the standards that are within the landscaping portion of the UDC and completing pedestrian links to the new parking lot and the existing sidewalks near the building. This plan is attached to the end of the report.

Landscaping proposed includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian jasmine or similar species. The site plan additional shows light poles at the entrance of the parking lot in the landscaped areas that match with the City installed Acorn-styled globes and historic posts.

Building Elevation Improvements:

The building dates from the early 1970's and is in need of repair. The canopy around the face of the building has damage, and the applicant proposes to repair and repaint the entire canopy.

**PUBLIC NOTICE:** Eight notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, October 12<sup>th</sup> at 5 PM, no notices were returned in favor of and two notices were returned in opposition to the request. One notice was returned by the Post Office as undeliverable. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Aerial Map](#)  
[Land Use and Character Map](#)  
[Zoning Map](#)  
[Thoroughfare Plan Map](#)  
[Utility Map](#)  
[Notice Map](#)  
[Responses](#)  
[Applicant's Exhibits](#)  
[P&Z Staff Report \(Z-FY-11-48\)](#)  
[P&Z Minutes \(October 17, 2011\)](#)  
[Ordinance](#)



**Z-FY-11-48**

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

313 E. Central Avenue



2008 Bell County Aerial



Z-FY-11-48

Feet 0 50 100 150

LMatlock Planning 9.2.11





Z-FY-11-48

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

313 E. Central Avenue







**Z-FY-11-48**

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

313 E. Central Avenue



-  Case 11-48
-  Zoning

Feet 0 50 100 150

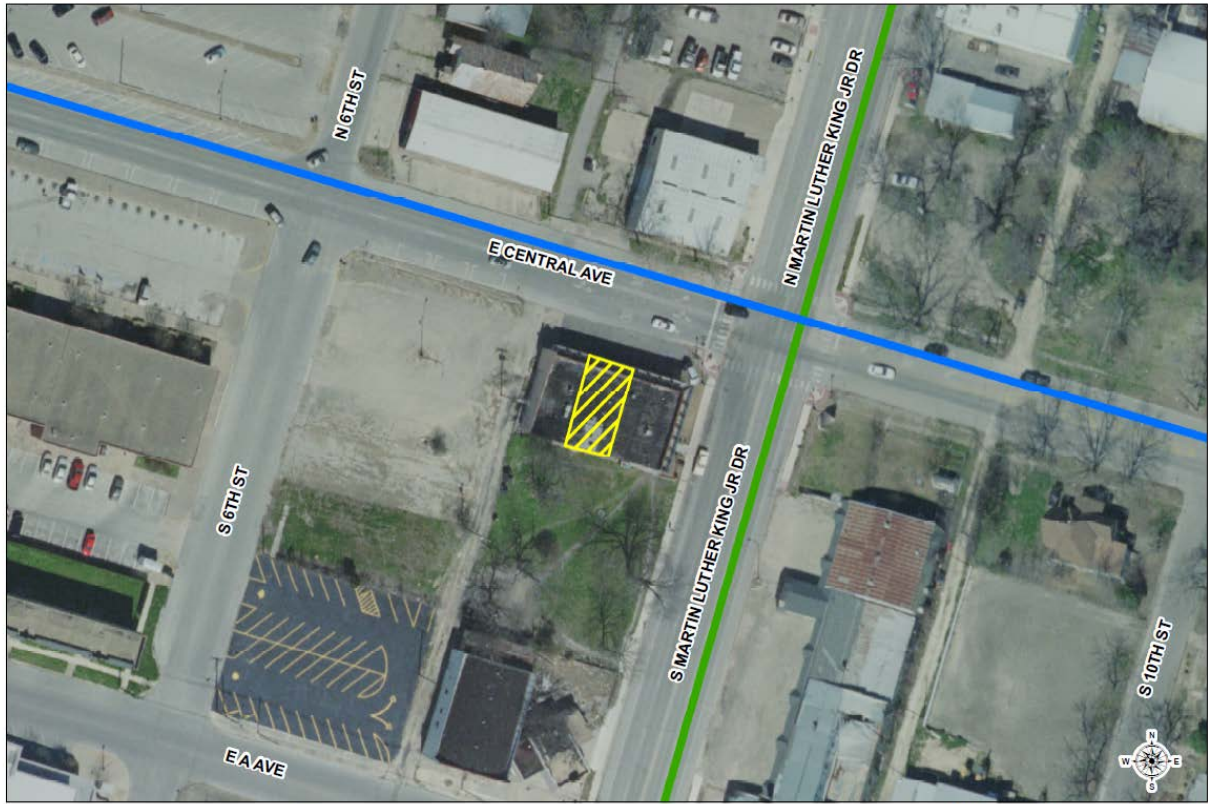
LMatlock Planning 9.27.11



**Z-FY-11-48**

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

313 E. Central Avenue



- Major Arterial
- Minor Arterial
- Case ZFY 11-48

Feet 0 50 100 150

LMatlock Planning 9.27.11



**Z-FY-11-48**

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

313 E. Central Avenue

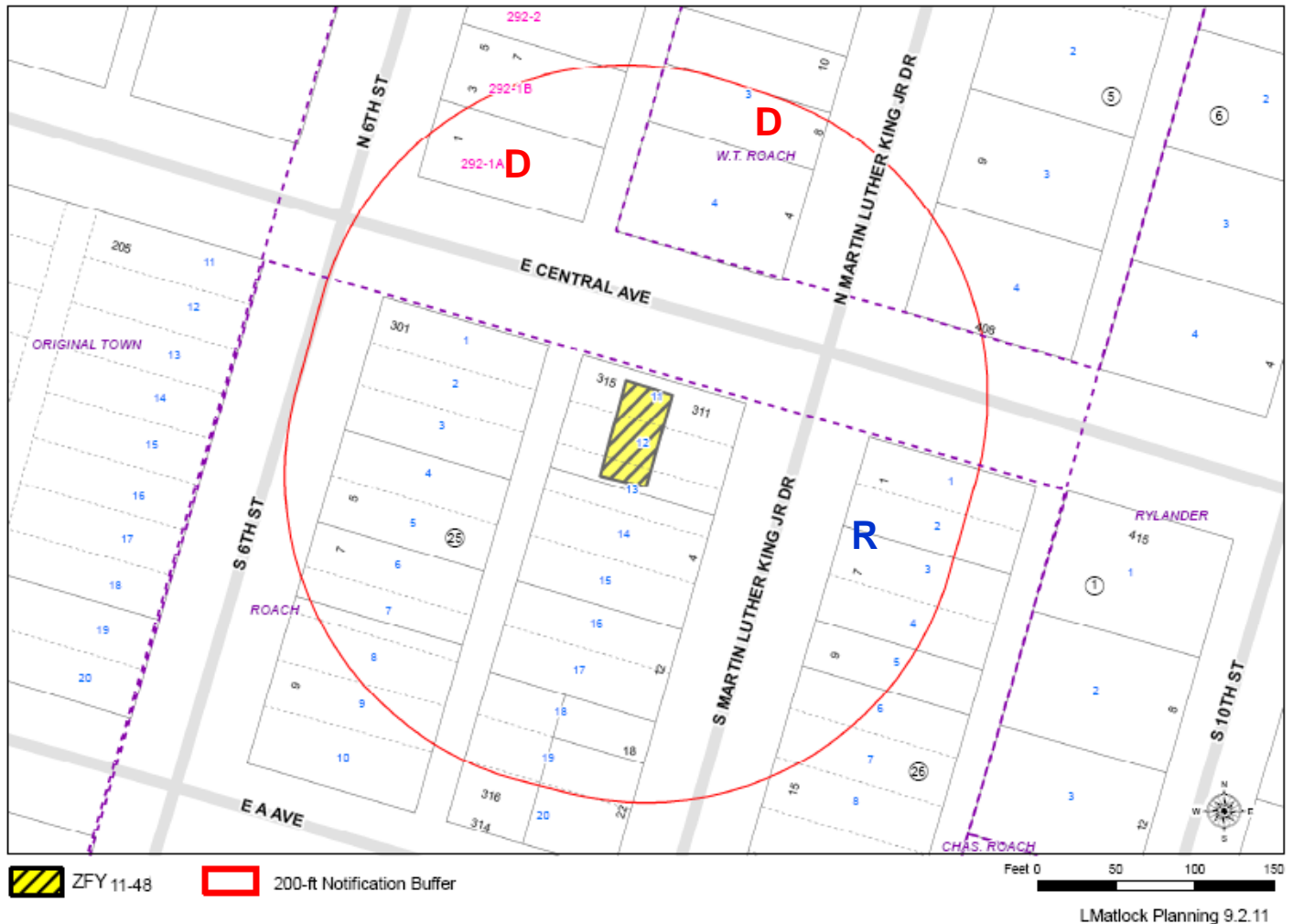




Z-FY-11-48

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

313 E. Central Avenue



Returned mail addressed to:

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

**8 Notices Mailed**

**0 Agree (A)**

**2 Disagree (D)**

**1 Returned Mail (R)**



Public Notice Responses for this application:



RESPONSE TO PROPOSED  
CONDITIONAL USE PERMIT  
CITY OF TEMPLE

Richard Lewis Heating & Air Condition Ltd  
1218 South 27<sup>th</sup> Street  
Temple, Texas 76054

Zoning Application Number: Z-FY-11-48

Project Manager: Leslie Matlock

Location: 313 East Central Avenue

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

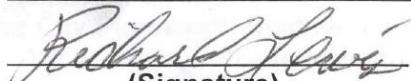
The proposed request for a Conditional Use Permit is the area shown in hatched marking on the attached map. The Conditional Use Permit will allow an off-premise consumption package store. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form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

I recommend ( ) approval ☒ denial of this request.

Comments:

city commission said they didn't  
need 2 liquor stores on central &  
I am taking out a remodel permit at  
1 North 6<sup>th</sup> I just opened 2 in Keller

City commission said they didn't need 2 liquor stores on  
central and I am taking out a remodel permit at  
1 No. 6<sup>th</sup>. I just opened 2 stores in Keller.

  
(Signature)

Richard Lewis  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no  
later than October 17, 2011.

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

RECEIVED

OCT 11 2011

City of Temple  
Planning & Development

Number of Notices Mailed: 8

Date Mailed: October 6, 2011



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

Amanda Krcha  
8917 Oak Hills Drive  
Temple, Texas 76052

Zoning Application Number: Z-FY-11-48

Project Manager: Leslie Matlock

Location: 313 East Central Avenue

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

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

I recommend ( ) approval

☒ denial of this request.

**Comments:**

*I strongly disapprove of any liquor store in this area. We have enough drunks around here as it is!*

*The parking around this store sucks — it would be much worse with a liquor store.*

Amanda Krcha  
(Signature)

Amanda Krcha  
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than October 17, 2011.

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

**RECEIVED**

**OCT 11 2011**

City of Temple  
Planning & Development

Number of Notices Mailed: 8

Date Mailed: October 6, 2011

October 12, 2011

Krcha's Auto Sales  
10 N. Martin Luther King Jr. Dr.  
Temple, Texas 76501

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

RE: Zoning Application Number: Z-FY-11-48  
Location: 313 East Central Ave.

We recommend that the request for a Conditional Use Permit be denied. We do not need a liquor store in our neighborhood. We have continued to watch homeless and drunk people in our area for years and do not think a liquor store would be in the best interest of the City of Temple. There are almost as many liquor stores now in Temple as there are fast food restaurants. The proposed site is nothing more than a drug hangout and having a liquor store would make it worse.

Sincerely,



David Krcha

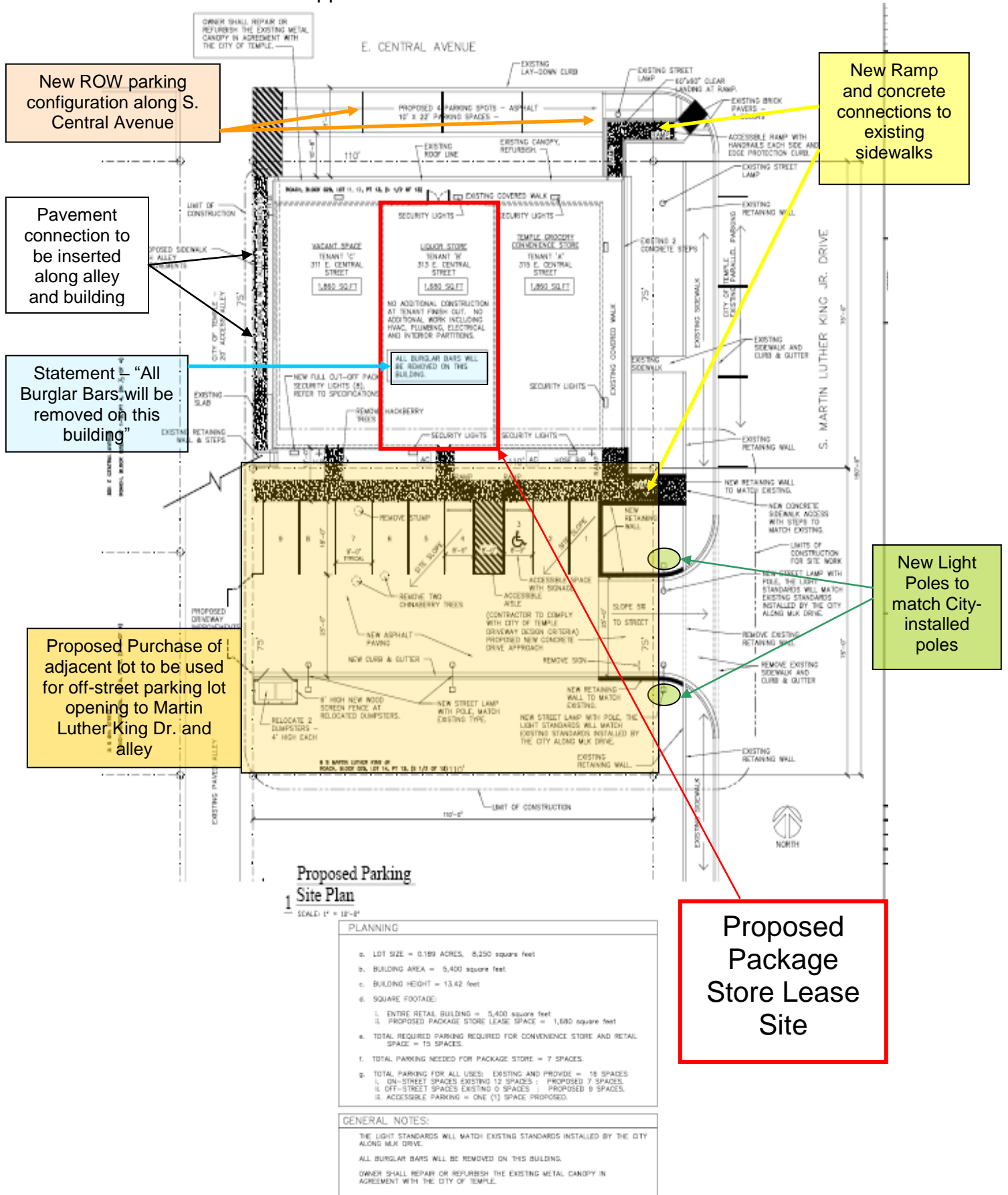
**RECEIVED**

**OCT 13 2011**

City of Temple  
Planning & Development



# Applicant Site Plan with Staff Illustrations





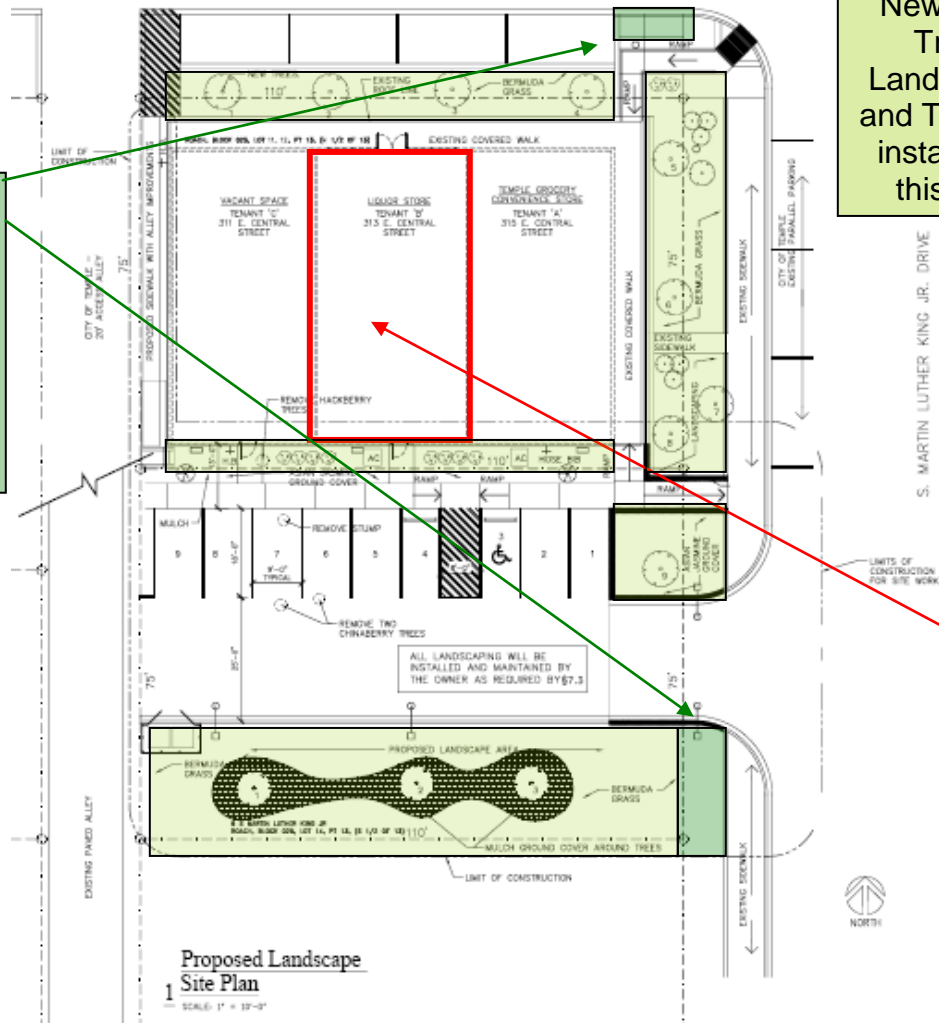
# Applicant Landscape Plan with Staff Illustrations

E. CENTRAL AVENUE

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

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

Proposed Package Store Lease Site



PLANNING	
h. LANDSCAPING REQUIRED: 50%; PROVIDED = 1.3% OF THE BUILDING SITE	PROVIDED = 36% OF PARKING LOT SITE
i. NUMBER OF TREES REQUIRED (0); PROVIDED THREE (3) FOR LANDSCAPING.	
j. NUMBER OF TREE REQUIRED SEVEN (7); PROVIDED (9) FOR STREET FRONTAGE	SEE LANDSCAPE LEGEND
LANDSCAPE LEGEND	
PLANT / TREE SCHEDULE	
	8 - 2.5" CALIPER LIVE OAKS
	4 MULTI TRUNK CREPE MYRTLES
	2-RED / 2-WHITE
	8 - CLUMP OF NODINAS
	2 - INDIAN HAWTHORNE
	6 - CLUMP OF YOUNGONS
	700 SQUARE FEET - MULCH AREA
	4" PINE BARK MULCH TOPPING.
	400 SQUARE FEET - PROPOSED GROUND COVER AREA
	JASMINE GROUND COVER.
	±3,900 SQUARE FEET - PROPOSED BERMUDA GRASS AREA.
	IRRIGATION
	PROVIDE 3 HOSE BORES = 100' EACH COVERING EACH PLANTING AREA, INCLUDING GROUND COVER AREAS.

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

To,

The City Council/Planning Department

SUBJECT: CUP Application

Dated: 03/02/2011

Dear Sir/Madam,

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

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

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

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

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

RECEIVED

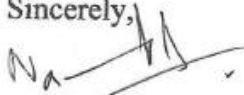
MAR 04 2011

City of Temple  
Planning & Development

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

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

Sincerely,



Muhammad N Usman  
President  
Galaxy Retail Inc.

**RECEIVED**

MAR 04 2011

City of Temple  
Planning & Development

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

**CASE MANAGER:** Leslie Matlock, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-11-48 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a Portion of Lots 11,12,and 13, Block 25, Roach Addition, commonly known as 313 E. Central Avenue, zoned Central Area (CA) District.

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



Z-FY-10-33 CUP  
Approved Package  
Store, still unopened at  
1 North 6<sup>th</sup> Street

Subject Property across  
same block face at  
313 East Central Avenue





This case was originally heard in April of this year as Z-FY-11-18. The P&Z held a public hearing, and approved the CUP request subject to the CUP site plan and with the condition that the building's burglar bars be removed after one year in business. The City Council then held a public hearing and discussed the case. Council members expressed concern about the close proximity of the other package store approved on the same block face. The case did not receive a motion for or against; therefore, it was denied for lack of a motion. Minutes are attached at the end of this report for your convenience.



The Applicant has resubmitted this case after six months of the case denial in compliance with the provisions of the Unified Development Code (UDC).



### Surrounding Property and Uses

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

Direction	Zoning	Current Land Use	Photo
Subject Property	CA	Retail Building with 3 lease spaces - Convenience Store occupies east side, Package Store proposed in center space, and vacant lease space on the west side.	
Subject Property	CA	Additional view +to the west from corner of N. Martin Luther King Jr. Drive and E. Central Avenue to front of subject building and entrance of subject proposal.	
North	CA	Vacant Commercial Building siding on E. Central Avenue.	
South	CA	Vacant Lot (Proposed site of additional off-street parking lot to be added if approved; subject building on right)	

Direction	Zoning	Current Land Use	Photo
East	CA	Vacant Commercial Building (former church)	
West	CA	Alley and Paved Parking Lot west of subject building	

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

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

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

#### Future Land Use and Character (CP Map 3.1)

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

#### Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan since the subject tract has access to E. Central Avenue and N. Martin Luther King Jr. Drive. Both are designated as Arterial streets. The surrounding area is in transition and most surrounding lots are underutilized. This strip center has three tenant spaces and for at least the last five years, has had two spaces empty. Traffic congestion will not be

unreasonably increased by this proposed use nor will it require a change in the infrastructure surrounding this lot.

#### Availability of Public Facilities (CP Goal 4.1)

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

### **CONDITIONAL USE SITE PLAN REVIEW:**

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

#### Parking

In the CA, Central Area District, off street parking is not required of businesses locating there. In Sec. 5.3.16 of the UDC however, package stores are required to have one on-site parking space per 250 square feet of retail area, even in the CA District. The regulation requires a minimum of seven spaces of this lease space. The applicant has purchased the adjacent vacant lot, to provide nine off-street parking spaces. The lot is behind the building and fronting on Martin Luther King Jr. Drive. Parking behind the subject building satisfies the “on-site” parking requirement as direct access to the building is possible. This will also serve as overflow for the other lease spaces in the building. There is also a large parking lot to the west that is underutilized.



Photo shows a car in one of the seven perpendicular parking spaces in front of this proposed liquor store which back into traffic on Central Avenue.

There are currently seven perpendicular on-street spaces along the street perimeter of this lot and three parallel spaces on Martin Luther King Jr. Drive right-of-way. Staff has asked that the perpendicular parking space frontage be removed and reoriented to have four parallel spaces on E. Central Avenue. Vehicle maneuvering into E. Central Avenue directly backs into the east-bound turning queue. Parallel parking spaces would increase vehicle safety along this right-of-way and would also free up an area with which to plant required landscaping and improve pedestrian access (see section below).

#### Landscaping and Hardscaping

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

Landscaping proposed includes planting one, six-foot or taller, approved tree for every 40-ft of street frontage, and to cover any other irrigated unpaved area with ground cover, which can include turf, Asian jasmine or similar species. Because the parking is being rearranged along E. Central Avenue, part of the parking spaces on private and public right-of-way can be removed for the planting area. Additionally, along the Martin Luther King Jr. Drive side of the building, there is a portion of unpaved



area that currently has minimal landscaping. Because this would be the access area for patrons parking in the proposed onsite parking area behind the building, Staff has requested the applicant to add trees and ground cover, which is shown on the site plan.

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

#### Building Elevation Improvements:

The building dates from the early 1970's and is in need of repair. The canopy around the face of the building has damage, and Staff has requested that it be repaired and the entire canopy be repainted. The applicant has agreed to this.



Current canopy damage on far west side of Central Ave. building elevation.



These photos show the aluminum bars on the windows of the convenience store and the proposed liquor store.

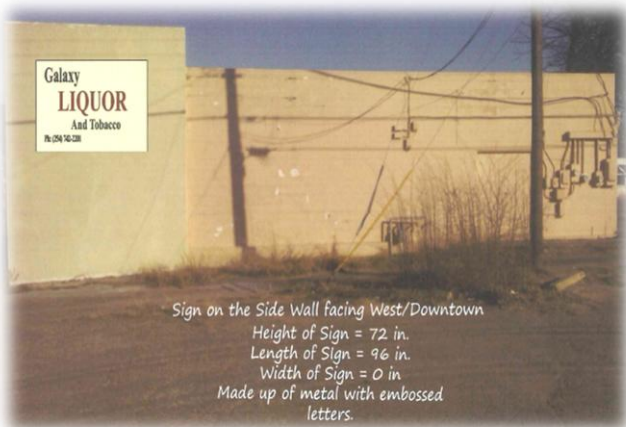


## Signs

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



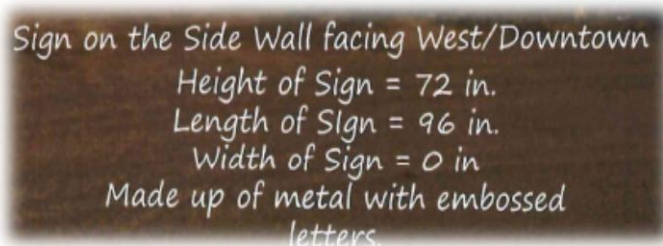
Applicant provided illustrations.



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



Yellow Sign is proposed. Existing window signs shown  
along bottom of windows – actual sizes are below



## Location

Staff has raised the concern as to whether this subject property is a good location for a package store, given the recent approval of another package store across the street. Part of the CUP process is for the P&Z and City Council to utilize their discretionary abilities in making a recommendation and taking final action.

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

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.
- D. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.
- E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.
- G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

**PUBLIC NOTICE:**

Eight notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, October 12<sup>th</sup> at 5 PM, no notices were returned in favor of and two notices was returned in opposition to the request. One notice was returned by the Post Office as undeliverable. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 6, 2011, in accordance with state law and local ordinance.

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

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

**STAFF RECOMMENDATION:** No recommendation, per direction of the City Council. If the P&Z recommends approval of the CUP request, please base the recommendation on the submitted site plan with the additional condition that landscaped areas be extended to the areas west of the parallel parking along E. Central Avenue and east of the landscaped area on the parking lot. The P&Z may again recommend that burglar bars be allowed on the building for a maximum of one year after issuance of a Certificate of Occupancy for the building.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Planning and Zoning Minutes Excerpt, March 7, 2011, Original CUP Submission Hearing](#)  
[City Council Minutes Excerpt, April 21, 2011, Original CUP Submission Hearing](#)

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Utility Map](#)

[Notice Map](#)

[Response Letters](#)

[CUP Site Plan](#)

[CUP Landscaping Plan](#)

[Applicant Narrative Dated March 2, 2011](#)

## **PLANNING AND ZONING COMMISSION**

### **Approved Meeting Excerpt**

**March 7, 2011**

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

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

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

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

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.
- D. Adequate nuisance prevention measures have been taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- E. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.

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

Pedestrian passageways would be connecting to the sidewalk already in place. Sidewalks and access to the building, along with a ramp, would be put in the rear of the building. Curbing and edging would be installed around the ramp in the parking lot and a new retaining wall would be constructed between MLK and the parking lot. Applicant would install additional acorn lights to match the current City acorn lights.

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

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

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

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

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

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

Vice-Chair Martin opened the public hearing.

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

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

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

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

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

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

landscaping, parking, etc., was to be completed before the business would be able to open and Mr. Usman again concurred.

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

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

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

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

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

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

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

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

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

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

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

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

*Motion passed: (7:0)*

Commissioners Staats and Williams absent

**CITY COUNCIL**  
**Approved Meeting Excerpt**  
**April 17, 2011**

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

Autumn Speer, Director of Community Services, presented this case to the City Council. She showed the location of the other property in close proximity where the Council previously approved a Conditional Use Permit for a package store. Mrs. Speer also displayed photos of the surrounding vacant property and the proposed site plan, noting parking, landscaping and facade improvements to be made by the applicant.

The Planning and Zoning Commission recommended approval with the condition that the burglar bars be allowed to remain for 12 months from issuance of the Certificate of Occupancy.

Of the notices sent to surrounding property owners, two negative responses were received and one in approval.

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

Mr. Mohammed Naveed Usman, the applicant, discussed his plans for redeveloping one of the other vacant spaces in this strip center. The Texas Alcoholic Beverage Permits have already been acquired for this location.

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

Councilmember Janczak stated he does support the establishment of package stores in Temple but is concerned with the close proximity of this proposed store with one that was previously approved. He expressed concern with clustering of this type of business in a particular area.

Councilmember Dunn stated the citizens voted to allow package stores but that does not mean multiple ones are good in one location and he agreed with Councilmember Janczak's comments about the potential to do more harm because of the close proximity to the other package store.

There was no motion made regarding this item.



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

[PLANNING NO. Z-FY-11-48]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW A PACKAGE STORE WITH ALCOHOLIC BEVERAGE SALES FOR OFF-PREMISE CONSUMPTION ON A PORTION OF LOTS 11, 12, AND 13, BLOCK 25, ROACH ADDITION, COMMONLY KNOWN AS 313 EAST CENTRAL AVENUE, ZONED CENTRAL AREA (CA) DISTRICT; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, voted 6/1, in accordance with staff recommendation, to recommend approval of the CUP subject to the CUP site plan and with the condition that an burglar bars on the entire building be removed within a year's time of the opening of this business; and

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

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

**Part 1:** The City Council approves a Conditional Use Permit to allow a package store with alcoholic beverage sales for off-premise consumption on a portion of Lots 11, 12, and 13, Block 25, Roach Addition, commonly known as 313 East Central Avenue, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

**Part 2:** The owner/applicant, his employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

**General:**

- (a) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (c) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours. (Not applicable for package stores).
- (d) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (e) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the obligations hereunder.
- (f) The establishment must provide adequate parking spaces in accordance with the standards in Section 7.4 of the Unified Development Code.
- (g) The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- (h) The City Council may deny or revoke this conditional use permit in accordance with Section 3.5 of the Unified Development Code if it affirmatively determines that the issuance of the permit is incompatible with the surrounding uses of property, or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (i) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- (j) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 3.5. of the Unified Development Code.

**Specific to Package Stores:**

- (k) Such use must comply with Chapter 4, “Alcoholic Beverages,” of the City Code.
- (l) Outdoor lighting must comply with the standards in Section 6.7.5.H of the Unified Development Code.
- (m) If applicable, a pick-up window must be visible from the public right-of-way, and may not be placed in alleys.
- (n) The drive-through lane must provide a minimum of 60 feet of stacking space from the pick-up window to the beginning.
- (o) An escape (bypass) lane must be provided parallel to the drive-through lane, if applicable, from the beginning of the drive-through lane.
- (p) Parking (in any zoning district including the CA) must be provided on-site, not less than one space for each 250 square feet of retail space (plus the number of parking spaces required for non-retail space as specified by other City ordinances).
- (q) Window signs are prohibited.
- (r) Lighted advertising signs must be turned off at closing time.

**Specific to this CUP:**

- (s) The permittee’s site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.
- (t) The existing burglar bars may remain on the building for a maximum of one year after the Director of Construction Safety approves a certificate of occupancy for the package store.

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

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

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **17<sup>th</sup>** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(K)  
Regular Agenda  
Page 1 of 2

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

Brian Mabry, Planning Director

**ITEM DESCRIPTION:** SECOND READING - Z-FY-11-51: Consider adopting an ordinance authorizing a rezoning from Multiple-Family One District (MF1) to General Retail District (GR) on ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue.

**P&Z COMMISSION RECOMMENDATION:** At its October 17, 2011, meeting, the Planning and Zoning Commission voted 7/0, in accordance with staff recommendation, to recommend approval of the Zoning Change.

Commissioner Brown was absent.

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

Staff recommends approval 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 are available to serve the property.

**ITEM SUMMARY:** Please refer to the Staff Report and draft minutes of case Z-FY-11-51, from the Planning and Zoning meeting, October 17, 2011.

The applicant, Lisa Joshlin, has requested the rezoning for future retail or medical development.

### **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 Map	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

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

The proposal complies with the documents listed in the table above.

**DEVELOPMENT REGULATIONS:**

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. This would be the zoning on areas that also contain shopping centers. There is no minimum lot area, width or depth.

The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the nonresidential use to the rear, then 10 feet setback is required. A remnant portion of the MF1 zoning district is north of this area, making a rear setback requirement relevant to development on this parcel.

**PUBLIC NOTICE:**

Two notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, October 12<sup>th</sup>, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Aerial Map](#)  
[Future Land Use and Character Map](#)  
[Zoning Map](#)  
[Thoroughfare Plan Map](#)  
[Utility Map](#)  
[Notice Map](#)  
[P&Z Staff Report \(Z-FY-11-51\)](#)  
[P&Z Minutes \(October 17, 2011\)](#)  
[Ordinance](#)



**Z-FY-11-51**

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue



 ZFY 11-51

0 50 100 200 300 400 Feet

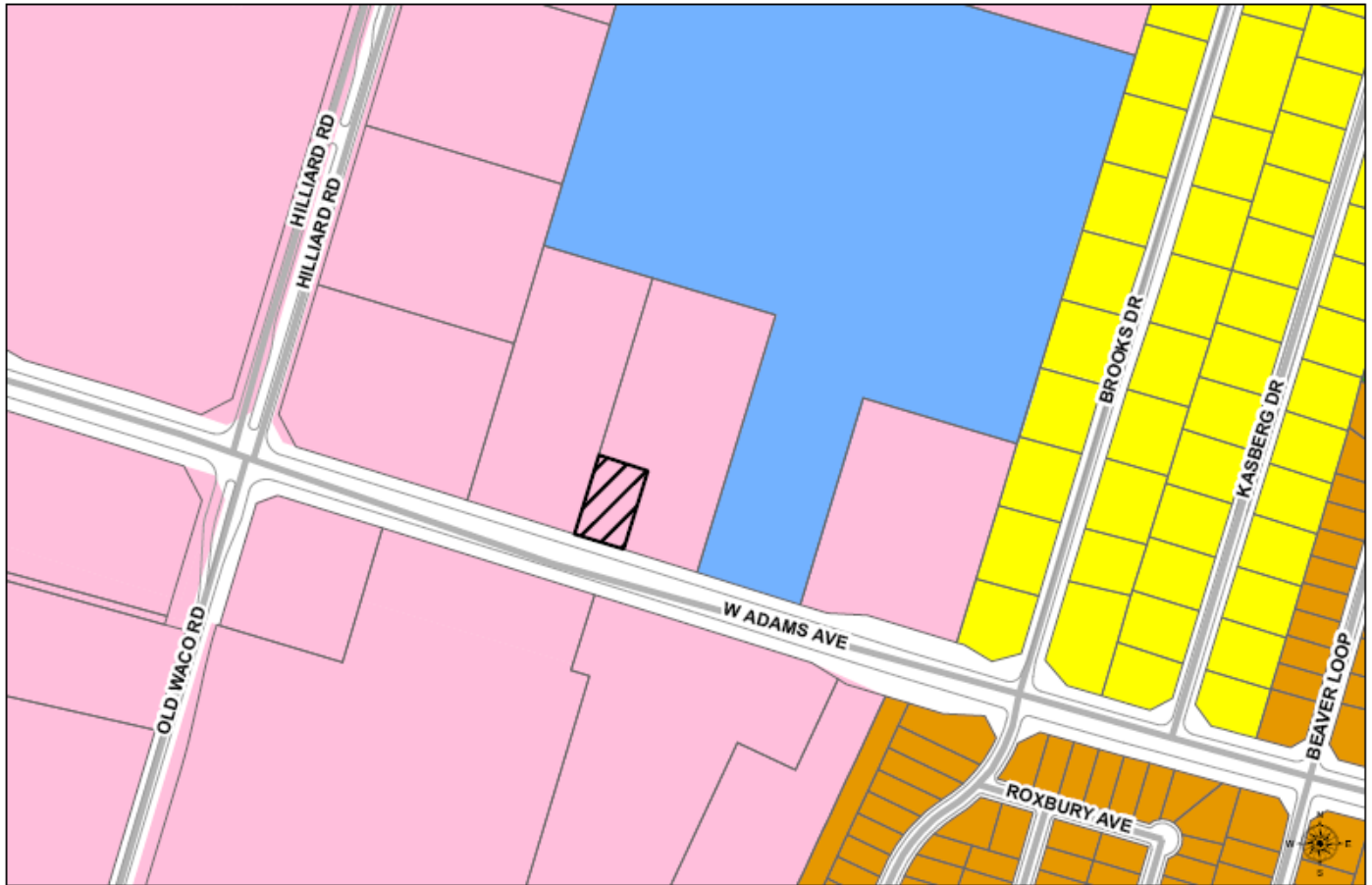
LMatlock Planning 9.23.11



Z-FY-11-51

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue



- |                       |                         |                    |                           |                                   |              |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 11-51             | 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 = 329 feet

LMatlock Planning 09.23.11

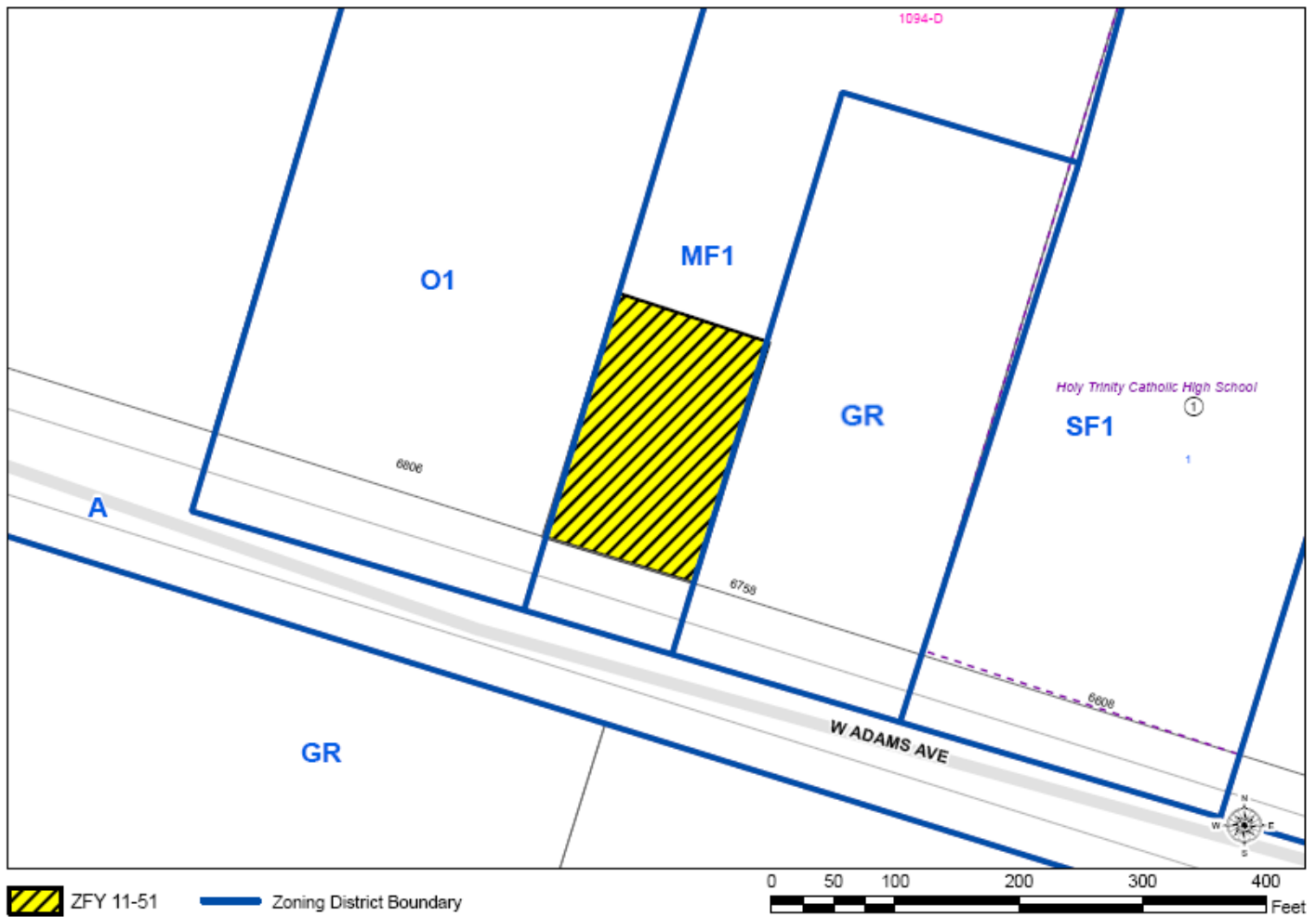




**Z-FY-11-51**

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue



LMatlock Planning 9.23.11



**Z-FY-11-51**

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue



ZFY 11-51



Major Arterial

0 50 100 200 300 400 Feet

LMatlock Planning 9.23.11



**Z-FY-11-51**

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue



ZFY 11-51

Domestic Water Line

Fire Hydrant

Sanitary Sewer Line

0 50 100 200 300 400 Feet

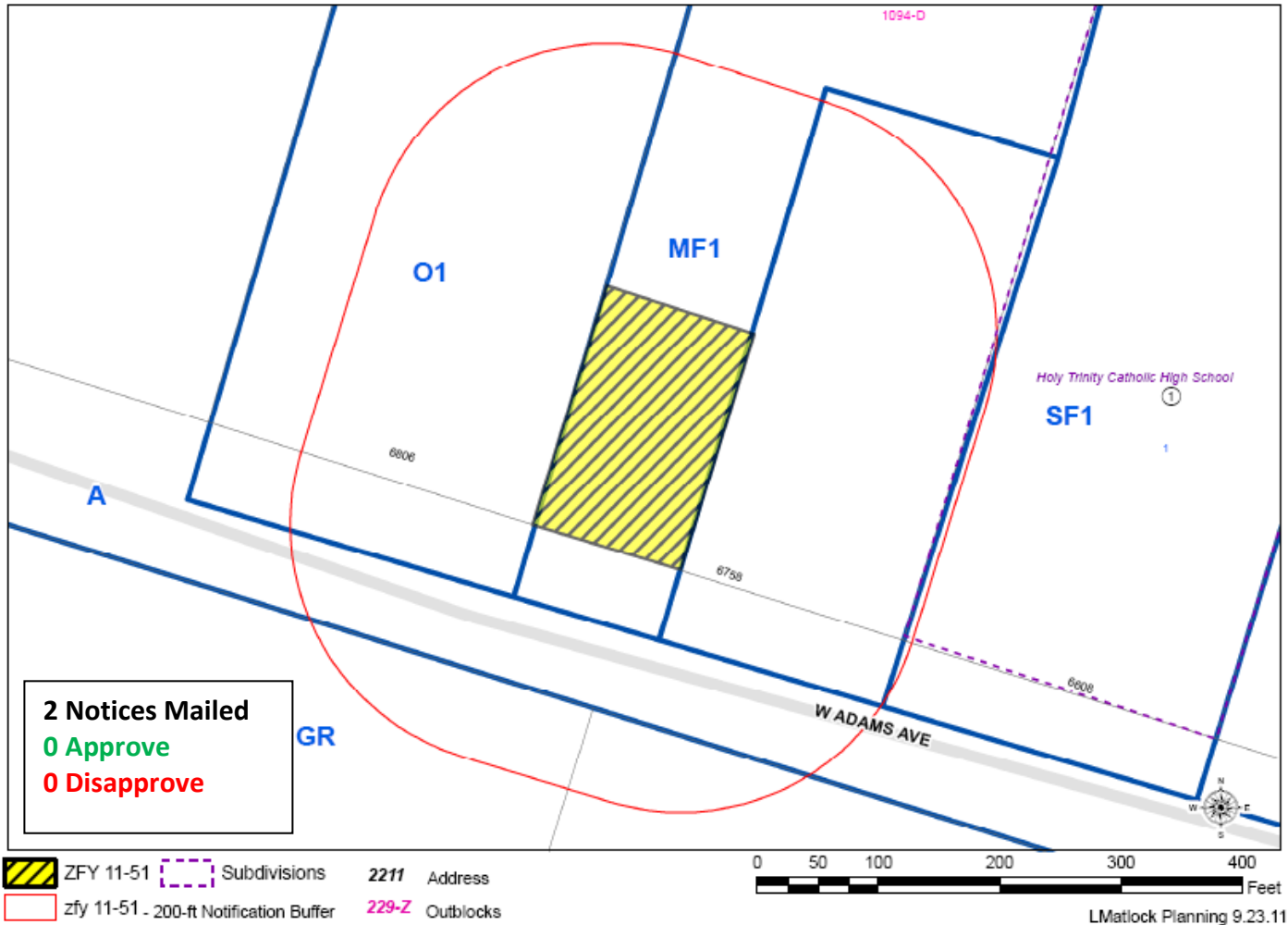
LMatlock Planning 9.23.11



**Z-FY-11-51**

0.60 Acre Portion of the  
Nancy Chance Survey #5

6758 West Adams Avenue





# PLANNING AND ZONING COMMISSION AGENDA ITEM

10/17/11  
Item #5  
Regular Agenda  
Page 1 of 3

**APPLICANT / DEVELOPMENT:** BSP Engineers for Lisa Joshlin



**CASE MANAGER:** Leslie Matlock, AICP, Senior Planner

**ITEM DESCRIPTION:** Z-FY-11-51 Hold a public hearing to discuss and recommend action on a rezoning from Multi Family One District (MF1) to General Retail District (GR) ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of Holy Trinity Catholic High School driveway, generally known as 6758 W. Adams Avenue.




**BACKGROUND:** The applicant has requested the rezoning from MF1 to GR. The owner would like to expand the uses allowed on the property and suggests that a medical clinic may be built here. The subject property is adjacent to, and under common ownership with, an approximately 2.1-acre tract to the east that is already zoned GR.

**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	MF1 (GR proposed)	Undeveloped Land	
North	MF1	Undeveloped Land	



Direction	Zoning	Current Land Use	Photo
South	GR	Undeveloped Land	
East	GR	Undeveloped Land	
West	O1	Undeveloped Land	



Current Land Uses:

Yellow Outline –  
Subject property

Unhighlighted Area –  
Undeveloped agricultural uses

Blue Area –  
Current driveway for Holy  
Trinity High School to the north  
(private drive, built after aerial  
was shot)

Red Arrow –  
Existing Spine Trail

**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 Map	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

The proposal complies with the documents listed in the table above.

**DEVELOPMENT REGULATIONS:**

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. This would be the zoning on areas that also contain shopping centers. There is no minimum lot area, width or depth.

The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the nonresidential use to the rear, then 10 feet setback is required. A remnant portion of the MF1 zoning district is north of this area, making a rear setback requirement relevant to development on this parcel.

**PUBLIC NOTICE:**

Two notices were sent regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. As of Wednesday, October 12<sup>th</sup>, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on September 30, 2011, in accordance with state law and local ordinance.

**STAFF RECOMMENDATION:** Staff recommends approval of the rezoning for case Z-FY-11-51 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 facilities serve the property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Aerial](#)  
[Future Land Use and Character Map](#)  
[Zoning Map](#)  
[Thoroughfare Plan Map](#)

[Utility Map](#)  
[Trails Map](#)  
[Notice Map](#)  
[Responses \(if applicable\)](#)

**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, OCTOBER 17, 2011**

**ACTION ITEMS**

**Item 5: Z-FY-11-51** – Hold a public hearing to discuss and recommend action on a rezoning from Multi Family One District (MF1) to General Retail District (GR) ± 0.6 acres in Abstract 5, located on the north side of W. Adams Avenue/FM 2305, ±185-feet west of Holy Trinity Catholic High School driveway, generally known as 6758 W. Adams Avenue. (BSP Engineers for Lisa Joshlin)

Chair Martin and Vice-Chair Staats asked to abstain from this item. Commissioner Pilkington led the meeting for Item 5.

Ms. Matlock stated this was a zone change from Multi-Family One District (MF1) to General Retail (GR) and the applicant was Lisa Joshlin. If approved, City Council first reading would be November 17th and second and final reading would be December 1st.

The subject property is a vacant lot. Surrounding properties include vacant properties on the north, south, east and west—the west having a new driveway leading to the Holy Trinity Catholic High School.

The Future Land Use and Character Map designates this area as Suburban Commercial.

GR allows most retail businesses but no apartments.

Adequate utilities serve the site.

Six notices were mailed out and zero notices were returned.

Staff recommends approval of this request since it complies with the Future Land Use and Character Map, the Thoroughfare Plan, and public facilities serve the property.

Commissioner Pilkington opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Talley made a motion to approve Item 5, **Z-FY-11-51**, from MF1 to GR and Commissioner Rhoads made a second.

*Motion passed: (5:0)*

Commissioner Brown absent; Chair Martin and Vice-Chair Staats abstained



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

(PLANNING NO. Z-FY-11-51)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM MULTIPLE FAMILY ONE DISTRICT (MF1) TO GENERAL RETAIL DISTRICT (GR) ON APPROXIMATELY 0.6 ACRES IN ABSTRACT 5, LOCATED ON THE NORTH SIDE OF WEST ADAMS AVENUE/FM2305, APPROXIMATELY 185 FEET WEST OF THE HOLY TRINITY CATHOLIC HIGH SCHOOL DRIVEWAY, GENERALLY KNOWN AS 6758 WEST ADAMS AVENUE; 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 Multiple Family One District (MF1) to General Retail District (GR) on approximately 0.6 acres in Abstract 5, located on the north side of west Adams Avenue/FM2305, approximately 185 feet west of the Holy Trinity Catholic High School driveway, generally known as 6758 West Adams Avenue, Bell County, Texas, and 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 **17<sup>th</sup>** day of **November**, 2011.

PASSED AND APPROVED on Second Reading on the **1<sup>st</sup>** day of **December**, 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

---

12/01/11  
Item #4(L)  
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 \$9,705,301.

**ATTACHMENTS:**

[Budget Amendments  
Resolution](#)

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2012 BUDGET**  
**December 1, 2011**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
430-5700-580-7550		Payment to Refunding Escrow Agent (Finance Department)	\$ 3,240,560	
430-5700-580-7312		Bond Issuance Costs	\$ 22,436	
430-5700-580-7314		Original Issue Discount	\$ 16,406	
430-5700-580-7312		Bond Issuance Costs	\$ 2,123	
430-5700-580-7211		Bond Interest	\$ 3,919	
430-0000-461-0112		Accrued Interest		\$ 4,480
430-0000-490-1575		Refunding Bond Proceeds		\$ 3,045,000
430-0000-490-1518		Bond Premium		\$ 236,347
430-0000-315-1500		<b>Reserved for Debt Service</b>	<b>\$ 383</b>	
<p>To appropriate the 2011A General Obligation Refunding Bonds - Debt Service Portion - bond proceeds sold on November 3, 2011. Proceeds were received on November 17, 2011. This budget adjustment accounts for the revenue received from the bond issue and the amount paid to the refunding escrow agent.</p>				
364-2000-521-2623		Other Contracted Services (Police Department)	\$ 206,000	
364-2000-521-6855	100683	Police Mold Remediation	\$ 5,938,155	
364-5700-580-7312		Bond Issuance Cost	\$ 5,845	
364-5700-580-7312		Bond Issuance Cost	\$ 50,600	
364-5700-580-7314		Bond Discount	\$ 34,739	
364-0000-490-1518		Bond Premium		\$ 490,339
364-0000-490-1516		Bond Proceeds		\$ 5,745,000
430-0000-490-1518		Bond Premium		\$ 128,076
430-0000-461-0112		Accrued Interest		\$ 10,182
430-5700-580-7211		Bond Interest	\$ 21,825	
430-0000-315-1500		<b>Reserved for Debt Service-Capitalized Interest</b>	<b>\$ 114,550</b>	
430-0000-315-1500		<b>Reserved for Debt Service</b>	<b>\$ 1,883</b>	
<p>To appropriate the 2011 Limited Tax Note proceeds as authorized by Council on February 17, 2011. Note proceeds were received by the City on November 17, 2011. The issue included capitalized interest that will be used to cover current interest costs of \$21,825 and future interest costs in the amount of \$114,550 for a total of \$136,375.</p>				
110-2011-521-2136		Public Safety Expenditures (Police Administration)	\$ 500	
110-0000-313-0331		<b>Reserve for Public Safety</b>		<b>\$ 500</b>
<p>Appropriate funds for the Angelica Gandara Scholarship Award. The Public Safety Advisory Board has awarded one \$500 scholarship this year.</p>				
260-6000-515-2616		Professional (CDBG Administration)	\$ 22,050	
260-6000-515-6532		Contingency		\$ 28,057
260-6100-571-6310	100505	Buildings & Grounds		\$ 12,289
260-6100-571-6516	100507	Park Improvements - Hamilton Park		\$ 4,031
260-6100-571-6532		Contingency	\$ 22,327	
<p>Adjust the amounts carried forward for CDBG for the projects that have been completed and the remaining funds are now available to be reallocated.</p>				

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2012 BUDGET**  
**December 1, 2011**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
260-3200-551-1118		Extra Help/Seasonal (Recreation Grant)	\$ 1,000	
260-0000-431-0163		Federal Grants		\$ 1,000

Appropriate additional funds to be received from Temple ISD for the continuance of the FY 2011 21st Century Learning Center Program's "After School Centers for Education" (ACE) project. Funding will cover a portion of FY 2012 and will fund athletic and recreational activities in selected schools. The ACE program is funded with federal dollars through the Texas Education Agency.

<b>TOTAL AMENDMENTS</b>	<b>\$ 9,705,301</b>	<b>\$ 9,705,301</b>
-------------------------	---------------------	---------------------

**GENERAL FUND**

Beginning <b>Contingency</b> Balance	\$ -
Added to Contingency Sweep Account	\$ -
Carry forward from Prior Year	\$ -
Taken From Contingency	\$ -
Net Balance of Contingency Account	\$ -
Beginning <b>Judgments &amp; Damages</b> Contingency	\$ 80,000
Added to Contingency Judgments & Damages from Council Contingency	\$ -
Taken From Judgments & Damages	\$ (11,677)
Net Balance of Judgments & Damages Contingency Account	\$ 68,323
Beginning <b>Compensation</b> Contingency	\$ 863,600
Added to Compensation Contingency	\$ -
Taken From Compensation Contingency	\$ (828,585)
Net Balance of Compensation Contingency Account	\$ 35,015
<b>Net Balance Council Contingency</b>	<b>\$ 103,338</b>
Beginning Balance <b>Budget Sweep</b> Contingency	\$ -
Added to Budget Sweep Contingency	\$ -
Taken From Budget Sweep	\$ -
Net Balance of Budget Sweep Contingency Account	\$ -

**WATER & SEWER FUND**

Beginning <b>Contingency</b> Balance	\$ 50,000
Added to Contingency Sweep Account	\$ -
Taken From Contingency	\$ (1,129)
Net Balance of Contingency Account	\$ 48,871
Beginning <b>Compensation</b> Contingency	\$ 97,000
Added to Compensation Contingency	\$ -
Taken From Compensation Contingency	\$ (84,685)
Net Balance of Compensation Contingency Account	\$ 12,315
<b>Net Balance Water &amp; Sewer Fund Contingency</b>	<b>\$ 61,186</b>

**HOTEL/MOTEL TAX FUND**

Beginning <b>Contingency</b> Balance	\$ 79,303
Added to Contingency Sweep Account	\$ -
Carry forward from Prior Year	\$ -
Taken From Contingency	\$ -
Net Balance of Contingency Account	\$ 79,303

**CITY OF TEMPLE**  
**BUDGET AMENDMENTS FOR FY 2012 BUDGET**  
**December 1, 2011**

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning <b>Compensation</b> Contingency	\$	11,300
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(9,855)
		Net Balance of Compensation Contingency Account	\$	1,445
		<b>Net Balance Hotel/Motel Tax Fund Contingency</b>	\$	<b>80,748</b>
		<b>DRAINAGE FUND</b>		
		Beginning <b>Compensation</b> Contingency	\$	13,200
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(12,386)
		Net Balance of Compensation Contingency Account	\$	814
		<b>FED/STATE GRANT FUND</b>		
		Beginning <b>Contingency</b> Balance	\$	24,387
		Carry forward from Prior Year	\$	12,105
		Added to Contingency Sweep Account	\$	22,327
		Taken From Contingency	\$	(29,131)
		Net Balance of Contingency Account	\$	29,688

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

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

---

—  
**Whereas**, on the 1<sup>st</sup> 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 Fiscal Year 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 1<sup>st</sup> day of **December**, 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

---

12/01/11  
Item #5  
Regular Agenda  
Page 1 of 3

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

Brian Mabry, AICP, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-11-52: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 East Central Avenue.

**P&Z COMMISSION RECOMMENDATION:** At its November 7, 2011, meeting, the Planning and Zoning Commission voted 6/0 to recommend approval of the CUP subject to the additional condition that three security lights be installed on the west wall of the subject building a minimum of 30 days after approval of the CUP by the City Council.

Commissioners Brown and Talley were absent. One commission post is vacant.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt the ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for December 15, 2011.

Staff recommends approval of the requested CUP with the additional condition that three security lights be installed on the west wall of the subject building a minimum of 30 days after approval of the CUP by the City Council.

**ITEM SUMMARY:** The Applicant, Ryan Leshikar of O'Brien's Pub, on behalf of Howard Leshikar, Owner, request this CUP in order to continue to operate bar near the northeast corner of E. Central Avenue and S. 2<sup>nd</sup> Street.

This bar has been operating in conformance with State licensing procedures, but was not required to obtain a Conditional Use Permit approval from the Planning and Zoning Commission and the City Council in the past. Because the business is renewing its state license, the Applicant is now required to apply for this permit. If the CUP is not approved, the bar will have to stop selling alcohol at its present level. It will either have to sell beer and wine only with less than 75 percent of its revenue coming from alcohol sales or it may sell beer, wine and mixed drinks with 50 percent or less of its revenue coming from such sales.



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

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

CP = Comprehensive Plan      STP = Sidewalk and Trails Plan

**CONDITIONAL USE SITE PLAN REVIEW:** If the City Council approves this CUP request, the bar can remain open as with its mixed drink license, with more than 75% revenue from alcohol. While this is an established business, conditions can be placed on the Applicant.

#### Parking

On-site parking is not required in the CA, Central Area District. This business uses public on-street and public off-street parking nearby. The nearest public off-street parking lot is located to the south of the property and is accessed through the adjacent alley and by South Main Street. Parking appears adequate for this area.



#### Landscaping

This building is built to the property line. Only plantings placed in large planters on the sidewalk could be required without having cement cut for street trees with tree grates. This improvement is within the authority of the Planning and Zoning Commission and City Council to ask of the Applicant and landscaping has been required of all alcohol CUP recipients in the recent past under criteria "G" below; however, Staff is not recommending such enhancements.

**Building Elevation Improvements**

No building improvements have been offered by the Applicant. As part of the CUP approval, Staff and the P&Z recommend that the applicant install three security lighting wall packs along the west wall of the building, adjacent to the alley. The wall extends approximately 60 feet. This would add increased general safety for bar patrons walking to and from the City-owned parking lot mentioned above. This request conforms to the seven CUP evaluation criteria set up to judge the merits of a CUP request.

**PUBLIC NOTICE:** Fifteen notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, November 2<sup>nd</sup> at 5 PM, two notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2011, in accordance with state law and local ordinance. Additionally 31 courtesy notices were sent to surrounding business operators within 200-feet of the subject property.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

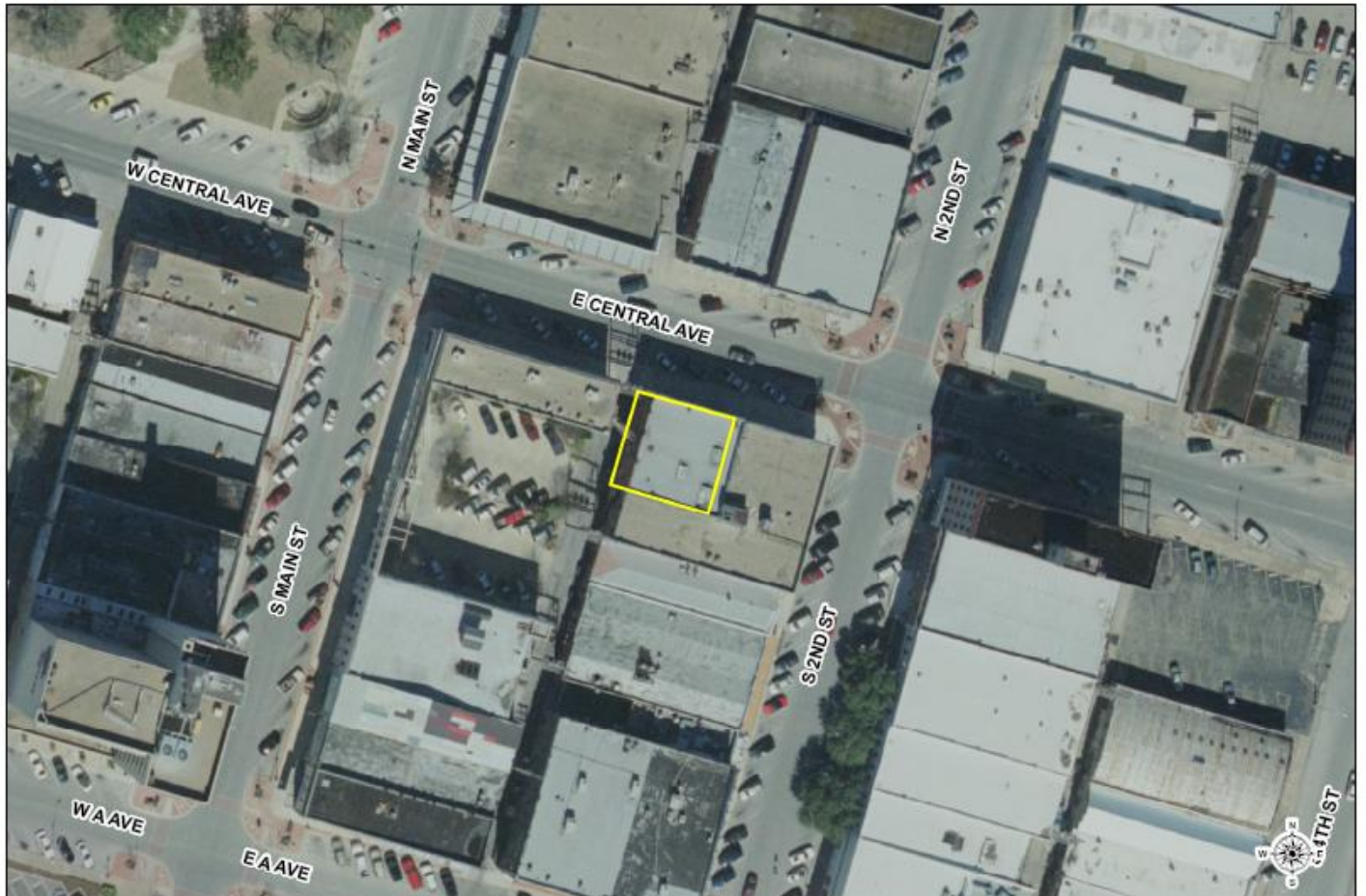
Aerial Map  
Future Land Use and Character Map  
Zoning Map  
Thoroughfare Plan Map  
Utility Map  
CUP Site Plan  
Notice Map  
Responses  
P&Z Staff Report (Z-FY-11-52)  
P&Z Minutes (November 7, 2011)  
Ordinance



**Z-FY-11 -52**

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alchohol Sales  
11 E. Central Avenue



2008 Bell County Aerial



Z-FY-11-48

Feet 0 50 100 150

LMatlock Planning 9.29.11



Z-FY-11-52

Portion of Lots 11 and 12  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



- |                       |                         |                    |                           |                                   |              |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 1152              | 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 = 86 feet  
LMatlock Planning 10.21.11

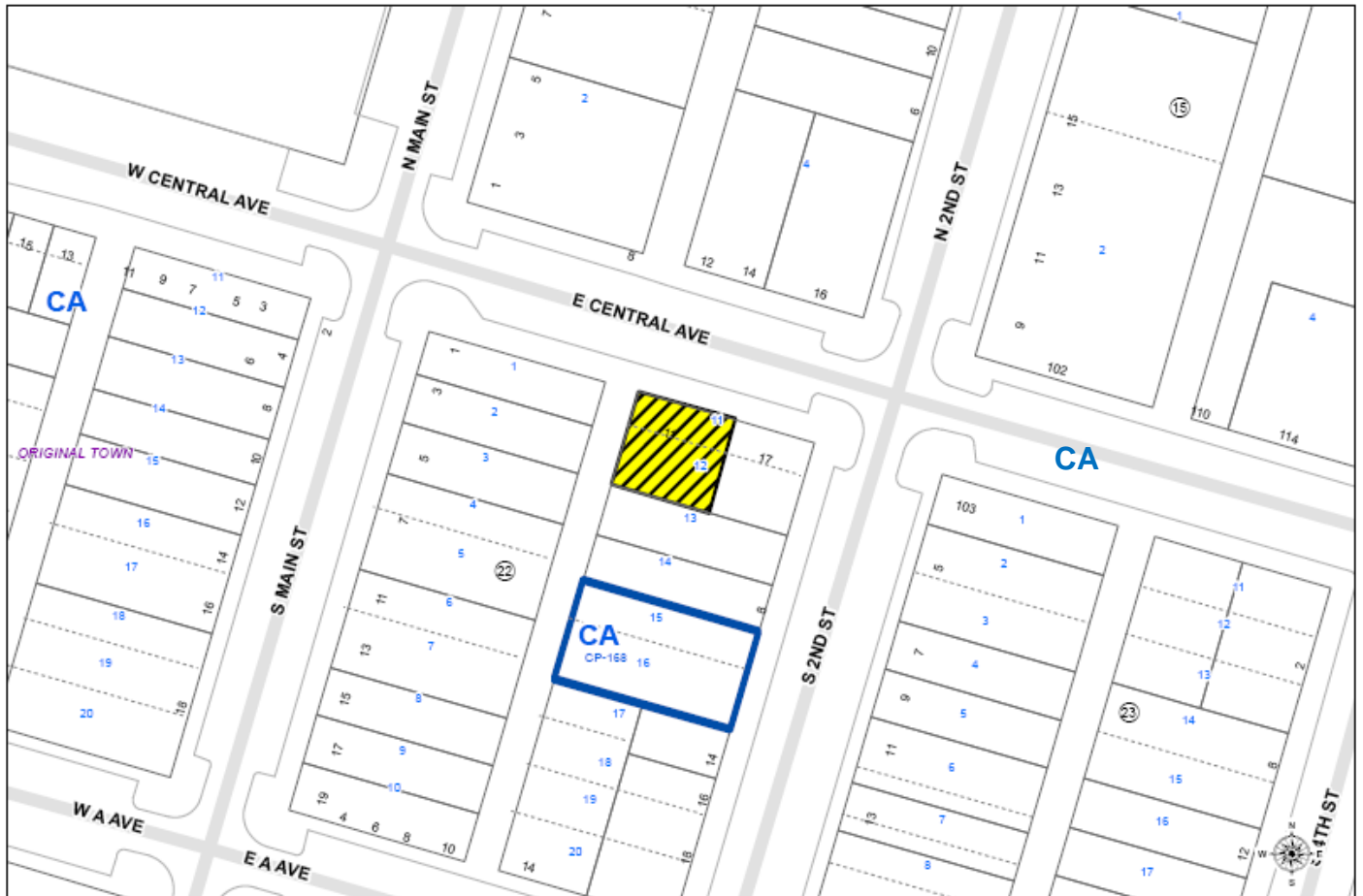











**Z-FY-11-52**

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



-  ZFY 1151, CA  
 CA Zoning District  
12345 Addresses
-  Parcels  
 Subdivisions
-  Historic Parcels  
 9 Lots  
 18 Blocks

Feet 0 50 100 150

LMatlock Planning 10.21.11



Z-FY-11-52

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



Major Arterial      2010 Bell County Aerial  
Z-FY-11-52

Feet 0 50 100 150

LMatlock Planning 10.21.11



**Z-FY-11-52**

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



- Domestic Water Lines
- Sanitary Sewer Lines
- Fire Hydrants
- Z-FY-11-52

Feet 0 50 100 150

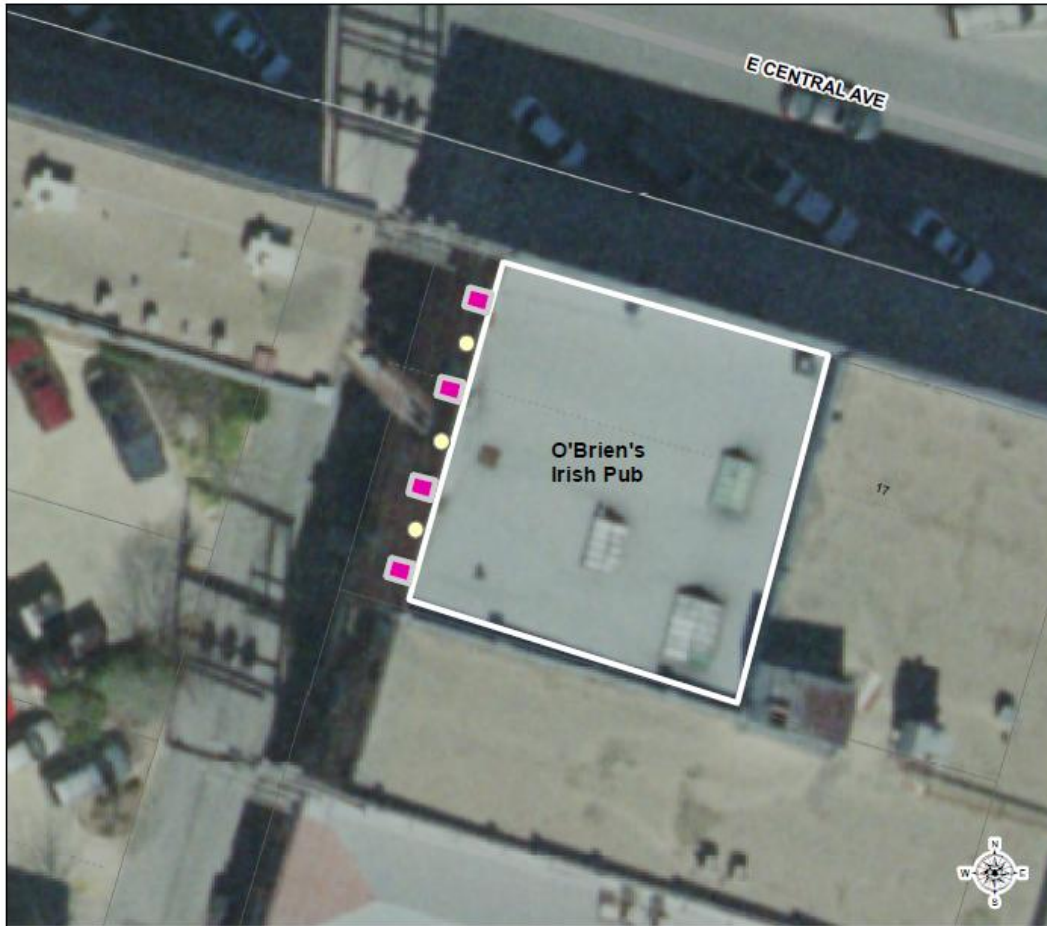
LMatlock Planning 10.21.11





Z-FY-11-52

## CUP Lighting Site Plan for O'Briens Irish Pub



Example of Appropriate  
Dark Sky Wall Pack that  
would focus light down  
into alley increasing  
pedestrian safety.



2010 Bell County Aerial

3 Commercial Wall Pack  
Light Locations

Door or Blocked Window



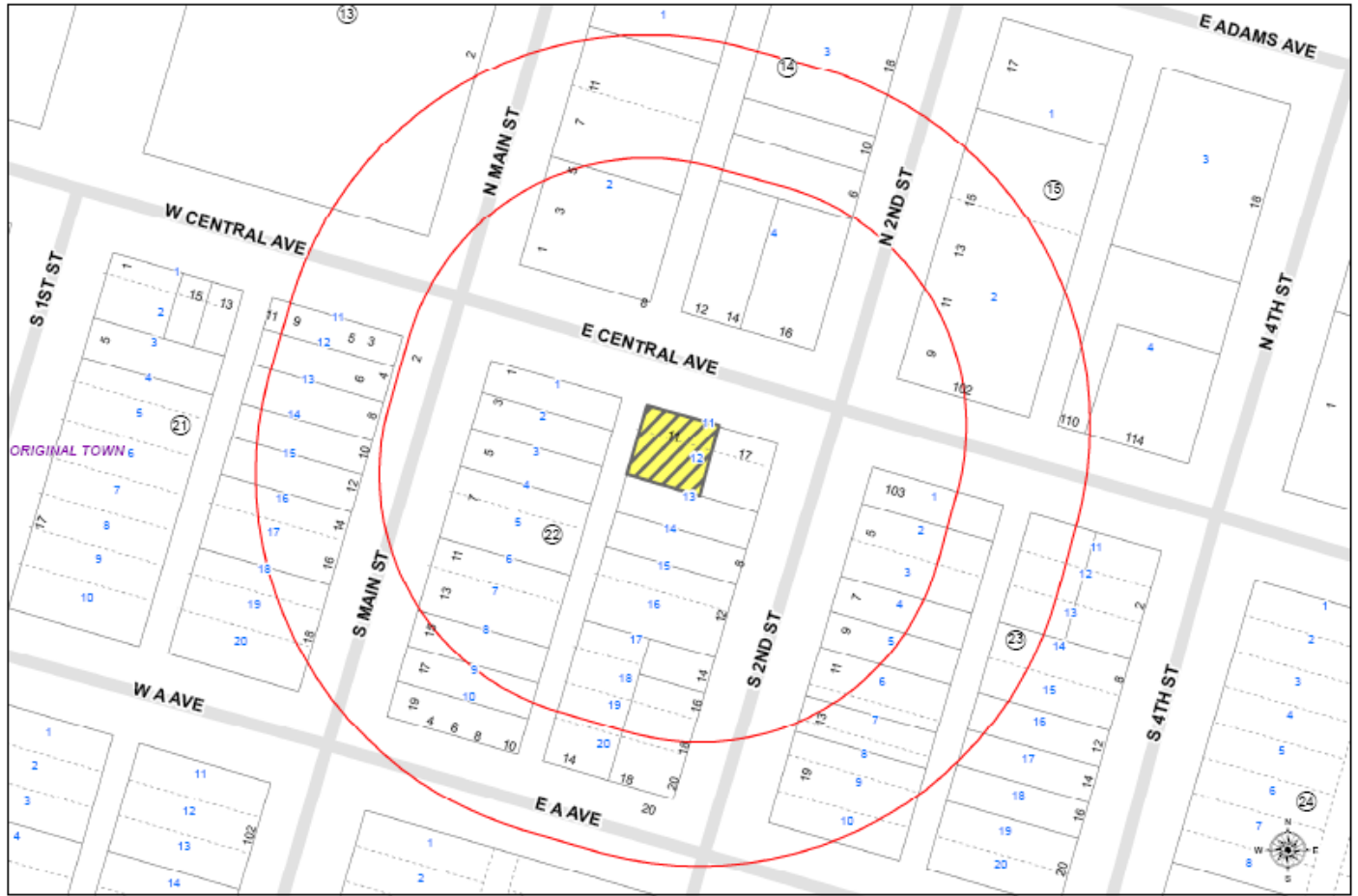




Z-FY-11-51

Portion of Lots 11 and 12,  
Block 22, Original Town Addition

CUP for Alcohol Sales  
11 E. Central Avenue



ZFY 1151, CA



Subdivisions



200-ft notification buffer and 300-ft business complementary notification

Feet 0 50 100 150

LMatlock Planning 9.29.11

**16 Notices Mailed**

**0 Agree (A)**

**0 Disagree (D)**

**0 Returned Mail (R)**



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

Tom A. Jr. Etux Charlene Laramey  
104 South Cuernavaca Drive  
Austin, Texas 78733

**Zoning Application Number:** Z-FY-11-52

**Project Manager:** Leslie Matlock

**Location:** 11 East Central (O'Brien's Irish Pub)

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

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

**Comments:**

*Good to have them located in downtown Temple.*

  
Signature

*Tom Laramey*  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 7, 2011

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

**RECEIVED**  
NOV 07 2011  
City of Temple  
Planning & Development

Number of Notices Mailed: 15

Date Mailed: October 27, 2011



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

Main One South LP  
1 South Main Street  
Temple, Texas 76501

**Zoning Application Number:** Z-FY-11-52

**Project Manager:** Leslie Matlock

Location: 11 East Central Avenue (O'Brien's Irish Pub)

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

I recommend ( ☒ ) approval ( ☐ ) denial of this request.

**Comments:**

---

---

---

---

---

---

---

---

---

---

  
Signature

Rick N. Kasberg  
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than November 7, 2011

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

**RECEIVED**

NOV 03 2011

City of Temple  
Planning & Development

Number of Notices Mailed: 15

Date Mailed: October 27, 2011



# PLANNING AND ZONING COMMISSION AGENDA ITEM

11/7/11  
Item #5  
Regular Agenda  
Page 1 of 5

**APPLICANT:** Ryan Leshikar of O'Brien's Pub, on behalf of Howard Leshikar, Owner

**CASE MANAGER:** Leslie Matlock, AICP, Senior Planner



**ITEM DESCRIPTION:** Z-FY-11-52 Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 E. Central Avenue.

**BACKGROUND:** This site is a two-story downtown building. The building is situated at the southwest corner of S. 2<sup>nd</sup> Street and E. Central Avenue. The bar takes up both floors of the existing building.




This bar has been operating in conformance with State licensing procedures, but was not required to obtain a Conditional Use Permit approval from the Planning and Zoning Commission and the City Council in the past. Because the business is renewing its state license, the Applicant is now required to apply for this permit. If the CUP is not approved, the bar will have to stop selling alcohol at its present level. It will either have to sell beer and wine only with less than 75 percent of its revenue coming from alcohol sales or it may sell beer, wine and mixed drinks with 50 percent or less of its revenue coming from such sales.

**Surrounding Property and Uses**

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

Direction	Zoning	Current Land Use	Photo
Subject Property	CA	Commercial Building - location of O'Brien's Irish Pub	
North	CA	Mixed Use Buildings	



Direction	Zoning	Current Land Use	Photo
South	CA	Commercial Building to rear of Subject Property (attached to the building to East, see entrance below)	
East	CA	Commercial Building	
West	CA	Public Alley and Commercial Building	<div data-bbox="820 919 917 961" data-label="Text">O'Brien's</div> 

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

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

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

#### Future Land Use and Character (CP Map 3.1)

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

#### Thoroughfare Plan (CP Map 5.2)

This request conforms to the Thoroughfare Plan as the subject tract has access to E. Central Avenue which is a Major Arterial. Traffic congestion has not been unreasonably increased by this circa 2007 established use and will not require a change in the infrastructure surrounding this lot.

#### Availability of Public Facilities (CP Goal 4.1)

An eight-inch domestic water line and a six-inch sanitary sewer line currently serve the site. No additional services are required for this use.

### **CONDITIONAL USE SITE PLAN REVIEW:**

If the City Council approves this CUP request, the bar can remain open as with its mixed drink license, with more than 75% revenue from alcohol. While this is an established business, conditions can be placed on the Applicant.

#### Parking

In the CA, Central Area District, off-street parking is not required of businesses locating there. This business uses public on-street and public off-street parking. The nearest public off-street parking lot is located to the south of the property and is accessed through the adjacent alley and by S. Main Street. Parking does not seem to be an issue for this area.



Photo shows O'Brien's storefront, alley and proximity to City owned-parking lot. Additional on-street parking surrounds the business on City streets which back into traffic on E. Central Avenue (one way to the east). The photo above shows the storefront in green, before the restoration shown in the current photo on page 1.

### Landscaping

This building is built to the property line. Only plantings placed in large planters on the sidewalk could be required without having cement cut for street trees with tree grates. This improvement is within the authority of the Planning and Zoning Commission to ask of the Applicant and landscaping has been required of all alcohol CUP recipients in the recent past under criteria "G" below; however, Staff is not recommending such enhancements. The addition of street furniture is also something that could be requested for the CUP but is not being recommended by Staff.

### Building Elevation Improvements

No building improvements have been offered by the Applicant. As part of the CUP approval, Staff requests that the applicant install three security lighting wall packs along the west wall of the building, adjacent to the alley. The wall extends approximately 60 feet. This would add increased general safety for bar patrons walking to and from the City-owned parking lot. This request conforms to the criteria "D" below.



Western wall of pub along alley where Staff recommends security lighting.

### CUP Decision Criteria

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

- A. The conditional use is compatible with and not injurious to the use and enjoyment of the property, and does not significantly diminish or impair property values within the immediate vicinity.
- B. The establishment of the conditional use does not impede the normal and orderly development and improvement of surrounding vacant property.
- C. Adequate utilities, access roads, drainage, and other necessary support facilities have been or will be provided.
- D. The design, location and arrangement of all driveways and parking spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development.
- E. Adequate nuisance prevention measures have been or will be taken to prevent or control offensive odors, fumes, dust, noise and vibration.
- F. Directional lighting is provided so as not to disturb or adversely affect neighboring properties.
- G. There is sufficient landscaping and screening to insure harmony and compatibility with adjacent property.

**PUBLIC NOTICE:**

Fifteen notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Wednesday, November 2<sup>th</sup> at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on October 21, 2011, in accordance with state law and local ordinance. Additionally 31 courtesy notices were sent to surrounding business operators within 300-feet of the subject property.

**STAFF RECOMMENDATION:** Staff recommends approval of the requested CUP with the additional condition that three security lights be installed on the west wall of the subject building a minimum of 30 days after approval of the CUP by the City Council.

**FISCAL IMPACT:** Not Applicable

**ATTACHMENTS:**

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Utility Map](#)

[CUP Site Plan](#)

[Notice Map](#)



**EXCERPTS FROM THE  
PLANNING & ZONING COMMISSION MEETING  
MONDAY, NOVEMBER 7, 2011**

**ACTION ITEMS**

**Item 5: Z-FY-11-52** - Hold a public hearing to discuss and recommend action on a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 E. Central Avenue. (Ryan Leshikar of O'Brien's Irish Pub for Howard Leshikar)

Ms. Matlock stated this was a CUP for the existing O'Brien's Irish Pub located at 11 E. Central Avenue. This case will go forward to City Council for the December 1st and 15th meetings for first and second readings.

The subject and surrounding properties are zoned Central Area District (CA). Off-street parking is not required in CA district and there is on- and off-street parking located nearby. The bar has been operating since 2007 and not previously required to have a CUP. Since the business is renewing their state license they are required to apply for a CUP. If the CUP is denied, the business will have to stop selling alcohol at its present level.

Surrounding uses include retail, office, and mixed uses. The alley passageway, which leads to the parking area, is used by the business's clients during the evening hours.

As part of the CUP requirements, Staff has requested the applicant to place lights on the side of the building to make the passage safer for pedestrians and cars. The lights chosen need to be focused to the ground and not the upper windows of adjacent buildings.

The UDC criteria for a CUP include:

1. The conditional use is compatible with and not injurious to the enjoyment of the property, and does not significantly diminish or property values within the immediate vicinity;
2. The establishment of the conditional use does not impede the and orderly development and improvement of surrounding vicinity;
3. The design, location and arrangement of all driveways and spaces provide for the safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent development;

4. Adequate nuisance prevention measures have been taken to control offensive odors, fumes, dust, noise and vibration; and
5. Directional lighting is provided so as not to disturb or adversely neighboring properties.

Fifteen notices were mailed and zero was returned in opposition, two were returned in favor.

Staff recommends approval of this CUP for a business receiving more than 75% revenue from alcohol sales, with the addition of three dark sky lighting fixtures along the west side of the building within three months of City Council approval.

Chair Martin asked if the applicant had any concerns about the additional lighting and Ms. Matlock stated the applicant thought it should be publicly provided. Commissioner Rhoads asked if Staff considered having the lighting publicly provided and Ms. Matlock stated that as a required condition of the CUP, the applicant would be need to install additional lighting.

Discussion about the alley and lighting conditions if used as a passageway at night and who would bear responsibility for the additional lighting.

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

Vice-Chair Staats made a motion to approve Item 5, Z-FY-11-52, with the addition of the lighting per Staff's recommendation and Commissioner Pilkington made a second.

*Motion passed: (6:0)*

Commissioners Talley and Brown absent

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

[PLANNING NO. Z-FY-11-52]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT FOR THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION WITH MORE THAN 75% REVENUE FROM ALCOHOL SALES IN AN EXISTING BAR, ON A PORTION OF LOTS 11 AND 12, BLOCK 22, ORIGINAL TOWN ADDITION, COMMONLY KNOWN AS 11 EAST CENTRAL AVENUE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location at 11 East Central Avenue, recommends that the City Council approve the application for this Conditional Use Permit for an on-premises consumption with more than 75% alcohol revenue from alcohol sales in an existing bar; and

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

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

**Part 1:** The City Council approves a Conditional Use Permit to allow for the sale of alcoholic beverages for on-premise consumption with more than 75% revenue from alcohol sales in an existing bar located on a portion of Lots 11 and 12, Block 22, Original Town Addition, commonly known as 11 East Central Avenue, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

**Part 2:** The owner/applicant, his employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

**General:**

- (a) The permittee must design and operate the establishment in such a manner that the proposed use or actual use of the premises shall not substantially increase traffic congestion or create overcrowding in the establishment or the immediately surrounding area.
- (b) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within 6 months from the date of the issuance of the conditional use permit by the City Council, such limitation in time being subject to review and possible extension by the City.
- (c) The permittee bears the burden of showing that the establishment does not exceed the limitation on gross receipts from sales of alcoholic beverages applicable to its conditional use permit. The permittee must maintain accounting records of the sources of its gross revenue and allow the City to inspect such records during reasonable business hours. (Not applicable for package stores).
- (d) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (e) The permittee must, at all times, provide an adequate number of employees for security purposes to adequately control the establishment premises to prevent incidents of drunkenness, disorderly conduct and raucous behavior. The permittee shall consult with the Chief of Police, who shall act in an advisory capacity to determine the number of qualified employees necessary to meet the obligations hereunder.
- (f) The establishment must provide adequate parking spaces in accordance with the standards in Section 7.4 of the Unified Development Code.
- (g) The permittee must operate the establishment in such a manner as to prevent excessive noise, dirt, litter and odors in the establishment or in the surrounding area and operate the establishment in such a manner as to minimize disturbance to surrounding property owners.
- (h) The City Council may deny or revoke this conditional use permit in accordance with Section 3.5 of the Unified Development Code if it affirmatively determines that the issuance of the permit is incompatible with the surrounding uses of property, or detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (i) A conditional use permit issued under this section runs with the property and is not affected by a change in the owner or lessee of a permitted establishment.
- (j) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 3.5. of the Unified Development Code.

**Specific to this CUP:**

- (k) The permittee's site plan is an exhibit to the conditional use permit, attached hereto as Exhibit B.
- (l) Three security lights are to be installed on the west wall of the subject building a minimum of 30 days after approval of CUP.

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

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

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the 1<sup>st</sup> day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the 15<sup>th</sup> day of **December**, 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

---

12/01/11  
Item #6  
Regular Agenda  
Page 1 of 1

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

Nicole Torralva, P.E., Director of Public Works  
Kenny Henderson, Superintendant of Street and Drainage Services

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING: Consider adopting an ordinance establishing a school zone and setting speed limits within the school zone around St. Mary's Catholic School.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for December 15, 2011.

**ITEM SUMMARY:** St. Mary's Catholic School has requested that a school zone be established on South 5<sup>th</sup> Street, South 9<sup>th</sup> Street, West Avenue I and West Ave K around the school. This would reduce the speed limit from 30mph to 20mph on school days from 7:00 am to 8:30am and 3:00 pm to 4:30 pm.

**FISCAL IMPACT:** Budgeted Amount \$33,200 in account 110-3400-531-23-34  
Estimated Expenditures \$540.00

### **ATTACHMENTS:**

[Proposed School Zone Map](#)  
[Ordinance](#)

**DISCLAIMER**  
GIS information is provided as a public resource for general information purposes only. While it is used to locate, identify, and inventory Public Infrastructure within the City of Temple, no warranty, express or implied, is given as to its accuracy and the City of Temple does not accept any liability for error or omission. No Portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against the City of Temple, Tx that may arise from the use of this data.



S 3RD ST

W L AVE

S 11TH ST

S 9TH ST

S 7TH ST

S 5TH ST

W J AVE

W K AVE

S 7TH ST

Existing Do Not Enter Sign



**St. Mary's Catholic School  
Requested School Zone**

Install New  
School Zone Signs  
with Times



Existing One Way Sign



14 November 2011

1 inch = 150 feet

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A SCHOOL ZONE AND SETTING SPEED LIMITS WITHIN THE SCHOOL ZONE AROUND ST. MARY'S CATHOLIC SCHOOL; PROVIDING AN EFFECTIVE DATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

WHEREAS, St. Mary's Catholic School has requested that a school zone be established on South 5<sup>th</sup> Street, South 9<sup>th</sup> Street, West Avenue I and West Avenue K around the school;

WHEREAS, this would reduce the speed limit from 30mph to 20mph on school days from 7:00 a.m. to 8:30 a.m. and 3:00 p.m. to 4:30 p.m.; and

WHEREAS, the City Council has considered the matter and deems it in the public interest to approve this speed zone for the benefit of the citizens for the promotion of the public health, welfare, and safety.

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

**Part 1:** The City Council finds that a school zone shall be established on South 5<sup>th</sup> Street, South 9<sup>th</sup> Street, West Avenue I and West Avenue K around the school which will reduce the speed limit from 30mph to 20mph on school days from 7:00 a.m. to 8:30 a.m. and 3:00 p.m. to 4:30 p.m., more fully shown on Exhibit A, attached hereto and made a part hereof for all purposes.

**Part 2:** It shall be unlawful for any person to drive or operate a motor vehicle, bicycle, or other vehicle of any kind, whether or not motor powered, on that portion of the roadways described above under the conditions described herein, at a speed greater than is reasonable and prudent under the circumstances then existing, but any speed in excess of the reasonable and prudent prima facie maximum speed limits as set forth in Part 1 hereof shall be prima facie evidence that such speed is not reasonable or prudent and that it is unlawful.

**Part 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.

**Part 4:** If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.



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

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

PASSED AND APPROVED on First Reading on the **1<sup>st</sup>** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15<sup>th</sup>** day of **December**, 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

---

12/01/11  
Item #7  
Regular Agenda  
Page 1 of 2

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

Brian Mabry, AICP, Planning Director

**ITEM DESCRIPTION:** FIRST READING – PUBLIC HEARING - Z-FY-12-15: Consider adopting an ordinance re-naming Belmont Drive in Heritage Place Phase III to Frontier Drive.

**STAFF RECOMMENDATION:** Conduct public hearing and adopt ordinance as presented in item description on the first reading, and schedule second reading and final adoption for December 15, 2011.

**ITEM SUMMARY:** The land owner for all 4 lots currently addressed from the subject segment of Bellmont Drive, John Kiella, through his agent, Turley Associates, makes this request. The street name change request is for Bellmont as it was platted in Heritage Place Phase III, to be changed to Frontier Drive. The reason for the request is that Bellmont was originally planned to extend all the way through Heritage Place. Pending approval by City Council, the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village changes this original plan so that Bellmont is not a continuous street through the subdivision. Therefore, there is an isolated segment of Belmont that, due to emergency response requirements, needs a different name.

The proposed street name does not conflict with other names in Temple. Applicable City departments reviewed the request.

**FISCAL IMPACT:** NA

### **ATTACHMENTS:**

[Street Name Change Request Letter](#)  
[Map Showing Affected Street](#)  
[Ordinance](#)



**TURLEY ASSOCIATES, INC.**

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400  
F-1658 FAX • (254) 773-3998

October 28, 2011

City of Temple  
Attn: Tammy Lyerly  
Planner  
2 North Main Street  
Temple, TX 76501

**RE: Heritage Place Name Change**

Dear Tammy:

Turley Associates, Inc., as representative for Kiella Development, would like to request a street name change to the Heritage Place Phase II Plat (Cabinet D, Slide 165-C). At the time this street was platted, it was intended to extend through a future phase of Heritage. With the current amended replat of Heritage Place the road no longer extends through the subdivision and creates a duplicate street name. We ask that Belmont within Heritage Place Phase II be changed to Frontier. Thank you for your consideration.

Sincerely,  
**TURLEY ASSOCIATES, INC.**

A handwritten signature in cursive script that reads "Jennifer Ryken". The ink is dark and the signature is fluid.

Jennifer Ryken, P.E.  
Project Engineer

JR/sb

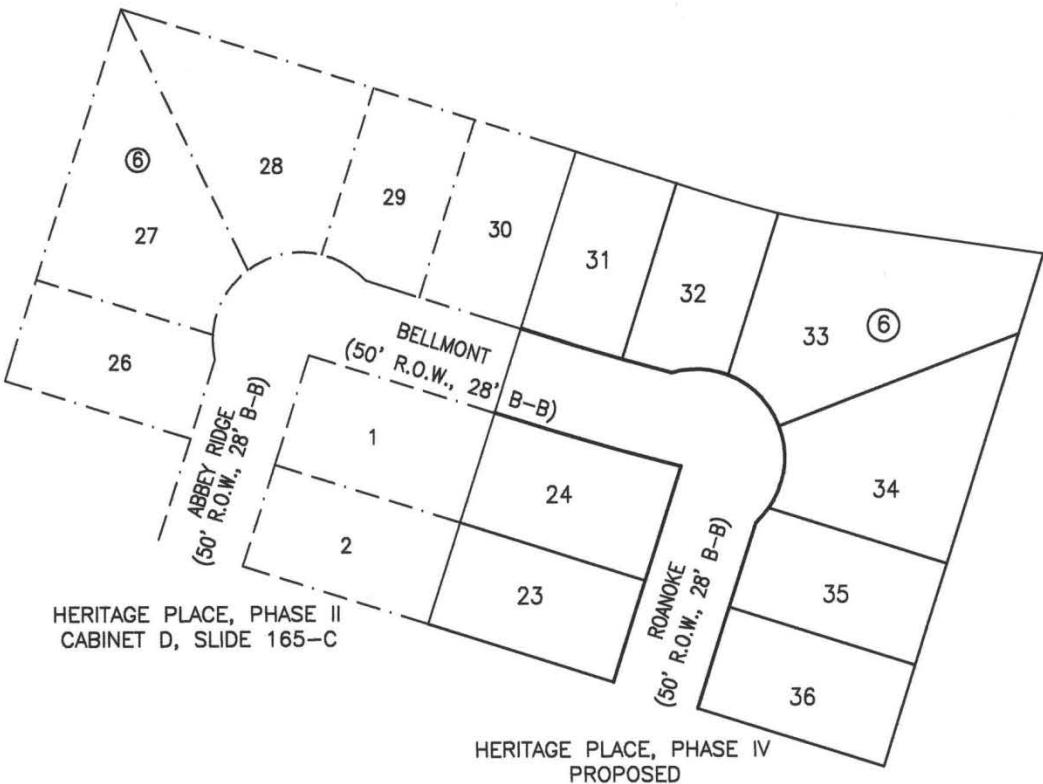
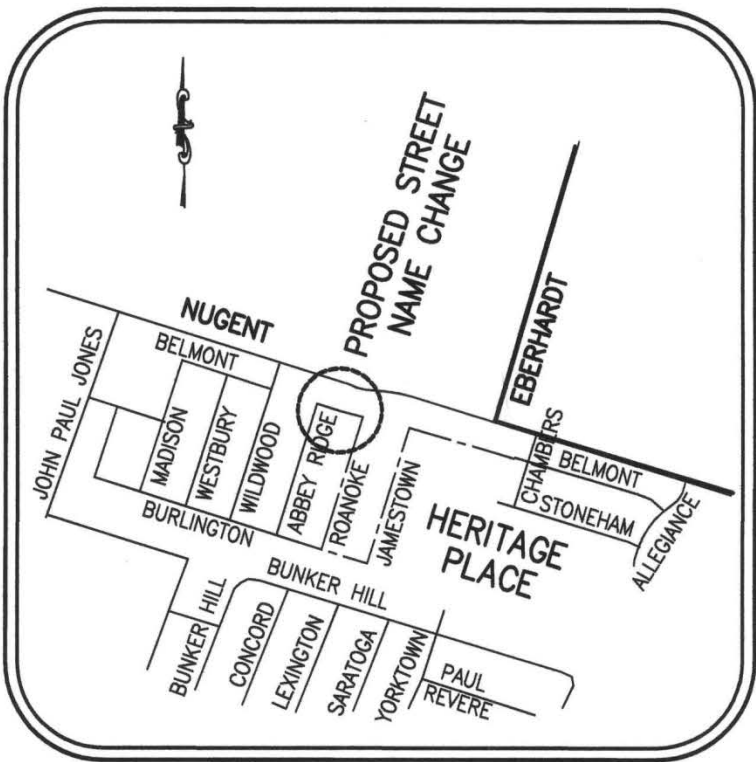
**RECEIVED**

**OCT 28 2011**

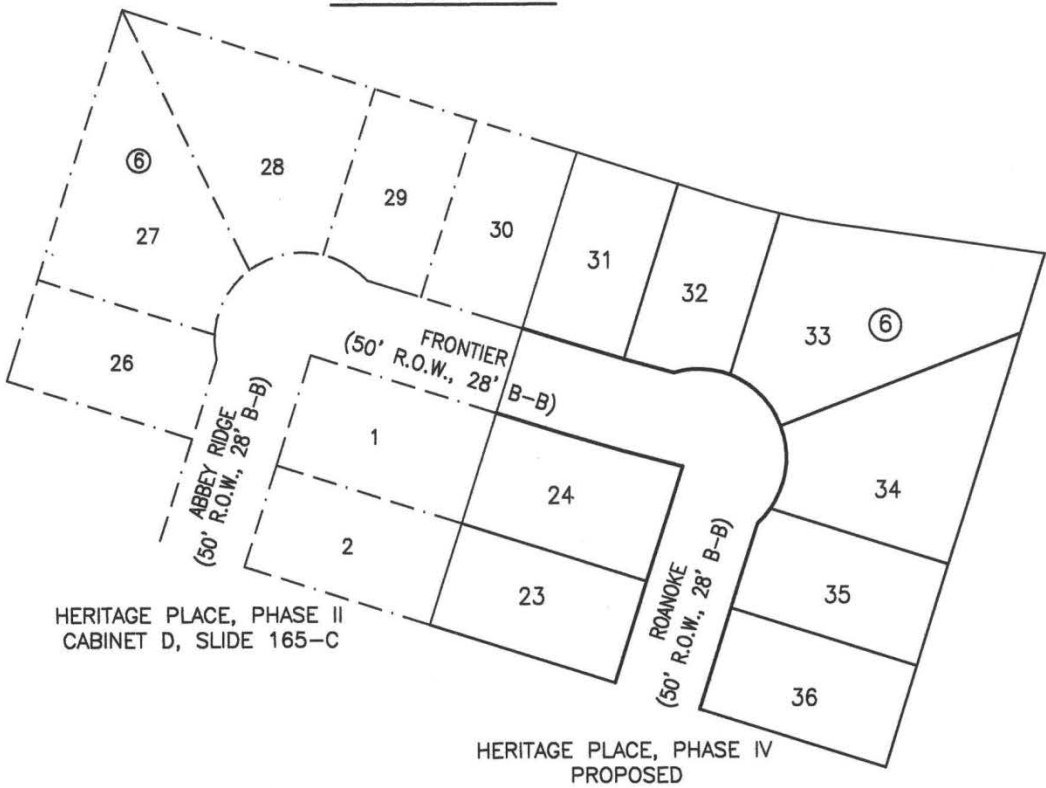
City of Temple  
Planning & Development

Proposed Street Name Change

VICINITY MAP



EXISTING



PROPOSED



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, RENAMING BELMONT DRIVE IN HERITAGE PLACE, PHASE III, TO *FRONTIER DRIVE*; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, the land owner for all four lots currently addressed from the subject segment of Belmont Drive in Heritage Place, Phase III requests that the street name be changed to *Frontier Drive*;

**Whereas**, Belmont Drive was originally planned to extend all the way through Heritage Place – pending approval by City Council, the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village changes this original plan so that Belmont is not a continuous street through this subdivision;

**Whereas**, there is an isolated segment of Belmont Drive that, due to emergency response requirements, needs a different name.

**Whereas**, the Staff recommends renaming the portion of roadway to *Frontier Drive* as requested by the land owner;

**Whereas**, the proposed street name does not conflict with other street names in the City of Temple, and is in compliance with the City’s street name change policy which provides that a street name change may be considered when a majority of the area is recognized as a significant contribution by an organization to the enhancement of the quality of life in the community; and

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

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

**Part 1:** The City Council approves renaming Belmont Drive in Heritage Place, Phase III to *Frontier Drive*, more fully shown on a drawing attached hereto as Exhibit A.

**Part 2:** The City Council directs the Street Department of the City of Temple, Texas, to make and place the appropriate signs on said street.

**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 30 days after the second reading to allow time for the installation of new street signs and updating of maps.

**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 **1<sup>st</sup>** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15<sup>th</sup>** day of **December**, 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**

---

12/01/11  
Item #8  
Regular Agenda  
Page 1 of 2

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

David Blackburn, City Manager  
Traci Barnard, Director of Finance  
Jonathan Graham, City Attorney

**ITEM DESCRIPTION:** Consider adopting an ordinance providing for the continued taxation of goods-in-transit otherwise exempt pursuant to Section 11.253 of the Texas Tax Code.

**STAFF RECOMMENDATION:** Approve the ordinance on first reading and conduct a public hearing.

**ITEM SUMMARY:** In 2001, voters in Texas approved an amendment to the Texas Constitution which provided legislative enabling authority to exempt from taxation certain tangible personal property deemed to be “goods-in-transit.” In 2007, the Legislature adopted H.B. 621 which implemented that constitutional amendment with the adoption of Section 11.253 of the Texas Tax Code which exempts from ad valorem (property) taxes most personal property that is located at a particular site within the State for less than 175 days, is not under control of the owner of the landowner where the personal property is stored, and then is shipped to another location inside or outside of the State. This exemption has been termed the “Super Freeport exemption,” to distinguish it from the existing “Freeport exemption,” which continues in effect. Some differences between the regular “Freeport” exemption (which the City of Temple opted out of in 1990) and the “Super Freeport” exemptions:

- Regular Freeport: applied only to goods held for 175 days or less **AND** sent out of State
- Regular Freeport also had an opt out provision, but once adopted it could not be revoked
- With the Super Freeport, taxing entities who allow the exemption to go into effect CAN “opt out” of the Super Freeport at a later date—they can also opt out now, and opt back in at a later date

The Super Freeport exemption is broad enough to include most kinds of inventory, or materials held for assembly or finishing, but specifically includes a few kinds of inventory such as oil & gas, aircraft, dealer’s motor vehicle inventory, dealer’s boat inventory, dealer’s heavy equipment inventory and retail manufactured housing.

The exemption created in H.B. 621 for goods-in-transit takes effect on January 1, 2008, unless a local taxing entity took official action to continue the taxation of these goods. A local taxing entity wishing to continue taxing these goods-in-transit must have also conducted a public hearing prior to taking such action. In December 2007, the Temple City Council adopted Ordinance 2007-4179, which provided for the continued taxation of goods-in-transit within the City limits.

This past session, the Legislature enacted SB 1 which again amended Section 11.253 of the Texas Tax Code to “narrow” the definition of “goods in transit” which can be tax exempt unless a city decides to opt out of the exemption. SB 1 specifically requires that a city wishing to tax goods in transit to opt out of Section 11.253 by December 31, 2011, even if they have previously opted out of Section 11.253 (which Temple did back in 2007). SB 1 again requires that the City Council conduct a public hearing on “opting out” of the goods-in-transit provision of Section 11.253 before approving the ordinance opting out.

A study commissioned by TEDC several years ago about the potential impact from adopting the regular Freeport Exemption (which would only have applied to goods held in Temple for less than 175 days and then shipped out of Texas) concluded that adoption of the exemption would cost the City several hundred thousand dollars annually in lost revenue.

In other words, despite the refinement of the exemption language in Section 11.253 as revised by the Legislature in this year’s session, we think the impact in Temple of an exemption from taxation for goods in transit would still be significant.

**FISCAL IMPACT:** Adopting this ordinance will avoid any negative impact on City revenue that would occur if the exemption on goods-in-transit went into effect. The magnitude of that loss is difficult to estimate.

**ATTACHMENTS:**

[Ordinance](#)



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

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 35, ENTITLED, "TAXATION," OF THE CODE ORDINANCES AMENDING SECTION 35-19, ENTITLED, "TAXATION OF TANGIBLE PERSONAL PROPERTY IN TRANSIT," PROVIDING FOR THE CONTINUED TAXATION OF GOODS-IN-TRANSIT OTHERWISE EXEMPT PURSUANT TO SECTION 11.253 OF THE TEXAS TAX CODE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A REPEALER CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETING CLAUSE.

---

**Whereas**, on December 6, 2007, the City Council adopted Ordinance No. 2007-4779 which provided for the ad valorem taxation of tangible personal property in transit, pursuant to Section 11.253 of the Texas Tax Code;

**Whereas**, the 82<sup>nd</sup> Legislature enacted Senate Bill 1, amending Section 11.253 of the Texas Tax Code which narrows the definition of "goods-in-transit" providing for the only exemption authorized relates only to those goods being stored;

**Whereas**, Senate Bill 1 also requires that if a taxing unit wishes to tax the newly defined goods-in-transit, then it must take affirmative action to do so, even if the taxing unit previously acted under House Bill 621 back in 2007;

**Whereas**, the governing body of a local taxing entity may elect to tax goods-in-transit, but only after holding a public hearing for the purpose of providing taxpayers the opportunity to express their opinions on the subject;

**Whereas**, the City Council held a public hearing prior to the passage of this ordinance, consistent with Senate Bill 1 and Section 11.253 of the Texas Tax Code; and

**Whereas**, the City Council finds and determines that the super Freeport exemption as authorized by Section 11.253 of the Texas Tax Code is not in the best interest of the City of Temple, Texas.

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

**Part 1: Findings Incorporated.** The findings set forth above are incorporated into

the body of this ordinance as if fully set forth herein.

**Part 2:** The City Council amends Chapter 35, entitled “Taxation,” of the Code of Ordinances of the City of Temple, Texas, amending Section 35-19, entitled, “Taxation of Tangible Personal Property in Transit,” which shall read as follows:

**Section 35-19. Taxation of Tangible Personal Property in Transit.**

(a) **Definitions.** The following terms have the same meaning as defined in Section 11.253 of the Texas Tax Code, as amended.

- (1) The terms “Dealer’s motor vehicle inventory,” “dealer’s vessel and outboard motor inventory,” “dealer’s heavy equipment inventory,” and “retail manufactured housing inventory” have the meanings assigned by Subchapter B, Chapter 23 of the Texas Tax Code, as amended.
- (2) The term “Goods-in-transit” is defined to mean tangible personal property that:
  - a. is acquired in or imported into this state to be forwarded to another location in this state or outside this state;
  - b. is stored under a contract of bailment by a public warehouse operator ~~detained~~ at one or more public warehouse facilities ~~a location~~ in this state that are not in any way owned or controlled by in this state in which the owner of the personal property does not have a direct or indirect ownership interest for the account of assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property;
  - c. is transported to another location in this state or outside this state not later than 175 days after the date the person acquired the property in or imported the property into this state; and
  - d. does not include oil, natural gas, petroleum products, aircraft, dealer’s motor vehicle inventory, dealer’s vessel and outboard motor inventory, dealer’s heavy equipment inventory, or retail manufactured housing inventory.
- (3) The term “Location” means a physical address.
- (4) The term “Petroleum product” means a liquid or gaseous material that is an immediate derivative of the refining of oil or natural gas.
- (5) “Bailee” and “warehouse” have the meanings assigned by Section 7.102,

**Business & Commerce Code.**

**(6) “Public warehouse operator” means a person that:**

- (A) is both a bailee and a warehouse; and**
- (B) stores under a contract of bailment, at one or more public warehouse facilities, tangible personal property that is owned by other persons solely for the account of those persons and not for the operator’s account.**

(b) A person is not entitled to an exemption from taxation of the appraised value of that portion of the person’s property that consists of goods-in-transit. A person’s property consisting of goods-in-transit is hereby subject to ad valorem taxation pursuant to Section 11.253 of the Texas Tax Code, as amended.

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

**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 **1<sup>st</sup>** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15<sup>th</sup>** day of **December**, 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

---

12/01/11  
Item #9  
Regular Agenda  
Page 1 of 2

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

Brian Mabry, Planning Director

**ITEM DESCRIPTION:** P-FY-12-04: Consider adopting a resolution authorizing the second amended Preliminary Plat of Heritage Place and Heritage Place Village, 37.868± acre, 212-lot residential subdivision, located south of West Nugent Avenue, west of Bird Creek and east of Heritage Place Phase II with developer-requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced parkland dedication.

**P&Z COMMISSION AND STAFF RECOMMENDATION:** At its November 7, 2011, meeting, the Planning and Zoning Commission voted 6/0 to recommend approval of the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village, subject to the developer's requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced parkland dedication.

Commissioners Talley and Brown were absent.

**ITEM SUMMARY:** Please refer to the Staff Report and minutes of case P-FY-12-04, from the Planning and Zoning Commission meeting on November 7, 2011. The Second Amended Preliminary Plat of Heritage Place and Heritage Place Village is an amendment to City Council's previously approved Preliminary Plat of Heritage Place, Phases III through VI (Ordinance 2008-5363-R). The exceptions the developer requests with this Plat are the same as those requested and approved with the original Plat.

The subdivision consists of 212 single-family lots on 37.9 acres. The development is located along the south side of West Nugent Avenue, across from Eberhardt Road. The property is zoned Single-Family Three (SF3).

The Development Review Committee reviewed the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village on October 26, 2011. It was deemed administratively complete on October 31, 2011.

**EXCEPTION REQUEST:**

This plat includes Phases IV, V, and VI, and the developer requests the same exceptions granted by City Council in 2008 for the previous Preliminary Plat. The Final Plats of the previous three phases have all been approved and built with the developer's requested mountable curbs and reduced 28-foot street widths. The developer's requested exceptions will allow consistency with the previously approved and built phases of this established development.

The developer wants to dedicate and develop a 1.763-acre Park & Nature Trail in Common Area "D" of the plat in lieu of paying the normally required \$47,700 in park fees for the development. The proposal was previously approved by City Council in 2008 (Ordinance 2008-5363-R). Trail improvements for Phases III and VI shall be installed prior to the recordation of the Final Plat of Phase VI. The Trails Master Plan classifies this section of trail as a Community-Wide Connector, which requires a minimum trail width of 8 feet.

The developer has submitted a sidewalk waiver letter to the Director of Community Services for the required 6-foot wide sidewalk required along West Nugent Avenue, a minor arterial.

**FISCAL IMPACT:** NA

**ATTACHMENTS:**

[Plat](#)  
[P&Z Commission Staff Report](#)  
[Developer's Exception Request](#)  
[Resolution](#)







# Exceptions Request

**Kiella Development, Inc.**

PO Box 1344  
Temple, Texas 76503-1344  
254/778-0085 Cell 254/541-3060  
jkiella@kiella.com

**RECEIVED**

OCT 06 2011

City of Temple  
Planning & Development

**To:** Mr. Brian Mabry, Planning Director  
**From:** John R. Kiella on October 6, 2011  
**Re:** Heritage Place  
Plat Exceptions Request  
Second Amended Preliminary

This 'Exceptions Request' is for extension of exceptions that were approved for the initial Preliminary Plat and for the Amended Preliminary Plat of Heritage Place. Approval of this extension of exceptions for the Second Amended Preliminary Plat and subsequent development will insure that builders can continue to respond to a growing demand for new homes priced from \$90 - \$120,000.

This Exceptions request is requested for a Second Amended Preliminary Plat and for Final Plats for succeeding phases.

1. **Streets.** The Heritage Place Preliminary Plat approval included 28' Curb back-to-Curb back street design in lieu of 31' for all internal streets. This design has worked well in Phases I, II and III. The 'traffic-calming' effect is apparent and the cost benefit to entry-level homebuyers was accomplished without sacrificing traffic safety or limiting emergency or service vehicle access.
2. **Park Land Dedication.** The Heritage Place Amended Preliminary Plat approved the developer to dedicating to the City and improving 1.7 acres of land along Bird Creek, to clear brush and undergrowth and construct a nature trail the full length of the park, approximately 1,100 feet. We ask that this be extended to the Second Amended Preliminary Plat of Heritage Place.

Item	Requirement	Proposed	Exception Benefit
Local Street Width	31' Curb back-Curb back	28' Curb back-Curb back	Traffic Calming
			Cost savings benefit entry level homebuyer's
Curb & Gutter	Stand-up Curb	Mountable Curb	Cost savings benefit entry level homebuyer's
Park Land	Dedicate 2.38 acres	Dedicate & Develop 1.7 Acre Park & Nature Trail	Public park, Heritage HOA maintained. Park and Nature Trail benefit to Heritage and public -Potential for future trail extension through neighboring properties.

***Heritage Place***

***"Master-planned community by Kiella Development, Inc."***



# PLANNING AND ZONING COMMISSION AGENDA ITEM

11/07/11  
Item #3  
Regular Agenda  
Page 1 of 3

**APPLICANT / DEVELOPMENT:** Turley Associates for Kiella Development

**CASE MANAGER:** Tammy Lyerly, Planner

**ITEM DESCRIPTION:** P-FY-12-04 Consider and recommend action on the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village, 37.868± acre, 212-lot residential subdivision, located south of West Nugent Avenue, west of Bird Creek and east of Heritage Place Phase II with developer-requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced parkland dedication.

**STAFF RECOMMENDATION:** Staff recommends approval of the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village, subject to City Council's approval of the developer's requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced parkland dedication.

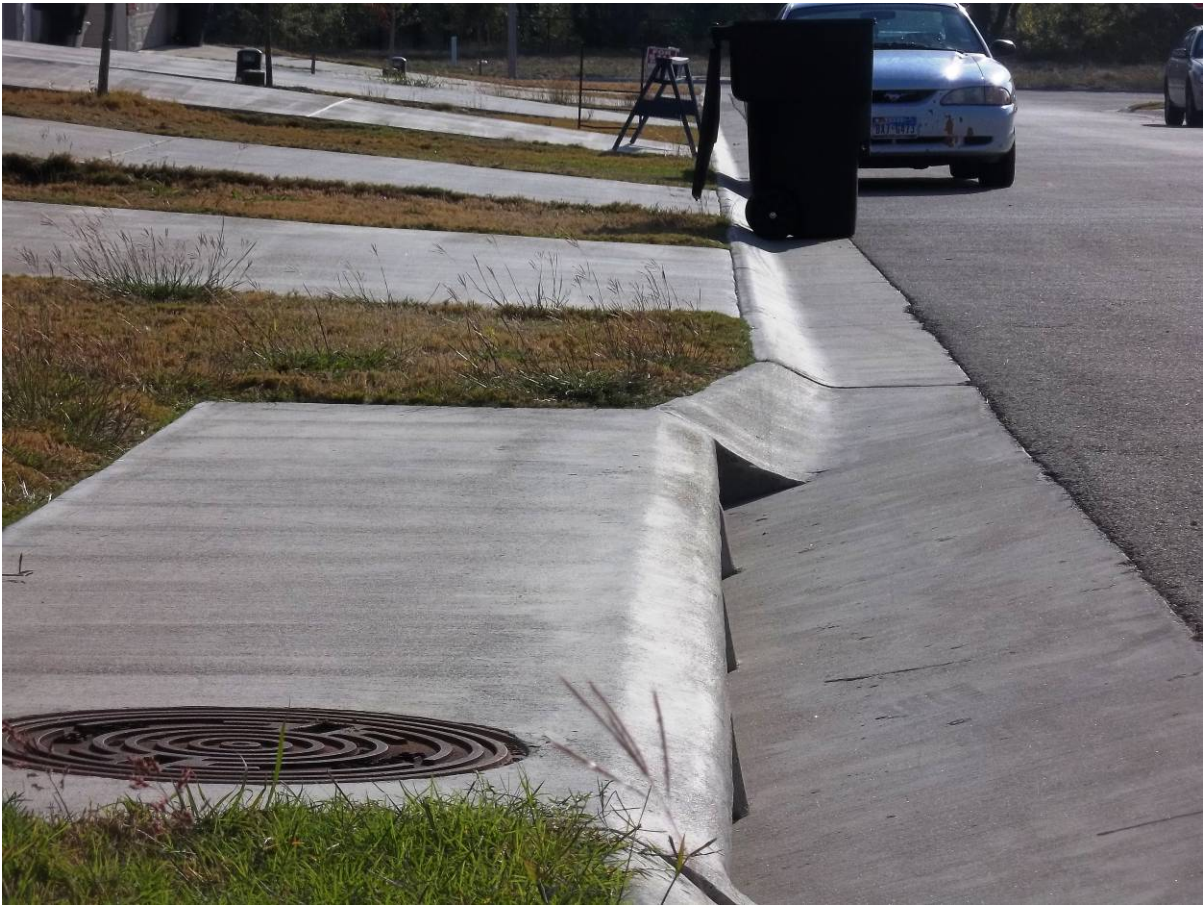
**BACKGROUND:** The Development Review Committee reviewed the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village on October 26, 2011. It was deemed administratively complete on October 31, 2011.

The Second Amended Preliminary Plat of Heritage Place and Heritage Place Village is an amendment to City Council's previously approved Preliminary Plat of Heritage Place, Phases III through VI (Ordinance 2008-5363-R). The subdivision consists of 212 single-family lots on 37.9 acres. The development is located along the south side of West Nugent Avenue, across from Eberhardt Road. The property is zoned Single-Family Three (SF3).

This plat includes Phases IV, V, and VI, and the developer requests the same exceptions granted by City Council in 2008 for the previous Preliminary Plat. The Final Plats of the previous three phases have all been approved and built with the developer's requested mountable curbs and reduced 28-foot street widths. The developer's requested exceptions will allow consistency with the previously approved and built phases of this established development. The photos below show the street and curb of the built phases of the development.









The developer wants to dedicate and develop a 1.763-acre Park & Nature Trail in Common Area "D" of the plat in lieu of paying the normally required \$47,700 in park fees for the development. The proposal was previously approved by City Council in 2008 (Ordinance 2008-5363-R). Trail improvements for Phases III and VI shall be installed prior to the recordation of the Final Plat of Phase VI. The Trails Master Plan classifies this section of trail as a Community-Wide Connector, which requires a minimum trail width of 8 feet.

The developer has submitted a sidewalk waiver letter to the Director of Community Services for the required 6-foot wide sidewalk required along West Nugent Avenue, a minor arterial.

**ATTACHMENTS:**

[Developer's Letter of Exception](#)  
[Nugent Sidewalk Waiver Letter](#)  
[Development Plan](#)  
[Plat](#)



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

[ZONING NO. P-FY-12-04]

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE SECOND AMENDED PRELIMINARY PLAT OF HERITAGE PLACE AND HERITAGE PLACE VILLAGE, A 212-LOT RESIDENTIAL SUBDIVISION ON APPROXIMATELY 37.868 ACRES, LOCATED SOUTH OF WEST NUGENT AVENUE, WEST OF BIRD CREEK AND EAST OF HERITAGE PLACE, PHASE II, WITH DEVELOPER REQUESTED EXCEPTIONS TO THE UNIFIED DEVELOPMENT CODE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

---

**Whereas**, on November 7, 2011, the Planning and Zoning Commission approved the Second Amended Preliminary Plat of Heritage Place and Heritage Place Village, a 212-lot residential subdivision on approximately 37.868 acres located south of West Nugent Avenue, west of Bird Creek and east of Heritage Place, Phase II with developer-requested exceptions to Unified Development Code Sections 8.2.1.C, 8.2.1.K and 8.3 related to reduced street width, installation of mountable curbs and reduced park land dedication; and

**Whereas**, the City Council has considered the matter and deems it in the public interest to approve the second amended preliminary plat of Heritage Place and Heritage Place Village.

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

**Part 1:** The City Council approves the second amended preliminary plat of Heritage Place and Heritage Place Village a 212-lot residential subdivision on approximately 37.868 acres located south of west Nugent Avenue, west of Bird Creek and east of Heritage Place, Phase II, more fully shown on the Plat which is on file in the City's Planning Department and incorporated herein and referred to by reference , and including the following exceptions to the Unified Development Code: Section 8.2.1.C related to reduced street width; Section 8.2.1.K related to installation of mountable curbs; and Section 8.3 related to reduced parkland dedication.

**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 **1<sup>st</sup>** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

---

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

---

Lacy Borgeson  
City Secretary

---

Jonathan Graham  
City Attorney