



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, DECEMBER 15, 2011

2:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, December 15, 2011.
2. Discuss the Capital Improvement Plan as related to transportation projects.
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 Manager. No final action will be taken.

5:00 P.M.

MUNICIPAL BUILDING

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

TEMPLE CITY COUNCIL

REGULAR MEETING AGENDA

I. CALL TO ORDER

1. Invocation
2. Pledge of Allegiance

II. PUBLIC COMMENTS

3. Receive comments from [Mr. Lascelles G. McCarthy, II](#) regarding safety for businesses in neighborhood.

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

4. Presentation by Jon Burrows, Bell County Judge, and Sharon Long, Tax Assessor/Collector, of [Child Safety Funds](#) collected in the amount of \$72,830.81.

IV. PUBLIC COMMENTS

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

V. CONSENT AGENDA

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

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

Contracts, Leases & Bid

- (A) [2011-6501-R](#): Consider adopting a resolution authorizing an annual construction contract with K&S Backhoe Services, Inc. of Gatesville for water line repairs necessary on an as-needed basis to maintain the water system in various locations throughout the City in an estimated amount of \$596,079.
- (B) [2011-6502-R](#): Consider adopting a resolution authorizing a construction contract with Environmental Improvements, Inc. for the replacement of two traveling bar screens at the conventional raw water intake in the Leon River in the amount of \$423,284.
- (C) [2011-6503-R](#): Consider adopting a resolution authorizing a construction contract with APAC Texas, Inc. of Belton for milling and resurfacing Avenue H:
 - 1. A construction contract in the amount of \$342,909.74 for milling and resurfacing Avenue H beginning at South 1st Street and ending at South 25th Street; and
 - 2. A deductive change order in the amount of \$147,179.75 that reduces the scope of services in the base bid making the revised contract value \$195,729.99.
- (D) [2011-6504-R](#): Consider adopting a resolution authorizing an inter-local agreement with the City of Leander to allow them to utilize the City of Temple's oil and lubricant annual purchase agreement with Brazos Valley Lubricants.
- (E) [2011-6505-R](#): Consider adopting a resolution authorizing the purchase of two playground units and surfacing from The PlayWell Group, Inc. of Dallas, utilizing a BuyBoard cooperative contract in the amount of \$33,792.29.
- (F) [2011-6506-R](#): S-FY-12-02: Consider adopting a resolution granting a street use license for a proposed shed with an encroachment of 5 feet into the 10-foot wide utility easement along the rear property line of Lot 6, Block 3, Woodbridge Creek Phase II, located at 3403 Whispering Oaks.
- (G) [2011-6507-R](#): Consider adopting a resolution authorizing a farm lease with Ray Davis for approximately 170 acres at Pegasus Drive and Moores Mill Road.
- (H) [2011-6508-R](#): Consider adopting a resolution authorizing a five (5) year lease agreement with Craig Caddell, Central Texas Flight Training, Inc., for the rental of a hangar for the purpose of operating a flight training and aircraft rental service business at the Draughton-Miller Central Texas Regional Airport.

Ordinances – First Reading

- (I) [2011-4497](#): FIRST READING – Z-FY-12-16: Consider adopting an ordinance authorizing a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on a 13.57-acre tract of land situated in the Baldwin Robertson League Survey, Abstract 17, located along the east side of North Pea Ridge Road, and south of Stonehollow Drive.

Ordinances – Second & Final Reading

- (J) [2011-4493](#): SECOND READING - 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.
- (K) [2011-4494](#): SECOND READING: Consider adopting an ordinance establishing a school zone and setting speed limits within the school zone around St. Mary's Catholic School.
- (L) [2011-4495](#): SECOND READING - Z-FY-12-15: Consider adopting an ordinance re-naming Belmont Drive in Heritage Place Phase III to Frontier Drive.
- (M) [2001-4496](#): SECOND READING: 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.

Misc.

- (N) [2011-6509-R](#): Consider adopting a resolution amending the City's local preference policy to be applicable for construction services contracts in an amount of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000, to reflect what is allowed by current legislation.
- (O) [2011-6510-R](#): Consider adopting a resolution accepting the 2010-2011 Risk Management Annual Report.
- (P) [2011-6511-R](#): Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone No. 1 for fiscal year 2010-2011.
- (Q) [2011-6512-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

VI. REGULAR AGENDA

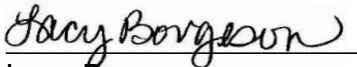
ORDINANCES

- 6. [2011-4498](#): FIRST READING – PUBLIC HEARING - Z-FY-12-01: Consider adopting an ordinance authorizing an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 3: Future Land Use and Character Plan Map, Figure 3.1.
- 7. [2011-4499](#): FIRST READING – PUBLIC HEARING - Z-FY-12-05(A): Consider adopting an ordinance authorizing amendments to Articles 5, 6 and 11 of the Unified Development Code to add "Recreational Vehicle Park" as a Conditional Use in the use tables and to establish a definition related to such addition.

8. [2011-4500](#): FIRST READING – PUBLIC HEARING - Z-FY-12-06: Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Urban Estates (UE) on 11.759 acres in the George W. Lindsey survey, Abstract No. 513, Bell County, TX, located North of FM 2305 and North of Inverness Drive.
9. [2011-4501](#): FIRST READING – PUBLIC HEARING - Z-FY-12-07: Consider adopting an ordinance authorizing a rezoning from Agriculture (AG) to Single Family One (SF1) on 19.065 acres in Abstract 513, located on the southeast corner of Morgan's Point Road and Bonnie Lane.
10. [2011-4502](#): FIRST READING – PUBLIC HEARING - Z-FY-12-08: Consider adopting an ordinance authorizing an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 5: Transportation Plan Map, Figure 5.2, to designate the existing and future Westfield Boulevard from West Adams Avenue to State Highway 36 as an arterial road and to reclassify North Pea Ridge Road from West Adams Avenue to State Highway 36 from a minor arterial to a collector road.
11. [2011-4503](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance designating a tract of land consisting of approximately 4.91 acres and described as Lot 5, Block 1, Friendship Plaza Subdivision, located at 5434 205 Loop, as City of Temple Tax Abatement Reinvestment Zone Number Twenty-Three for commercial/industrial tax abatement.
12. [2011-4504](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance designating the Martin Luther King, Jr. Strategic Investment Zone as Tax Abatement Reinvestment Zone Number Twenty-Four for Commercial/Industrial Tax Abatement and authorizing a number of other SIZ economic development incentives for property redevelopment and amending the City's Comprehensive Economic Development Ordinance to reflect those changes.

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 2:00 PM, on December 9, 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

12/15/11
Item #3
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Receive comments from Mr. Lascelles G. McCarthy, II regarding safety for businesses in neighborhood.

STAFF RECOMMENDATION: Receive comments as presented in item description.

ITEM SUMMARY: Lascelles G. McCarthy, II filed a Request for Placement on the City Council Agenda, please see attached form.

FISCAL IMPACT: None

ATTACHMENTS:

[Request for placement on agenda](#)

RECEIVED

DEC 09 2011

CITY OF TEMPLE, TX
CITY SECRETARY

CITY OF TEMPLE, TEXAS

CITY COUNCIL MEETINGS

REQUEST FOR PLACEMENT ON AGENDA

____ Priority

NAME OF PRESENTER:

Lascelles G McCarthy II & REPRESENTATIVE MEMBERS

ADDRESS: 2708 Exchange Pl Exchange Plaza

TELEPHONE NO. 254 771-5425

DATE REQUESTED TO APPEAR BEFORE THE COUNCIL: (Note – The City Council meets the first and third Thursdays of each month.) THURSDAY December 15, 2011

SUBJECT TO BE PRESENTED: (Your description must identify the subject matter of your appearance in sufficient detail to alert the public what topic you will discuss and what action you are requesting by the Council.) _____

I would like to address the Gambling Company in my neighborhood call Temple Sweepstakes my concern is safety for the business & their customers. I would like the council to move or shut them down

Note: Separate requests must be completed for each subject presented.

I, the above identified presenter, have read the procedures for public appearances before the City Council of the City of Temple, Texas, and will abide by these procedures.


SIGNATURE OF PRESENTER

12-9-11
DATE

For Office Use:



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #4
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Presentation by Jon Burrows, Bell County Judge, and Sharon Long, Tax Assessor/Collector, of Child Safety Funds collected in the amount of \$72,830.81.

STAFF RECOMMENDATION: Accept presentation as presented in item description.

ITEM SUMMARY: Presentation by Bell County Judge Jon Burrows and Sharon Long, Tax Assessor/Collector of child safety funds for the period October 1, 2010 through September 30, 2011 in the amount of \$72,830.81.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #5(A)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Director of Public Works
Thomas Brown, Superintendent of Utility Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing an annual construction contract with K&S Backhoe Services, Inc. of Gatesville for water line repairs necessary on an as-needed basis to maintain the water system in various locations throughout the City in an estimated amount of \$596,079.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Due to recent extreme heat, ground shifting, age of water system and increase in pumping to meet potable water demands, the Public Works Utility Services Division has repaired nearly 400 water leaks since June of 2011. Leaks occurring throughout the water distribution system over the past 6 months have occurred at a rate of nearly twice that of other years. Numerous leaks continue to occur with significant disruption to the distribution system, potentially posing health and safety implications to the community if not repaired in a timely manner. To maintain customer satisfaction and keep the system functional, it is critical that additional resources be targeted toward addressing the problem.

After a thorough review of historical water distribution system performance, existing resources, and anticipated future system operations, an invitation to bid was advertised for repair of water lines utilizing eight (8) scenarios, as follows:

- Water line repair behind curb less than 5' below grade
- Water line repair behind curb more than 5' below grade
- Water line repair in a street less than 5' below grade
- Water line in a street curb more than 5' below grade
- Water line repair under driveways less than 5' below grade
- Water line repair under driveways more than 5' below grade
- Water line repair in alley less than 5' below grade
- Water line repair in alley more than 5' below grade

Quantities for each type of repair for bidding purposes were estimated, based upon recent historical system performance across the utility.

Under the contract, the City will provide the pipe & fittings, bedding (sand & rock), and select backfill. The contractor will be providing all labor, equipment, tools, asphalt, concrete, soil and sod necessary to make the repairs.

As shown on the attached bid tabulation, on November 22, 2011, the City received four (4) sealed bids for an annual contract to repair water lines, as needed and directed by City staff. After careful review of the bids, City staff recommends the contract be awarded to K&S Backhoe Services, Inc. of Gatesville. The City has done business with K&S Backhoe Services, Inc. and has found them to be a responsible vendor.

The invitation to bid specified that there would be a primary and secondary contract awarded in the event that the primary contractor was unable to fulfill the workload. Based on the significant price variation between the K&S and the second lowest bidder, it is staff's recommendation not to award a secondary contract.

This contract will commence upon execution of the construction contract and end on September 30, 2012. The contract will have the option for four (4) one year renewals if so agreed to by the City and K&S.

On November 22, 2011, the City received four (4) sealed bids for an annual contract to repair water lines, as needed and directed by City staff. After careful review of the bids, City staff recommends the contract be awarded to K&S Backhoe Services, Inc. of Gatesville. The City has done business with K&S Backhoe Services, Inc. and has found them to be a responsible vendor. This contract will have to option for annual renewal.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$596,079 of Water & Sewer Unreserved Retained Earnings to account #520-5900-535-2327. Funds will be used on an as-needed basis.

ATTACHMENTS:

[Bid tabulation](#)

[Budget adjustment](#)

[Resolution](#)

Tabulation of Bids Received
on November 22, 2011 at 2:00 p.m.
Water Line Repairs Necessary to Maintain Water System
Bid #52-01-12

		Bidders							
		Patin Construction LLC Taylor		K&S Backhoe Service Gatesville		Bell Contractors Inc. Belton		TTG Utilities LP Gatesville	
Description	Qty	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price	Unit Price	Total Price
Water line repair behind curbless than 5' below grade	130	\$2,150.00	\$279,500.00	\$595.90	\$77,467.00	\$2,100.00	\$273,000.00	\$2,500.00	\$325,000.00
Water line repair behind curbmore than 5' below grade	40	\$2,350.00	\$94,000.00	\$784.70	\$31,388.00	\$2,600.00	\$104,000.00	\$3,000.00	\$120,000.00
Water line repair in a streetless than 5' below grade	100	\$2,700.00	\$270,000.00	\$1,200.00	\$120,000.00	\$2,400.00	\$240,000.00	\$3,300.00	\$330,000.00
Water line repair in a street curbmore than 5' below grade	60	\$2,900.00	\$174,000.00	\$1,300.00	\$78,000.00	\$3,300.00	\$198,000.00	\$3,800.00	\$228,000.00
Water line repair under drivewayless than 5' below grade	20	4,850.00	\$97,000.00	2,961.80	\$59,236.00	3,000.00	\$60,000.00	3,550.00	\$71,000.00
Water line repair under drivewaymore than 5' below grade	20	5,050.00	\$101,000.00	3,050.00	\$61,000.00	3,500.00	\$70,000.00	4,030.00	\$80,600.00
Water line repair in alleyless than 5' below grade	140	2,500.00	\$350,000.00	814.20	\$113,988.00	2,600.00	\$364,000.00	2,350.00	\$329,000.00
Water line repair in alleymore than 5' below grade	50	2,700.00	\$135,000.00	1,100.00	\$55,000.00	3,300.00	\$165,000.00	2,830.00	\$141,500.00
Total Bid Price Based on Estimated Quantities		1,500,500.00		596,079.00		1,474,000.00		1,625,100.00	
Acknowledge Addendum		Yes		Yes		Yes		No	
Exceptions		None		None		None		None	
Insurance Affidavit		Yes		Yes		Yes		Yes	
Bond Affidavit		Yes		Yes		Yes		Yes	
Credit Check Authorization		Yes		Yes		Yes		Yes	

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

Belinda Mattke

Belinda Mattke, Director of Purchasing

22-Nov-11

Date

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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE
520-5900-535-23-27		Water Main Repairs	\$ 596,079		
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings			596,079
		Do Not Post			
TOTAL.....			\$ 596,079		\$ 596,079

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

To fund an annual construction contract with K&S Backhoe Services, Inc for water line repairs necessary to maintain the water system in various locations throughout the City. The repairs will be done on an as-needed basis.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

December 15, 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 AN ANNUAL CONSTRUCTION CONTRACT WITH K&S BACKHOE SERVICES, INC., OF GATESVILLE, TEXAS, FOR WATER LINE REPAIRS NECESSARY ON AN AS-NEEDED BASIS TO MAINTAIN THE WATER SYSTEM IN VARIOUS LOCATIONS THROUGHOUT THE CITY, IN THE ESTIMATED AMOUNT OF \$596,079; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, due to extreme heat, ground shifting, age of water system and increased pumping to meet potable water system demands, the Public Works Utility Services Division has repaired nearly 400 water leaks since June, 2011 – leaks occurring throughout the water distribution system over the past six months, have occurred at a rate of twice that of other years;

Whereas, after receiving 4 sealed bids for an annual contract to repair water lines, the Staff recommends the contract be awarded to K&S Backhoe Services, Inc., of Gatesville, Texas;

Whereas, these services will be used on an as-needed basis with an approximate annual expenditure in the estimated amount of \$596,079;

Whereas, funds are budgeted for this expenditure in Account No. 520-5900-535-2327, but a budget amendment 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 an annual construction contract with K&S Backhoe Services, Inc., of Gatesville, Texas, after approval as to form by the City Attorney, for water line repairs on an as-needed basis, with an approximate annual expenditure in the estimated amount of \$596,079.

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 15th 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

12/15/11
Item #5(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

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

Johnnie Reisner, Superintendent of Water Production Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with Environmental Improvements, Inc. for the replacement of two traveling bar screens at the conventional raw water intake in the Leon River in the amount of \$423,284.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Raw water pumps, located on the banks of the Leon River, are protected by a series of traveling bar screens designed to remove debris sucked into the channel by the pumps. These units are a vital component of the treatment process, keeping debris from entering the pump chamber and protecting the pumps from damage that would occur if the screens were not functioning in place properly.

Earlier this fall, one of the traveling bar screens on the conventional intake failed. Various attempts to troubleshoot and repair the unit have proven to be unsuccessful, so a sole source quote for replacement of the 30+ year unit from Environmental Improvements, Inc., was solicited. Replacement of any bar screen unit other than a Siemens unit (manufacturer and make of existing equipment) would require modifications of both the intake structure and stream channel. Therefore, procurement of a Siemens bar screen through their authorized representative, Environmental Improvements, is the necessary course of action to address the impending issue.

Due to the age and condition of the adjacent traveling bar screen (also on the conventional intake), it is staff's recommendation to proceed with replacement of both bar screens at this time. Replacement of the units will ensure that raw water pumps will remain protected and that water will continue to be moved from the Leon River up to the water treatment plant for processing.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$423,284 of Water & Sewer Unreserved Retained Earnings to #520-5122-535-6310, project #100840 to fund the purchase of the replacement traveling bar screens.

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.

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE	DECREASE
520-5122-535-63-10	100840	Buildings & Grounds-Traveling Bar Screens	\$ 423,284	
520-0000-373-04-11		Water & Sewer Unreserved Ret Earnings		423,284
		Do Not Post		
TOTAL.....			\$ 423,284	\$ 423,284

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

This budget adjustment appropriates Water & Sewer Unreserved Retained Earnings for a construction contract with Environmental Improvements, Inc. for the replacement of two traveling bar screens at the conventional raw water intake in the Leon River.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

December 15, 2011

WITH AGENDA ITEM?

☒

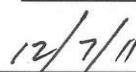
Yes

☐

No



Department Head/Division Director



Date

☒

Approved

☐

Disapproved

Finance

Date

☐

Approved

☐

Disapproved

City Manager

Date

☐

Approved

☐

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH ENVIRONMENTAL IMPROVEMENTS, INC., OF BUDA, TEXAS, TO REPLACE TWO TRAVELING BAR SCREENS AT THE CONVENTIONAL RAW WATER INTAKE IN THE LEON RIVER, IN THE AMOUNT OF \$423,284; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, raw water pumps, located on the banks of the Leon River, are protected by a series of traveling bar screens designated to remove debris sucked into the channel by the pumps – these units are a vital component of the treatment process;

Whereas, earlier this fall, one of the traveling bar screens on the conventional intake failed – and various attempts to troubleshoot and repair the unit have proven to be unsuccessful;

Whereas, the Staff recommends accepting a sole source quote for replacement of both bar screens from Environmental Improvements, Inc., of Buda, Texas, in the amount of \$423,284 for this project;

Whereas, funding is available for this project but a budget amendment needs to be approved to transfer the funds to the appropriate expenditure account; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a construction contract in the amount of \$423,284, between the City of Temple, Texas, and Environmental Improvements, Inc., of Buda, Texas, after approval as to form by the City Attorney, to replace two traveling bar screens at the conventional raw water intake in the Leon River.

Part 2: The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached hereto 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 **15th** day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #5(C)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, PE, Director of Public Works
Kenny Henderson, Superintendent of Streets & Drainage Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing a construction contract with APAC Texas, Inc. of Belton for milling and resurfacing Avenue H:

1. A construction contract in the amount of \$342,909.74 for milling and resurfacing Avenue H beginning at South 1st Street and ending at South 25th Street; and
2. A deductive change order in the amount of \$147,179.75 that reduces the scope of services in the base bid making the revised contract value \$195,729.99.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On October 25, 2011, the City received one (1) bid for the CDBG Avenue H Milling and Resurfacing Project. The bidder was APAC Texas, Inc. The bid is shown on the attached tabulation.

In order to accomplish the above project within the defined budget for this project, a deductive change order in the amount of \$150,455.75 for quantity adjustments is recommended that will reduce the distance of the project to begin at South 1st Street and end at South 25th Street to begin at South 1st Street and end at Jones Park (approximately 200 feet west of South 21st Street). In addition, tack oil is recommended in the place of seal coating. The additional cost for the tack oil is \$3,276.

Staff is pleased with the services performed by APAC Texas on previous projects. APAC Texas has agreed to the proposed deductive change order in the amount of \$147,179.75.

FISCAL IMPACT: \$199,815.59 of Community Development Block Grant (CDBG) funds is available in account 260-6100-571-6317 project #100735, Streets and Alleys

ATTACHMENTS:

[Bid Tabulation](#)
[Change Order #1](#)
[Resolution](#)

Tabulation of Bids Received
on October 25, 2011 at 2:00 p.m.
CDBG Avenue H Milling & Resurfacing
Bid #61-05-11

Bidders						
APAC Texas, Inc Belton						
Description	UM	Bid Qty	Unit Price	Total Price	Revised Qty - Change Order #1	Total Proposed Revised Contract
Furnish and install all materials, labor, overhead, and profit required for:						
Milling	SY	28267	\$1.77	\$50,032.59	27,517	\$48,705.09
Seal Coating	SY	28267	\$2.85	\$80,560.95	0	\$0.00
Overlay	TON	3150	\$62.35	\$196,402.50	2,100	\$130,935.00
4" Yellow Striping	LF	7140	\$0.58	\$4,141.20	6,700	\$3,886.00
4" White Striping	LF	2650	\$0.63	\$1,669.50	1,730	\$1,089.90
24" White Striping	LF	550	\$6.50	\$3,575.00	220	\$1,430.00
White Arrow	EA	1	\$120.00	\$120.00	0	\$0.00
Provide Mobilization, Bonds, Permits, & Insurance	LS	1	\$6,408.00	\$6,408.00	1	\$6,408.00
Addition of Tack Oil					1	\$3,276.00
TOTAL				\$342,909.74		\$195,729.99
Bid Bond					5%	
Bond Affidavit					Yes	
Insurance Affidavit					Yes	
Credit Check Authorization					Yes	

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

Belinda Mattke

Belinda Mattke, Director of Purchasing

25-Oct-11

Date

Recommended for Council award

Plan holders:

APAC Wheeler, Belton, TX
J.D. Ramming Paving, Austin, TX
D.I.J. Construction, Belton, TX

CHANGE ORDER

PROJECT: CDBG Avenue H Milling and Resurfacing

OWNER: City of Temple, Texas

CONTRACTOR: APAC Texas, Inc

ENGINEER: N/A

CHANGE ORDER #: One (1)

Make the following additions, modifications or deletions to the work described in the Contract Documents:

- Reduce distance that project will cover. Original scope would begin at South 1st Street and end at South 25th Street. Revised scope will begin at South 1st Street and end at Jones Park (approximately South 21st Street)

- Replace seal coating process with the application of tack oil.

See attached bid tabulation that reflects line item changes.

DEDUCTIVE CHANGE ORDER AMOUNT: (\$147,179.75)

The compensation agreed upon in this Change Order is full, complete and final payment for all costs the Contractor may incur as a result of or relating to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay (for which only revised time is available), extended overhead, ripple or impact cost, or any other effect on changed or unchanged work as a result of this Change Order.

Original Contract Amount	\$ 342,909.74
Previous Net Change in Contract Amount	\$ 0.00
Net Change in Contract Amount	\$ (147,179.75)
Revised Contract Amount	\$ 195,729.99
Original Contract Time	60 days
Previous Net Change in Contract Time	0 days
Net Change in Contract Time	0 days
Revised Contract Time	60 days
Original Final Completion Date:	to be defined in NTP
Revised Final Completion Date:	

Recommended by:

Approved by Finance Dept:

Nicole Torralva, Director of Public Works

Finance Department

Approved by:

Approved as to form:

APAC-Texas, Inc.-Wheeler Co Div

City Attorney's Office

Approved by City of Temple:

David Blackburn, City Manager

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONSTRUCTION CONTRACT WITH APAC TEXAS, INC., OF BELTON, TEXAS, FOR MILLING AND RESURFACING OF AVENUE H, IN THE AMOUNT OF \$342,909.74; AUTHORIZING A DEDUCTIVE CHANGE ORDER IN THE AMOUNT OF \$147,179.75 THAT REDUCES THE SCOPE OF SERVICES IN THE BASE BID, FOR A TOTAL REVISED CONTRACT VALUE OF \$195,729.99; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on October 25, 2011, the City received 1 bid for the CDBG Avenue H Milling and Resurfacing Project from APAC Texas, Inc., of Belton, Texas;

Whereas, the Staff recommends accepting the bid of \$342,909.74, and also recommends approving a deductive change order in the amount of \$147,179.75, to reduce the scope of services in the base bid, for a total revised contract value of \$195,729.99;

Whereas, Community Development Block Grant (CDGB) funds are available for this project in Account No. 260-6100-571-6317, Project No. 100735; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a contract, in the amount of \$ 342,909.74, between the City of Temple and APAC Texas, Inc., of Belton, Texas, after approval as to form by the City Attorney, for milling and resurfacing of Avenue H, beginning at South 1st Street and ending at South 25th Street.

Part 2: The City Council authorizes a deductive change order in the amount of \$147,179.75, substantially in the form of the copy attached as Exhibit A, that reduces the scope of services in the base bid, for a total revised contract value for this project of **\$195,729.99**, 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 **15th** 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

12/15/11
Item #5(D)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing an inter-local agreement with the City of Leander to allow them to utilize the City of Temple's oil and lubricant annual purchase agreement with Brazos Valley Lubricants.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The Council authorized an oil and lubricant annual purchase agreement with Brazos Valley Lubricants of Bryan, Texas, on September 18, 2008. Council authorized a renewal to this contract for FY2012 on September 1, 2011. The contract has one 1-year renewal remaining for FY2013 if it is deemed acceptable by the City and Brazos Valley Lubricants.

The City of Leander desires to piggyback onto this annual purchase agreement, and Brazos Valley Lubricants has agreed to extend the City of Temple's terms and conditions to the City of Leander. The ability to do this is made possible through use of an inter-local agreement. The use of the inter-local agreement for these purchases facilitates a cooperative attitude among municipalities. We can help other entities and also receive the benefit of such reciprocities when available.

Staff recommends Council authorize the inter-local agreement in order to facilitate purchases of oil and lubricants for the City of Leander. The City of Leander will be responsible for the ordering and payment of their purchases.

FISCAL IMPACT: None

ATTACHMENTS:

[Inter-local Agreement
Resolution](#)

IN THE COUNTY OF BELL §

STATE OF TEXAS

§
§

INTER-LOCAL COOPERATION AGREEMENT

WHEREAS, the parties to this agreement believe that it is in the best interest of the public to improve the efficiency and effectiveness of local governments by authorizing the fullest possible range of intergovernmental contracting authority at the local level including contracts between counties and other political subdivisions as permitted by the Government Code §791.011;

WHEREAS, the CITY OF LEANDER believes that it is in the best interest of the CITY OF LEANDER to utilize an existing CITY OF TEMPLE annual contract for the purchase of oil and lubricants; and

WHEREAS, BRAZOS VALLEY LUBRICANTS of Bryan, Texas, has agreed to extend terms and pricing per the CITY OF TEMPLE'S annual contract for the purchase of oil and lubricants to the CITY OF LEANDER;

THEREFORE BE IT RESOLVED AND AGREED THAT the CITY OF LEANDER, TEXAS, and the CITY OF TEMPLE, TEXAS, who are parties to this agreement, enter into a contract for the purposes as set out in the next paragraph.

PURPOSE

Allow the City of Leander to purchase oil and lubricants from Brazos Valley Lubricants in accordance with the terms and pricing of the attached Invitation to Bid No. 38-02-09 dated September 4, 2008.

TERM

This agreement shall be for a term beginning from the date of execution by both parties through September 30, 2012, and it shall be renewable for one additional year if so agreed by both cities. Either party may terminate this agreement for any reason with thirty (30) days written notice to the other party.

MODIFICATION

This agreement constitutes the entire agreement between the parties and it may be modified only by mutual consent of the parties and changes become effective when stated in writing, approved by the governing bodies of the parties and executed by the authorized representatives of The City of Leander and The City of Temple.

EXECUTION

This agreement, having been approved by the City of Leander and the City of Temple becomes effective on the date below and both parties bind themselves to this agreement as evidenced by the authorized signatures below.

Signed and executed this 15th day of December, 2011.

CITY OF TEMPLE, TEXAS

David A. Blackburn, City Manager

Lacy Borgeson, City Secretary

Approved as to form:
Jonathan Graham, City Attorney

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF LEANDER, ALLOWING THEM TO UTILIZE THE CITY OF TEMPLE'S OIL AND LUBRICANT ANNUAL PURCHASE AGREEMENT WITH BRAZOS VALLEY LUBRICANTS; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City Council authorized an oil and lubricant annual purchase agreement with Brazos Valley Lubricants of Bryan, Texas, on September 18, 2008;

Whereas, on September 1, 2011, Council authorized a renewal to this contract for FY2012 – the contract has a 1-year renewal remaining for FY2013 and the City of Leander desires to piggyback onto this annual purchase agreement and Brazos Valley Lubricants has agreed to extend the City of Temple's terms and conditions to the City of Leander;

Whereas, the Staff recommends entering into an interlocal agreement in order to facilitate purchases of oil and lubricants for the City of Leander – the City of Leander will be responsible for the ordering and payment of their 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 Manager, or his designee, is authorized to execute an Interlocal Agreement authorizing the City of Leander to utilize the City of Temple's annual contract with Brazos Valley Lubricants of Bryan, Texas, for the purchase of oil and lubricants.

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 **15th** 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

12/15/11
Item #5(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Ken Cicora, Parks and Leisure Services Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of two playground units and surfacing from The PlayWell Group, Inc. of Dallas, utilizing a BuyBoard cooperative contract in the amount of \$33,792.29.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This project will result in the replacement of two existing playground units and the related fall safe surfacing, at Little Bluestem Park and at the Marvin Fenn Recreation Area.

The play units will be purchased from The PlayWell Group. These units were chosen after comparisons were made with several other playground companies based on design, quality, and the amount of play for the price. The prices from each company were very similar however, The PlayWell Group's design provide more play events for the price.

The existing play units will be removed, and the new units installed by Parks staff at both locations, and will utilize the existing retaining walls for the fall safe surfacing.

The purchase of these playground units will be through the use of a BuyBoard cooperative contract.

FISCAL IMPACT: The total cost for the playground unit located at Marvin Fenn Recreation Area is \$ 15,991.98 and is available in account #110-5935-552-6310, project #100764.

The total cost for the playground unit located at Little Bluestem Park is \$ 17,800.31. Funds in the amount of \$14,679 are available in account 110-5935-552-6310 and 110-3500-552-6332, project #100616. A budget adjustment is presented for Council's approval appropriating accumulated interest from park dedication fees in the amount of \$3,122 to fund the remaining balance needed to fund the purchase

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	
110-0000-461-08-30		Park Developer Fees	\$ 3,122			
110-3500-552-63-32	100616	Park Dev Fee Exp-Little Bluestem Park	3,122			
TOTAL.....			\$ 6,244		\$ -	

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

Appropriate accumulated interest from park dedication fees to partially fund new playground equipment and surfacing at Little Bluestem Park from The PlayWell Group, inc utilizing the BuyBoard cooperative contract. The total cost for the playground equipment is \$17,800.31. \$14,679 is available in accounts 110-5935-552-6310 {\$14,008} and 110-3500-552-6332 {\$671}, project 100616.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

☒

Yes

☐

No

DATE OF COUNCIL MEETING

December 15, 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 PLAYGROUND UNITS AND FALL SAFE SURFACING FROM THE PLAYWELL GROUP, INC., OF DALLAS, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE, IN THE AMOUNT OF \$33,792.29; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, this project will result in the replacement of two existing playground units and the related fall safe surfacing at Little Bluestem Park and at Marvin Fenn Recreation Area;

Whereas, the play units were chosen after comparisons were made with several other playground companies based on design, quality and the amount of play events for the price;

Whereas, Staff recommends purchasing two playground units and fall safe surfacing from The PlayWell Group, Inc., of Dallas Texas, using the BuyBoard local government online purchasing cooperative in the amount of \$33,792.29;

Whereas, funds are budgeted for this purchase but an amendment to the FY2011-12 budget needs to be approved to transfer the funds 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 of two playground units and fall safe surfacing from The PlayWell Group, Inc., of Dallas, Texas, through the BuyBoard local government online purchasing cooperative system, in the amount of \$33,792.29.

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: The City Council approves an amendment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, 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 15th day of **December**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORADUM

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Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: S-FY-12-02: Consider adopting a resolution granting a street use license for a proposed moveable shed with an encroachment of 5 feet into the 10-foot wide utility easement along the rear property line of Lot 6, Block 3, Woodbridge Creek Phase II, located at 3403 Whispering Oaks.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The applicant, Mark Erskine, requests this street use license to allow an 8'x10' shed on skids with an encroachment of 5 feet into the 10-foot wide utility easement included above in the item description. The proposed encroachment is the result of maintaining a separation distance of 10 feet from the existing house, as required by UDC Section 5.5.2 for detached accessory structures. The proposed shed will be wood framed with an exterior covering of hardi-plank material and a composite dimensional shingle roof to match the house.

Staff notified all utility providers, including the City of Temple Public Works Department, regarding the applicants' requested street use license. There are no objections to the request.

FISCAL IMPACT: Street use licenses require a \$150 fee for a 15-year term.

ATTACHMENTS:

[Exhibit
Resolution](#)

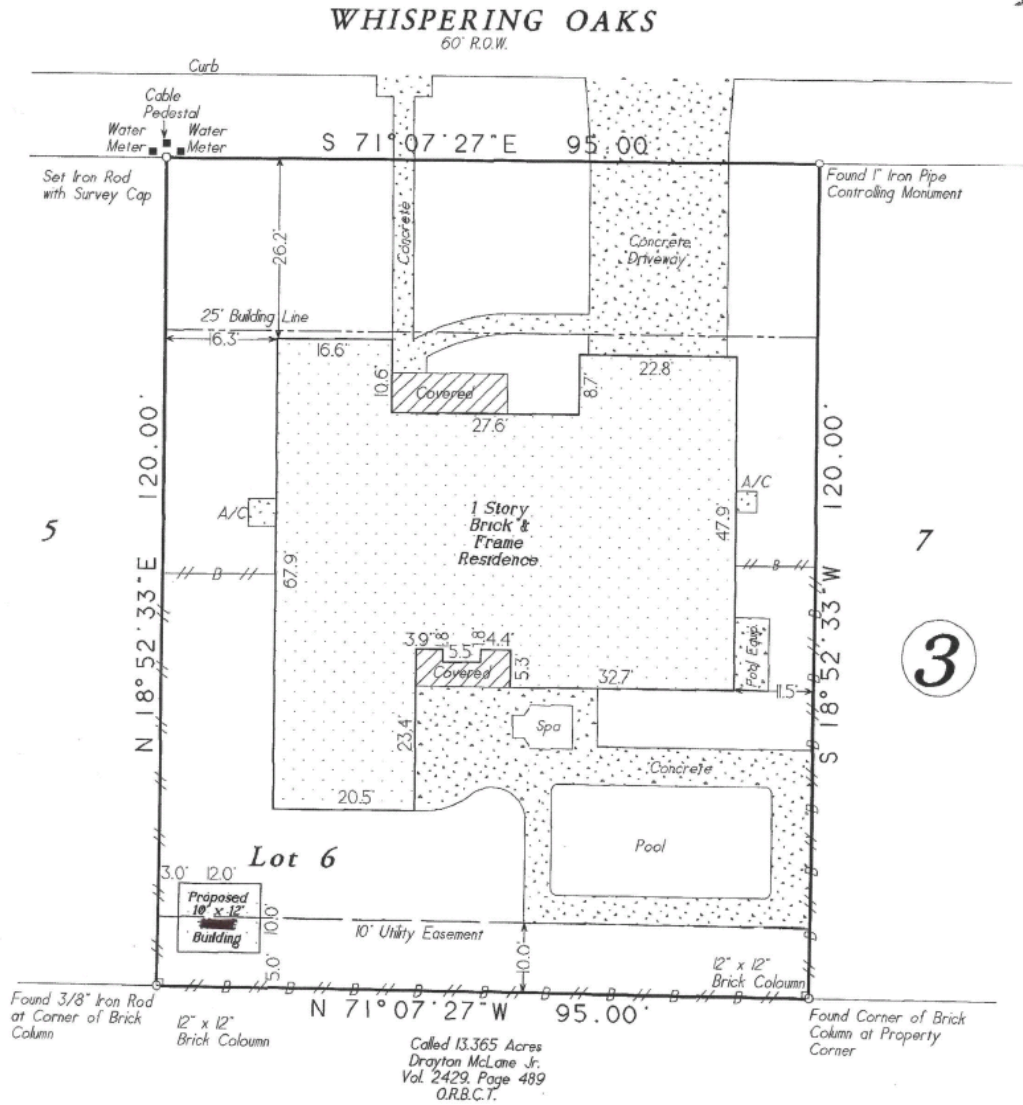
Exhibit A

- Notes:
 1. Basis of bearings: Recorded Plat.
 2. Easements and building lines as shown are per the recorded plat.
 3. Survey performed without the benefit of a title report and may be subject to easements and/or restrictions not shown.

--//--//-- Wood Fence
 --//B--// Wood Fence with Brick Columns

This property lies within ZONE 'X' as SCALED from FEMA Map Panel Number 48027C0335-E, dated September 26, 2008.

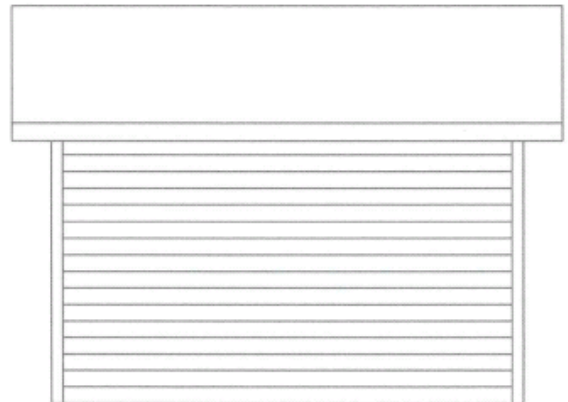
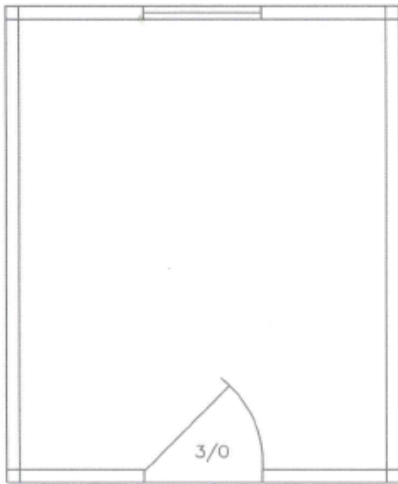
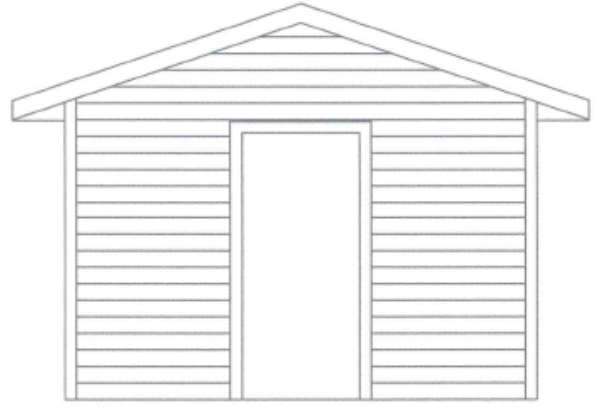
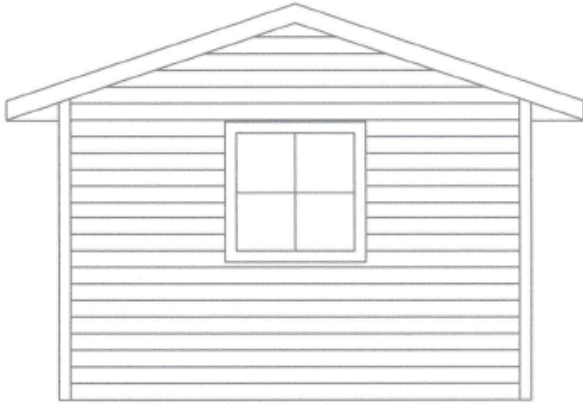
This determination is made strictly according to the FEMA Maps and does not reflect actual on ground flood conditions. Furthermore, this company takes no responsibility for such.



Lot Six (6), in Block Three (3), of WOODBRIDGE CREEK PHASE II, a 16.834 acre subdivision in Temple, Bell County, Texas, as recorded in Cabinet A, Slide 384-B, of the Plat Records of Bell County, Texas.

Date: October 27, 2011	GF No. n/a		Certified To: Mark and Kathy Erskine
Job No: 11-0331	Scale: 1" = 20'		Client: Mark and Kathy Erskine
Address: 3403 Whispering Oaks	Drawn By: SC		
City, State: Temple, Texas	Zip: 76504		Rev: 0
C & C Surveying, Inc. 7424 F.M. 1488, Suite A, Magnolia, Texas 77354 Office: 281-259-4377 Metro: 281-356-5172 Fax: 281-356-1935			I HEREBY CERTIFY THIS SURVEY WAS MADE ON THE GROUND, AND THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF SURVEY AND THAT THIS PROFESSIONAL SERVICE CONFORMS TO THE TEXAS SOCIETY OF PROFESSIONAL SURVEYORS STANDARDS AND SPECIFICATIONS FOR A CATEGORY 1A, CONDITION III SURVEY, AND THAT THERE ARE NO ENCUMBRANCES EXCEPT AS SHOWN. Steven L. Crews R.P.L.S. # 4141

Exhibit B



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING A STREET USE LICENSE TO MARK ERSKINE, OR ANY SUCCESSORS IN INTEREST, TO OCCUPY, MAINTAIN AND UTILIZE PROPERTY AT 3403 WHISPERING OAKS, FOR AN ENCROACHMENT OF 5 FEET INTO THE 10 FOOT WIDE UTILITY EASEMENT ALONG THE REAR PROPERTY LINE OF LOT 6, BLOCK 3, WOODBRIDGE CREEK PHASE II, FOR A PROPOSED 8 FOOT X 10 FOOT SHED; PROVIDING FOR THE TERMS AND CONDITIONS OF THIS LICENSE; PROVIDING FOR COMPENSATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, a Street Use License has been requested for property located at 3403 Whispering Oaks to allow for a 5 foot encroachment into the 10 foot wide utility easement to allow the for a 8 foot x 10 foot shed on skids;

Whereas, Staff has notified all utility providers, including the City of Temple Public Works Department regarding the applicant's request, and Staff recommends approval of the requested street use license; and

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

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

Part 1: A Street Use License is granted to **Mark Erskine**, or any successors in interest, hereinafter, "Licensee," to occupy, maintain, and utilize property at 3403 Whispering Oaks, to allow a 5 foot encroachment into the 10 foot wide utility easement along the rear property line of Lot 6, Block 3, Woodbridge Creek Phase II, for a proposed shed on skids, more fully shown on Exhibit "A," attached hereto and made a part hereof for all purposes. This Street Use License is approved in accordance with the following terms and conditions:

I. Term

This license is granted for a term of fifteen (15) years unless sooner terminated according to the terms and conditions herein contained. At the end of the fifteen year period, the owner may request an extension or renewal of the license.

II. Fee

Licensee shall pay to the City of Temple, Texas, the sum of One Hundred Fifty Dollars (\$150) for the fifteen (15) year term for the license herein granted upon the execution by Licensee and approval by the City of the agreement.

III. Purpose

The above-described property shall be used by the Licensee to utilize property at 3403 Whispering Oaks, to allow a 5 foot encroachment into the 10 foot wide utility easement along the rear property line of Lot 6, Block 3, Woodbridge Creek Phase II, for a proposed shed.

IV. Conditions of License

That the above-described license is granted subject to the following conditions, terms, and reservations:

(a) **Maintenance of Encroachment Area.**

(1) Licensee shall maintain the encroachment area at all times in a neat, attractive, and orderly manner. A sufficient area of the public street, right-of-way, alley, sidewalk, or other public property shall remain open after the encroachment, unobstructed and preserved for pedestrian or vehicular traffic (including access for impaired or handicapped persons), as appropriate. No other permanent structure, building, or enclosure shall be installed within the public right-of-way. Licensee shall at all times allow access to utilities and trash receptacles located within the encroachment area.

(2) Licensee shall restore the encroachment area to its original condition at the end of the license period, unless renewed or extended, or in the event that this license is terminated by the City as provided herein. If Licensee fails to maintain the encroachment area as provided herein, or fails to restore the encroachment area when the license is expired or terminated, the City may cause such work to be done, the costs of which shall be born by Licensee.

(3) In the event that City requests removal of the encroachment or any other physical improvement in the area of the license, Licensee shall remove said improvement at his own expense within thirty (30) days of notice thereof. In the event that Licensee fails to remove the improvements within the required thirty day period, the City reserves the right to remove the improvements, and Licensee agrees to reimburse the City for the expense of removing said improvements, and Licensee further agrees to hold the City harmless for any and all claims arising out of the removal of improvements or maintenance of the encroachment area. City shall not be required to restore the improvements, which shall be the sole responsibility of Licensee.

(b) **Right of Cancellation.**

(1) This license is made subordinate to the right of the City to use said area for a public purpose, and in addition to any other reservations made herein, it is understood and agreed that should the City of Temple deem it in the public interest to use the above area, or any portion thereof for a public purpose, or for any utility service which will require the use of said area, then in that event, the City shall give the Licensee thirty (30) days written notice of its intention to cancel this license. Licensee shall likewise have the same right of cancellation upon giving the City thirty (30) days written notice of its intention to cancel.

In either event, upon the termination or cancellation by the City or Licensee, as the case may be, this license shall become null and void, and Licensee or anyone claiming any rights under this instrument shall remove any improvements from said area at Licensee's expense. Failure to do so shall subject Licensee to the provisions of subsection (a)(2) above. All work shall be done at the sole cost of the Licensee and to the satisfaction of the Director of Public Works. The decision of the City Council in this matter shall be final and binding upon all parties insofar as the City's determination as to the public necessity of the use of said area for public use.

(c) **Compliance with Laws.** This license is subject to all State and Federal laws, the provisions of the Charter of the City of Temple as it now exists or as it may hereafter be adopted or amended, and the ordinances of the City of Temple now in effect or those which may hereafter be passed and adopted. The City of Temple shall have the right to increase or decrease the compensation to be charged for this license upon its renewal or extension.

(d) **Hold Harmless.**

(1) As a condition hereof, Licensee agrees and is bound to hold the City whole and harmless against any and all claims for damages, costs, and expenses, to persons or property that may arise out of or be occasioned by the use, occupancy and maintenance of the above-described public property by Licensee, or from any act or omission of any representative, agent, customer, or employee of Licensee, and such indemnity provision shall also cover any personal injury or damage suffered to City property, City employees, agents or officers. This license shall also cover any claim for damages that any utility, whether publicly or privately owned, may sustain or receive by reason of Licensee's use of said license for Licensee's improvements and equipment located thereon.

(2) Licensee shall never make any claim of any kind or character against the City of Temple for damages that it may suffer by reason of the installation, construction, reconstruction, operation, and/or maintenance of any public improvement or utility, whether presently in place or which may in the future be constructed or installed, including but not limited to, any water and/or sanitary sewer mains, and/or storm sewer facilities, and whether such damage is due to flooding, infiltration, natural causes or from any other cause of whatsoever kind or nature.

(3) It is the intention of this indemnity agreement on the part of the Licensee and a condition of this license, that it shall be a full and total indemnity against any kind or character or claim whatsoever that may be asserted against the City of Temple by reason or a

consequence of having granted permission to Licensee to use and maintain the above described public property. Licensee hereby agrees to defend any and all suits, claims, or causes of action brought against the City of Temple on account of same, and discharge any judgment or judgments that may be rendered against the City of Temple in connection herewith.

V. Acceptance by Licensee

Licensee may accept the provisions of this license by signing through its duly authorized officer as indicated below within thirty (30) days after this license shall have become fully effective. In the event said acceptance is not signed as provided for herein, then this license shall be of no further effect and shall be considered as having been canceled fully.

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

PASSED AND APPROVED on the **15th** 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

STATE OF TEXAS §

COUNTY OF BELL §

This instrument was acknowledged before me on the _____ day of December, 2011, by William A. Jones, III, Mayor of the City of Temple, Texas.

Notary Public, State of Texas

AGREEMENT OF LICENSEE

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPLE,
TEXAS:

I, **Mark Erskine**, hereby accept the terms and conditions of Resolution No. _____ granting a Street Use License for property located at 3403 Whispering Oaks, to allow a 5 foot encroachment into a 10 foot wide utility easement along the rear property line of Lot 6, Block 3, Woodbridge Creek Phase II subdivision, for a proposed shed.

Mark Erskine

County of Bell §

State of Texas §

This instrument was acknowledged before me on the _____ day of _____, 2011, by Mark Erskine.

Notary Public, State of Texas



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #5(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution approving a farm lease with Ray Davis for approximately 170 acres at Pegasus Drive and Moores Mill Road.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Ray Davis is requesting a 6-month pasture lease of approximately 170 acres, located at Pegasus Drive and Moore's Mill Road. His father, Harvey Davis, leased the land for many years from the Dowell family, 6 months at a time, for \$2,800 per year.

Ray Davis would like to continue leasing the property for cattle grazing. He is also seeking renew his family's grazing lease with the owner of adjoining land at 1700 Moores Mill Road. Mr. Davis will not be cultivating crops for harvesting or grazing. He will be responsible for any fence repair needed to contain his cattle. He proposes to pay \$1,400 per 6-month term, which equates to \$16.47 per acre. The property does not have coastal or other improved grasses, or barns, or pens.

Neither the City nor TEDC foresees using the property in the near future. If a need arises, the lease may be terminated for any reason by giving the tenant 30 days' notice. The grazing lease will eliminate mowing expense.

Staff recommends approval of a 6-month lease, from January 1, 2012 to June 30, 2012, with an extension to December 31, 2012 at the tenant's option, and rent of \$1,400 per 6-month term.

FISCAL IMPACT: Compensation to City for 6-month lease will be \$1,400. If the lease is extended for an additional 6-months at the tenant's option City will receive an additional \$1,400.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FARM LEASE FOR APPROXIMATELY 170 ACRES OF CITY-OWNED LAND AT PEGASUS DRIVE AND MOORES MILL ROAD; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has had a request from Ray Davis to renew a lease for approximately 170 acres of City-owned land on Little Flock Road for grazing purposes;

Whereas, the lease term will be from January 1, 2011, through June 30, 2011, with an extension to December 31, 2011, at the tenant's option, and will provide that the City can terminate the lease with a thirty (30) day notice;

Whereas, Mr. Davis will pay \$1,400 per 6-month term, which equates to \$16.47 per acre; 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 farm lease for a 6-month term of \$1,400, between the City of Temple and Ray Davis, after approval as to form by the City Attorney, for lease of approximately 170 acres of City-owned land at Pegasus Drive and Moores Mill Road.

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

PASSED AND APPROVED this the **6th** day of **January**, 2011.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Clydette Entzminger
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #5(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Sharon Rostovich, Airport Director

ITEM DESCRIPTION: Consider adopting a resolution authorizing a five (5) year lease agreement with Craig Caddell, Central Texas Flight Training, Inc., for the rental of a hangar for the purpose of operating a flight training and aircraft rental service business at the Draughon-Miller Central Texas Regional Airport.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Tom Mullin, Wings Over Texas Aviation has decided not to exercise the option to renew the flight school lease in January 2012 and has negotiated with Craig Caddell, Central Texas Flight Training, Inc., to purchase the leasehold improvements and continue the flight school services on the Airport.

Craig Caddell plans to make improvements to the 43 year old City owned 3,640 square foot hangar. In consideration for these proposed hangar improvements, staff recommends a five year lease with five one year renewal options if business arrangements are satisfactory to the City. The rental rate would be at a reduced rate of \$500 per month as long as the minimum requirements for the flight school set forth in the lease are met.

Staff recommends approval of the lease with Craig Caddell, Central Texas Flight Training, Inc., to run through January 2017.

FISCAL IMPACT: The Airport will receive \$6,000 in hangar rent plus additional revenue from increased flight activity and fuel sales.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A FIVE YEAR LEASE AGREEMENT WITH CRAIG CADDELL, CENTRAL TEXAS FLIGHT TRAINING, INC., FOR THE RENTAL OF A HANGAR FOR THE PURPOSE OF OPERATING A FLIGHT TRAINING AND AIRCRAFT RENTAL SERVICE BUSINESS AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Tom Mullin of Wings Over Texas Aviation has decided not to exercise the option to renew the flight school lease in January, 2012 and has negotiated with Craig Caddell of Central Texas Flight Training, Inc. to purchase the leasehold improvements and continue the flight school services at Draughon-Miller Central Texas Regional Airport;

Whereas, Craig Caddell plans to make improvements to the City owned hangar and in consideration for these improvements, Staff recommends a five year lease with five one-year renewal options – rental rate would be at a reduced rate of \$500 per month as long as the minimum requirements for the flight school are met; 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 lease agreement between the City of Temple, Texas, and Craig Caddell of Central Texas Flight Training, Inc., after approval as to form by the City Attorney, for the rental of a hangar for the purpose of establishing and operating a flight training and aircraft rental services business at the Draughon-Miller Central Texas Regional Airport.

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 **15th** 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

12/15/11
Item #5(I)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – Z-FY-12-16: Consider adopting an ordinance authorizing a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on a 13.57-acre tract of land situated in the Baldwin Robertson League Survey, Abstract 17, located along the east side of North Pea Ridge Road, and south of Stonehollow Drive.

P&Z COMMISSION RECOMMENDATION: At its December 6, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of a rezoning from SF2 to SF3.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on first reading, and schedule second reading – public hearing and final adoption for January 5, 2012.

Staff recommends approval of a rezoning from AG to SF3 for the following reasons:

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-16, from the Planning and Zoning Commission meeting, December 6, 2011. The applicant, John Kiella, requests the rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) to allow the continuation of single-family residential development with 20-foot wide front yard setbacks within the applicant's Westfield Development.

In order to maintain a review schedule agreed upon between City staff and the applicant, this item is on the Consent Agenda for first reading and will be on the Regular Agenda, with a public hearing, on January 5, 2012.

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 (FLUP)	Y *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

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

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The future land use and character map designates the entire property as Auto Urban Residential. The Single-Family Three request complies with the FLUP map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates North Pea Ridge Road a proposed minor arterial; however the road is currently under review to be reclassified as a collector. Other roads that are impacted are classed as local roads. The rezoning request complies with the plan.

Availability of Public Facilities (CP Goal 4.1)

A 6- and an 8-inch water line and sewer line are available near the property. Public facilities are available for extension to the property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates property to the west as a future community-wide connector trail. It also shows a future Local Collector Trail to the north. This rezoning will not affect the Trails Master Plan as any dedication must happen at time of platting.

DEVELOPMENT REGULATIONS:

The purpose of the Single Family Three zoning district is to permit single-family detached residences at urban densities in locations well served by public utilities and roadways. This district should have adequate thoroughfare access and be relatively well connected with community and neighborhood facilities such as schools, parks and shopping areas and transit services. Typical prohibited uses include patio homes, duplexes, apartments, and nonresidential development.

SF-3, Single-Family Three	Minimum Standards
Min. Lot Area (sq. ft.)	4,000
Min. Lot Width (ft.)	40
Min. Lot Depth (ft.)	100
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	15'
Side	15' (street side) and 5' (interior)
Rear	10'

PUBLIC NOTICE:

Thirty-eight notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Tuesday, November 29, 2011, at 10 AM, 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 November 23, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

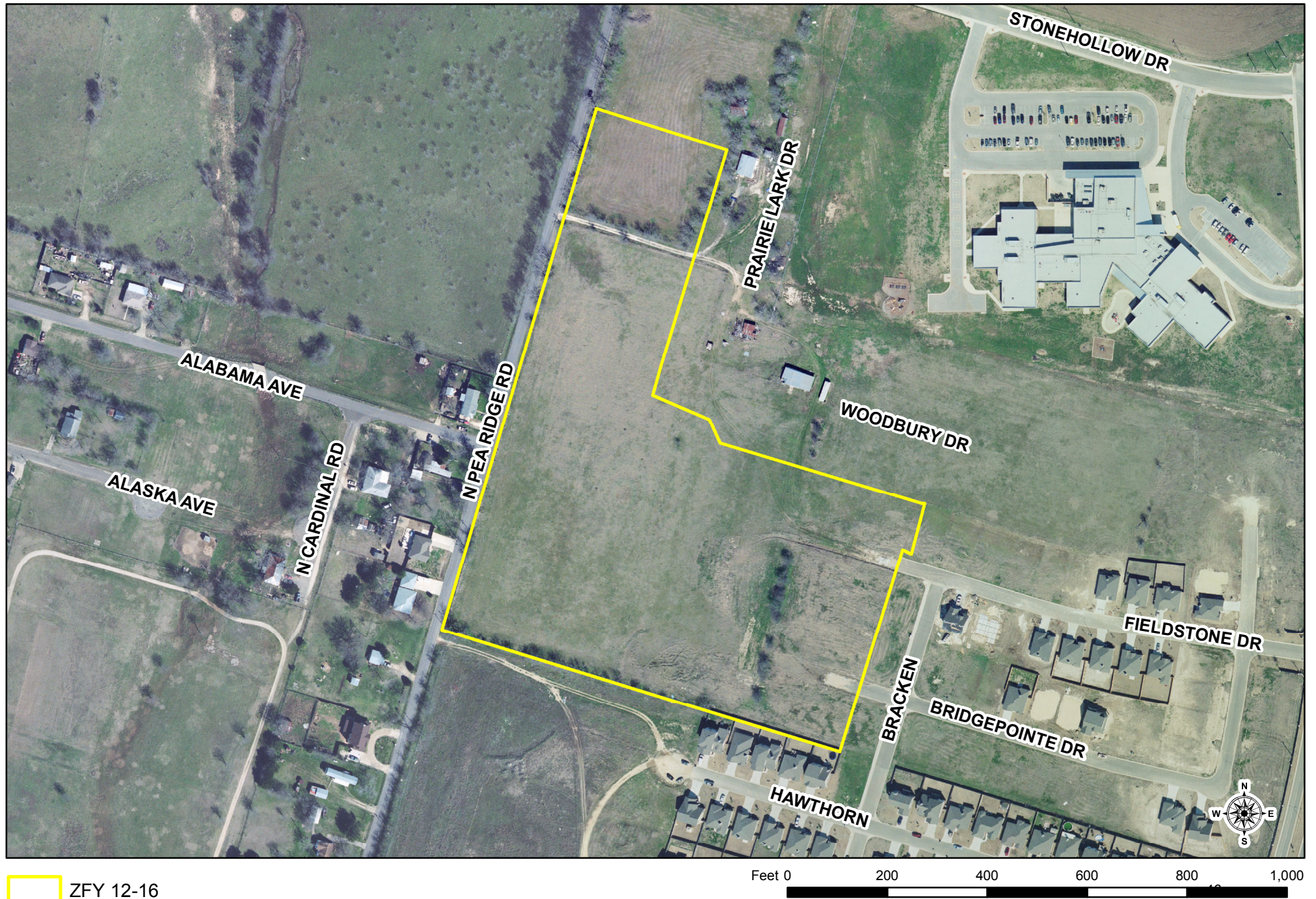
Staff recommends approval of a rezoning from SF2 to SF3 for the following reasons:

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.
4. The request would allow the continuation of 20-foot front yard setbacks already established in previous phases of the Westfield Development.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

Aerial
Future Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
Notice Map
P&Z Staff Report (Z-FY-12-16)
P&Z Minutes (12/06/11)
Ordinance



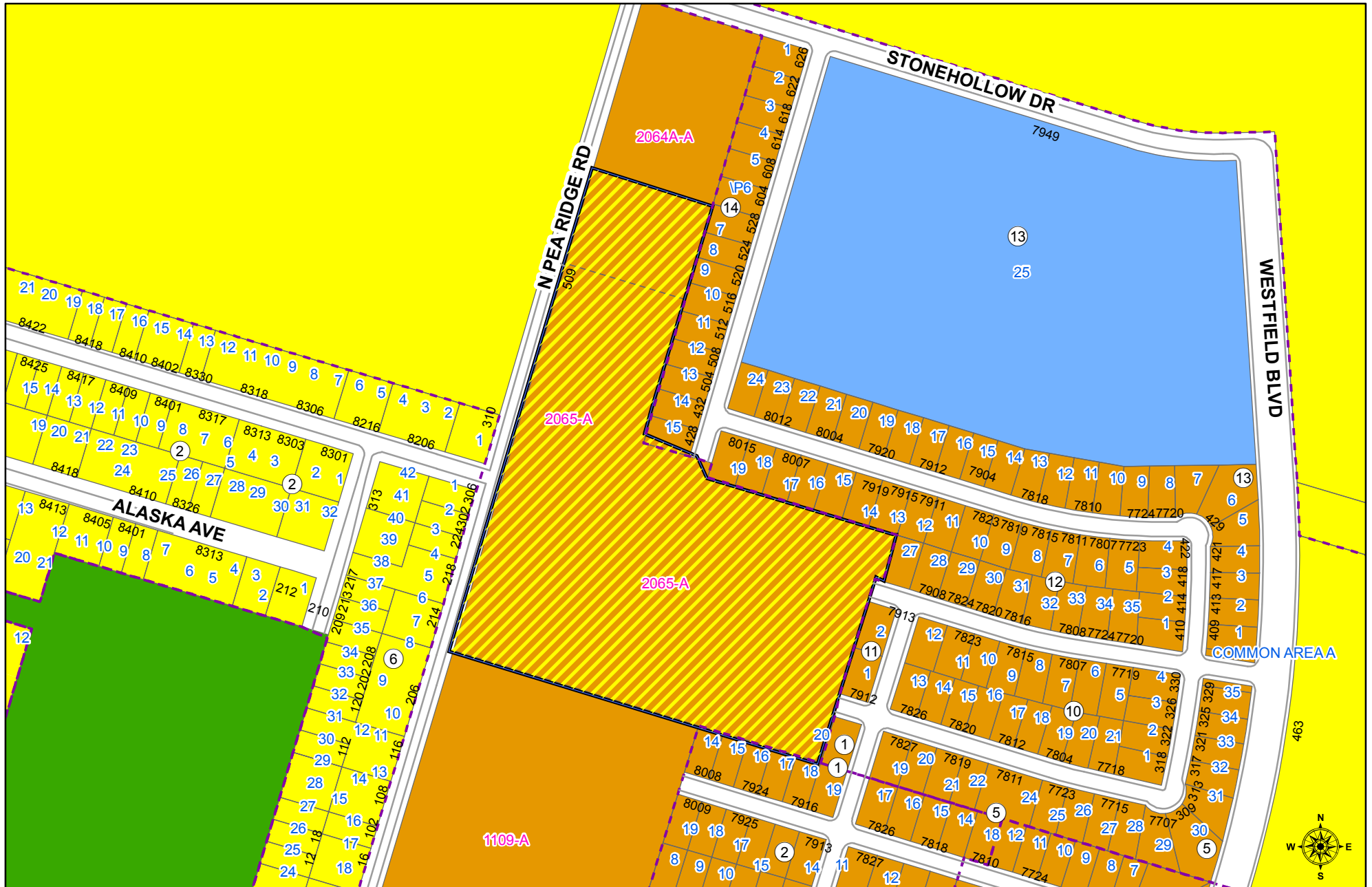
 ZFY 12-16



Z-FY-12-16

SF2 to SF3

Along Eastside of N. Pea Ridge Rd.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 12-16 | 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 = 285 feet
47

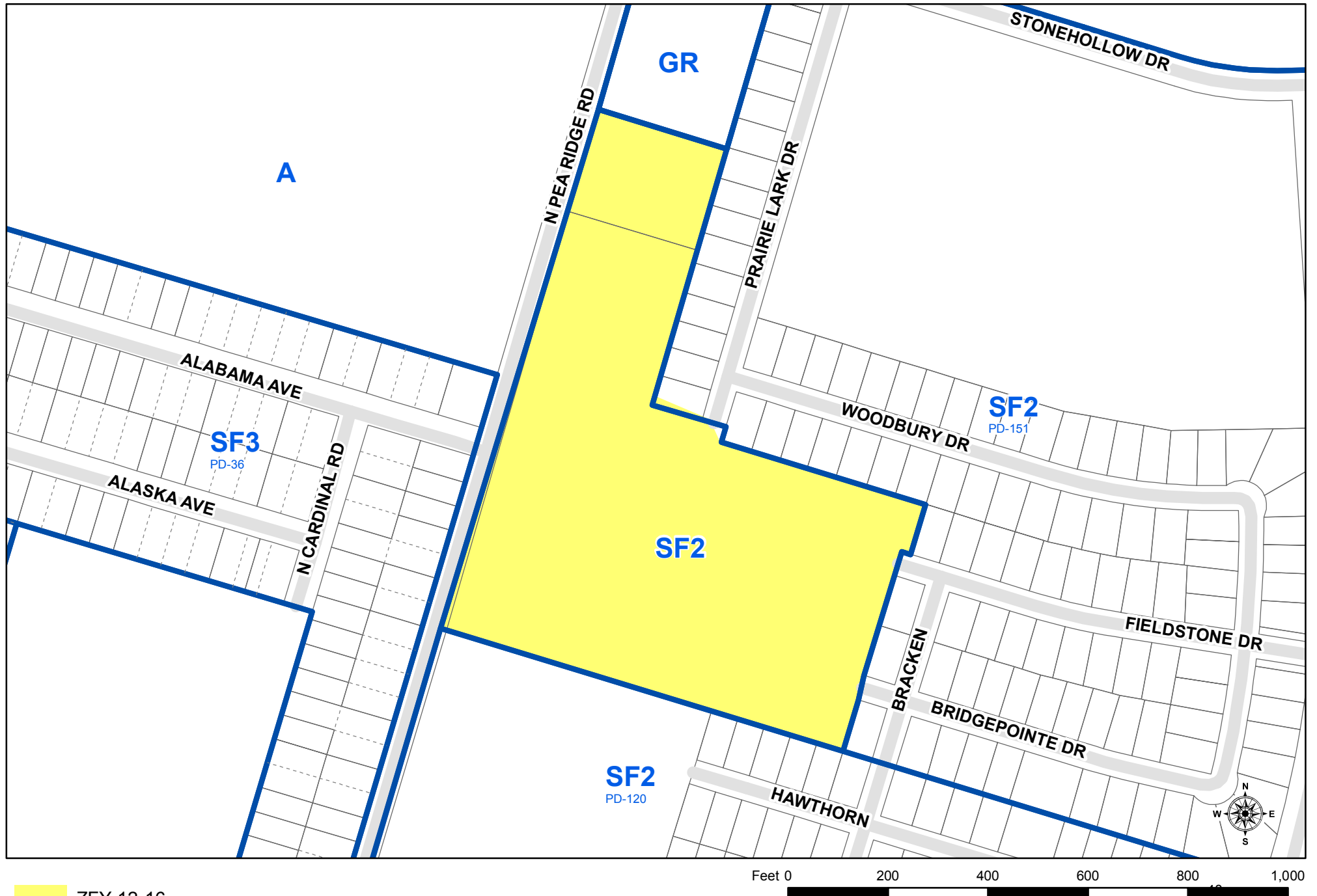
JCalhoun Planning 11.14.11



Z FY 12-16

SF2 to SF3

Along Eastside of N. Pea Ridge Rd.

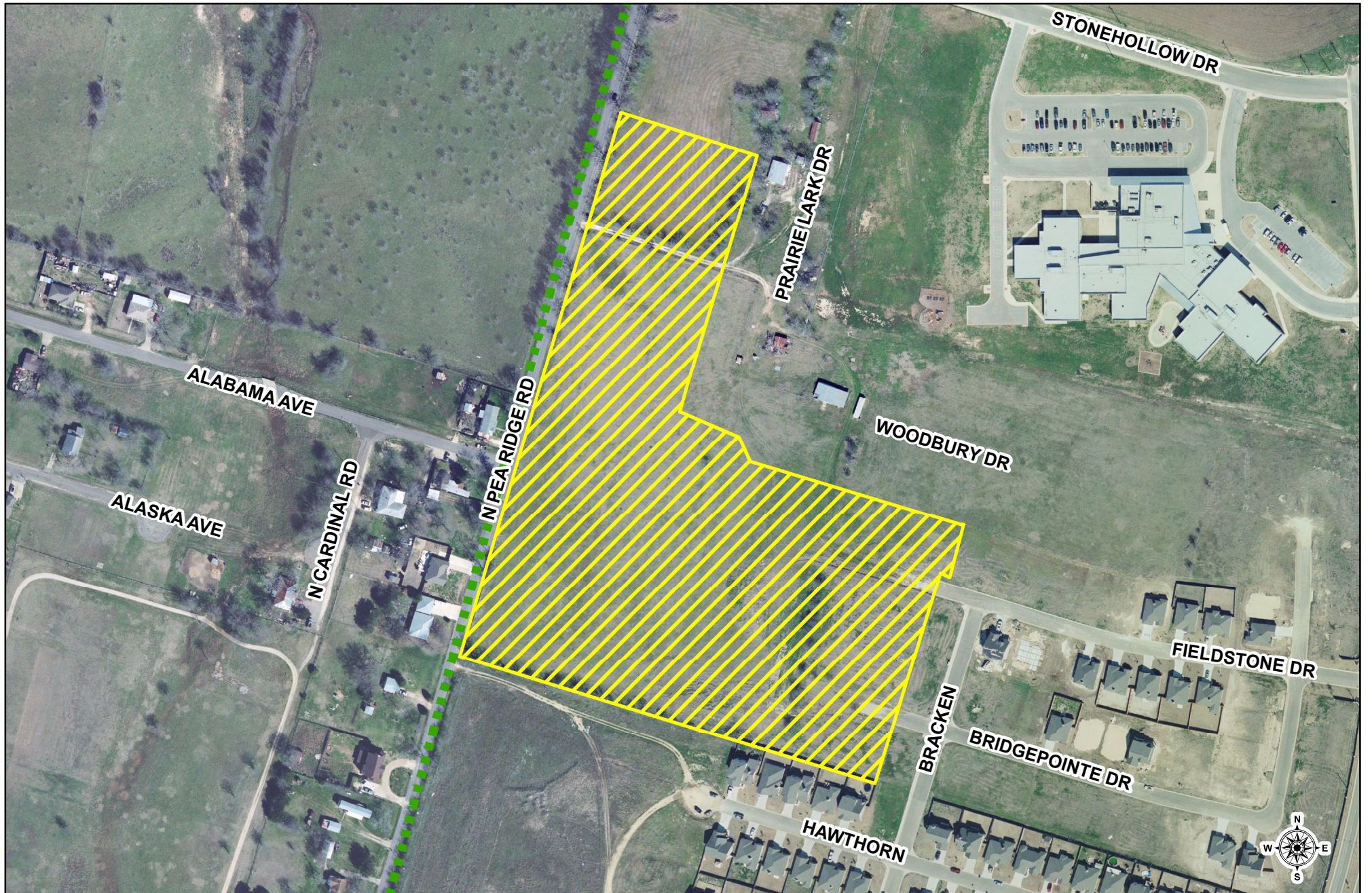




Z FY 12-16

SF2 to SF3

Along Eastside of N. Pea Ridge Rd.



ZFY 12-16



Proposed Major Arterial

Feet 0 200 400 600 800 1,000

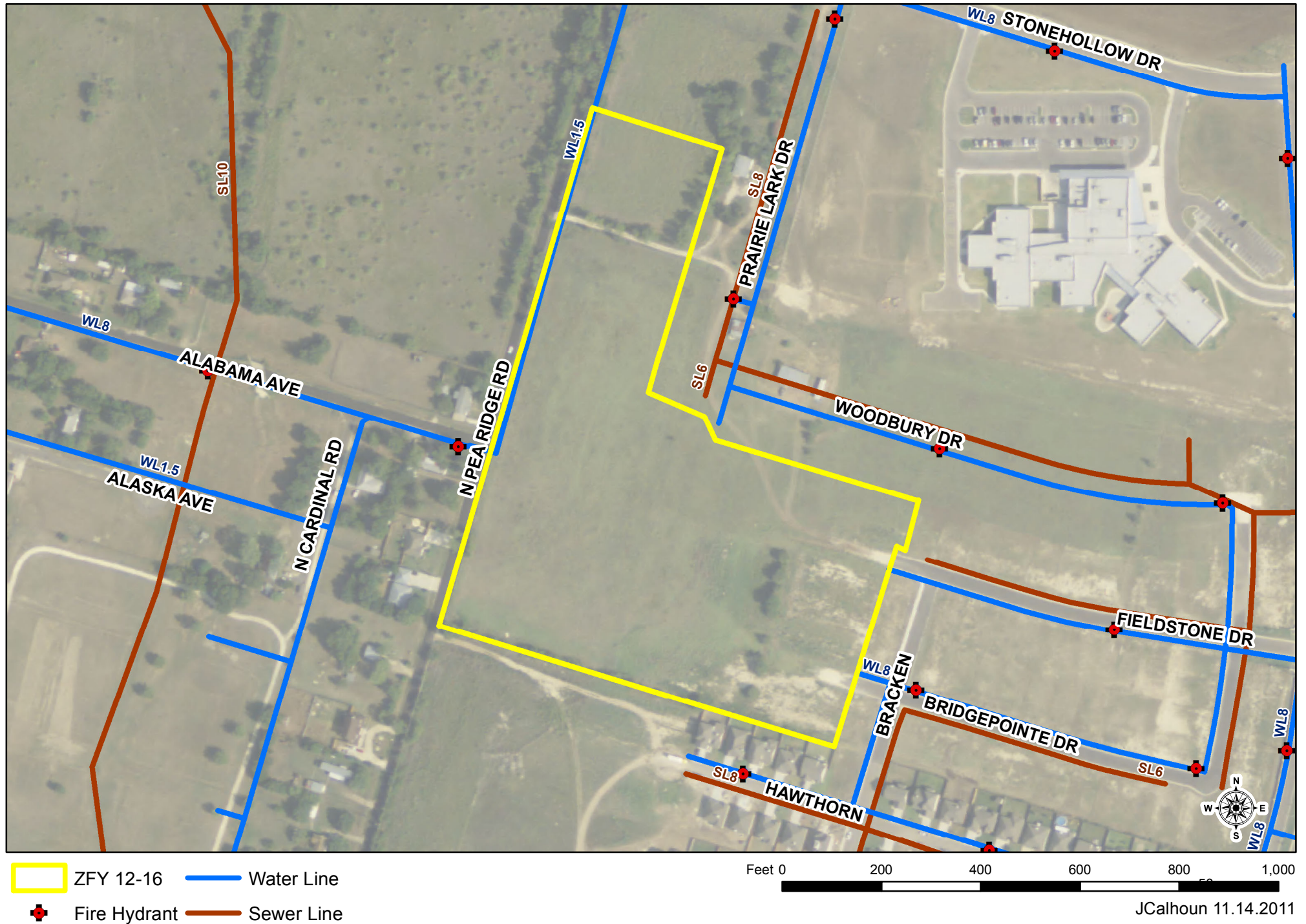
JCalhoun 11.14.2011



Z FY 12-16

SF2 to SF3

Along Eastside of N. Pea Ridge Rd.

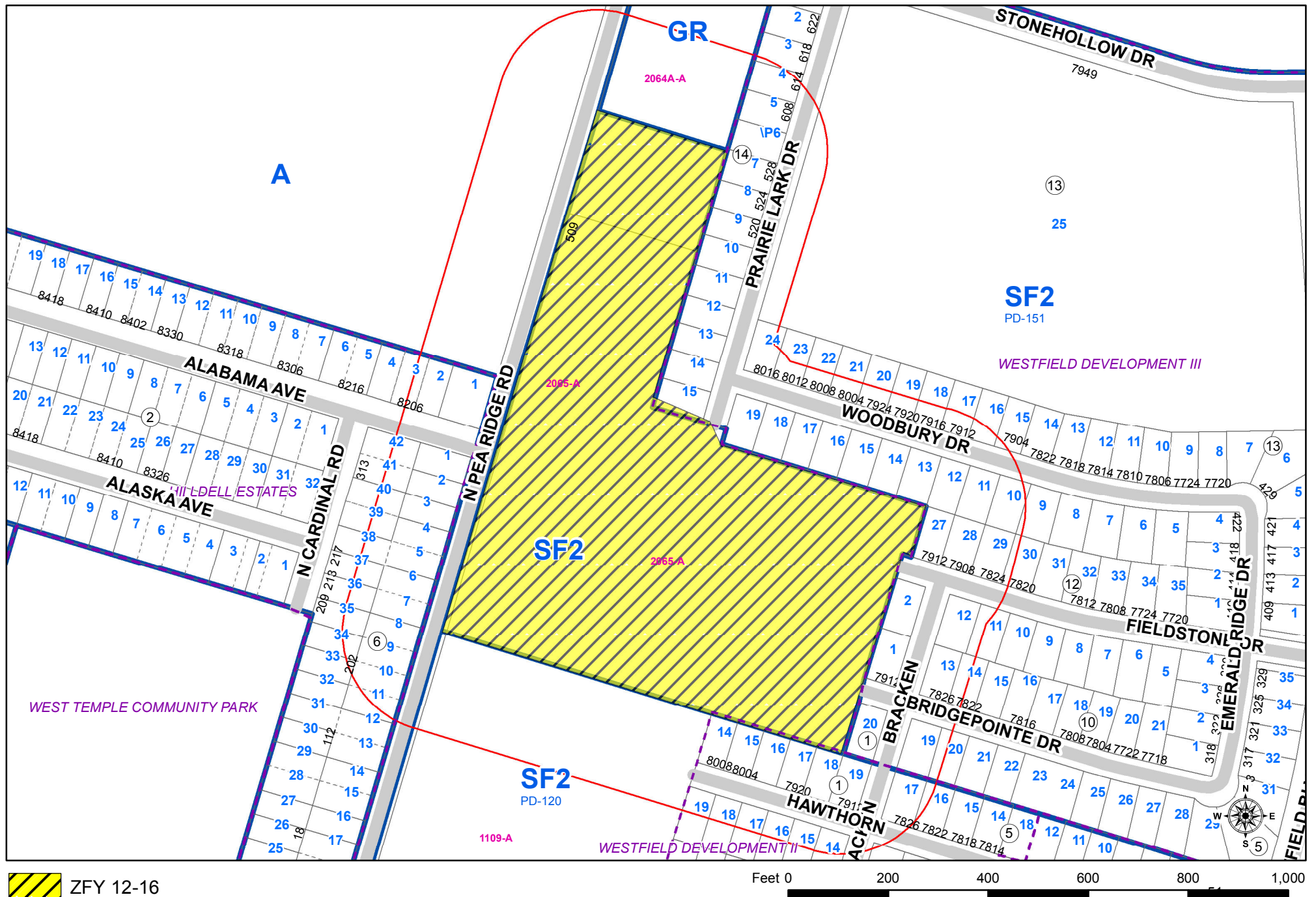




Z FY 12-16

SF2 to SF3

Along Eastside of N. Pea Ridge Rd.



 ZFY 12-16

 200 ft. Buffer

APPLICANT / DEVELOPMENT: Kiella Development

CASE MANAGER: Tammy Lyerly, Planner


ITEM DESCRIPTION: Z-FY-12-16 Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on a 13.57-acre tract of land situated in the Baldwin Robertson League Survey, Abstract 17, located along the east side of North Pea Ridge Road, and south of Stonehollow Drive.





BACKGROUND: The developer requests a rezoning from Single Family Two (SF2) to Single Family Three (SF3) to allow the continued use of 20-foot front yard setbacks for proposed single-family homes within the next phase of Westfield Development.

The applicant received approval from City Council on August 18, 2011 for a rezoning on the subject property from AG to SF2. The SF2 District requires a minimum front yard setback of 25 feet and a minimum lot are of 5,000 square feet. The requested SF3 District has a minimum front yard setback of 15 feet and a minimum Lot area of 4,000 square feet. The surrounding Planned Development Single Family Two District (PD-SF2) to the east and south allows 20-foot front yard setbacks. If developed to its maximum yield, this single-family development could consist of approximately 90 lots.

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	SF-2	Undeveloped Land	

Direction	Zoning	Current Land Use	Photo
North	GR	Undeveloped General Retail land	
South	PD-SF2	Residential Subdivision and Undeveloped Land	
East	PD-SF2	Residential Uses and School and Playgrounds	
West	AG and SF3	Single-Family Residential, Undeveloped Lots and Agricultural Land	

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 (FLUP)	Y *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y*

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

Future Land Use and Character Plan (FLUP) (CP Map 3.1)

The future land use and character map designates the entire property as Auto Urban Residential. The Comprehensive Plan states that this is the dominant development pattern of the older portions of Temple. The Single Family Three request complies with the FLUP map.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan designates North Pea Ridge Road a proposed minor arterial; however the road is currently under review to be reclassified as a collector. Other roads that are impacted are classed as local roads. The rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

A 6- and an 8-inch water line and sewer line are available near the property. Public facilities are available for extension to the property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan designates property to the west as a future community-wide connector trail. It also shows a future Local Collector Trail to the north. This rezoning will not affect the Trails Master Plan as any dedication must happen at time of platting.

DEVELOPMENT REGULATIONS:

The purpose of the Single Family Three zoning district is to permit single-family detached residences at urban densities in locations well served by public utilities and roadways. This district should have adequate thoroughfare access and be relatively well connected with community and neighborhood facilities such as schools, parks and shopping areas and transit services. Typical prohibited uses include patio homes, duplexes, apartments, and nonresidential development.

SF-3, Single-Family Three	Minimum Standards
Min. Lot Area (sq. ft.)	4,000
Min. Lot Width (ft.)	40
Min. Lot Depth (ft.)	100
Max. Height (stories)	2 ½ stories
Min. Yard (ft)	
Front	15'
Side	15' (street side) and 5' (interior)
Rear	10'

PUBLIC NOTICE:

Thirty-eight notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200-feet of the property in question, as required by State law and City Ordinance. As of Wednesday, November 30, 2011, at 2 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 November 23, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of a rezoning from SF2 to SF3 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.
4. The request would allow the continuation of 20-foot front yard setbacks already established in previous phases of the Westfield Development.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial](#)

[Land Use and Character Map](#)

[Zoning Map](#)

[Thoroughfare Plan Map](#)

[Utility Map](#)

[Notice Map](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
TUESDAY, DECEMBER 6, 2011**

ACTION ITEMS

Item 3: Z-FY-12-16 Hold a public hearing to discuss and recommend action on a rezoning from Single Family Two District (SF2) to Single Family Three District (SF3) on a 13.57-acre tract of land situated in the Baldwin Robertson League Survey, Abstract 17, located along the east side of North Pea Ridge Road, and south of Stonehollow Drive. (Applicant: Kiella Development)

[NOTE: These item minutes will not be approved by P&Z Commission until December 19, 2011 scheduled meeting.]

Ms. Tammy Lyerly, Planner, stated this case was scheduled for City Council on December 15, 2011 for first reading and January 5, 2012 for second reading.

The subject property is zoned Single Family Two (SF2) and the applicant is requesting rezoning to Single Family Three (SF3) in order to allow a shorter front yard setback. The SF2 district has a minimum 25-foot setback and the requested SF3 zoning has a minimum of 15-foot setback. Since this is a continuation of the residential development to the east, the developer would like to continue the 20 foot setback already established in the adjacent residential district. The SF3 district would allow him to do that. SF2 also has a minimum lot size of 5,000 square feet and SF3 allows a minimum of 4,000 square feet.

The subject property is located along the east edge of North Pea Ridge Road, south of Stonehollow and Westfield Development lies to the east. Surrounding zoning districts include General Retail (GR) to the north, Planned Development (PD) SF2 districts to the east and south, Agricultural (AG) to the west, and a PD SF3. Surrounding properties include undeveloped GR to the north, undeveloped residential to the east and south, and a combination of undeveloped residential and AG to the west.

The Future Land Use and Character Map designate this property as Auto-Urban Residential so the request complies.

The Thoroughfare Plan classifies North Pea Ridge Road as a minor arterial. Currently there is a Thoroughfare Plan amendment request going forward to City Council on December 15th for a change to make North Pea Ridge Road a collector and Westfield Boulevard an arterial.

There are adequate water and sewer utilities to serve the site.

Thirty-eight notices were mailed to surrounding property owners. Two responses were received back with one in favor and one opposed.

Staff recommends approval of the SF3 rezoning request since the request complies with Future Land Use and Character Map, the Thoroughfare Plan, and public facilities are available to serve the site.

Commissioner Sears asked if a preliminary plat was available, if the streets would be continuous, and if the neighborhood would be the same as the existing one. Ms. Lyerly stated the developer was currently going through the platting process and configurations are dependent on approval or denial of the rezoning request. The proposed plat will continue and be similar to the existing development.

Ms. Lyerly stated the SF2 zoning in the surrounding areas also had a PD designation. That PD allows for a 20 foot setback, however, the City no longer allows a PD strictly for a reduced front yard setback. In this case, the developer is requesting an SF3 rezoning because of the reduced front yard setback. The subject property was not part of the mentioned PD.

Chair Martin opened the public hearing.

There being no speakers, the public hearing was closed.

Commissioner Sears made a motion to approve Item 3, Z-FY-12-16, and Commissioner Rhoads made a second.

Motion passed: 6:0

Commissioner Jones absent

ORDINANCE NO. _____

[PLANNING NO. Z-FY-12-16]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM SINGLE FAMILY TWO DISTRICT (SF2) TO SINGLE FAMILY THREE DISTRICT (SF3) ON APPROXIMATELY 13.57 ACRES SITUATED IN THE BALDWIN ROBERTSON LEAGUE SURVEY, ABSTRACT 17, LOCATED ALONG THE EAST SIDE OF NORTH PEA RIDGE ROAD AND SOUTH OF STONEHOLLOW DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a zoning change from Single Family Two District (SF2) to Single Family Three District (SF3) on approximately 13.57 acres of land situated in the Baldwin Robertson League Survey, Abstract 17, located along the east side of North Pea Ridge Road and south of Stonehollow Drive, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

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

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #5(J)
Consent Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – 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: Adopt the ordinance as presented in the item description, on second and final reading.

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. 2nd 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 2nd 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:

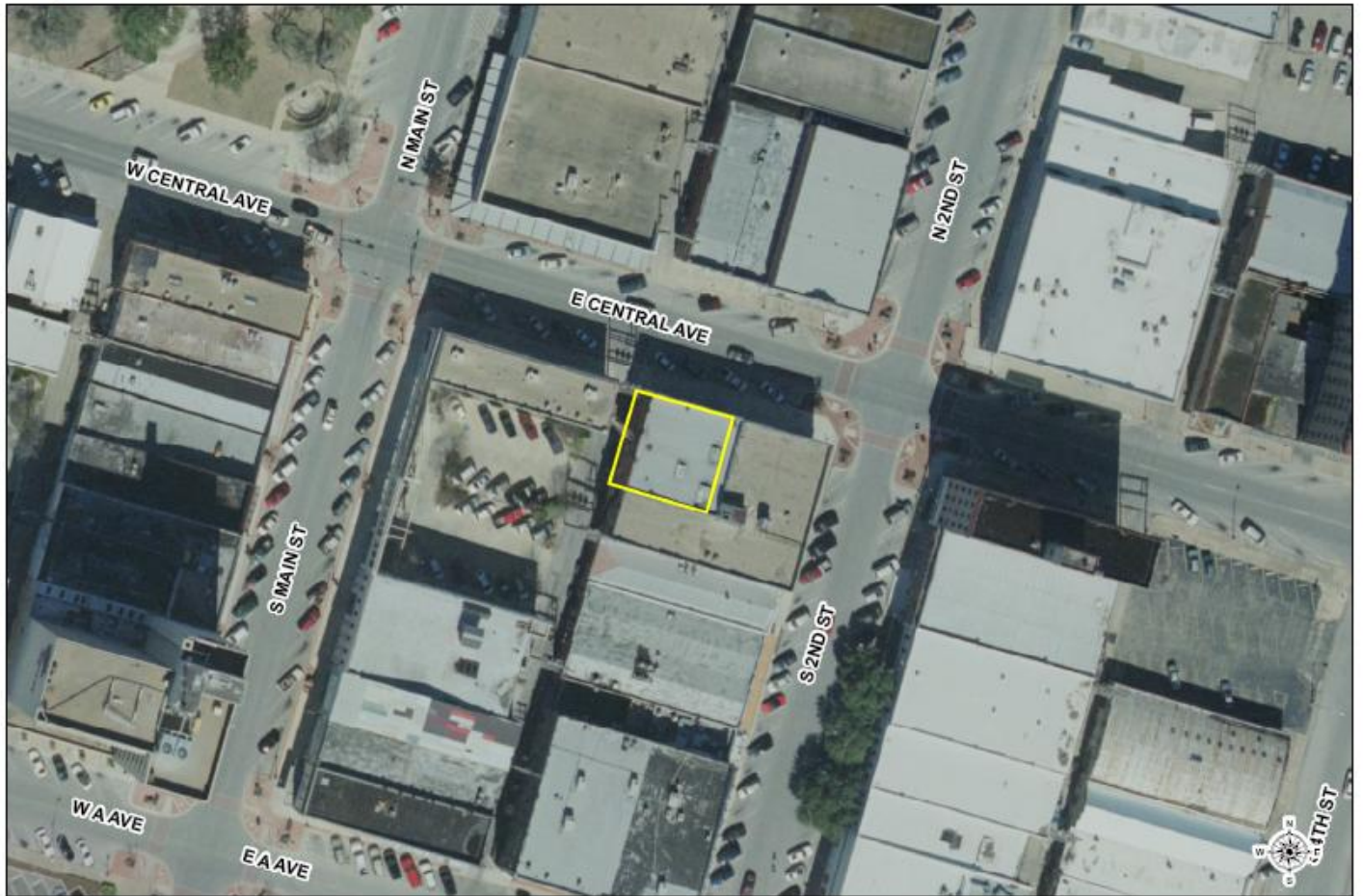
Aerial Map
Future Land Use and Character Map
Zoning Map
Thoroughfare Plan Map
Utility Map
CUP Site Plan
Notice Map
Responses
P&Z Staff Report (Z-FY-11-52)
P&Z Minutes (November 7, 2011)
Ordinance



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

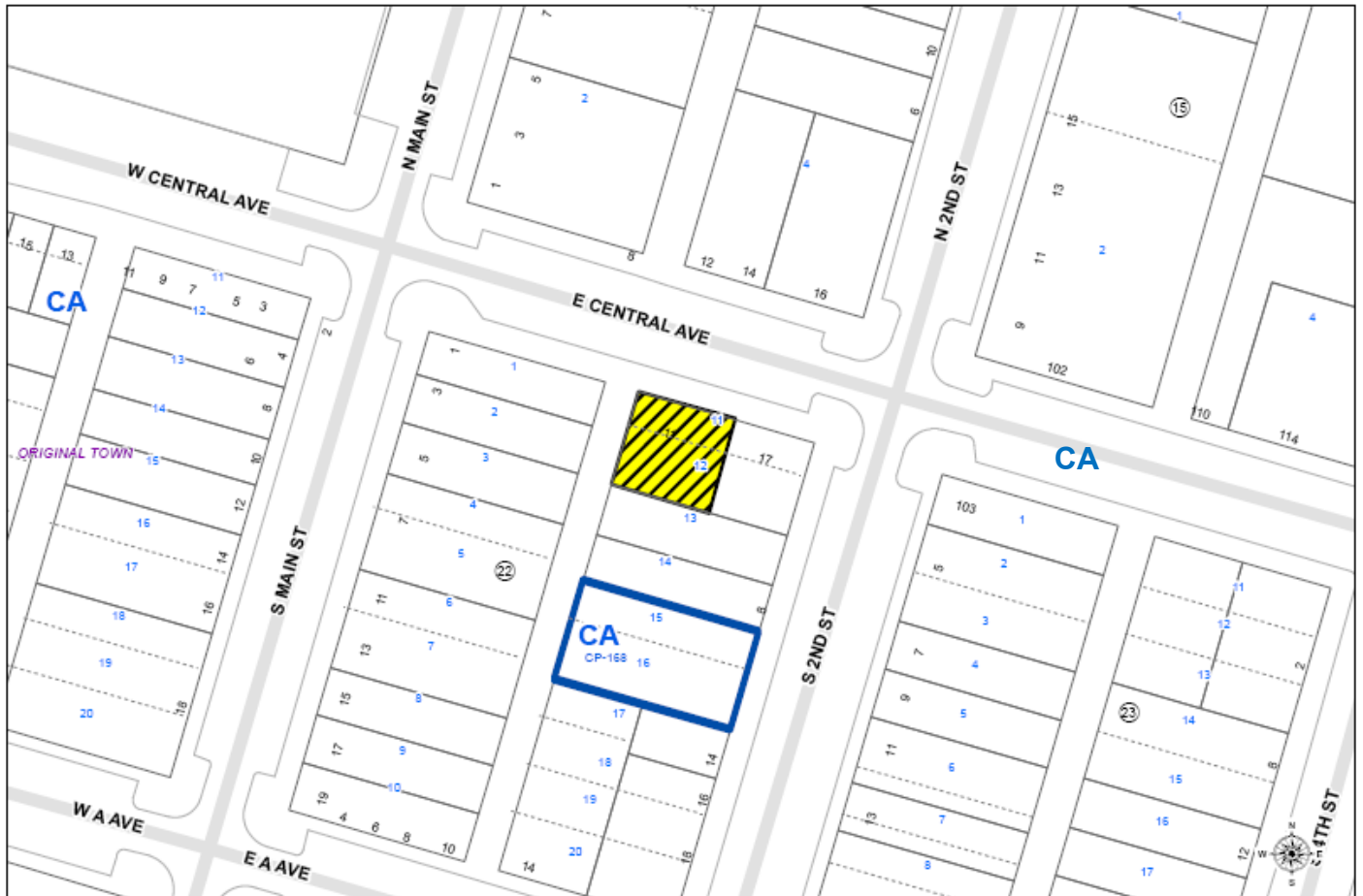
LMatlock Planning 10.21.11



Z-FY-11-52

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

CUP for Alcohol Sales
11 E. Central Avenue





Z-FY-11-52

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

CUP for Alchohol 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

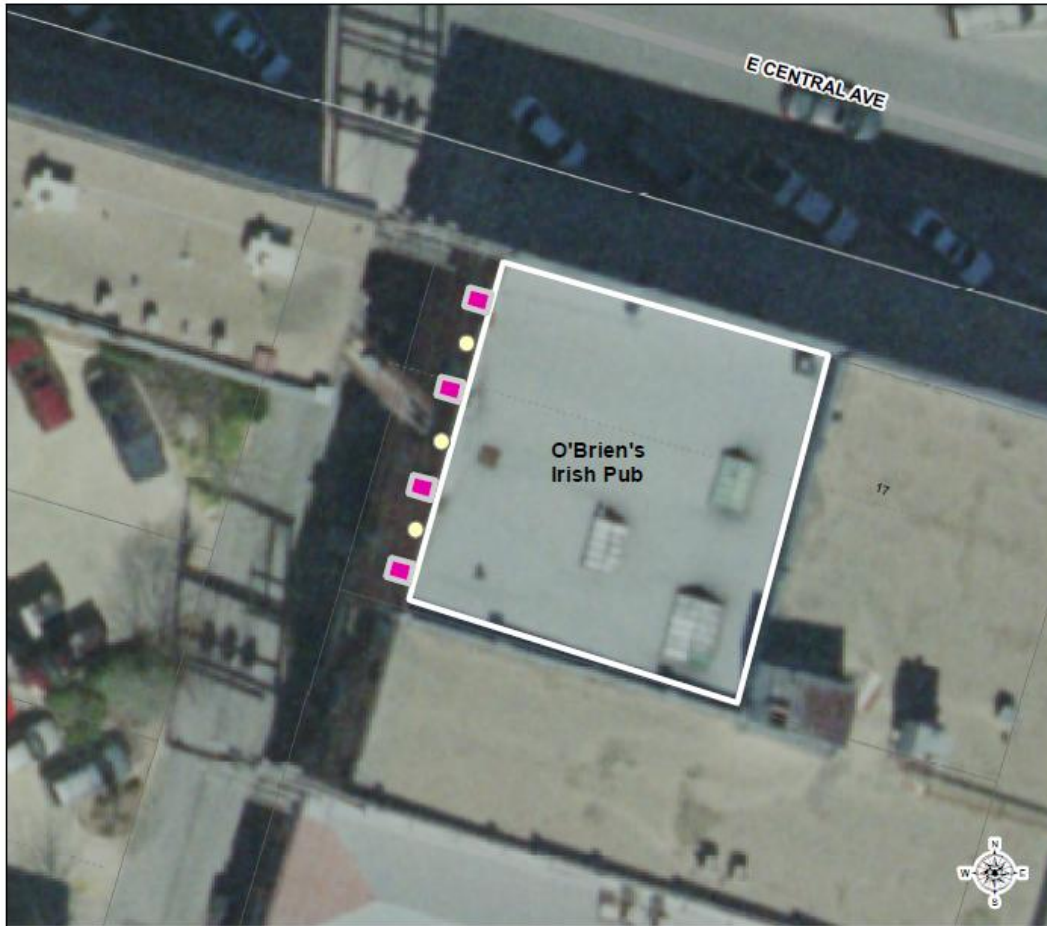
Feet 0 50 100 150

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

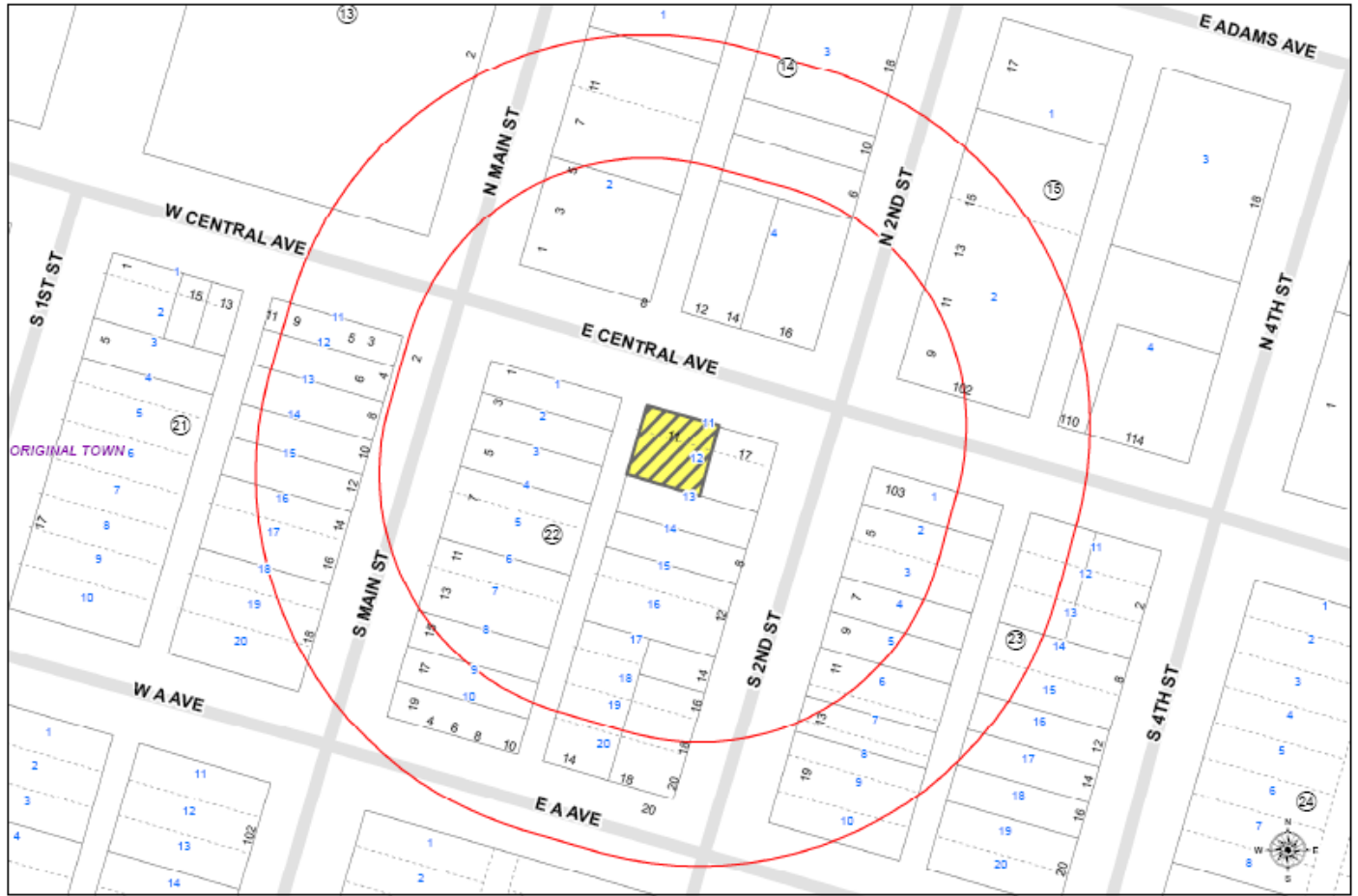




Z-FY-11-51

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)

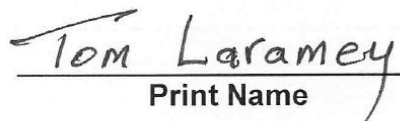
The proposed conditional use permit is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the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


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. 2nd 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 2th 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 1st day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the 15th 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

12/15/11
Item #5(K)
Consent 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: SECOND READING: Consider adopting an ordinance establishing a school zone and setting speed limits within the school zone around St. Mary's Catholic School.

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

ITEM SUMMARY: St. Mary's Catholic School has requested that a school zone be established on South 5th Street, South 9th 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

Install New
School Zone Signs
with Times



W K AVE

Existing Do Not Enter Sign



**St. Mary's Catholic School
Requested School Zone**

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 5th Street, South 9th 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 5th Street, South 9th 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 **1st** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15th** 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

12/15/11
Item #5(L)
Regular Agenda
Page 1 of 1

DEPT. /DIVISION SUBMISSION & REVIEW:

Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: SECOND READING – Z-FY-12-15: Consider adopting an ordinance re-naming Belmont Drive in Heritage Place Phase III to Frontier Drive.

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

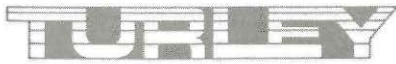
ITEM SUMMARY: The land owner for all 4 lots currently addressed from the subject segment of Bellmont Drive, John Kiella, through his agent, Turley Associates, makes this request. The street name change request is for Bellmont as it was platted in Heritage Place Phase III, to be changed to Frontier Drive. 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 and legible.

Jennifer Ryken, P.E.
Project Engineer

JR/sb

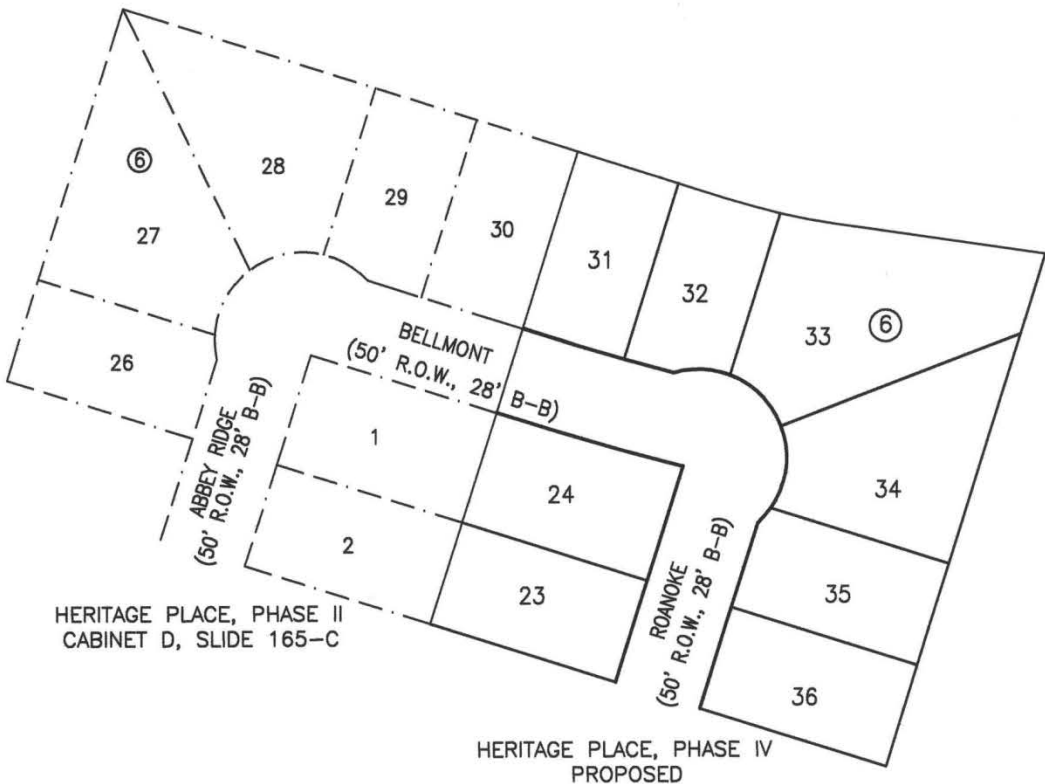
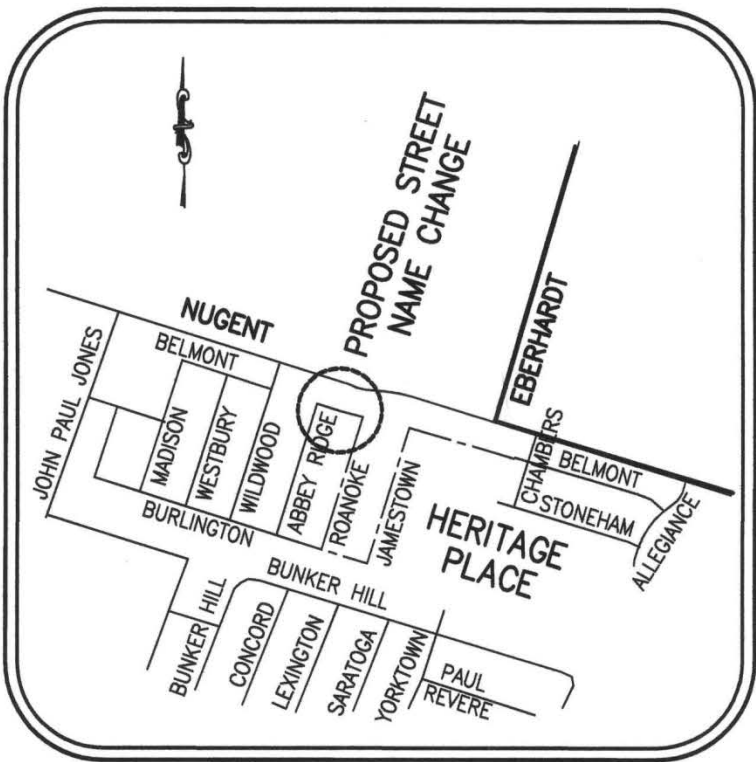
RECEIVED

OCT 28 2011

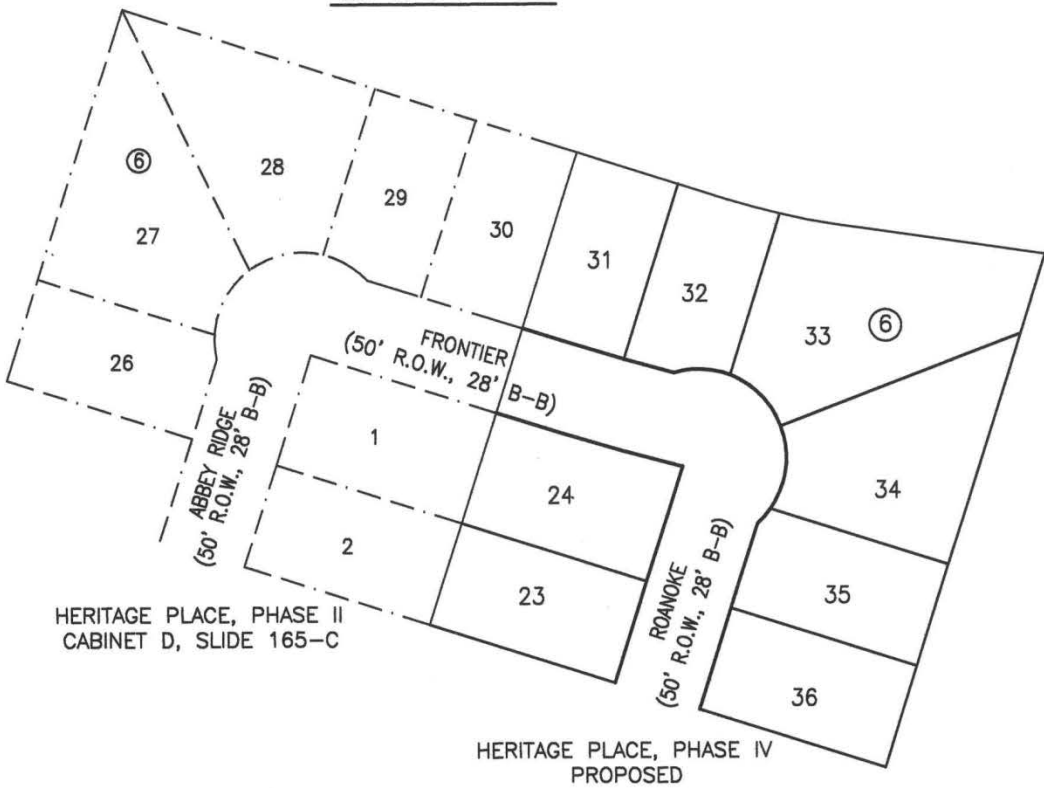
City of Temple
Planning & Development

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 **1st** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15th** 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

12/15/11
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DEPT./DIVISION SUBMISSION & REVIEW:

David Blackburn, City Manager
Traci Barnard, Director of Finance
Jonathan Graham, City Attorney

ITEM DESCRIPTION: SECOND READING: 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: Adopt ordinance as presented in item description, on second and final reading.

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 took 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 82nd 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 **1st** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **15th** 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

12/15/11
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DEPT./DIVISION SUBMISSION & REVIEW:

Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution amending the City's local preference policy to be applicable for construction services contracts in an amount of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000, to reflect what is allowed by current legislation.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City's current adopted Local Preference Policy follows what was allowed by the 2009 amended Texas Local Government Code §271.905, which limited the application of a 5% local preference to the purchase of any real property, personal property that is not affixed to real property, or services to a contract for an expenditure of less than \$100,000.

In the 2011 Texas Legislative Session, H.B. 628 was passed amending the Texas Local Government Code §271.905 by increasing the ability of a municipality to consider local preference on purchases **other than construction services** in an amount of less than **\$500,000**, instead of the previously adopted \$100,000 limit.

Based on this change in law, it is staff's recommendation that Council amend the City's Local Preference Policy that was previously adopted by Council on May 1, 2008, and amended on March 4, 2010, to reflect what is allowed by the amended Local Government Code. If the amendment is authorized by Council, Purchasing staff will continue to offer the declaration of local preference on bidded contracts with an anticipated contract value of less than \$100,000 for construction services and \$500,000 for other non-construction purchases.

If local preference on a recommended contract is relevant, staff will continue to recommend award of the contract to the low bidder and will communicate to Council their option to award the contract to the bidder whose principal place of business is within the City limits, and whose bid is within 5% of the lowest bid price received, if Council determines that the local vendor offers the best combination of price and additional economic development opportunities.

FISCAL IMPACT: No direct fiscal impact.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING THE CITY'S LOCAL PREFERENCE POLICY ON ALL CONSTRUCTION SERVICES CONTRACTS AND OTHER PURCHASES TO REFLECT WHAT IS ALLOWED BY CURRENT LEGISLATION; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 1, 2008, the City Council adopted the City's Local Preference Policy - the policy was amended on March 4, 2010, to reflect what was allowed by the amended Local Government Code;

Whereas, in the 2011 Texas Legislative Session, H.B. 628 was passed amending the Texas Local Government Code §271.905 by increasing the ability of a municipality to consider local preference on purchases **other than construction services** in an amount of less than **\$500,000**, instead of the previously adopted \$100,000 limit;

Whereas, the Staff recommends amending the City's local preference policy to reflect what is allowed by the amended Local Government Code, in accordance with the 2011 Texas Legislative Session, H.B. 628; 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 amending the City's local preference policy to apply to construction service contracts in an amount of less than \$100,000 or a contract for other purchases in an amount of less than \$500,000, which will reflect what is allowed by current legislation.

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 **15th** 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

12/15/11
Item #5(O)
Consent Agenda
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DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution accepting the 2010-2011 Risk Management Annual Report.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The 2010-2011 (10-01-10 through 09-30-11) Risk Management Annual Report discusses the City's Risk Management Program; breaks down the total numbers of claims, accidents, and employee injuries, and reviews the City's premiums for insurance coverage.

FISCAL IMPACT: None

ATTACHMENTS:

[Risk Management 2010-11 Annual Report
Resolution](#)

City of Temple Risk Management



Annual Report - 2010-2011

2010-2011 Risk Management Annual Report

Prepared By Debra Thompson, Risk Manager

Members:

Vehicle Accident Review Board and

Workers Compensation Review Board

Randy Stonerod, Human Resources Director
Sandra Esqueda, Asst. Director of Human Resources
Debra Thompson, Risk Manager
Larry Wilkey, Police Department
Chief Lonzo Wallace, Fire Department
Jeremy Schroeder, Street Department
Kevin Beavers, Parks & Leisure Services
Kris Andrews, Solid Waste Division
Thomas Brown, Water & Wastewater Department



City of Temple.....

Dedicated to Safety!!!

Overview.....

The City of Temple Risk Management Program is an on-going process which requires continuous monitoring for changes in risk exposures and potential losses. The program enlists the efforts of all employees who share responsibility for anticipating and minimizing the adverse effects of accidental losses.

The Risk Management Annual Report for 2010-2011 (10-01-10 through 09-30-11) examines the City's loss prevention, loss control, and loss financing efforts:

Loss Prevention:

City employees attend regular and on-going safety and training programs. The City's Human Resources Department oversees employee safety and training in an effort to train employees to recognize loss exposures and to work to eliminate those exposures.

The Legal Department examines all contracts entered into by the City to determine liability assumed or other action required by the City; examines all insurance contracts, including the City's own policies and those obtained by others contractually obligated to indemnify the City; and reviews the latest court decisions involving municipal liability.

Loss Control:

The City of Temple has continued its aggressive loss control efforts which have minimized the effects of loss to property, income, personnel, and liability to others.

The Vehicle Accident Review Board and the Workers' Compensation Review Board meet monthly to review each vehicle accident and employee injury that occur. When necessary, the Boards make recommendations to department heads concerning ways to prevent the reoccurrence of similar accidents/injuries.

The Texas Municipal League provides risk assessment of worksites and property by conducting surveys to detect, eliminate, and control physical and environmental hazards that contribute to accidents or damages resulting in losses.

Loss Finance:

The City's three major methods of risk finance management: (a) retention; (b) insurance; and (c) risk transfer, have been an effective use of internal and external resources.

Retention—the City continues to retain the risk for losses which are anticipated to be relatively low and within the financial capacity of the City, such as physical damage to its own vehicles.

Insurance—the greatest portion of the City's risk management budget allocation goes to the payment of insurance premiums. The increase in the total premiums this year will be more fully discussed in the "Insurance Update" of this report.

Risk Transfer—the City often transfers the risk associated with some activities to third parties with whom the City contracts. Proof of adequate insurance is required, which includes naming the City as an additional insured. Privatization of certain City services (landfill, sewer treatment plant, and EMS) has also served to transfer risk associated with providing those services from the City to the contracting party.

Established in 1987, the City's Risk Management Program has yielded long-term benefits to the City of Temple. Each employee is made aware of the importance of the City's dedication to safety and to controlling loss in the never-ending effort to lower insurance premiums, having fewer lost days due to injury, and reducing adverse claims.

Safety & Training

The Human Resources Department coordinates various types of safety & training classes annually. In addition, each year the Texas Municipal league offers a wide variety of loss prevention services and training at no cost to its members.

Types of safety classes include:

- Backhoe Operations
- Basic Cardiac Life Support Course (CPR)
- Poison Ivy and Personal Protective Equipment
- Back Injury Prevention
- First Aid
- Heat Stress
- Ergonomics
- Hazard Communication/MSDS
- Fire Extinguisher Usage
- Work Zone Safety
- Trenching & Excavation

Types of training classes include:

- Defensive Driving Course
- Diversity Training
- New Employee Orientation
- Interviewing and Hiring Training
- Drug-Free Workplace
- Department of Transportation Driver's & Supervisor's Training Program
- Fire and EMS Emergency Vehicle Operations
- Law Enforcement Emergency Vehicle Operations
- Sexual Harassment
- Supervisor Training Academy
- Customer Service
- Accident Investigation
- Workplace Violence



Vehicle Accident Review Board



Total accidents by department..... →

Contributing factors to accidents..... →

5-Year Comparison of Employee Accidents →

Total loss to City as a result of accidents..... →



Vehicle Accident Review Board....

- ⊙ meets monthly to examine facts and review causes of accidents;
- ⊙ determines whether accidents are Chargeable-Preventable (CP), Preventable (P), or Non-Preventable (NP);
- ⊙ recommends improvements in driver and equipment accident prevention; *and*
- ⊙ the Board's purpose.....*to improve the safety & effectiveness of City vehicular operations.*

Number of Accidents, By Category....

<u>Department</u>	<u>CP</u>	<u>P</u>	<u>NP</u>	<u>Total</u>
Fleet Services	1			1
Fire	2	1	2	5
Parks & Leisure Services	4		1	5
Police	5	2	13	20
Public Works			1	1
Solid Waste	12	1	7	20
Street			2	2
<u>Water</u>	<u>2</u>	<u>1</u>	<u>3</u>	<u>6</u>
Totals	26	5	29	60

Contributing Factors to CP/P Accidents

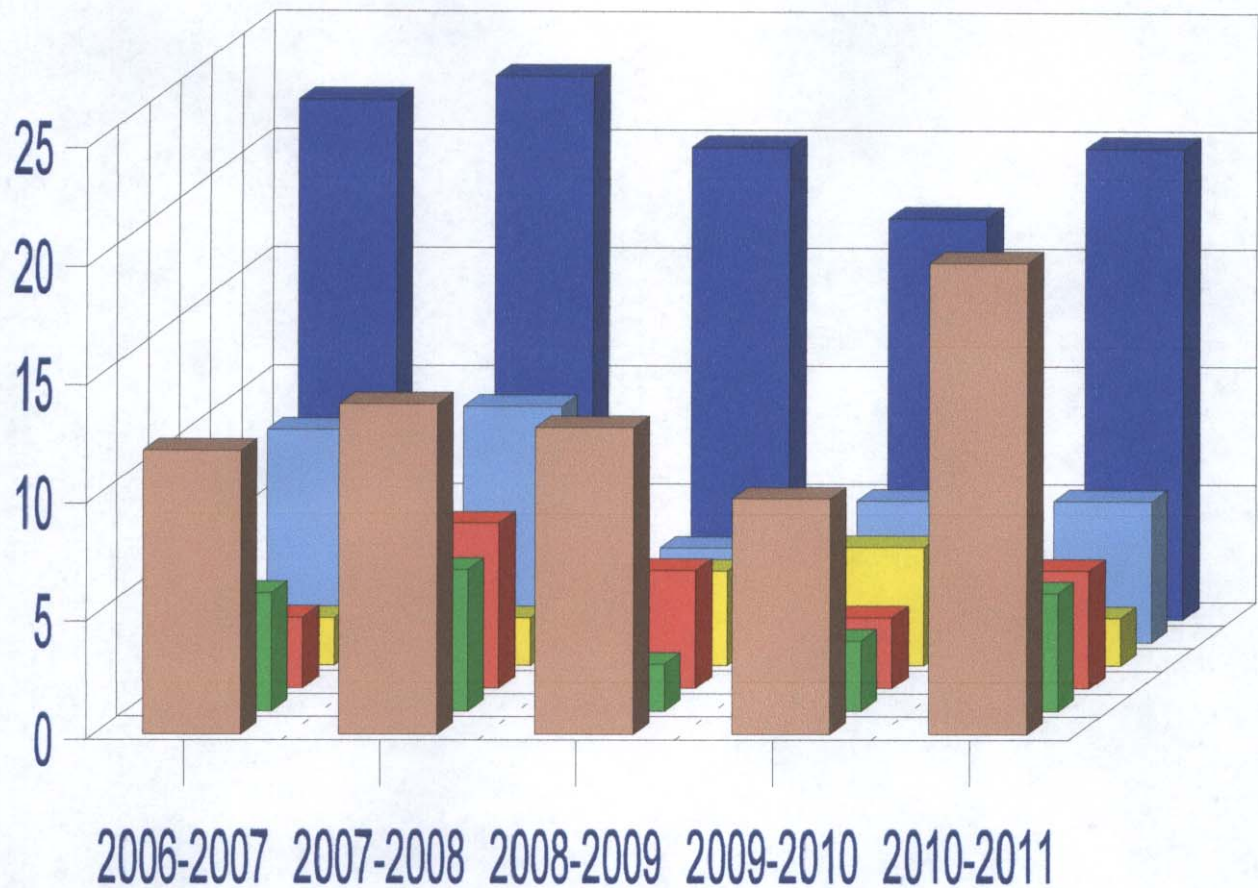
Unsafe backing	9
Failed to yield right of way	2
Failure to keep proper clearance	12
Failed to Control Speed	3
Disregard Stop & Go Signal	1
Unsafe Lane Change	2
Failure/Awareness of Surroundings	1
Unsafe Turn	1

Total Damage

<i>City Vehicles Plus</i>	
<i>Third-Party Claims</i>	\$109,557.28
(Reimbursed)	<u>7,997.94</u>
Total Loss	\$101,559.34

Employee Motor Vehicle Accidents

5-Year Comparison

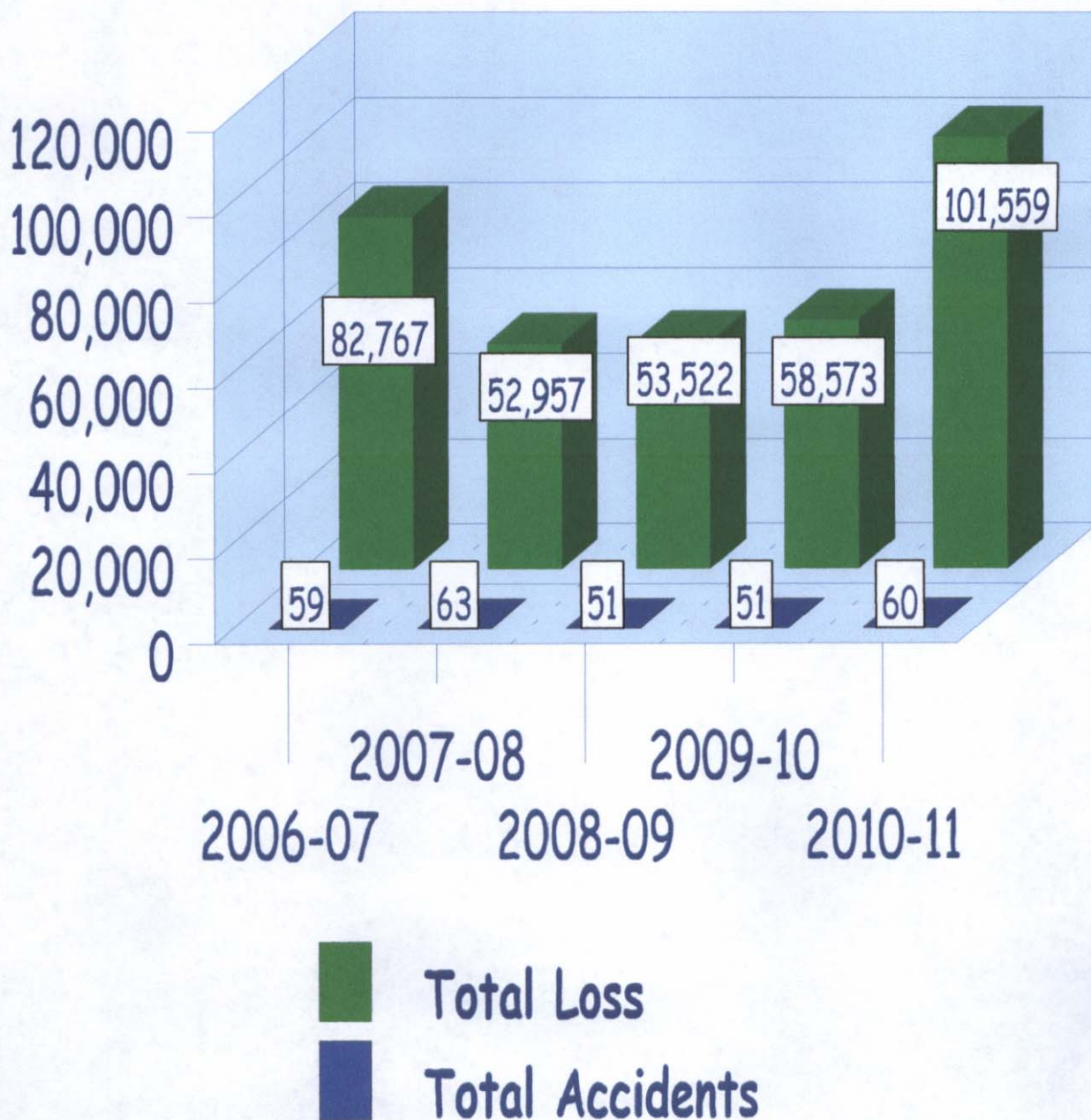


Police
Fire

Water
Parks

Street
Solid Waste

Total Accidents vs. Total Loss Due to Accidents 2006-2007 To 2010-2011





Workers' Compensation Review Board



Total injuries by department..... →

Types of Injuries..... →

5-Year Comparison of Employee Injuries..... →



Workers' Compensation Review Board....

- Rx meets monthly to examine facts and review causes of employee injuries;
- Rx determines whether accidents are Chargeable-Preventable (CP), Preventable (P), Non-Preventable (NP); or First Aid (FA);
- Rx recommends corrective action to prevent future injuries; and
- Rx the Board's purpose.....*to prevent occupational injuries that require medical care or that result in lost time.*

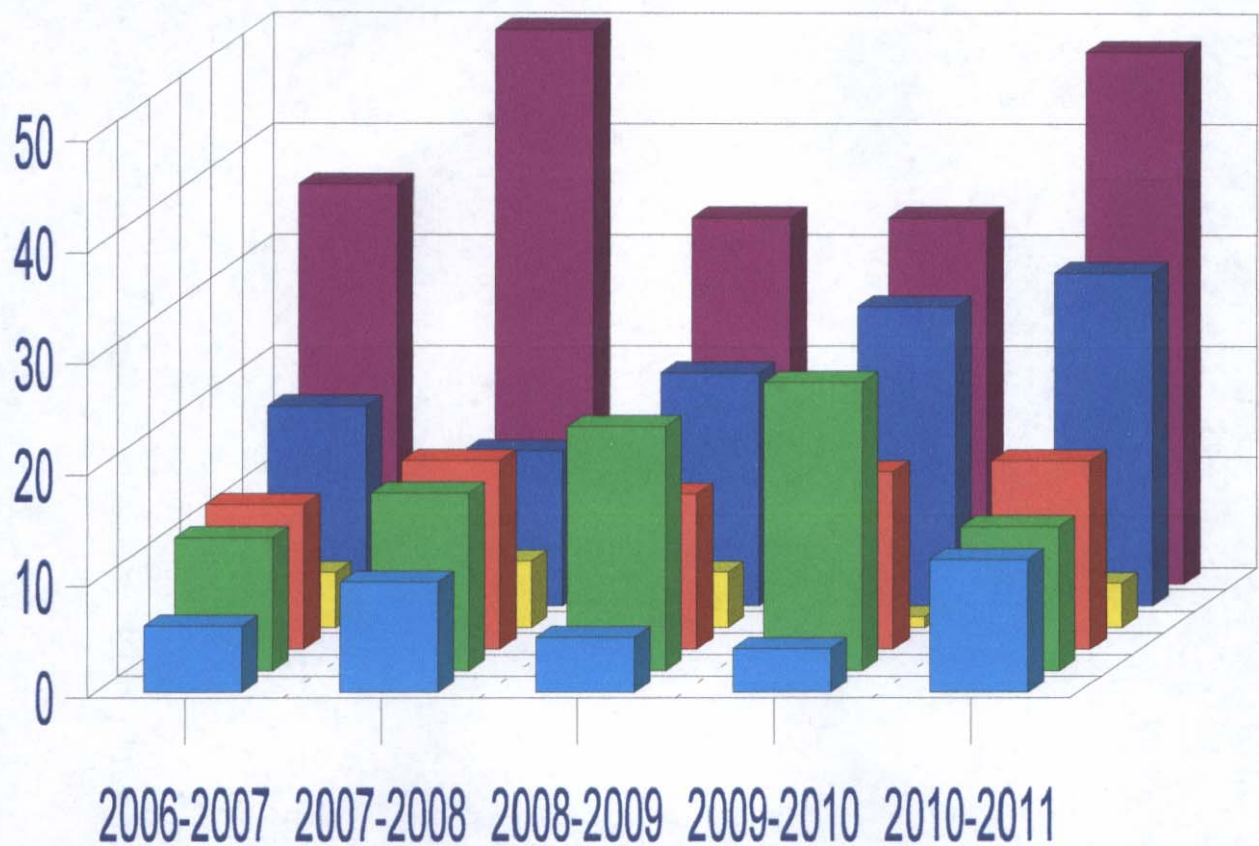
Number of Injuries, By Category....

<u>Department</u>	<u>CP</u>	<u>P</u>	<u>NP</u>	<u>FA</u>	<u>Total</u>
Animal Control			1		1
Airport		2			2
City Secretary				1	1
Construction Safety				1	1
Drainage			1		1
Facility Maintenance	1				1
Fire	2	2	13		17
Golf Course			1		1
Human Resources				2	2
Mayborn Center			1	1	2
Parks & Leisure Services		1	7	5	13
Planning				2	2
Police	1	4	35	8	48
Street		1	3		4
Solid Waste		5	6	1	12
Traffic		1			1
Utilities/Metering		2	3	2	7
<u>Water</u>	<u>2</u>	<u>1</u>	<u>11</u>	<u>16</u>	<u>30</u>
Totals	6	19	82	39	146

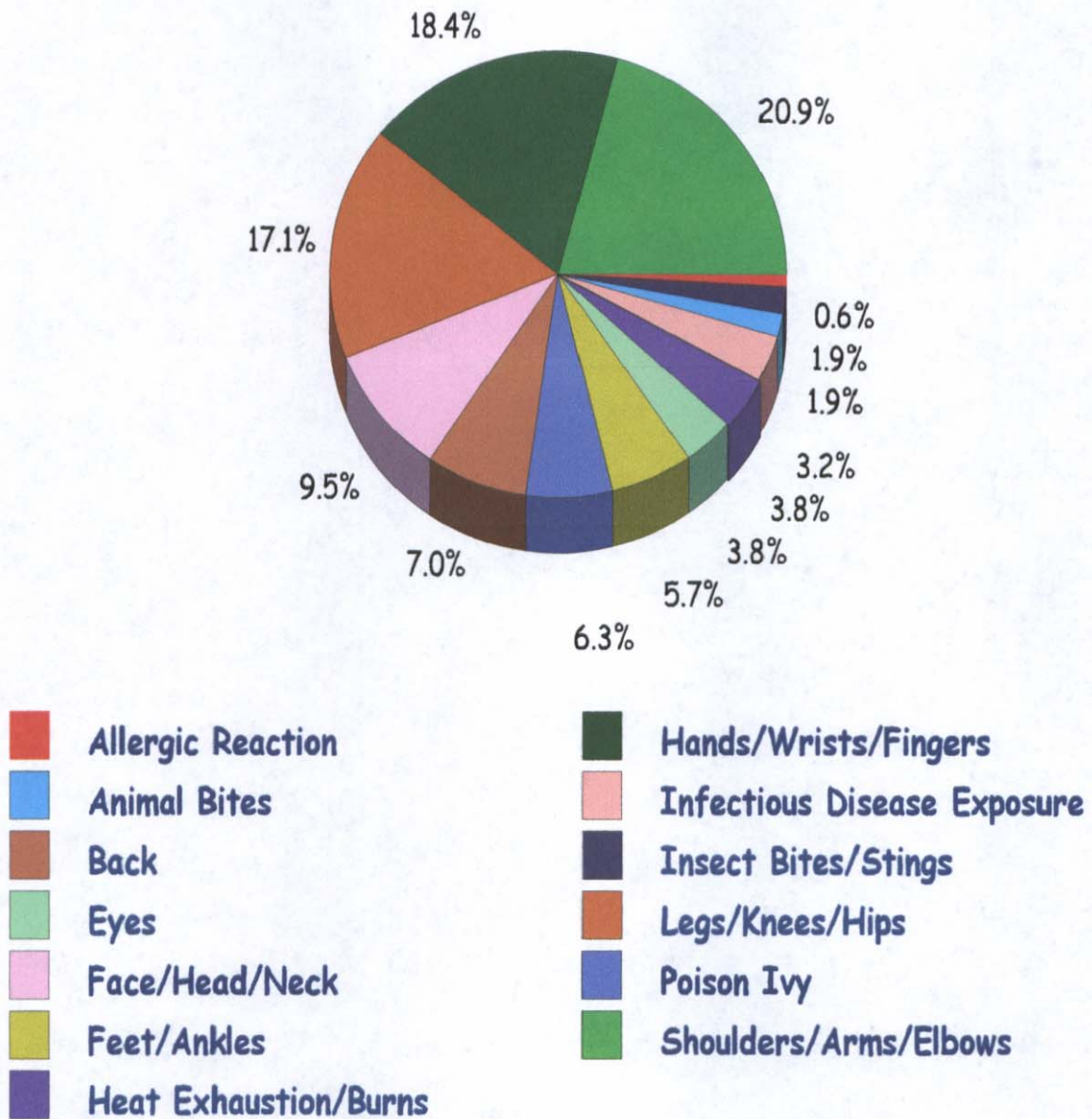
<i>Total employee injuries</i>	<i>2010-2011</i>	<i>146</i>
	<i>2009-2010</i>	<i>125</i>
	<i>2008-2009</i>	<i>106</i>
	<i>2007-2008</i>	<i>127</i>
	<i>2006-2007</i>	<i>102</i>

EMPLOYEE INJURIES

5-Year Comparison



Types of Injuries





Claims Management



Total claims/lawsuits by department..... →

Types of Claims..... →

Percentage of claims/lawsuits by department..... →

Insured vs. Uninsured Loss..... →



FY2010-2011
Claims & Lawsuits
Filed Against the City of Temple &
Total Amounts Paid By Department

Department	FY10-11 Claims Filed/ Amount Paid	FY09-10 Claims Filed/ Amount Paid	FY08-09 Claims Filed/ Amount Paid	FY07-08 Claims Filed/ Amount Paid	FY06-07 Claims Filed/ Amount Paid
Animal Services	0/\$0	0/\$0	1/\$0	0/\$0	1/\$1,722
Construction Safety	1/\$2,341	0/\$14,962	3/\$40,214	0/\$11,860	0/\$7,989
Facility Maintenance	0/\$0	0/\$0	0/\$700	1/\$3,177	1/\$0
Fleet Services	0/\$0	1/\$10,681	0/\$0	0/\$0	0/\$0
Fire	2/\$1,548	1/\$2,023	2/\$2,501	1/\$1,836	3/\$6,087
Library	0/\$0	0/\$0	0/\$0	1/\$5,000	0/\$0
Parks & Leisure	11/\$3,695	8/\$3,894	8/\$2,163	6/\$4,476	8/\$4,414
Police	9/\$37,056	6/\$16,641	10/\$19,705	8/\$12,319	7/\$32,652
Solid Waste	19/\$86,043	10/\$13,195	8/\$8,423	9/\$17,030	8/\$14,756
Utility Metering	3/\$2,151	0/\$0	0/\$0	0/\$0	0/\$0
Street	4/\$1,910	13/\$20,425	13/\$6,938	8/\$4,497	6/\$5,137
Water	14/\$12,684	19/\$14,651	20/\$5,482	14/\$10,297	20/\$7,812
Totals	63/\$147,428¹	65/\$96,472²	65/\$86,126³	49/\$70,492⁴	55/\$80,569⁵

¹ City's insurer paid \$64,268 of this amount; City paid \$83,160

² City's insurer paid \$21,025 of this amount; City paid \$75,447

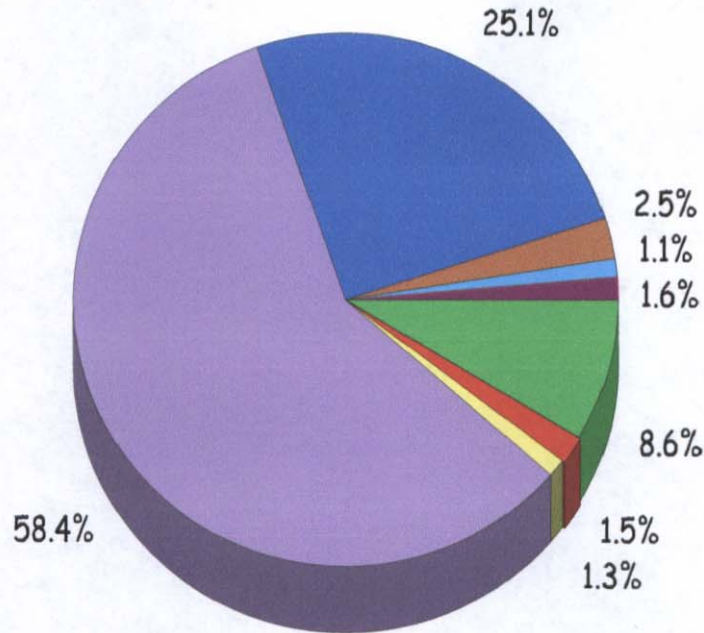
³ City paid full amount

⁴ City's insurer paid \$4,376 of this amount; City paid \$66,116

⁵ City's insurer paid \$16,177 of this amount; City paid \$64,392

Claims & Lawsuits

Percentage Paid By Department



Types of Claims/Lawsuits Filed

Motor vehicle accidents	15
Property damage/loss from:	
water/sewer related	8
streets, sidewalk, alley conditions	7
rocks thrown by mowers/weedeaters	3
trash/brush pickup	11
recreation related	5
Personal injury	7
Law Enforcement	6
Employment related	2
Total new claims/lawsuits . . .	63

Claims/Lawsuit Analysis

Fiscal Impact on City of Temple: 2006 - 2011





Insurance



Insurance Premium Comparisons (5-Years)..... →

Insurance Update..... →

Property/Liability Premiums vs. Amounts Paid..... →

Workers' Compensation Premiums vs. Amounts Paid..... →



Insurance Premium Comparisons

FY2007-2008 — FY2011-2012

	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012
General Liability	\$42,780	\$41,252	\$35,844	\$29,592	\$25,705
Automobile Liability	42,472	43,899	43,929	45,406	45,492
Law Enforcement Liability	30,360	30,414	33,214	33,215	32,895
Public Officials Liability	56,222	55,011	53,069	45,774	44,669
Airport Liability	10,443	10,443	10,816	10,461	10,759
Property (Bldg & Contents, fine arts, valuable papers, electronic equipment, boiler & machinery)	132,724	116,990	125,082	121,500	138,494
Mobile Equipment	19,376	19,699	18,477	16,824	16,416
Crime	1,582	1,582	1,582	1,582	1,582
Workers Compensation	359,695	460,502	497,077	505,629	454,847
Totals	\$796,461	\$816,367	\$827,642	\$759,191	\$717,939

Insurance Update.....

The City currently has all insurance coverages (except Crime) with the Texas Municipal League Intergovernmental Risk Pool (TML). Since TML is a *risk pool*, the premiums are calculated, in part, on the experience of *all* its members. The City's own experience, of course, is included in the calculation of premiums. The City's claims experience for the past year was average to the usual loss due to claims filed against the City.

In December, 2010, the City received a workers' compensation, liability, and property equity return from TML in the amount of **\$97,691** (\$58,981 for workers' compensation, \$18,266 for liability, and \$20,444 for property). This amount was calculated by the City's loss ratio and length of membership in the Pool. TML has a long-standing policy of returning equity to its members when financial results are favorable, and has returned equity from the workers compensation, liability and/or property funds in 14 of the past 17 years.

In June, 2011, TML advised the City that an equity return would be received as a contribution credit which would be prorated on each quarterly FY2011-12 statement. The liability equity return totaled \$24,667 (\$6,811 for automobile liability; \$1,569 for Airport Liability; \$6,866 for errors & omissions liability; \$4,439 for general liability; and \$4,982 for law enforcement liability). The workers compensation equity return for FY2010-11 totaled \$13,465.

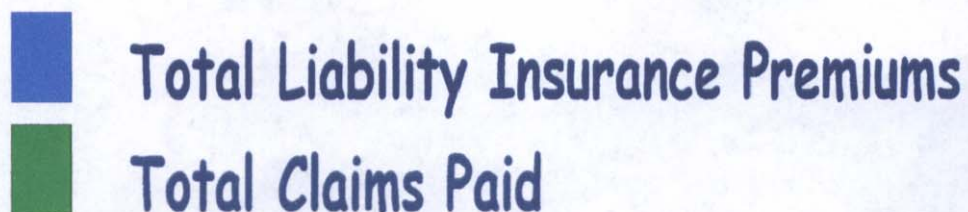
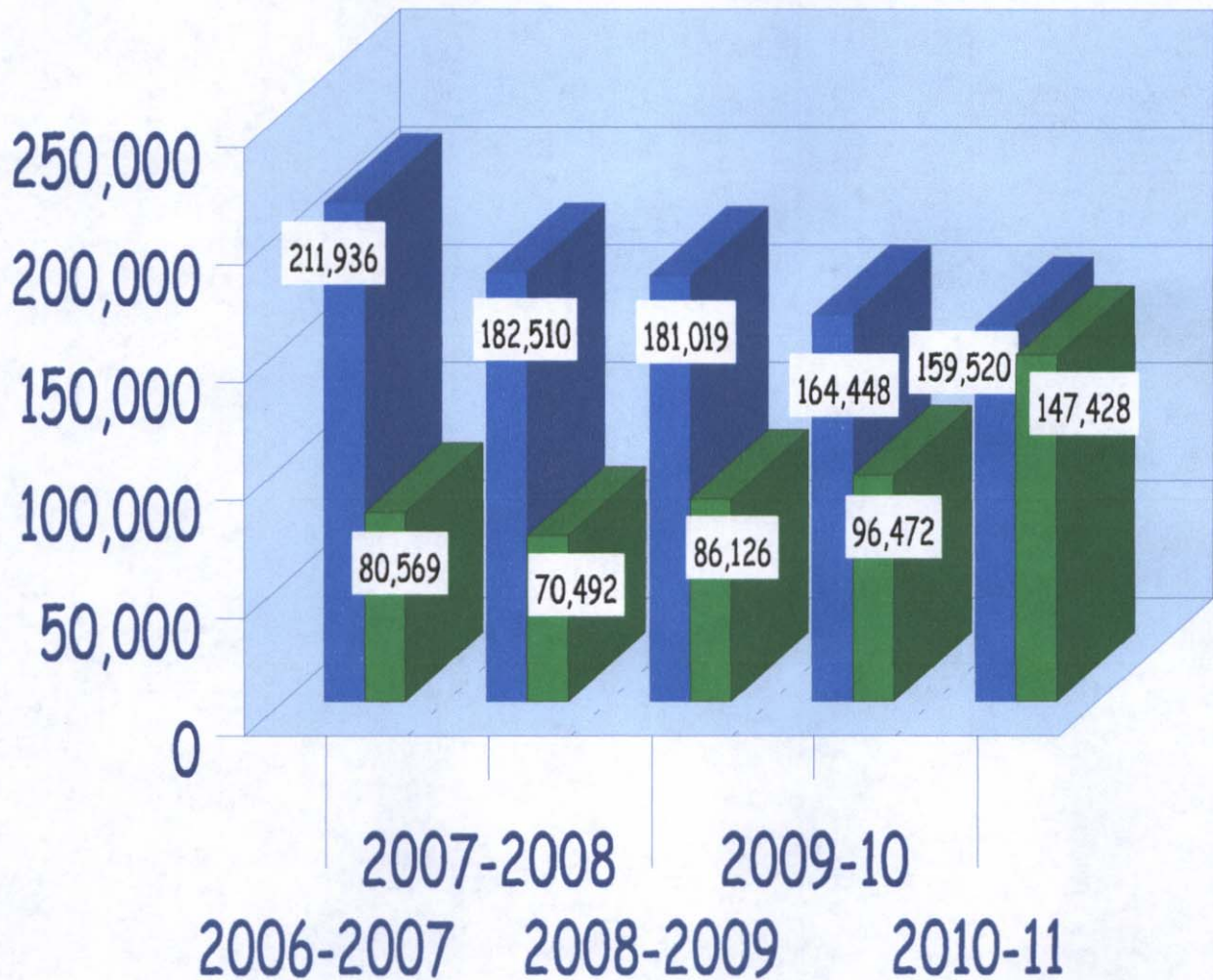
Two property damage claims were filed with TML during FY2010-2011. The first claim was filed in January, 2011, seeking reimbursement for damage to one of the Fire Department's "outdoor warning sirens" after it was struck by a semi-truck. The damage totaled \$6,977 -the City was reimbursed \$1,977 after the \$5,000 deductible was applied. The second claim was filed as a result of vandalism at Sammons Golf Links in May, 2011, which damaged the newly renovated golf course greens and several pieces of equipment. The City was reimbursed \$13,219 for the damaged equipment (less a \$1,000 deductible). Damage to the greens totaled \$14,130; however, the City's claim was denied by TML since the golf course greens were not specifically listed on the City's property schedule. Since that time, two individuals were indicted by a Bell County Grand Jury in connection with the vandalism. The City has requested restitution for the amount which was not covered by insurance, in addition to the \$1,000 deductible for the damage equipment claim. In addition, direct

damage to the golf course greens has now been added to the City's insurance property schedule.

The City's workers' compensation experience modifier remained the same at .47 for FY2011-2012. The City received a 20% fund discount on the workers' compensation premium for the FY2011-12 fiscal year, which decreased the premium by \$52,920 as compared to the premium for FY2010-11.

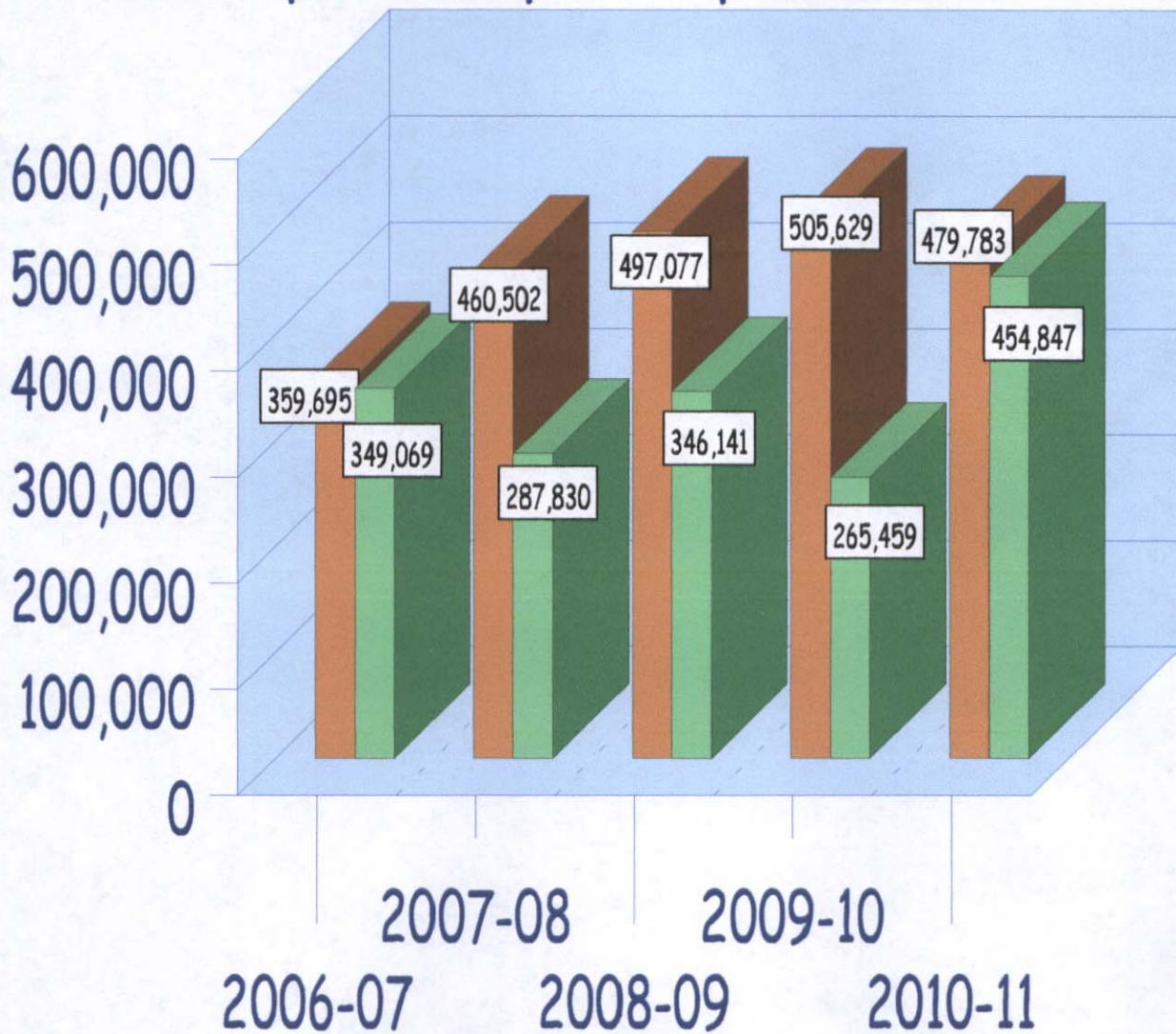
The City's Human Resources Department will continue to work with the departments to assist them in developing stricter safety precautions in an effort to cut back even more on employee injuries.



Liability Insurance Premiums vs. Total Claims Paid 2005-2010



Workers' Compensation Claims/Premium Analysis

Fiscal Impact on City of Temple: 2006-2011

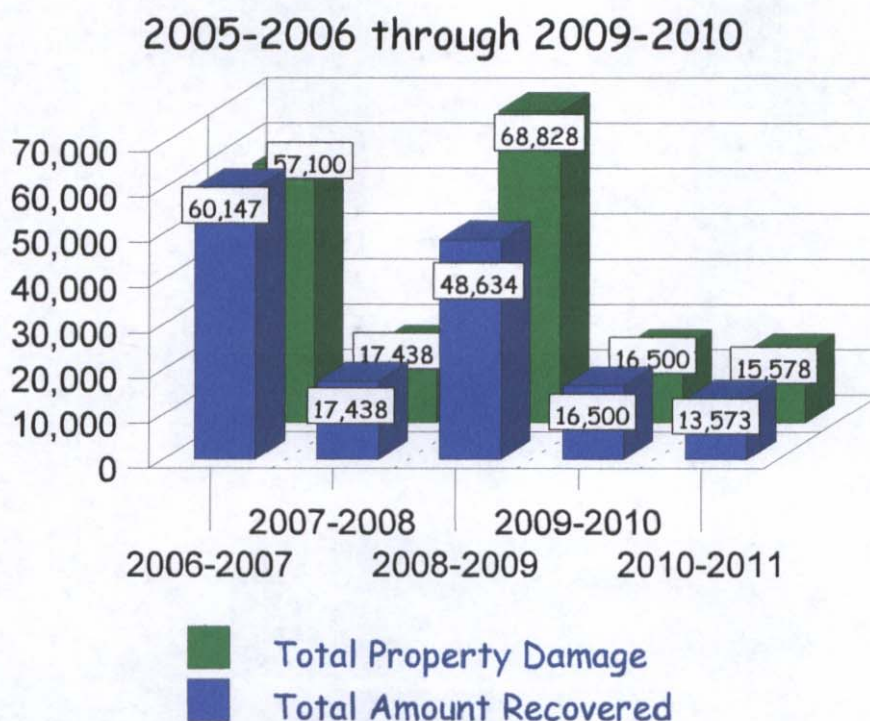


-  Workers' Compensation Premium
-  Amount paid by carrier (TML) for employee injuries

Property Damage Claims.....

The Legal Department promptly files claims against those who damage City property (e.g., fire hydrants, street signs, vehicles, traffic signals, utility lines). When City property is damaged, the City also responds quickly to make necessary repairs to prevent further injury and mitigate damages.

The City most often receives reimbursement for damage to its property directly from insurance companies who represent those individuals who have caused the damage. When insurance coverage is not available, the City seeks to recover directly from the individual, or occasionally by requesting restitution from the court whenever a criminal charge has been filed against the individual in connection with the event causing the City's damage.



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ACCEPTING THE FY2010-2011 RISK MANAGEMENT ANNUAL REPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the FY2010-2011 Risk Management Annual Report (10-01-10 through 09-30-11) breaks down the total number of claims, accidents, and employee injuries, and reviews the City's premiums for insurance coverage;

Whereas, the report needs to be accepted by the City Council; 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 accepts the FY2010-2011 Risk Management Annual Report, substantially in the form of the copy attached as Exhibit A.

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 **15th** 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

12/15/11
Item #5(P)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution approving the annual report of the Tax Increment Financing Reinvestment Zone No. 1 for fiscal year 2010-2011.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to comply with the State law requiring submission of annual reports to the taxing units within the Reinvestment Zone No. 1 (Zone).

The attached report discloses the financial condition of the Zone as of 9/30/2011, as well as the tax collections by taxing entity.

The financial information contained in this report was presented to the Reinvestment Zone No. 1 Board at the December 7, 2011, meeting. The annual report will be mailed to the chief executive officer of each taxing unit that levies property taxes on real property in the reinvestment zone and to the State Comptroller as required by state law.

FISCAL IMPACT: See the attached annual report of the Tax Increment Financing Reinvestment Zone No. 1 for fiscal year 2010-2011.

ATTACHMENTS:

[Annual Report](#)
[Resolution](#)

A large, maroon-colored abstract shape with a white outline, resembling a stylized 'S' or a flowing ribbon, serves as a background for the title. It is positioned in the upper half of the page.

Reinvestment Zone No. 1 Annual Report

For the year ended
September 30, 2011

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Schedule of Revenues, Expenditures, and Changes	
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Tax Collections – By Entity.....	6
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Supplemental Schedules:

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Summary Financing Plan with Detailed Project Plan as of 09/30/11.....	13
Map of Reinvestment Zone No. 1 Boundaries	14

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NO. 1
BALANCE SHEET
September 30, 2011 and 2010

	<u>2011</u>	<u>2010</u>
ASSETS		
Current assets:		
Investments	\$ 6,586,152	\$ 5,856,225
Receivables (net of allowance for estimated uncollectible):		
Accounts receivable	2,778	2,011,753
Ad valorem taxes	<u>208,930</u>	<u>143,875</u>
Total current assets	<u>6,797,860</u>	<u>8,011,853</u>
Restricted assets:		
Reserve for debt service	4,183,220	882,092
Bond proceeds	<u>1,596,420</u>	<u>1,696,059</u>
Total restricted assets	<u>5,779,640</u>	<u>2,578,151</u>
Total assets	<u><u>\$12,577,500</u></u>	<u><u>\$10,590,004</u></u>
LIABILITIES AND FUND BALANCES		
Current liabilities:		
Vouchers and contracts payable	\$ 154,837	\$ 441,741
Retainage payable	-	190,437
Deferred revenues	<u>208,930</u>	<u>143,875</u>
Total current liabilities	<u>363,767</u>	<u>776,053</u>
Liabilities from restricted assets:		
Vouchers and contracts payable	49,680	30,061
Retainage payable	<u>1,085</u>	<u>-</u>
Total liabilities from restricted assets	<u>50,765</u>	<u>30,061</u>
Total liabilities	<u>414,532</u>	<u>806,114</u>
Fund Balance:		
Reserved for encumbrances	891,964	277,984
Reserved for future expenditures	3,973,327	-
Reserved for encumbrances - bond proceeds	548,837	84,550
Reserved for future expenditures-bond proceeds	996,818	1,581,448
Reserved for debt service	4,183,220	2,882,092
Unreserved:		
Undesignated	<u>1,568,802</u>	<u>4,957,816</u>
Total fund balance	<u>12,162,968</u>	<u>9,783,890</u>
Total liabilities and fund balances	<u><u>\$12,577,500</u></u>	<u><u>\$10,590,004</u></u>

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE #1
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE - ACTUAL AND BUDGET
For the year ended September 30, 2011
(With comparative amounts for the year ended September 30, 2010)

	2011			2010	Analytical
	Actual	Budget	Variance Favorable (Unfavorable)	Actual	Increase (Decrease) Prior yr.
REVENUES:					
Taxes-current & prior	\$ 3,834,018	\$ 3,834,018	\$ -	\$ 3,762,646	\$ 71,372
Taxes-prior year correction of error	265,670	265,670	-	-	265,670
Taxes-prior year correction of error	86,763	86,763	-	(86,763)	173,526
Interest	14,558	50,000	(35,442)	42,568	(28,010)
Payment in lieu of taxes	1,300,000	1,300,000	-	2,000,000	(700,000)
Leases	5,315	-	5,315	4,578	737
Miscellaneous reimbursements	175,000	175,000	-	10,334	164,666
Proceeds on sale of land	-	-	-	116,816	(116,816)
License and permits	47,757	36,000	11,757	41,287	6,470
Donations of land	-	-	-	579,921	(579,921)
Total revenues	5,729,081	5,747,451	(18,370)	6,471,387	(742,306)
EXPENDITURES:					
Administrative					
Professional	54,814	163,065	108,251	349,247	(294,433)
Other contracted services	160,043	175,000	14,957	150,000	10,043
Temple Medical Education District (TMED)	75,433	80,000	4,567	-	75,433
Downtown non-capital improvements	84,646	219,200	134,554	800	83,846
NW Loop 363 Improvements (TxDot)-ROW	30,650	930,000	899,350	-	30,650
Contractual obligation - TEDC	150,000	150,000	-	100,000	50,000
Intergovernmental:					
Reimbursement to TISD	174,779	174,779	-	-	174,779
Total administrative expenditures	730,365	1,892,044	1,161,679	600,047	130,318
Capital Improvements					
North Zone	6,000	14,800	8,800	746,623	(740,623)
Western Aviation Zone	-	-	-	93,232	(93,232)
Western Bio-Science & Medical Zone	20,303	559,449	539,146	368,547	(348,244)
General Rail Spur Improvements	2,871	177,446	174,575	-	2,871
General Roadway Improvements	42,979	108,574	65,595	241,537	(198,558)
Downtown Improvements	-	350,892	350,892	-	-
Southeast Industrial Park	37,300	126,200	88,900	-	37,300
Temple Medical Education District (TMED)	287,594	2,700,000	2,412,406	-	287,594
Outer Loop (from Wendland to IH 35 N)	114,550	158,506	43,956	-	114,550
Airport Corporate Hangar Development	129,079	1,850,000	1,720,921	-	129,079
Land	-	-	-	579,921	(579,921)
Total capital improvements	\$ 640,676	\$ 6,045,867	\$ 5,405,191	\$ 2,029,860	\$ (1,389,184)

(Continued)

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE #1
SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCE - ACTUAL AND BUDGET

(Continued)

For the year ended September 30, 2011

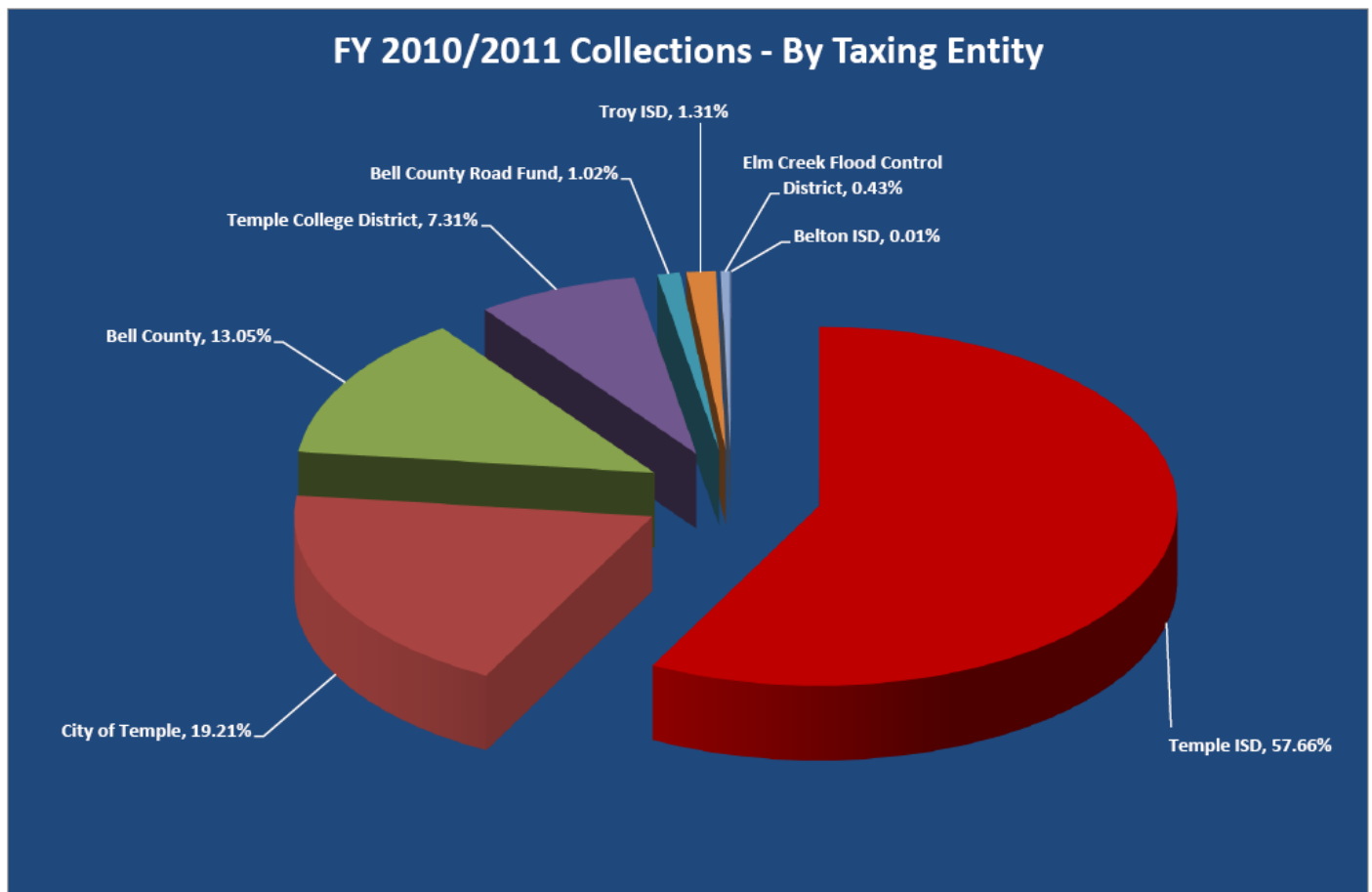
(With comparative amounts for the year ended September 30, 2010)

	2011			2010	Analytical
	Actual	Budget	Variance Favorable (Unfavorable)	Actual	Increase (Decrease) Prior yr.
Debt Service					
Bond principal	\$ 665,000	\$ 665,000	\$ -	\$ 760,000	\$ (95,000)
Bond interest	1,312,984	1,312,984	-	1,252,902	60,082
Fiscal agent fees	978	1,200	222	58,366	(57,388)
Total debt service	1,978,962	1,979,184	222	2,071,268	(92,306)
Total expenditures	3,350,003	9,917,095	6,567,092	4,701,175	(1,351,172)
Excess (deficiency) of revenues over expenditures	2,379,078	(4,169,644)	6,548,722	1,770,212	608,866
Other financing sources (uses):					
Refunding bonds issued	-	-	-	10,875,000	(10,875,000)
Original issue premium	-	-	-	2,950	(2,950)
Payment to refunded bond escrow agent	-	-	-	(10,810,887)	10,810,887
Total other financing sources	-	-	-	67,063	(67,063)
Excess (deficiency) of revenues and other financing sources over expenditures	2,379,078	(4,169,644)	6,548,722	1,837,275	541,803
Fund balance, beginning of period	9,783,890	9,783,890	-	7,946,615	1,837,275
Fund balance, end of period	\$ 12,162,968	\$ 5,614,246	\$ 6,548,722	\$ 9,783,890	\$ 2,379,078

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NO. 1
SCHEDULE OF APPRAISED TAXABLE VALUE, TAX LEVY & TAX COLLECTIONS BY TAXING ENTITY
For the Tax Year 2010/Fiscal Year Ending September 30, 2011

Taxing Jurisdiction	Appraised Taxable Value	Tax Levy	Tax Collections ⁽¹⁾	% Collected
Temple ISD	\$ 131,613,253	\$ 2,145,296	\$2,210,716	103.05%
City of Temple	129,282,220	734,194	736,694	100.34%
Bell County	130,531,305	498,630	500,281	100.33%
Temple College District	129,302,220	271,535	280,190	103.19%
Bell County Road Fund	130,531,305	39,029	39,159	100.33%
Troy ISD	2,877,500	48,126	50,103	104.11%
Elm Creek Flood Control District	44,455,704	14,537	16,341	112.41%
Belton ISD	31,094	534	534	100.00%
		<u>\$ 3,751,881</u>	<u>\$ 3,834,018</u>	<u>102.19%</u>

⁽¹⁾ Tax collections include the amount collected from the current year levy and any amount collected from prior years.



CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NO. 1
SCHEDULE OF FIXED ASSETS
For the year ending September 30, 2011

Land	\$ 5,921,365
Buildings	1,103,036
Machinery & Equipment	42,559
Infrastructure	49,714,222
Construction in Progress	<u>707,523</u>
Total Fixed Assets	57,488,705
Less: Accumulated Depreciation	<u>(10,299,969)</u>
Net Fixed Assets	<u><u>\$ 47,188,736</u></u>

CITY OF TEMPLE, TEXAS

REINVESTMENT ZONE NO. 1

SCHEDULE OF OUTSTANDING BONDS (PRINCIPAL & INTEREST) - AS OF SEPTEMBER 30, 2011

Fiscal Year	Percent of Debt Retired		Combo Tax & Revenue Bonds Series 2003 *	Certificates of Obligation Bonds Series 2008 *	TIRZ Revenue Bonds, Taxable Series 2008	General Obligation Bonds Series 2009	Total
	Annual %	Cumulative %					
2012	8.99%	8.99%	\$ 867,035	\$ 201,960	\$ 1,241,935	\$ 1,473,669	\$ 3,784,599
2013	8.99%	17.98%	869,055	201,960	1,239,640	1,474,569	3,785,224
2014	9.01%	26.99%	869,855	201,960	1,240,495	1,479,969	3,792,279
2015	9.05%	36.04%	868,930	201,960	1,239,232	1,499,769	3,809,891
2016	9.07%	45.11%	866,530	201,960	1,240,855	1,508,775	3,818,120
2017	9.07%	54.19%	867,440	201,960	1,240,096	1,510,150	3,819,646
2018	9.03%	63.21%	866,753	201,960	1,241,957	1,488,750	3,799,420
2019	9.02%	72.23%	869,240	201,960	1,241,173	1,485,000	3,797,373
2020	9.25%	81.48%	869,640	1,786,960	1,237,744	-	3,894,344
2021	9.26%	90.74%	868,070	1,787,292	1,241,670	-	3,897,032
2022	9.26%	100.00%	870,070	1,784,972	1,242,422	-	3,897,464
Total:			\$ 9,552,618	\$ 6,974,904	\$ 13,647,219	\$ 11,920,651	\$ 42,095,392

* These bonds were refunded as of November 3, 2011, with General Obligation Refunding Bonds, Series 2011A.

Savings on the debt service payments over the life of the new debt is \$785,655.

CITY OF TEMPLE, TEXAS
REINVESTMENT ZONE NO. 1 - VALUES FOR BASE AND INCREMENT (CAPTURED APPRAISED VALUE)
For the Tax Year 2011/FY 2012 As of 10/1/2011

Taxing Jurisdiction	ORIGINAL ZONE			EXPANDED ZONE			TOTAL		
	Tax Increment Base	Captured Appraised Value ⁽¹⁾	TOTAL	Tax Increment Base	Captured Appraised Value	TOTAL	Tax Increment Base	Captured Appraised Value	TOTAL
Temple ISD	\$ 97,186,149	\$ 161,935,160	\$ 259,121,309				\$ 97,186,149	\$ 161,935,160	\$ 259,121,309
City of Temple	97,765,552	134,598,480	232,364,032	\$ 267,979,786	\$ 1,449,222	\$ 269,429,008	365,745,338	136,047,702	501,793,040
Bell County	97,765,552	135,869,284	233,634,836				97,765,552	135,869,284	233,634,836
Temple College District	97,765,552	134,633,381	232,398,933	267,979,786	1,449,222	269,429,008	365,745,338	136,082,603	501,827,941
Bell County Road Fund	97,765,552	162,562,774	260,328,326				97,765,552	162,562,774	260,328,326
Troy ISD	8,146,123	3,090,470	11,236,593				8,146,123	3,090,470	11,236,593
Elm Creek Flood Control District	28,984,337	52,865,301	81,849,638				28,984,337	52,865,301	81,849,638
Belton ISD	18,028	31,447	49,475				18,028	31,447	49,475

Per Tax Appraisal District of Bell County as of November 15, 2011 - [e-mail from B. Beyer]

⁽¹⁾ Note: Captured Appraised Value for each taxing entity will vary based on exemptions allowed, participation in tax abatements and varying geographical boundaries.

DEFINITIONS:

Original Zone - Includes Zone Boundaries as originally created in 1982 and expanded in 1999.

Expanded Zone - TMED area as expanded in 2010.

Tax Increment Base - Total taxable value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated.

Captured Appraised Value - The captured appraised value of real property taxable by a taxing unit for a year is the total taxable value of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit.





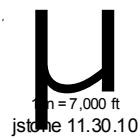
Supplemental Schedules

TIF Reinvestment Zone #1
Summary Financing Plan with Detailed Project Plan

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

PROJECT PLAN

{A} {B} {C} {D} {E}								
SUMMARY FINANCING PLAN								
	FY 2011	FY 2011 Actual	FY 2011 Open Encumbrances & Carry Forwards	As currently adopted 2012	FY Revised FY 2012	FY 2013	FY 2014	FY 2015
1 Beginning Available Fund Balance, Oct 1	\$ 6,901,796	\$ 6,901,798		\$ 1,432,152	\$ 7,979,748	\$ 830,812	\$ 765,393	\$ 1,861,709
20 Total Sources of Funds	5,747,451	5,729,081		5,630,956	5,630,956	4,306,824	4,368,351	4,416,566
2 Adjustments to Debt Service Reserve	(1,300,000)	(1,301,128)		462,707	462,707	1,761,865	1,765,643	-
25 Net Available for Appropriation	11,349,247	11,329,751		7,525,815	14,073,411	6,899,501	6,899,387	6,278,275
50/52 General Administrative Expenditures	163,065	54,814	-	176,200	176,200	176,200	176,200	176,200
54 Zone Park Maintenance [mowing, utilities, botanical supplies]	150,000	150,000	-	150,000	150,000	150,000	150,000	150,000
54 Zone Park Maintenance [maintenance]	25,000	10,043	-	25,000	25,000	25,000	25,000	25,000
56 Rail Maintenance	177,446	2,871	174,575	100,000	274,575	100,000	100,000	100,000
58 Road/Signage Maintenance	108,574	42,979	58,826	100,000	158,826	100,000	100,000	100,000
60 Contractual Payments (TEDC - Marketing)	150,000	150,000	-	165,000	165,000	181,500	199,650	219,615
62 TISD - Joint Use Facilities [look at contracts and calculation]	174,779	174,779	-	22,873	22,873	23,102	23,333	23,567
26 Debt Service - 2003 Issue {\$11.740 mil}	869,620	869,398	-	868,235	868,235	870,255	871,055	870,130
27 Debt Service - 2008 Issue {\$16.010 mil}	201,960	201,960	-	201,960	201,960	201,960	201,960	201,960
28 Debt Service - 2009 Issue {Refunding}	370,669	370,669	-	1,473,669	1,473,669	1,474,569	1,479,969	1,499,769
29 Debt Service - 2008 Taxable Issue {\$10.365 mil}	536,935	536,935	-	1,241,935	1,241,935	1,239,641	1,240,495	1,239,233
30 Issuance Costs	-	-	-	-	-	-	-	-
31 Refunding Bond Proceeds	-	-	-	-	-	-	-	-
32 Payment to Refunding Bond Agent	-	-	-	-	-	-	-	-
70 Total Debt & Operating Expenditures	2,928,048	2,564,448	233,401	4,524,872	4,758,273	4,542,227	4,567,662	4,605,474
80 Funds Available for Projects	\$ 8,421,199	\$ 8,765,303	\$ (233,401)	\$ 3,000,943	\$ 9,315,138	\$ 2,357,274	\$ 2,331,725	\$ 1,672,801
PROJECT PLAN								
	FY 2011	FY 2011 Actual	FY 2011 Open Encumbrances & Carry Forwards	As currently adopted 2012	FY Revised FY 2012	FY 2013	FY 2014	FY 2015
NORTH ZONE/RAIL PARK (including Enterprise Park):								
100 Railroad Spur Improvements	14,800	6,000	8,800	-	8,800	-	-	-
102 Elm Creek Detention Pond	-	-	-	-	-	-	-	-
103 ROW Acquisition - Public Improvements	-	-	-	-	-	-	-	-
104 Extension of Rail Service	-	-	-	-	-	-	-	-
105 BN Trans-Load NE Site Phase I - [\$850K total project cost]	-	-	-	-	-	-	-	-
106 Wendland Road Improvements	-	-	-	-	-	-	-	-
107 Wendland Property Roadway Phase I - [\$1.87M total project cost]	-	-	-	-	-	-	-	-
110 Public Improvements in North Zone	-	-	-	50,000	50,000	250,000	250,000	250,000
150 Total North Zone/Rail Park (including Enterprise Park)	14,800	6,000	8,800	50,000	58,800	250,000	250,000	250,000
AIRPORT PARK:								
151 Airport Park Infrastructure Construction	-	-	-	-	-	-	-	-
155 Pepper Creek Trail Extention Phase I - [\$750K total project cost]	-	-	-	125,000	125,000	625,000	-	-
200 Total Airport Park	-	-	-	125,000	125,000	625,000	-	-
BIO-SCIENCE PARK:								
201 Greenbelt Development along Pepper Creek	34,449	20,303	-	-	-	-	-	-
202 Outer Loop Phase II (from Hwy 36 to FM 2305)	-	-	-	-	-	-	-	-
203 Bio-Science Park Phase 1	-	-	-	-	-	-	-	-
204 Pepper Creek Trail Connection to S&W (City of Temple portion)	525,000	-	525,000	175,000	700,000	-	-	-
250 Total Bio-Science Park	559,449	20,303	525,000	175,000	700,000	-	-	-
300 Outer Loop (from Wendland Rd to IH-35 North) - [\$15.5M total project cost]	158,506	114,550	36,105	-	36,105	-	-	-
350 Northwest Loop 363 Improvements (TxDOT commitment)	930,000	30,650	899,350	-	899,350	-	-	-
SYNERGY PARK:								
351 Lorraine Drive (Southeast Industrial Park) - [\$1.5M total project cost]	126,200	37,300	88,900	-	88,900	-	-	-
400 Total Synergy Park	126,200	37,300	88,900	-	88,900	-	-	-
DOWNTOWN:								
401 Downtown Improvements [look at 1999 Ordinance]	440,092	42,796	397,296	206,781	604,077	216,881	220,016	222,485
402 Rail Safety Zone Study	25,000	21,850	3,150	-	3,150	-	-	-
403 Lot Identification & Signage	80,000	-	80,000	-	80,000	-	-	-
404 Santa Fe Plaza Study	25,000	20,000	5,000	-	5,000	-	-	-
405 Santa Fe Plaza Parking Lot - [\$1.3M total project cost]	-	-	-	-	-	-	-	-
450 Total Downtown	570,092	84,646	485,446	206,781	692,227	216,881	220,016	222,485
TMED:								
451 TMED - 1st Street @ Temple College - [\$2.9M total project cost]	500,000	33,367	466,633	-	466,633	-	-	-
452 Master Plan Integration 2010	50,000	48,450	1,550	-	1,550	-	-	-
453 Monumentation Identification Conceptual Design	30,000	26,983	1,617	-	1,617	-	-	-
454 TMED - 1st Street @ Loop 363 Design/Construction - [\$2M total project cost]	300,000	98,880	201,120	1,500,000	1,701,120	500,000	-	-
455 TMED - Friars Creek Trail 5th Street to S&W Blvd. - [\$1.9M total project cost - DOE Grant of \$400K]	1,500,000	69,547	1,430,453	-	1,430,453	-	-	-
456 Avenue R - S&W Blvd, Ave R - 19th Intersections	50,000	14,500	35,500	-	35,500	-	-	-
457 Ave U from S&W Blvd to 1st St & the 13th to 17th connector from Ave R to Loop 363	350,000	71,300	276,150	-	276,150	-	-	-
500 Total TMED	2,780,000	363,027	2,413,023	1,500,000	3,913,023	500,000	-	-
OTHER PROJECTS:								
501 Gateway Entrance Projects	-	-	-	-	-	-	-	-
505 Airport Corporate Hangar Development	1,850,000	129,079	1,720,921	250,000	1,970,921	-	-	-
550 Total Other Projects	1,850,000	129,079	1,720,921	250,000	1,970,921	-	-	-
600 Undesignated Funding - Bonds	-	-	-	-	-	-	-	-
610 Undesignated Funding - Public Improvements	-	-	-	-	-	-	-	-
Total Planned Project Expenditures	6,989,047	785,555	6,177,545	2,306,781	8,484,326	1,591,881	470,016	472,485
700 Available Fund Balance at Year End	\$ 1,432,152	\$ 7,979,748	\$ (6,410,946)	\$ 694,162	\$ 830,812	\$ 765,393	\$ 1,861,709	\$ 1,200,316



RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE SUBMISSION OF THE TAX INCREMENT FINANCING REINVESTMENT ZONE NUMBER ONE ANNUAL REPORT FOR FISCAL YEAR 2010-2011 TO EACH TAXING ENTITY IN THE REINVESTMENT ZONE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Section 311.016 of the Tax Increment Financing Act requires that the governing body of a municipality submit to the chief executive officer of each taxing unit that levies property tax on real property in a reinvestment zone created by the municipality, a report on the status of the zone on or before the 90th day following the end of the fiscal year of the municipality;

Whereas, a copy of the report must also be sent to the Texas Attorney General and State Comptroller;

Whereas, the Staff recommends approval of the Tax Increment Financing Reinvestment Zone Number One Annual Report for 2010-2011 which meets all the mandated requirements for submission, including a balance sheet and income statement of September 30, 2011; debt service retirement schedules; and a schedule of tax increment base and captured appraised values; and

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

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

Part 1: The City Council approves the Tax Increment Financing Reinvestment Zone Number One Annual Report for the fiscal year 2010-2011, a copy of which is attached hereto and made a part of this Resolution for all purposes as Exhibit A, and the Director of Finance is hereby directed to submit the report to the chief executive officer of each taxing unit that levies property tax on real property in Tax Increment Financing Reinvestment Zone Number One. A copy of the report shall also be sent to the Attorney General.

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 **15th** 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

12/15/11
Item #5(Q)
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 \$39,040.

ATTACHMENTS:

[Budget Amendments
Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
December 15, 2011

			APPROPRIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit
110-1400-511-2517		Election Expense (City Secretary's Office)	\$ 789	
110-0000-352-1345		Designated for Capital Projects - Unallocated		\$ 789
<p>This budget adjustment appropriates \$789 to fund the cost incurred with Bell County for the November Charter Election.</p>				
110-2330-540-2516		Judgments & Damages (Solid Waste - Residential)	\$ 3,254	
110-2320-540-2516		Judgments & Damages (Solid Waste - Brush/Bulk)	\$ 840	
110-1500-515-6531		Contingency - Judgments & Damages		\$ 4,094
<p>Deductible reimbursements to the Texas Municipal League for: (1) damage to a vehicle after it was struck by a garbage truck while backing up at Avenue M and 57th Street (\$3,253.84); and (2) damage to a vehicle after it was struck by a garbage truck at 1500 blk of W. Avenue N (\$839.75).</p>				
110-3500-552-6332	100839	Park Developer Fee Exp > \$5,000 - Sammons	\$ 10,624	
110-0000-461-0830		Developer Fees		\$ 10,624
<p>Appropriate funds for the purchase and installation of new lights at the tennis courts in Sammons Park. Park developer fees in the amount of \$10,350 (Fairway at Sammons) and \$274 of interest on park developer fees will be used to fund the project.</p>				
240-7000-551-2616		Professional (Railroad & Heritage Museum)	\$ 375	
240-0000-358-1110		Hotel/Motel Unreserved Fund Balance		\$ 375
<p>This budget adjustment funds a change order for engineering inspection services related to the settling of the foundation at the Santa Fe Depot.</p>				
520-0000-373-0411		Water & Sewer Unreserved Retained Earnings	\$ 23,158	
561-5200-535-6940	100681	Utility Relocation - Northwest Loop 363		\$ 23,158
<p>At the 10/20/11 Council meeting, additional funding needed for the Generator Phase 2A project was funded from W&S Unreserved Retained Earnings. This budget adjustment recommends taking the additional funding needed from NW Loop 373 Utility project instead of retained earnings. Adequate funding is available in the NW Loop 373 Utility Relocation project to fund the additional amount needed.</p>				
TOTAL AMENDMENTS			\$ 39,040	\$ 39,040
GENERAL FUND				
Beginning Contingency Balance			\$	-
Added to Contingency Sweep Account			\$	-
Carry forward from Prior Year			\$	-
Taken From Contingency			\$	-
Net Balance of Contingency Account			\$	-
Beginning Judgments & Damages Contingency			\$	80,000
Added to Contingency Judgments & Damages from Council Contingency			\$	-
Taken From Judgments & Damages			\$	(15,771)
Net Balance of Judgments & Damages Contingency Account			\$	64,229

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
December 15, 2011

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Compensation Contingency	\$	863,600
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(828,585)
		Net Balance of Compensation Contingency Account	\$	35,015
		Net Balance Council Contingency	\$	99,244
		Beginning Balance Budget Sweep Contingency	\$	-
		Added to Budget Sweep Contingency	\$	-
		Taken From Budget Sweep	\$	-
		Net Balance of Budget Sweep Contingency Account	\$	-
		WATER & SEWER FUND		
		Beginning Contingency Balance	\$	50,000
		Added to Contingency Sweep Account	\$	-
		Taken From Contingency	\$	(1,129)
		Net Balance of Contingency Account	\$	48,871
		Beginning Compensation Contingency	\$	97,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(84,685)
		Net Balance of Compensation Contingency Account	\$	12,315
		Net Balance Water & Sewer Fund Contingency	\$	61,186
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	79,303
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	79,303
		Beginning Compensation Contingency	\$	11,300
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(9,855)
		Net Balance of Compensation Contingency Account	\$	1,445
		Net Balance Hotel/Motel Tax Fund Contingency	\$	80,748
		DRAINAGE FUND		
		Beginning Compensation Contingency	\$	13,200
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(12,386)
		Net Balance of Compensation Contingency Account	\$	814
		FED/STATE GRANT FUND		
		Beginning Contingency 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 1st day of September, 2011, the City Council approved a
budget for the 2011-2012 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain
amendments to the 2011-2012 City Budget.

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

Part 1: The City Council approves amending the 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 15th 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

12/15/11
Item #6
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-01: Consider adopting an ordinance authorizing an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 3: Future Land Use and Character Plan Map, Figure 3.1.

P&Z COMMISSION RECOMMENDATION: At its November 21, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the amendment to Temple Comprehensive Plan Figure 3.1.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for January 5, 2012.

Staff recommends approval of Z-FY-12-01, an amendment to the Temple Comprehensive Plan 2008-2030 to revise specific future land use areas.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-07, from the Planning and Zoning Commission meeting, November 21, 2011. This proposed update is to Chapter 3 of the Comprehensive Plan. The City Council adopted the Plan by Ordinance in late September of 2008. Chapter 3 is the Urban Design and Future Land Use Chapter emphasizes Community Character, which can be described as the distinctive qualities that the City Council wants Temple to conserve or acquire over the next 10-20 years.

In past years, a Future Land Use and Character Map (FLUCM) revision has been presented as a yearly update in response to approved rezonings made by the City Council, and corrections or additions identified by Staff. The attached map sheets show each of these specific amendments in detail. Staff will have a full-sized map at the meeting.

The FLUCM focuses on the character of specific land areas. The list of future land use and character categories pertinent to this report is attached at the end of the Staff report from the Planning and Zoning Commission meeting, November 21, 2011.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on November 7, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Before and After Future Land Use and Character Map Adjustments](#)

[P&Z Staff Report \(Z-FY-12-01\)](#)

[List of Selected FLUCP Designations with Definitions](#)

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

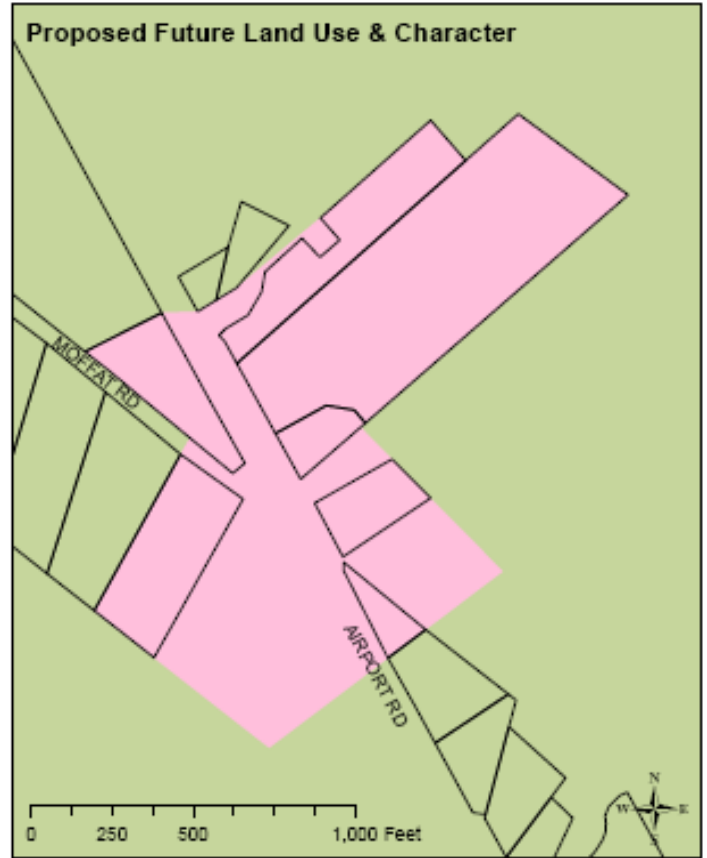
[Complete Adjusted Figure 3.1: Future Land Use and Character Map Ordinance](#)

Future Land Use and Character Map Update

AIRPORT RD &
MOFFAT RD



Z-FY-12-01



Future Land Use & Character Designations

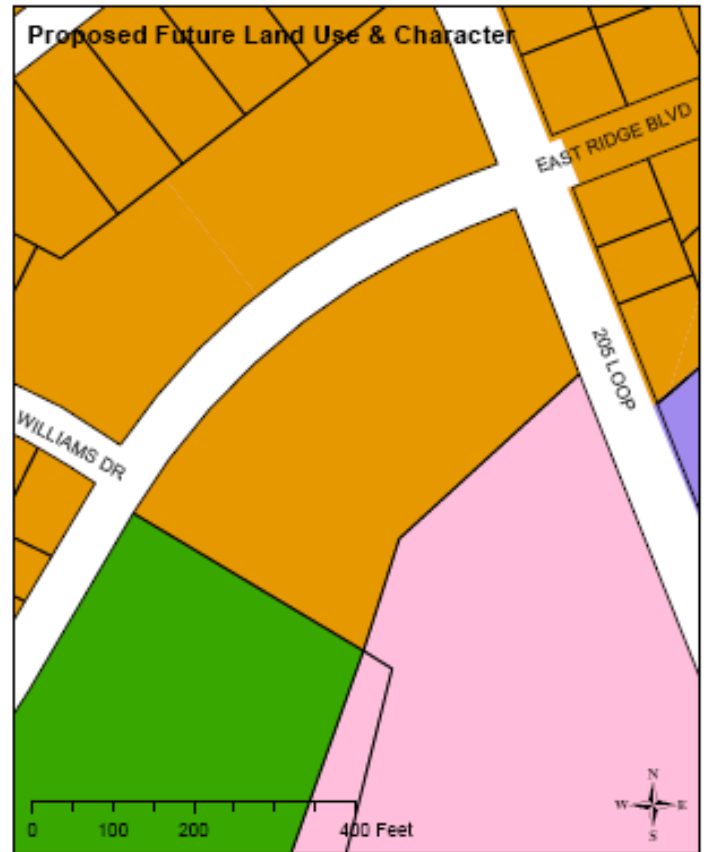
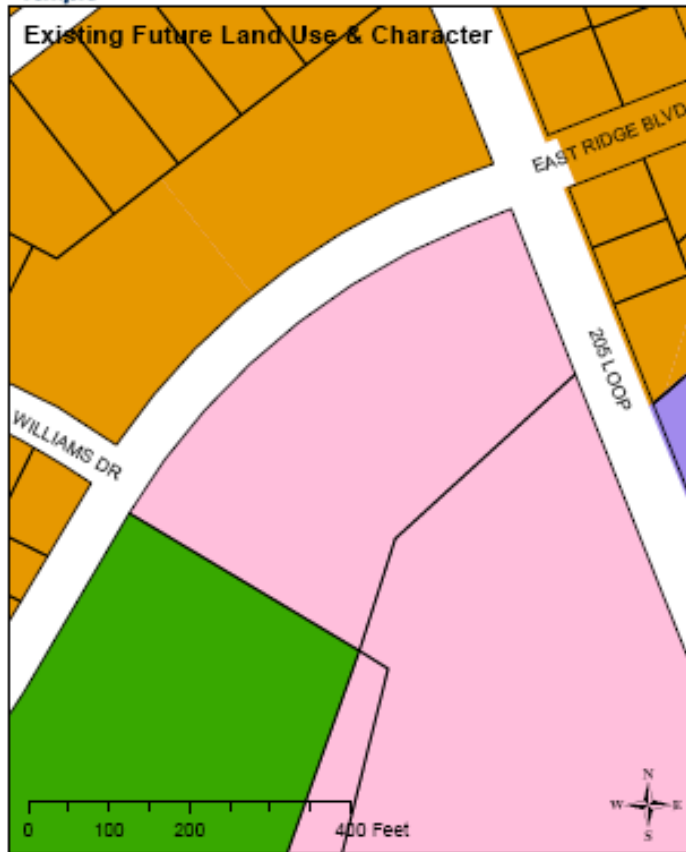
Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



Z-FY-12-01

Future Land Use and Character Map Update

EAST RIDGE BLVD &
205 LOOP



Future Land Use & Character Designations

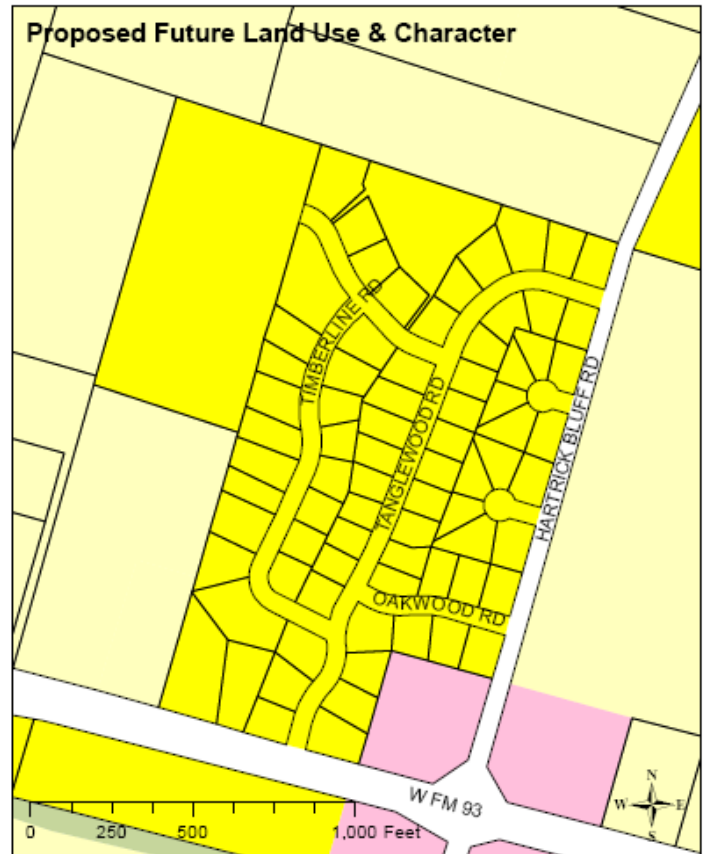
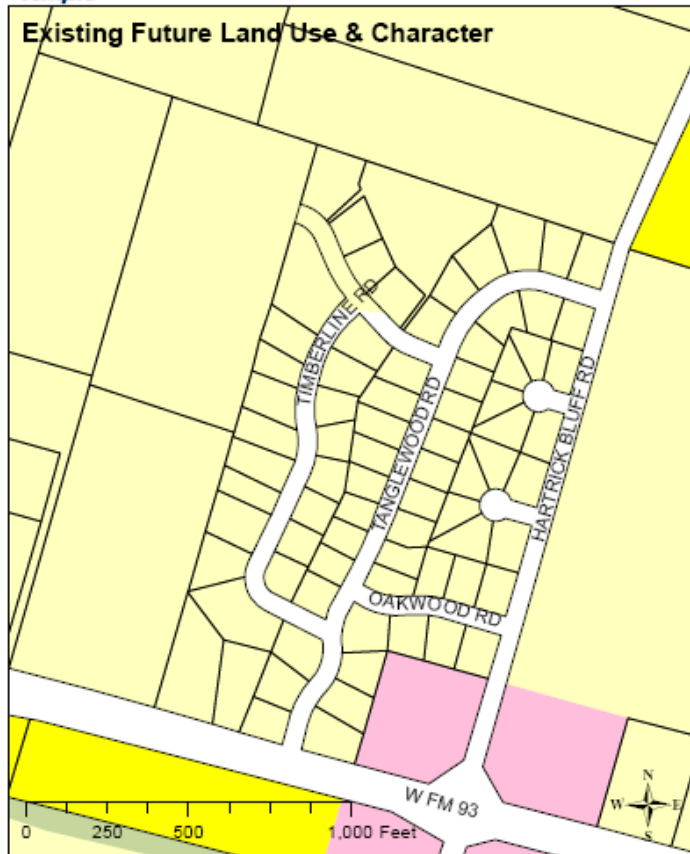
Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



Z-FY-12-01

Future Land Use and Character Map Update

HARTRICK BLUFF RD &
W FM 93



Future Land Use & Character Designations

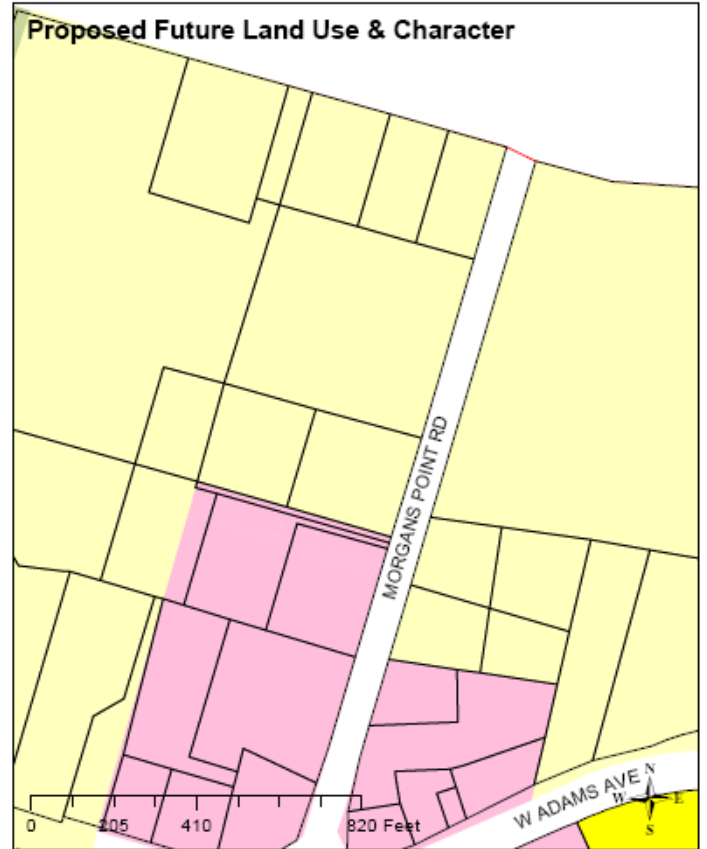
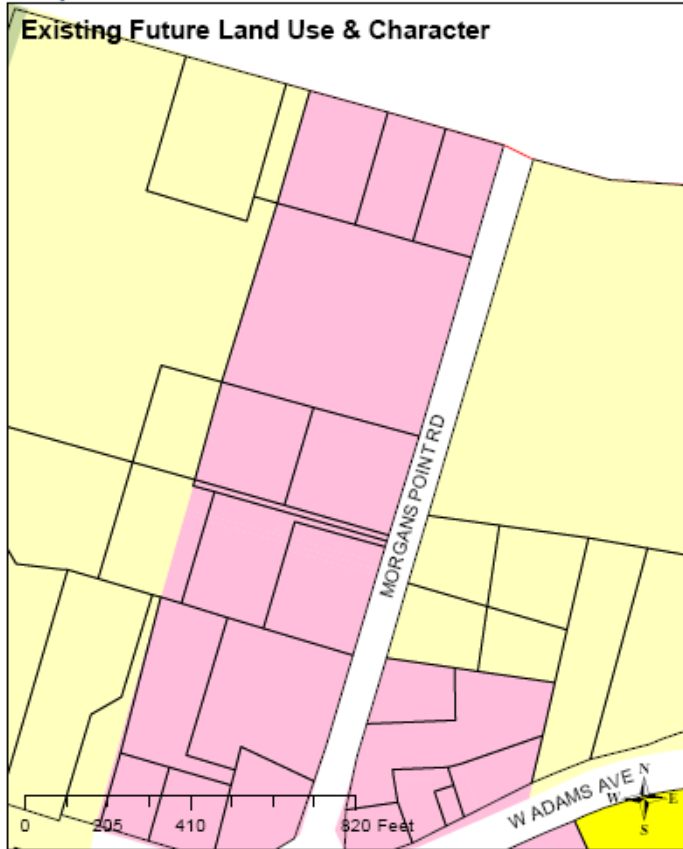
Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



Z-FY-12-01

Future Land Use and Character Map Update

MORGANS POINT RD
NORTH OF W ADAMS AVE N



Future Land Use & Character Designations

Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural

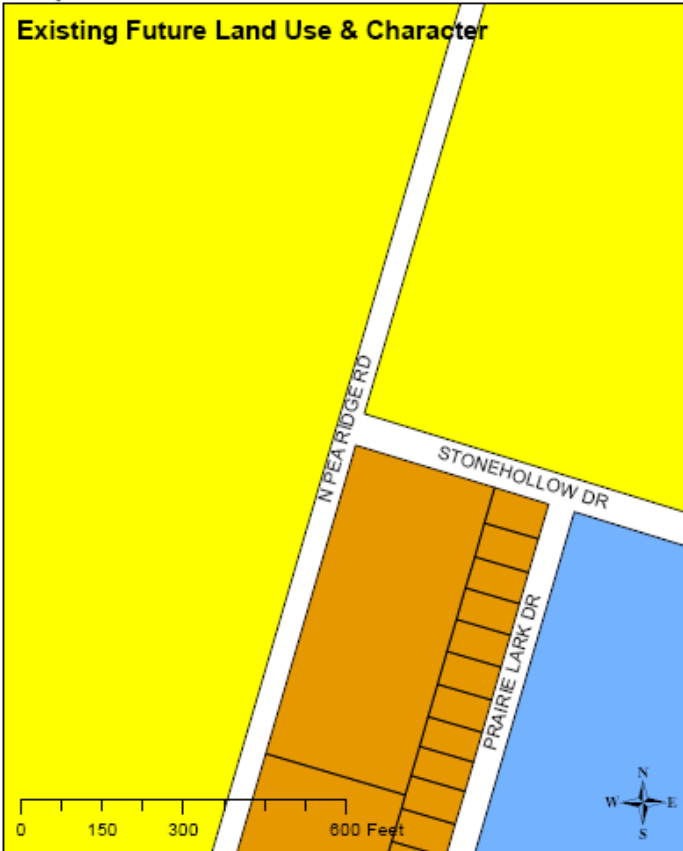


Z-FY-12-01

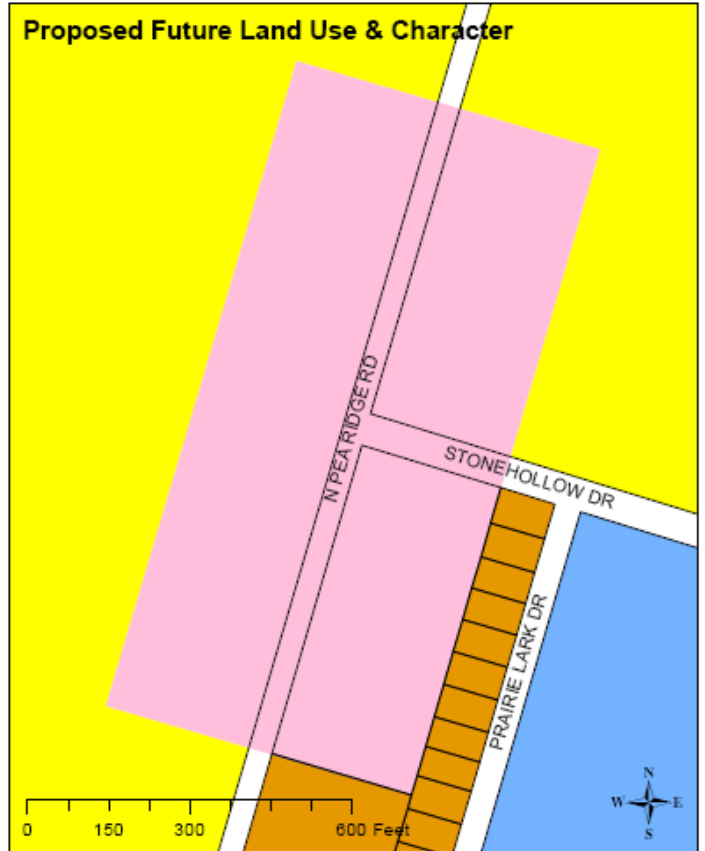
Future Land Use and Character Map Update

N PEA RIDGE RD &
STONEHOLLOW DR

Existing Future Land Use & Character



Proposed Future Land Use & Character



Future Land Use & Character Designations

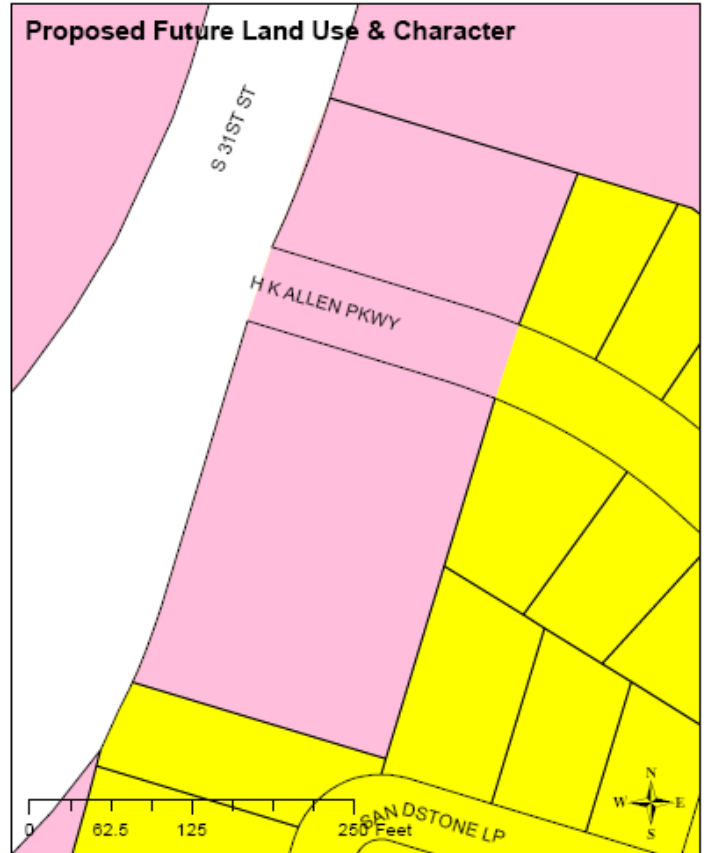
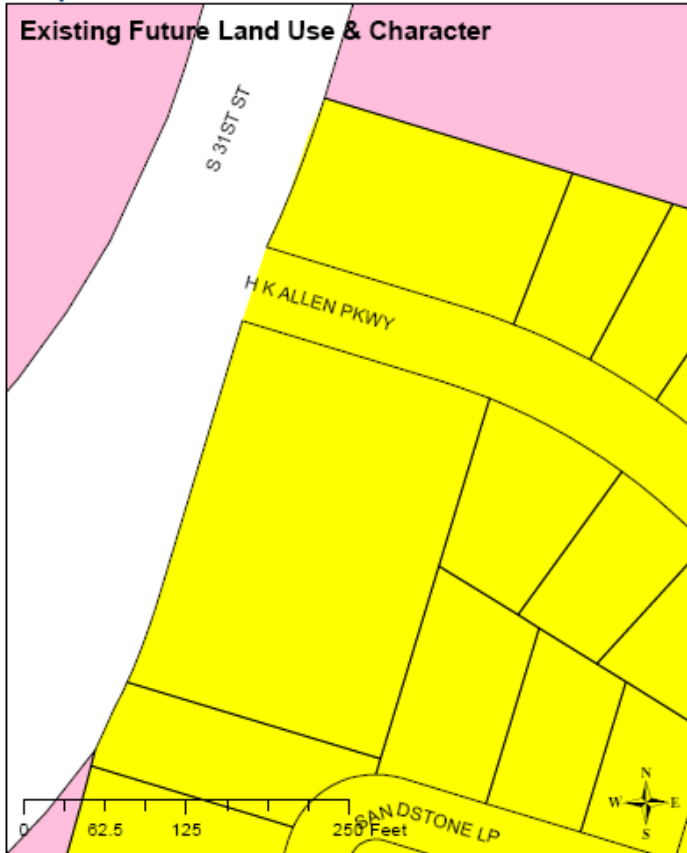
Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



Z-FY-12-01

Future Land Use and Character Map Update

S 31ST ST &
H K ALLEN PKWY



Future Land Use & Character Designations

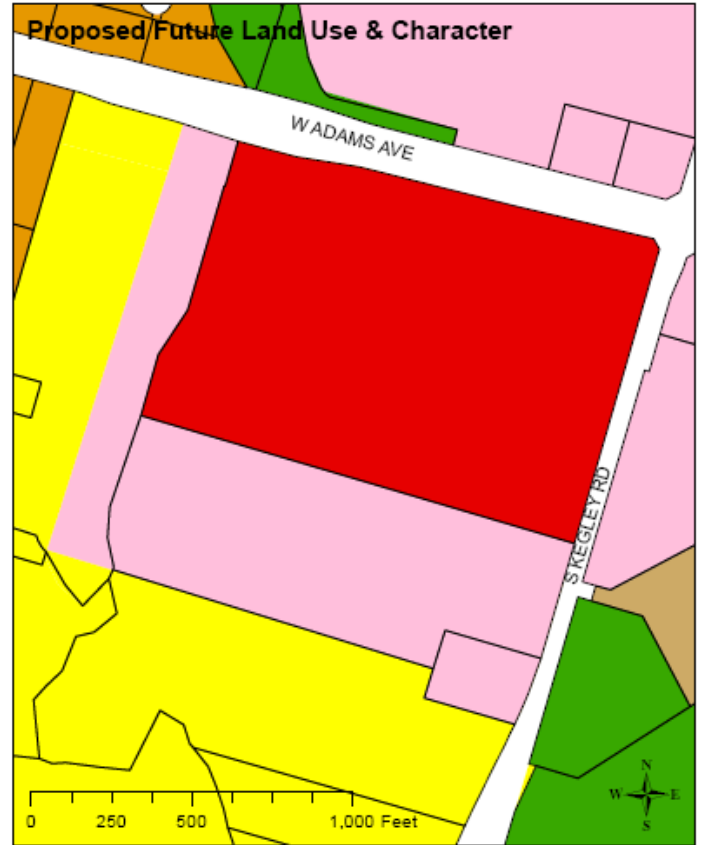
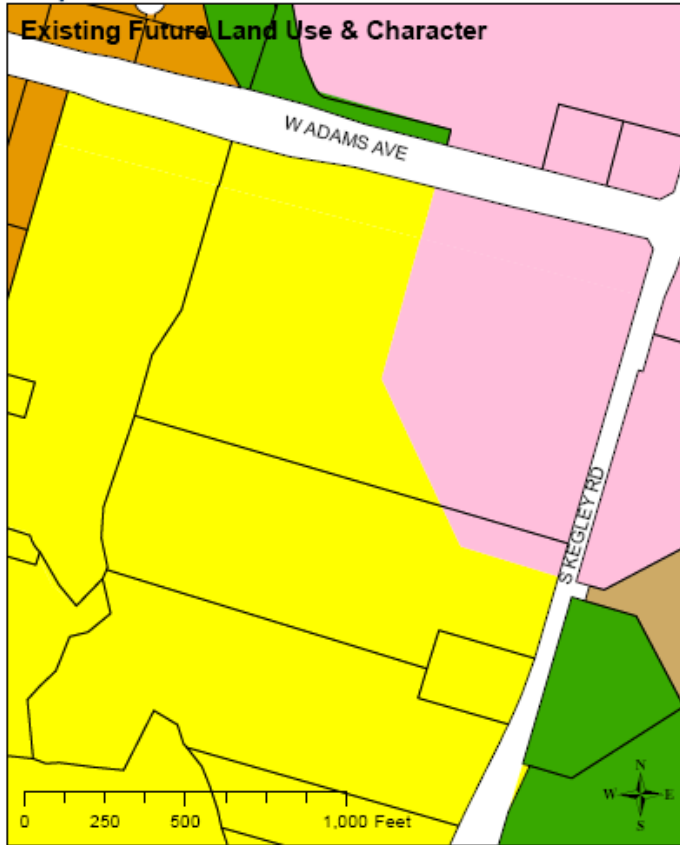
Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



Z-FY-12-01

Future Land Use and Character Map Update

W ADAMS AVE &
S KEGLEY RD



Future Land Use & Character Designations

Neighborhood Conservation	Auto-Urban Residential	Auto-Urban Commercial	Temple Medical Education District	Public Institutional
Estate Residential	Auto-Urban Multi-Family	Suburban Commercial	Industrial	Parks & Open Space
Suburban Residential	Auto-Urban Mixed Use	Urban Center	Business Park	Agricultural/Rural



PLANNING & ZONING COMMISSION ITEM MEMORANDUM

11/21/11
Item #7
Regular Agenda
Page 1 of 3

APPLICANT: City of Temple

DEPT. /DIVISION SUBMISSION & REVIEW: Leslie Matlock, AICP, Senior Planner

ITEM DESCRIPTION: Z-FY-12-01 Hold a public hearing to discuss and recommend action on an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 3: Future Land Use and Character Plan Map, Figure 3.1.

ITEM SUMMARY:

This proposed update is to Chapter 3 of the Comprehensive Plan. The City Council adopted the Plan by Ordinance in late September of 2008. Chapter 3 is the Urban Design and Future Land Use Chapter emphasizes Community Character, which can be described as the distinctive qualities that the City Council wants Temple to conserve or acquire over the next 10-20 years.

In past years, a Future Land Use and Character Map (FLUCM) revision has been presented as a yearly update in response to approved rezonings made by the City Council, and corrections or additions identified by Staff. The attached map sheets show each of these specific amendments in detail. Staff will have a full-sized map at the meeting.

The FLUCM focuses on the character of specific land areas. The list of future land use and character categories is attached at the end of this report for reference.

Proposed Changes to FLUCP Map by Area

The following items, as discussed earlier, are clean-up changes for rezonings that have been approved by the City Council.

1. Z-FY 11-28, AG to C, Airport and Moffat Roads This intersection on the City limits line has had several individual rezoned properties in the past 3-4 years from AG to various nonresidential zoning districts. There are several open businesses in the vicinity, such as a truck stop and convenience store, a mini-storage center, and a string of contractor offices.

- Current FLUCP Designation: Agricultural/Rural
Current Compatible Zoning Districts: AG Agricultural
- Proposed FLUCP Designation: Suburban Commercial
Proposed Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail

2. Z-FY 11-44, C to PD-2F, East Ridge Road and 205 Loop Although this small area is between two commercial uses, the bulk of the neighborhood is developed as a residential area. Residential is a preferred use here, because a commercial use, such as a warehouse, would not be as desirable across from the established residential uses north and west of the parcel.

- Current FLUCP Designation: Suburban Commercial
Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
- Proposed FLUCP Designation: Auto-Urban Residential
Proposed Compatible Zoning Districts: SF2 & SF3, Single-Family Residential; TH, Townhouse; 2F, Two-Family

3. Z-FY 10-50, AG to SF1, Hartrick Bluff Drive and State Hwy 93 This area is being changed as the extension of this neighborhood will be built with smaller lots than the Estate Residential district that is currently reflected on the FLUCP.

- Current FLUCP Designation: Estate Residential
Current Compatible Zoning Districts: UE, Urban Estate
- Proposed FLUCP Designation: Suburban Residential
Proposed Compatible Zoning Districts: SF1 & SF2; Single-Family Residential

4. Z-FY 11-14, Lago Terra Addition, Morgan's Point Road, north of W. Adams Avenue at the City Limits This area has been platted as a new, larger-lot, gated development. Surrounding that area, to the north and south are existing estate homes and lots.

- Current FLUCP Designation: Suburban Commercial
- Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
- Current FLUCP Designation: Estate Residential
Current Compatible Zoning Districts: UE, Urban Estate

5. Z-FY 11-32, AG to GR (and SF2), SE of N. Pea Ridge Road and Stonehollow Drive This area appears as Suburban Residential on the current FLUCM. Much of the undeveloped areas are shown in this way or as Estate Residential on the FLUCM as they more likely to be developed in the near future and City facilities could be feasibly extended. This intersection is about one mile from the commercial area along W. Adams Avenue and would well serve the residential homes with neighborhood services in the future.

- Current FLUCP Designation: Agricultural/Rural
Current Compatible Zoning Districts: AG, Agricultural
- Current FLUCP Designation: Suburban Commercial
Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail

6. Z-FY 11-10, PD-SF1 to PD-GR, S. 31st Street and H. K. Allen Parkway This area is adjacent to the heavily traveled S. 31st Street corridor and is at an entrance to a platted, but unbuilt, subdivision. The property, while small, is a better land use adjacent to a major arterial.

- Proposed FLUCP Designation: Suburban Residential
Proposed Compatible Zoning Districts: SF1 and SF2, Single-Family Residential
- Current FLUCP Designation: Suburban Commercial

Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail

7. Z-FY 11-41, AG to C, W. Adams Avenue and S. Kegley Road This area is at the intersection of two arterials. This parcel and its surroundings are being adjusted as this is a prime corner for a shopping area or large retail store. The area is being changed to the more intensive commercial with a ring of less intensive commercial to reflect the likely land use.

- Current FLUCP Designation: Agricultural/Rural
Current Compatible Zoning Districts: AG Agricultural
- Proposed FLUCP Designation: Auto Urban Commercial and Suburban Commercial
Proposed Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail; C, Commercial.

Several small areas which had rezonings approved within the last two years are not reflected in the above changes. They were either too small of a parcel, or in areas where staff believes making a long term change was not advisable given the surrounding character of the properties.

PUBLIC NOTICE: The newspaper printed notice of the Planning and Zoning Commission public hearing on November 4, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of Z-FY-12-01, an amendment to the Temple Comprehensive Plan 2008-2030 to revise specific future land use areas.

FISCAL IMPACT: NA

ATTACHMENTS:

[Selected Future Land Use Categories in the Comprehensive Plan](#)
[Specific FLUCP Map Images \(seven proposed map changes\)](#)
[Complete FLUCP Map \(with changes\)](#)

Selected Future Land Use Categories in the Comprehensive Plan

The Future Land Use Character Districts relevant to this report include:

- ☐ **AUTO-URBAN COMMERCIAL**
 - Auto-urban commercial development is the principal non-residential character pattern in the city. Examples of auto-urban commercial can be found along I-35, H.K. Dodgen Loop, 31st Street, and along Adams and Central Avenues.
- ☐ **AUTO-URBAN MIXED USE**
 - Examples of auto-urban - mixed use include where W. H Avenue intersects IH 35 and the surrounding Interstate areas, south of downtown, and along the W. H Avenue corridor.
- ☐ **AUTO-URBAN RESIDENTIAL – MULTI-FAMILY**
 - Examples of auto-urban residential - multi-family include neighborhoods with apartment complexes, such as on the west side of S. 31st Street in the Canyon Creek area and between MLK Blvd. and S. 1st Street and H.J. Dodgen Loop.
- ☐ **AUTO-URBAN RESIDENTIAL**
 - Auto-urban residential, single-family is the residential development pattern of many smaller lot established neighborhoods. These neighborhoods have multiple residential types, such as single family and duplex units and are scattered all over town.
- ☐ **SUBURBAN RESIDENTIAL**
 - Several suburban residential developments include newer neighborhoods with more average lot sizes. Wildflower Addition on South Kegley is an example that fulfills this definition in the Comprehensive Plan because the presence of a significant amount of common open space results in a more open suburban feel.
- ☐ **SUBURBAN COMMERCIAL**
 - Examples of suburban commercial development include the southwest corner of Industrial Boulevard and the Loop, South 31st and FM 93. Suburban commercial development should be concentrated in nodes at major intersections and can be characterized by extensive landscaping and/or open space. The architectural style of buildings, building materials, roof, signage and lighting also all contribute to a more suburban character.
- ☐ **ESTATE RESIDENTIAL**
 - An estate character requires low-density development on larger properties (typically one acre or larger), thereby producing a visual openness. The larger lot sizes, open space and vegetation are intended to be the more dominate views, while the buildings are to be apparent, yet secondary to the landscape. The estate character may resemble a less dense version of the typical suburban character, sometimes being characterized as a “ranch-ette”.
- ☐ **AGRICULTURAL/RURAL**
 - In this character class, much of the surrounding area has a rural character with scattered homesteads and other development. The visible distinction of rural character is the importance of the natural landscape, rather than buildings. Agricultural activities and undisturbed natural areas are the dominant land use rather than conventional suburban and estate residential developments. Uses are parts of rural water cooperatives and mostly on septic services.

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

ACTION ITEMS

Item 7: Z-FY-12-01 – Hold a public hearing to discuss and recommend action on an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 3: Future Land Use and Character Plan Map, Figure 3.1. (Applicant: City of Temple)

Ms. Leslie Matlock stated the Future Land Use and Character Map cleanup was for the last few years where zoning approvals have taken place but did not conform to the map. City Council first reading would take place on December 15, 2011 and second and final action on January 5, 2012.

1. The intersection of Airport and Moffat Road has slowly developed into a commercial area. Changing the area to Suburban Commercial would be allowing compatible uses such as Office One (O1), Office Two (O2), Neighborhood Services (NS), and General Retail (GR).
2. Eastridge Road and Loop 205 recently was changed from Suburban-Commercial and a Two Family (2F) residential is being considered. This would make it less likely to have a warehouse use in the area.
3. Hartrick Bluff Road and West Highway 93 is currently Estate Residential which usually has UE. The development taken place has been compatible with SF1 and SF2 and the proposed change would be Suburban Residential
4. Lago Terra came in and changed the area to SF1 to have single family houses. The proposal for this area is to change Suburban Commercial to Urban Estates.
5. Southeast corner of N. Pea Ridge Road and Stonehollow Rd. The zoning was changed to GR and the proposed designation would be Auto Urban Commercial changing from Suburban Residential.
6. HK Allen Parkway (nonexisting street directly south of Waters Dairy and South 31st Street) is currently designated as Single Family and Suburban-Residential. This area will now be considered a Suburban Commercial area.
7. West Adams Avenue and South Kegley Road, intersection of two arterials, primed for larger retail/shopping area. Proposal is Auto Urban

Commercial wrapped by a Suburban-Commercial edge. This is a change from Suburban Residential and Suburban Commercial.

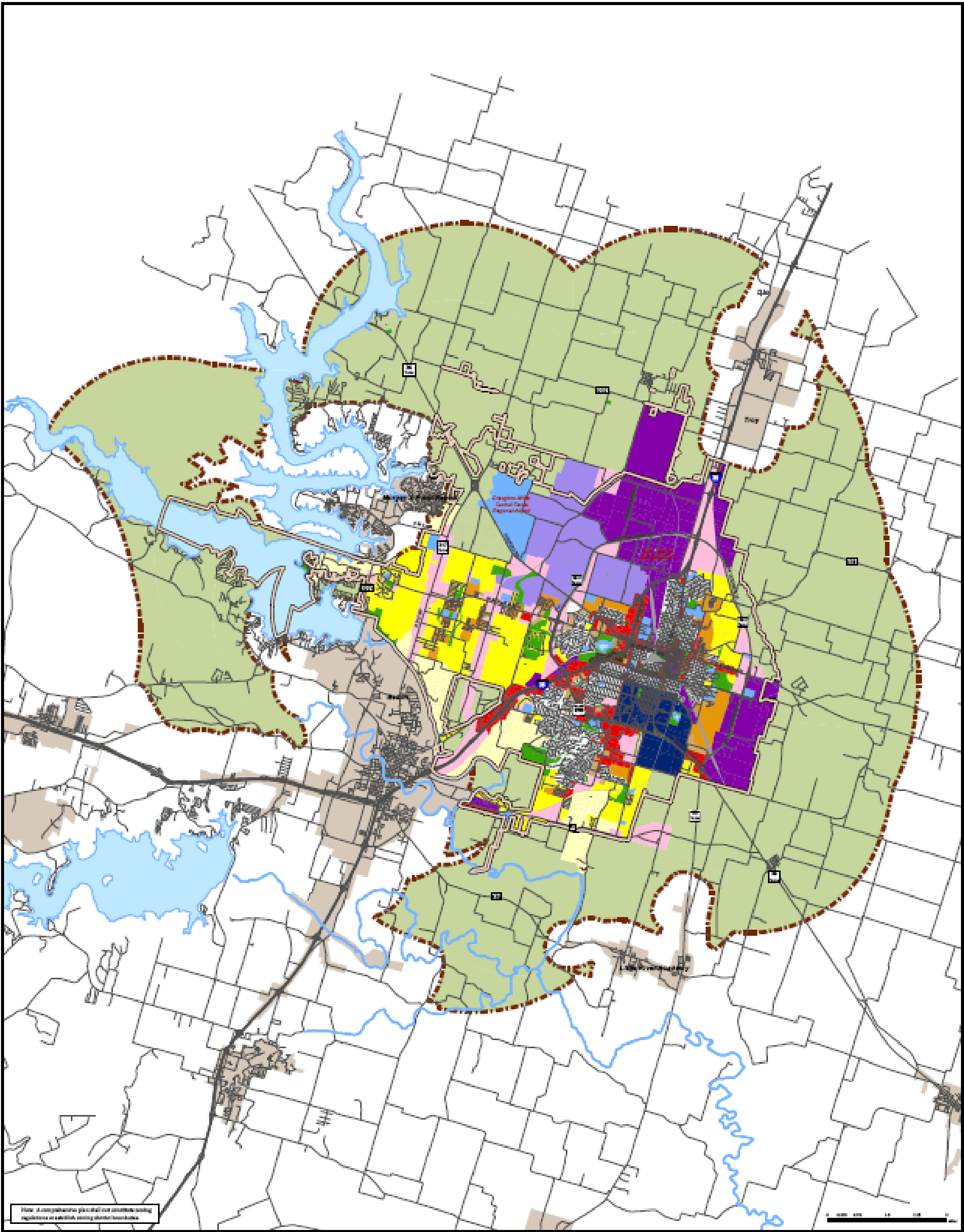
Staff recommends approval to these changes to the Future Land Use and Character Map.

Chair Martin opened the public hearing.

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

Vice-Chair Staats made a motion to approve Item 7, **Z-FY-12-01**, as presented and Commissioner Rhoads made a second.

Motion passed: 7:0



2030 Future Land Use & Character

- | | | |
|-----------------------------|-------------------------------------|----------------------|
| □ Neighborhood Conservation | ■ Urban Center | ⊗ City Limits |
| ■ Estate Residential | ■ Temple Medical Education District | ⬆ Lake; River |
| ■ Suburban Residential | ■ Industrial | ⚡ Railroad |
| ■ Auto-Urban Residential | ■ Business Park | ⬆ Extraterritorial |
| ■ Auto-Urban Multi-Family | ■ Public Institutional | ⬆ Jurisdiction (ETJ) |
| ■ Auto-Urban Mixed Use | ■ Parks & Open Space | ⬆ Right-of-Way |
| ■ Auto-Urban Commercial | ■ Agricultural/Rural | |
| ■ Suburban Commercial | | |

3.1

FIGURE

11.14.2011

ORDINANCE NO. _____

[PLANNING NO. Z-FY-12-01]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHOICES '08, CITY OF TEMPLE COMPREHENSIVE PLAN, BY REVISING THE SECTION 3; FUTURE LAND USE AND CHARACTER PLAN MAP, FIGURE 3.1; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on September 4, 2008, the City Council approved Ordinance No. 2008-4230 which adopted *Choices '08*, the City of Temple Comprehensive Plan;

Whereas, Chapter 3 of *Choices '08* is the Urban Design and Future Land Use contains an emphasis on community character which can be described as the distinctive qualities that the City Council wants Temple to conserve or acquire over the next 10-20 years;

Whereas, on November 21, 2011, the Planning and Zoning Commission recommended the adoption of an ordinance amending the 2030 Future Land Use and Character Plan Map, Figure 3.1, in the *Choices '08* Comprehensive Plan;

Whereas, the changes, more fully described herein, are clean-up changes for rezoning that have been approved by the City Council; and

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

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

Part 1: The City Council approves amending *Choices '08* City of Temple Comprehensive Plan, by revising the 2030 Future Land Use and Character Plan Map, Figure 3.1, by sector, as follows:

1. Z-FY 11-28, AG to C, Airport and Moffat Roads. This intersection on the City limits line has had several individual rezoned properties in the past 3-4 years from AG to various nonresidential zoning districts. There are several open businesses in the vicinity, such as a truck stop and convenience store, a mini-storage center, and a string of contractor offices.
 - Current FLUCP Designation: Agricultural/Rural
Current Compatible Zoning Districts: AG Agricultural
 - Proposed FLUCP Designation: Suburban Commercial

Proposed Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail

2. Z-FY 11-44, C to PD-2F, East Ridge Road and 205 Loop. Although this small area is between two commercial uses, the bulk of the neighborhood is developed as a residential area. Residential is a preferred use here, because a commercial use, such as a warehouse, would not be as desirable across from the established residential uses north and west of the parcel.

- Current FLUCP Designation: Suburban Commercial
Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
- Proposed FLUCP Designation: Auto-Urban Residential
- Proposed Compatible Zoning Districts: SF2 & SF3, Single-Family Residential; TH; Townhouse; 2F, Two-Family

3. Z-FY 10-50, AG to SF1, Hartrick Bluff Drive and State Hwy 90. This area is being changed as the extension of this neighborhood will be built with smaller lots than the Estate Residential district that is currently reflected on the FLUCP.

- Current FLUCP Designation: Estate Residential
- Current Compatible Zoning Districts: UE, Urban Estate
- Proposed FLUCP Designation: Suburban Residential
- Proposed Compatible Zoning Districts: SF1 & SF2; Single-Family Residential

4. Z-FY 11-14, Lago Terra Addition, Morgan's Point Road, North of W. Adams Avenue at the City Limits. This area has been platted as a new, larger-lot, gated development. Surrounding that area, to the north and south are existing estate homes and lots.

- Current FLUCP Designation: Suburban Commercial
- Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
- Current FLUCP Designation: Estate Residential
- Current Compatible Zoning Districts: UE, Urban Estate

5. Z-FY 11-32, AG to GR (and SF2), SE of N. Pea Ridge Road and Stonehollow Drive. This area appears as Suburban Residential on the current FLUCM. Much of the undeveloped areas are shown in this way or as Estate Residential on the FLUCM as they are more likely to be developed in the near future and City facilities could be feasibly extended. This intersection is about one mile from the commercial area along W. Adams Avenue and would well serve the residential homes with neighborhood services in the future.

- Current FLUCP Designation: Agricultural/Rural
- Current Compatible Zoning Districts: AG, Agricultural

- Current FLUCP Designation: Suburban Commercial
 - Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
6. Z-FY 11-10, PD-SF1 to PD-GR, S. 31st Street and H.K. Allen Parkway. This area is adjacent to the heavily traveled S. 31st Street corridor and is at an entrance to a platted, but unbuilt, subdivision. The property, while small, is a better land use adjacent to a major arterial.
- Proposed FLUCP Designation: Suburban Residential
 - Proposed Compatible Zoning Districts: SF1 and SF2, Single-Family Residential
 - Current FLUCP Designation: Suburban Commercial
 - Current Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail
7. Z-FY 11-41, AG to C.W. Adams Avenue and S. Kegley Road. This area is at the intersection of two arterials. This parcel and its surroundings are being adjusted as this is a prime corner for a shopping area or large retail store. The area is being changed to the more intensive commercial with a ring or less intensive commercial to reflect the likely land use.
- Current FLUCP Designation: Agricultural/Rural
 - Current Compatible Zoning Districts: AG Agricultural
 - Proposed FLUCP Designation: Auto-Urban Commercial and Suburban Commercial
 - Proposed Compatible Zoning Districts: O1 & O2, Office; NS, Neighborhood Services; GR, General Retail; C, Commercial

Several small areas which had rezoning approved within the last two years are not reflected in the above changes. They were either too small of a parcel, or in areas where staff believes making a long term change was not advisable given the surrounding character of the properties.

Part 2: 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 3: 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 4: 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 **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

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

12/15/11
Item #7
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-05(A): Consider adopting an ordinance authorizing amendments to Articles 5, 6 and 11 of the Unified Development Code to add “Recreational Vehicle Park” as a Conditional Use in the use tables and to establish a definition related to such addition.

P&Z COMMISSION RECOMMENDATION: At its November 21, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the amendment to the Unified Development Code set forth in the item description above.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for January 5, 2012.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-05, from the Planning and Zoning meeting, November 21, 2011. Staff will present another set of UDC amendments, Z-FY-12-05(B), for first reading at the January 15, 2012, City Council meeting.

This proposed amendment modifies Article 5 and Article 6 of the UDC to address where in the City a Recreation Vehicle Park may be located. Chapter 31 of the City Code contains standards and requirements for Recreational Vehicle Parks. However, the current use tables in Article 5, Use Standards; Section 6.1, Manufactured Housing; and Sec.6.7, Interstate 35 Corridor Overlay, do not address Recreational Vehicle Parks as a permitted use. The proposed amendment provides for the use as a CUP request in the following zoning districts:

- Manufactured Housing (MH);
- General Retail (GR);
- Light Industrial (LI); and
- Agriculture (AG)

These are the zoning districts in which Recreation Vehicle parks currently exist in Temple. In addition, the amendment proposes to prohibit Recreational Vehicle Parks in the I-35 Corridor overlay zoning district.

The proposed amendment to Article 11, Definitions, simply carries over the existing Recreational Vehicle Park definition from Chapter 31 of the City Code.

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on November 10, 2011 in accordance with state law and local ordinance

FISCAL IMPACT: NA

ATTACHMENTS:

[Proposed Amendment to UDC Articles 5, 6 and 11](#)
[P&Z Staff Report \(Z-FY-12-05\)](#)
[P&Z Minutes \(11/21/11\)](#)
[Ordinance](#)

Attachment - RV Park Use Tables - Citywide

Article 5: Use Standards

Sec. 5.1. Use Table

P= Permitted by Right L = Permitted by Right Subject to Limitations

[blank cell] = Prohibited C= Conditional Use Permit

Specific Use	AG	UE	SF-1	SF-2	SF-3	SFA-1	SFA-2	SFA-3	TH	2F	MF-1	MF-2	MF-3	O-1	O-2	NS	GR	C	CA	LI	HI	Standards
RESIDENTIAL USES																						
Boarding or rooming house											P	P		P			P	P	P	P		
Convent or monastery	C	C															P	P	P	P		
Family or Group Home	L	L	L	L	L	L	L	L	L	L	L	L	L	C	C	C	C	C	C	C		5.3.1
Fraternity or sorority	C	C									C	C	C	P	P		P	P	P	P		
Home for the aged	C	C									C	P	P	C	P		P	P	P	P		
Industrialized housing	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P			
HUD-Code manufactured home land lease community	C																					5.3.2
HUD-Code manufactured home subdivision	L																					5.3.2
Multiple-family dwelling (apartment)											L	L	L		L				L			5.3.3
Patio home						L		L	L													5.3.4
<u>Recreational vehicle park</u>	<u>C</u>																<u>C</u>			<u>C</u>		
Single-family attached dwelling						P	P	L	P	P	P	P		P	P	P	P	P	P			5.3.5
Single-family detached dwelling	P	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	P			
Townhouse								L	L		L	L		L	L	L	L	L	L			5.3.6
Triplex										C	P	P			P				P			
Two-family dwelling (duplex)										P	P	P		P	P		P	P	P			
Zero lot line dwelling						P	L	P	P	P	P	P										5.3.7
NONRESIDENTIAL USES																						
AGRICULTURAL USES																						
Animal shelter (public or private)	C																	C		P	P	
Farm, ranch, orchard or garden	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Greenhouse or nursery (wholesale)	P																	P	P	P	P	

Article 6 Special Purpose and Overlay Zoning Districts

Sec. 6.1. MH, Manufactured Home

6.1.1 Use Table

The following uses are permitted by right, permitted subject to limitations, or require a Conditional Use Permit in the MH, Manufactured Home zoning district.

Use	Permitted by Right or Permitted Subject to Limitations	Conditional Use	Standard
RESIDENTIAL USES			
Convent or monastery		✓	
Family or group home	✓		
HUD-Code manufactured home subdivision	✓		5.3.2
HUD-Code manufactured home land lease community	✓		5.3.2
Industrialized housing	✓		
<u>Recreational vehicle park</u>		✓	
Single-family detached dwelling	✓		
NONRESIDENTIAL USES			
Asphalt or concrete batching plant (temporary)		✓	
Cemetery, mausoleum or crematorium		✓	
Child care: group day care home		✓	5.3.9
Child care: family home	✓		5.3.9
Community center		✓	
Electrical substation (high voltage bulk power)		✓	
Electrical transmission line (high voltage)		✓	
Fire Station	✓		
Gas line and regulating station	✓		
Institution religious – charitable – philanthropic nature		✓	
Park or playground	✓		
Petroleum or gas well		✓	
Place of worship	✓		
Playfield or stadium		✓	
Pre-school		✓	
Railroad track or right-of-way or team track	✓		
School, (elementary or secondary), public or private	✓		
Sewage pumping station		✓	
Shop yard of local, state or		✓	

Attachment - RV Park Use Tables - I-35 Corridor - Industrial Subdistrict

Article 6: Special Purpose and Overlay Zoning Districts

Sec. 6.7. I35, Interstate 35 Corridor Overlay

Use	Prohibited Use	Conditional Use	Standards
equipment yard			
Correctional facility	✓		
Day camp for children	✓		
Drag strip or commercial racing	✓		
Flea market (outdoors)	✓		
Greenhouse or nursery (retail)		✓	
Hatchery, fish or shrimp, fish farm	✓		
Hatchery, poultry	✓		
Heavy machinery sales, storage and repair		✓	
Industrial Uses listed in the use table in Sec. 5.1		✓	
Kennel		✓	
Live stock auction	✓		
Major vehicle repair		✓	5.3.22
Milk depot, dairy or ice cream plant		✓	
Minor vehicle servicing		✓	5.3.23
Motorcycle or scooter sales and repair		✓	
Open storage of furniture, appliances or machinery	✓		
Paint shop		✓	
<u>Recreational Vehicle Park</u>	✓		
Sexually oriented business	✓		
Shooting range (outdoor)	✓		
Stable, residential or noncommercial	✓		
Trailer, recreational vehicle, portable building or HUD-Code manufactured home sales or rental		✓	
Upholstery shop		✓	
Veterinarian hospital (kennels)		✓	
Wrecking or salvage yard	✓		5.3.24

C. Dimensional Standards

Dimensional standards for the base zoning districts as found in Sec. 4.5 of this UDC apply except that the following regulations supersede such requirements for properties in the Industrial Sub-District. Nonconforming lots of record that are smaller than the minimum required lot area may be developed but all requirements of the I-35 Corridor Overlay District apply.

Regulation	Measurement
Min. Lot Area	1 acre

Article 6: Special Purpose and Overlay Zoning Districts

Sec. 6.7. I35, Interstate 35 Corridor Overlay

Use	Prohibited Use	Conditional Use	Standards
use table in Sec. 5.1 except as follows:			
Multiple-family dwelling (apartment)		✓	5.3.3
Nonresidential			
Animal feed lot	✓		
Animal shelter (public or private)		✓	
Auto storage or auto auction	✓		
Boat sales or repair		✓	
Bottling works	✓		
Building material sales	✓		
Car wash		✓	
Child care facility		✓	5.3.9 and 5.3.10
Contractor storage and equipment yard	✓		
Correctional facility	✓		
Day camp for children	✓		
Drag strip or commercial racing	✓		
Flea market (outdoors)	✓		
Greenhouse or nursery (retail)		✓	
Hatchery, fish or shrimp, fish farm	✓		
Hatchery, poultry	✓		
Heavy machinery sales, storage and repair	✓		
Industrial Uses listed in the use table in Sec. 5.1	✓		
Kennel	✓		
Live stock auction	✓		
Major vehicle repair		✓	5.3.22
Milk depot, dairy or ice cream plant	✓		
Minor vehicle servicing		✓	5.3.23
Open storage of furniture, appliances or machinery	✓		
Paint shop		✓	
<u>Recreational Vehicle Park</u>	<u>✓</u>		
Sexually oriented business	✓		
Shooting range (outdoor)	✓		
Stable, residential or noncommercial	✓		
Trailer, recreational vehicle, portable building or HUD-Code manufactured home sales or rental	✓		

Attachment - RV Park Use Tables - I-35 Corridor - City Entry Subdistrict

Article 6: Special Purpose and Overlay Zoning Districts

Sec. 6.7. I35, Interstate 35 Corridor Overlay

Use	Prohibited Use	Conditional Use	Standards
use table in Sec. 5.1 except as follows:			
Multiple-family dwelling (apartment)		✓	5.3.3
Nonresidential			
Animal feed lot	✓		
Animal shelter (public or private)	✓		
Auto storage or auto auction	✓		
Boat sales or repair	✓		
Bottling works	✓		
Building material sales	✓		
Car wash		✓	
Child care facility		✓	5.3.9 and 5.3.10
Contractor storage and equipment yard	✓		
Correctional facility	✓		
Day camp for children	✓		
Drag strip or commercial racing	✓		
Flea market (outdoors)	✓		
Greenhouse or nursery (retail)		✓	
Hatchery, fish or shrimp, fish farm	✓		
Hatchery, poultry	✓		
Heavy machinery sales, storage and repair	✓		
Industrial Uses listed in the use table in Sec. 5.1	✓		
Kennel	✓		
Live stock auction	✓		
Major vehicle repair	✓		
Milk depot, dairy or ice cream plant	✓		
Minor vehicle servicing		✓	5.3.23
Motorcycle or scooter sales and repair		✓	
Open storage of furniture, appliances or machinery	✓		
Paint shop		✓	
<u>Recreational Vehicle Park</u>	<u>✓</u>		
Trailer, recreational vehicle, portable building or HUD-Code manufactured home sales or rental sales or rental	✓		

Attachment - RV Park Definition

Article 11: Definitions

Sec. 11.2. Defined Terms

principal side. The other side facing the street will be secondary frontage. (Ord. 2010-4415)

Private Garage. An accessory building housing vehicles owned and used by occupants of the main building; if occupied by vehicles of others, it is a storage space.

Processing. The method or action to enhance recyclable materials for reuse, including, but not limited to, separating, baling, flattening, shredding, crushing, cleaning or cutting for the purpose of preparing recyclable materials for reuse, excluding a smelter operation.

Shop Yard of Local, State or Federal Government. Facilities such as office buildings, maintenance yards and shops required by branches of local, state or federal government for service to an area such as highway department yard, City service center or experiment station.

Radio or Television Tower. Structures supporting antennae for transmitting or receiving any portion of the radio spectrum, but excluding noncommercial antennae installations for home use of radio or television.

Railroad Team Track. A siding for spotting and unloading or loading box cars or other railroad cars and that is connected to a public street by a drive for access.

Railroad Track and Right-Of-Way. Does not include railroad stations, siding, team tracks, loading facilities, docks, yards or maintenance areas.

Recreational Vehicle Park. A parcel of land which has been planned and improved for the placement of recreational vehicles for transient use and for the temporary parking of recreational vehicles, placement of supplementary structures and accessory uses not prohibited by the City Code or this UDC and containing sanitary facilities for the direct discharge from recreational vehicle holding tanks and utility hookups.

Recyclable Materials. Materials including, but not limited to, scrap steel, aluminum cans, appliances, paper, batteries, glass bottles, motor vehicles, motor vehicle parts and machinery that have no economic value except as composition material.

Recycling Collection Facility. A location where glass, paper, plastics and/or aluminum cans only are deposited in containers, with no processing on site and usually occurring as an accessory use on the property.

Replatting. The alteration of any part or all of any lot, block or tract of a previously platted subdivision.

Residential Area. Any area that in whole or in part is platted for the development of dwelling units or residences, whether single-family, townhouse, two-family, multifamily, owner occupied, condominium or rental dwelling units.

Residential Structure. Any structure where a minimum of 50 percent of the building's intended use is residential.

Restaurant (Not Drive-In). An establishment serving food to the general public in specific, designated dining areas. This term does not include drive-in establishments where food is delivered to or eaten in automobiles.

Restaurant (Drive-In). An establishment designed and constructed to serve food for consumption on the premises in an automobile or for carry-out for off-premises consumption and that establishment may or may not have on premises dining room or counter.

Retail Sales and Service. Companies or individuals involved in the sale, lease or rental of new or used



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/21/11
Item #9
Regular Agenda
Page 1 of 3

APPLICANT / DEVELOPMENT: City of Temple

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-12-05 Hold a public hearing to consider and recommend action on amendments to Articles 3, 5, 6 and 11 of the Unified Development Code to: allow the City Council to add a time limit to the approval of a Conditional Use Permit; add "Recreational Vehicle Park" and "Transitional Shelter" as Conditional Uses in the use table; increase the setbacks for street trees in the TMED zoning district; amend sidewalk and sign requirements in the Interstate 35 Corridor Overlay zoning district; and to establish definitions related to such standards.

BACKGROUND: Staff considers this package of proposed amendments house-keeping items to address issues and questions that have come up in Planning and Code Enforcement cases over the past year.

The purpose of this package of amendments to the text of the Unified Development Code (UDC) is to:

1. Add language to provide the option for City Council to add a time limit for the approval of Conditional Use Permits.
2. Add the use "Recreational Vehicle Park" to the use table as a Conditional Use Permit in specific zoning districts.
3. Add the use "Transitional Shelter" to the use table as a Conditional Use Permit in specific zoning districts.
4. Increase the setbacks for street trees on South First Street per TxDOT request.
5. Require sidewalks in the I-35 Corridor in specific locations, rather than along the entire I-35 frontage;
6. Amend the sign requirements in the I-35 Corridor Overlay; and
7. Add definitions related to the above additions.

CONDITIONAL USE PERMIT (CUP) TIME LIMIT (ATTACHMENT 1): This proposed amendment modifies Article 3 of the UDC. The proposed amendment provides a clear option for City Council to approve a CUP with a time limit and requirements for reapplying for a continuation of the CUP.

RECREATIONAL VEHICLE PARK USE (ATTACHMENT 2): This proposed amendment modifies Article 5 and Article 6 of the UDC. Chapter 31 of the City Code addresses standards and requirements for Recreational Vehicle Parks. However, the current use tables in Article 5, Use Standards, and Section 6.1, Manufactured Housing, do not address Recreational Vehicle Parks as a permitted use. The proposed amendment provides for the use as a CUP request in the following zoning districts:

- Manufactured Housing (MH)
- General Retail (GR)
- Light Industrial (LI) and
- Agriculture (AG)

These are the zoning districts in which Recreation Vehicle parks currently exist in Temple.

TRANSITIONAL OR EMERGENCY SHELTER USE (ATTACHMENT 3): This proposed amendment modifies Article 5 of the UDC. The current use table in Article 5 does not address Transitional or Emergency Shelters as a permitted use. The proposed amendment provides for the use as a CUP request for either type of shelter in the Light Industrial (LI) zoning district with the following conditions:

- The transitional shelter must be a minimum of 1,000 feet from the following uses:
 - Alcoholic beverage sales, on-premise or off-premise consumption
 - All residential uses or zoning districts
 - Daycares or schools
 - Other transitional shelters
- Adequate space must be provided inside the shelter so that clients or potential clients are not required to wait outside.
- Must have working HVAC.
- Occupancy load (maximum number of people based on size of building) and building construction must meet International Fire and Building Code.
- One shelter staff member must be present per 25 clients on-premise. A minimum of 1 staff member must always be present.
- An emergency shelter may not provide shelter to a person for a period exceeding 30 consecutive days.

Transitional Shelters are proposed to be prohibited within the I-35 Corridor overlay zoning district.

STREET TREE SETBACKS IN TMED ON FIRST STREET (ATTACHMENT 4): This proposed amendment modifies Article 6 of the UDC. It is a result of a request from TXDOT to increase the required setback for street trees from the back of curb from 7.5' to 8.5' along South First Street to better accommodate safety and maintenance requirements.

I-35 CORRIDOR OVERLAY SIDEWALKS (ATTACHMENT 5): This proposed amendment modifies Article 6 of the UDC. It removes the blanket requirement for the I-35 Corridor Overlay zoning district for sidewalks within the private property unless the Trails Master Plan recommends a sidewalk along a street that intersects or runs parallel to Interstate 35. The proposed amendment provides width and material standards identical to those proposed for the Industrial Park.

I-35 CORRIDOR OVERLAY SIGNS (ATTACHMENT 6): This proposed amendment modifies Article 6 of the UDC. It provides new standards for taller freestanding signs in the form of pylons as well as clarifies existing and unclear requirements for other type of signs. The current ordinance limits sign height to 8' tall. Current practice is to require a developer to submit a Planned Development to request and permit a taller sign. The proposed amendments allow administrative approval and

present an option for a pylon sign for all uses as well as provide specifications for multi-tenant users. As proposed, travel related businesses and multi-tenant users are permitted to have taller signs.

I-35 CORRIDOR OVERLAY SIGNS (ATTACHMENT 7): This proposed amendment provides definitions for:

- Emergency Shelter
- Multi-Tenant Sign
- Multi-Tenant Site
- Pole Sign
- Pylon Sign
- Recreational Vehicle Park
- Transitional Shelter

PUBLIC NOTICE:

The newspaper printed notice of the Planning and Zoning Commission public hearing on November 10, 2011 in accordance with state law and local ordinance

STAFF RECOMMENDATION: Staff recommends approval of the proposed amendments.

FISCAL IMPACT: NA

ATTACHMENTS:

[Conditional Use Permit Time Limit \(Attachment 1\)](#)

[Recreational Vehicle Park Use \(Attachment 2\)](#)

[Transitional Shelter Use \(Attachment 3\)](#)

[Street Tree Setbacks in TMED on First Street \(Attachment 4\)](#)

[I-35 Corridor Overlay Sidewalks \(Attachment 5\)](#)

[I-35 Corridor Overlay Signs \(Attachment 6\)](#)

[Associated Definitions \(Attachment 7\)](#)

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

ACTION ITEMS

Item 9: Z-FY-12-05 – Hold a public hearing to consider and recommend action on amendments to Articles 3, 5, 6 and 11 of the Unified Development Code to: allow the City Council to add a time limit to the approval of a Conditional Use Permit; add “Recreational Vehicle Park” and “Transitional Shelter” as Conditional Uses in the use table; increase the setbacks for street trees in the TMED zoning district; amend sidewalk and sign requirements in the Interstate 35 Corridor Overlay zoning district; and to establish definitions related to such standards. (Applicant: City of Temple)

Mr. Mabry stated these items were considered housekeeping issues which relate mainly to Planning and Code Enforcement.

1. Granting of a Conditional Use Permit (CUP) by City Council would provide a clear option for the City Council to approve a CUP with an attached associated time limit and a requirement for reapplying for the CUP to get a continuance on the use of the property for that CUP.

Mr. Mabry stated if things were not going as expected under the CUP, it could be revoked. This time limit would apply to new CUPs only.

2. Recreational Vehicle Parks - The UDC does not have provisions for where and what zoning districts an RV park may take place in. The proposed amendment would require a CUP for RV parks and they would be located in the Manufactured Home (MH), General Retail (GR), Light Industrial (LI) and Agricultural (AG) districts. RV parks would be prohibited in the I35 Overlay.
3. Transitional Shelter – Transitional or Emergency Shelter would be the same as far as the land use table in the UDC was concerned (although the uses differ). The proposed amendment would require a CUP for a transitional or emergency shelter located in the LI district. Some standards have been developed and proposed in order for these shelters to comply with eligibility for a CUP.

Separation standards of 1000 feet between the shelter and alcohol beverage sales (on- or off-premise sales—package store, convenience store, bar, etc.), 1000 foot separation between all residential uses and zoning districts—SF up to MF both in use and zoning districts), 1000 foot separation between day cares and schools (includes all levels of day care, businesses, public/private schools from K-12, etc.), and from other shelters as well.

Other standards include having adequate space for potential clients to wait inside the building, have working HVAC units in the building, meet International Fire and Building Codes, ratio of one staff person per 25 on-site clients, and limit emergency shelters to provide shelter not to exceed 30 days. As far as regulations, time limits are the only difference between emergency and transitional shelters.

Shelters would be prohibited in the I35 Overlay.

4. Increase the setbacks for street trees on South First Street per TxDOT request from 7.5 feet to 8.5 feet. This would allow for better safety, visibility, and maintenance.
5. Require sidewalks in the I-35 Corridor in specific locations, rather than along the entire I-35 frontage. Width and material standards would comply with the Trails Plan.

Trails Plan overlay is shown to provide additional details and locations.

6. Currently in the I35 Overlay some types of signs are addressed and others are not.

All permitted uses in the I35 Corridor may have a wall sign limited to 10% of the façade of the building and no projection of the wall sign will be over the building.

Window signs would be the same with 20% of the window area.

Monument signs are allowed, eight feet in height, 50 square feet, no setbacks needed. The proposed spacing standards would be 25 feet. Currently it is a 10 foot separation citywide and 20 feet in the Central Area.

Any permitted use within the overlay may have a pylon sign (large monument sign with encased base), 20 feet in height, 200 square foot sign face, 10 foot setback with 50 feet spacing between each sign.

Fuel sales, overnight accommodations, and restaurant uses (travel related) would be allowed a larger sign of 40 feet in height, 300 square foot sign face, a 15 foot setback from the property line, and 100 foot spacing between signs. For example, if a single restaurant had 200 feet of frontage, it could have one sign.

A multi-tenant site, 3 or more tenants on a unified site, may have a pylon sign, 40 feet in height and 400 square foot area, and same setbacks as travel related uses with a minimum spacing of 200 feet from other signs.

A multi-tenant monument sign may be 10 feet in height, 65 square foot area, no setback required, and 25 foot spacing between signs.

Specific provisions for multi-tenant signs:

1 freestanding per 200 feet of frontage on I-35;

Multi-tenant pylon signs oriented to I-35 frontage roads;

Multi-tenant monument signs may be used at primary entranceways (spacing permitting) on streets not directly fronting I-35;

Businesses may not advertise on both multi-tenant pylon signs and individual single-site pylon signs; and

1 monument sign per individual business advertised on multi-tenant signs

Example:

Bird Creek – +/- 1600' frontage on I-35 = Maximum 8 pylon signs
Unlimited monument signs (spacing)
Multi-Tenant monument on Loop side

Now (I-35 Side):

3 Multi-tenant pylon signs (2 on Loop)
0 Monument signs
3 Individual pole signs

Pylon Sign Provisions:

Minimum height to width ratio is 1:.15

Bottom of the sign face may be no more than 6' from the ground

Example:

40' tall pylon must be minimum 6' wide and 6' from ground

Prohibited Signs:

Roof Signs
Banner or Pole Banner
Fence Sign
Inflatable Device
Message Board
Pole Sign (pole with sign at the top)

7. Defining Terms related to the standards:

Recreational Vehicle Park

From City Code

Emergency Shelter

30 consecutive days or less

Transitional Shelter

Drug & alcohol, homelessness, domestic abuse
Longer-term

Multi-Tenant Site

Unified development that contains multiple commercial uses under same primary ownership or lease

Multi-Tenant Sign

Freestanding sign that advertises for more than two businesses on a multi-tenant site

Pole Sign

Freestanding sign with visible support structures

Pylon Sign

Freestanding sign with support structures concealed and enclosed with decorative masonry material

Staff supports the proposed amendments to UDC Articles 3, 5, 6, and 11 as presented:

1. Time limit for CUPs
2. Add RV Park as CUP in certain districts
3. Add Transitional or Emergency Shelter in certain districts
4. Increase street tree setback on S. 1st
5. Specify where sidewalks are required along I-35
6. Modify sign requirements along I-35
7. Add definitions related to above

Commissioner Talley asked for clarification of 'emergency' since some churches help out families periodically and would the church have to take out a permit? Mr. Mabry stated no, churches are usually temporary uses, such as Family Promise, are rotating and not an established use part of the church.

Commissioner Talley also asked what the procedure would be in a natural disaster and how would the 30 day time limit work. Mr. Mabry stated the intent was not meant to stand in the way of a declared emergency. This was directed toward shelters doing this as a living/profession.

Mr. Mabry clarified that any of the signs allowed in I35 under the proposal would not be pole signs. The support would need to be encased in some type of masonry from bottom to top.

Vice-Chair Staats asked about the 200 foot spacing (such as Bird Creek example) and there would be too many signs. Ms. Speer stated the Commission could increase the distance if desired. Vice-Chair Staats suggested regardless of the size of the property, the number of signs should be limited. A pylon sign may be 40 feet in height in the proposal. Optimum spacing would be 300 to 400 feet.

Discussion about various signs and pads along I35.

Commissioner Sears asked if there were currently any RVs or shelters located in the I35 overlay. Ms. Speer stated there was one, permitted, RV park with a CUP, called Lucky's, located on the north side of Temple along I35 and would not be affected by this proposal. Ms. Speer also stated there were seven mobile home parks within Temple that do have RVs in them and all are licensed but have no code enforcement or restrictions on RV uses. The City has offered a one-time CUP for an RV park with those specific RV sites grandfathered in.

Chair Martin opened the public hearing.

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

Commissioner Talley moved to accept the recommendation presented by Staff of Item 9, **Z-FY-12-05**, and Commissioner Pilkington made a second.

Vice-Chair Staats amended the motion by Commissioner Talley to recommend a 300 foot spacing increase opposed to the stated 200 foot spacing, and Commissioner Sears made a second to the amendment.

Amendment passed: (6:1)

Commissioner Pilkington voted nay

Amended Motion passed: (7:0)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2010-4413, THE “UNIFIED DEVELOPMENT CODE,” ARTICLES 5, 6 AND 11, ADDING “RECREATIONAL VEHICLE PARK” AS A CONDITIONAL USE IN THE USE TABLES, AND ESTABLISHING A DEFINITION RELATED TO SUCH ADDITION; 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 November 21, 2011 meeting, the Planning and Zoning Commission voted to amend the UDC to add “Recreational Vehicle Park” as a Conditional Use in the use tables and to establish a definition related to such addition;

Whereas, this proposed amendment modifies Article 5 and Article 6 of the UDC to address where in the City a Recreational Vehicle Park may be located. Chapter 31 of the City Code contains standards and requirements for Recreational Vehicle Parks; however the current use tables in Article 5 do not address Recreational Vehicle Parks as a permitted use;

Whereas, the proposed amendment provides for the use as a CUP request in the following zoning districts outlined in Exhibit A attached – the proposed amendment to Article 11 simply carries over the existing Recreational Vehicle Park definition from Chapter 31 of the City Code;

Whereas, the Staff recommends amending the Unified Development Code to address where a Recreational Vehicle Park may be located and to carry over the existing definition from Chapter 31; 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 Articles 5, 6 and 11, adding “Recreational Vehicle Park” as a conditional use in the use tables and establishing a definition related to such addition, said amendment being more fully described in Exhibit A, attached hereto for all purposes.

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

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

Part 4: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

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

PASSED AND APPROVED on First Reading and Public Hearing on the **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson

Jonathan Graham

City Secretary

City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #8
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-06: Consider adopting an ordinance authorizing a rezoning from Agricultural (AG) to Urban Estates (UE) on 11.759 acres in the George W. Lindsey survey, Abstract No. 513, Bell County, TX, located North of FM 2305 and North of Inverness Drive.

P&Z COMMISSION RECOMMENDATION: At its November 21, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation to recommend approval of a rezoning from AG to UE.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in the item description, on first reading, and schedule second reading and final adoption for January 5, 2012.

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

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-06, from the Planning and Zoning Commission meeting, November 21, 2011. The applicant, Turley Associates for Kiella Land Development, requests the rezoning from Agricultural District (AG) to Urban Estate (UE) to allow a single-family subdivision north of Inverness Road. The applicant's 11.8-acre property is large enough to accommodate approximately 18 single-family dwellings with a rezoning to UE.

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

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

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

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Suburban Residential future land use. The property is bordered by Suburban Residential and ETJ with Estate Residential nearby. This request continues the Urban Estate zoning district to the West. The rezoning request complies with the FLUC map.

Thoroughfare Plan (CP Map 5.2)

The main access road is Richland Dr. which is not designated as anything beyond a local road on the Thoroughfare Map and therefore the rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 6" water line. The nearest sewer line is approximately 1,350 ft to the South on Adams. Septic systems are in place in the neighboring divisions of Campuses at Lakewood Ranch. Adequate public and private facilities are available for this property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan does not designate any trails in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The Urban Estates zoning district permits single-family detached dwellings with rural characteristics in a suburban environment. Lot sizes are larger than other residential zonings and allow for larger single-family properties to be built. Parkland can also be permitted inside of an Urban Estate zoning district. The following table demonstrates the Residential Dimensional Standards for the Urban Estates zoning:

UE, Urban Estates	
Min. Lot Area (sq. ft.)	22,500
Min. Lot Width (ft.)	80
Min. Lot Depth (ft.)	125
Max. Height (stories)	3
Min. Yard (ft)	
Front	30
Side	15
Side (street)	15
Rear	10

PUBLIC NOTICE:

Sixteen notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, November 16, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 7th, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[Aerial](#)
[Future Land Use and Character Map](#)
[Zoning Map](#)
[Utility Map](#)
[Thoroughfare Plan Map](#)
[Notice Map](#)
[P&Z Staff Report \(Z-FY-12-06\)](#)
[P&Z Minutes \(11/21/11\)](#)
[Ordinance](#)



Z-FY-12-06

AG to UE

North of FM 2305
and North of Inverness Drive



 ZFY 12-06

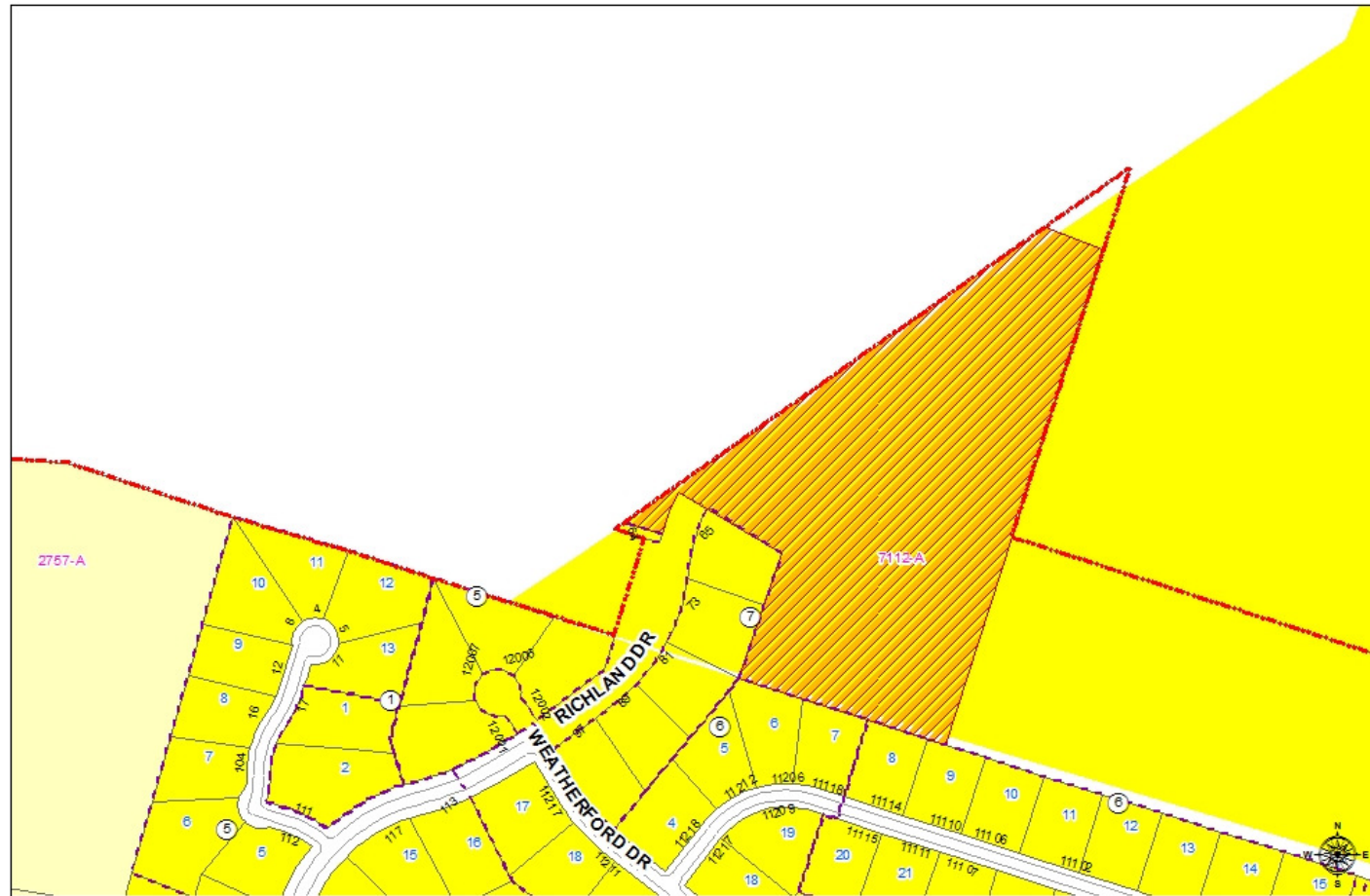
JCalhoun 10.25.2011



Z-FY-12-06

AG to UE

North of FM 2305 and
North of Inverness Drive



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 12-06 | 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 | |

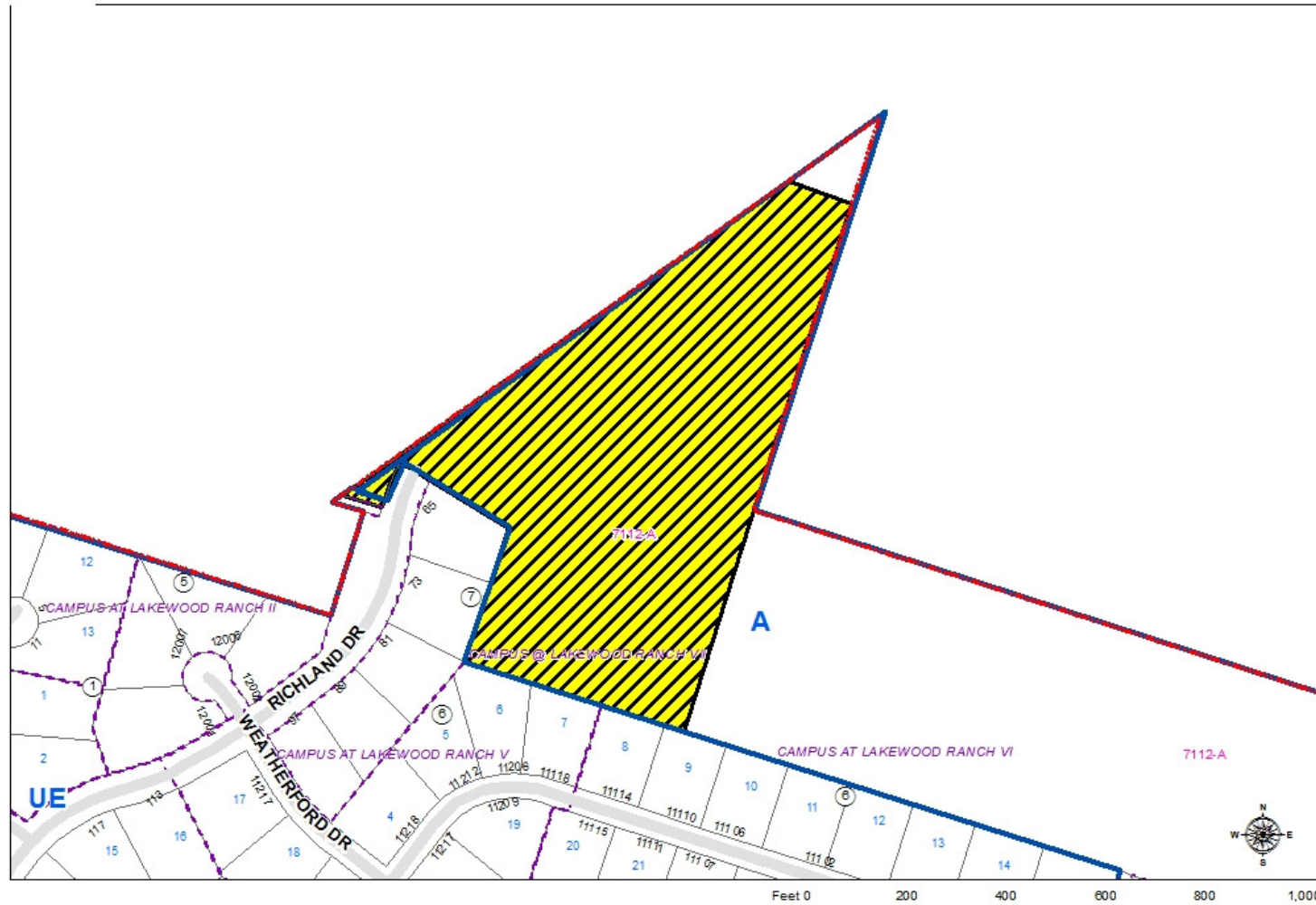
1 inch = 285 feet
JCalhoun Planning 11.14.11



Z-FY-12-06

AG to UE

North of FM 2305
and North of Inverness Drive



 ZFY 12-06

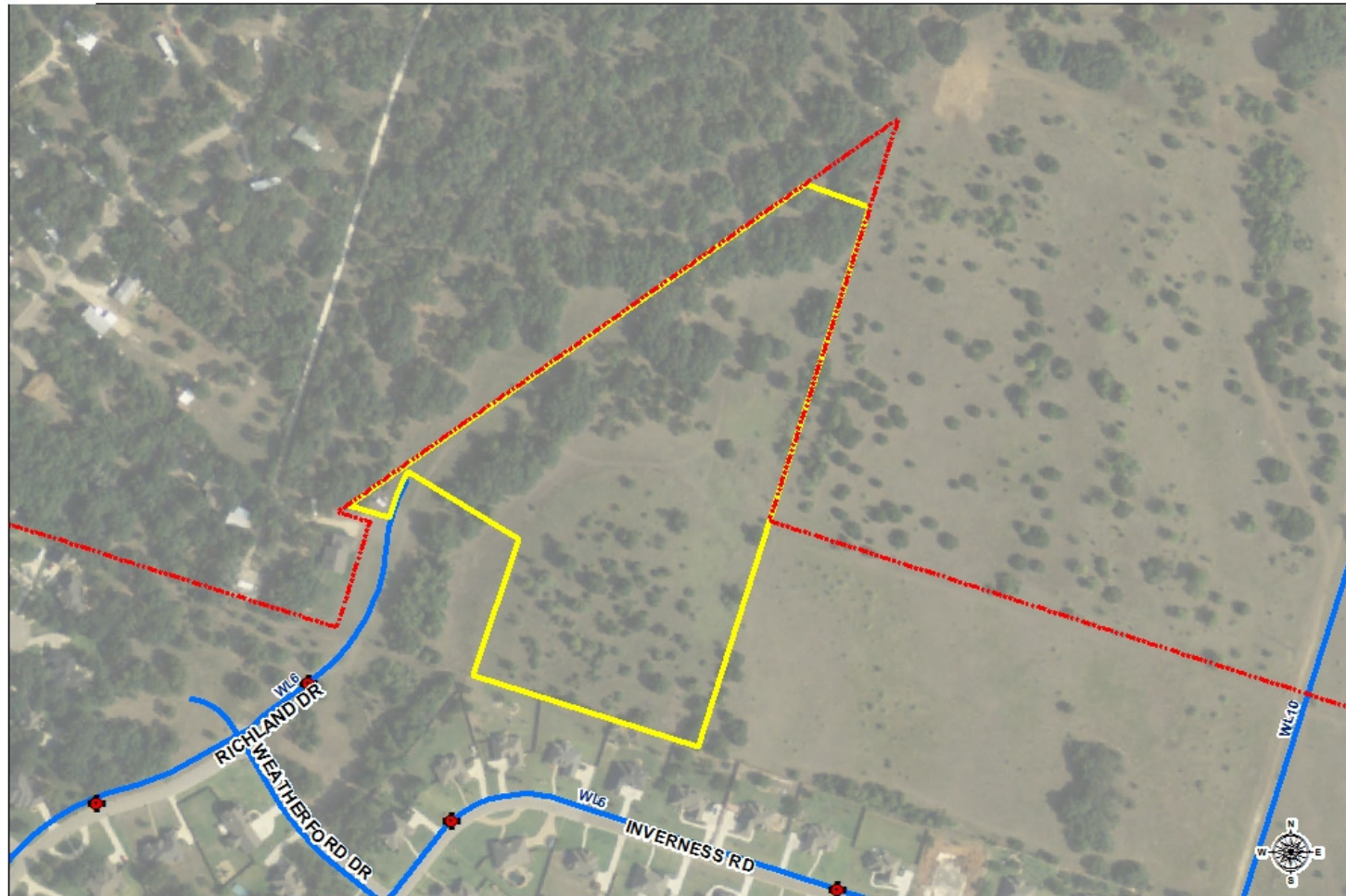
JCalhoun 10.25.2011



Z-FY-12-06

AG to UE

North of FM 2305
and North of Inverness Drive



- ZFY 12-06
- Water Line
- Fire Hydrant
- Sewer Line

Feet 0 200 400 600 800 1,000

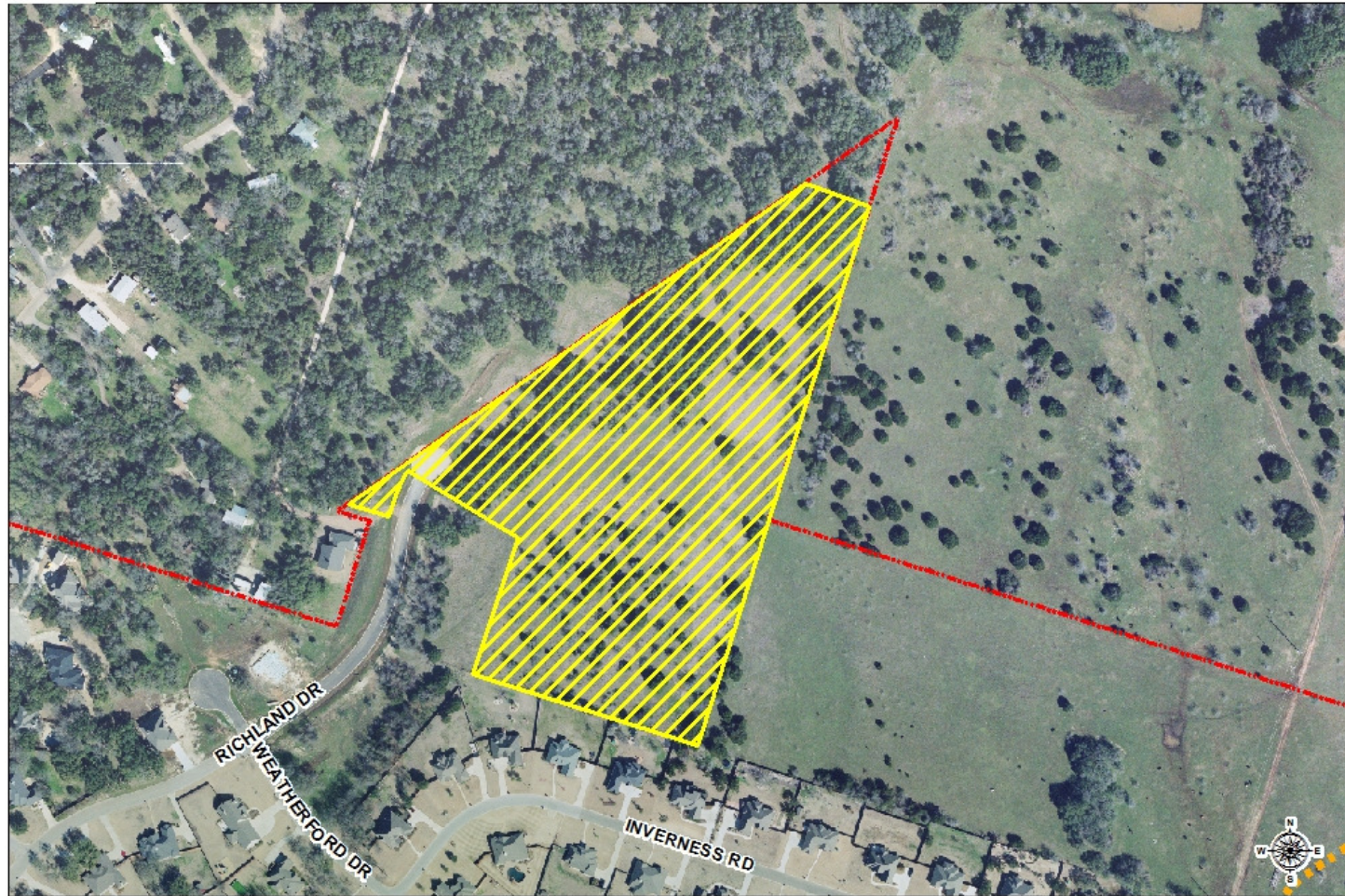
JCalhoun 10.25.2011



Z-FY-12-06

AG to UE

North of FM 2305
and North of Inverness Drive



 ZFY 12-06

JCalhoun 10.25.2011



Z-FY-12-06

AG to UE

North of FM 2305
and North of Inverness Drive



 ZFY 12-06

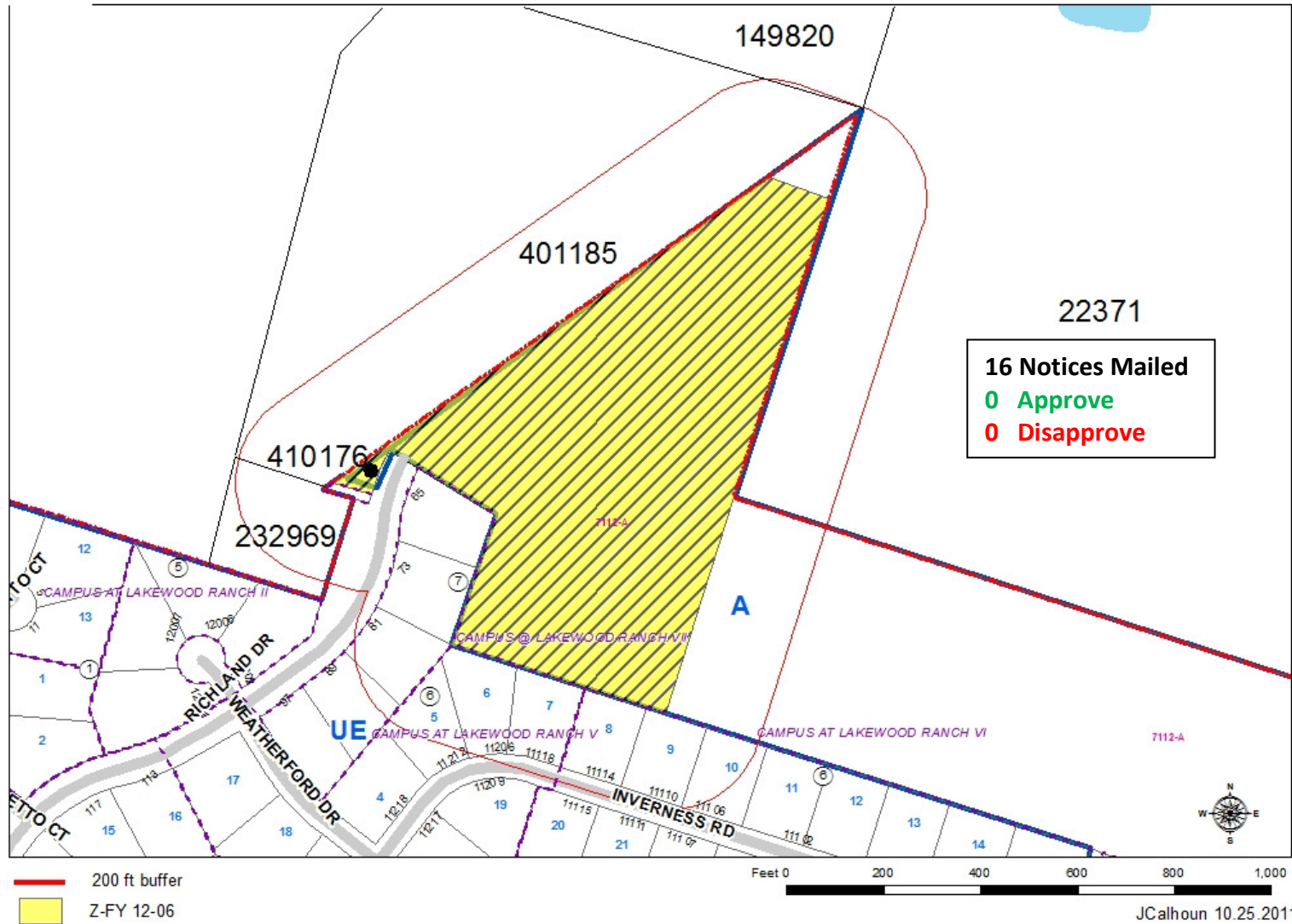
JCalhoun 10.25.2011



Z-FY-12-06

AG to UE 11.759 acres
in the George W. Lindsey Survey

North of FM 2305
and North of Inverness Drive





PLANNING AND ZONING COMMISSION AGENDA ITEM

11/21/11
Item #5
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Turley Associates for Kiella Land Development

CASE MANAGER: Jacob Calhoun, Planning Intern




ITEM DESCRIPTION: Z-FY-12-06 Hold a public hearing to discuss and recommend action on a rezoning from Agricultural (AG) to Urban Estates (UE) on 11.759 acres in the George W. Lindsey survey, Abstract No. 513, Bell County, TX, located North of FM 2305 and North of Inverness Drive.

BACKGROUND: The applicant is requesting the rezoning from AG to UE because the property is planned for a residential subdivision. The subdivision is expected to begin use within one year of rezoning completion.

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG	Agricultural use	

Direction	Zoning	Current Land Use	Photo
North	AG	Agricultural Outside City Limits	
South	UE	Campus @ Lakewood Ranch V, VI, and VII	
East	AG	Agricultural Temple ETJ	

Direction	Zoning	Current Land Use	Photo
West	AG	Agricultural Outside City Limits	

COMPREHENSIVE PLAN COMPLIANCE:

The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan:

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

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

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the property as Suburban Residential future land use. The property is bordered by Suburban Residential and ETJ with Estate Residential nearby. This request continues the Urban Estate zoning district to the West. The rezoning request complies with the FLUC map.

Thoroughfare Plan (CP Map 5.2)

The main access road is Richland Dr. which is not designated as anything beyond a local road on the Thoroughfare Map and therefore the rezoning request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

The property is served by a 6" water line. The nearest sewer line is approximately 350 ft to the South on Adams. Septic systems are in place in the neighboring divisions of Campuses @ Lakewood Ranch. Adequate public and private facilities are available for this property.

Temple Trails Master Plan Map

The Sidewalk and Trails Plan does not designate any trails in this area. This rezoning will not trigger dedication for the Trails Master Plan.

DEVELOPMENT REGULATIONS:

The Urban Estates zoning district permits single-family detached dwellings with rural characteristics in a suburban environment. Lot sizes are larger than other residential zonings and allow for larger single-family properties to be built. Parkland can also be permitted inside of an Urban Estate zoning district. The following table demonstrates the Residential Dimensional Standards for the Urban Estates zoning:

UE, Urban Estates	
Min. Lot Area (sq. ft.)	22,500
Min. Lot Width (ft.)	80
Min. Lot Depth (ft.)	125
Max. Height (stories)	3
Min. Yard (ft)	
Front	30
Side	15
Side (street)	15
Rear	10

PUBLIC NOTICE:

16 notices to property owners within 200-feet of the subject property were sent regarding the Planning and Zoning Commission public hearing. As of Wednesday, November 16, at 5 PM, no notices were returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 7th, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning from AG to UE for case Z-FY-12-06 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 will 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](#)

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

ACTION ITEMS

Item 5: Z-FY-12-06 – Hold a public hearing to discuss and recommend action on a rezoning from Agricultural (AG) to Urban Estates (UE) on 11.759± acres in the George W. Lindsey survey, Abstract No. 513, Bell County, TX, located North of FM 2305 and North of Inverness Drive. (Applicant: Turley Associates for Kiella Land Development)

Mr. Jacob Calhoun, Planning Intern, stated the applicant was requesting a rezoning from Agricultural (AG) to Urban Estates (UE) because the property is planned for a residential subdivision.

Surrounding properties include an UE residential subdivision (Campus at Lakewood Ranch) to the south, undeveloped AG to the east, and undeveloped ETJ properties to the north and west.

The Future Land Use and Character Map designates this property and its surroundings, as Suburban-Residential.

There are no major or minor arterial roads, only local designated roads.

A six-inch water line is located to the southwest with no sewer line connections. Most of the adjacent subdivision runs on septic systems.

Twelve notices were mailed out and zero responses were returned.

UE standards include:

- Permits single-family detached dwellings with rural characteristics in a suburban environment.
- Lot sizes are larger than other residential zonings
- Allows for larger single-family properties to be built.
- Parkland can also be permitted inside of an Urban Estate zoning district.

Staff recommends approval of the zoning request from AG to UE since the request complies with the Future Land Use and Character Plan; the Thoroughfare Plan; and public and private facilities will be available to serve the site.

Chair Martin opened the public hearing.

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

Commissioner Rhoads made a motion to approve Item 5, **Z-FY-12-06**, as presented and Commissioner Sears made a second.

Motion passed: 7:0

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-06)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL (AG) TO URBAN ESTATES (UE) ON APPROXIMATELY 11.759 ACRES IN THE GEORGE W. LINDSEY SURVEY, ABSTRACT NO. 513, BELL COUNTY, TEXAS, LOCATED NORTH OF FM 2305 AND NORTH OF INVERNESS DRIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a rezoning from Agricultural (AG) to Urban Estates (EU) on approximately 11.759 acres in the George W. Lindsey survey, Abstract No. 513, located north of FM 2305 and north of Inverness Drive, 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 **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

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

12/15/11
Item #9
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-07: Consider adopting an ordinance authorizing a rezoning from Agriculture (AG) to Single Family One (SF1) on 19.065 acres in Abstract 513, located on the southeast corner of Morgan's Point Road and Bonnie Lane.

P&Z COMMISSION RECOMMENDATION: At its November 21, 2011 meeting, the Planning and Zoning Commission voted 6/0 in accordance with staff recommendation to recommend approval of a rezoning from AG to SF1. Commissioner Staats abstained.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for January 5, 2012.

Staff recommends approval of a rezoning from AG to SF1 for the following reasons:

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

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-07, from the Planning and Zoning Commission meeting, November 21, 2011. The applicant, Jason Carothers, requests the rezoning from Agricultural District (AG) to Single Family One District (SF1) to allow a single-family subdivision along Morgans Point Road, southeast of Bonnie Lane and across from Lago Terra Subdivision. The applicant's 19-acre property is large enough to accommodate approximately 100 single-family dwellings at five units per acre with a rezoning to SF1. However, the applicant has verbally informed Planning Staff of his intent to development approximately 15,000 square-foot lots and to preserve oak trees over 12" in diameter.

At the Planning and Zoning meeting, property owners within the Extraterritorial Jurisdiction (ETJ) asked questions regarding future drainage and traffic impact on Morgans Point Road, a minor arterial on the Thoroughfare Plan. If this rezoning request is approved, many of the concerns would be addressed during the platting process.

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/N *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y

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

Future Land Use and Character (CP Map 3.1)

The requested rezoning does not fully comply with the Future Land Use and Character Map. The Map recommends the Estate Residential future land use category for the property and some of its surroundings. The Estate Residential future land use category is for large lot rural development generally on the fringes of the City. The zoning district that most complies with Estate Residential is Urban Estate (UE).

Although both are single-family zoning districts, the UE district has a 22,500 square-foot minimum lot area, 80' minimum lot width, 30' minimum front yard setback and 15' side yard setback. The requested SF-1 district has a 7,500 square-foot minimum area, 60' minimum lot width, 25' front yard setback and a side yard setback equal to 10% of the lot width.

Availability of Public Facilities (CP Goal 4.1)

A 6" water line running along Morgan's Point road serves the subject property. The nearest wastewater line is 400' from the property. The applicant intends to tie into a wastewater line running along Adams approximately 570 feet to the south with an off-site easement when platting occurs.

DEVELOPMENT REGULATIONS:

The requested SF1 zoning district is used for single family homes and related uses such as parks, playgrounds, and churches. There are several Conditional Uses that are permitted in this district such as cemeteries, community centers, fire stations, and schools.

The SF1 District has a minimum Lot area of 7,500 square feet, a minimum Lot width of 60 feet, and a minimum Lot depth of 100 feet.

PUBLIC NOTICE:

Eighteen notices were mailed regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. Fifteen courtesy notices were mailed to property owners in the Extraterritorial Jurisdiction. As of Tuesday, November 29, 2011, at 2 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 November 7, 2011, in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

Aerial
Future Land Use and Character Map
Zoning Map
Utility Map
Thoroughfare Plan Map
Master Trails Plan Map
Notice Map
P&Z Staff Report (Z-FY-12-07)
P&Z Minutes (11/21/11)
Ordinance



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



Feet 0 300 600 900

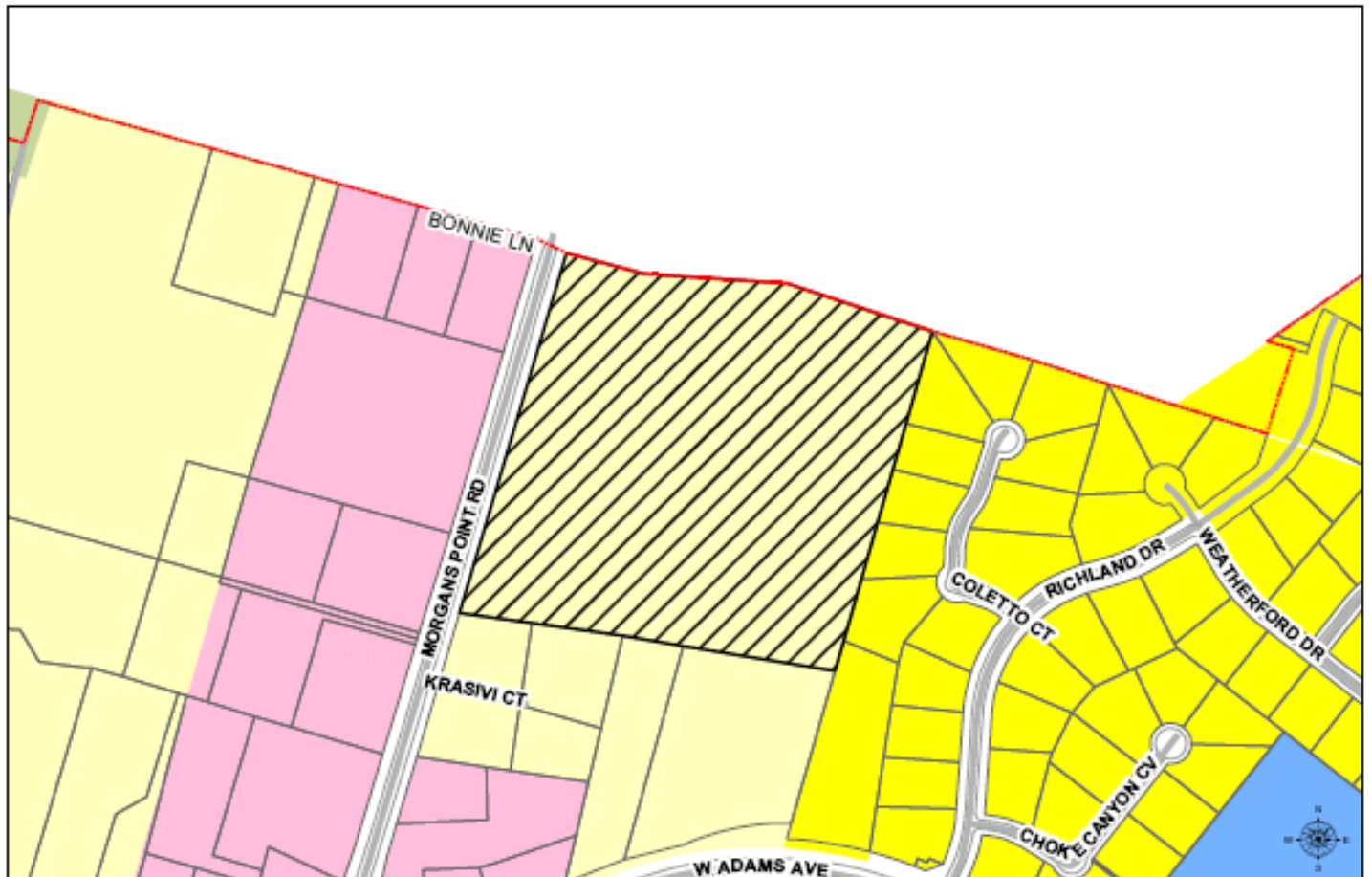
LMatlock 11.10.11



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



- | | | | | | |
|-------------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 12-07, 19.065 Acres | 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 = 320 feet

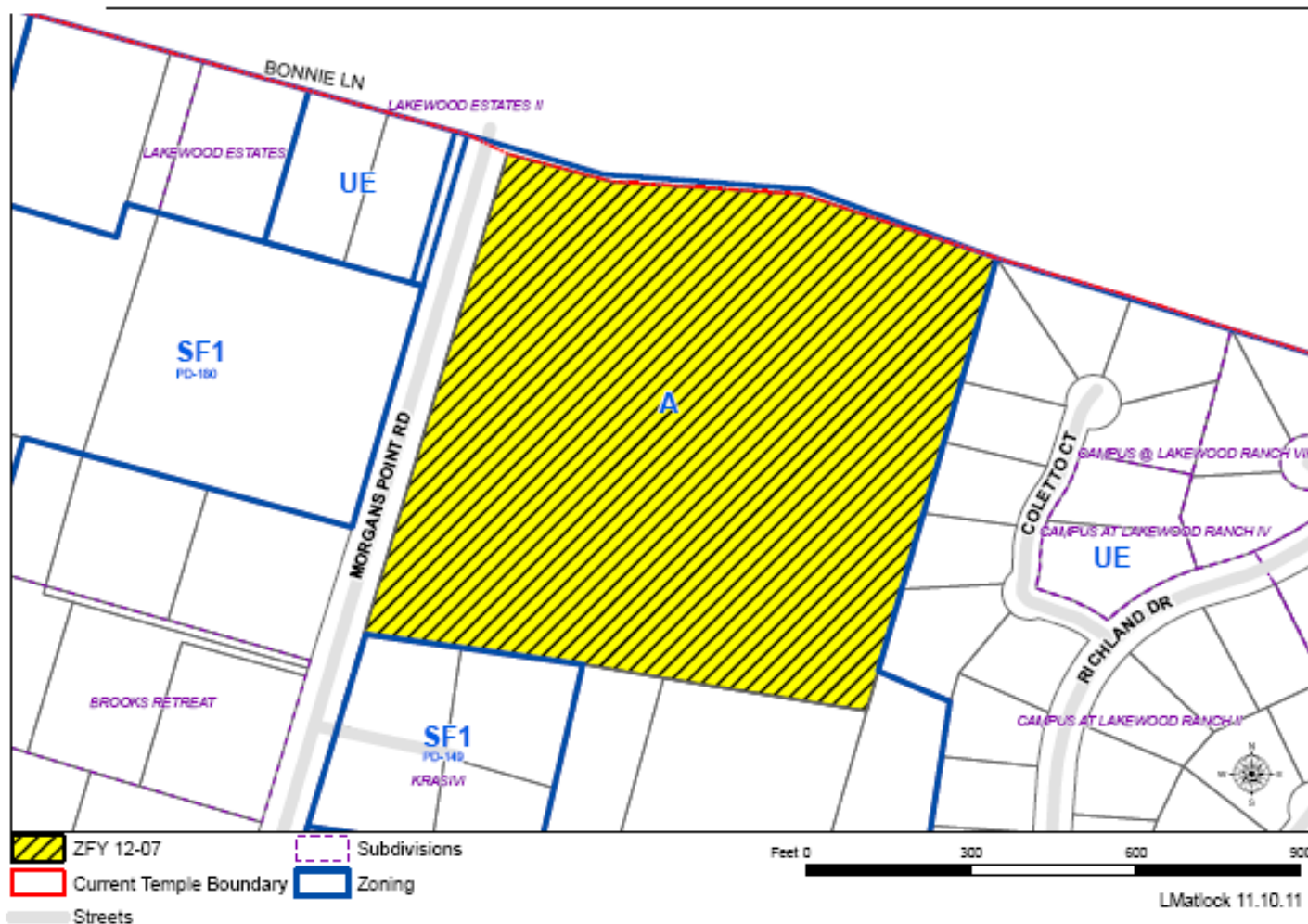
LMatlock Planning 11.10.11



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III

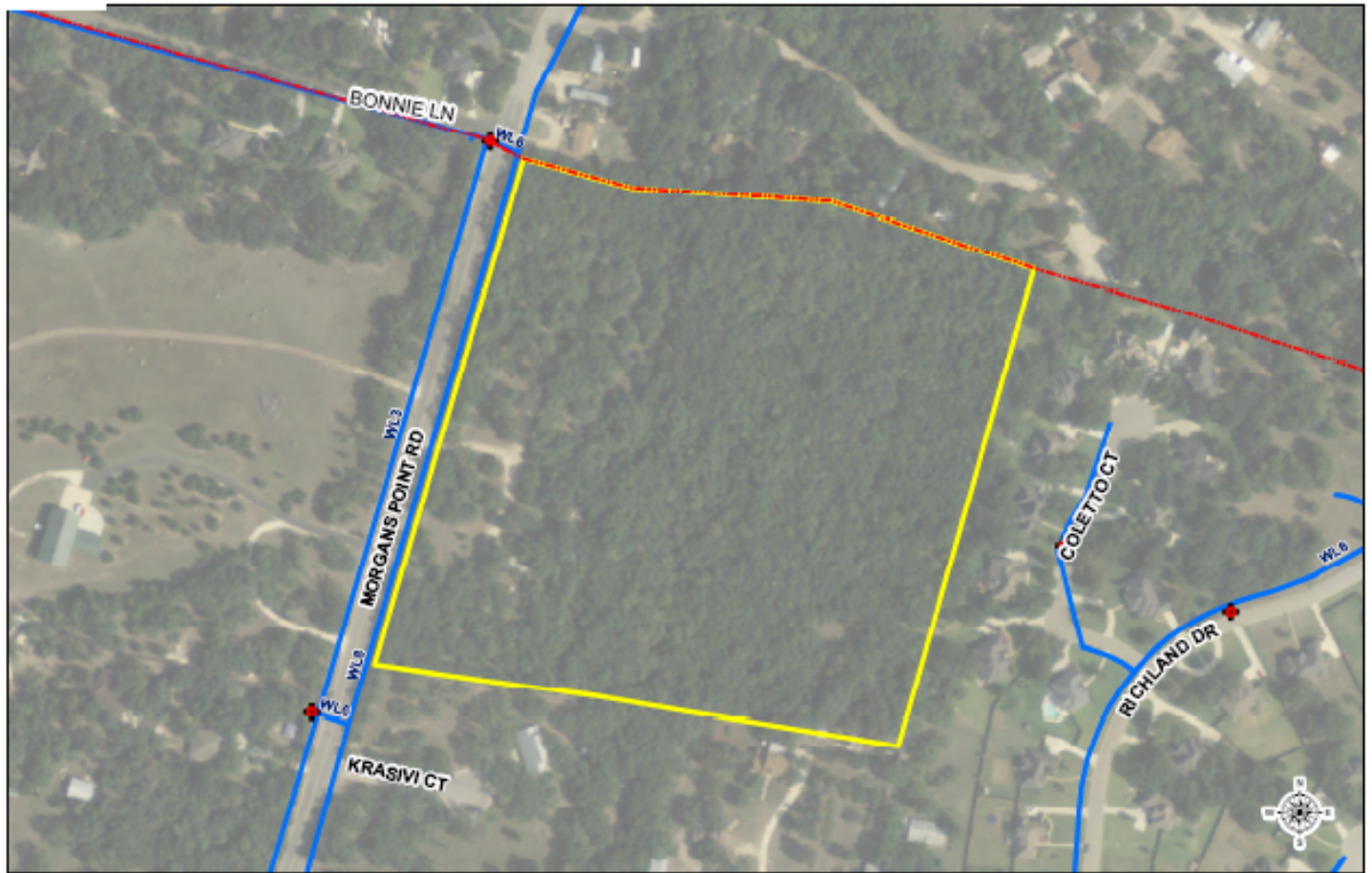




Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



- ZFY 12-07
- SEWER LINE
- FIRE HYDRANT
- WATER LINE

Feet 0 300 600 900

LMatlock 11.10.11



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



ZFY 12-07

Current Temple Boundary

Minor Arterial

Feet 0 300 600 900

LMatlock 11.10.11



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



- ZFY 12-07
- Proposed Local Connector Trail
- Current Temple Boundary

Feet 0 300 600 900

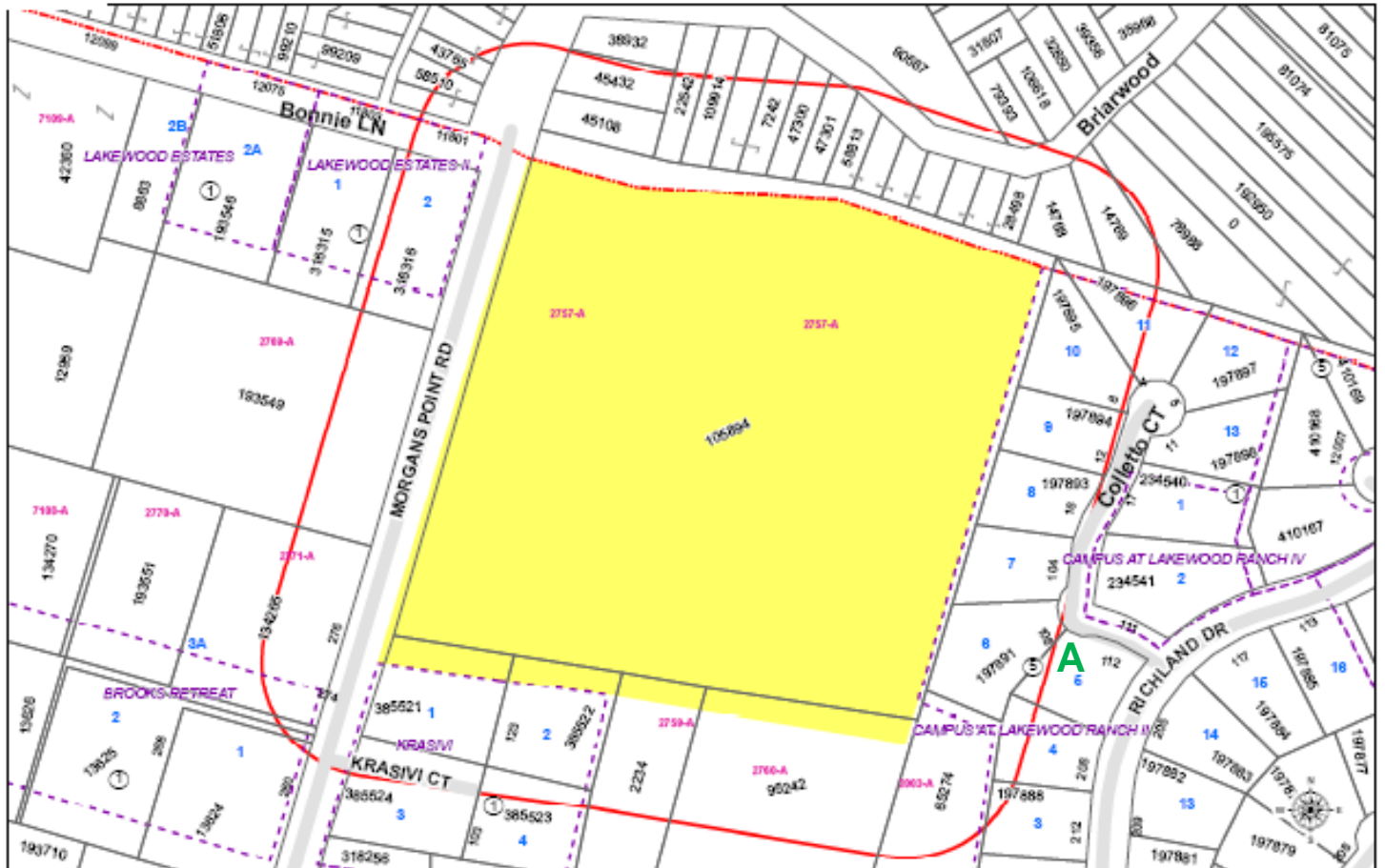
LMatlock 11.10.11



Z-FY-12-07

AG to SF1

19.065 Acres, E of Morgan's Point Rd
W of Lakewood Ranch III



- 2FY 12-07
- 2FY 12-07 200-ft Notification Boundary
- Current Temple Boundary

Feet 0 300 600 900

LMatlock 11.10.11

18 Notices Mailed

1 Approve

0 Disapprove

16 Notices Mailed
were sent to
Citizens in ETJ



PLANNING AND ZONING COMMISSION AGENDA ITEM

11/21/11
Item #6
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Jason Carothers of Carothers Executive Homes, Owner

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-12-07 Hold a public hearing to discuss and recommend action on a rezoning from Agriculture (AG) to Single Family One (SF1) on 19.065 acres in Abstract 513, located on the southeast corner of Morgan's Point Road and Bonnie Lane.






BACKGROUND: The applicant requests this rezoning from AG to SF1 to allow the construction of single-family homes on this property. The property is across Morgans Point Road from the Lago Terra Subdivision, item #2 on the P&Z's agenda. If the rezoning is approved, the site is large enough to accommodate approximately 100 single-family dwellings. This amounts to five units per acre. By comparison, the adjacent Campus at Lakewood Ranch, which is zoned Urban Estate, is 1 ½ units per acre. Although Temple does not have a citywide tree preservation requirement, the developer has voluntarily preserved 12" and large diameter oak trees on the site.



Heavily Wooded Subject Property

SURROUNDING PROPERTY AND USES:

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

Direction	Zoning	Current Land Use	Photo
Subject Property	AG –Agriculture (SF1 proposed)	Undeveloped Land	
North	ETJ- Extra Territorial Jurisdiction	Single Family Homes	
South	SF1 and AG	Single Family Homes	
East	UE – Urban Estate	Single Family Homes on Large Lots	
West	UE,SF1, and AG	Undeveloped Land and Single Family Homes	

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/N *
CP	Map 5.2 - Thoroughfare Plan	Y*
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Y*
STP	Temple Trails Master Plan Map	Y

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

Future Land Use and Character (CP Map 3.1)

The requested rezoning does not fully comply with the Future Land Use and Character Map. The Map recommends the Estate Residential future land use category for the property and some of its surroundings. The Estate Residential future land use category is for large lot rural development generally on the fringes of the City. The zoning district that most complies with Estate Residential is Urban Estate (UE).

Although both are single-family zoning districts, the UE district has a 22,500 square-foot minimum lot area, 80' minimum lot width, 30' minimum front yard setback and 15' side yard setback. The requested SF-1 district has a 7,500 square-foot minimum area, 60' minimum lot width, 25' front yard setback and a side yard setback equal to 10% of the lot width.

Availability of Public Facilities (CP Goal 4.1)

A 6" water line running along Morgan's Point road serves the subject property. The nearest wastewater line is 400' from the property. The applicant intends to tie into a wastewater line running along Adams approximately 570 feet to the south with an off-site easement when platting occurs.

DEVELOPMENT REGULATIONS:

The requested SF1 zoning district is used for single family homes and related uses such as parks, playgrounds, and churches. There are several Conditional Uses that are permitted in this district such as cemeteries, community centers, fire stations, and schools.

The minimum setback is shown on the table below.

SF1, Single-Family One	
Min. Lot Area (sq. ft.)	7,500
Min. Lot Width (ft.)	60
Min. Lot Depth (ft.)	100
Max. Height (stories)	2
Min. Yard (ft)	
Front	25
Side	10% of the width 6-ft min, 7.5 ft max
Side (street)	15
Rear	10

PUBLIC NOTICE:

Eighteen notices were mailed regarding the Planning and Zoning Commission public hearing to property owners within 200-feet of the subject property. Fifteen courtesy notices were mailed to property owners in the Extraterritorial Jurisdiction. As of Tuesday, November 15, 2011, at 5 PM, one notice was returned in favor of and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on November 7, 2011, in accordance with state law and local ordinance.

STAFF RECOMMENDATION: Staff recommends approval of the rezoning for case Z-FY-12-07 for the following reasons:

1. The request partially complies with the Future Land Use and Character Map.
2. The request complies with the Thoroughfare Plan.
3. Public facilities are available within the vicinity of 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, NOVEMBER 21, 2011**

ACTION ITEMS

Item 6: Z-FY-12-07 – Hold a public hearing to discuss and recommend action on a rezoning from Agriculture (AG) to Single Family One (SF1) on 19.065 acres in Abstract 513, located on the southeast corner of Morgan's Point Road and Bonnie Lane. (Applicant: Jason Carothers of Carothers Executive Homes)

Vice-Chair Staats stated he would need to recuse himself from this Item.

Ms. Tammy Lyerly, Planner, stated City Council first reading would take place on December 15, 2011 and second and final action on January 5, 2012.

The subject property is currently zoned AG and the applicant requested Single Family One (SF1).

The subject property lies just south of the north city limit line. Surrounding properties include Morgan's Point Road to the west, UE to the east (Campus at Lakewood Ranch—several phases), Planned Development Single Family 1 (PD-SF1) to the south, and residential to the north (in the ETJ).

The Future Land Use and Character Map designate this property as Estate Residential. Morgan's Point Road is classified as a minor arterial and the development would be subject to development requirements along an arterial road.

Water lines are located along Morgan's Point Road (east side) and in the Lakewood Ranch area. The developer proposes to tie-in to the wastewater line that runs along Adams Avenue.

Single Family One (SF1) dimensional standards were given. The applicant proposes approximately 37 homes would have lot depths of 102 feet by 150 feet with approximately 15,000 square feet with a price range between \$275,000 and \$425,000. This is more than what the SF1 district permits.

Eighteen notices were mailed out within the City limits and two responses were received in favor, zero in opposition. Fifteen courtesy notices were mailed out to the ETJ property owners and zero responses were received.

Staff recommends approval of the requested rezoning since the request 'partially' complies with the Future Land Use and Character Map—Urban Estates would be a more fitting designation, however, the request is appropriate since UE is a single-family residential zoning district and sewer is proposed for the property. This request does

comply with the Thoroughfare Plan and public facilities would be available to serve the property.

Chair Martin opened the public hearing.

Mr. David Hardy, 3 Buffalo Bill, Morgan's Point, Texas, stated there would only be two accesses for this development – 2483 (which ends at 317) and 2305 (which is well controlled). Traffic lights should be considered for intersection control of the area, especially with continued development and additional potential schools.

Mr. Jeff Bucher, 43 Briarwood Road, Belton, Texas, asked where all of the drainage would go since it currently runs into a valley that crosses Briarwood. Ms. Lyerly stated when the developer goes through the platting process, all drainage issues would be addressed to meet the appropriate requirements.

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

Commissioner Rhoads asked if TxDOT were aware of the light situation (flashing light) and Ms. Lyerly stated during the platting process all utility providers, including TxDOT, would be contacted for their input in order to meet appropriate configurations and standards.

Commissioner Pilkington made a motion to approve Item 6, Z-FY-12-07, as presented and Commissioner Sears made a second.

Motion passed: 6:0

Vice-Chair Staats abstained

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-07)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM AGRICULTURAL (AG) TO SINGLE FAMILY ONE (SF1) ON APPROXIMATELY 19.065 ACRES IN ABSTRACT 513, BELL COUNTY, TEXAS, LOCATED ON THE SOUTHEAST CORNER OF MORGAN'S POINT ROAD AND BONNIE LANE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a rezoning from Agricultural (AG) to Single Family One (SF1) on approximately 19.065 acres in Abstract 513, located on the southeast corner of Morgan's Point Road and Bonnie Lane, 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 **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

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

12/15/11
Item #10
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Brian Mabry, Planning Director

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-08: Consider adopting an ordinance authorizing an amendment to Ordinance 2008-4230, Temple Comprehensive Plan, Section 5: Transportation Plan Map, Figure 5.2, to designate the existing and future Westfield Boulevard from West Adams Avenue to State Highway 36 as an arterial road and to reclassify North Pea Ridge Road from West Adams Avenue to State Highway 36 from a minor arterial to a collector road.

P&Z COMMISSION RECOMMENDATION: At its November 21, 2011 meeting, the Planning and Zoning Commission voted 7/0 in accordance with staff recommendation to recommend approval of the amendment to Temple Comprehensive Plan Figure 5.2.

STAFF RECOMMENDATION: Conduct a public hearing and adopt ordinance as presented in item description, on first reading, and schedule second reading and final adoption for January 5, 2012.

Staff recommends approval of Z-FY-12-08, an amendment to the Temple Comprehensive Plan 2008-2030 to amend the Thoroughfare Plan as stated in the item description.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-08, from the Planning and Zoning Commission meeting, November 21, 2011. This proposed update is to the Thoroughfare Plan Map in Chapter 5 of the Comprehensive Plan. The City Council adopted the Plan by Ordinance in late September of 2008.

The applicant, Turley Associates for Kiella Land Development, proposes this amendment to the Thoroughfare Plan as a way to improve traffic circulation on the west side of Temple. The Thoroughfare Plan map shows where future roads should be built in the City and where existing roads should be widened. The map currently shows North Pea Ridge Road as a Minor Arterial and Westwood Boulevard as a local street, although the existing portion of Westfield Blvd is built to Minor Arterial standards.

The map below illustrates the requested amendment.



The requested amendment has several advantages, which include:

- Downgrading Pea Ridge from a Minor Arterial to a Collector negates the need for the contentious "S" Curve the currently traverses through a property that is soon to be developed
- Fewer property owners are involved with the proposed route than are involved with the current designations, which makes widening the road easier
- The proposed amendment results in three evenly-spaced arterial intersections along State Highway 36 (SH 317, Westfield Boulevard and Research Parkway) that are just over 1 mile apart while the existing alignment is not as evenly spaced

PUBLIC NOTICE:

City staff has notified by certified mail the two other land owners whose property the proposed Minor Arterial would pass through. One owner, Hugh Shine, initially expressed hope that the intersection of Westfield Boulevard and State Highway 36 would align with the entry to the Airport. At a later point, in a discussion with the Planning Director, he stated he was satisfied with the applicant's proposed alignment. The other property owner, John Von Rosenberg, has not provided any feedback on the proposal.

FISCAL IMPACT: If the requested amendment is approved by City Council, the applicant will pursue a development agreement with the City in which the City would pay for the engineering and construction costs to oversize the road from collector to arterial standards. An engineer's cost estimate for oversizing the road is attached to this report. The development agreement would require City Council action apart from approval of this amendment.

ATTACHMENTS:

Letter Requesting Thoroughfare Plan Amendment
Applicant's Requested Thoroughfare Plan Amendment
Alternative Amendments (2)
P&Z Staff Report (Z-FY-12-08)
P&Z Minutes (11/21/11)
Ordinance



TURLEY ASSOCIATES, INC.

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
F-1658 FAX • (254) 773-3998

October 20, 2011

City of Temple
City Council Members

RE: City of Temple Thoroughfare Plan; Westfield Boulevard

Dear City Council:

On behalf of our client, Kiella Development, Inc., Turley Associates, Inc. respectfully requests the City of Temple to participate in an agreement to designate Westfield Boulevard as a minor arterial from F.M. 2305 to State Highway 36.

Westfield Boulevard is currently built to minor arterial standards from F.M. 2305 to Stonehollow Drive. Kiella Development, Inc. requests that the future Westfield Boulevard from Stonehollow Drive to Prairie View Road be designated as an arterial road. Kiella Development, Inc. will donate all right-of-way for an arterial section. Kiella Development, Inc. will pay engineering and construction costs for a local collector cross section and requests that the City of Temple enter into a Developer's Agreement to pay for the engineering and construction costs to oversize the road to arterial standards. See attached Engineer Estimate.

Mr. Kiella will work with the property owners to the north of Prairie View Road (south of State Highway 36), John Von Rosenberg and Hugh Shine, to obtain approval for an arterial road to intersect their properties.

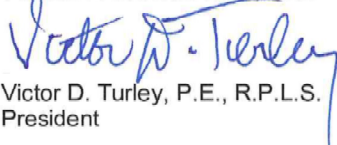
Mr. Kiella asks that the City of Temple's thoroughfare plan be updated to designate Westfield Boulevard as a minor arterial and the existing Pea Ridge Road designation be downgraded to a collector.

There are many benefits of changing these designations. Westfield Boulevard is built to arterial standards from F.M. 2305 to Stonehollow Drive currently. Also to the north Belton Independent School District will be building a middle school in the next 5 years on 30 acres of property they currently own. Pea Ridge is not constructed to local standards at this time and right-of-way along the west side of the road will be more difficult to obtain due to existing homesteads. Even though Pea Ridge is at a signalized intersection, it is aligned with a "S" curve at F.M. 2305. Mr. Kiella feels it would be safer to have an arterial intersection away from the "S" curve.

In summary, we request that the thoroughfare plan be revised showing Westfield Boulevard to be a minor arterial, revise Pea Ridge from an arterial to a collector and the City of Temple to agree to enter into a Developer's Agreement for the upsizing of Westfield Boulevard from Stonehollow Drive to Prairie View Road.

Thank you for your consideration in this matter. Please feel free to call or email me to discuss.

Sincerely,
TURLEY ASSOCIATES, INC.



Victor D. Turley, P.E., R.P.L.S.
President

VDT/sb

TURLEY ASSOCIATES, INC.

301 NORTH THIRD STREET • TEMPLE, TEXAS 76501 • (254) 773-2400
F-1658 FAX • (254) 773-3998

Engineer's Cost Estimate
WESTFIELD BLVD (Stonehollow to Praire View)
 Collector Approx. 3092 LF
 36' B-B

ITEM DESCRIPTION	NO. OF UNITS	UNIT OF MEAS.	UNIT COST	TOTAL ITEM COST
<u>PAVING</u>				
Std. Curb & Gutter	6171	L.F.	\$ 8.25	\$ 50,910.75
HMAC 2"	10971	SY	\$ 7.50	\$ 82,282.50
12" Base	12342	SY	\$ 7.85	\$ 96,883.37
Excavation	4114	CY	\$ 5.00	\$ 20,570.00
4' Wide Sidewalk	3092	LF	\$ 16.50	\$ 51,018.00
Engineering Design	1	LS	\$ 15,000.00	\$ 15,000.00
Construction Staking	1	LS	\$ 6,000.00	\$ 6,000.00
TOTAL				\$ 322,664.62

Engineer's Cost Estimate
WESTFIELD BLVD (Stonehollow to Praire View)
 Arterial Approx. 3092 LF
 71' B-B with a 21' wide median/divider

ITEM DESCRIPTION	NO. OF UNITS	UNIT OF MEAS.	UNIT COST	TOTAL ITEM COST
PAVING				
Std. Curb & Gutter	12342	L.F.	\$ 8.25	\$ 101,821.50
HMAC 2"	15799	SY	\$ 7.50	\$ 118,492.50
12" Base	24341	SY	\$ 7.85	\$ 191,073.87
Excavation	10142	CY	\$ 5.00	\$ 50,710.00
4' Wide Sidewalk (both sides)	6171	LF	\$ 16.50	\$ 101,821.50
Additional 3" Base	24341	SY	\$ 3.00	\$ 73,023.00
Engineering Design	1	LS	\$ 20,000.00	\$ 20,000.00
Construction Staking	1	LS	\$ 12,000.00	\$ 12,000.00
			TOTAL	\$ 668,942.37

Total Estimated Cost of Upgrade	\$ 346,277.75
--	----------------------

Applicant's Requested Thoroughfare Plan Amendment



N. Pea Ridge -
Minor Arterial to
Collector

Westfield -
Local Street to
Minor Arterial

Westfield
Development

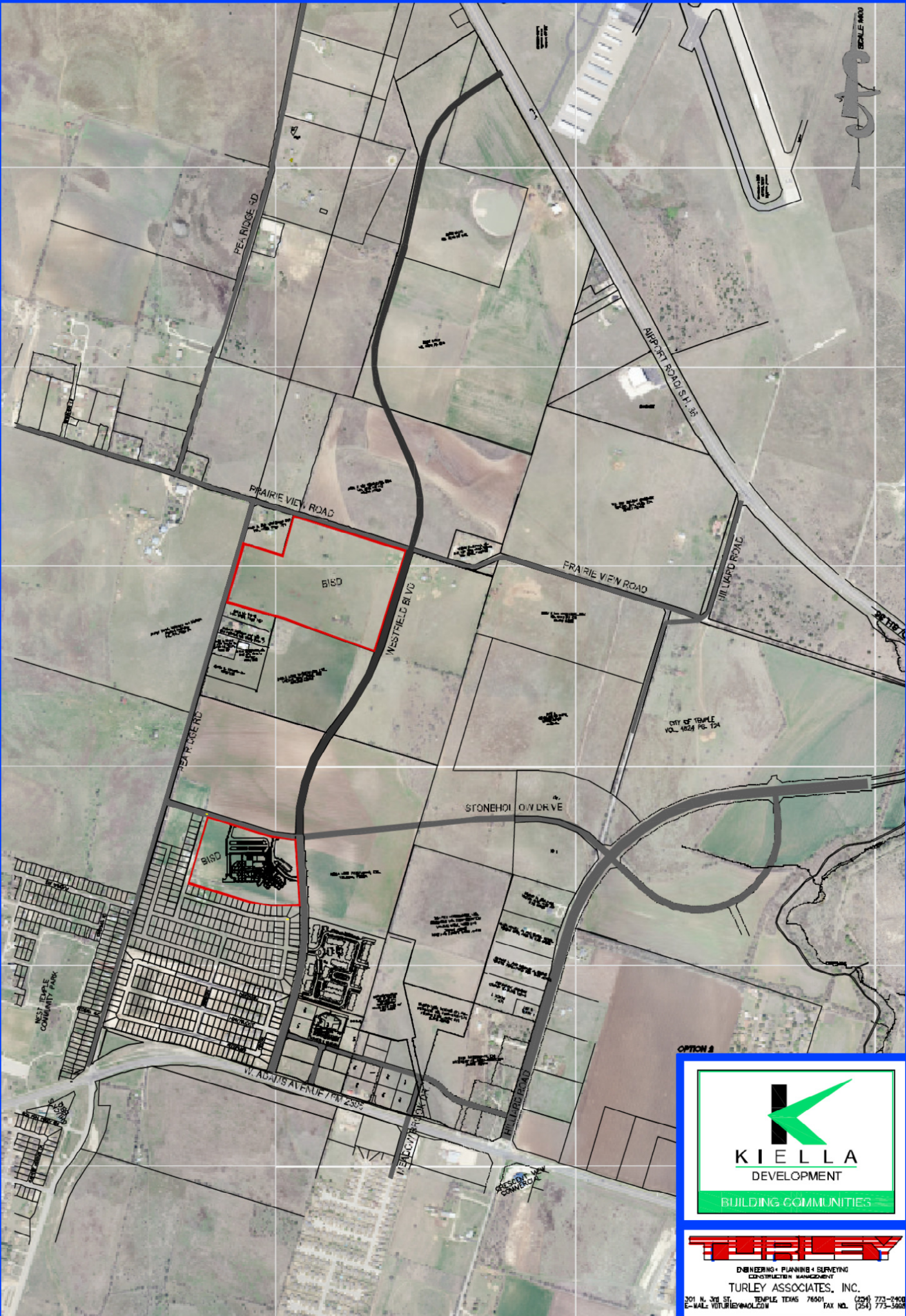


KIELLA
DEVELOPMENT
BUILDING COMMUNITIES



ENGINEERING • PLANNING • SURVEYING
CONSTRUCTION MANAGEMENT
TURLEY ASSOCIATES, INC.
301 N. 3rd St. Temple, Texas 76781 (254) 773-2400
E-MAIL: info@turleyassoc.com FAX NO. (254) 773-3888

Alternative Alignment 1





KIELLA
DEVELOPMENT
BUILDING COMMUNITIES



ENGINEERING • PLANNING • SURVEYING
CONSTRUCTION MANAGEMENT
TURLEY ASSOCIATES, INC.
301 N. 301 ST. TEMPLE, TEXAS 76701 (254) 773-2400
E-MAIL: YOTURLEY@AOL.COM FAX NO. (254) 773-5800

Alternative Alignment 2





KIELLA
DEVELOPMENT
BUILDING COMMUNITIES



ENGINEERING • PLANNING • SURVEYING
CONSTRUCTION MANAGEMENT
TURLEY ASSOCIATES, INC.
301 N. 3RD ST. TEMPLE, TEXAS 76701 (254) 773-2400
E-MAIL: VOTURLEY@AOL.COM FAX NO. (254) 773-3806

APPLICANT / DEVELOPMENT: Turley Associates for Kiella Land Development

CASE MANAGER: Brian Mabry, AICP, Planning Director

ITEM DESCRIPTION: Z-FY-12-08 Hold a public hearing to consider and recommendation action on an amendment to the Thoroughfare Plan to designate the existing and future Westfield Boulevard from West Adams Avenue to State Highway 36 as an arterial road and to reclassify N. Pea Ridge Road from West Adams Avenue to State Highway 36 from a minor arterial to a collector road.

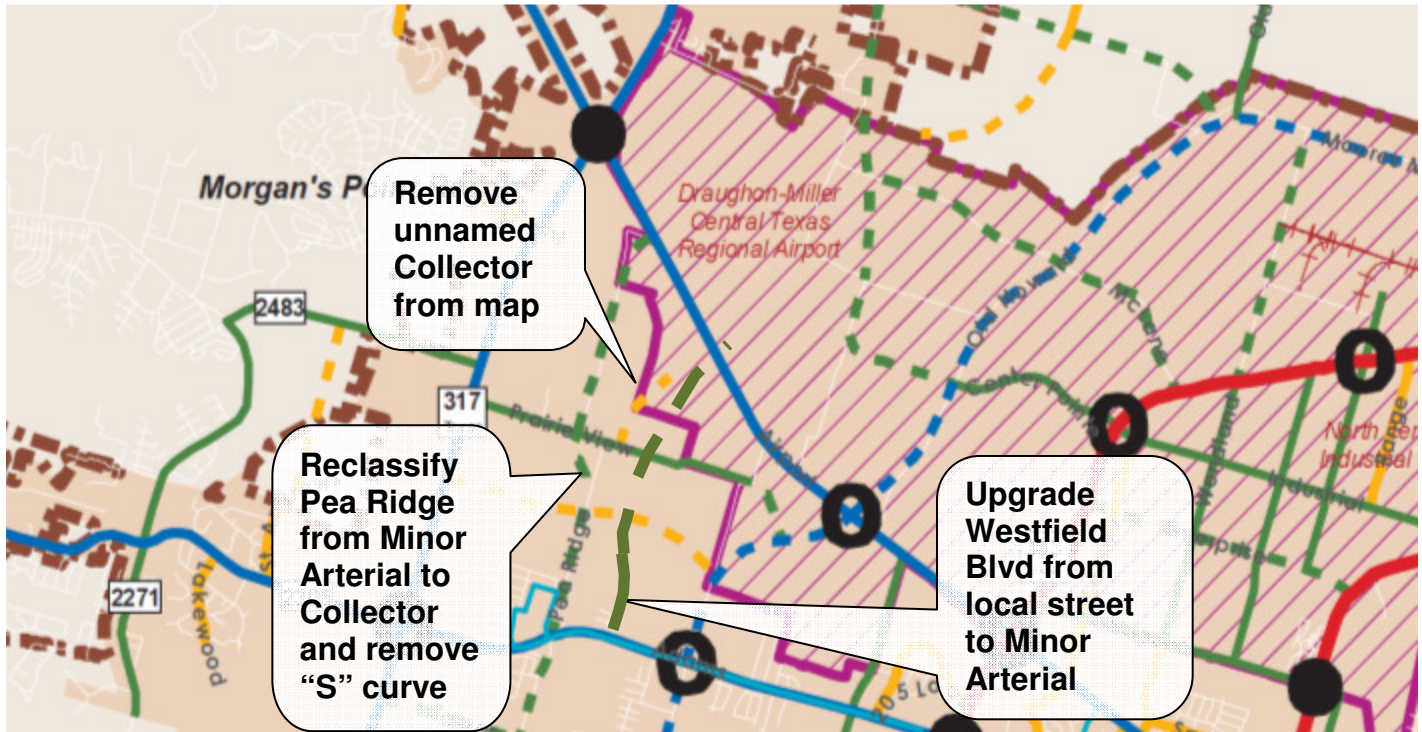
BACKGROUND: The applicant proposes this amendment to the Thoroughfare Plan as a way to improve traffic circulation on the west side of Temple. The Thoroughfare Plan map shows where future roads should be built in the City and where existing roads should be widened. The map currently shows North Pea Ridge Road as a Minor Arterial and Westwood Boulevard as a local street, although the existing portion of Westfield Blvd is built to Minor Arterial standards.



The proposed amendment, as seen in the attached “Applicant’s Requested Thoroughfare Plan Amendment” would:

- Reclassify North Pea Ridge Road from West Adams Avenue to State Highway 36 to a Collector road;
- Remove the proposed “S” curve south of Prairie View Road;
- Reclassify the existing and future Westfield Boulevard from a local street to a Minor Arterial; and
- Remove an existing unnamed Collector road from the map that connects Prairie View Road to State Highway 36.

Please see the map below to make the existing alignment and the proposed alignment more clear.



Collector streets have right-of-way widths of 55 feet and paved widths of 36 feet. Collectors provide circulation within neighborhoods and carry traffic from local streets to arterial streets or major thoroughfares. Minor Arterials have right-of-way widths of 70 feet and paved widths of 49 feet. They provide higher speed traffic circulation with limited access (for example, driveways and street intersections).

The requested amendment has several advantages, which are listed in the Staff Recommendation.

PUBLIC NOTICE:

City staff has notified by certified mail the two other land owners whose property the proposed Minor Arterial would pass through. One owner, Hugh Shine, expressed hope that the intersection of Westfield Boulevard and State Highway 36 would align with the entry to the Airport. This is not the preferred alignment for the applicant because it causes the road to be longer, but the applicant has submitted two additional drawings, one of which shows such alignment. The other property owner, John Von Rosenberg, has not provided any feedback on the proposal.

STAFF RECOMMENDATION: Staff recommends approval of the requested Thoroughfare Plan amendment because:

- Downgrading Pea Ridge from a Minor Arterial to a Collector negates the need for the contentious "S" Curve the currently traverses through a property that is soon to be developed
- Fewer property owners are involved with the proposed route than are involved with the current designations, which makes widening the road easier
- The proposed amendment results in three evenly-spaced arterial intersections along State Highway 36 (SH 317, Westfield Boulevard and Research Parkway) that are just over 1 mile apart while the existing alignment is not as evenly spaced

FISCAL IMPACT: If the requested amendment is approved by City Council, the applicant will pursue a development agreement with the City in which the City would pay for the engineering and construction costs to oversize the road from collector to arterial standards. An engineer's cost estimate for oversizing the road is attached to this report. The developer agreement would require City Council action apart from approval of this amendment.

ATTACHMENTS:

Letter Requesting Thoroughfare Plan Amendment
Applicant's Requested Thoroughfare Plan Amendment
Alternative Amendments (2)

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

ACTION ITEMS

Item 8: Z-FY-12-08 – Hold a public hearing to consider and recommendation action on an amendment to the Thoroughfare Plan to designate the existing and future Westfield Boulevard from West Adams Avenue to State Highway 36 as an arterial road and to reclassify N. Pea Ridge Road from West Adams Avenue to State Highway 36 from a minor arterial to a collector road. (Applicant: Turley Associates for Kiella Land Development)

Mr. Brian Mabry, Planning Director, stated the Thoroughfare Plan was part of the Choices '08 Comprehensive Plan and shows what type of roads should be widen and/or where they should be extended in the future. There are several different categories of road in the Comprehensive Plan that deal with right-of-way widths and their paved widths including major arterials, minor arterials, and collector roads. Roads within the City are built either through platting and development or as part of a Capital Improvements Plan.

North Pea Ridge Road, north of West Adams and south of State Highway 36 is shown as a minor arterial and Westfield Blvd. is shown as a local street. Westfield is built to minor arterial standards, has an 85 foot right-of-way and 75 foot paved width and exceeds current arterial standards.

If approved, this amendment would reclassify North Pea Ridge from West Adams to State Highway 36 from a minor arterial down to a collector road. A result of that reclassification would be the removal of the S curve that is currently shown for Pea Ridge Road south of Prairie View Road. This amendment would reclassify the existing and future path of Westfield Boulevard from Adams to State Highway 36 as a minor arterial, and remove a proposed unnamed collector that connects Prairie View to State Highway 36.

Route options are shown and explained.

A collector road has a 65 foot right-of-way and paved width of 36 feet. The Unified Development Code (UDC) and the Thoroughfare Plan state the purpose of a collector road is to provide circulation within neighborhoods and to carry traffic from local streets over to arterials and thoroughfares.

A minor arterial is a minimum of 70 foot right-of-way width and paved width is 49 feet. The purpose of an arterial is to provide higher speed traffic circulation with limited access (driveways in the street intersections).

The applicant's preferred route is shown for Westfield Boulevard, where existing route of Westfield starts at Adams and goes past the Westfield Subdivision and Belton school, crossing Stonehollow and continue up where the future path would end up passing just east of the future Belton school and continue north pass Prairie View through the Von Rosenberg and Shine properties eventually connecting to Airport Road.

An alternate route for Westfield Boulevard would be the same route as above but ending up across the road from the Draughton Miller Regional Airport driveway. A disadvantage to this alignment would be it is longer and more costly to build than the preferred alignment.

The two property owners involved, Mr. Shine and Von Rosenberg Family, were notified by certified mail. Mr. Shine came in and discussed his opinions with Mr. Mabry and Mr. Mabry could only verbally pass along some of Mr. Shine's comments and concerns. Mr. Shine ended up supporting both route proposals. The Von Rosenberg Family has not returned any written documentation or called in to discuss the proposals.

Staff supports this requested alignment and change in the Thoroughfare Plan because downgrading North Pea Ridge from an arterial to a collector would negate the need for the S curve option, fewer property owners are involved in the current proposal, and the amendment would result in three evenly spaced arterial intersections along Highway 36 (Highway 317, Westfield and Research).

Chair Martin opened the public hearing.

Ms. Joyce Novak, 3305 Oakridge, Temple, Texas, asked if Westfield Boulevard would be east of the school property and Mr. Mabry responded yes, either route being proposed is on the east border of the future school property that BISD would like to build at that site. Ms. Novak asked where it crosses the street at Prairie View, then it would be on the Von Rosenberg and Shine property. Mr. Mabry responded yes, and it would not touch Ms. Novak's property as presented by the applicant.

Ms. Phyllis Hardy, 3 Buffalo Bill, Morgan's Point, Texas, stated traffic at Highway 317 and 2483 was a death trap and difficult to get out. Safety issues and visibility were major concerns for Ms. Hardy and she suggested installing a traffic light at 2483 and 317 in order to help control the traffic.

Mr. John Kiella, 11122 Whiterock Drive, Temple, Texas, stated he represented the developer. Mr. Kiella stated he has had some discussions with the Belton I.S.D. and it seemed the proposed school would probably be built within three years instead of the six to seven years as originally planned. Mr. Kiella has worked with engineers and Public Works to analyze and develop the three options being presented.

Mr. Kiella stated he would continue to find and work with the Von Rosenberg Family. He stated Mr. Shine agrees with the proposed routes. Mr. Kiella stated he has been working with Nicole Torralva to take a look at the Prairie View issue and these matters needed to be addressed as early as possible.

Commissioner Rhoads asked Mr. Kiella what properties were his and Mr. Kiella stated most all the land (indicated on the monitor) except for the City owned 80 acre park.

Discussion regarding reasons and opinions for proposed options.

Commissioner Rhoads asked Staff, if based on Mr. Kiella's comments, would any of the options proposed and presented need to be reworked for what they might do in the future. Mr. Mabry stated if Westfield were approved as the applicant's preference has been presented, he did not feel it would need to be changed in the future.

Mr. David Hardy, 3 Buffalo Bill, Morgan's Point, Texas, stated Prairie View has become more populated with traffic. The Westfield connection would be much better than Pea Ridge. Research has become very dangerous on 36 and needs to be a controlled intersection.

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

Commissioner Staats asked if a traffic study for that intersection area would be performed by a professional organization. Mr. Mabry stated there would have to be funds in the budget to allow for the study and is not the norm for an intersection.

Discussion about measurements, TxDOT, right-of-way, flexibility with developer, etc.

Commissioner Rhoads made a motion to approve Item 8, Z-FY-12-08, as presented by Staff and Mr. Kiella and Commissioner Jones made a second.

Motion passed: 7:0

ORDINANCE NO. _____

[PLANNING NO. Z-FY-12-08]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHOICES '08, CITY OF TEMPLE COMPREHENSIVE PLAN, BY REVISING SECTION 5; TRANSPORTATION PLAN MAP, FIGURE 5.2, TO DESIGNATE THE EXISTING AND FUTURE WESTFIELD BOULEVARD FROM WEST ADAMS AVENUE TO STATE HIGHWAY 36 AS AN ARTERIAL ROAD AND TO RECLASSIFY NORTH PEA RIDGE ROAD FROM WEST ADAMS AVENUE TO STATE HIGHWAY 36 FROM A MINOR ARTERIAL TO A COLLECTOR ROAD; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on September 4, 2008, the City Council approved Ordinance No. 2008-4230 which adopted *Choices '08*, the City of Temple Comprehensive Plan;

Whereas, Chapter 5, Figure 5.2 of *Choices '08* is the Thoroughfare Plan Map which presently shows where future roads should be built in the City and where existing roads should be widened. The current map shows North Pea Ridge Road as a minor arterial and Westwood Boulevard as a local street, although the existing portion of Westfield Boulevard is built to minor arterial standards;

Whereas, on November 21, 2011, the Planning and Zoning Commission recommended the adoption of an ordinance amending the 2030 Temple Comprehensive Plan, Section 5, Transportation Plan Map, Figure 5.2, in the *Choices '08* Comprehensive Plan;

Whereas, the changes would reclassify North Pea Ridge Road from West Adams Avenue to State Highway 36 to a Collector road; remove the proposed "S" curve south of Prairie View Road; reclassify the existing and future Westfield Boulevard from a local street to a Minor Arterial; and remove an existing unnamed Collector road from the map, that connects Prairie View Road to State Highway 36; and

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

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

Part 1: The City Council approves amending the *Choices '08* Temple Comprehensive Plan, by revising Section 5, Transportation Plan Map, Figure 5.2, which is more fully shown on Exhibit A, attached hereto for all purposes.

Part 2: 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 3: 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 4: 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 **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

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

12/15/11
Item #11
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING – Consider adopting an ordinance designating a tract of land consisting of approximately 4.91 acres and described as Lot 5, Block 1, Friendship Plaza Subdivision, located at 5434 205 Loop, as City of Temple Tax Abatement Reinvestment Zone Number Twenty-Three for commercial/industrial tax abatement.

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

ITEM SUMMARY: The proposed ordinance designates a tract of land consisting of approximately 4.91 acres and described as Lot 5, Block 1, Friendship Plaza Subdivision, located at 5434 205 Loop, as a commercial/industrial tax abatement reinvestment zone. The designation of a tax abatement reinvestment zone lasts for five years and is a prerequisite for entering into a tax abatement agreement with a future economic development prospect.

The City Council approved a final plat on the property in question on November 7, 2011. The property was rezoned from GR to C (Commercial) on September 1st. We anticipate receiving an application for tax abatement on the property in the near future. The applicant will be seeking 5 year, 100% tax abatement on the increased value of the real property improvements.

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

The proposed tax abatement reinvestment zone as described above, is proposed for commercial or industrial tax abatement (the property is currently zoned Commercial). Chapter 312 requires that the City make the following findings when it adopts an ordinance creating a tax abatement reinvestment zone: (1) that the creation of the tax abatement reinvestment zone will result in benefits to the City and to the land included in the zone after the term of any agreement, and that the improvements being sought are feasible; and (2) that the tax abatement reinvestment zone meets the criteria for creation of a zone under State law and the City's own criteria and guidelines for tax abatement.

I have reviewed both the State law and our criteria and guidelines, and believe that the creation of the proposed reinvestment zone and subsequent approval of a tax abatement agreement with the property owner will lead to the retention of primary employment in the area, and the creation of new real and personal property improvements in the area—as contemplated by our State and local criteria. The Staff recommends approval of the ordinance for the above reasons.

FISCAL IMPACT: None at this time.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DESIGNATING A CERTAIN AREA DESCRIBED AS LOT 5, BLOCK 1, FRIENDSHIP PLAZA SUBDIVISION, LOCATED AT 5434 205 LOOP, TEMPLE, TEXAS, AS TAX ABATEMENT REINVESTMENT ZONE NUMBER TWENTY-THREE FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

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

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

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

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

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

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

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

B. That the boundaries of the reinvestment zone (hereinafter "REINVESTMENT ZONE NUMBER TWENTY-THREE") should be the area described as Lot 5, Block 1, Friendship Plaza Subdivision, located at 5434 205 Loop, in the City of Temple, Bell County, Texas, as described in the drawing attached as Exhibit "A."

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

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

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

Part 3: Pursuant to Section 312.201 of the Code, the City hereby creates a reinvestment zone for commercial/industrial tax abatement encompassing Lot 5, Block 1, Friendship Plaza Subdivision, located at 5434 205 Loop in the City of Temple, Bell County, Texas, described by the drawing in Exhibit "A," attached hereto and such REINVESTMENT ZONE is hereby designated and shall hereafter be officially designated as Tax Abatement Reinvestment Zone Number Twenty-Three, City of Temple, Texas.

Part 4: The REINVESTMENT ZONE shall take effect on January 5, 2012, or at an earlier time designated by subsequent ordinance.

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

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

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

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

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

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

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

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

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

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

D. Requiring an annual report by the owner to all of the taxing entities authorizing the agreement which certifies the owner's compliance with all of the terms of the agreement.

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

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **15th** day of **December**, 2011.

PASSED AND APPROVED on Second Reading on the **5th** day of **January**, 2012.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

12/15/11
Item #12
Regular Agenda
Page 1 of 4

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING: Consider adopting an ordinance designating the Martin Luther King, Jr. Strategic Investment Zone as Tax Abatement Reinvestment Zone Number Twenty-Four for Commercial/Industrial Tax Abatement and authorizing a number of other SIZ economic development incentives for property redevelopment and amending the City's Comprehensive Economic Development Ordinance to reflect those changes.

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

ITEM SUMMARY: *Synopsis:* The proposed ordinance designates the proposed MLK SIZ area as both a tax abatement reinvestment zone and a SIZ incentive area. As a tax abatement reinvestment zone, it offers the potential for the City to approve five year tax abatement agreements. As a SIZ incentive zone, it provides authority for the City to consider approving SIZ type match grants similar to what we've made available in the South 1st, Avenue G/H and North 3rd SIZ incentive zones

Background: This ordinance, if adopted, will create the City's fourth SIZ incentive zone. The City Council previously adopted incentive zones for the South 1st Street SIZ, the Avenue G/H SIZ and the North 3rd Street SIZ. As with our three previously adopted ordinances, this proposed ordinance is designed to encourage redevelopment of a strategically important section of the Martin Luther King, Jr. Boulevard (MLK) SIZ corridor that might otherwise not occur in the absence of incentives. The MLK SIZ includes MLK, South 6th Street and South 10th Street from Adams Avenue to the Burlington Northern Santa Fe tracks and extends into the downtown area to connect with the SIZ incentive zones for North 3rd Street and South 1st Street. With the proposed addition most of what people consider "downtown" will be within the boundaries of a SIZ incentive zone and thus eligible for grants to encourage redevelopment.

A map of the boundaries of the MLK tax abatement reinvestment zone/MLK SIZ incentive zone is attached to this narrative as Exhibit A. The MLK SIZ area contains a mixture of CA, LI, HI, Commercial and Single Family zoning. A map depicting that is attached as Exhibit B.

Little new development has occurred within the MLK SIZ incentive area in the past twenty years. The condition of property in the MLK SIZ corridor is likely to substantially arrest or impair sound growth because of the number of deteriorating structures, inadequate streets and sidewalks, lack of accessibility or usefulness of lots, unsanitary and unsafe conditions, the deterioration of site or other improvements, or conditions that endanger life or property by fire or other cause. These conditions justify the use of tax abatement and SIZ-type Chapter 380 incentive agreements.

The proposed ordinance encourages redevelopment in the proposed MLK SIZ incentive area primarily through: (1) the availability of agreements that provide tax abatement for commercial and industrial property on the *increased* value of eligible real and personal property; and (2) the availability of matching grant incentives (Chapter 380) where the City participates with dollars or in-kind services to encourage redevelopment. The proposed ordinance creates enabling authority, but is subject to the availability of funds that may be appropriated from year to year by the City Council as part of the annual budget process.

As the City's adopted SIZ report recommended, the City is employing a 'combined-arms' approach to redevelopment in our Strategic Investment Zones. On one hand we have sought voluntary compliance with existing codes and standards and backed that up with a willingness to compel compliance through enforcement proceedings before the City's Building and Standards Commission. We've also tried a "carrot" incentive through a willingness to assist property owners with the demolition of substandard buildings and signs in our corridors. As we have previously reported to the City Council, the City has demolished a number of dilapidated buildings and signs in the past five years, both within and near our ten SIZ corridors.

The proposed ordinance extends those efforts by offering tax abatement and economic development incentives in the MLK SIZ incentive area. The tax abatement we are proposing is similar to what has been successfully offered in the South 1st SIZ corridor, Avenue G/H corridor and North 3rd Street: 100% tax abatement for five years on the *increased* value of eligible real and personal property constructed in accordance with a tax abatement agreement. Eligible property improvements for *tax abatement* in this SIZ corridor would include only commercial or industrial redevelopment (real and personal property). *SIZ incentive grants* are available for residential, commercial or industrial redevelopment.

MLK SIZ Incentive Area

The MLK SIZ incentive area is an irregular shaped area *roughly* bound by Martin Luther King, Jr. Boulevard on the east, Calhoun Street on the north, Main Street on the west, and Avenue H on the south (depicted on the map attached to this Narrative). While the primary focus of the MLK SIZ incentive area is MLK itself, from Calhoun to Avenue H, we're also recommending that the MLK SIZ incentive area extend west into the downtown area so it touches both the existing South 1st SIZ incentive area (much of west downtown) and a small portion of the North 3rd SIZ incentive area (which extends down to Adams). On its northern boundary, we're recommending that the MLK SIZ incentive area continue up to Calhoun. The effect of this is to provide a range of SIZ related incentives and the possibility of tax abatement into both the MLK corridor and into the downtown area. *Between the South 1st, North 3rd and MLK SIZ incentive zones, the entire downtown area is effectively open to either tax abatement agreements and SIZ type matching grants.*

In addition to the possibility of five year tax abatement for large, significant projects, the proposed Chapter 380 matching grants for economic development and in-kind services are very similar to those employed in the South 1st Street, “Avenue G/H & North 3rd Street. SIZ and the Avenue G/H SIZ corridors. The grant matrix includes funds or services related to façade replacement or upgrading, sign improvements, landscaping improvements, asbestos surveys and abatements, demolitions and sidewalk replacement. Available of these matching funds would be on a first-come/first-served basis for eligible projects. Approximately \$100,000 is appropriated in FY2011-12 for SIZ incentive agreements for all of the three existing SIZ incentive areas—unless additional funds are appropriated for this new area, any incentive agreements proposed for the MLK SIZ incentive area would come out of the existing appropriation.

Finally, the proposed ordinance amends portions of the City’s comprehensive economic development ordinance to reference the MLK area as a tax abatement reinvestment zone and to list the MLK SIZ corridor in Part III, “Additional Economic Incentives within the City,” Section C, “Incentives in Certain Strategic Incentive Zones (SIZ), to incorporate MLK as an incentive zone and describe the incentive grants available thereon, which are:

TYPE OF GRANT	MLK, Jr. Boulevard
Façade	\$15,000
Sign	\$2,500
Landscaping	\$5,000 or \$10,000 (higher amount w/ irrigation)
Asbestos	\$1,000 + \$3,000 (survey + abatement)
Demolition	\$2,500
Sidewalk	\$10,000
Fee Waiver	\$2,000
Code Upgrade (Residential)	\$5,000
Theoretical Maximum Grant (lesser of the sum of individual grants and 33% of total investment if project < \$100K or 25% if total investment is ≥ \$100K)	\$46,000
Required Minimum Investment	\$20K Commercial/\$10K Residential

There are a few other minor tweaks to Section C/SIZ incentive grant program that I will discuss during my presentation of this item.

FISCAL IMPACT: The City Council authorized \$100,000 in this fiscal year for economic development incentives in Strategic Investment Zone corridors. Tax abatement agreements, if entered into in the future on property in this corridor, would rebate taxes on the increase value of eligible real and personal property in the area and would not require a financial outlay by the City.

ATTACHMENTS:

Maps - to be provided
Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF TEMPLE, TEXAS, ESTABLISHING A COMPREHENSIVE ECONOMIC DEVELOPMENT POLICY FOR THE CITY OF TEMPLE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City of Temple is committed to establishing long-term economic vitality, an essential key to the growth of any community, by responding and preparing for challenges and changes in an environment characterized by ongoing competition for sustained economic advantage and identity;

Whereas, in an effort to enrich an already substantial diversity of economic activity, the City of Temple desires to establish an *Economic Development Policy* consolidating the City's existing and newly-proposed economic development policies into one comprehensive document;

Whereas, the City has established criteria and guidelines governing tax abatement within the City pursuant to Chapter 312 of the Tax Code, and by ordinance has designated two tax abatement reinvestment zones;

Whereas, the City has by ordinance created a tax increment financing reinvestment zone pursuant to Chapter 311 of the Tax Code, and used the tax increments accrued in said zone to construct public improvements intended to spur economic development of the zone;

Whereas, Article 3, Section 52-a of the State Constitution, authorizes the Legislature to provide for the creation of programs for the making of loans and grants of public money for the public purposes of development and diversification of the economy of the State;

Whereas, the Legislature, in Tex. Rev. Civ. Stat. Ann. art. 835s, has authorized home rule cities to acquire land and buildings for the purpose of leasing the land or improvements thereto to private companies for use in manufacturing or other commercial activity;

Whereas, the Legislature, in Chapter 380 of the Local Government Code, has authorized home rule cities to establish programs for making loans and grants of public money to promote State or local economic activity within their boundaries; and

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

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

Part 1: That a comprehensive *Economic Development Policy* is hereby adopted by the City of Temple, Texas, to read as follows:

ECONOMIC DEVELOPMENT POLICY

FOR THE CITY OF TEMPLE, TEXAS

ADOPTED JANUARY 5, 2012

I. Criteria and Guidelines Governing Tax Abatement.

A. Definitions.

1. "**Abatement**" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the City for economic development purposes.

2. "**Agreement**" means a contract between a property owner or lessee and the City.

3. "**Base year value**" means the assessed value of eligible property on January 1st of the year of the execution of the tax abatement Agreement, plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.

4. "**Deferred Maintenance**" means those improvements necessary for continued operation but which do not improve productivity or alter any process technology. Exterior improvements (e.g., painting, installing, repairing, removing or replacing a facade) to the exteriors of buildings in the Downtown Development Area which are designed to improve visual appearance of property are not deferred maintenance.

5. "**Downtown Development Area**" is an approximately 43 block area of downtown Temple as shown by the map and description attached hereto as Exhibit "A."

6. "**Eligible Facilities**" means those new, expanded or modernized buildings and structures, including fixed machinery and equipment, which are reasonably likely as a result of granting abatement, to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development within the City Eligible Facilities in all commercial/industrial tax abatement reinvestment zones include manufacturing, distribution and storage facilities, office buildings, transportation facilities, and entertainment complex. Additional Eligible Facilities in reinvestment zones established in the Downtown Development Area include retail stores, apartment buildings, restaurants and entertainment facilities (excluding sexually oriented businesses) facilities.

7. "**Expansion**" means the addition of buildings, structures, machinery, equipment or payroll for purposes of increasing production capacity.

8. "**Facility**" means property improvements completed or in the process of construction which together comprise an integral whole.

9. **"Modernization"** means a complete or partial demolition of Facilities and the complete or partial reconstruction or installation of a Facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery or equipment, or both. Modernization in the Downtown Development area includes painting of exterior walls, restoring, removing or installing a facade and related exterior improvements designed to visually improve the exterior of a building or block.

10. **"New Facility"** means a property previously undeveloped which is placed into service by means other than or in conjunction with Expansion and Modernization.

11. **"Productive Life"** means the number of years a property improvement is expected to be in service for a facility.

12. **"South 1st SIZ incentive area"** is an area comprised of approximately a 74 block area, which includes South 1st Street from Adams Avenue to South Loop 363 and portions of several adjacent streets including portions of South 2nd Street, South 3rd Street and South 5th Street, as shown by the map and description attached hereto as Exhibit "S1."

13. **"Avenue G/H SIZ incentive area"** is an area consisting of Avenues F, G, H & I from South 1st Street to South 25th Street, as shown by the map and description attached hereto as Exhibit "S2."

14. **"North 3rd Street SIZ incentive area"** is an area consisting of two tracts of land centered on North 1st Street; Area A is bounded on the west by North 7th Street [from Central to French] and on the east from Adams—where it adjoins the South 1st SIZ incentive area—north to French Avenue, and North 3rd Street, and Area B Tax Increment Financing Reinvestment Zone is an irregular shaped area on North 3rd Street running north-south roughly from Munroe Avenue to Industrial Boulevard, as shown by the map and description attached hereto as Exhibit "S3."

15. **"MLK SIZ incentive area"** is an area on the east side of downtown Temple roughly bound on the north by Calhoun Street, on the east by MLK, on the south by Avenue H, and on the west by the BNSF tracks and 2nd Avenue, as shown by the map and description attached hereto as Exhibit "S4."

B. Statement of Purpose.

The City is committed to the promotion of high quality commercial and industrial development in all parts of the City, and an ongoing improvement of the quality of life of its citizens. These objectives may be served by the enhancement and expansion of the local economy. The City will consider, on a case-by-case basis granting property tax abatement as a stimulus for economic development in accordance with the criteria and guidelines established herein. Nothing herein shall imply or suggest that the City is under any obligation to provide tax abatement to any applicant, that any applicant has a property right or interest in tax abatement, or that the City is precluded from considering other options which may be in the best interest of the City.

C. Designation of Tax Abatement Reinvestment Zones.

The City will consider designating areas within the City limits or extraterritorial jurisdiction of the City as commercial-industrial tax abatement reinvestment zones which meet one or more of the criteria

for designation of a reinvestment zone under Section 312.202 of the Tax Code, and where the property owner meets the minimum qualifications to qualify for a tax abatement under Part I.D. 1.b. of this Policy. Designation of an area as a tax abatement reinvestment zone is a prerequisite to entering into a tax abatement agreement with the owner of the property in a particular area. Property located within a City created (and State-approved) Enterprise Zone is eligible for consideration for tax abatement agreements without the necessity of separate designation as a tax abatement reinvestment zone.

D. Abatement Authorized.

1. Eligible Facilities. Upon application, the City will consider granting tax abatement on Eligible Facilities as hereinafter provided.

a. Creation of New Value. The City will consider granting tax abatement only for the additional value of eligible property improvements made subsequent to, and specified in, an abatement agreement between the City and the property owner or lessee, subject to such limitations as the City may require.

b. New and Existing Eligible Facilities. The City will consider granting abatement for new Eligible Facilities and for improvements to existing Eligible Facilities for purposes of Modernization and Expansion.

c. Eligible Property. The City will consider granting abatement to the value of real property improvements (buildings, structures, fixed [permanently attached] machinery and equipment, site improvements, related fixed improvements necessary to the operation and administration of the Facility), and personal property (excluding inventory or supplies) with a Productive Life of ten years or more.

d. Ineligible Property. The following types of property shall remain fully taxable and ineligible for tax abatement: land, supplies, inventory, housing, Deferred Maintenance, property to be rented or leased except as provided in subpart (5) below, and other property which has a Productive Life of less than ten years.

e. Owned/Leased Facilities. If a Leased Facility is granted abatement, the agreement shall be executed with the lessor and the lessee.

2. Standards for Tax Abatement.

a. Minimum Standards. The City will consider tax abatement only on eligible facilities which meet at least two of the following criteria.

(1) The project involves a minimum increase in property value of three hundred percent (300%) for construction of a new facility, or fifty percent (50%) for expansion of an existing facility, with an overall new investment of at least \$1 million in taxable assets. For eligible facilities in any reinvestment zone within the Downtown Development Area or within the South 1st, North 3rd, Avenue G/H or MLK SIZ incentive areas, the project must involve either a minimum increase in property value of one hundred and fifty percent (150%) for construction of a

new facility, or twenty-five percent (25%) for expansion of an existing facility, with an overall new investment of at least \$50,000 in taxable assets.

(2) The project makes a substantial contribution to redevelopment efforts, special area plans, or strategic economic development programs by enhancing either functional or visual characteristics, e.g., historical structures, traffic circulation, parking facades, materials, signs.

(3) The project has high visibility, image impact, or is of a significantly higher level of development quality.

(4) The project is an area which might not otherwise be developed because of constraints of topography, ownership patterns, site configuration, etc.

(5) The project can serve as a prototype and catalyst for other development of a higher standard.

(6) The project stimulates desired concentrations of employment or commercial activity.

(7) The project generates greater employment than would otherwise be achieved, e.g., commercial/industrial versus manufacturing versus warehousing.

(8) For eligible facilities in any reinvestment zone within the Downtown Development Area, the project improves the aesthetic appearance of the neighborhood, brings new jobs to the Downtown area, increases the availability of public parking, or increases the amount of green space (landscaping).

b. Minimum Required Investment. An applicant requesting tax abatement shall agree as a condition of any tax abatement ultimately approved by the City Council to expend a certain minimum amount of funds on real or personal property improvements, or to provide a certain number of jobs, as provided below:

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
25%	\$250,000-\$400,000	\$1,000,000-\$1,600,000	25-30 jobs
30%	400,001-550,000	1,600,001-2,200,000	31-35 jobs
35%	550,001-700,000	2,200,001-2,800,000	36-40 jobs
40%	700,001-850,000	2,800,001-3,400,000	41-45 jobs
45%	850,001-1,000,000	3,400,001-4,000,000	46-50 jobs

Percentage of increased value to be abated	Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation [†]
50%	1,000,001-1,300,000	4,000,001-5,200,000	51-55 jobs
55%	1,300,001-1,600,000	5,200,001-6,400,000	56-60 jobs
60%	1,600,001-1,900,000	6,400,001-7,600,000	61-65 jobs
65%	1,900,001-2,200,000	7,600,001-8,800,000	66-70 jobs
70%	2,200,001-2,500,000	8,800,001-10,000,000	71-75 jobs
75%	2,500,001-3,500,000	10,000,001-14,000,000	76-85 jobs
80%	3,500,001-4,500,000	14,000,001-18,000,000	86-95 jobs
85%	4,500,001-5,500,000	18,000,001-22,000,000	96-105 jobs
90%	5,500,001-6,500,000	22,000,001-26,000,000	106-115 jobs
95%	6,500,001-7,500,000	26,000,001-30,000,000	116-125 jobs
100%	7,500,001-10,000,000	30,000,001-40,000,000	126-175 jobs

Percentage of increased value To be abated	Inside the Downtown Development Area, MLK SIZ Incentive Area or the South 1 st Street SIZ Incentive Area Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$50,000 or more	\$100,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the Avenue H SIZ Incentive Area Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Job Creation
100%	\$35,000 or more	\$60,000 or more	5-25 jobs

Percentage of increased value To be abated	Inside the North 3 rd Street SIZ Incentive Area Area A and Area B Minimum Required Real or Personal Property Investment or Job Creation		
	Eligible Real Property Improvements	Eligible Personal Property*	Full Time Job Creation
100%	\$50,000 or more	\$100,000 or more	10-25 full time jobs

Projects involving an investment in real property in excess of \$10,000,000 (\$250,000 in the Downtown Development Area, **MLK**, South 1st and Avenue G/H SIZ incentive zones), or in eligible personal property of more than \$40,000,000 (\$1,000,000 in the Downtown Development Area or the South 1st, Avenue G/H, North 3rd or **MLK SIZ incentive zones**), or the creation of more than 175 (25 in the Downtown Development Area, the South 1st, Avenue G/H, North 3rd or **MLK SIZ incentive areas**) new full time jobs, or requests for tax abatement for more than 5 years, will be individually negotiated.

If a request for tax abatement is justified on the basis of the purchase and maintenance of eligible personal property or on the creation of jobs, the applicant must agree to maintain the personal property or jobs for a period of not less than twice the period for which tax abatement is granted. For example, if an applicant requests and receives 75% tax abatement for five years based on the purchase and maintenance of eligible personal property, the applicant must agree in the tax abatement agreement, subject to recapture of all abated taxes, to maintain the personal property on the property tax roll for not less than ten years.

*Personal property with a useful life of less than ten years is not eligible for tax abatement.

Personal property on site prior to the effective date of the tax abatement agreement is not eligible. Supplies and inventory are ineligible for tax abatement under this policy and State law.

† As used herein, the creation of jobs refers to the creation of a job paying not less than \$10 per hour, the approximate median salary for employees in Bell County. To qualify for a level of tax abatement, e.g., 25%, based on the creation of a specific number of jobs, you must commit to hiring the required effective number of employees by the end of year 2 of the agreement. To calculate the effective number of jobs created: (1) calculate the total annual payroll created (based on the number of employees you will hire at various annual salaries); (2) divide this annual payroll by \$20,640 (our calculated annual salary for a \$10/hr employee); and (3) round this figure to the nearest whole integer.

c. Additional or Enhancement Factors. In addition to the minimum investment or job creation criteria listed in (2) above, the following factors, among others, shall be considered in determining whether to grant Tax Abatement, and if so, in what percentage of value to be abated and the duration:

- (1) value of land and existing improvements, if any;
- (2) type and value of proposed improvements;
- (3) productive life of proposed improvements;
- (4) number of existing jobs to be retained by proposed improvements;
- (5) number, salary, and type of new jobs to be created by proposed improvements;
- (6) amount of local payroll to be created;

- (7) whether the new jobs to be created will be filled by persons residing or projected to reside within the City;
- (8) amount of local sales taxes to be generated directly;
- (9) the costs, if any, to be incurred by the City to provide facilities or services directly resulting from the new improvements;
- (10) the amount of ad valorem taxes to be paid the City during the Abatement period considering the existing values, the percentage of new value abated, the Abatement period, and the projected property value after expiration of the Abatement period;
- (11) population growth that occurs directly as a result of new improvements;
- (12) the types and value of public improvements, if any, to be constructed and paid for by the applicant seeking Abatement;
- (13) the extent to which the proposed improvements compete with existing businesses;
- (14) the positive or negative impact on the opportunities of existing businesses;
- (15) the attraction of other new businesses to the area;
- (16) the overall compatibility with the City's zoning and subdivision regulations, and over-all comprehensive plan; and
- (17) whether the project is environmentally compatible with the community (no appreciable negative impact on quality-of-life perceptions).

Each Eligible Facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

3. Abatement barred in certain circumstances. Neither a reinvestment zone nor an abatement agreement shall be authorized, if the City Council determines that:

- a. there would be a substantial adverse effect on the provision of government service or tax base;
- b. the applicant has insufficient financial capacity to meet the requirements of the proposed abatement agreement;
- c. planned or potential use of the property would constitute a hazard to public safety, health, or morals;
- d. approval of a reinvestment zone or abatement agreement would violate State or Federal laws or regulations; or
- e. there exists any other valid reason for denial deemed appropriate by the City.

4. Property subject to Taxation. From the execution of an Abatement Agreement to the end of the effective abatement period under the Agreement, taxes shall be payable as follows:

- a. the value of ineligible property (Part I.D.1.d.) shall be fully taxable;
- b. the base year value of existing eligible property as determined each year shall be fully taxable;
- c. the additional value of new eligible property shall be taxed in the manner and for the period provided for in the Abatement Agreement; and

d. the additional value of new, eligible property shall be fully taxable at the end of the Abatement period.

5. Application for Tax Abatement.

a. Any present or potential owner of taxable property in the City of Temple, Texas, may request the creation of a tax abatement reinvestment zone and tax abatement by filing a written request with the City. The application shall then be forwarded to the City Manager for review. After processing the application, the City Manager shall make a recommendation to the City Council of the City for final disposition.

b. The application shall consist of a completed application form, which shall provide detailed information on the items described in Part I.D.2. above; a map and property description; and a time schedule for undertaking and completing the planned improvements. In the case of Modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately proceeding the application. The application form may require such financial and other information as may be deemed appropriate for evaluating the financial capacity and other factors of the applicant.

c. The City shall give notice as provided by the Tax Code, i.e., written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, no later than the seventh day before the date the City Council considers approval of a tax abatement agreement.

d. The City shall not establish a reinvestment zone for the purpose of Abatement if it finds that the request for the abatement was filed after the commencement of construction of a New Facility, or alteration, Modernization, Expansion of an existing Facility.

6. Tax Abatement Agreements

a. After preliminary approval of an application, the City shall formally pass a resolution authorizing an Agreement with the owner (and lessee, where applicable) of the Facility, which Agreement shall include, but not be limited to:

- (1) The kind, number, and location of all proposed improvements of the property;
- (2) A provision for access to and authorize inspection of the property by municipal employees to ensure that the improvements or repairs are made according to the specifications and conditions of the Agreement;
- (3) Limits for the uses of the property consistent with the general purpose of encouraging development or redevelopment of the zone during the period the property tax exemptions are in effect;
- (4) Provide for recapturing property tax revenue lost as a result of the Agreement if the owner of the property fails to make the improvements or repairs as provided by the Agreement;
- (5) Each term agreed to by the owner of the property;

(6) A requirement that the owner of the property annually certify to the governing body of each taxing unit that the owner is in compliance with each applicable term of the Agreement;

(7) Provide that the City Council may cancel or modify the Agreement if the property fails to comply with the Agreement;

(8) The percentage of value to be abated each year; and

(9) The commencement date and the termination date of Abatement.

b. To be effective, a tax abatement agreement must be approved by the affirmative vote of a majority of the members of the City Council at a regularly scheduled meeting of the City Council.

c. Agreements shall normally be approved or disapproved within sixty (60) days from the date the applicant filed a properly completion application for tax abatement with the City Manager.

7. Recapture of Abated Taxes Upon Default.

a. In the event that the company or individual:

(1) allows its ad valorem taxes owed the City to become delinquent and fails to timely and properly follow the legal procedures for their protest or contest, or

(2) violates any of the terms and conditions of the Abatement Agreement, and fails to cure during the Cure Period hereinafter described,

(3) the Agreement then may be terminated, and the company or individual whose Agreement is terminated shall repay, as liquidated damages, all taxes previously abated by virtue of the Agreement to the City within thirty (30) days of the termination.

b. Should the City determine that the company or individual is in default according to the terms and conditions of its Agreement, the City shall notify the company or individual of such default in writing at the address stated in the Agreement, and if such is not cured within thirty (30) days from the date of such notice ("Cure Period"), then the Agreement may be terminated.

8. Administration.

a. The Chief Appraiser of the Bell County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the Appraiser with such information as may be necessary for the Abatement. Once value has been established, the Chief Appraiser will notify the City of the amount of the assessment.

b. An abatement agreement shall stipulate that employees or designated representatives of the City will have access to the reinvestment zone during the term of the Abatement to inspect the Facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction or operation of the Facility. All inspections will

be made with one or more representatives of the company or individual and in accordance with its safety standards.

c. Upon completion of construction, the designated representative of the City shall annually evaluate each Facility receiving Abatement to insure compliance with the agreement, and a formal report shall then be made to the City Council of Temple regarding the findings of the evaluation.

9. Assignment of Tax Abatement Agreements.

Abatement may be transferred and assigned by the holder to a new owner or lessee of the same Facility upon the approval by resolution of the City subject to the financial capacity of the assignee and provided that all conditions and obligations in the Abatement Agreement are guaranteed by the execution of a new contractual Agreement with the City. No assignment or transfer shall be approved if the parties to the existing Agreement, the new owner or new lessee, are liable to any jurisdiction for outstanding taxes or other obligations. Approval of assignments will not be unreasonably withheld.

10. Sunset Provision.

These tax abatement criteria and guidelines are effective upon the date of their adoption and will remain in force for two years, unless amended by three-quarters vote of the City Council, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the criteria and guidelines may be modified, renewed or eliminated.

II. Availability of Tax Increment Financing of Public Improvements.

A. Existence of tax increment financing district.

The City of Temple has previously created Tax Increment Financing District Number One. To be designated as a tax increment financing reinvestment zone (TIFRZ), an area must meet the criteria established for reinvestment zones under Section 311.005 of the Tax Code. Designation of an area of the City as an enterprise zone under Tex. Rev. Civ. Stat. Ann. art. 5190.7, the Texas Enterprise Zone Act, qualifies an area automatically for designation as a tax increment financing reinvestment zone.

B. Development agreements.

The City will consider entering into development agreements with the owners of property within a TIFRZ where construction of a public improvement(s), e.g., a street, sewer or water line, bridge, railroad spur, or drainage project, using tax increment funds is likely to result in the significant expansion or modernization of an existing facility, the construction of a major new facility, the creation of a significant number of new jobs, or otherwise accomplishes one of the major goals of Chapter 311 of the Tax Code. The City Council may by ordinance or resolution, with the advice and recommendation of the Board of Directors of Tax Increment Financing Reinvestment Zone Number One, may establish minimum criteria for consideration of development agreements.

III. Additional Economic Incentives within the City

A. Designation of Enterprise Zone.

The City has nominated an area of the City for designation as an enterprise zone by the State of Texas, acting through its Department of Commerce, under Tex. Rev. Civ. Stat. Ann. art. 5190.7 (the Texas Enterprise Zone Act). Pending approval of the area as an enterprise zone by the State, the City will consider granting several types of economic incentives with the enterprise zone.

1. Sales and use tax refunds.

a. Minimum qualifications. To encourage development of the Enterprise Zone, the City will consider granting sales and use tax rebates to businesses within the Enterprise Zone which:

- (1) meet the definition of "qualified businesses" for purposes of Section 3(a)(11) of the Enterprise Zone Act;
- (2) meet the qualifications for, and receive designation by the State as an enterprise project as an enterprise project as provided for in Section 10 of the Enterprise Zone Act.

b. Eligible taxes. The City may agree to a refund of its sales and use taxes paid by qualified business designated as an enterprise project on the purchase, lease, or rental of equipment or machinery for use in an enterprise zone or on the purchase of material for use in remodeling, rehabilitating, or constructing a structure in the Enterprise Zone.

c. Agreement required. The City will, by development agreement, consider refunding up to one-half (1/2) of the *eligible* sales and use tax paid by a qualified business and enterprise project for a period of up to three (3) years.

d. Documentation required. A qualified business and enterprise project entitled to a refund of sales and use tax under this Section by agreement shall pay the entire amount of State and local sales and use taxes at the time of purchase. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement may request a refund once each year in writing. A qualified business and enterprise project entitled to a refund of sales and use tax by agreement must provide documentation necessary to support a refund claim in a form prescribed by the City's Director of Finance.

2. Waiver of permit fees.

By resolution, the City Council may adopt a policy to waive certain building, permit, license or development fees to qualified businesses which have been designated as enterprise projects within the Enterprise Zone. The City Council is authorized to waive building, permit, license or development fees up to \$10,000 as part of a Chapter 380 agreement approved by the City Manager under Part III, B(2) of this ordinance.

B. Other economic incentives within the City.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution, the City will

consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity within the City.

2. Upon application, the City may consider one or more of the following economic tools to encourage economic development:

- (a) The City may purchase tracts of land in the City to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the City, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$25,000 within the South 1st SIZ incentive area, the Avenue G/H SIZ incentive area, the North 3rd SIZ Incentive area, or the **MLK SIZ incentive area**, subject to the availability of funds appropriated annually for that purpose.
- (c) To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$10,000 within any of the City's other Strategic Investment Zones, as designated in City Resolution No. 2007-4965-R. To promote economic development within the City, the City Manager is authorized to execute Chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, up to \$7,500 in any part of the City not covered by one of the City's Strategic Investment Zones, as designated in City Resolution No. 2007-4965-R.
- (d) The City Manager shall provide the City Council with a quarterly report listing and describing the terms and conditions of any Chapter 380 agreements approved under Part III, B(2) of this ordinance in the preceding quarter.
- (e) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs within the City. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives within the City		
Value of grant, or value of reduction in lease payments or sale price	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>both</u> improvements to real property (new construction or expansion of existing facility) <u>and</u> the creation of new jobs	
Not to exceed \$150,000	Not less than \$7.5 million	Not less than 125 new jobs
Not to exceed \$300,000	Not less than \$15 million	Not less than 250 new jobs

Not to exceed \$450,000	Not less than \$22.5 million	Not less than 375 new jobs
Not to exceed \$600,000	Not less than \$28 million	Not less than 500 new jobs

Incentives under Chapter 380 of the Local Government Code where the investment and number of jobs exceed the chart above will be individually negotiated. The City Council may on a case by case basis consider approving chapter 380 agreements involving grants of public funds, or the transfer of land with value, providing personnel and services of the municipality, with a value of greater than \$7,500 but less than \$150,000.

C. Incentives in Certain Strategic Incentive Zones (SIZ)

1. **Authority.** Pursuant to Article 3, Section 52-a of the Texas Constitution, Chapter 380 of the Texas Local Government Code, and Section III.B of the City’s Economic Development Policy ordinance, the City will consider offering additional economic incentives for development within certain of the City’s Strategic Investment Zones. If property is located within the boundaries of more than one Strategic Investment Zone which has available incentives, an applicant may apply for incentives under either incentive program (but not more than one), subject to the applicable rules of eligibility.

2. **Purpose.** The City desires to encourage the redevelopment of certain of its Strategic Investment Zones by offering economic development incentives (SIZ grants) within those corridors to property owners who meet certain criteria.

3. **Application Process.** Applications for SIZ grants are available through the City Manager’s office. Applications may be picked up at any time, but the City only approves new applications for SIZ grants four times a year: December, March, June & September. Completed applications for SIZ grants must be filed as follows:

<u>For consideration in:</u>	<u>Completed Application Due No Later Than:</u>
December	November 10 th
March	February 10 th
June	May 10 th
September	August 10 th

4. Types of Grants.

- a. **Façade Improvement Grants.** (commercial or industrial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the replacement or upgrade of an existing façade with an eligible masonry product to an eligible property, or to remove an existing façade to expose the original façade. Eligible masonry materials for a replacement façade under this subsection include brick, stone, stucco, EIFS, rough-faced block, fiber cement siding products, such as HardiPlank® and such other materials that the City may approve from time to time. A list of eligible materials for the eligible SIZ incentive corridors (See Section 6 below) are maintained in the Construction Safety Office, 1st Floor, the Municipal Building, 2 North Main Street. Façade improvement costs eligible for reimbursement with a façade improvement grant include demolition costs (including

labor), landfill costs, and material and construction (including labor) costs, but specifically *exclude* design costs.

- b. Sign Improvement Grants.** (commercial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the installation of new ground-mounted, monument type (building mounted signs within TMED) signs on eligible properties or the replacement of a dilapidated sign. To be eligible, the base or footing of the sign must be concrete or metal. Sign improvement costs eligible for reimbursement with a sign improvement grant include demolition costs (including labor), landfill costs, and City-approved material and construction (including labor) costs, but specifically *exclude* design costs.
- c. Landscaping Improvement Grants.** (commercial or industrial property only) The City will consider making grants (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for the installation of new or additional landscaping to an eligible property. To be eligible the landscaping must exceed the City's landscaping requirements for the area, as the same may be established from time to time. If an irrigation system is installed, or already exists, and will be maintained by the applicant, the maximum amount of the landscaping grant is greater than if no irrigation system exists. Landscaping improvement costs eligible for reimbursement with a landscaping improvement grant include ground preparation costs (including labor), materials (trees, shrubs, soil and amendments thereto and other decorative hardscape such as arbors, art, and walls or fences) and material and construction (including labor) costs, curbed islands, but specifically *exclude* design costs. The City will also consider making grants of trees from the City's tree farm if requested by the applicant as part of a landscaping improvement grant application.
- d. Asbestos Survey or Abatement Grants.** (commercial or industrial property only) The City will consider a grant (the amount varies depending on the eligible SIZ incentive corridor) on a 1:1 matching basis for owner-initiated asbestos survey of a building and for asbestos abatement for a building on eligible property. Asbestos survey and abatement grant eligible costs include professional fees, labor costs, select demolition/removal costs, and replacement materials.
- e. Demolition Grants.** (residential, commercial or industrial property) When requested by an applicant the City will consider in its sole discretion, demolishing buildings, signs or parking lots, and disposing of the same at the City's cost, when the City has the capacity and equipment to do so. The City will not demolish buildings where the City in its sole discretion determines that there is a reasonable probability that the building contains asbestos, unless the applicant has obtained an asbestos survey and abated asbestos, where necessary, prior to demolition of the structure. In lieu of doing the demolition work with its own crews, the City will also consider a grant on a 1:1 matching basis for the demolition of existing buildings, signs, or parking lots on eligible property. Where the applicant is performing the demolition and seeking a demolition grant, eligible costs include the labor and landfill costs, and equipment rental, but exclude any design costs.
- f. Sidewalk Improvement Grants.** (residential, commercial or industrial property) The City will consider grants (the amount varies depending on the eligible SIZ incentive

corridor) on a 1:1 matching basis for the construction of new sidewalks, curb and guttering or the replacement of existing sidewalks or curb and guttering on eligible property. Sidewalk improvement costs eligible for reimbursement with a sidewalk improvement grant include demolition costs (where applicable) (including labor), landfill costs, and material and construction (including labor) costs and equipment rental, but specifically *exclude* design costs.

- g. Waiver of Platting, Zoning and Permit Fees.** (commercial or industrial property only) The City will consider waiving platting, zoning, and building permit fees for eligible projects. The City *cannot* waive water and wastewater tap fees.

- h. Code Compliance Grant.** (residential only) The City will consider grants on a 1:4 (City/Property Owner) matching basis for the construction of real property improvements necessary to bring a structure in one of the approved SIZ incentive zones listed in subpart 6 below. To receive a grant under this subsection, the property owner must substantiate actual expenditures necessary to meet an existing City code by the property owner of \$4 dollars for every \$1 of code upgrade grant sought from the City up to the maximum grant as shown in subsection 5 below. For example, to receive a code grant of \$5,000 from the City, the property owner would have to demonstrate actual expenditures by the property owner of \$20,000 that are necessary to meet existing City code requirements.

5. **Maximum Amount of Grants.** The chart below shows the types and dollar amounts of grants available in each of the current SIZ incentive zone corridors. An applicant can request consideration for up to the maximum for each type of grant applicable to his/her property and application, but the total amount that an applicant can receive for any particular application and property is limited by the size of the applicant's actual investment.

TYPE OF GRANT	South 1 st Street	Avenue G/H
Façade	\$15,000	\$10,000
Sign	\$2,500	\$1,500
Landscaping	\$5,000 or \$10,000 (higher amt w/ irrigation)	\$2,500 or \$3,500 (higher amt w/ irrigation)
Asbestos	\$1,000 + \$3,000 (survey + abatement)	\$1,000+ \$3,000 (survey + abatement)
Demolition	\$2,500	\$2,500
Sidewalk	\$10,000	\$5,000
Fee Waiver	\$2,000	\$2,000
Code Compliance (Residential)	n/a	\$5,000

Theoretical Maximum Grant (lesser of the sum of individual grants and 33% of total investment if project < \$100K or 25% if total investment is ≥ \$100K)	\$46,000	\$33,500
Required Minimum Investment	\$20K Commercial/\$10K Residential	\$20K Commercial/\$10K Residential

TYPE OF GRANT	North 3 rd Street	MLK, Jr. Boulevard
Façade	\$15,000	\$15,000
Sign	\$2,500	\$2,500
Landscaping	\$5,000 or \$10,000 (higher amt w/ irrigation)	\$5,000 or \$10,000 (higher amt w/ irrigation)
Asbestos	\$1,000 + \$3,000 (survey + abatement)	\$1,000 + \$3,000 (survey + abatement)
Demolition	\$2,500	\$2,500
Sidewalk	\$10,000	\$10,000
Fee Waiver	\$2,000	\$2,000
Code Upgrade (Residential)	n/a	\$5,000
Theoretical Maximum Grant (lesser of the sum of individual grants and 33% of total investment if project < \$100K or 25% if total investment is ≥ \$100K)	\$46,000	\$46,000
Required Minimum Investment	\$50K Commercial or Industrial	\$20K Commercial/\$10K Residential

The total maximum grant (the sum of all of the individual grants the project is eligible for) is the lesser of: (1) the sum of the individual grants, AND (2) 33% of the applicant's total investment where the investment is less than \$100,000, OR 25% of the applicant's total investment where the investment is greater than \$100,000. Total investment is measured at the time the project is completed, and is subject to verification by the City.

The chart also shows the minimum required investment by a property owner for consideration of a SIZ grant.

6. **SIZ Incentive Zones; Eligible Property.** To be eligible for a SIZ incentive grant under subsection 5 above, the applicant must be the owner or a lessee of property lying within the boundaries of one of the City's SIZ Incentive Zones. The current SIZ Incentive Zones are:

- South 1st SIZ incentive area (Boundary Map—attached as Exhibit “S1”)
- Avenue G/H SIZ incentive area (Boundary Map—attached as Exhibit “S2”)
- North 3rd SIZ incentive area (Parts A & B) (Boundary Map—attached as Exhibit “S3”)
- Martin Luther King SIZ incentive area (Boundary Map—attached as Exhibit “S4”)

7. **Application Form.** To be eligible for the grants described in Part C an applicant must submit an application and received approval from the City prior to commencing the work for which a grant or assistance by the City is sought. Applications must be submitted on a form provided by the City, be fully and accurately completed, and signed by the owner(s) [and the lessee(s), where applicable] of the property. Forms are available in the **City Manager's Office** (c/o Assistant City Manager) and in the office of **Keep Temple Beautiful**, 100 West Adams, Suite 302, Temple, TX 76501, and must be submitted to the City Manager's office for review and potential approval by the City. A completed application must contain a rendering of all proposed improvements and a written description of the same. Where the proposed scope of work requires professional work by an engineer or architect, the plans must be sealed by an engineer or architect prior to the issuance of building permits, as applicable.

8. **Evaluation of Applications.** In evaluating whether to recommend an application for a grant under Part C for consideration by the City Council, the Staff will review and evaluate all SIZ incentive applications using the following criteria:

- (a) the extent to which the property for which a grant is sought is blighted or fails to meet City codes or regulations in one or more aspect (20 points)
- (b) whether the proposed redevelopment is at a higher level than which exists on other properties in the SIZ incentive corridor in which the property is situated (15 points);
- (c) whether the applicant has the financial resources to complete the described in the application (10 points);
- (d) whether the property is unlikely to redevelop without an incentive by the City (20 points);
- (e) whether the proposed use of the property is in keeping with the future uses of property identified in the City's Comprehensive Plan or a master plan adopted by the City Council (8 points);
- (f) whether the development is in an overlay that requires higher standards than in other parts of the City (5 points);
- (g) whether the development remedies deteriorated existing city infrastructure (10 points);
- (h) whether the development implements elements of the City Master Plan including sidewalk, trail, or parks master plan (7 points); and
- (i) whether there is a known occupant/tenant for the proposed development (5 points).

Applications receiving a score of less than 75 points will not be recommended by the Staff

for approval by the City Council. Where the amounts being requested in any quarter exceed the amount of uncommitted funds available for SIZ incentive grants, the City Council may take the rating system into consideration when deciding which applications, if any, to approve.

9. **Evaluation of application.** Upon receipt of an application for a grant under Part 3(a), the City Manager shall cause the application to be evaluated using the criteria established in Part 8 above, and submit the application and the Staff's recommend to approve or deny the request, in whole or part, to the City Council for their consideration.

10. **Approval of grants; duration of approval.** The City Council may approve a request for a grant under Part C in whole or in part, or deny the same.

11. **No Vested Right to Receive a Grant.** The existence of the grant program established in Section C does not create any vested rights to receive a grant or convey a property interest to any person to receive a grant. The award or denial of a grant under this Ordinance shall be at the sole discretion of the City Council. The City Council shall annually appropriate funds for the administration of the grant program in this ordinance, and the granting of funds under the programs established by this ordinance are subject to the availability of funds appropriated for that purpose in any given fiscal year.

12. **Compliance with Terms of a Grant; payment to recipient.** A recipient of a grant from the City must enter into a Chapter 380 development agreement with the City prior to receiving any grant funds or in-kind services by the City. The agreement shall provide that the applicant agrees to: (1) complete the work described in the application in a timely fashion; (2) give the City the right to inspect the work described in the development agreement and the financial records associated with the same during reasonable business hours; (3) perform all of the work described in the grant application in accordance with all applicable City codes and regulations; and (4) to maintain those improvements in the future. The failure by an applicant for a grant to satisfy all of the terms and conditions of the development agreement shall relieve the City of any obligation to provide grants funds under this Ordinance or as described in the development agreement. The Staff is authorized to grant extensions of up to ninety (90) days in the completion date.

Payment to grantees shall be made within thirty (30) days of the work described in the development agreement being completed, inspected and a certificate of occupancy issued by the City. When the recipient of a SIZ grant fails to complete a project by the date provided for completion in his Chapter 380 agreement with the City, inclusive of any extension approved by the Staff (up to ninety days), the amount of the grant provided for in the Chapter 380 agreement shall be reduced by 5% for each thirty days that the project lacks completion. Completion under this section means the inspection and acceptance of any public improvements by the City and the issuance of a certificate of occupancy (where applicable) by the City.

D. Additional economic incentives in Downtown Development Area.

1. Pursuant to authority delegated by the Legislature to cities under Chapter 380 of the Local Government Code, and as authorized by Article 3, Section 52-a of the Texas Constitution,

the City will consider making loans or grants of public funds or property, or the selling or leasing City property at or below the fair market value of said property, to promote State or local economic development and to stimulate business and commercial activity in the Downtown Development Area (as shown on Exhibit "A").

2. Upon application, the City of Temple will consider one or more of the following economic tools to encourage economic development in the Downtown Development Area:

- (a) The City may purchase tracts of land in the Downtown Development Area to encourage economic development if it determines that assembly of smaller tracts into larger tracts will promote the sale or development of property over the long term. The City may also purchase land to sell or lease to a qualified business in the Downtown Development Area, if it determines that a qualified business meets the minimum requirements for additional incentives set out below.
- (b) As further authorized by Tex. Rev. Civ. Stat. Ann. art. 5190.7 § 20(b), the City may sell or lease City-owned property to private developers, if the City Council determines that the property is not needed for any other public purpose, and that sale of the property to a private developer will result in capital improvements or the creation of new jobs in the Downtown Development Area. The City will generally sell or lease public property at its fair market value, but will consider making a one-time grant to an applicant, or selling or leasing property at less than fair market value, according to the following formula:

Additional Incentives in the Downtown Development Area		
Value of grant, or value of reduction in lease payments or sale price or surplus property	To qualify for additional incentive, a qualified business must agree to the following minimum investment in <u>either</u> improvements to real property (new construction or expansion of existing facility) <u>or</u> the creation of new jobs (25% of the holders of which must be residents of zone or economically disadvantaged).	
Not to exceed \$6,000	Not less than \$70,000	Not less than 3 new jobs
Not to exceed \$8,000	Not less than \$100,000	Not less than 5 new jobs
Not to exceed \$10,000	Not less than \$175,000	Not less than 10 new jobs
Not to exceed \$15,000	Not less than \$225,000	Not less than 15 new jobs
Not to exceed \$18,000	Not less than \$300,000	Not less than 20 new jobs

3. In order for a proposal to be considered for the Additional Incentives under this subsection, an applicant is required to submit a Business Plan detailing sufficient information to evaluate the development and the opportunities for success. A development agreement will provide

clauses that insure the return of monetary or real incentives granted for a project in the event that the project is not undertaken within a specified time.

Part 2: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

Part 3: This ordinance shall take effect immediately 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 4: 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 **15th** day of **December**, 2011.

PASSED AND APPROVED on Second and Final Reading on the **5th** day of **January**, 2012.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney