



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

3rd FLOOR – CONFERENCE ROOM

THURSDAY, APRIL 19, 2012

3:30 P.M.

WORKSHOP AGENDA

1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, April 19, 2012.
2. Executive Session: Chapter 551, Government Code, §551.074 – Personnel Matter – The City Council will meet in executive session to discuss the employment, evaluation, duties and work plan of the 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

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

III. PROCLAMATIONS & SPECIAL RECOGNITIONS

3. (A) Fair Housing Month April 2012
- (B) Texas Municipal Clerks Week April 29 – May 5, 2012
- (C) Administrative Professionals Week April 22 – 28, 2012
- (D) Arbor Day April 27, 2012
- (E) Recognition from the Arbor Day Foundation naming the City of Temple a Tree City Community for its commitment to urban forestry.

IV. CONSENT AGENDA

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

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

Minutes

- (A) [April 5, 2012, Special Called and Regular Meeting](#)

Contracts, Leases & Bid

- (B) [2012-6597-R](#): Consider adopting a resolution authorizing the purchase of boom mower from Alamo Industrial of Sequin utilizing a BuyBoard contract in the amount of \$111,769.
- (C) [2012-6598-R](#): Consider adopting a resolution authorizing the purchase of Fleet Tracking hardware and service for 82 City vehicles through GPS Insight, LLC, of Scottsdale, Arizona, utilizing GSA Contract, in the amount of \$27,391.76 for the hardware and approximately \$2,500 per month for the service.

Ordinances – Second & Final Reading

- (D) [2012-4527](#): SECOND READING - Z-FY-12-29: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, Bell County, Texas, located at 2007 North 7th Street, and on 0.25-acre of an abandoned portion of North 7th Street.
- (E) [2012-4528](#): SECOND READING - Z-FY-12-30: Consider adopting an ordinance authorizing a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.
- (F) [2012-4529](#): SECOND READING - Z-FY-12-32: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

Misc.

- (G) [2012-6599-R](#): Consider adopting a resolution authorizing budget amendments for fiscal Year 2011-2012.

V. REGULAR AGENDA

ORDINANCES

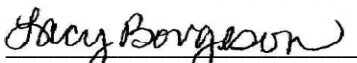
5. [2012-4530](#): FIRST READING – PUBLIC HEARING - Z-FY-12-33: Consider adopting an ordinance approving a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment, on Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop.
6. [2012-4531](#): FIRST READING - PUBLIC HEARING: Consider adopting an ordinance amending Chapter 24, "Noise," of the Code of Ordinances of the City of Temple, Texas by repealing Section 24-5, "Building Operations."

BOARD APPOINTMENTS

7. [2012-6595-R](#): Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.

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

I hereby certify that a true and correct copy of this Notice of Meeting was posted in a public place at 10:30 AM, on April 13, 2012.



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 _____ 2012. _____



COUNCIL AGENDA ITEM MEMORANDUM

04/19/12
Item #3(A-E)
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Presentation of Proclamation:

- | | | |
|-----|---|------------------------|
| (A) | Fair Housing Month | April 2012 |
| (B) | Texas Municipal Clerks Week | April 29 – May 5, 2012 |
| (C) | Administrative Professionals Week | April 22 – 28, 2012 |
| (D) | Arbor Day | April 27, 2012 |
| (E) | Recognition from the Arbor Day Foundation naming the City of Temple a Tree City Community for its commitment to urban forestry. | |

STAFF RECOMMENDATION: Present proclamation as presented in item descriptions.

ITEM SUMMARY: (A) This proclamation was requested by, and will be received by Beth Correa, Regional Planner for Central Texas Council of Governments.

(B) This proclamation will be received by the City's Municipal Clerks.

(C) This proclamation will be received by the City's administrative professionals.

(D) This proclamation was requested by, and will be received by, Val Roming, Parks and Leisure Services Department.

(E) This recognition was received from John Rosenow, Chief Executive, of the Arbor Day Foundation.

FISCAL IMPACT: None

ATTACHMENTS: None



COUNCIL AGENDA ITEM MEMORANDUM

04/19/12
Item #4(A)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Lacy Borgeson, City Secretary

ITEM DESCRIPTION: Approve Minutes:

(A) April 5, 2012 Special Called and Regular Meeting

STAFF RECOMMENDATION: Approve minutes as presented in item description.

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

FISCAL IMPACT: N/A

ATTACHMENTS:

April 5, 2012 Special Called and Regular Meeting – To be provided



COUNCIL AGENDA ITEM MEMORANDUM

04/19/12
Item #4(B)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva P.E., Director of Public Works

Kenny Henderson, Director of Street and Drainage Services

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of boom mower from Alamo Industrial of Sequin utilizing a BuyBoard contract in the amount of \$111,769.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: In accordance with equipment replacement schedule, the existing 13+ year old boom mower in the Public Works Drainage Division is due for replacement this year. This piece of equipment is used to maintain public detention ponds and drainage channels throughout the City and will allow for the continued upkeep of these City facilities.

All purchases made utilizing a BuyBoard contract meet Texas governmental competitive bid requirements.

FISCAL IMPACT: Funding in the amount of \$111,769 is available for the purchase of the boom mower in account #292-2922-534-62-22 and 292-2923-534-6222, project #100781 in the FY 2012 budget after reallocation of funds within the Drainage department.

ATTACHMENTS:

[Buy Board Quote](#)
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF A BOOM MOWER FROM ALAMO INDUSTRIAL OF SEGUIN, TEXAS, THROUGH THE BUYBOARD LOCAL GOVERNMENT ONLINE PURCHASING COOPERATIVE CONTRACT; IN THE AMOUNT OF \$111,769.00; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, in accordance with the equipment replacement schedule, the existing 13+ year old boom mower in the Public Works Drainage Division is due for replacement this year;

Whereas, this piece of equipment is used to maintain public detention ponds and drainage channels throughout the City and allows for the continued upkeep of City facilities;

Whereas, Staff recommends purchasing the boom mower from Alamo Industrial of Seguin, Texas, utilizing the BuyBoard Local Government Online Purchasing Cooperative contract in the amount of \$111,769.00 - funds are budgeted for this purchase in Account Nos. 292-2922-534-6222 and 292-2923-534-6222, Project No. 100781; 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 a boom mower from Alamo Industrial of Seguin, Texas, utilizing the BuyBoard Local Government Online Purchasing Cooperative contract in the amount of \$111,769.00 to replace the existing 13+ year old boom mower in the Public Works Drainage Division.

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

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

PASSED AND APPROVED this the 19th day of April, 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

4/19/12
Item #4(C)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Alan DeLoera, Information Technology Director
Belinda Mattke, Director of Purchasing

ITEM DESCRIPTION: Consider adopting a resolution authorizing the purchase of Fleet Tracking hardware and service for 82 City vehicles through GPS Insight, LLC, of Scottsdale, Arizona, utilizing GSA Contract, in the amount of \$27,391.76 for the hardware and approximately \$2,500 per month for the service.

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

ITEM SUMMARY: With the high cost of fuel today, and in the effort to sustain ongoing operations, staff investigated and pursued the implementation of a vehicle tracking system that could be implemented in phases, with the initial pilot group consisting of 82 City vehicles. It was staff's desire to seek out a cost effective system that would help raise employee awareness of important issues such as speeding, idle-time, excessive acceleration/deceleration, and general vehicle usage.

In November 2011, a staff committee made up of employees from the City Manager, Finance, Fleet, Purchasing, IT, Construction Safety, Utility Business, Solid Waste and Animal Service offices began the process of reviewing fleet tracking solutions. The Committee solicited reviews from established vendors that offered a complete operational, integrated Fleet Tracking system to optimize current routes, minimize travel time, provide real-time fleet tracking, balance workload among vehicles, reduce fuel, driver, maintenance costs, and contribute to the overall efficiency and effectiveness of the City fleet.

After reviewing six fleet tracking solutions and interviewing the companies of these six proposed solution, the committee determined that GPS Insight best met the strategic direction of the City to sustain ongoing operations by reducing fuel costs, promoting safer driving, monitor vehicle performance, reducing maintenance costs and changing driving behavior. GPS also provided a solution that provides a automated tracking dashboard that allows managers to monitor fleet activity, view vehicle alerts, view reports and see where vehicles are at all times. Bottom-line, the GPS Vehicle Tracking Solution from GPS Insight combines real-time robust functionality with a simple, intuitive interface.

Some of the key sustainability features of the GPS Insight solution are as follows:

- Real-time fleet tracking through GPS
- Integrated mapping features
- Vehicle diagnostics
- Route Replay
- Geo-fencing
- Provides number of stops
- Provide odd-hours and long stops alerts
- Monitor fuel economy
- Activity Detail - All reported locations for each vehicle.
- Begin/End Day - The first start and last stop for any or all vehicles in your fleet.
- Drive Time Summary - A Summary of fleet driving statistics.
- Odd-Hours - Report on driving-time violations.
- Fleet Utilization - Utilization details on all fleet vehicles.
- Idle Time - Report on individual idle stops for vehicles in your fleet.
- Idle Detail - Report on idle durations for your fleet.
- Fuel Usage and MPG - Total gallons used and (diagnostic) MPG.
- Performance - Most recently reported data from each vehicle.
- Run Time - View odometer and run time totals.
- Switch Alerts - Report on switch-based alerts (such as power-cycle or panic).
- DTC Alerts - Alerts reported by the engine via Diagnostic Trouble Codes.
- Maintenance - A Run-time report with service reminders.
- Speeding Violation - All speeding instances with location data for each.
- Speed Summary - Compare speeding trends over time.
- Speeding in Landmarks - All speeding within a landmark or landmark group.
- Posted Speed Limit- Violations of local posted speed.
- Stop Detail and Idle Time - Printable report with stop detail and idle time.
- Stop Detail and Idle Graph - A graph showing vehicle movement and stop times.
- Route Efficiency Detail - Summarize and rank driver efficiency.
- Efficiency Summary
- Provides real-time viewing of speeds, idle time, stops, etc..
- Provides mobile applications for iPhone, Blackberry and Android
- Capabilities for messaging between the dispatcher and driver
- Capabilities for Driver ID
- Provides unlimited historical data
- Provides safety reports
- Provides for Garmin integration
- Unlimited landmarks

Staff is recommending that the pilot group of 82 vehicles include the following:

- 36 - Solid Waste heavy duty vehicles
- 5 - Solid Waste light duty vehicles
- 2 - Street Sweepers
- 4 - Animal Control light duty pickups
- 9 - Construction Safety light duty pickups
- 4 - Engineering light duty vehicles
- 10 - Metering light duty pickups
- 6 - Parks & Leisure Services light duty vehicles
- 1 - Fire Truck
- 2 - Fire light duty vehicles
- 3 - Police light duty vehicles

The hardware cost of \$27,391.76 includes installation training with our Fleet Services Department. The ongoing monthly service is approximately \$2,500 per month (\$30.95 per month for each heavy duty vehicle and \$28.95 per month for each light duty vehicle), which covers the cost of wireless data plans, GPS Tracking, and maintenance.

It is anticipated that installation and implementation of the pilot group of 82 vehicles will be complete by the end of May 2012.

This procurement is being recommended utilizing a U.S. General Services Administration (GSA) contract. Other governmental entities are allowed to utilize contracts that have gone through the GSA competitive procurement process.

FISCAL IMPACT: A budget adjustment is presented for Council's approval to appropriate \$27,392 of General Fund Technology funds to account 351-1900-519-6218, project 100857, for the purchase of Hardware with GPS Insight. There will be an ongoing yearly cost of \$2,500 per month which is included in the City's FY 2012 operating budget.

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 |
| 351-1900-519-62-18 | 100857 | Computer Hardware | 27,392 | | |
| 351-0000-490-25-82 | | Transfer In - Desg Capital Proj Fund | 27,392 | | |
| 110-0000-351-09-43 | | Designated Capital - Technology Funds | | | 27,392 |
| 110-9100-591-81-51 | | Transfer Out - Desg Capital Proj Fund | 27,392 | | |
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| | | <i>Do not post</i> | | | |
| | | | | | |
| | | | | | |
| TOTAL..... | | | \$ 82,175 | | \$ 27,392 |

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

This is to pay for the Fleet Tracking Program on approximately 82 vehicles through GPS Insight.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

x Yes

☐ No

DATE OF COUNCIL MEETING

4/19/2012

WITH AGENDA ITEM?

x Yes

☐ No

Alan DeLoera

4/6/2012

Date

☒ Approved

☐ Disapproved

Department Head/Division Director

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 FLEET TRACKING HARDWARE AND SERVICE THROUGH GPS INSIGHT, LLC OF SCOTTSDALE, ARIZONA, UNDER GSA CONTRACT GS-35F-0074S; IN THE AMOUNT OF \$27,391.76 AND APPROXIMATELY \$4,500 PER MONTH FOR THE SERVICE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, with the high cost of fuel today, and in the effort to sustain ongoing operations, staff pursued the implementation of a vehicle tracking system that could be implemented in phases, with the initial pilot group consisting of 82 City vehicles;

Whereas, in November, 2011, a staff committee solicited reviews from established vendors that offered a complete operational, integrated Fleet Tracking system to optimize current routes, minimize travel time, provide real-time fleet tracking, balance workload among vehicles, reduce fuel, driver, maintenance costs, and contribute to the overall efficiency and effectiveness of the City fleet;

Whereas, after reviewing six fleet tracking solutions, the committee determined that GPS Insight, LLC, of Scottsdale, Arizona, best met the strategic direction of the City;

Whereas, Staff recommends purchasing fleet tracking hardware and monthly service for 82 City vehicles through GPS Insight, LLC, of Scottsdale, Arizona, under GSA Contract GS-35F-0074S, in the amount of \$27,391.76 for the hardware and approximately \$2,500 per month for the service;

Whereas, funds are available for this purchase in Account No. 351-1900-519-6218, Project No. 100857, but an adjustment to the FY2011-12 budget needs to be approved to transfer the funds to the appropriate expenditure account – there will be an ongoing yearly cost of \$2,500 per month which is included in the City's FY2012 operating budget; and

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

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

Part 1: The City Council authorizes the purchase of Fleet Tracking hardware and service for 82 City vehicles through GPS Insight, LLC of Scottsdale, Arizona, under GSA Contract GS-35F-0074S, in the amount of \$27,391.76 and 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 2: The City Council approves an adjustment to the FY2011-12 budget, substantially in the form of the copy attached as Exhibit A, for this purchase.

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

PASSED AND APPROVED this the **19th** day of **April**, 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

04/19/12
Item #4(D)
Consent Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTIONS SECOND READING - Z-FY-12-29: Consider adopting an ordinance authorizing a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, Bell County, Texas, located at 2007 North 7th Street, and on 0.25-acre of an abandoned portion of North 7th Street.

P&Z COMMISSION RECOMMENDATION: At its March 5, 2012 meeting, the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation to recommend approval of a rezoning from Single Family One District (SF1) to General Retail District (GR). Commission members Staats and Magaña were absent.

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

Staff recommends approval of a rezoning from Single Family One District (SF1) to General Retail District (GR) for the following reasons:

1. While the request partially complies with the Future Land Use and Character Map, the area that is being rezoned is not currently buildable;
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-12-29, from the Planning and Zoning Commission meeting, March 5, 2012. The applicant has initiated Right-of-Way Abandonment procedures for the dead end right-of-way of North 7th Street, which is one of the properties that is part of this Rezoning request. The City Council took final action to approve the Abandonment request March 1, 2012. The applicant has also purchased what is currently a small (~2,800 sq. ft.) residential lot at 2007 North 7th Street. He proposes to consolidate these properties with the larger property to the east, into a single developable retail lot fronting on North 3rd Street.

At the Planning and Zoning meeting, several property owners adjacent to the site expressed concern with the proposed retail establishment using the abandoned portion of North 7th street for access into the site. The applicant went on record stating this was not planned and has agreed to provide a non-access clause on the accompanying plat for the property.

COMPREHENSIVE PLAN COMPLIANCE: The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan:

| Document | Policy, Goal, Objective or Map | Site Conditions | Compliance? |
|----------|---|--|-------------|
| CP | Map 3.1 - Future Land Use and Character | Neighborhood Conservation (Neighborhood Conservation is to South and west; Auto Urban Retail is to north and east.) | Partially* |
| CP | Map 5.2 - Thoroughfare Plan | N. 7 th St. is a Local Street. – Ownership is on N. 3 rd , which is a Major Arterial | Yes |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | 2" and 6" water line, 8" Water line to northwest and 6" sewer line | Yes |
| CP | Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area. | GR zoning would serve as a transition between GR to the east and SF1 to the west | Yes |

CP = Comprehensive Plan

** See explanation below

Future Land Use and Character Map (CP Map 3.1) The small, undevelopable residential lot that is part of this rezoning request is classified as Neighborhood Conservation. The requested rezoning does not comply with this classification; however, this lot is so small that applying required setbacks and parking to the property makes it unable to accommodate a single-family dwelling of any usable size.

DEVELOPMENT REGULATIONS: The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments, with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the subject property use, as in this case, then a 10-foot setback and fence or vegetative screening is required in the Unified Development Code.

PUBLIC NOTICE: Staff mailed notices of the Planning and Zoning Commission's public hearing to the 15 property owners within a 200-foot radius surrounding the subject property. As of Monday, March 26, 12:00 PM, three notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 17, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[P&Z Staff Report \(Z-FY-12-29\)](#)
[Aerial, Thoroughfare Plan and Trails Plan Map](#)
[Future Land Use and Character Map](#)
[Zoning and Notice Map](#)
[Utility Map](#)
[P&Z Minutes \(03/05/12\)](#)
[Ordinance](#)



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Portion of N. 7th Street

2007 N. 7th Street



ZFY 12-29
2010 Bell County Aerial

Major Arterial Street

Proposed Local Connector Trail

Feet 0 50 100 150

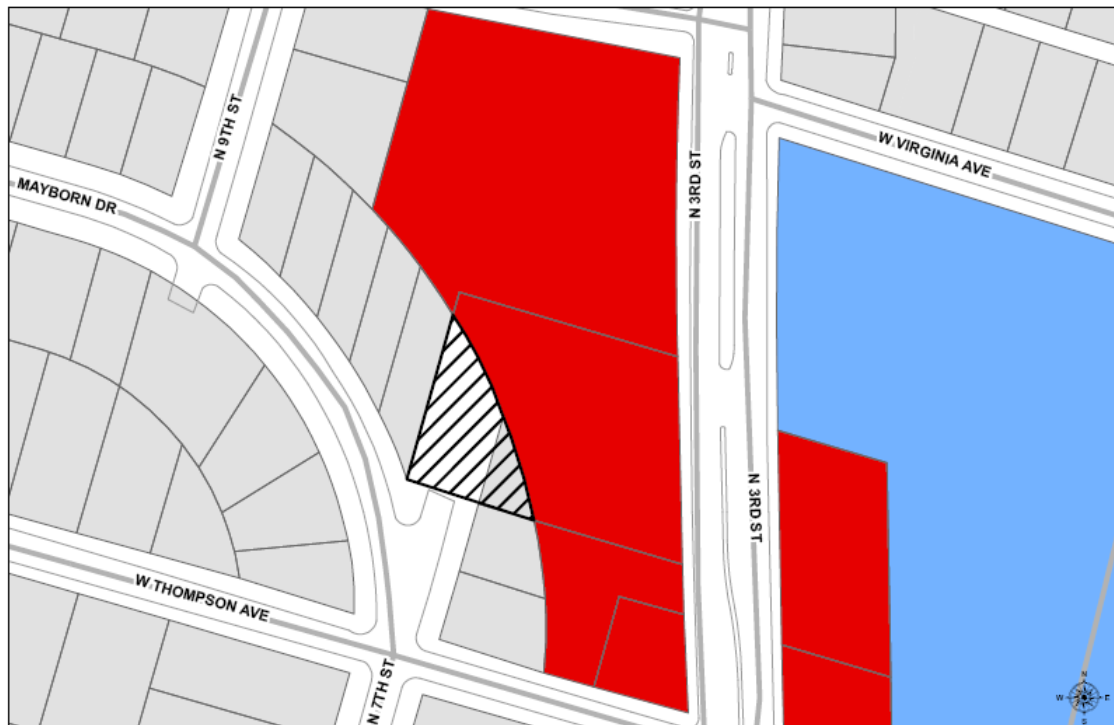
LMatlock 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



ZFY 1229, SF1
Agricultural/Rural
Auto-Urban Commercial
Auto-Urban Mixed Use
Auto-Urban Multi-Family
Auto-Urban Residential
Business Park
Estate Residential
Industrial
Neighborhood Conservation
Parks & Open Space
Public Institutional
Suburban Commercial
Suburban Residential
Temple Medical Education District
Urban Center

1 inch = 114 feet

LMatlock Planning 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



2010 Bell County Aerial

Legend:
Yellow outline: ZFY 12-29
Blue line: Domestic Water Lines
Red line: Sanitary Sewer Line
Red dot: Fire Hydrant

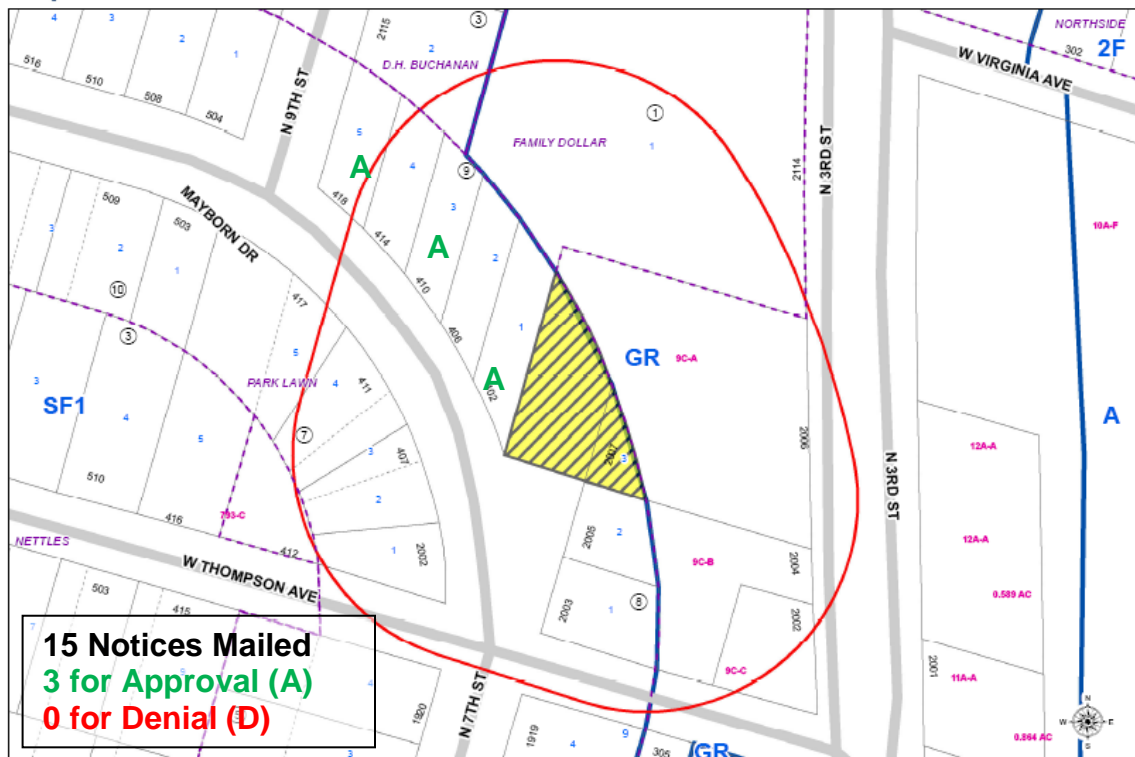
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LMatlock 02.09.12



Z-FY-12-29

SF1 to GR Lot 3 Block 8 Parklawn Addition
and Abandoned Portion of N. 7th Street

2007 N. 7th Street



2010 Bell County Aerial

Legend:
Yellow outline: ZFY 12-29
Blue line: Zoning District Boundary
Purple dashed line: Subdivision Boundary
Pink text: 9876-A Outblock Number 2345 Address
Circle with 9: Block Number
Circle with 9: Lot Number

Feet 0 50 100 150
LMatlock 02.09.12



Page 1 of 5




A rezoning from the SF1 to the GR zoning district would allow many uses that would not have been allowed before. Those uses include, but are not limited to, the following:

- Lithographic or print shop
Plumbing shop
Hospital
Office
Hotel or motel
Multiple Retail, Office and Service Uses
- On-premise consumption of beer and wine - less than 75% revenue
Restaurant
Car wash
Fuel sales
Auto sales, leasing, rental

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 | SF1 | Undeveloped Residential Lot and Abandoned portion of N.7 th Street (stubbed to north at connection with Mayborn Drive) |  |
| North | GR | Undeveloped portion of adjacent Family Dollar site |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|--------|---|--|
| South | SF1 | Residential Neighborhood |   |
| East | GR | Single-family dwelling and Undeveloped Property |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|--------|------------------------|--|
| West | SF1 | Single-family dwelling |  |

COMPREHENSIVE PLAN COMPLIANCE:

The proposed Planned Development amendment relates to the following goals, objectives or maps of the Comprehensive Plan:

| Document | Policy, Goal, Objective or Map | Site Conditions | Compliance? |
|----------|---|---|-------------|
| CP | Map 3.1 - Future Land Use and Character | Neighborhood Conservation (Neighborhood Conservation is to South and west; Auto Urban Retail is to north and east.) | Partially* |
| CP | Map 5.2 - Thoroughfare Plan | N. 7 th St. is a Local Street. – Ownership is on N. 3 rd , which is a Major Arterial | Yes |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | 2" and 6" water line, 8" Water line to northwest and 6" sewer line | Yes |
| CP | Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area. | GR zoning would serve as a transition between GR to the east and SF1 to the west | Yes |

CP = Comprehensive Plan

** See explanation below

Future Land Use and Character Map (CP Map 3.1)

The small, undevelopable residential lot that is part of this rezoning request is classified as Neighborhood Conservation. The requested rezoning does not comply with this classification; however, this lot is so small that applying required setbacks and parking to the property makes it unable to accommodate a single-family dwelling of any usable size.

DEVELOPMENT REGULATIONS:

The requested GR zoning district is the standard retail district and allows most retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments,

with a maximum building height of 3 stories. There is no minimum lot area, width or depth. The building setback for the front yard is 15 feet from the front property line. There is a minimum side yard setback requirement of 10 feet. If a residential use borders the subject property use, as in this case, then a 10-foot setback and fence or vegetative screening is required in the Unified Development Code.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the 15 property owners within a 200-foot radius surrounding the subject property. As of Wednesday, February 29, 2012 at 12:00 PM, no notices were returned in favor of the request and none were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 17, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested zone change to General Retail District for the following reasons:

1. While the request partially complies with the Future Land Use and Character Map, the area that is being rezoned is not currently buildable;
2. The request complies with the Thoroughfare Plan Map; and
3. Public facilities are available to serve the property.

FISCAL IMPACT:

Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare and Sidewalk and Trails Plan Map](#)

[Future Land Use and Character Map](#)

[Utility Map](#)

[Zoning and Notice Map](#)

[Responses](#)



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Texvestments LLC
1719 West Avenue M, Suite C
Temple, Texas 76504

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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

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

Comments:

Ross Vest
Signature

ROSS VEST
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED
FEB 28 2012
City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Oakleigh Holdings Ltd
P.O. Box 1364
Salado, Texas 76571

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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

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

Comments:

Good growth in neighborhood.

Signature

Print Name

*R.A. OLSEN
OAKleigh Holdings*

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Kevin & Hope Koch
605 West Park Avenue
Temple, Texas 76501

Zoning Application Number: Z-FY-12-29

Project Manager: Leslie Matlock

Location: 2007 North 7th Street

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

I recommend ☒ approval () denial of this request.

Comments:

Signature

KEVIN J KOCH

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 15

Date Mailed: February 23, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 5, 2012**

ACTION ITEMS

Item 3: Z-FY-12-29 - Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition located at 2007 North 7th Street and 0.25 acres ± out of the Maximo Moreno Survey, Abstract 14, being a portion of North 7th Street adjacent to 2007 North 7th Street. (Scott Dye for Crispin Landeros)

Ms. Autumn Speer, Director of Community Services, stated this item contained two different areas: 1) abandonment procedures for the dead end right-of-way of North 7th which was approved by City Council on March 1st; and 2) a small residential lot approximately 2,800 square feet located on North 7th. This action would consolidate the entire parcel into one GR tract.

North 7th access will not be included in this case.

Ms. Speer explains certain GR uses which include retail sales, restaurants, grocery stores, department stores, or offices and all residential uses except apartments:

- Height – Maximum 3 Stories
- No minimum lot area, width or depth.
- Front setback = 15'
- Side Yard = 10'
- *Buffer = 10-foot setback and fence or vegetative screening

Future Land Use and Character Map designates the area as Auto-Urban and the requested change would partially comply

Two denial letters and three approval letters were received on this matter.

Staff recommends approval of the request because it partially complies with the Future Land Use and Character Map, complies with the Thoroughfare Plan, and public facilities are available to serve the property.

Ms. Speer stated there was concern from residents about taking access from North 7th and based on abandonments procedure City Council took, there will be no access allowed from North 7th to this retail site.

Chair Martin opened the public hearing.

Ms. Rosemary Ramsey, corner of 7th and Thompson, Temple, Texas, was unclear about access from 7th Street and Chair Martin stated there will be no access from North 7th Street.

Ms. Julie Dow, 407 Mayborn Dr., Temple, Texas, stated her house is directly across from this property and would see this property when she exited her home. Her concern was the fencing

so she would not have to look at the property. Ms. Speer confirmed a six foot fence was required and indicated it would go around the property.

Commissioner Rhoads asked if the intent was for a Dollar Store and Ms. Speer confirmed. It was Ms. Speer's understanding the applicant would be putting up a six foot fence; however, they could choose to put a vegetative screen. The engineer may be able to answer the question.

Mr. Scott Dye, Dye Enterprises, 4047 Stahl Road, San Antonio, Texas, stated he had copies of the site plan for the Commission to review. Mr. Dye was not personally doing the on-site development but was representing the Dollar General Store with the zoning request, abandonment, and platting. The outside development plans are being done by Overland Engineering. It was his understanding there will not be any access from 7th Street because it will not work with the site plan. The building needs to sit back to provide parking and the turn off from 3rd Street is ideal.

The site plan shows a wood fence would be placed along the back and no hedges are planned. Mr. Dye explains where the fence will go on the map.

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

Commissioner Rhoads made a motion to approve Item 3, **Z-FY-12-29**, and Commissioner Sears made a second.

Motion passed: (7:0)

Vice-Chair Staats and Commissioner Magaña absent.

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-29)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REZONING FROM SINGLE FAMILY ONE DISTRICT (SF1) TO GENERAL RETAIL DISTRICT (GR) ON LOT 3, BLOCK 8, PARKLAWN ADDITION, LOCATED AT 2007 NORTH 7TH STREET, AND ON 0.25 ACRE OF AN ABANDONED PORTION OF NORTH 7TH STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Part 1: The City Council approves a rezoning from Single Family One District (SF1) to General Retail District (GR) on Lot 3, Block 8, Parklawn Addition, 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 5th day of April, 2012.

PASSED AND APPROVED on Second Reading on the **19th** day of **April**, 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

04/19/12
Item #4(E)
Regular Agenda
Page 1 of 3

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: SECOND READING - Z-FY-12-30: Consider adopting an ordinance authorizing a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.

P&Z COMMISSION RECOMMENDATION: At its March 5, 2012 meeting, the Planning and Zoning Commission voted 7/0 in accordance with Staff recommendation to recommend approval of a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2). Commission members Staats and Magaña were absent.

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

Staff recommends approval of a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) 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; and
3. Public and private facilities are available to serve the property.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-30, from the Planning and Zoning Commission meeting, March 5, 2012. The applicant requests a rezoning to Multiple Family Two District (MF2) to allow construction of a multiple-family development (apartments). The MF2 zoning district could allow up to 300 dwelling units on 15 acres of land.

Although the applicant informed staff of his intent to later apply for a Planned Development rezoning for adjacent properties in order to build several single-family units on a single lot, with the requested MF2 as the “base” zoning district, there is no guarantee the applicant would apply for a Planned Development.

Several neighborhood property owners voiced concerns of the dead-end at Erie Drive being used as the only access point to the proposed apartments. Those opposed to the request cited concerns of increased traffic and child safety, potential crime, property devaluation, and too many apartments already in the area.

At the Planning and Zoning meeting, several property owners outside the 200-foot notification boundary asked for explanation as to why the notification boundary was not increased to include them. They had seen the Land Use Sign posted on the property but had not received a letter. Commissioner Talley expressed an interest in expanding the notification boundary for this rezoning case.

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 | Site Conditions | Compliance |
|----------|---|--|------------|
| CP | Map 3.1 - Future Land Use and Character | Auto-Urban Commercial and Suburban Residential | Partially* |
| CP | Map 5.2 - Thoroughfare Plan | See explanation below | Yes* |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | 8" sewer line runs through property. 12" water line runs along SW H.K. Dodgen Loop. 27" water line along east property line. | Yes |

* = See explanation below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (CP Map 3.1)

The Future Land Use and Character Map designates the subject property as **Auto-Urban Commercial** for the front portion of the property bordering SW H.K. Dodgen Loop and **Suburban Residential** for the rear portion of the property adjacent to the Western Hills Subdivision. Apartments have a residential and a commercial character due to their coordinated landscaping, signs and parking. With its current Auto Urban designation, this property is open to the possibility of being rezoned to C, Commercial, rather than the proposed MF2. The list of possible uses in the C zoning district may not be appropriate for this highly visible area of the City, so the requested MF2 is a preferable option. The request partially complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The proposed development is adjacent to SW H.K. Dodgen Loop from the frontage road. The Thoroughfare Plan classifies SW H.K. Dodgen Loop as an Expressway. The retaining wall along this portion of the road prevents direct access from taking place onto the Loop frontage road. Erie Drive, a local street, dead-ends at the north boundary of the subject property. Hopi Trail to the west of the subject property, which the applicant plans to be the street from which the overall development would eventually take primary access, is classified as a collector on the Thoroughfare Plan. The proposed

rezoning could allow up to 300 units on the subject property. This number of units, according to the Public Works Department's subdivision entry standards, requires two to three entries from abutting public streets. This means that subsequent platting of the subject property and adjacent property to the northwest, as shown below, will be necessary in order to have a second required connection to Hopi Trail.

However, a potential exists that the number of dwellings could be reduced to warrant only one access point into the development. If that occurs, it is possible that the dead-in at Erie Drive could potentially be the only access point to the property.

DEVELOPMENT REGULATIONS: The Multiple Family Two District allows more modest sized dwelling units and an increased number of units within the multifamily complex. Maximum density is 20 units per acre in buildings three to four stories. The MF-2 zoning district provides more modest sized dwelling units within the multifamily complex. This district should be designed for a higher density use of the land with the amenities and facilities, such as a major thoroughfare, parks, transit, and utilities close by and adequate for the volume of use.

The MF-2 zoning district allows most residential uses, except for manufactured homes. It also allows some residential support uses such as school and places of worship.

PUBLIC NOTICE: Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the rezoning site. As of Friday, March 9, 2012 at 12:00 PM, one notice was returned in favor of the request and one notice was returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 23, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

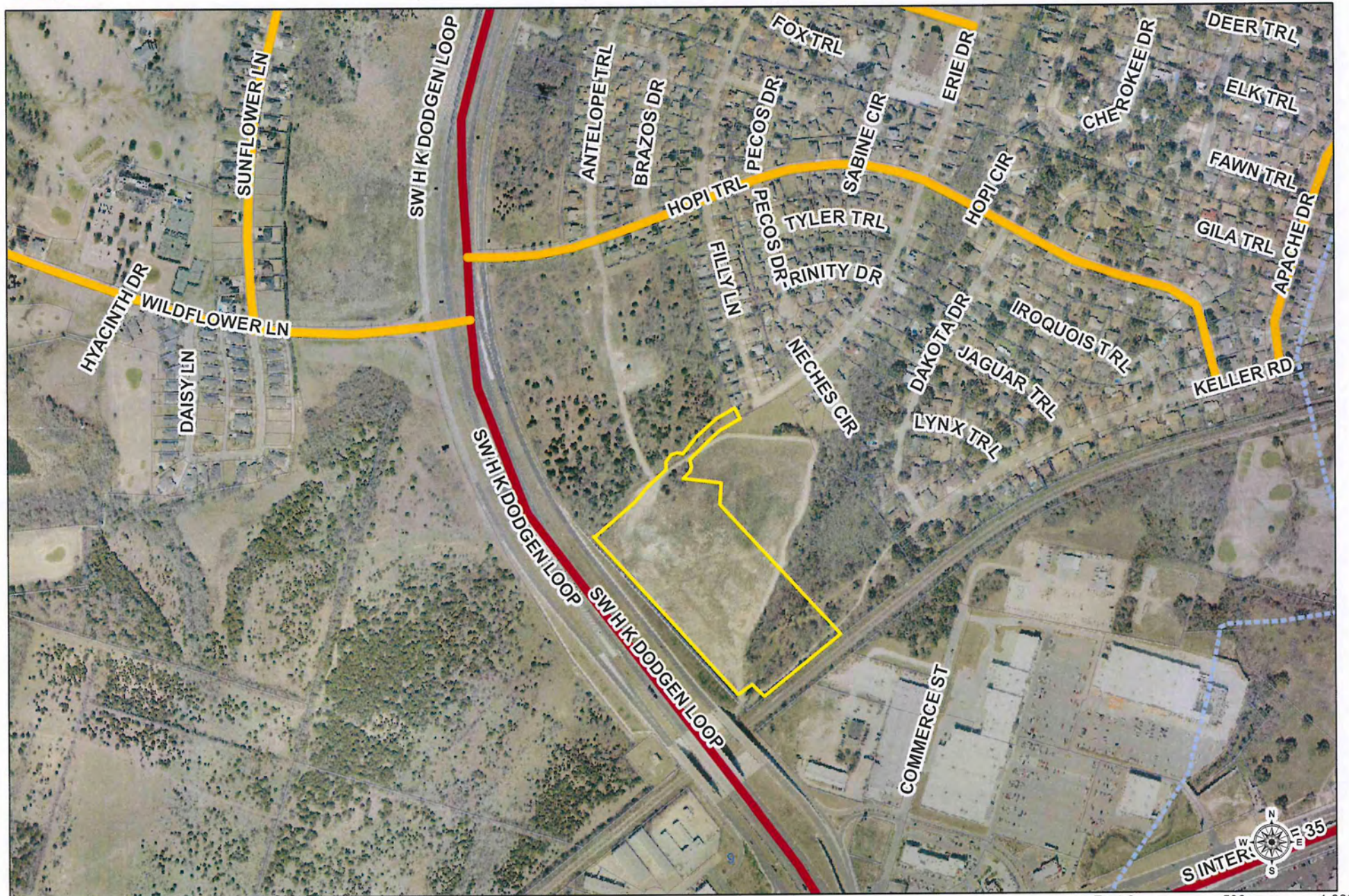
[Aerial, Thoroughfare Plan and Trails Plan Map](#)
[Future Land Use and Character Map](#)
[Zoning and Notice Map](#)
[Utility Map](#)
[P&Z Staff Report \(Z-FY-12-30\)](#)
[P&Z Minutes \(03/05/12\)](#)
[Ordinance](#)



Z-FY-12-30

GR, SF1 and SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



ZFY 12-29
2010 Bell County Aerial

Expressway
 Collector Class Street

Proposed Local Connector Trail

Feet 0 500 1,000

LMatlock 02.15.12

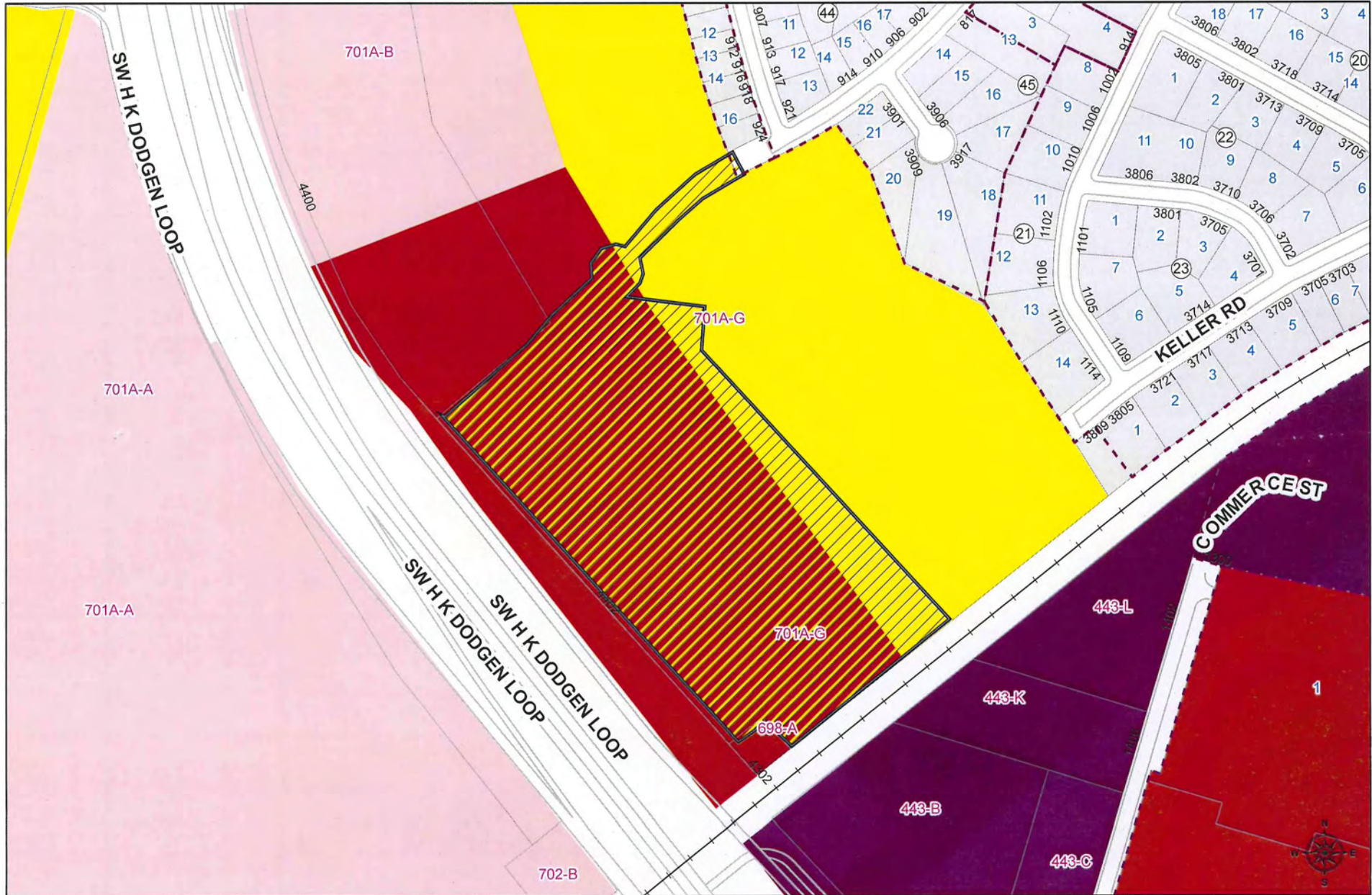


Z-FY-12-30

GR, SF1 & SF2 to MF2

4400 Block
of Loop 363

15 Acres, McKinney and Williams Survey Abstract 609



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 12-30 | 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 = 313 feet

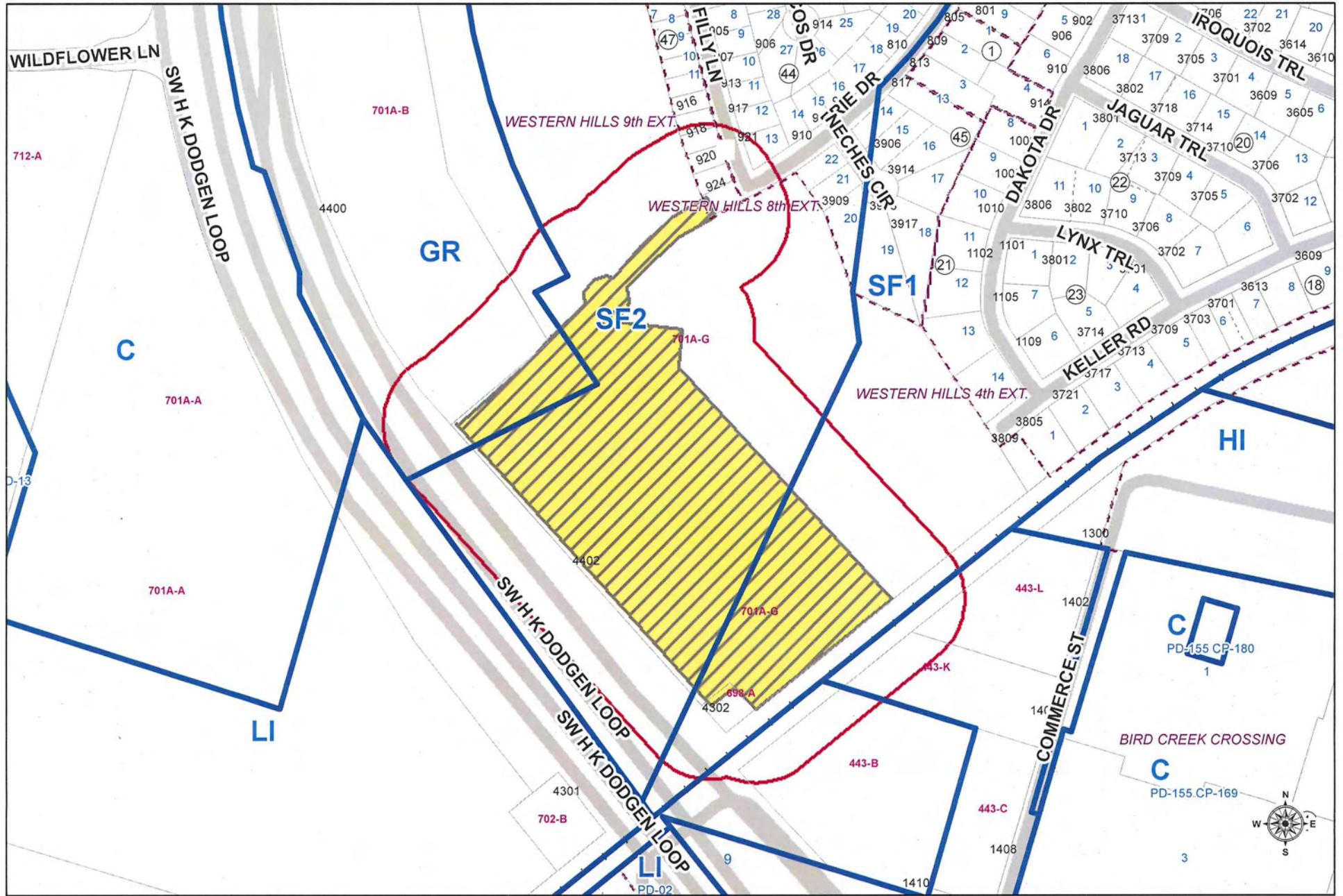
LMatlock Planning 02.17.12



Z-FY-12-30

GR, SF1 & SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



ZFY 12-30

Zoning Boundaries

Subdivision Boundary

Feet 0 250 500 750 1,000

9876 Addresses

200-ft Notification Buffer

234-M Subdivision Boundary

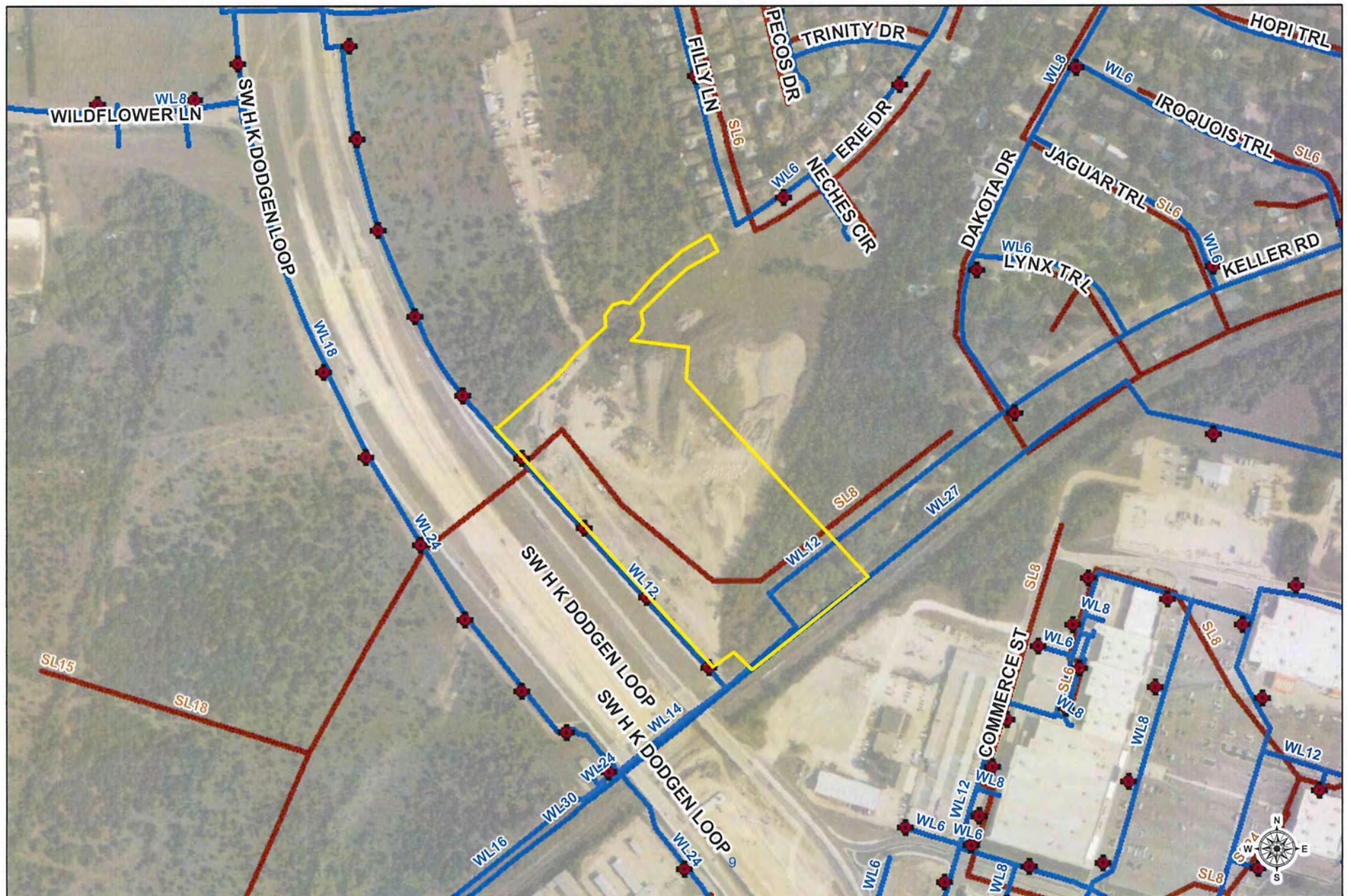
LMatlock 02.15.12



Z-FY-12-30

GR, SF1 and SF2 to MF2
15 Acres, McKinney and Williams Survey Abstract 609

4400 Block
of Loop 363



ZFY 12-30
2010 Bell County Aerial

Sanitary Sewer
Domestic Water

Fire Hydrant

Feet 0 500 1,000

LMatlock 02.15.12



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/05/12
Item 4
Regular Agenda
Page 1 of 5

APPLICANT / DEVELOPMENT: Jason Willard for Immediate Real Properties, LP

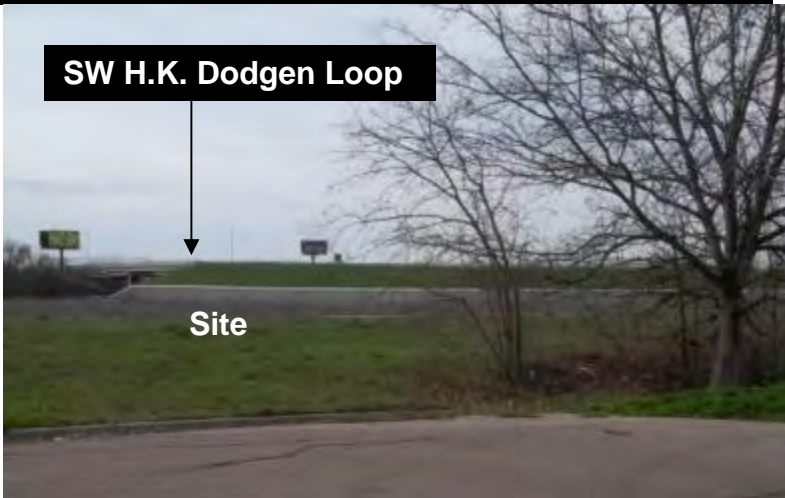
CASE MANAGER: Tammy Lyerly, Planner




ITEM DESCRIPTION: Z-FY-12-30 Hold a public hearing to discuss and recommend action on a rezoning from General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail.

BACKGROUND: The applicant requests a rezoning to Multiple Family Two District (MF2) to allow construction of a multiple-family development (apartments). The property spans three zoning districts, General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2). The Unified Development Code does not allow multiple-family development within any of these zoning districts. The MF2 zoning district could allow up to 300 dwelling units on 15 acres of land. The applicant has informed staff that he intends to later apply for a Planned Development rezoning for adjacent properties in order to build several single-family units on a single lot. The subject property for which he is requesting this base rezoning will be part of such future development.

SURROUNDING PROPERTY AND USES:

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

| Direction | Zoning | Current Land Use | Photo |
|------------------|------------------|------------------|--|
| Subject Property | GR, SF1, and SF2 | Undeveloped Land |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|-----------------|--|--|
| North | SF1 and SF2 | Undeveloped Land and Residential |  |
| South | LI | SW H.K. Dodgen Loop and Undeveloped Land |  |
| East | SF1, HI, and LI | Railroad, Industrial, and Retail Center |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|------------|------------------|--|
| West | SF2 and GR | Undeveloped Land |  |

COMPREHENSIVE PLAN COMPLIANCE:

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

| Document | Policy, Goal, Objective or Map | Site Conditions | Compliance |
|----------|---|--|------------|
| CP | Map 3.1 - Future Land Use and Character | Auto-Urban Commercial and Suburban Residential | Partially* |
| CP | Map 5.2 - Thoroughfare Plan | See explanation below | Yes* |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | 8" sewer line runs through property. 12" water line runs along SW H.K. Dodgen Loop. 27" water line along east property line. | Yes |

* = See explanation below CP = Comprehensive Plan STP = Sidewalk and Trails Plan

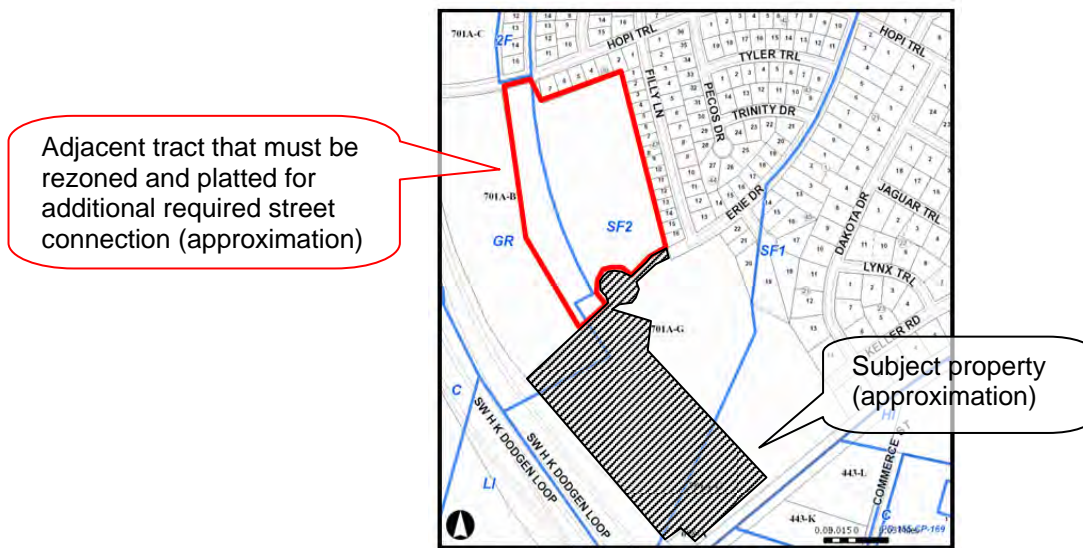
Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as **Auto-Urban Commercial** for the front portion of the property bordering SW H.K. Dodgen Loop and **Suburban Residential** for the rear portion of the property adjacent to the Western Hills Subdivision. Apartments have a residential and a commercial character due to their coordinated landscaping, signs and parking. With its current Auto Urban designation, this property is open to the possibility of being rezoned to C, Commercial, rather than the proposed MF2. The list of possible uses in the C zoning district may not be appropriate for this highly visible area of the City, so the requested MF2 is a preferable option. The request partially complies with the Future Land Use and Character Map.

Thoroughfare Plan (CP Map 5.2)

The proposed development is adjacent to SW H.K. Dodgen Loop from the frontage road. The Thoroughfare Plan classifies SW H.K. Dodgen Loop as an Expressway. The retaining wall along this portion of the road prevents direct access from taking place onto the Loop frontage road. Erie Drive, a local street, dead-ends at the north boundary of the subject property. Hopi Trail to the west of the subject property, which the applicant plans to be the street from which the overall development would eventually take primary access, is classified as a collector on the Thoroughfare Plan. The proposed rezoning could allow up to 300 units on the subject property. This number of units, according to the Public Works Department's subdivision entry standards, requires two to three entries from abutting public streets. This means that subsequent platting of the subject property and adjacent property to

the northwest, as shown below, will be necessary in order to have a second required connection to Hopi Trail.



DEVELOPMENT STANDARDS:

The Multiple Family Two District allows more modest sized dwelling units and an increased number of units within the multifamily complex. Maximum density is 20 units per acre in buildings three to four stories. The MF-2 zoning district provides more modest sized dwelling units within the multifamily complex. This district should be designed for a higher density use of the land with the amenities and facilities, such as a major thoroughfare, parks, transit, and utilities close by and adequate for the volume of use.

The MF-2 zoning district allows most residential uses, except for manufactured homes. It also allows some residential support uses such as school and places of worship.

4.5.5 Multiple-Family Dwelling, 1-2 Stories

| Type of 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 | CA | C | LI | HI |
|---|----|----|------|------|------|-------|-------|-------|----|----|-----------|-------|-------|-----|-----------|----|----|-----------------|---|----|----|
| Min. Lot Area (sq. ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 3,000 | 2,800 | 2,200 | 1 | 3,000 | 1 | 1 | 1,800 | 1 | 1 | 1 |
| Min. Lot Width (ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 60 | 60 | 60 | 1 | 60 | 1 | 1 | 60 | 1 | 1 | 1 |
| Min. Lot Depth (ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 120 | 120 | 120 | 1 | 120 | 1 | 1 | 120 | 1 | 1 | 1 |
| Min. Front Yard Setback(ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 25 | 25 | 25* | 1 | 25* | 1 | 1 | See 4.4.4F.1.d* | 1 | 1 | 1 |
| Min. Side Yard Setback(ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | See 5.3.3 | | | 1 | See 5.3.3 | 1 | 1 | See 5.3.3 | 1 | 1 | 1 |
| Min. Side (Corner) Yard Setback(ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 15 | 15 | 15 | 1 | 15* | 1 | 1 | 15 | 1 | 1 | 1 |
| Min. Rear Yard Setback(ft.) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 10 | 10 | 10 | 1 | 10 | 1 | 1 | 10 | 1 | 1 | 1 |
| Max. Building Coverage (%) for Rear Half of Lot | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | See 5.3.3 | | | 1 | See 5.3.3 | 1 | 1 | See 5.3.3 | 1 | 1 | 1 |
| Max. Height (stories) | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 | 2* | 1 | 2* | 1 | 1 | 2 | 1 | 1 | 1 |

ALH = Any Legal Height not prohibited by other laws -- = Use not permitted NA = Use permitted but standard does not apply * = See Sec. 4.4. Measurements and Special Case

4.5.6 Multiple-Family Dwelling, 3-4 Stories

| Type of 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 | CA | C | LI | HI |
|---|----|----|------|------|------|-------|-------|-------|----|----|------|-----------|-------|-----|-----------|----|----|----------------|---|----|----|
| Min. Lot Area (sq. ft.) | — | — | — | — | — | — | — | — | — | — | — | 2,500 | 2,000 | — | 2,000 | — | — | 600 | — | — | — |
| Min. Lot Width (ft.) | — | — | — | — | — | — | — | — | — | — | — | 60 | 60 | — | 60 | — | — | 60 | — | — | — |
| Min. Lot Depth (ft.) | — | — | — | — | — | — | — | — | — | — | — | 120 | 120 | — | 120 | — | — | 120 | — | — | — |
| Min. Front Yard Setback (ft.) | — | — | — | — | — | — | — | — | — | — | — | 25 | 25 | — | 25 | — | — | See 4.4.4F.1.d | — | — | — |
| Min. Side Yard Setback (ft.) | — | — | — | — | — | — | — | — | — | — | — | See 5.3.3 | | — | See 5.3.3 | — | — | See 5.3.3 | — | — | — |
| Min. Side (Corner) Yard Setback (ft.) | — | — | — | — | — | — | — | — | — | — | — | 15 | 15 | — | 15 | — | — | 15 | — | — | — |
| Min. Rear Yard Setback (ft.) | — | — | — | — | — | — | — | — | — | — | — | 10 | 10 | — | 10 | — | — | 10 | — | — | — |
| Max. Building Coverage (%) for Rear Half of Lot | — | — | — | — | — | — | — | — | — | — | — | See 5.3.3 | | — | See 5.3.3 | — | — | See 5.3.3 | — | — | — |
| Max. Height (feet) | — | — | — | — | — | — | — | — | — | — | — | 9 | 9 | — | 9 | — | — | 9 | — | — | — |

ALH = Any Legal Height not prohibited by other laws — = Use not permitted NA = Use permitted but standard does not apply = See Sec. 4.4, Measurements and Special Case

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the rezoning site. As of Wednesday, February 29, 2012 at 12:00 PM, one notice was returned in favor of the request and no notices were returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 23, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested rezoning to Multiple Family Two District (MF2) 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 Map; and
3. Public facilities are available to serve the property.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare Plan Map and Trails Plan Map](#)

[Future Land Use and Character Map](#)

[Zoning and Notice Map](#)

[Utility Map](#)

[Response Letter](#)



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Materials Transportation
1408 Commerce Drive
Temple, Texas 76504

Zoning Application Number: Z-FY-12-30


Project Manager: Tammy Lyerly

Location: On the north side of SW H K Dodgen Loop, west of Bird Creek Crossing
Shopping Center and east of Hopi Trail

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

I recommend ☒ approval () denial of this request.

Comments:


Signature

WILLIAM A. JONES, III
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

RECEIVED

FEB 28 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: February 23, 2012



RESPONSE TO PROPOSED
REZONING REQUEST
CITY OF TEMPLE

Cen-Tex TWH Ltd
P.O. Box 310
Temple, Texas 76503-310

Zoning Application Number: Z-FY-12-30

Project Manager: Tammy Lyerly


Location: On the north side of SW H K Dodgen Loop, west of Bird Creek Crossing Shopping Center and east of Hopi Trail

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

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

Comments:

I will be abstaining from this item as I have a level of interest.


Signature

Derek Martin
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than March 5, 2012

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

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 5, 2012**

ACTION ITEMS

Item 4: Z-FY-12-30 - Hold a public hearing to discuss and recommend action on a rezoning from Single Family One District (SF1) and Single Family Two District (SF2) to Multiple Family Two District (MF2) on a 15 ± acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of SW H K Dodgen Loop, west of Bird Creek Shopping Mall. (Jason Willard for Immediate Real Properties, LP)

Chair Martin stated he would abstain from this case and Commissioner Pilkington would take control of the Commission meeting.

Ms. Lyerly stated the property had three zoning districts, GR, Single Family One (SF1) and Single Family Two (SF2) and the applicant is requesting a rezoning to Multi-Family Two (MF2) district to developed a multi-family development.

This case would go to City Council first reading on April 5th and second reading on April 19th for second reading and final action.

Pictures of the dead end at Erie Drive and Filly Lane and elevated ramp for the Loop are shown to indicate where the subject property is located. There is no access from the Loop to the property. Hopi Trail is located to the west of the property and is designated as a collector.

Surrounding properties include the dead end area of Erie Drive and Filly Lane along with the Western Hills development to the north, the elevated portion of the Loop to the south, and Hopi Trail to the west.

The Future Land Use and Character Map designate the area as Auto-Urban Commercial (retail and/or commercial development along the Loop) and Suburban-Residential, (residential development similar to Western Hills). The request for MF2 would be more suitable for the area.

If the applicant receives MF2 zoning approval for this area, he will then come back with a Planned Development (PD) for the whole area which would have the potential for 300 dwelling units. The standards for this amount of dwelling units would require at least two points of ingress/egress. Discussion about possible access areas.

There are public facilities available to serve the property.

MF2 dimensional standards are given.

Seven notices were mailed to surrounding property owners with one letter received in favor of the request and one letter in opposition.

Staff recommends approval of the request to MF2 since the request partially complies with the Future Land Use and Character Map, complies with the Thoroughfare Plan and has public facilities available to serve the property.

Acting Chair Pilkington opened the public hearing.

Mr. Kirk Willard, 2011 Cascade Trail, McGregor, Texas, stated he represented the applicant and because of the existing zoning in place and the intent for development of the property, there was a two-step process to go through. The rezoning would be requested first and then the applicant would come back with a PD application. The PD application should take care of any concerns about ingress/egress. This would be considered one single community managed by a leasing office, consisting of both homes and apartments.

Mr. Steven Bradley, 816 Filly Lane, Temple, Texas, stated one of his concerns was the notification process of the 200 foot radius which did not include any of the residences of Western Hills Subdivision. The only notification they received was the land use sign.

Another concern was the only access being into Erie Lane which would intensify the traffic problems on Erie and Filly Lane. There are a lot of children in the area and this would increase 300 fold. Mr. Bradley did not see why the access road next to the Loop could not be utilized since there are stores all along the access road.

Mr. Bradley has lived in the area for 28 years and always been told residential would be in the rear and commercial toward the front.

Commissioner Talley asked when Mr. Bradley when he was notified and Mr. Bradley stated he was not notified but saw the land use sign and inquired. Commissioner Talley stated it was policy to notify properties within a 200 foot radius and Mr. Bradley stated the policy might need to be reviewed since, in this situation, it did not include anyone near the residential area. Ms. Lyerly stated there were some residences who received notice and in order for the development of this property, the applicant would have to plat the property and provide a connection from Hopi to Antelope Trail before any development occurred.

Mr. Bradley also stated the neighbors were concerned about the property values going down with a multi-family unit going there.

Ms. Lyerly stated there would be one more public hearing occurring at City Council on April 5th. State law requires a 200 foot radial notification of the subject property. Ms. Speer stated it was City policy to go 200 feet for notification and could not be part of a motion.

Ms. Pat Bradley, 816 Filly Lane, Temple, Texas, stated her concern was there were currently three houses for sale in the same area and those houses are not selling. Ms. Bradley stated she heard Mr. Willard say more residential homes would be built because of demand. Ms. Bradley asked why build another multi-family apartment complex when there are six different apartment complexes within walking distance of her home.

Ms. Bradley stated the value of the homes would decrease and the homes are not selling now. There will be more traffic and more problems. Ms. Bradley stated they have been told the area would be single families and if she knew this would happen she would not have bought the house.

Mr. Kirk Willard returned and stated on behalf of the applicant the primary concern seemed to be with regard to traffic on Erie and Filly Lane. The primary point of egress would be on Hopi which is the point of ingress that would have to be secured in order for the development to comply with requirements. The ingress/egress to the north of Erie is there because the road exists and the applicant had to include that for part of it. The dynamics of this site would mean the majority of the traffic will be attempting to get on the frontage road along the Loop. Ninety-eight to ninety-nine percent of the applicant's traffic would go up to Hopi because it is the shortest route. Unless the point of ingress or egress on Hopi is somehow blocked, there will not be a scenario where Erie and Filly Lane would be a desirable route.

Commissioner Rhoads asked if there were any renderings of ideas for the property and Mr. Willard stated no, but since they would be going through a PD process, all of the documentation would be included at that time.

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

Ms. Speer clarified for the Commission that this was a straight zoning case and the applicant is requesting MF2 district zoning. As the site currently stands, it shows access to Erie. The applicant could develop 100 units in that multi-family fashion and not come back for a PD. There is nothing in the zoning being approved tonight that makes them come back for the PD other than to take the full intensity of the development. The City does not go further than 200 feet due to City policy; however, the PD would capture more homes due to the boundaries.

Mr. Kirk Willard returned and stated the applicant does not own the property. If the zoning request does not go forward, it is likely the whole project would stop. This is only the first of a two step process.

Commissioner Sears made a motion to approve Item 4, **Z-FY-12-30**, as presented and Commissioner Jones made a second.

Motion passed: (6:0:1)

Chair Martin abstained; Vice-Chair Staats and Commissioner Magaña absent. Item

ORDINANCE NO. _____

(PLANNING NO. Z-FY-12-30)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM GENERAL RETAIL DISTRICT (GR), SINGLE FAMILY ONE DISTRICT (SF1), AND SINGLE FAMILY TWO DISTRICT (SF2) TO MULTIPLE FAMILY TWO (MF2) ON AN APPROXIMATELY 15 ACRE TRACT OF LAND LOCATED ON THE NORTH SIDE OF SOUTHWEST H.K. DODGEN LOOP, WEST OF BIRD CREEK CROSSING SHOPPING CENTER AND EAST OF HOPI TRAIL; 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 General Retail District (GR), Single Family One District (SF1), and Single Family Two District (SF2) to Multiple Family Two (MF2) on an approximately 15 acre tract of land out of the McKinney and Williams Survey, City of Temple, Bell County, Texas, located on the north side of Southwest H.K. Dodgen Loop, west of Bird Creek Crossing shopping center and east of Hopi Trail, 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 **5th** day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the **19th** day of **April**, 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

04/19/12
Item #4(F)
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: SECOND READING - Z-FY-12-32: Consider adopting an ordinance authorizing a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

P&Z COMMISSION RECOMMENDATION: At its March 19, 2012 meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in an existing Smashburger restaurant with the following conditions for a proposed outdoor seating area:

1. Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
2. Limit outdoor seating to **22** seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.
5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

STAFF RECOMMENDATION: Adopt ordinance as presented in item description, on second and final reading with the following conditions for the proposed outdoor seating area:

1. Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
2. Limit outdoor seating to **18** seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.

5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-32, from the Planning and Zoning Commission meeting, March 19, 2012. This requested Conditional Use Permit is for the existing Smashburger restaurant in the Market Place shopping center, located near its south entrance at Market Loop Drive.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure is approximately 750 feet from Smashburger.

Smashburger is opened 10:00 AM – 10:00 PM daily. Alcohol sales are proposed during all hours of operation. The applicant has initiated the license process with TABC. The license is pending the approval of this CUP request. All sales staff will undergo mandatory TABC training.

The existing Smashburger restaurant seats up to 60 interior patrons. This request also includes replacing the existing planting bed island at the restaurant's entrance with an outdoor seating area. The outdoor seating area will be subject to TABC regulations.

Although Smashburger's outdoor seating plan reflects the creation of approximately 26 seats, the applicant agreed during the Planning and Zoning Commission meeting to reduce the number of seats when questioned by the Commission members. The applicant's floor plan and site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council.

PUBLIC NOTICE: Staff mailed notices of the Planning and Zoning Commission's public hearing to the two property owners within the 200-foot radius surrounding the C.U.P. site. As of Tuesday, March 20, 2012 at 3:00 PM, no notices from property owners were returned in favor of the request and none were returned in opposition to the request. One courtesy notice from a business within the Market Place shopping center was received in favor of the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 8, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

[P&Z Staff Report and Attachments March 19, 2012](#)

[P&Z Excerpts March 19, 2012](#)

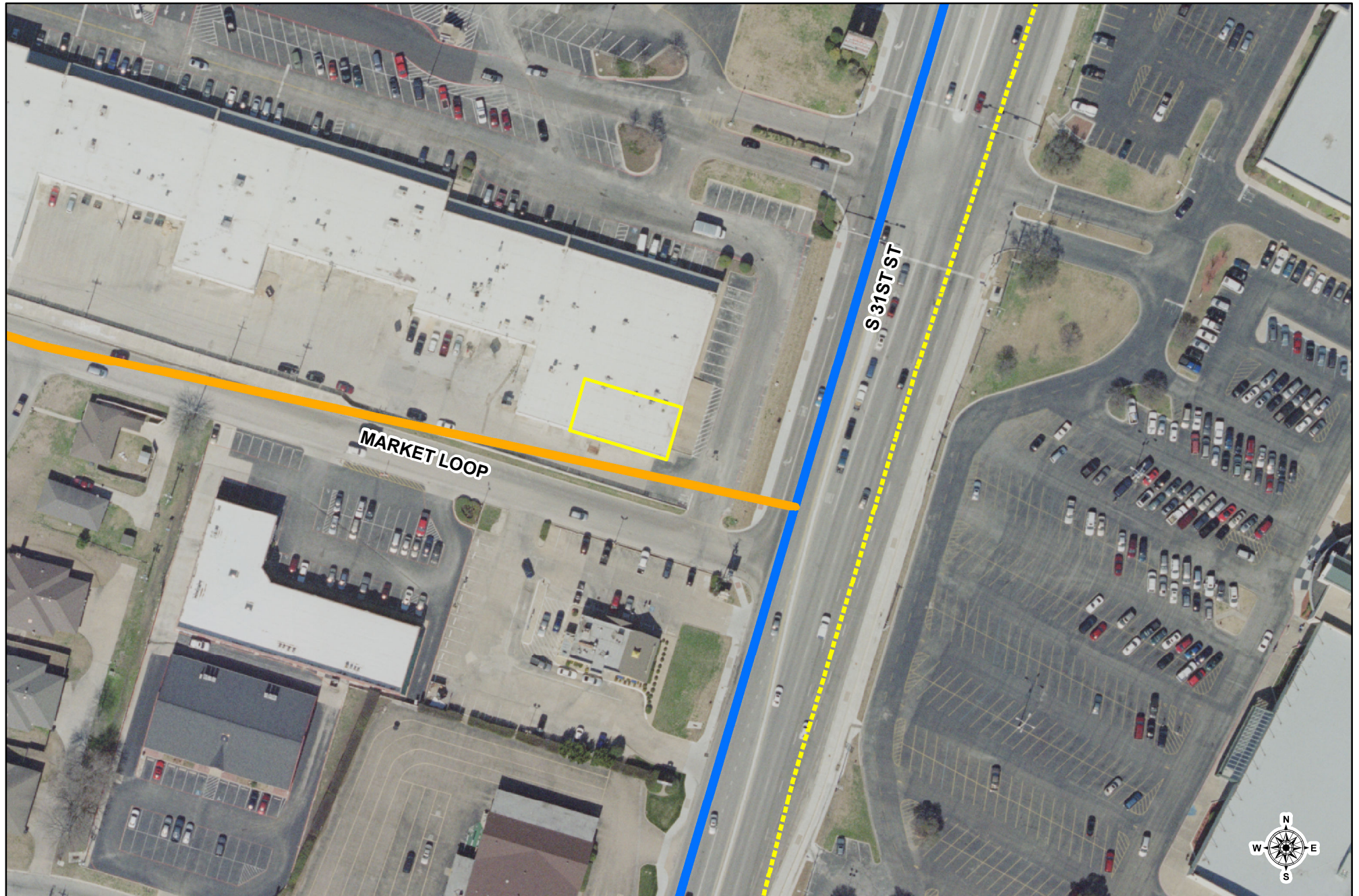
[Ordinance](#)



Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.





Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.



- | | | | | | |
|-----------------------|-------------------------|--------------------|---------------------------|-----------------------------------|--------------|
| ZFY 1232, CUP | 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 = 156 feet

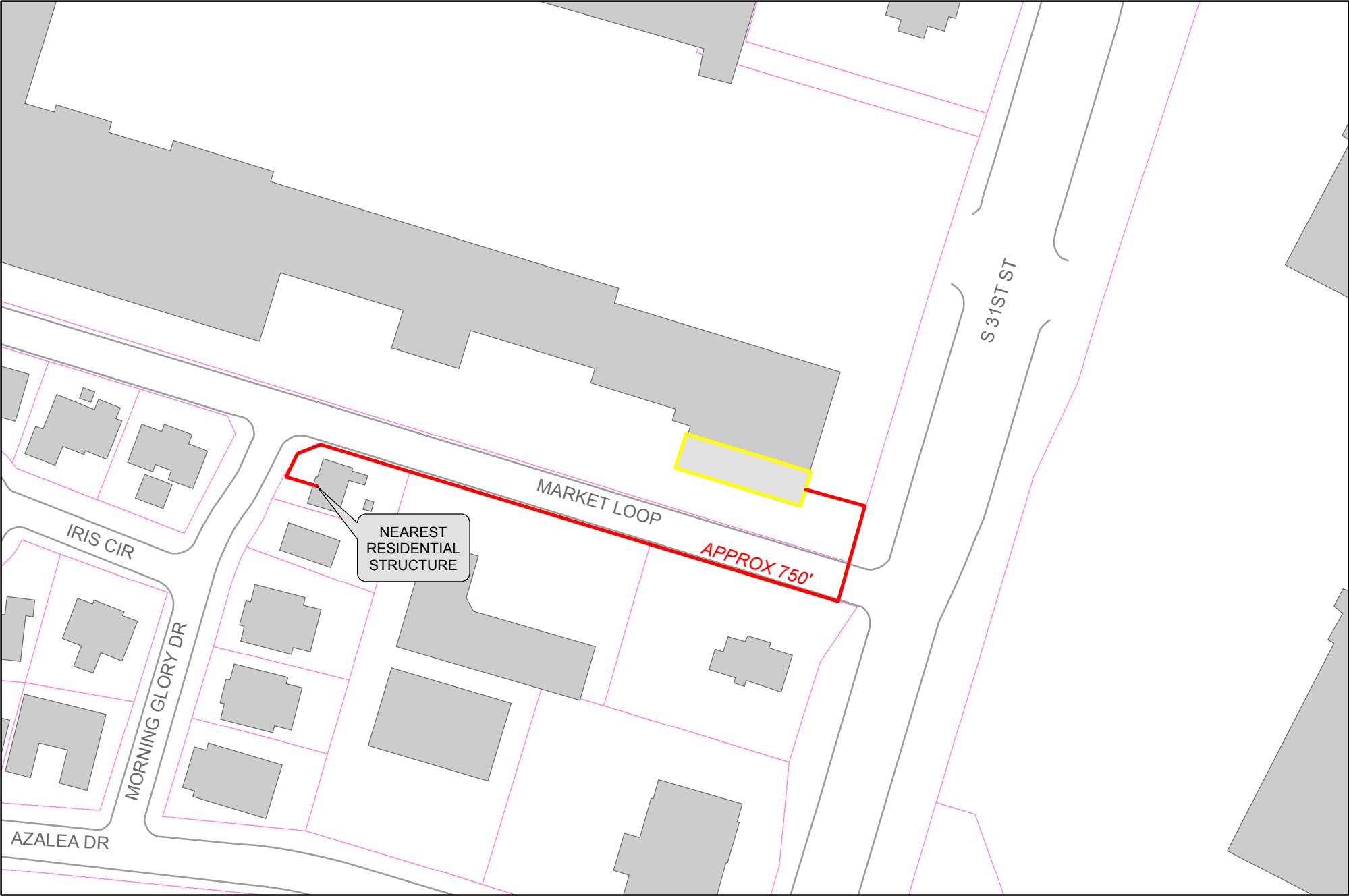
LMatlock Planning 02.17.12



Z-FY-12-32

**3008 SOUTH 31ST STREET
(MARKET LOOP SHOPPING CENTER)**

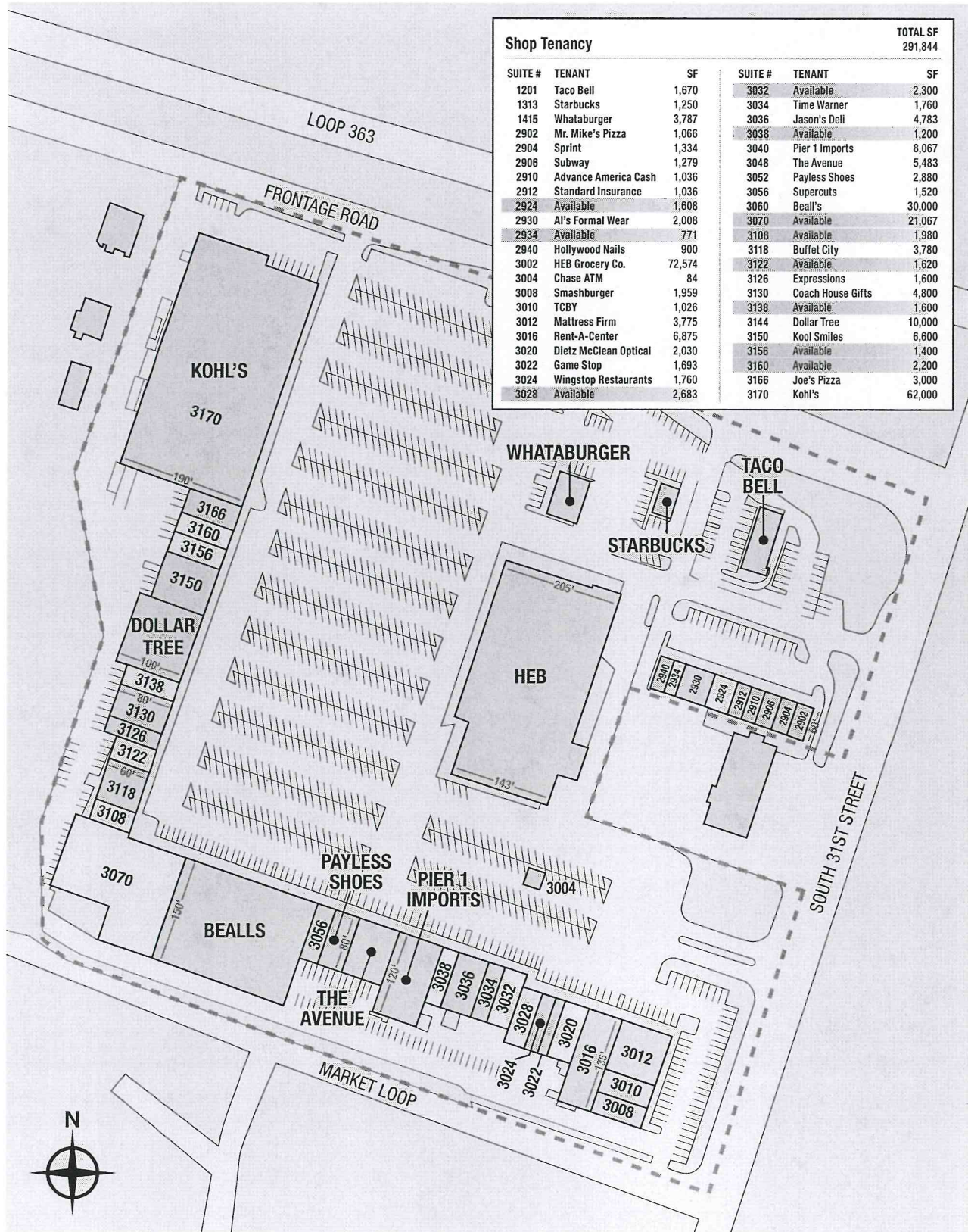
SMASHBURGER



C.U.P. FOR ALCOHOL SALES AND ON-PREMISE CONSUMPTION LESS THAN 75% IN SMASHBURGER RESTAURANT

1 inch = 125 feet

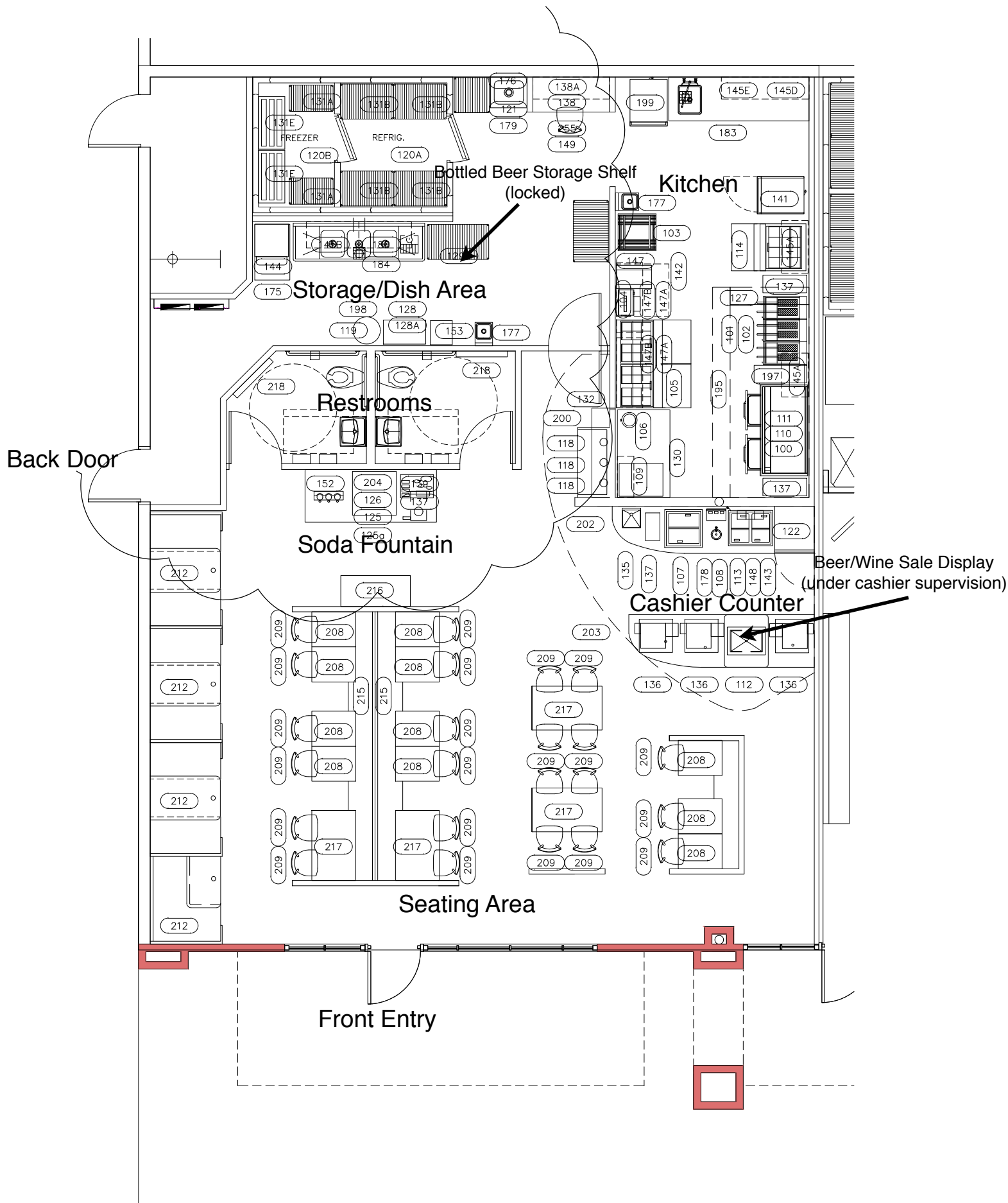
Market Place – Site Plan

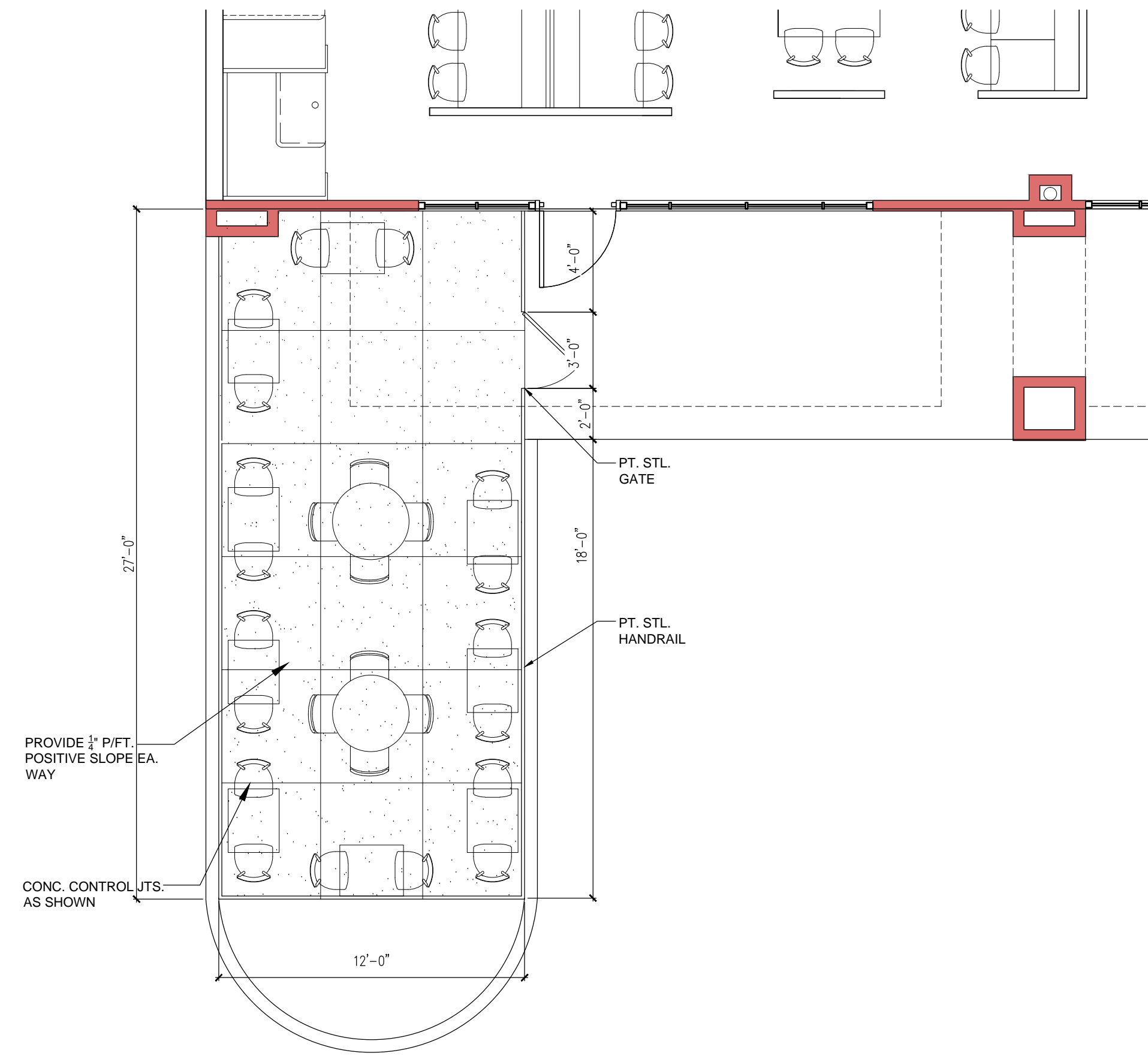


Shop Tenancy

TOTAL SF
291,844

| SUITE # | TENANT | SF | SUITE # | TENANT | SF |
|---------|-----------------------|--------|---------|-------------------|--------|
| 1201 | Taco Bell | 1,670 | 3032 | Available | 2,300 |
| 1313 | Starbucks | 1,250 | 3034 | Time Warner | 1,760 |
| 1415 | Whataburger | 3,787 | 3036 | Jason's Deli | 4,783 |
| 2902 | Mr. Mike's Pizza | 1,066 | 3038 | Available | 1,200 |
| 2904 | Sprint | 1,334 | 3040 | Pier 1 Imports | 8,067 |
| 2906 | Subway | 1,279 | 3048 | The Avenue | 5,483 |
| 2910 | Advance America Cash | 1,036 | 3052 | Payless Shoes | 2,880 |
| 2912 | Standard Insurance | 1,036 | 3056 | Supercuts | 1,520 |
| 2924 | Available | 1,608 | 3060 | Beall's | 30,000 |
| 2930 | Al's Formal Wear | 2,008 | 3070 | Available | 21,067 |
| 2934 | Available | 771 | 3108 | Available | 1,980 |
| 2940 | Hollywood Nails | 900 | 3118 | Buffet City | 3,780 |
| 3002 | HEB Grocery Co. | 72,574 | 3122 | Available | 1,620 |
| 3004 | Chase ATM | 84 | 3126 | Expressions | 1,600 |
| 3008 | Smashburger | 1,959 | 3130 | Coach House Gifts | 4,800 |
| 3010 | TCBY | 1,026 | 3138 | Available | 1,600 |
| 3012 | Mattress Firm | 3,775 | 3144 | Dollar Tree | 10,000 |
| 3016 | Rent-A-Center | 6,875 | 3150 | Kool Smiles | 6,600 |
| 3020 | Dietz McClean Optical | 2,030 | 3156 | Available | 1,400 |
| 3022 | Game Stop | 1,693 | 3160 | Available | 2,200 |
| 3024 | Wingstop Restaurants | 1,760 | 3166 | Joe's Pizza | 3,000 |
| 3028 | Available | 2,683 | 3170 | Kohl's | 62,000 |





01 DIMENSIONED FLOOR PLAN
SCALE: 1/4"=1'-0"

SHEET TITLE
DIMENSIONED FLOOR
PLAN

| REVISIONS | |
|-----------|------|
| NO. | DATE |
| 1 | .. |
| 2 | .. |
| 3 | .. |
| 4 | .. |
| 5 | .. |
| 6 | .. |
| 7 | .. |
| 8 | .. |

DATE:
9/30/11

PROJECT NO.

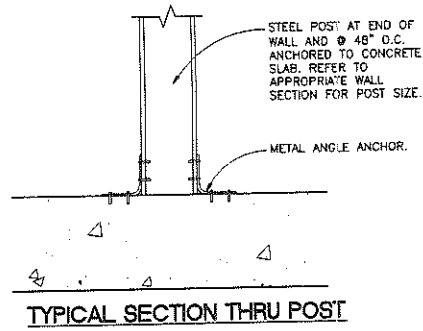
SHEET NO.

PATIO



3008 S. 31st ST.
TEMPLE, TEXAS 76502

LOW WALL PLAN



07 SECTION
SCALE: 1 1/2"=1'-0"

BLOCKING.

PRE FAB COOLER PANELS

FRP PANELS
6" GALVALUME CLOSURE PLATE - PROVIDED & INSTALLED BY T.G.C.

SANITARY SEALANT - CONT. ALL JOINTS

08 COOLER WALL CLOSURE DTL
SCALE: NTS

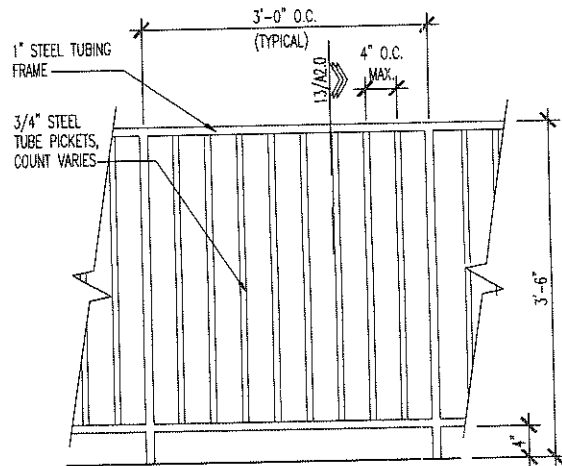
BASE AS SCHED.

1/2" RISE

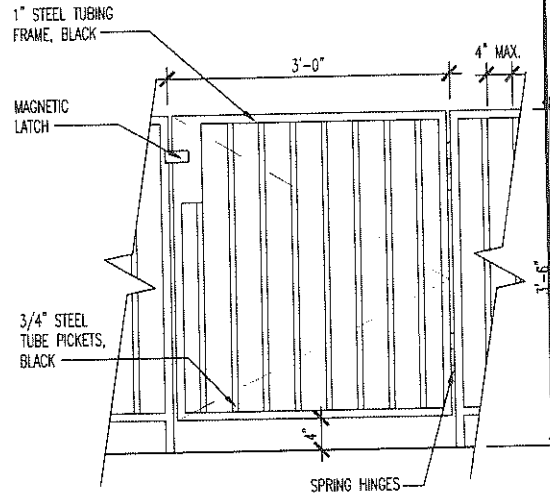
INSTALL NP-1 CAULK TO SEAL JOINT AT DUROCK AND CONCRETE FLOOR

T.G.C. SHALL SLAB UP AT PREP AREAS (ALL QUARRY TILE AREAS)

09 TILE BASE DETAIL
SCALE: NTS

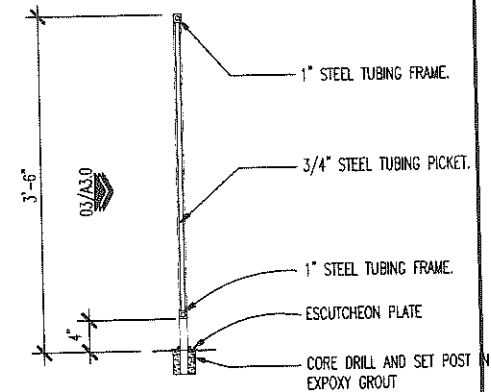


10 TYP. RAILING ELEV
SCALE: 3/4"=1'-0"



11 PATIO GATE ELEV
SCALE: 3/4"=1'-0"

NOTE:
ALL PATIO RAILING FINISHES TO BE PAINTED GLOSS BLACK.



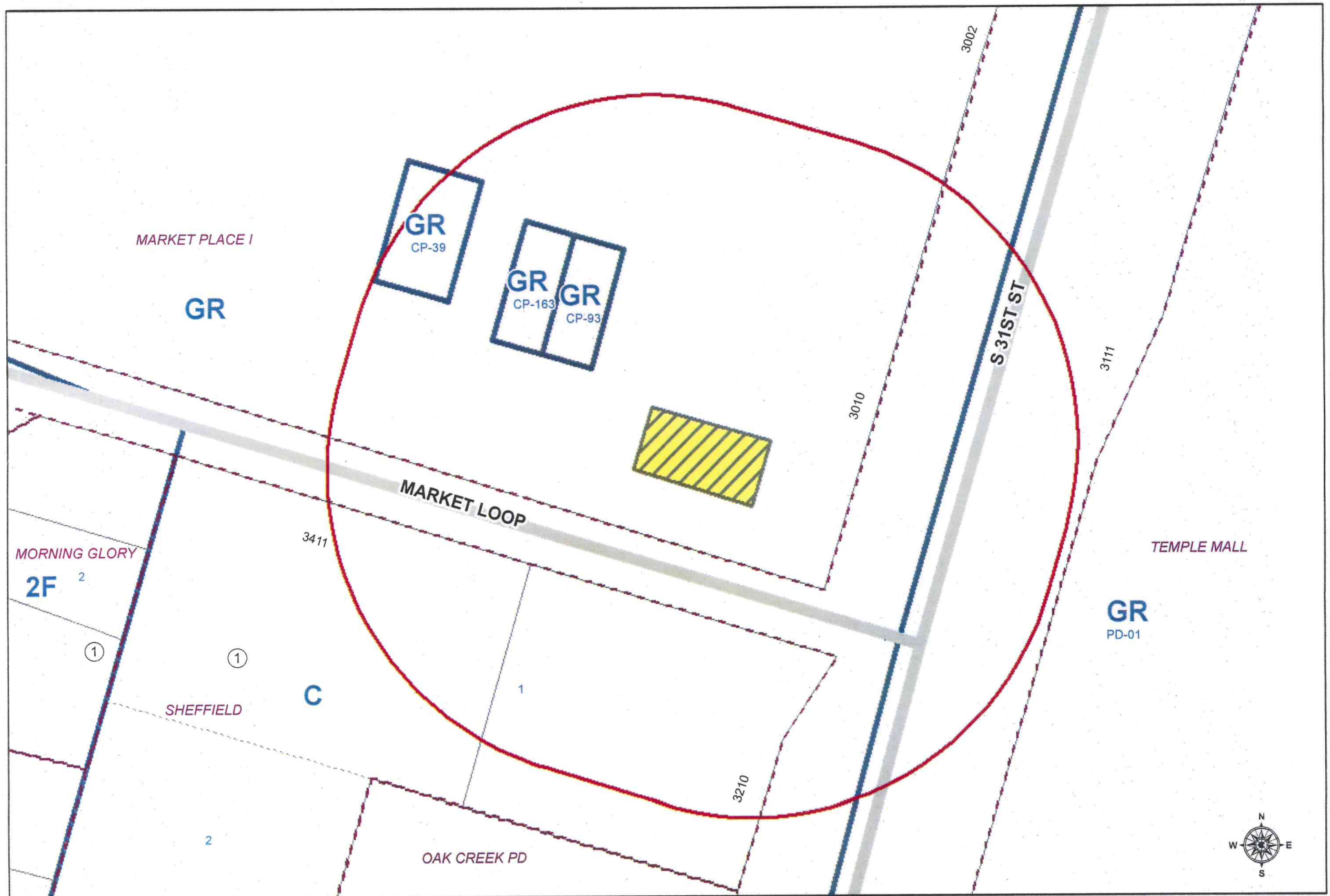
12 PATIO RAIL SECTION
SCALE: 3/4"=1'-0"



Z-FY-12-32

Conditional Use Permit for On-Premise Alcohol Consumption <75%

3008 S. 31st St.



2345 ZFY 12-32

Addresses

Zoning Boundary

Subdivision Boundary

LMatlock 02.17.12



PLANNING AND ZONING COMMISSION AGENDA ITEM

3/19/12
Item 3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Brad Brown for TR Austin Retail Corp

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-12-32 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street.

BACKGROUND: The applicant requests this Conditional Use Permit (CUP) to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in the Smashburger restaurant at 3008 South 31st Street, in the Market Place shopping center.


The applicant's initial site plan and floor plan were reviewed by DRC on February 21, 2012 and are attached to this report. The applicant has altered the initial site plan by proposing an outdoor seating area with approximately 26 seats in the location of the current planting bed island at the Smashburger entrance. The interior restaurant seats up to 60 patrons. The applicant's floor plan and site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council.

Smashburger is opened 10:00 AM – 10:00 PM daily. Alcohol sales are proposed during all hours of operation. The applicant has initiated the license process with TABC. The license is pending the approval of this CUP request. All sales staff will undergo mandatory TABC training.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure is approximately 750 feet from Smashburger.

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 | GR | Shopping Center with grocery store, restaurants, and service uses |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|--------|--------------------------------------|--|
| North | GR | Retail, Office, and Service Uses |  |
| South | C | Restaurant, Retail, and Service Uses |   |

| Direction | Zoning | Current Land Use | Photo |
|-----------|---------------|--|---|
| East | PD-GR | Shopping Mall |  |
| West | GR, C, and 2F | Shopping Center, Restaurant, Retail, Service Uses, and Residential |  |

COMPREHENSIVE PLAN COMPLIANCE:

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

| Document | Policy, Goal, Objective or Map | Compliance? |
|----------|---|-------------|
| CP | Map 3.1 - Future Land Use and Character | Yes |
| CP | Map 5.2 - Thoroughfare Plan | Yes |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | Yes |
| CP | Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area. | Yes |

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as Auto-Urban Commercial. The request complies with this designation.

Thoroughfare Plan (CP Map 5.2)

The Smashburger restaurant is within the Market Loop shopping center, but located at the shopping center's entrance at Market Loop. The Thoroughfare Plan classifies Market Loop as a collector. The entrance is near Market Loop's intersection with South 31st Street, a major arterial. This busy intersection is controlled by a traffic light. Since Smashburger is located within the Market Loop

shopping center, customers have an option to avoid Market Loop by accessing the site from within the shopping center.

Availability of Public Facilities (CP Goal 4.1)

A 6-inch water line is located south of the building and an 8-inch water line along the property line at South 31st Street. There is an 8-inch sewer line along the front of the building.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the two property owners within the 200-foot radius surrounding the C.U.P. site. As of Tuesday, March 13, 2012 at 3:00 PM, no notices from property owners were returned in favor of the request and none were returned in opposition to the request. One courtesy notice from a business within the Market Place shopping center was received in favor of the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on February 8, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the requested Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption less than 75% of the gross revenue in the existing Smashburger restaurant 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.

Staff also recommends the following conditions based on the proposed outdoor seating:

1. Finish the proposed outdoor seating area concrete in a decorative finished with stained and stamped concrete.
2. Limit outdoor seating to 18 seats, removing the middle tables to allow for greater maneuverability.
3. Adhere to all TABC rules concerning outdoor consumption of alcohol.
4. Add decorative umbrellas for 50% of the outdoor tables.
5. Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial, Thoroughfare Plan Map and Trails Plan Map](#)
[Land Use and Character Map](#)
[CUP Distance Map](#)
[CUP Site Plan](#)
[CUP Floor Plan](#)
[CUP Outdoor Seating Plan](#)
[CUP Outdoor Seating Rail Specifications](#)
[Notice Map](#)
[Response Letter](#)



**COURTESY NOTICE
RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT**

Manager
Dietz-McLean Optical
3200 South 31st Street
Temple, Texas 765026

Zoning Application Number: Z-FY-12-32

Project Manager: Tammy Lyerly

Location: 3008 South 31st Street (The Market Place)

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

I recommend ☒ approval () denial of this request.

Comments:

JAD ELLIOTT
(Signature)

JAD ELLIOTT
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than March 19, 2012.

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

RECEIVED

MAR 12 2012

City of Temple
Planning & Development

Number of Notices Mailed: 2

Date Mailed: March 8, 2012

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, MARCH 19, 2012**

ACTION ITEMS

Item 3: Z-FY-12-32: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for onpremise consumption less than 75% of the gross revenue in a restaurant, on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street. (Brad Brown for TR Austin Retail Corp.)

Ms. Tammy Lyerly, Planner, stated this case would proceed to City Council for first reading on April 5th and second reading and final action on April 19th.

This request is for a Conditional Use Permit (CUP) for alcoholic beverage sales for on-premise consumption less than 75% of gross revenue for Smashburger Restaurant. The zoning is General Retail (GR) and the applicant is proposing indoor and outdoor seating.

Surrounding properties include the shopping center and office building to the north, Long John Silver's to the south, Temple Mall to the east (across 31st Street), and the back of Market Place Shopping Center to the west.

The request complies with the Future Land Use and Character Map which designate the area as Auto-Urban Commercial.

As in all CUP requests and in accordance with state and local laws requiring at least 300 feet distance from churches, places of worship, public schools, public hospitals, etc., the restaurant exceeds the required distance and the nearest residence is approximately 750 feet away from the subject site.

The site plan is shown.

The applicant is working with TABC and has indicated all staff would be trains to TABC regulations.

The indoor seating accommodates approximately 60 seats and the applicant is proposing outdoor seating which would accommodate 26 seats. The proposed outdoor seating would replace the current planting bed island area located by their front entrance, and would be enclosed with a railing and a gate.

Staff felt too many seats were being requested for the outdoor area and asked the applicant to reduce it to 18, take out the middle tables, and add some umbrellas for shade cover (50% coverage of shading).

Staff requested if the outdoor seating request were approved, that the landscaping/vegetation bed be kept but relocated.

Two notices were mailed out to the property owners with zero notices returned in favor or opposed. One courtesy notice was received from surrounding business owners.

Staff recommends approval of this request since it is compatible with the Future Land Use and Character Map, complies with the Thoroughfare Plan, and public facilities are available to serve the property. Staff also recommends the following conditions:

- Finish the proposed outdoor seating area with concrete in a decorative finish with stained and stamped concrete;

- Limit outdoor seating to 18 seats, removing the middle tables to allow for greater maneuverability;

- Adhere to all TABC rules concerning outdoor consumption of alcohol;

- Add decorative umbrellas for 50% of the outdoor tables; and

- Relocate the existing landscape proposed to be removed for the outdoor seating area to another landscape area near the site on Market Loop and South 31st Street. Required in conjunction with the building permit required for the outdoor seating area improvements.

Vice-Chair Staats asked if the umbrellas were required by an ordinance and Ms. Lysterly stated no, but it is something Staff felt would be needed since there are no trees or shade of any type around the subject site. A CUP may have additional conditions attached in order to improve the request and/or site.

Discussion regarding the amount of seats needed for the seating area which is 27 feet by 12 feet. Staff felt more maneuverability was needed and asked for less seating space.

Commissioner Talley asked about the fencing and Ms. Lysterly stated the applicant is proposing to enclose the outdoor seating area with a metal railing with a gate.

Discussion about the elevation of the seating area (planting bed island).

Chair Martin opened the public hearing.

Mr. Brad Brown, 3320 Fidel Avenue, Waco, Texas, approached.

Vice-Chair Staats asked about the outdoor seating fence gate that accesses the parking lot approximately ten feet away and people walking off with alcohol. Mr. Brown stated the design was intended to allow the gate to open directly in front of the front door area where there is good visibility to keep watch.

Discussion about the direction of the gate.

Mr. Brown stated if the center tables needed to be removed to allow access, he would do so. Chair Martin asked if the applicant were opposed to removing the center tables and making the side tables have more seats. Mr. Brown stated from his experience, patio seating tends to be used by smaller groups. If the outside tables needed to be four seats that could be done; however, they would like to get as much seating as possible.

Commissioner Talley asked about the landscaping and where it would go. Mr. Brown stated there was a bump out on the entry that is just grass. Landscaping would make that area look nicer.

Commissioner Rhoads asked if there had been any traffic issues in relation to the tightness of the driving and parking area. Mr. Brown stated so far there have been no traffic incidents and seems to be flowing smoothly.

Commissioner Sears stated rather than limiting the seating to 18, he felt 20 seats would fit comfortably in a design of the applicant's choosing. Mr. Brown stated 22 seats would give them a perfect setup with a wide enough isle.

Chair Martin closed the public hearing.

Commissioner Sears made a motion to approve Item 3, **Z-FY-12-32**, with the proposed exceptions, except to allow 22 seats instead of the 18 requested, and Commissioner Jones made a second.

Motion passed: 9:0

[PLANNING NO. Z-FY-12-32]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION, MORE THAN 50% AND LESS THAN 75% OF THE TOTAL GROSS REVENUE IN A RESTAURANT LOCATED AT 3008 SOUTH 31ST STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; 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 concerning the establishment at 3008 South 31st Street, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption in a restaurant located on Lot 1, Block 1, The Market Place Section One, located at 3008 South 31st Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The owners/applicants, their employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- (a) Finish the proposed outdoor seating area concrete in a decorative finish with stained and stamped concrete.
- (b) Limit outdoor seating to 22 seats, removing the middle tables to allow for greater maneuverability.
- (c) Adhere to all TABC rules concerning outdoor consumption of alcohol.
- (d) Add decorative umbrellas for 50% of the outdoor tables.
- (e) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (f) 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.
- (g) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (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.
- (h) 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.
- (i) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (j) 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 his obligations hereunder.
- (k) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (l) 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.

- (m) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.
- (n) 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.
- (o) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

Part 3: 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 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the 5th day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the 19th day of **April**, 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

04/19/12
Item #4(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci Barnard, Director of Finance

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

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

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

FISCAL IMPACT: The total amount of budget amendments is \$50,603.

ATTACHMENTS:

[Budget Amendments](#)
[Resolution](#)

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 19, 2012

| | | | APPROPRIATIONS | |
|--|-----------|---|----------------|-----------|
| ACCOUNT # | PROJECT # | DESCRIPTION | Debit | Credit |
| 110-1400-511-1118 | | Extra Help/Seasonal (City Secretary's Office) | \$ 5,942 | |
| 110-1400-511-1220 | | Retirement/Pension | \$ 1,053 | |
| 110-1400-511-1221 | | Social Security | \$ 86 | |
| 110-1400-511-1223 | | Workers Compensation | \$ 10 | |
| 110-1400-511-1224 | | Unemployment Insurance | \$ 178 | |
| 110-0000-318-0000 | | Fund Balance Reserved/Vital Statistic Preservation Funds | | \$ 7,269 |
| Increase personnel expenditure accounts to cover the cost of a Records Assistant part-time position for April 9, 2012 thru September 30, 2012. Funds are available from fund balance reserve for the monies collected from prior years for Vital Statistic Preservation. | | | | |
| 110-1900-519-2228 | 100858 | Capital < \$5,000 - Public Education Government Exp. (ITS Department) | \$ 28,000 | |
| 110-1900-519-6228 | | Capital Equipment - Public Education Government Exp. | \$ 13,000 | |
| 110-0000-413-0435 | | Public Education Channel (1% Cable Fee) | | \$ 41,000 |
| To fund new TV Automation Playlist for approximately \$13,000 (Capital), new PC's for Council Chambers \$11,000, new cameras \$12,500 and apply approximately \$4,500 along with current funds in 22-28 to upgrade V-desk. This is all for Channel 10. | | | | |
| 110-2011-521-2516 | | Judgments & Damages (Police Department) | \$ 500 | |
| 110-1500-515-6531 | | Contingency - Judgments & Damages | | \$ 500 |
| Settlement of claim for alleged damage to front door at 2405 Scott Boulevard on January 20, 2012. | | | | |
| 110-3500-552-2516 | | Judgments & Damages (Parks Division) | \$ 127 | |
| 110-1500-515-6531 | | Contingency - Judgments & Damages | | \$ 127 |
| Settlement of claim filed against the City seeking reimbursement for damages to a 1998 Ford Expedition by a rock thrown by a weed eater on March 22, 2012, while parked at the park by the Glen Apartments. | | | | |
| 110-4000-555-2510 | | Contributions/Prizes (Library) | \$ 425 | |
| 110-4000-555-2623 | | Other Contract Services | \$ 75 | |
| 110-0000-461-0841 | | Donations/Gifts | | \$ 500 |
| Use donations for Summer Reading Program as designated | | | | |
| 110-4000-555-2225 | | Books & Periodicals (Library) | \$ 600 | |
| 110-0000-314-1917 | | Reserve for Library | | \$ 600 |
| Purchase history books as specified with MacGregor Trust Funds | | | | |
| 520-5200-535-2516 | | Judgments & Damages (Water Distribution) | \$ 585 | |
| 520-5000-535-6532 | | Contingency | | \$ 585 |
| Settlement of claim alleging damage to a 2001 Mercury Grand Marquis LS 4-door sedan from unsafe backing by Utility Services dump truck driver on March 16, 2012. | | | | |
| 520-5300-535-2516 | | Judgments & Damages (Metering) | \$ 22 | |
| 520-5000-535-6532 | | Contingency | | \$ 22 |
| Settlement of claim for alleged injury to dog from pepper spray administered by meter reader at 1318 S. 39th Street on March 30, 2012. | | | | |
| TOTAL AMENDMENTS | | | \$ 50,603 | \$ 50,603 |

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2012 BUDGET
April 19, 2012

| ACCOUNT # | PROJECT # | DESCRIPTION | APPROPRIATIONS | |
|----------------------|-----------|---|----------------|-----------|
| | | | Debit | Credit |
| GENERAL FUND | | | | |
| | | Beginning Contingency Balance | \$ | - |
| | | Added to Contingency Sweep Account | \$ | - |
| | | Carry forward from Prior Year | \$ | - |
| | | Taken From Contingency | \$ | - |
| | | Net Balance of Contingency Account | \$ | - |
| | | Beginning Judgments & Damages Contingency | \$ | 80,000 |
| | | Added to Contingency Judgments & Damages from Council Contingency | \$ | - |
| | | Taken From Judgments & Damages | \$ | (28,051) |
| | | Net Balance of Judgments & Damages Contingency Account | \$ | 51,949 |
| | | 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 | \$ | 86,964 |
| | | 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 | \$ | (31,738) |
| | | Net Balance of Contingency Account | \$ | 18,262 |
| | | 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 | \$ | 30,577 |
| 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 2011-2012 CITY BUDGET; AND PROVIDING AN OPEN
MEETINGS CLAUSE.

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

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

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

Part 1: The City Council approves amending the 2011-2012 City Budget by adopting the budget amendments which are more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

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

PASSED AND APPROVED this the 19th day of **April**, 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

4/19/12
Item #5
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Kim Foutz, Assistant City Manager

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-12-33: Consider adopting an ordinance approving a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment, on Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop.

P&Z COMMISSION RECOMMENDATION: At its April 2, 2012 meeting, the Planning and Zoning Commission voted 8/0 to recommend approval of a Conditional Use Permit for the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment at 5434 205 Loop with the following condition:

6. The landscaping plan meets minimum requirements, however it is subject to change and staff will offer to bring it back for review if City Council desires.

Chair Martin was absent.

STAFF RECOMMENDATION: Staff recommends approval of the requested Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment at 5434 205 Loop, on first reading, and schedule second reading and final approval for May 3, 2012, with the following condition:

6. The landscaping plan meets minimum requirements, however it is subject to change and staff will offer to bring it back for review if City Council desires.

ITEM SUMMARY: Please refer to the Staff Report and draft minutes of case Z-FY-12-33, from the Planning and Zoning Commission meeting, April 2, 2012. This requested Conditional Use Permit is for Spare Time Entertainment.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure, from the Summit Ridge Apartments, is approximately 407 feet from the CUP site.

If approved, Spare Time Entertainment will require all servers and bartenders to successfully complete TABC training prior to working their first non-training shift. They will also be required to follow the attached Spare Time Temple Alcohol Service Policies.

The CUP site plan shows adequate traffic circulation throughout the property. The applicant's site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council. Staff seeks direction from City Council on future amendments to the landscaping plan which may change due to possible economic development requirements.

PUBLIC NOTICE: Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the C.U.P. site. As of Wednesday, April 4, 2012 at 10:00 AM, two notices from property owners were returned in favor of the request and none were returned in opposition to the request. One courtesy notice from surrounding was received in favor of the request and none were received in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 22, 2012 in accordance with state law and local ordinance.

FISCAL IMPACT: NA

ATTACHMENTS:

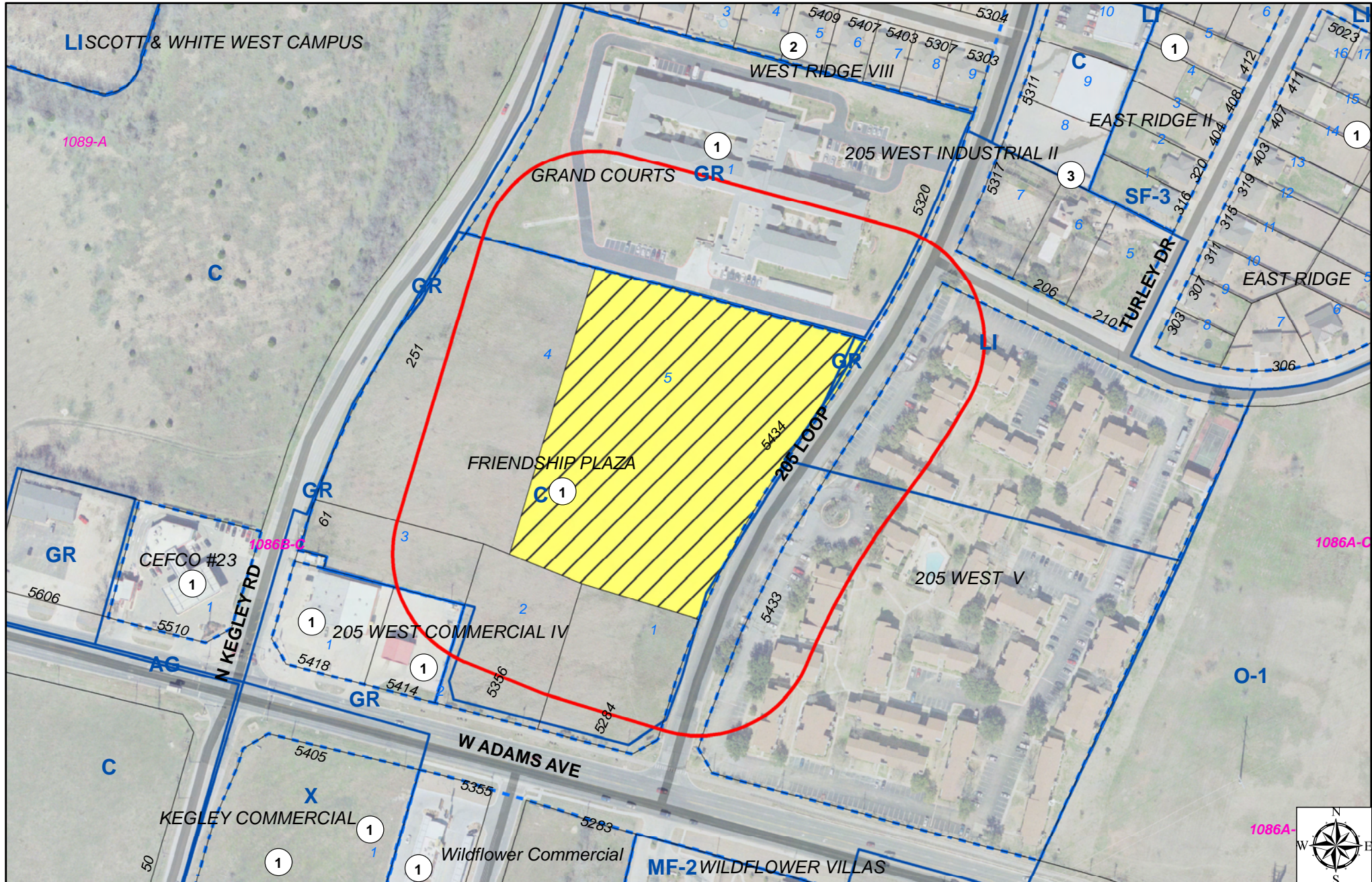
[Planning and Zoning Commission Staff Report and Attachments April 2, 2012](#)
[Planning and Zoning Commission Minutes April 2, 2012](#)
[Ordinance](#)



Z-FY-12-33

CUP - Alcohol
> 50% + < 75%

5434 205 Loop



ZFY 1233



Zoning Boundary

1234-A Outblock Number

① Block Number

0 50 100

Feet



200' Buffer



Subdivision Boundary

1234 Address

1 Lot Number

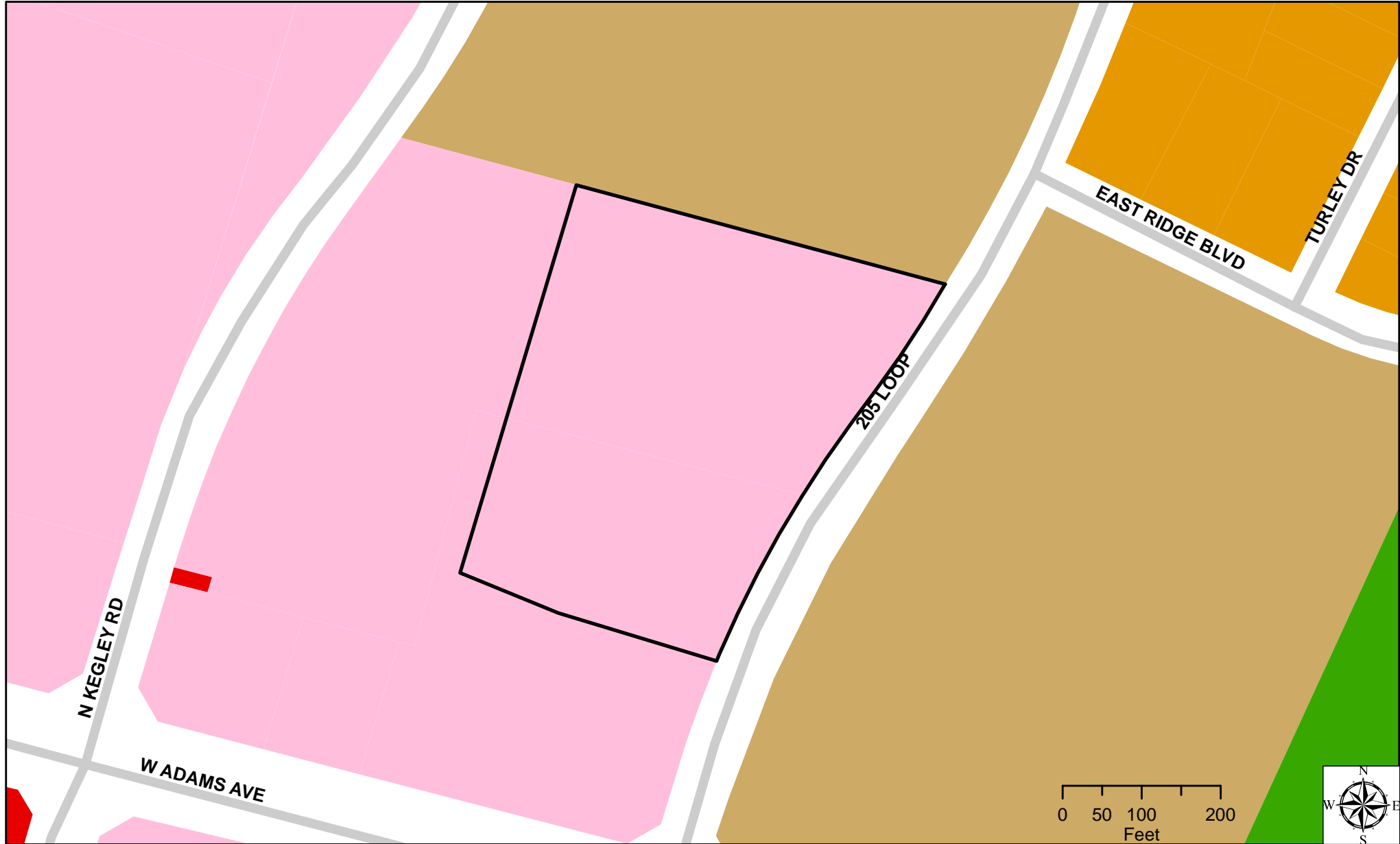
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Z-FY-12-33

CUP - Alcohol
> 50% + < 75%

5434 205 Loop



Future Land Use

| | | | | |
|---------------------------|-------------------------|-----------------------|-----------------------------------|----------------------|
| 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 |

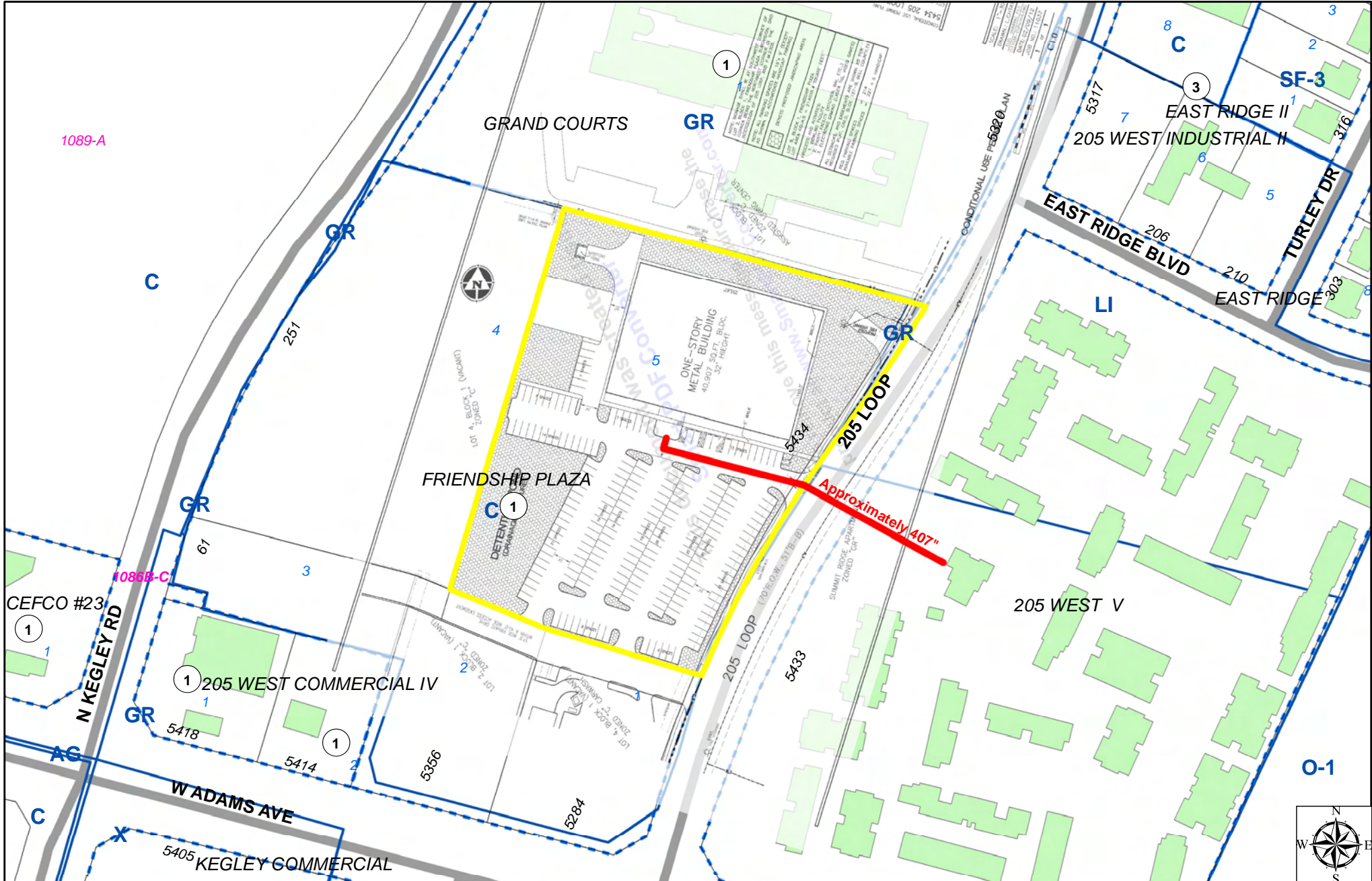
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Z-FY-12-33

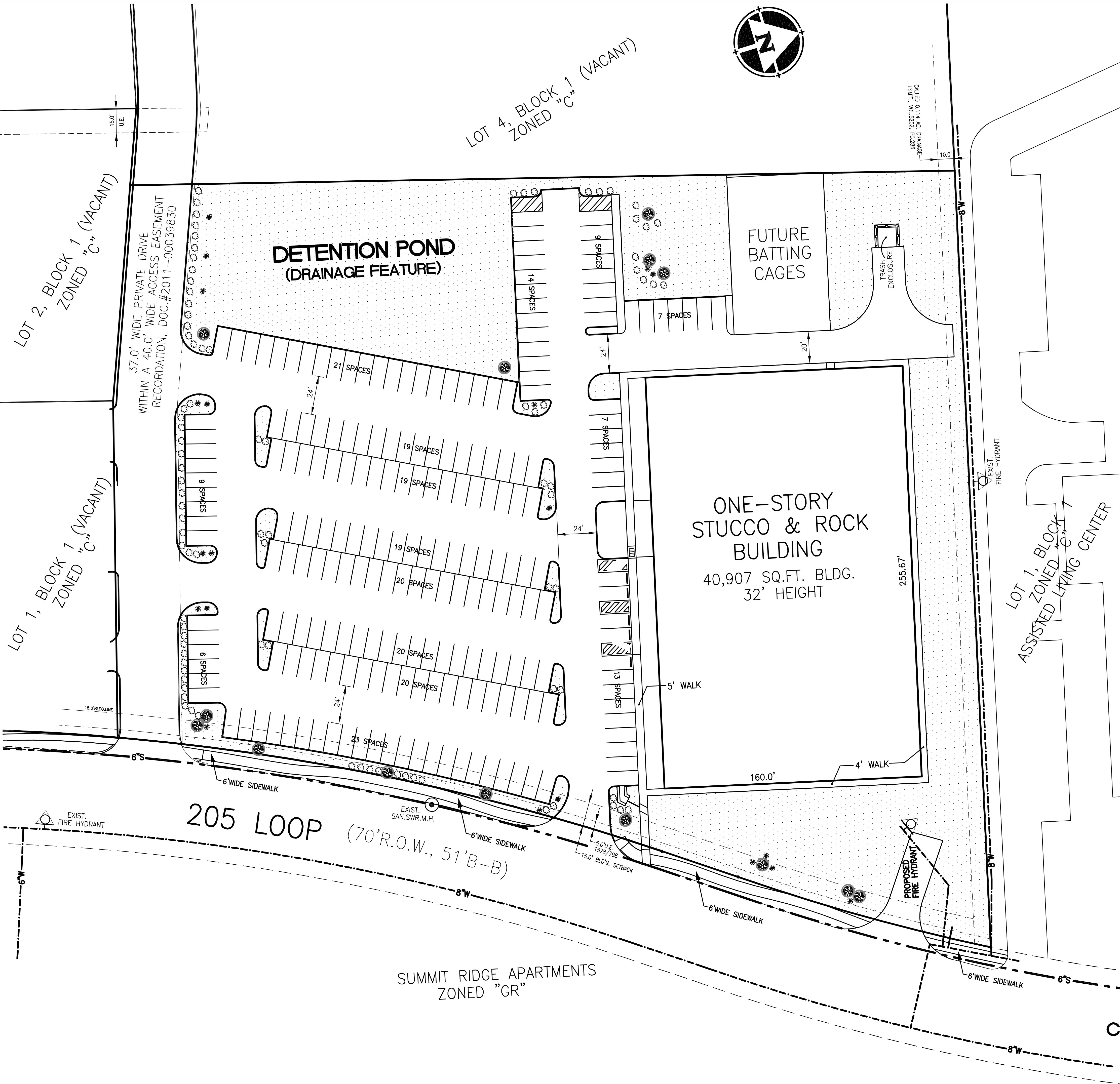
CUP - Alcohol
> 50% + < 75%




5434 205 Loop



— Residence Distance 1234 Address 1 Lot Number [Dashed Blue Box] Subdivision Boundary 0 100 200
[Yellow Box] ZFY 1233 ① Block Number 1234-A Outblock Number [Blue Box] Zoning Boundary Feet

GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



| | |
|--|-----------------|
| LOT 5, BLOCK 1, FRIENDSHIP PLAZA LOT AREA EQUALS = 214035.4 SQUARE FEET | |
|  | 5 GALLON SHRUB |
|  | CANOPY TREE |
|  | NON-CANOPY TREE |
| REQUIRED LINEAR FOOTAGE OF LOT ON 205 LOOP = 560 ft. DIVIDED BY 40 = 14 CANOPY TREES 5% OF LOT = 10702 SQ.FT. LANDSCAPE | |
| PROPOSED AREA OF SOD = 29% OF LOT (63010 SQ.FT.)(BERMUDA) 14 CANOPY TREES 24 NON-CANOPY TREES 92 SHRUBS - 5 GALLON | |

CONDITIONAL USE PERMIT -LANDSCAPING



REVISIONS



**BELTON
ENGINEERING
INC.**

106 NO. EAST STREET
BELTON, TEXAS 76513
OFFICE (254)731-5600
MOBILE (254)289-7273
beltonengineeringinc.com

- Engineering
- Design/Build
- Planning

CONDITIONAL USE PERMIT LANDSCAPING:
5434 205 LOOP
CITY OF TEMPLE, BELL COUNTY, TEXAS
SPARE TIME ENTERTAINMENT CENTER
5434 205 LOOP, CITY OF TEMPLE TX

SCALE: 1"=30'

DRAWN.: S.H.

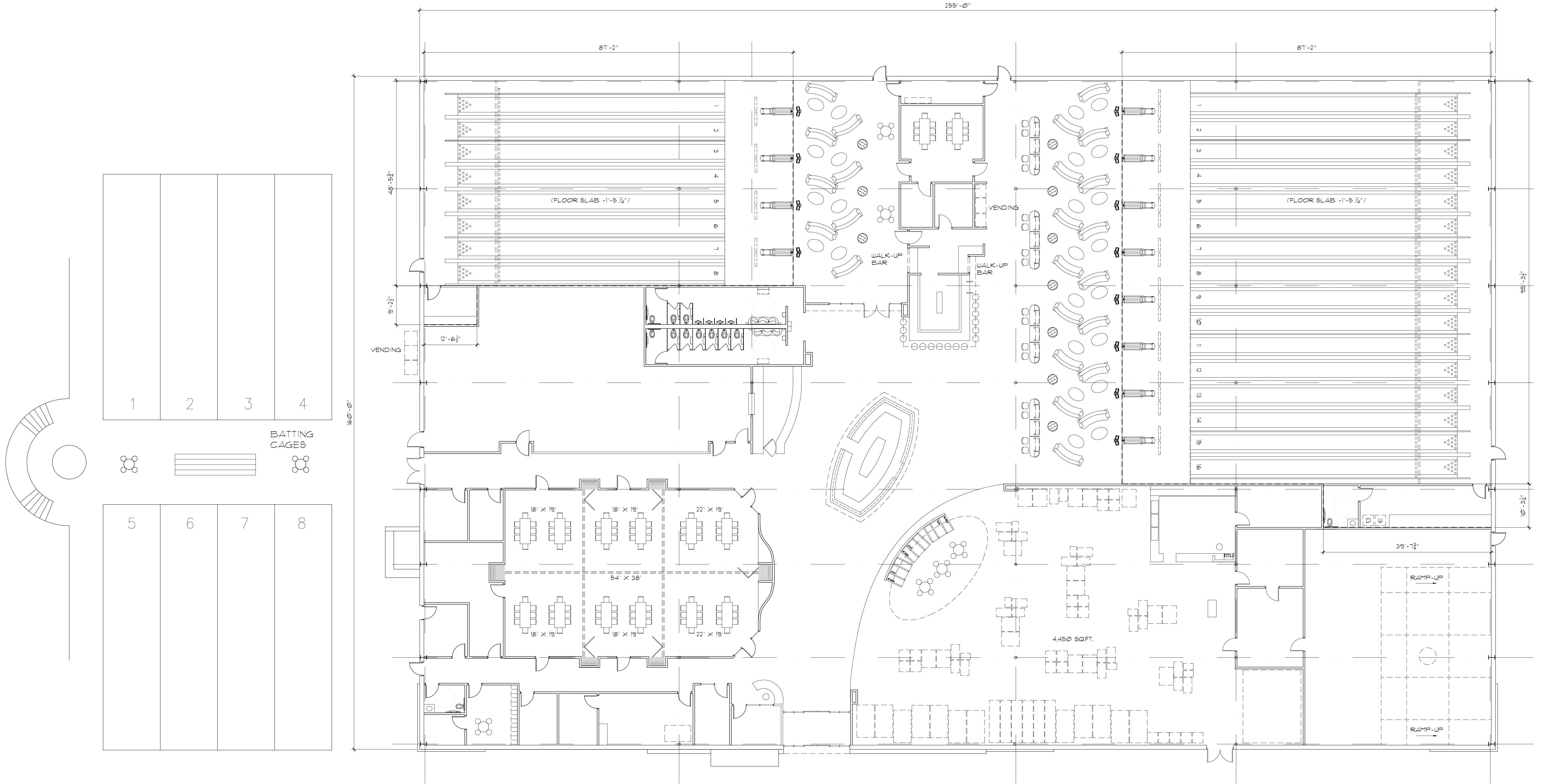
ELEC. DRAWING FILE
C:11038-CUPermit.DWG

DATE: 03/09/12

JOB NO.: 11037

2 OF 2

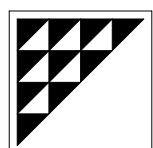
C1.0



CONCEPTUAL PRELIMINARY FLOOR PLAN

24 LANE FAMILY ENTERTAINMENT CENTER - TEMPLE, TX
DATE: 10.7.2011

SCALE: 3/32" = 1'-0"



FITZGERALD+ASSOCIATES

2800 N. GARCIA RD. SUITE 100
OKLAHOMA CITY, OKLAHOMA 73118
405.521.1980
WWW.FITZGERALD.COM



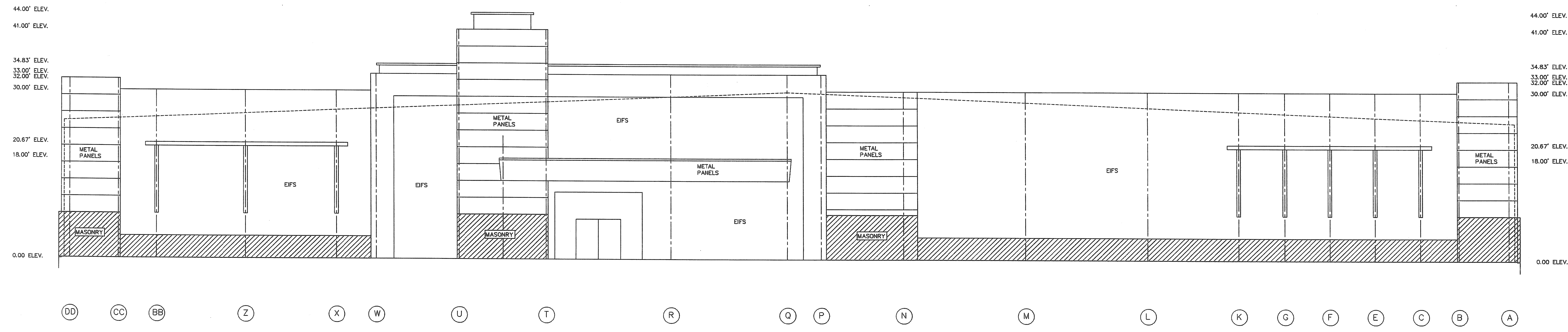
BOWLING

ARCADE

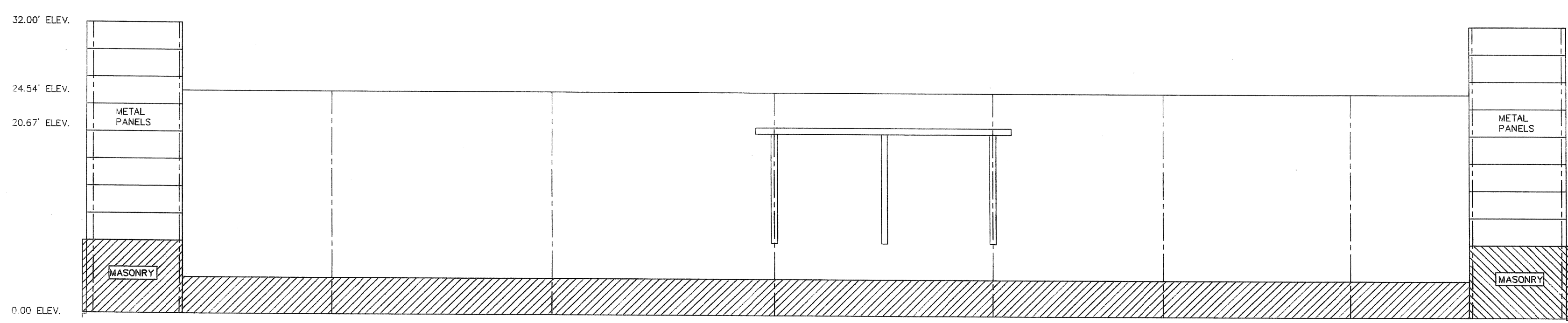
SPARE TIME
FAMILY FUN

LASER TAG

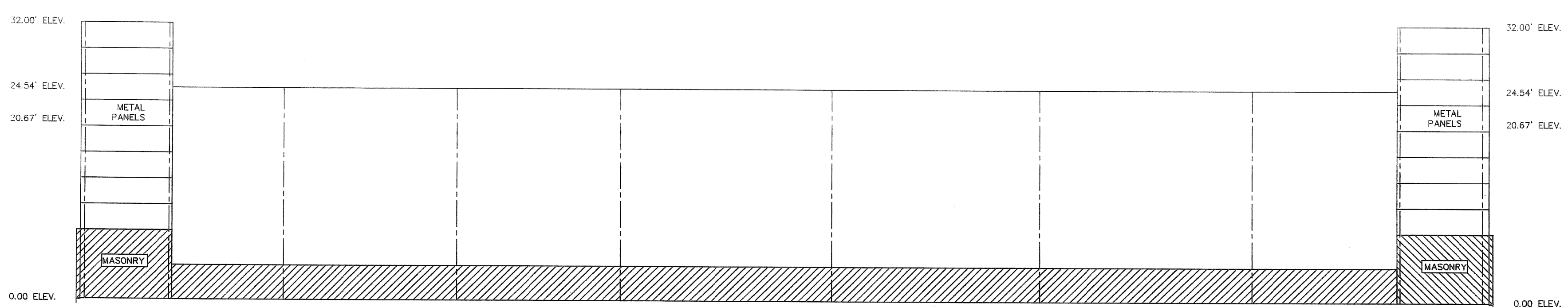
FOOD & FUN



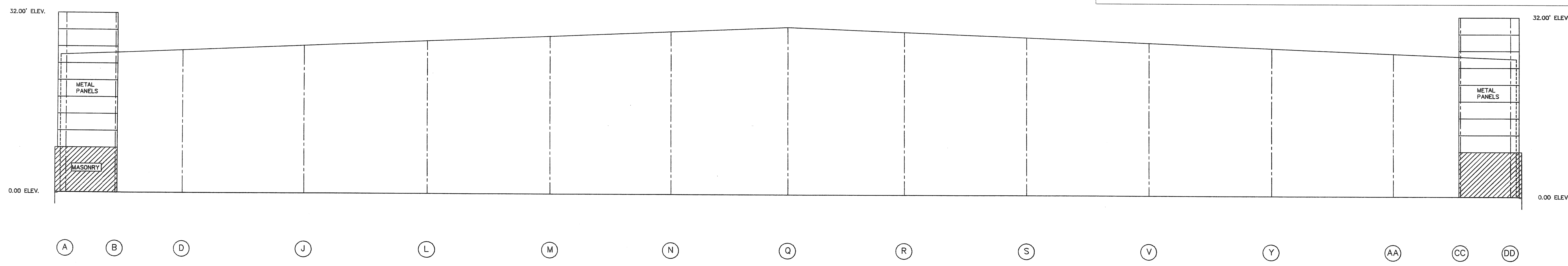
GRID LINE A ELEVATION



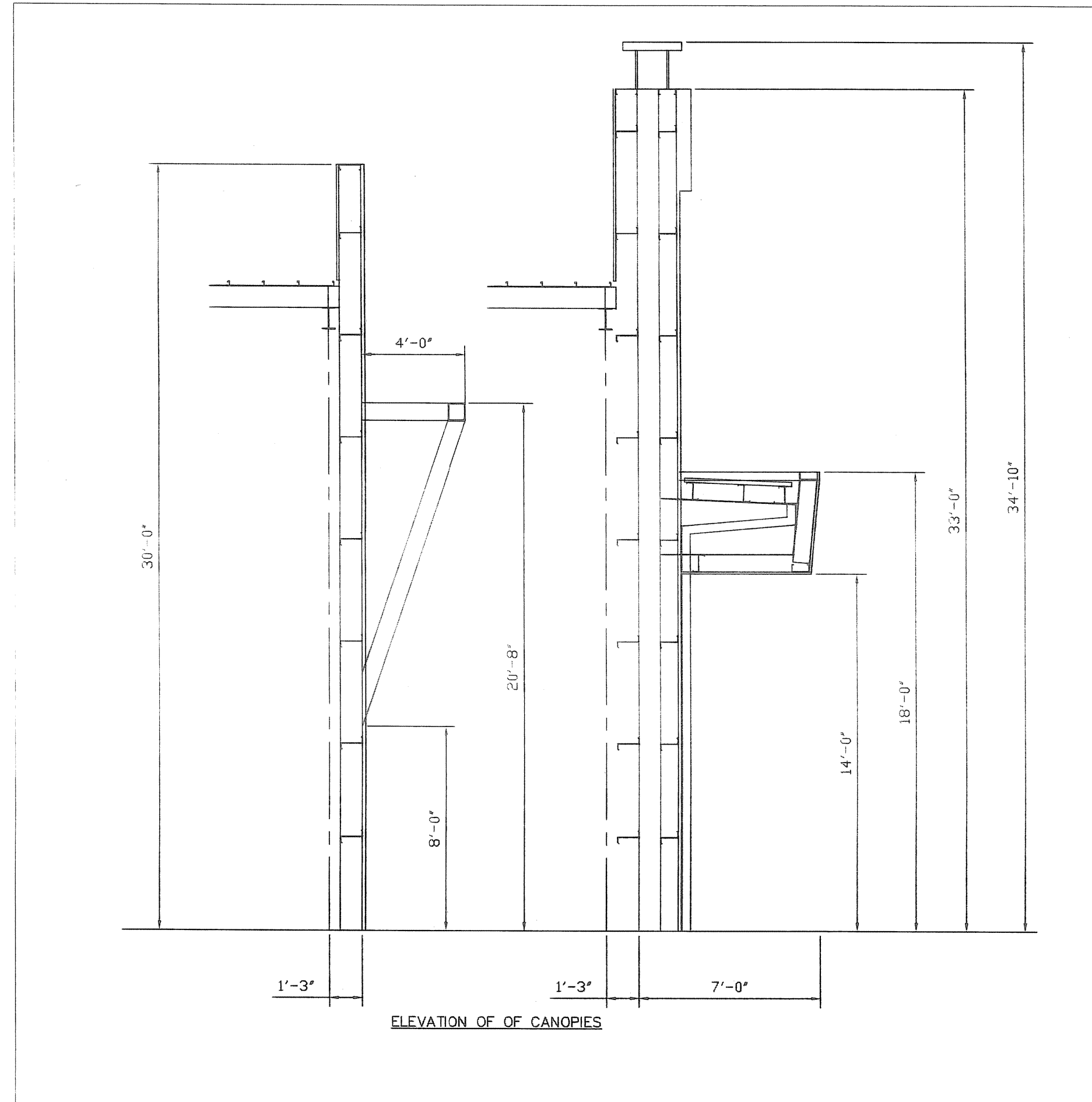
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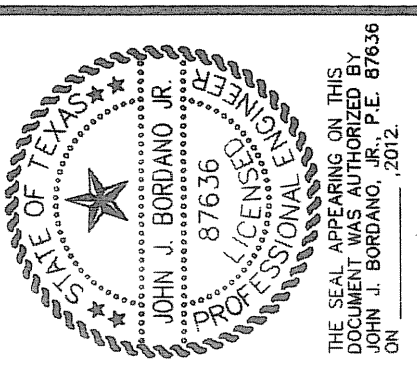
GRID LINE A ELEVATION



GRID LINE 1 ELEVATION



ELEVATION OF OF CANOPIES



Horizon Structural Systems, Inc.
 3950 Hwy. 46 West
 New Braunfels, Texas 78132
 (830) 629-8000 Fax (830) 629-2611
 EMAIL: horizon@horizonstructural.com

| DISTRIBUTION: | DATE: |
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| ENGINEER |
| DETAILER |

ELEVATIONS
DRAWINGS

| |
|-----------------|
| HORIZON JOB NO. |
| DRAWING NO. |

Project: SPARE TIME
Builder: DESIGN BUILD SERVICES
BUILDING CODE:
 Building Code: IBC 2009
 Live Load: 12/20 PSF
 Collateral Load: 3.0 PSF
 Wind Load: 90 MPH EXP. C
 Snow Load: 3.0 PSF

SPARE TIME TEMPLE ALCOHOL SERVICE POLICIES

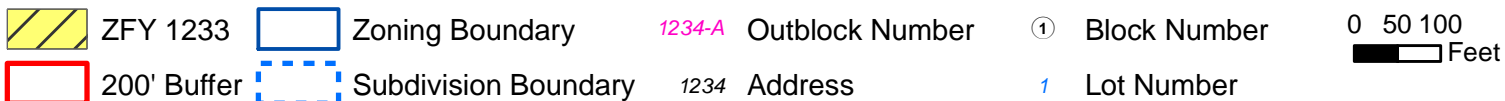
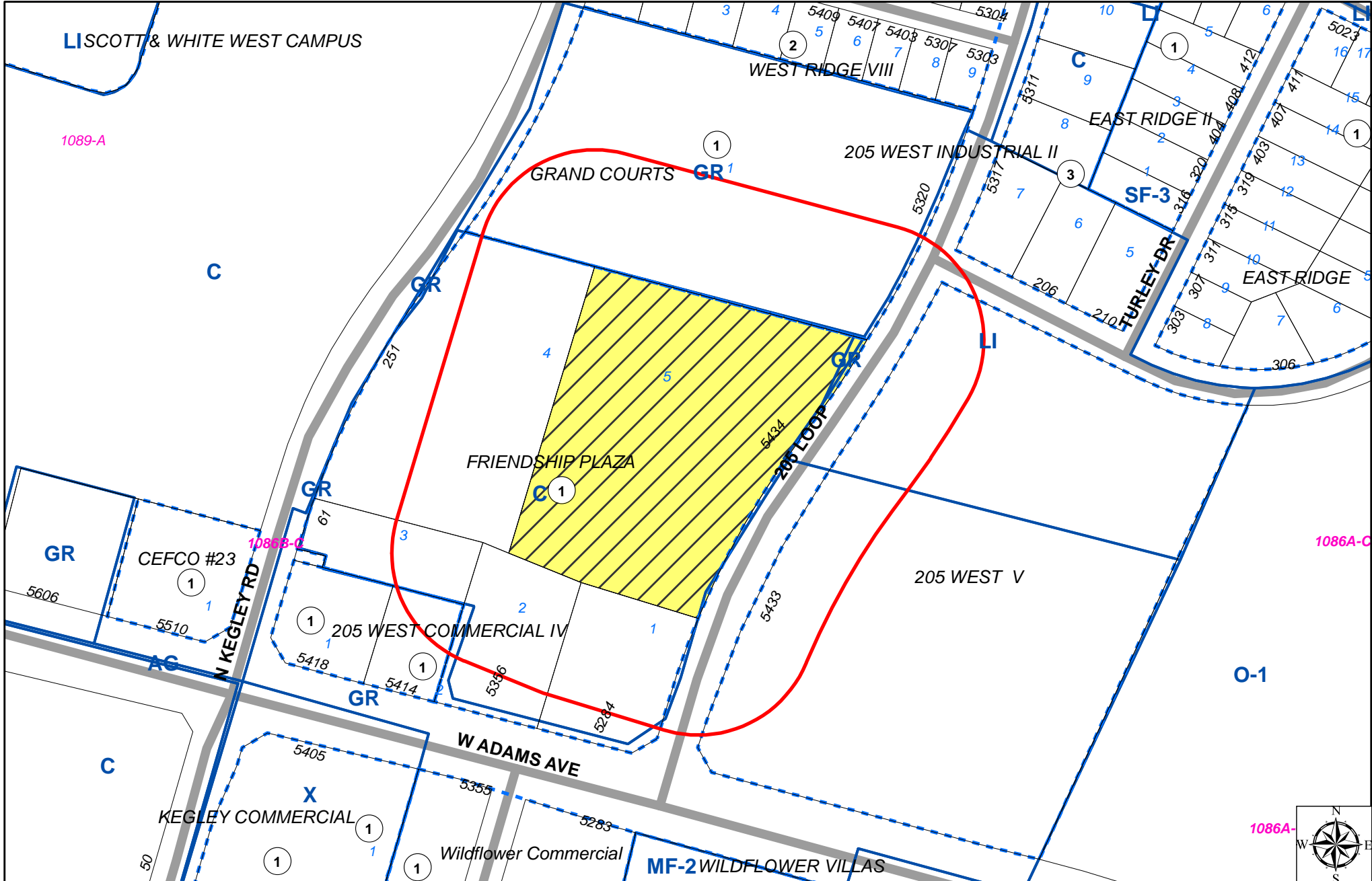
- ALL SERVERS & BARTENDERS WILL SUCCESSFULLY COMPLETE TABC TRAINING PRIOR TO WORKING THEIR FIRST NON-TRAINING SHIFT.
- ADDITIONALLY, TIPS GROUP TRAINING FOR RESPONSIBLE ALCOHOL SERVICE WILL BE CONDUCTED FOR STAFF ON A QUARTERLY BASIS.
- NO STAFF PERSON CAN KNOWINGLY SERVE AN UNDERAGE GUEST OR A GUEST THAT IS SHOWING VISIBLE SIGNS OF INTOXICATION.
- ALL GUESTS THAT APPEAR TO BE AGE 40 AND UNDER WILL HAVE THEIR AGE VERIFIED BY ID INSPECTION.
- ALL GUESTS THAT ARE OF AGE AND CONSUMING ON THE LANES OR IN THE GAME ROOM WILL HAVE A WRISTBAND APPLIED, INDICATING THAT THEY ARE OF THE DRINKING AGE.
- THE BAR POINT OF SALE SYSTEM IS EQUIPPED WITH AGE VERIFICATION SOFTWARE THAT READS THE STATE OF TEXAS DRIVER'S LICENSES. ANY QUESTIONABLE LICENSES WILL BE TAKEN TO THE BAR FOR VERIFICATION PRIOR TO ALCOHOL BEING SERVED.
- PITCHERS OF BEER WILL BE SERVED TO NO LESS THAN 2 PATRONS; ALL CONSUMERS OF PITCHERS MUST PRODUCE VALID IDs.
- NO DOUBLES WILL BE SERVED AT LAST CALL.
- ALL LIQUOR DRINKS WILL BE SERVED AT THE MEASURED AMOUNT OF THE RESPECTIVE DRINK RECIPE. OVERPOURING IS CONSIDERED AT TERMINABLE VIOLATION OF POLICY.
- ALL SERVERS AND BARTENDERS CAN ACCEPT THE FOLLOWING AS ACCEPTABLE FORMS OF ID:
 - DRIVER'S LICENSES ISSUED BY THE STATE OF TEXAS
 - MILITARY PICTURE IDS
 - ALL OTHER FORMS OF ID MUST BE VERIFIED BY MANAGEMENT PRIOR TO THE SERVICE OF ALCOHOL.
- IF A STAFF MEMBER IS DETECTED TO HAVE SERVED A MINOR OR AN INTOXICATED GUEST, AN INVESTIGATION WILL BE CONDUCTED. IF THE STAFF MEMBER IS FOUND TO HAVE VIOLATED THE COMPANY ALCOHOL SERVICE POLICES, THEY WILL BE SUBJECT TO TERMINATION OF EMPLOYMENT.
- AN INCIDENT LOG BOOK IS MAINTAINED BEHIND THE MAIN BAR. ALL INCIDENTS RELATED TO ALCOHOL SERVICE WILL BE RECORDED IN THE LOG BOOK.
- STAFF MEMBERS CANNOT CONSUME ALCOHOL WHILE ON DUTY. OFF DUTY STAFF MEMBERS CANNOT CONSUME ALCOHOL WHILE IN UNIFORM. STAFF MEMBERS CANNOT RUN BAR TABS AT ANY TIME.
- NO HUSBANDS, WIVES, BOYFRIENDS OR GIRLFRIENDS OF BARTENDERS ARE ALLOWED TO SIT AT THE BAR WHILE THEIR PARTNER IS BARTENDING.
- EVERY EFFORT WILL BE MADE TO KEEP AN INTOXICATED PERSON FROM DRIVING AN AUTOMOBILE, INCLUDING CALLING A CAB FOR A GUEST OR CALLING THE POLICE .



Z-FY-12-33

CUP - Alcohol
> 50% + < 75%

5434 205 Loop



GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



RESPONSE TO PROPOSED
CONDITIONAL USE PERMIT
CITY OF TEMPLE

William G. Rosier
1111 Mill Creek Drive
Salado, Texas 76571

Zoning Application Number: Z-FY-12-33

Project Manager: Tammy Lyerly

Location: 5434 205 Loop

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

I recommend ☒ approval () denial of this request.

Comments:

THIS NEW FAMILY ENTERTAINMENT
CENTER WILL BE A MUCH NEEDED ADDITION
TO THE QUALITY OF LIFE IN BELL COUNTY.

W. Grady Rosier
(Signature)

W. GRADY ROSIER
(Print Name)

Please mail or hand-deliver this comment form to the address shown below, no later than April 2, 2012.

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

RECEIVED

MAR 27 2012

City of Temple
Planning & Development

Number of Notices Mailed: 7

Date Mailed: March 22, 2012



PLANNING AND ZONING COMMISSION AGENDA ITEM

04/02/12
Item 3
Regular Agenda
Page 1 of 4

APPLICANT / DEVELOPMENT: Spare Time Entertainment, LLC

CASE MANAGER: Tammy Lyerly, Planner

ITEM DESCRIPTION: Z-FY-12-33 Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment, on Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop.

BACKGROUND: The applicant requests this Conditional Use Permit (CUP) to allow the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment.

This CUP request exceeds the 300-foot distance separation required from public schools, public hospitals, and places of worship. The nearest residential structure, from the Summit Ridge Apartments, is approximately 407 feet from the CUP site.



If approved, Spare Time Entertainment will require all servers and bartenders to successfully complete TABC training prior to working their first non-training shift. Additionally, TIPS group training for responsible alcohol service will be conducted for staff on a quarterly basis. Among one of Spare Time Entertainment's alcohol service policies is that all guests that are of age and consuming on the bowling lanes or in the game room will have a wristband applied, indicating that they are of the drinking age. Please see the attached Spare Time Temple Alcohol Service Policies for a complete list of alcohol service policies.

Spare Time Entertainment will be opened Sunday through Wednesday 11AM-11PM, Thursday and Friday 11 AM-1AM, and Saturday 9 AM-1AM. Proposed alcohol sales will be Sunday through Friday 12 PM (noon)-12 AM (midnight) and Saturday 12 PM (noon)-1 AM. These hours fall well within the hours also allowable by TABC without a Late Hours permit.

The CUP site plan shows adequate traffic circulation throughout the property. The applicant's site plan submittals will be exhibited to the ordinance for this CUP if it is approved by City Council.

SURROUNDING PROPERTY AND USES:

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

| Direction | Zoning | Current Land Use | Photo |
|------------------|--------|--|--|
| Subject Property | C | Undeveloped Land |  |
| North | GR | Assisted Living and Retirement Community |  |
| South | C | Undeveloped Land |  |
| East | GR | Apartments |  |

| Direction | Zoning | Current Land Use | Photo |
|-----------|--------|------------------|--|
| West | C | Undeveloped Land |  |

COMPREHENSIVE PLAN COMPLIANCE:

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

| Document | Policy, Goal, Objective or Map | Compliance? |
|----------|---|-------------|
| CP | Map 3.1 - Future Land Use and Character | Yes |
| CP | Map 5.2 - Thoroughfare Plan | Yes |
| CP | Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities. | Yes |
| CP | Land Use Policy 9 – New development or redevelopment on infill parcels in developed areas should maintain compatibility with existing uses and the prevailing land use pattern in the area. | Yes |

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

Future Land Use and Character (Cp Map 3.1)

The Future Land Use and Character Map designates the subject property as Suburban Commercial. Spare Time Entertainment complies with this designation.

Thoroughfare Plan (CP Map 5.2)

The Thoroughfare Plan classifies 205 Loop as a collector. The proposed Spare Time Entertainment is appropriate for a collector. The request complies with the Thoroughfare Plan.

Availability of Public Facilities (CP Goal 4.1)

Water lines run along the north property line and along the east side of 205 Loop. A sewer line runs along the west side of 205 Loop.

PUBLIC NOTICE:

Staff mailed notices of the Planning and Zoning Commission's public hearing to the seven property owners within the 200-foot radius surrounding the C.U.P. site. As of Wednesday, March 28, 2012 at 10:00 AM, one notice from property owners was returned in favor of the request and none were returned in opposition to the request. No courtesy notices from surrounding were received in favor of the request or in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 22, 2012 in accordance with state law and local ordinance.

STAFF RECOMMENDATION:

Staff will make a recommendation concerning this request at the Public Hearing pending a meeting scheduled with the City Manager and applicant.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

[Aerial](#)

[Land Use and Character Map](#)

[CUP Distance Map](#)

[CUP Site Plan](#)

[CUP Preliminary Conceptual Floor Plan](#)

[CUP Rendering and Elevations](#)

[Spare Time Temple-Alcohol Service Policy](#)

[Notice Map](#)

[Response Letter](#)

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, APRIL 2, 2012**

ACTION ITEMS

Item 3: Z-FY-12-33: Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow the sale of alcoholic beverages for on-premise consumption of more than 50% and less than 75% of the gross revenue for Spare Time Entertainment, on Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop.

Ms. Lyerly stated this case would go forward to City Council for first reading on April 19th and second reading and final action on May 3rd.

The subject property is zoned Commercial (C) district and the request is for a CUP for the sale of alcoholic beverages on premises consumption more than 50% and less than 75% of gross revenue for Spare Time Entertainment Center.

The proposed hours of operation for Spare Time are Sunday through Wednesday from 11:00 a.m. to 11:00 p.m.; Thursday and Friday from 11:00 a.m. to 1:00 a.m.; and Saturday from 9:00 a.m. to 1:00 a.m. The proposed hours for alcohol sales would be Sunday through Friday from 12:00 p.m. (noon) to 12:00 a.m. and Saturday from 12:00 p.m. (noon) to 1:00 a.m.

Surrounding properties include a retirement center to the north, mostly undeveloped property to the south and west, and Summit Ridge apartments to the east.

The Future Land Use and Character Map show this area as Suburban-Commercial so the proposed request is in compliance.

The utility map shows sewer and water facilities to serve the proposed business.

Alcohol CUPs must exceed the 300 foot distance requirement from all public schools, hospitals, and places of worship. The proposed business exceeds the required boundary distance.

The proposed site plan is shown. Ms. Lyerly stated the property is also part of the economic development area so the landscaping may be subject to change based on those requirements.

If approved, Spare Time Entertainment would require all servers and bartenders to successfully complete TABC training. Tips/group training for responsible alcohol serving will be conducted on a quarterly basis. Guests that are of drinking age and consuming alcohol on the lanes and/or in the game room will have wrist bands applied indicating they are legal.

Seven notices were mailed out. Two notices were received in favor, zero in opposition.

Staff recommends approval of this requested CUP to allow the sale of alcoholic beverages for on premise consumption, more than 50% and less than 75% of the gross revenues, in the Spare Time Entertainment center for the following reasons:

The request is compatible with the Future Land Use and Character Map;

It complies with the Thoroughfare Plan;

There are public facilities available to serve the property; and

The landscaping plan meets current requirements; however, it may be subject to change depending on development standards and Staff would bring it back for P&Z review should City Council require it.

Vice-Chair Staats opened the public hearing. There being no speakers, the public hearing was closed.

Commissioner Pope made a motion to approve Item 3, **Z-FY-12-33**, as presented, and Commissioner Talley made a second.

Motion passed: (8:0)

Chair Martin absent

[PLANNING NO. Z-FY-12-33]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES FOR ON-PREMISE CONSUMPTION, MORE THAN 50% AND LESS THAN 75% OF THE TOTAL GROSS REVENUE FOR SPARE TIME ENTERTAINMENT, LOCATED AT 5434 205 LOOP; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the location and zoning classification of the establishment, has recommended that the City Council approve this application; 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 concerning the establishment at 5434 205 Loop, and has heard the comments and evidence presented by all persons supporting or opposing this matter at said public hearing, and after examining the location and the zoning classification of the establishment finds that the proposed use of the premises substantially complies with the comprehensive plan and the area plan adopted by the City Council.

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

Part 1: The City Council approves a Conditional Use Permit to allow the sale of alcoholic beverages, more than 50% and less than 75% of the total gross revenue, for on-premise consumption for Spare Time Entertainment located at Lot 5, Block 1, Friendship Plaza, located at 5434 205 Loop, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

Part 2: The owners/applicants, their employees, lessees, agents or representatives, hereinafter called "permittee" shall comply with the following developmental standards and conditions of operation:

- (a) The landscaping plan meets the minimum requirements, however, it is subject to change and staff will offer to bring it back for review if necessary.
- (b) The sale and consumption of alcoholic beverages shall occur only within the designated area, in accordance with the site plan attached as Exhibit B.
- (c) 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.
- (d) The permittee must comply with applicable licensing and permit provisions of the Alcoholic Beverage Code within six (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.
- (e) 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.
- (f) The permittee must demonstrate that the granting of the permit would not be detrimental to the public welfare of the citizens of the City.
- (g) 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 his obligations hereunder.
- (h) The establishment must provide adequate parking spaces to accommodate its members and their guests. Provided, however, the number of parking spaces shall never be less than those required for similar uses in that zoning district where the establishment is located.
- (i) 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.
- (j) The City Council may deny or revoke a conditional use permit if it affirmatively determines that the issuance of the same is (a) incompatible with the surrounding uses of

property, or (2) detrimental or offensive to the neighborhood or contrary to the health, safety, and general welfare of the City and its inhabitants.

- (k) 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.
- (l) All conditional use permits issued under this section will be further conditioned that the same may be canceled, suspended or revoked in accordance with the revocation clause set forth in Section 7-609.

Part 3: 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 4: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such phrase, clause, sentence, paragraph or section.

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **19th** day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the **3rd** day of **May**, 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

4/19/12
Item #6
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING - PUBLIC HEARING: Consider adopting an ordinance amending Chapter 24, "Noise," of the Code of Ordinances of the City of Temple, Texas by repealing Section 24-5, "Building Operations."

STAFF RECOMMENDATION: Conduct public hearing, and adopt ordinance as presented in item description on first reading.

ITEM SUMMARY: Section 24-5 of the City Code dates from 1961 and prohibits any type of construction work (new construction, excavation, demolition, etc.) at any time other than 7 a.m. to 6 p.m. Monday through Friday except in cases of public emergency. The ordinance has not been consistently enforced in its present form for at least the past two decades. Construction work (industrial, commercial and residential typically does occur on Saturdays, for example. Most contractors who work begin work mornings, early evenings, or on weekends try to be considerate and for the most part their activities generate few complaints to the City. There are other sections of Chapter 24, for example Section 24-2, which prohibits "unreasonably loud, disturbing, unnecessary noise" should construction on weekends or early or late in the day become a problem.

After consultation with Richard Therriault, the City's Superintendent of Construction Safety, we recommend repeal of Section 24-5 rather than having an ordinance that is not being enforced, and doesn't reflect current practices in the community. Mr. Therriault advises me that he receives very few complaints about construction related noise. The Staff feels that complaints about unreasonably loud noises due to construction that might occur on weekends or before during the early morning or late evening hours of weekdays can be adequately addressed through enforcement of other sections of Chapter 24 (Noise). If Section 24-5 is repealed, we will continue to monitor the situation, and if complaints about construction-related noise do begin to occur, we will address those complaints with a future ordinance more narrowly tailored to reflect current practices in the community.

FISCAL IMPACT: None

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, REPEALING SECTION 24-5, ENTITLED "BUILDING OPERATIONS," OF CHAPTER 24 ENTITLED "NOISE," OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Section 24-5 entitled "Building Operations" of the City Code dates from 1961 and prohibits any type of construction work (new construction, excavation, demolition, etc.) at any time other than 7a.m. to 6p.m. Monday through Friday, except in the cases of public emergency;

Whereas, Staff advises Section 24-5 entitled "Building Operations" of the Code of Ordinances has been infrequently enforced on a complaint basis in its present form for at least the past two decades, therefore staff recommends repealing Section 24-5; and

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

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

Part 1: Section 24-5 entitled "Building Operations" of Chapter 24, "Noise," of the Code of Ordinances of the City of Temple, Texas, is hereby repealed.

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 **19th** day of **April**, 2012.

PASSED AND APPROVED on Second Reading on the **3rd** day of **May**, 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

04/19/12
Item #7
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

William A. Jones, III, Mayor

ITEM DESCRIPTION: Consider adopting a resolution appointing one alternate member to the Bell County Public Health District Board of Directors.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Dr. Ray Ashcraft was appointed to the Bell County Public Health District Board of Directors in June 2009 to fill the position vacated by Dr. William Hardin. The Health District has now requested the City appoint an alternate member to serve in the absence of Dr. Ashcraft. The appointment of an alternate is provided for in the Cooperative Agreement with the Health District.

In 2010 Dr. Jim Madsen was appointed as the alternate member and is unable to fulfill this position.

FISCAL IMPACT: N/A

ATTACHMENTS: N/A