



**MEETING OF THE
TEMPLE CITY COUNCIL**

MUNICIPAL BUILDING

2 NORTH MAIN STREET

2nd FLOOR – COUNCIL CHAMBERS

THURSDAY, MAY 16, 2013

1:00 P.M.

WORKSHOP AGENDA

1. Receive presentations from the following public service agencies regarding their activities and funding requests for FY 2013-2014:

Children's Advocacy Center
Cultural Activities Center
Hill Country Community Action Association
Hill Country Transit District
Hillcrest Cemetery
Keep Temple Beautiful
Ralph Wilson Youth Clubs of Temple, Inc.
Temple Business Incubator
Temple Civic Theatre
Temple College Foundation
Temple HELP Center

2. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, May 16, 2013.
3. Receive second quarter financial results for Fiscal Year 2013.
4. Discuss the City's strategic plan, to include the FY 2013-2014 budget process and calendar, and various strategic and budget related policy issues.

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. ELECTION

3. [2013-6949-R](#): Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

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:

Contracts, Leases, & Bids

- (A) [2013-6950-R](#): Consider adopting a resolution authorizing a guaranteed maximum price construction contract with ZeitEnergy LLC & Freese & Nichols Inc of Dallas, for the construction of a compressed natural gas fueling station, located at 2625 East Avenue H, in the amount of \$1,619,502 and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.
- (B) [2013-6951-R](#): Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC for professional engineering services required to complete utility extensions to the North Loop 363 and IH-35 interchange, including new water, new wastewater, and force main replacement, in an amount not to exceed \$303,412.23.

Ordinances – Second & Final Reading

- (C) [2013-4586](#): SECOND READING: Consider adopting an ordinance amending Chapter 12, “Fire Prevention and Protection,” Article IV, Section 12-10; Article V, Section 12-13 “Private Fire Apparatus Access Road and Fire Lanes,” and Article V, Section 12-14 “Fire Hydrants,” of the Code of Ordinance of the City of Temple, Texas.
- (D) [2013-4587](#): SECOND READING - Z-FY-13-15: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign (billboard) relocation closer than 2,000 feet from another off-premise sign at 1611 Commerce Street.

Misc.

- (E) [2013-6952-R](#): Consider adopting a resolution authorizing an application for Tobacco Enforcement funding from the Texas School Safety Center in the amount of \$9,450 for the purposes of enforcing Subchapter H, Chapter 161 of the Texas Health and Safety Code for fiscal year 2014.
- (F) [2013-6593-R](#): Consider adopting a resolution authorizing submission of an application for funding through the U.S. Department of Transportation, National Infrastructure Investment Grant (TIGER) in the amount of \$18,950,000, with \$10,000,000 reimbursed to the City through federal funding, to execute the construction of the 1st Street and Loop 363 project, and the construction of hike and bike trails along 1st Street and south along Friar’s Creek Trail.
- (G) [2013-6954-R](#): Consider adopting a resolution supporting and nominating McLane Company, Inc., as a qualified enterprise project.
- (H) [2013-6955-R](#): Consider adopting a resolution approving second quarter financial results for Fiscal Year 2013.
- (I) [2013-6956-R](#): Consider adopting a resolution authorizing budget amendments for fiscal year 2012-2013.

V. REGULAR AGENDA

ORDINANCES

5. [2013-4588](#): FIRST READING – PUBLIC HEARING - Z-FY-13-13: Consider adopting an ordinance authorizing a zoning change from Agricultural District (AG) to Single Family- One (SF-1) For Lots 1-3 and Lot 5 – 20 Block 1, and all of Blocks 2-5, The Highlands Phase 1, located on the north side of West Adams Avenue, west of Windmill Farms Subdivision.
6. [2013-4589](#): FIRST READING - PUBLIC HEARING: Consider adopting an ordinance amending Chapter 21, "Minimum Building Standards," of the Code of Ordinances of the City of Temple, Texas.
7. [2013-4590](#): FIRST READING – PUBLIC HEARING: Consider adopting an ordinance approving and adopting rate schedule "RRM – Rate Review Mechanism" for Atmos Energy Corporation, Mid-Tex Division to be in force in the City of Temple for a period of time as specified in the rate schedule.

RESOLUTIONS

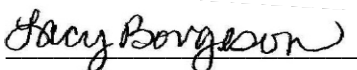
8. [2013-6957-R](#): Consider adopting a resolution authorizing a tax abatement agreement with Buc-ee's, Ltd., covering increases in the taxable value of real property for a 25.171 acre tract of land (Tax Abatement Reinvestment Zone Number 26) at the southeast corner of North Loop 363 and I-35.

Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with which the City is conducting economic development negotiations, or to deliberate the offer of a financial or other incentive to a business prospect the public discussion of which would adversely affect ongoing economic development negotiations.

9. [2013-6958-R](#): Z-FY-13-16: Consider adopting a resolution approving an Appeal of Standards in Sec. 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District for landscaping, parking, screening and wall standards, architectural standards, signs, and lighting for Golden Corral located on the east side of South General Bruce Drive, north side of Tristan Lane.

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 4:45 PM, on May 10, 2013.



Lacy Borgeson, TRMC
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 _____ 2013. _____.



COUNCIL AGENDA ITEM MEMORANDUM

05/16/13
Item #3
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Mayor

ITEM DESCRIPTION: Consider adopting a resolution electing a Mayor Pro Tem for the City of Temple.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Section 4.6 of the City Charter states....“the City Council shall elected one of its members as a vice-chairman, who shall be known as Mayor Pro Tem, and who shall have and exercise all powers of Mayor in the absence of, or during the disability, from any cause, of the Mayor. The Mayor and Mayor Pro Tem shall hold their office (unless sooner removed as provided herein) until the first meeting of the City Council held after the next regular Municipal Election and their successors have been elected and qualified.”

In order to comply with the Charter requirement, it is recommended the City Council elect a Mayor Pro Tem at this meeting.

FISCAL IMPACT: None

ATTACHMENTS:
Resolution



COUNCIL AGENDA ITEM MEMORANDUM

05/16/13
Item #4(A)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, Director of Administrative Services
Ashley Williams, Sustainability and Grant Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing a guaranteed maximum price construction contract with ZeitEnergy LLC & Freese & Nichols Inc of Dallas, for the construction of a compressed natural gas fueling station, located at 2625 East Avenue H, in the amount of \$1,619,502 and declaring an official intent to reimburse associated expenditures made prior to the issuance of tax-exempt obligations for this project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: On December 20, 2012, the City Council initiated a natural gas alternative fuel program for the City of Temple by authorizing the purchase of fourteen (14) CNG-powered solid waste collection trucks and on January 17, 2013, the City Council authorized the use of the Design-Build project delivery method for the acquisition of services needed to construct the CNG fueling facility. Then on April 4, 2013, Council authorized the use of the Design-Build delivery method for the construction of a compressed natural gas fueling station with ZeitEnergy LLC & Freese & Nichols Inc of Dallas, with the design service fee of \$100,000.

On May 7, 2013, ZeitEnergy presented the City a proposed Guaranteed Maximum Price (GMP) in the amount of \$1,619,502. The GMP includes general condition fees of \$20,000.

Staff has worked with the consultants and Atmos Energy to identify an optimal site for the station, based on gas line location and City operational needs. The City has identified 2625 East Avenue H as the location for the CNG fueling station. The station will have two fast-fill dispensers, one for use by the public and both for use by the City.

It is anticipated that the construction will begin on August 2013 following arrival of equipment and extension of the gas line to the site. All construction will be complete by October 2013.

FISCAL IMPACT: The total cost of the compressed natural gas fueling station is \$1,619,502. The simple payback on the capital investment for the CNG fueling station is 7.5 years assuming the following:

- Capital costs for station and other building improvements \$1,769,502
- Incremental cost of vehicles after incentives \$ 103,509
- Purchase of two additional CNG vehicles per year

The fueling station, building improvements and seventeen (17) CNG solid waste trucks will be financed with Limited Tax Notes. The payback for the notes will be from the combination of fuel savings recognized as a result of the use of CNG and sanitation system revenue.

The maximum term of Limited Tax Notes cannot exceed seven (7) years.

ATTACHMENTS:

[ZeitEnergy's GMP
Resolution](#)

Design-Build Services for an Unattended CNG Fueling Facility
Proposed Gross Maximum Price (Not to Exceed) Value

Design Services	\$ 100,000
Cost of Work-equipment, infrastructure, sitework, contracted labor, etc (supported and auditable by invoices, receipts) (Gross Maximum Price not to Exceed)	988,565
Cost of Utility extension	275,000
General Conditions-direct costs associated with managing the project (supported and auditable by payroll records and invoices/receipts) (Gross Maximum Price not to Exceed)	20,000
Performance & Payment Bond Cost (Gross Maximum Price not to Exceed)	26,464
Overhead & Profit	209,473
Total GMP (Gross Maximum Price) Not to Exceed	<u><u>\$ 1,619,502</u></u>

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A GUARANTEED MAXIMUM PRICE CONSTRUCTION CONTRACT WITH ZEITENERGY, LLC AND FREESE AND NICHOLS, INC., OF DALLAS, TEXAS, FOR THE CONSTRUCTION OF A COMPRESSED NATURAL GAS FUELING STATION, LOCATED AT 2625 EAST AVENUE H, IN THE AMOUNT OF \$1,619,502; DECLARING OFFICIAL INTENT TO REIMBURSE CERTAIN EXPENDITURES MADE PRIOR TO THE ISSUANCE OF TAX-EXEMPT OBLIGATIONS FOR THIS PROJECT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on December 20, 2012, the City Council initiated a natural gas alternative fuel program for the City of Temple by authorizing the purchase of fourteen (14) CNG-powered solid waste collection trucks;

Whereas, City Council authorized the use of the Design-Build project delivery method for the acquisition of services needed to construct the CNG fueling facility and on April 4, 2013, City Council authorized awarded the construction of the compressed natural gas fueling station to ZeitEnergy LLC & Freese & Nichols, Inc., of Dallas, Texas;

Whereas, on May 7, 2013, ZeitEnergy presented the City with a proposed Guaranteed Maximum Price in the amount of \$1,619,502 – this price includes general condition fees of \$20,000;

Whereas, staff has worked with the consultant and Atmos Energy to identify an optimal site for the station based on gas line location and City operational needs – the City has identified 2625 East Avenue H as the location for the CNG fueling station;

Whereas, the City of Temple anticipates the issuance of one or more series of obligations, the interest on which will be excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended, in order to finance all or a portion of this project;

Whereas, certain expenditures relating to the Project will be paid prior to the issuance of the Obligations;

Whereas, the City hereby certifies that such expenditures have not been made prior to the date of passage of this Resolution;

Whereas, upon issuance of the Obligations, the City desires to reimburse these prior expenditures with proceeds of the Obligations;

Whereas, Section 1.150-2 of the Treasury Regulations provides that an expenditure on the Project may not be reimbursed from Obligation proceeds unless, along with other requirements, the City declares official intent to reimburse the expenditure prior to the date that the expenditure to be reimbursed was paid; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a Guaranteed Maximum Price construction contract with ZeitEnergy LLC & Freese & Nichols, Inc., of Dallas, Texas, after approval as to form by the City Attorney, for construction of a compressed natural gas fueling station, located at 2625 East Avenue H, in the amount of \$1,619,502, which includes general condition fees of \$20,000.

Part 2: The findings, determinations and certifications contained in the preamble hereof are incorporated herein for all purposes.

Part 3: This Resolution is a declaration of official intent under Section 1.150.2 of the Treasury Regulations by the City that it reasonably expects to reimburse the expenditures described in Part 5 with proceeds of debt to be incurred by the City, such debt to be issued on or before eighteen (18) months after the date of (i) the date the first expenditure is paid; or (ii) the date on which the property is placed in service, but in no event three years after the first expenditure is paid.

Part 4: The following is a general functional description of the Project for which the expenditures to be reimbursed are paid and a statement of the maximum principal amount of debt expected to be issued for the purpose of paying the costs of the Project.

<u>Project Description</u>	<u>Debt To Be Issued</u>
Construction of a compressed natural gas fueling station	\$1,619,502.00

Part 5: The expenditure described in Part 5 is a capital expenditure under general Federal income tax principles or a cost of issuance.

Part 6: Except for the proceeds of the Obligations, no funds are, or are reasonably expected to be reserved, allocated on a long-term basis, or otherwise set aside by the City or by any member of the same controlled group to pay for the expenditures described in Part 5.

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

PASSED AND APPROVED this the **16th** day of **May**, 2013.

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

05/16/13
Item #4(B)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Nicole Torralva, P.E., Public Works Director
Don Bond, P.E., CFM, City Engineer

ITEM DESCRIPTION: Consider adopting a resolution authorizing a professional services agreement with Clark & Fuller, PLLC for professional engineering services required to complete utility extensions to the North Loop 363 and IH-35 interchange, including new water, new wastewater, and force main replacement, in an amount not to exceed \$303,412.23.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The City has identified the need to provide water and wastewater service to properties along IH-35 in the vicinity of North Loop 363, supporting economic development and future growth. This project will extend water and wastewater utilities, and consists of 4,800 feet of new 12 inch diameter gravity sewer, 4,950 feet of new 12 inch diameter sewer force main, and 3,350 feet of new variable diameter water mains. In addition to opening up new water and wastewater service to this area of the City, an aged force main from the Brindley Branch lift station (aka Troy lift station) currently located parallel to IH-35 is proposed to be replaced and relocated. A project map and service area basin map are attached for reference.

The proposed timeline for design of this project will be 145 calendar days from the authorization of notice to proceed. Per the attachment, specific tasks are broken down as follows:

Surveying Services	\$	39,650.00
Civil Engineering Design	\$	191,012.23
Bidding Services	\$	3,250.00
Construction Phase Services	\$	9,950.00
Daily On-site Construction Inspection	\$	19,750.00
Easement Acquisition & Right of Entry	\$	39,800.00
TOTAL ENGINEERING SERVICES	\$	303,412.23

The engineer's opinion of probable cost for construction of this project is approximately \$2.25 million.

FISCAL IMPACT: A budget adjustment is presented for Council's approval appropriating \$303,413 of Water & Sewer Unreserved Retained Earning to fund this professional services agreement.

ATTACHMENTS:

[Engineer's Proposal](#)
[Project Location Map](#)
[Service Area Basin Map](#)
[Budget Adjustment](#)
[Resolution](#)

April 30, 2013

City of Temple
Director of Public Works
Nicole Torralva, P.E.
3210 E. Ave. H, Bldg. A
Temple, TX 76501

Re: Proposal for the City of Temple - 2013 North Loop 363 & IH 35 Utility Extensions Project

Dear Mrs. Torralva,

We would like to thank the City of Temple for the opportunity to submit a preliminary opinion of probable cost and engineering fee proposal for the City of Temple - 2013 North Loop 363 & IH 35 Utility Extensions Project. (Please refer to attached maps and documents for further information).

This project will consist of approximately 4,800 linear feet of new 12" PVC Sanitary Sewer Gravity Main, 4,950 linear feet of new PVC Sanitary Sewer Force Main, and 3,350 linear feet of new PVC Water Main construction. In addition, new steel pipe encasement is to be constructed, via roadway bores, beneath Interstate 35 and the North Loop 363.

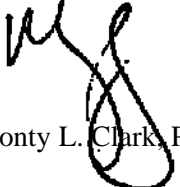
Clark & Fuller, PLLC will complete design topography surveys, new sanitary sewer and water main designs, construction document preparation, assist the City of Temple with project bidding, and provide construction administration and post construction record drawings. In addition, at the City of Temple's request, Clark & Fuller, PLLC can also provide daily on-site project representation and inspection, and easement acquisition services.

The proposed timeline for the project design phase is 145 calendar days from the authorization of notice to proceed.

Clark & Fuller, PLLC, hereinafter Engineer, proposes to the City of Temple, hereinafter Client, Professional Engineering and Surveying Services for a Lump Sum Amount not to exceed \$243,862.23. We estimate the total cost of construction to be \$2,247,202.65 and we estimate the total cost of construction including professional services and contingencies to be \$2,491,064.88. In addition, if requested, Daily On-Site Inspection services can be provided for a Lump Sum Amount not to exceed \$19,750.00 and Professional Easement Acquisition and Right of Entry Services can be provided for \$39,800.00. (Please refer to attached Maps, Exhibits, and the Preliminary Opinion of Probable Cost for an itemized breakdown and scope of services.)

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

Sincerely,



Monty L. Clark, P.E., CPESC

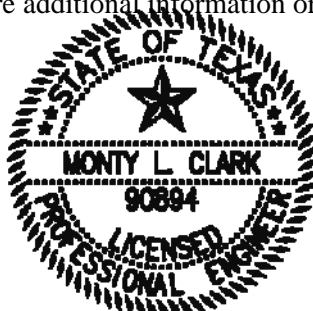


EXHIBIT “A”

**Proposal for City of Temple - 2013 North Loop 363 & IH 35 Utility Extensions Project
Scope of Professional Services**

Surveying Services: \$ 39,650.00

- Provide Project Elevation Benchmark
- Locate Existing Rights of Ways and Property Boundaries
- Prepare Design Topography Surveys
- Provide Construction Staking
 - Rough Cut
 - Final Curb and Gutter, and Inlet Boxes
 - Final Utility and Manhole Locations
- Provide Surveyors Easement Documents & Accompanying Field Notes
 - Not to Exceed 4 Easements

Civil Engineering Design Phase: \$ 191,012.23

- Research Existing Utilities
- Prepare Final Design Construction Documents
- Technical Specifications
- Provide Engineers Opinion of Construction Cost and Probable Days to Complete Project Construction
- Attend and Facilitate Project Coordination with the City Staff
- Attend and Facilitate Project Coordination with the Texas Department of Transportation
- Attend meetings with Property Owners
- Provide Miscellaneous Maps and Exhibit Drawings

Project Bidding Phase: \$ 3,250.00

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

Construction Phase: \$ 9,950.00

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

EXHIBIT “A”

**Proposal for City of Temple - 2013 North Loop 363 & IH 35 Utility Extensions Project
Scope of Professional Services – Cont’d**

Daily Onsite Construction Inspection Services **\$ 19,750.00**

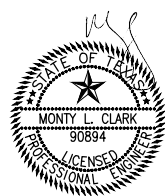
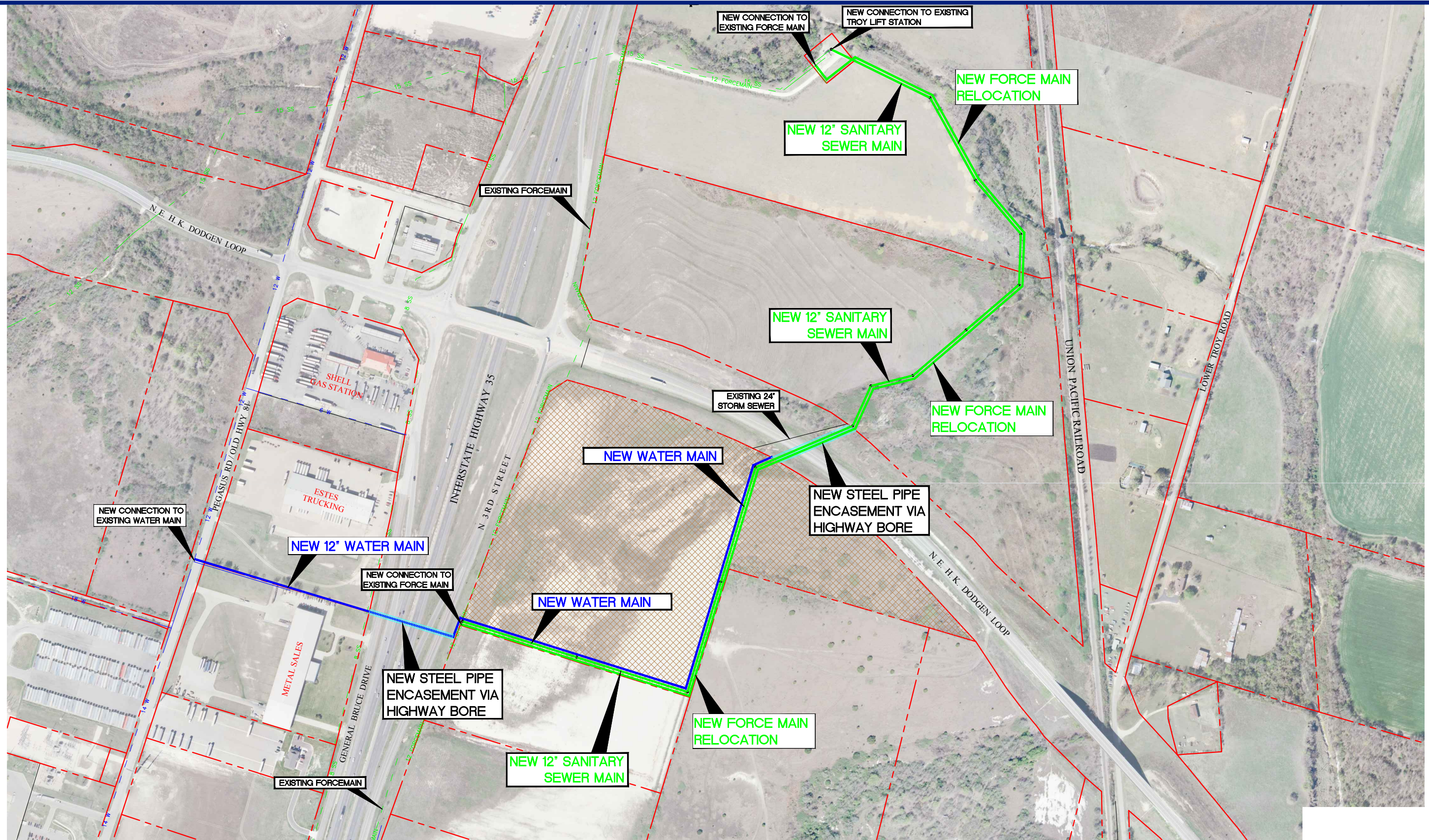
- Provide Daily On-Site Project Representation and Inspection Services

Professional Easement Acquisition & Right of Entry Services (4 Easements) **\$ 39,800.00**

- Provide Project Administration, Communication, File Management, and Negotiation Services
- Provide Title Services & Closing Services (Easement or Fee)
 - Fees are WITHOUT Title Insurance.
 - Preliminary Title Commitments will be secured to include vesting Deed and all Easement and Lien Documents before offer is made.
 - If Title Insurance is required, all closing costs and policy fees charged by the title company will be handled as pass through billing on an actual cost basis.
- Provide initial Appraisal for both Easement and Fee
 - This assumes that properties to be appraised are “unimproved”
- Obtain Right of Entry or Possession and Use Agreement
- Additional Agent Services: Agent or Project Manager hourly rate for services not defined in the Scope of Services (listed above) will be billed at an hourly rate. This hourly rate also applies when an Agent is requested to participate in hearings, public or company meetings held outside the office of the Agent.

PROFESSIONAL FEE SCHEDULE

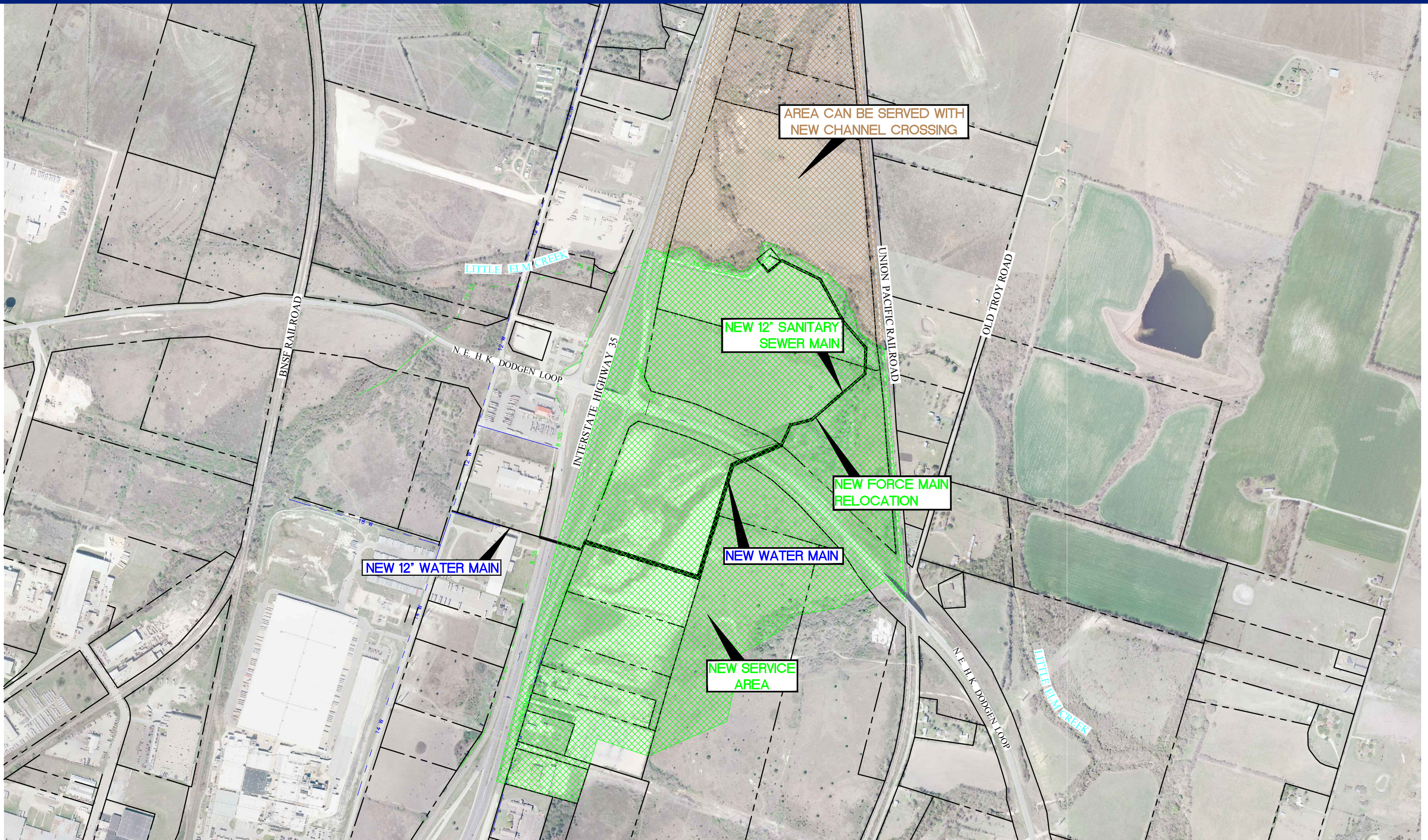
Licensed Professional Engineer	\$ 110.00/hr.
Licensed Professional Architect	\$ 125.00/hr.
Design Technician	\$ 70.00/hr.
CADD Technician	\$ 60.00/hr.
CADD Draftsman	\$ 50.00/hr.
Clerical	\$ 35.00/hr.
Licensed Professional Land Surveyor	\$ 105.00/hr.
Field Crew & Total Station	\$ 130.00/hr.
Survey Research and Schematic Production	\$ 90.00/hr.
Daily On-Site Inspection Services	\$ 40.00/hr.
Right of Way Agent	\$ 75.00/hr.
Right of Way Project Manager	\$ 150.00/hr



5-7-13

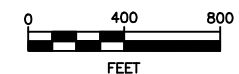
PROPOSED NORTH LOOP 363 - IH35 WATER AND SEWER EXTENSIONS





5-7-13

PROPOSED NORTH LOOP 363 - IH 35 SANITARY SEWER SERVICE BASIN



FY 2013

BUDGET ADJUSTMENT FORM

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

Adjustments should be rounded to the nearest \$1.

+

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ACCOUNT NUMBER	PROJECT #	ACCOUNT DESCRIPTION	INCREASE		DECREASE	
520-5900-535-65-21	100986	Utility Improvements-N LP 363/IH35	\$ 303,413			
520-0000-373-04-11		Water & Sewer Unreserved Retained Earnings			303,413	
		Do Not Post				
TOTAL.....			\$ 303,413		\$ 303,413	

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

This budget adjustment appropriated Water & Sewer Unreserved Retained Earnings to fund the professional services agreement with Clark & Fuller, PLLC for professional engineering services required to complete the utility extensions to the North Loop 363 and IH-35 interchange, including new water, new wastewater, and force main replacement.

DOES THIS REQUEST REQUIRE COUNCIL APPROVAL?

	X
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☒ Yes

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No

DATE OF COUNCIL MEETING

May 16, 2013

WITH AGENDA ITEM?

X

Yes

--	--

No

Department Head/Division Director

Date _____

--	--

Approved

--	--

Disapproved

Finance

Date _____

--	--

Approved

--	--

Disapproved

City Manager

Date _____

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Approved

Disapproved

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH CLARK & FULLER, PLLC, OF TEMPLE, TEXAS, FOR PROFESSIONAL ENGINEERING SERVICES REQUIRED TO COMPLETE UTILITY EXTENSIONS TO THE NORTH LOOP 363 AND IH-35 INTERCHANGE, INCLUDING NEW WATER, NEW WASTEWATER, AND FORCE MAIN REPLACEMENT, IN AN AMOUNT NOT TO EXCEED \$303,412.23; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City has identified the need to provide water and wastewater service to properties along IH-35 in the vicinity of north Loop 363, supporting economic development and future growth – this project will extend water and wastewater utilities, and consists of 4,800 feet of new 12 inch diameter gravity sewer, 4,900 feet of new 12 inch diameter sewer force main, and 3,350 feet of new variable diameter water mains;

Whereas, in addition to opening up new water and wastewater service to this area of the City, an aged force main from the Brindley Branch life station (aka Troy lift station), currently located parallel to IH-35, is proposed to be replaced and relocated;

Whereas, staff recommends authorizing a professional services agreement with Clark & Fuller, PLLC, for professional engineering services required to complete utility extensions to the north Loop 363 and IH-35 interchange, including new water, new wastewater, and force main replacement, in an amount not to exceed \$303,412.23;

Whereas, funds are available to fund this professional services agreement, however a budget adjustment must be approved to transfer funds to the appropriate account; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to execute a professional services agreement with Clark & Fuller, PLLC, of Temple, Texas, after approval as to form by the City Attorney, for professional engineering services required to complete utility extensions to the north Loop 363 and IH-35 interchange, including new water, new wastewater, and force main replacement.

Part 2: The City Council approves an amendment to the FY2012-2013 budget, substantially in the form of the copy attached as Exhibit A, for this project.

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

PASSED AND APPROVED this the **16th** day of **May**, 2013.

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

05/16/13
Item #4(C)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Lonzo Wallace, Fire Chief

ITEM DESCRIPTION: SECOND READING: Consider adopting an ordinance amending Chapter 12, "Fire Prevention and Protection," Article IV, Section 12-10; Article V, Section 12-13 "Private Fire Apparatus Access Road and Fire Lanes," and Article V, Section 12-14 "Fire Hydrants," of the Code of Ordinance of the City of Temple, Texas.

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

ITEM SUMMARY: We have identified several omissions in the current code and some conflicts with current practices that we have addressed in order to provide a more applicable and comprehensive code, while insuring the ability of emergency services the access needed when responding to assist the citizens of Temple.

Section 12-10 Adjustment to Appendix D, "Fire Apparatus Access Roads."

Subsection D103.5, "Fire apparatus road gates," – Adjusted fire access road gates widths to allow for two 16 foot gates to be used in the place of one 20 foot gate.

Subsection D103.5, "Fire apparatus road gates," – Requires all electric gates to be fitted with an approved opener allowing Emergency responders access through the gate by using an emergency radio frequency to open the gate. Amendment requires compliance within one year of adoption.

Section D103.6 "Signs" – Corrects some wording to mirror other parts of the code. Removes the requirement of fire lane signage on one side of roads less than 32 feet and on both sides of roads less than 26 feet and replaces them with the single requirement of posting fire lane signage on both sides of roads less than 28 feet wide. Establishes a minimum width of 18 feet on a roadway on each side of an obstruction such as an island, with the obstruction marked with fire lane signage.

Section 12-13 "Private Fire Apparatus Access Road and Fire Lanes"

F) Posting of Signage and Markings for Fire Lanes- Text clean up to the wording of fire lane signage so that it is consistent with other parts of Chapter 12 and the adopted fire code.

Sec. 12-14. "Fire Hydrants"

This addition will allow for spacing on both sides of larger roadways where it is impractical to lay a hose line over the roadway, blocking a major thoroughfare. The addition of hydrants on both sides allows for the spacing to be doubled between hydrants on each side of the roadway.

FISCAL IMPACT: Occupancies with electric gates across a fire access road will have one year to purchase an additional controller for emergency access. The cost for each controller is approximately \$900. All other changes will have no cost impact.

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

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

Whereas, the Staff recommends amending Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances to correct omissions and conflicts to have a more comprehensive code, while insuring the ability of emergency services and access needed when responding to assist the citizens of Temple;

Whereas, the revisions include amending fire apparatus road gate widths, amending no parking signs in 'Fire Lane' and spacing of fire hydrants along roadways; 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: Chapter 12, "Fire Prevention and Protection," of the Code of Ordinances of the City of Temple, Texas, is amended to read as follows:

Chapter 12

FIRE PREVENTION AND PROTECTION

ARTICLE IV. REVISIONS OF INTERNATIONAL FIRE CODE 2009

Section 12-10 Adjustment to Appendix D, "Fire Apparatus Access Roads."

- Subsection D103.5, "Fire apparatus road gates," – Adjusted fire access road gates widths to allow for two 16 foot gates to be used in the place of one 20 foot gate.
- Subsection D103.5, "Fire apparatus road gates," – Requires all electric gates to be fitted with an approved opener allowing Emergency responders access through the gate by using an emergency radio frequency to open the gate. Amendment requires compliance within one year of adoption.
- Section D103.6 Signs – Corrects some wording to mirror other parts of the code. Removes the requirement of fire lane signage on one side of roads less than 32 feet and on both sides of roads less than 26 feet and replaces them with the single requirement of posting fire lane signage on both sides of roads less than 28 feet wide. Establishes a

minimum width of 18 feet on a roadway on each side of an obstruction such as an island, with the obstruction marked with fire lane signage.

Chapter 12

FIRE PREVENTION AND PROTECTION

ARTICLE V. ADDITIONS TO INTERNATIONAL FIRE CODE

Section 12-13 Private Fire Apparatus Access Road and Fire Lanes

- *F) Posting of Signage and Markings for Fire Lanes*- Text cleanup to the wording of fire lane signage so that it is consistent with other parts of Chapter 12 and the adopted fire code.

Sec. 12-14. Fire Hydrants

- This addition will allow for spacing on both sides of larger roadways where it is impractical to lay a hose line over the roadway, blocking a major thoroughfare. The addition of hydrants on both sides allows for the spacing to be doubled between hydrants on each side of the roadway.

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 18th day of April, 2013.

PASSED AND APPROVED on Second Reading on the **2nd** day of **May**, 2013.

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

05/16/13
Item #4(D)
Consent Agenda
Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Beverly Zendt, Interim Director of Planning

ITEM DESCRIPTION: SECOND READING - Z-FY-13-15: Consider adopting an ordinance authorizing a Conditional Use Permit to allow an off-premise sign (billboard) relocation closer than 2,000 feet from another off-premise sign at 1611 Commerce Street.

PLANNING & ZONING COMMISSION RECOMMENDATION: At its April 1, 2013 meeting, the Planning & Zoning Commission voted 6/0 to recommend approval of the Conditional Use Permit to allow for decreased spacing between off-premise signs.

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

Staff recommends disapproval of the requested Conditional Use Permit. Based on current City spacing requirements of 2000' this area - approximately 1.4 miles (7984') from South 57th Street to Wildflower Lane - this area should not exceed 4 billboards on each side if an average spacing were calculated. The west side of H K Dodgen Loop currently has four off-premise signs. The east side of H K Dodgen Loop currently has two existing signs and a third sign which was recently approved by Council at 3602 SW H K Dodgen.

The proposed relocated sign would be approximately 1,341' to an existing sign to the north and approximately 1,477' to the recently approved sign to the south. Although the proposed sign would not result in an overall increase in the number of signs that would be permitted if average spacing were calculated, the sign's lack of required spacing to the east and west will create a clustering of off-premise signs in this general location. Additionally, the proposed sign would be located in what has been identified as "City-Entry" sub-district of the I-35 Overlay District. The most restrictive I-35 Overlay District requirements have been put in place in this general area to ensure that these entries create attractive portals to the city and that development "enhance the image of the City and entice people to stop, shop, and visit the city" (UDC 6.7.10).

ITEM SUMMARY: The UDC limits the number of off-premise signs to the number of signs in existence on March 7, 2002. The UDC provides standards for the erection of replacement signs and for sign relocations necessitated by Texas Department of Transportation (TxDOT) road improvement projects. Specifically Section 7.5.11L of the Unified Development Code (UDC) states,

*If a sign located within the proposed public street right-of-way of a state highway is to be relocated to accommodate a regulated highway project and the Texas Department of Transportation issues a permit for relocation of the sign, the Director of Construction Safety **may** also issue a Sign Permit if the sign meets all current City standards, except that the relocated sign:*

- 1. Does not require payment of a permit fee;*
- 2. May be erected a minimum of five feet from any highway right-of-way line;*
- 3. May be constructed with the same number of poles and same type of materials as the existing sign; and*
- 4. May be erected without enlarging the sign face.*

The I-35 expansion project and the subsequent TxDOT right of way acquisition have resulted in the displacement of numerous billboards. Lamar Advertising, the applicant, currently has a billboard that will be affected by the TxDOT right-of-way acquisition. The sign is proposed to be relocated from its current location on Interstate 35, approximately 0.55 miles south of the North Loop 363 to 1611 Commerce Street (northeast corner of I-35 and H K Dodgen Loop).

Section 7.5.11B of the UDC permits the erection of signs only in Commercial, Light Industrial, and Heavy Industrial districts on property fronting on I-35 and on H K Dodgen Loop. The area proposed for relocation is zoned Light Industrial in compliance with this requirement. Section 7.5.11B further establishes requirements for spacing, area, height, and setbacks of new off-premise signs along H K Dodgen Loop. The proposed sign will not exceed area and height standards established in this section and with setback and material standards governing TxDOT initiated relocations. The proposal calls for 11' X 23' (253 S.F), illuminated metal-framed sign set upon a steel monopole replacing an existing 13' X 42' (546 SF) sign with 5-wood poles to an 11' X 23' (253 S.F). The new sign will be setback 78' from the right-of way and no taller than 35'.

City staff has maintained the position that if an existing off-premise sign on I-35 must be relocated because of the I-35 expansion, City staff will approve the sign relocation on the same site. If the existing zoning is not correct the City will consider processing a zoning change to allow compliance or a Planned Development if the straight zoning is not a positive option for the City. If the sign cannot be relocated on the same site the City will consider an alternate location on either I-35 or along H K Dodgen Loop. On September 20, 2012, City Council amended the UDC to include a requirement that an applicant obtain a Conditional Use Permit when any of the criteria above cannot be met. Although the proposed sign complies with dimensional and zoning requirements, the proposed location will not be compliant with spacing requirements. The proposed sign will be approximately 1,341' from an existing off-premise sign to the north and 1477' from a recently approved off-premise sign to the south.

The Conditional Use Permit is required because the 2,000' spacing requirement between off-premise signs is not met. All other requirements have been satisfied.

DEVELOPMENT REGULATIONS: The proposed sign complies with dimensional and setback standards for the Light Industrial zoning district. The proposed sign complies with all design standards identified in Section 7.5.11 of the UDC except the minimum spacing requirement of 2,000' between signs.

PUBLIC NOTICE: Four notices of the Planning and Zoning Commission public hearing were sent to surrounding property owners. As of Tuesday, April 16, 2013 at 12:00 PM, 1 notice had been returned in opposition to the request. The newspaper printed notice of the Planning and Zoning Commission public hearing on March 21, 2013, in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

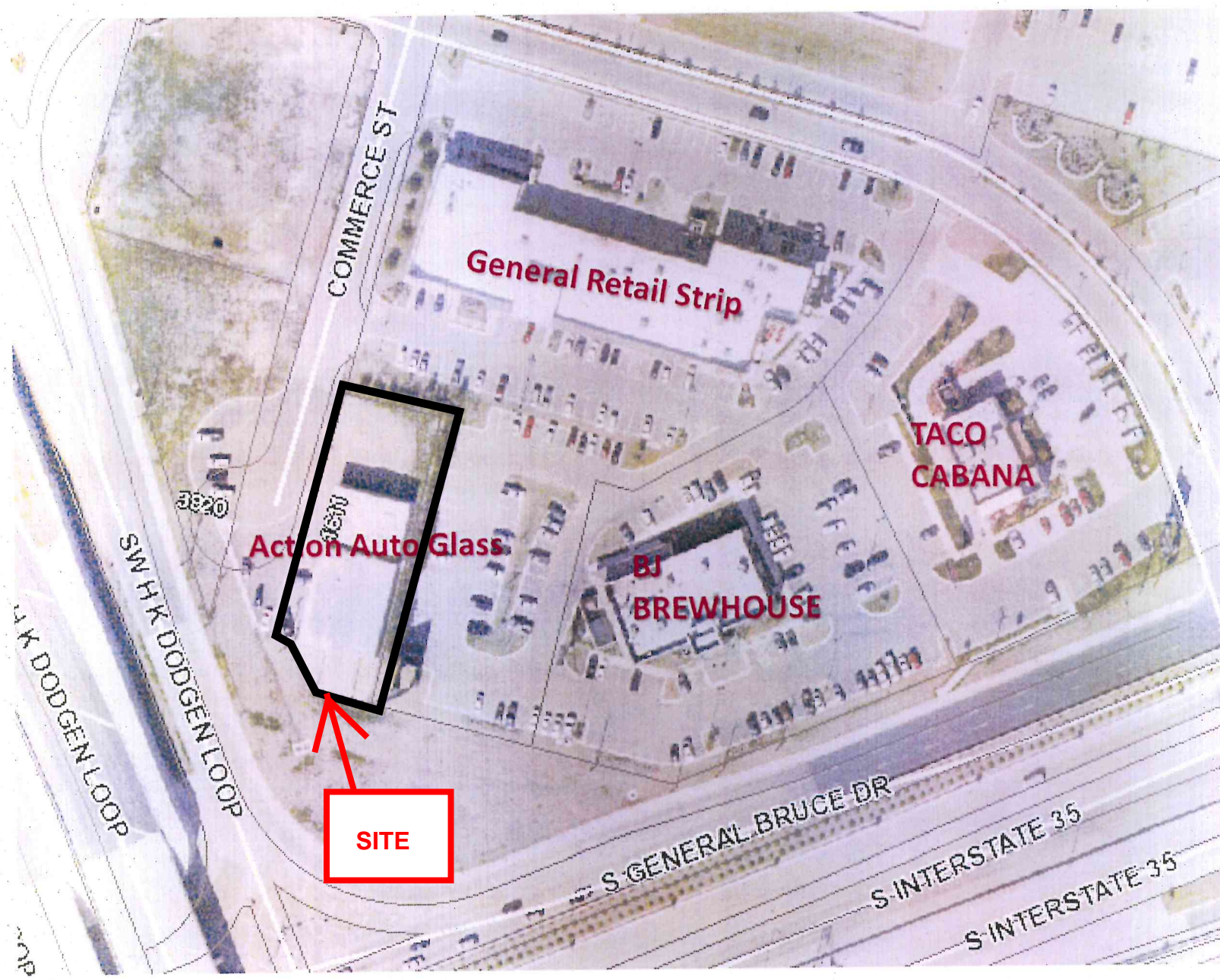
[Current and Proposed Location](#)
[Proposed Location \(Aerial Map\)](#)
[1.4 Mile Corridor Map](#)
[Buffer Notification Map](#)
[Returned Property Owner Response](#)
[PZ Excerpts](#)
[Ordinance](#)



Current Location: W/S of I-35 Approximately 0.55 Miles South of North Loop



Proposed Location: 1611 Commerce Street



COMMERCE ST

General Retail Strip

TACO CABANA

BJ BREWHOUSE

Action Auto Glass

SITE

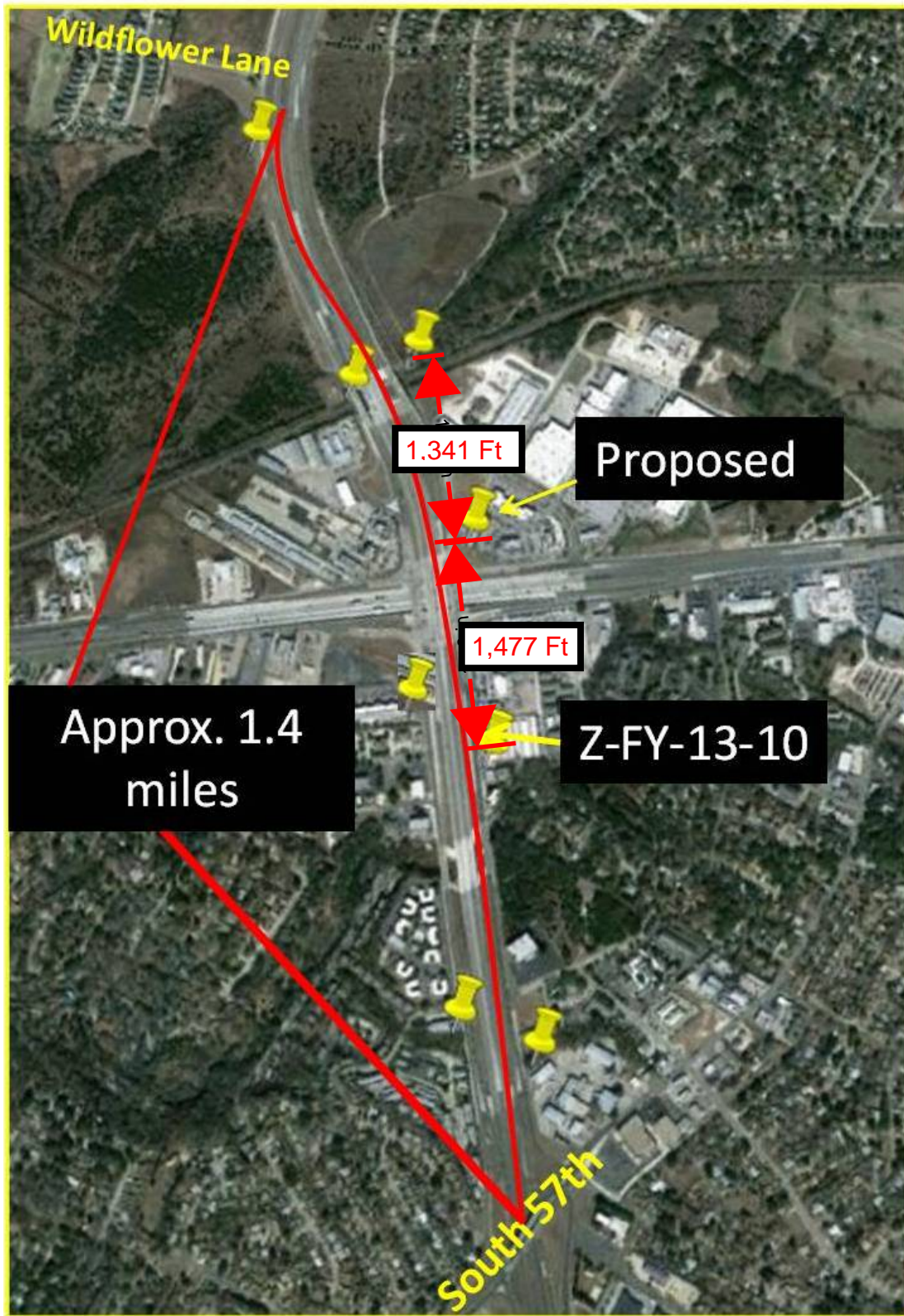
SW H K DODGEN LOOP

S GENERAL BRUCE DR

S INTERSTATE 35

S INTERSTATE 35

3920



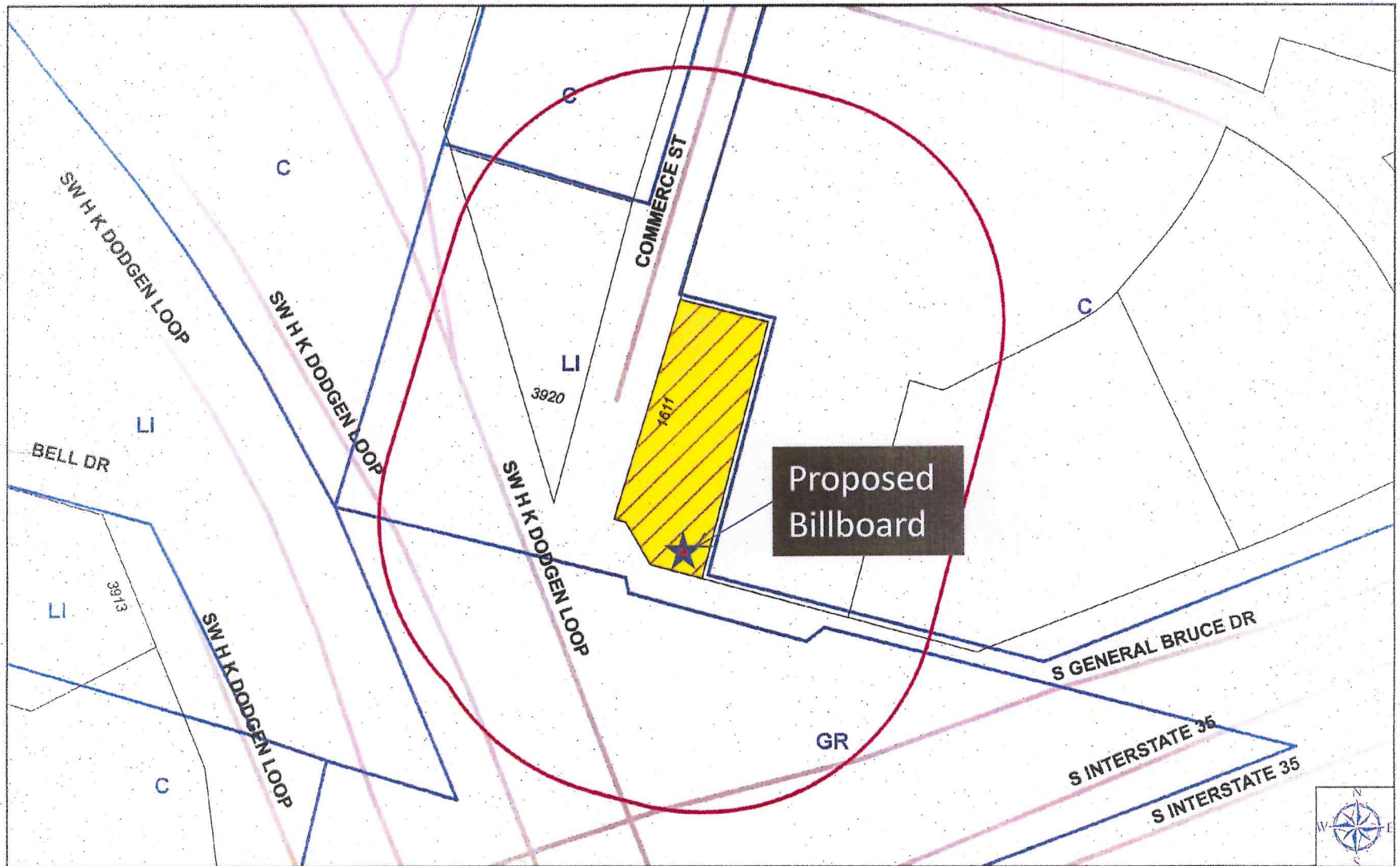
H K Dodgen Loop Corridor (Approximate Road Surface Distance of 1.4 Miles)






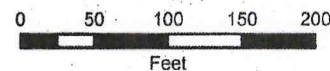
Z-FY-13-15

Conditional Use Permit Request for a Off-Premise (billboard) Sign

**1611
Commerce St.**



 Case  Buffer_200  Zoning 1234 Address



City of Temple
bzndct
3-14-13

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

Nancy & Betty Rodgers
3901 Hopi Trail
Temple, Texas 76504

Zoning Application Number: Z-FY-13-15

Project Manager: Beverly Zendt

Location: 1611 Commerce Street

A request for a Conditional Use Permit has been submitted to the City of Temple. The area proposed for a Conditional Use Permit is shown in hatched marking on the attached map. The Conditional Use Permit will allow relocation of an existing off-premise sign (billboard). 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 proposed Conditional Use Permit for the property described on the attached notice, and provide any additional comments you may have.

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

Comments:

We feel there are enough signs in this area & we don't need more.

Nancy Rodgers
(Signature)
Betty Rodgers

Nancy Rodgers
(Print Name)
Betty Rodgers

Please mail or hand-deliver this comment form to the address shown below, no later than April 1, 2013.

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

RECEIVED

MAR 28 2013

City of Temple
Planning & Development

Number of Notices Mailed: 4

Date Mailed: March 21, 2013

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, APRIL 1, 2013**

ACTION ITEMS

Item 3: Z-FY-13-15: - Hold a public hearing to discuss and recommend action on a Conditional Use Permit to allow an off-premise sign (billboard) relocation closer than 2,000 feet from another off-premise sign at 1611 Commerce Street. (Lamar Advertising for Robert Giniwicz)

Mr. Mark Baker, Planner, stated this item would go forward to City Council on May 2, 2013 for first reading and May 16, 2013 for second reading.

Sections 7.5.11 B and 7.5.11 L of the UDC address off-premise signs and relocations resulting from TxDOT right-of-way acquisitions. Section 7.5.11 B-D of the UDC standards state the minimum spacing on the Loop is 2,000 feet and must be located in a Commercial (C), Light Industrial (LI) or Heavy Industrial (HI) district. The proposed sign is 11 by 23 feet, approximately 252 square feet; the maximum height is 35 feet and would be set back 78 feet from the right-of-way.

Section 7.5.11 L sets standards necessitated by TxDOT right-of-way acquisition. The relocated sign must meet all City standards. In cases where they do not meet the requirements, a Conditional Use Permit (CUP) is required.

All requirements have been met except spacing. There is a sign to the north approximately 1,341 feet and a proposed sign approximately 1,477 feet to the south. The current proposed sign would not increase the total number of signs permitted, but the spacing issue creates a clustering of signs. This proposed sign would also be located in a City Entry Sub-district of the I-35 Overlay District, which is the most restrictive overlay.

Four notices were sent out. One response was received in opposition after the packet was sent out. Percentage of the total land area came to approximately eight percent. The concerns for the opposition were based on the number of signs in the area.

Staff recommends disapproval of the CUP since the spacing requirements between the two signs are not being met.

The applicant has a presentation for the P&Z Commission.

Commissioner Talley asked if the person(s) who sent in the opposition were landowners or residents in the neighborhood. Mr. Baker stated it was not a residential property.

Vice-Chair Sears opened the public hearing.

Mr. Mat Naegele, 5110 N. General Bruce Dr., Temple, Texas, introduced Teresa Lange, his co-worker. Mr. Naegele stated the number of off-premise signs is not increasing within the city limits. With TxDOT widening I-35, it is causing Lamar to relocate their signs which is not easy. They do not ask for exceptions unless there is a hardship that is out of their control. Mr.

Naegele stated they are abiding by the rules of TxDOT and TxDOT relaxes the rules of spacing on a state maintained highway to 500 feet to promote Lamar to relocate the signs and not go the route of condemnation. Lamar does not want to lose the signs; they want to continue doing business. Mr. Naegele asked the Commission to help them move the signs. The signs would be spaced approximately 1,300 feet apart and TxDOT only requires 500 feet from relocation.

Mr. Naegele stated this is a much smaller sign than what is coming from the relocation spot. The previous sign was 42 feet wide and 13 feet tall and Lamar is voluntarily reducing the size by half to accommodate the property because a big sign does not belong there. It will only have one side (not two) at a stoplight crossing. The proposed size area will be 253 square feet opposed to the previous 516 square feet. The sign will have a monopole instead of the five wooden poles as previously and only 35 feet to the top of the sign. Mr. Naegele stated they would take extra steps to make the sign as attractive as possible.

Action Glass is aware of the situation and has an agreement with Lamar for the sign.

Commissioner Rhoads asked if Action Glass sells the property what would happen and Mr. Naegele stated the lease stays with the property for the duration of the lease.

Mr. Naegele stated lease durations could be five years and some were 30.

Ms. Lange gave a slide presentation to the Commission covering the same information previously stated. The spacing would be 1,341 feet which Lamar felt was a comfortable number. The sign is 35 feet overall height and would be much shorter than most signs.

Ms. Lange stated the grassy area to the left of Action Auto is objecting to the sign.

The sign is 78 feet from the right-of-way which exceeds the requirements, it is in a Light Industrial (LI) district, the setbacks are met, and they are providing a monopole instead of the five wooden poles.

Ms. Lange stated they would not block Action Glass on premise sign and would move it where needed in order to not block it.

Vice-Chair Sears closed the public hearing.

Commissioner Talley stated he normally does not oppose Staff recommendation, however, Lamar is trying to move their signs (25) and finding the right place is not easy. Mr. Talley asked if it was wise to approve this now or table the item to get the best benefit for the applicant.

Commissioner Talley made a motion to approve Item 3, Z-FY-13-15, and Commissioner Harrell made a second.

Motion passed: (6:0)

Chair Staats and Commissioners Johnson and Martin absent

[Z-FY-13-15]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A CONDITIONAL USE PERMIT TO ALLOW AN OFF-PREMISE SIGN (BILLBOARD) RELOCATION CLOSER THAN 2,000 FEET FROM ANOTHER OFF-PREMISE SIGN AT 1611 COMMERCE STREET; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

WHEREAS, the Planning and Zoning Commission of the City of Temple, Texas, after due consideration of the conditions, operation and location of 1611 Commerce Street, recommends that the City Council approve the application for this Conditional Use Permit to allow an off-premise sign relocation closer than 2,000 feet from another off-premise sign; and

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

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

Part 1: The City Council approves a Conditional Use Permit to allow an off-premise sign relocation closer than 2,000 feet from another off-premise sign at 1611 Commerce Street, more fully shown on Exhibit A, attached hereto and made a part of for all purposes.

Part 2: The Director of Planning is hereby directed to make the necessary changes to the City Zoning Map accordingly.

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 **2nd** day of **May**, 2013.

PASSED AND APPROVED on Second Reading on the **16th** day of **May**, 2013.

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

05/16/13
Item #4(E)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Gary Smith, Chief of Police

ITEM DESCRIPTION: Consider adopting a resolution authorizing an application for Tobacco Enforcement funding from the Texas School Safety Center in the amount of \$9,450 for the purposes of enforcing Subchapter H, Chapter 161 of the Texas Health and Safety Code for fiscal year 2014.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: Texas law prohibits the sale or distribution of tobacco products to any person under the age of 18. The police department proposes to use funding from the TxSSC to conduct covert investigations into the possible illegal sales of tobacco products to minors that violate the Health and Safety Code, §161.082. All activity under the grant must be reported on a monthly basis to the TxSSC. The TxSSC is acting on behalf of the Department of State Health Services.

FISCAL IMPACT: TxSSC will reimburse contracted law enforcement agencies \$75.00 for each completed investigation. Funding is allowed for the purpose of conducting investigations for a minimum of 25% or a maximum of 200% of the tobacco permitted retail outlets in the jurisdiction. There are approximately 85 tobacco permitted retail outlets in Temple. The police department plans to conduct investigations at rate of 149% of the permitted outlets, meaning that 126 investigations are planned for the 85 tobacco permitted retail outlets during FY14.

If this plan is met, the City will receive \$9,450 in grant funds. It is estimated that it will cost the City \$6,659 in overtime hours as well as operational and fuel costs of \$1,800 for police vehicles. The total estimated expense is \$8,459. The remaining revenue would pay officer's overtime for conducting compliance inspections on retail locations and provide education services to the public in the area of state laws pertaining to tobacco sales to minors.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ADOPTING A RESOLUTION AUTHORIZING AN APPLICATION FOR TOBACCO ENFORCEMENT FUNDING FROM THE TEXAS SCHOOL SAFETY CENTER (TxSSC) FOR THE PURPOSES OF ENFORCING THE TEXAS HEALTH AND SAFETY CODE FOR FISCAL YEAR 2014, IN THE AMOUNT OF \$9,450; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Texas law prohibits the sale or distribution of tobacco products to any person under the age of 18 and the City of Temple Police Department proposes to use funding from the TxSSC to conduct covert investigations into the possible illegal sales of tobacco products to minors that violate the Health and Safety Code, §161.082;

Whereas, this enforcement is expected to continue to reduce the extent to which cigarettes and tobacco products are sold or distributed to persons who are younger than 18 years of age and to ensure compliance with all applicable State laws;

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 submission of an application for Tobacco Enforcement funding from the Texas School Safety Center (TxSSC) for the purposes of enforcing the Texas Health and Safety Code for fiscal year 2014, in the amount of \$9,450.

Part 2: The City Manager, or his designee, is authorized to execute any documents which may be necessary for this purpose, after approval as to form by the City Attorney.

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 **16th** day of **May**, 2013.

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

05/16/13
Item #4(F)
Consent Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Brynn Myers, Director of Administration
Ashley Williams, Sustainability and Grant Manager

ITEM DESCRIPTION: Consider adopting a resolution authorizing submission of an application for funding through the U.S. Department of Transportation, National Infrastructure Investment Grant (TIGER) in the amount of \$18,950,000, with \$10,000,000 reimbursed to the City through federal funding, to execute the construction of the 1st Street and Loop 363 project, and the construction of hike and bike trails along 1st Street and south along Friar's Creek Trail.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The U.S. Department of Transportation has announced a matching discretionary grant program entitled "National Infrastructure Investment Grant" (TIGER). TIGER is intended to provide funding for capital investments in surface transportation infrastructure for projects that have significant impact on a metropolitan area or region.

Distribution of funding will be allocated to public transportation/infrastructure and multi-modal facility projects.

The final application is due June 3, 2013. Applications will be evaluated by an established DOT application team.

The project scope involves the following elements:

- Construction of an at-grade intersection at 1st Street and Loop 363;
- Improvements to access roads along Loop 363, which will also provide for an entrance off Loop 363 to the Temple College parking lot;
- Construction of roadway tying 1st Street into 5th Street;
- Extension of the hike and bike trails in TMED along First Street to the north and connecting to and enhancing Friar's Creek Trail to the south;
- Construction of nodes from 1st Street going west on Avenue R and Avenue U; and
- Construction of the gateway to TMED and landscaping installation between the pedestrian bridge and the Loop.

Exhibits will be distributed at the meeting, depicting the above project scope.

In the event the grant is not awarded to the City, the City will proceed with TxDOT with the current project that involves only the elements at the intersection of 1st Street and Loop 363 and the access roads.

Staff is requesting that RZ fund \$4,475,000, which will be matched by TxDOT, amounting to a \$8,950,000 grant match. This match is forty-seven percent (47%) of the project total of \$18,950,000, with \$10,000,000 being requested from the DOT.

Staff has been and will continue to work in partnership with TxDOT throughout the project.

These overall efforts will create a more-inclusive and integrated community development, which centers on improved and increased transportation options that encourage livability, connect housing to jobs, build a clean energy economy, reduce transportation costs, and provide safer conditions for pedestrians, bicyclists and motorists.

FISCAL IMPACT: The current Financing/Project Plan [Line 454] includes an appropriation of \$2,221,020 for TMED 1st Street and Loop 363 improvements. The expanded scope and cost included in this application is supported by the Finance and Project Committees and will be recommended in future Financing/Project Plan amendments.

ATTACHMENTS:

[Map of project area](#)
[Resolution](#)



A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION FOR FUNDING THROUGH THE U.S. DEPARTMENT OF TRANSPORTATION, NATIONAL INFRASTRUCTURE INVESTMENT GRANT (TIGER); ACCEPTING ANY FUNDS THAT MAY BE RECEIVED THROUGH THIS GRANT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the U.S. Department of Transportation has announced a matching discretionary grant program entitled, “National Infrastructure Investment Grant” (TIGER), which is intended to provide funding for capital investments in surface transportation infrastructure for projects that have significant impact on a metropolitan area or region;

Whereas, distribution of funding will be allocated to public transportation/infrastructure and multi-modal facility projects – final application is due June 3, 2013;

Whereas, Staff recommends submitting a grant application to execute the following project scope elements:

1. Construction of an at-grade intersection at 1st Street and Loop 363;
2. Improvements to access roads along Loop 363, which will also provide for an entrance off Loop 363 to the Temple College parking lot;
3. Construction of roadway tying 1st Street into 5th Street;
4. Extension of the hike and bike trails in TMED along 1st Street to the north and connecting to and enhancing Friar’s Creek Trail to the south;
5. Construction of nodes from 1st Street going west on Avenue R and Avenue U; and
6. Construction of the gateway to TMED and landscaping installation between the pedestrian bridge and the Loop.

Whereas, the City’s proposed planning project meets the goals and qualifying criteria of the TIGER program;

Whereas, Staff has requested that the Reinvestment Zone fund \$4,475,000, which will be matched by the Texas Department of Transportation, amounting to a \$8,950,000 grant match. There is a local match requirement of at least 47% of the project total of \$18,950,000, with \$10,000,000 being requested from the Department of Transportation; and

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

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

Part 1: The City Council authorizes the City Manager, or his designee, to submit a grant application to the U.S. Department of Transportation, National Infrastructure Investment Grant (TIGER), which provides funding for capital improvements in surface transportation infrastructure for projects that have significant impact on a metropolitan area or region.

Part 2: The City Manager, or his designee, is authorized to execute any documents which may be necessary to apply for this grant, after approval as to form by the City Attorney.

Part 3: The City Council accepts any funds that may be received for this grant.

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

PASSED AND APPROVED this the **16th** day of **May**, 2013.

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

05/16/13
Item #4(G)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution supporting and nominating McLane Company, Inc., as a qualified enterprise project.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: McLane, Company, Inc., is a \$42 billion supply chain services leader, providing grocery and foodservice supply chain solutions for convenient stores, mass merchants, drug stores and chain restaurants throughout the United States. McLane operates five facilities in Temple. The company employs approximately 1,396 full-time employees in Temple, and has plans for capital investment in excess of \$11 million at the company's Headquarters, made up of its North and South Campus' operations in Temple.

In accordance with the requirements of V.T.C.A., Government Code, Section 2303.4501, McLane has requested the City of Temple's nomination of its company for Enterprise Zone Designation for June 3, 2013. The City must find that McLane meets the criteria for incentives adopted by the City on the grounds that it will be located at a qualified business site (North Campus - 4747 McLane Parkway) and (South Campus – 6201 NW H.K. Dodgen Loop), and will create a higher level of employment, while increasing its economic activity, and stability. Designated projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The level and amount of refund is related to the capital investment and job created (or retained as defined under the program rules) at the qualified business site. Local communities must nominate a company as an Enterprise Project in order to participate in the Enterprise Zone Program. Communities may nominate projects, for a designation period up to five years, non-inclusive of a 90-day window prior to the application deadline. Employment and capital investment commitments must be incurred and met within this timeframe.

FISCAL IMPACT: If approved, the McLane Enterprise Zone project is expected to result in an \$11 million capital investment with job retention of 620 full-time employees.

ATTACHMENTS:

[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE NOMINATING MCLANE COMPANY, INC., TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT AND TOURISM ("OOGEDT") THROUGH THE ECONOMIC DEVELOPMENT BANK ("BANK") FOR DESIGNATION AS A QUALIFIED BUSINESS AND ENTERPRISE PROJECT ("PROJECT") UNDER THE TEXAS ENTERPRISE ZONE PROGRAM UNDER THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE ("ACT").

Whereas, the City of Temple (the "City") on August 30, 2010 passed Ordinance No. 2010-4374 electing to participate in the Texas Enterprise Zone Program, and the local incentives offered under this resolution are the same on this date as were outlined in Ordinance No. 2010-4374;

Whereas, the Office of the Governor Economic Development and Tourism (OOGEDT) through the Economic Development Bank (the "Bank") will consider McLane Company, Inc., as an enterprise project pursuant to a nomination and an application made by the City;

Whereas, the City desires to pursue the creation of the proper economic and social environment in order to induce the investment of private resources in productive business enterprises located in the City and to provide employment to residents of enterprise zones and to other economically disadvantaged individuals;

Whereas, pursuant to Chapter 2303, Subchapter F of the Texas Enterprise Zone Act, Texas Government Code (the "Act"), McLane Company, Inc., has applied to the City for designation as an enterprise project;

Whereas, the City finds that McLane Company, Inc., meets the criteria for designation as an enterprise project under Chapter 2303, Subchapter F of the Act on the following grounds:

1. McLane Company, Inc., is a "qualified business" under Section 2303.402 of the Act since it will be engaged in the active conduct of a trade or business at a qualified business site within the governing body's jurisdiction located outside of an enterprise zone and at least thirty-five percent (35.0%) of the business' new employees will be residents of an enterprise zone or economically disadvantaged individuals;
2. There has been and will continue to be a high level of cooperation between public, private, and neighborhood entities within the area; and
3. The designation of McLane Company, Inc., as an enterprise project will contribute significantly to the achievement of the plans of the City for development and revitalization of the area;

Whereas, the City finds that McLane Company, Inc., meets the criteria for tax relief and other incentives adopted by the City and nominates McLane Company, Inc., for enterprise project status on the grounds that it will be located at the qualified business site, will create a higher level of employment, economic activity and stability; and

Whereas, the City finds that it is in the best interest of the City to nominate McLane Company, Inc. as an enterprise project pursuant to the Act.

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

Part 1: The City Council finds that the findings listed above and the City's actions approving this resolution taken at the council meeting are hereby approved and adopted.

Part 2: The City Council finds that that McLane Company, Inc., is a "qualified business," as defined in Section 2303.402 of the Act, and meets the criteria for designation as an enterprise project, as set forth in Section 2303, Subchapter F of the Act.

Part 3: The City Council determines that the date of designation of the enterprise project shall be the same date as the date of designation of the enterprise project by OOGEDT, and shall terminate five years from the date of designation.

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

PASSED AND APPROVED this the 16th day of May, 2013.

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

05/16/13
Item #4(H)
Consent Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Traci L. Barnard, Director of Finance

ITEM DESCRIPTION: Consider adopting a resolution approving second quarter financial results for Fiscal Year 2013.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

BACKGROUND: This item will present in detail the second quarter ending March 31, 2013, for the General, Water & Sewer, Hotel/Motel Tax, Drainage, and Self-Funded Health Insurance Funds.

Included with these second quarter results will be various schedules detailing grants, sales tax, capital projects and investments.

The second quarter financial statements also include a forecast of year-end financial results for the General Fund as of September 30, 2013.

FISCAL IMPACT: N/A

ATTACHMENTS:

Quarterly Financial Statements
[Resolution](#)

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING THE SECOND QUARTER FINANCIAL RESULTS FOR THE FISCAL YEAR 2012-2013; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the second quarter 2012-2013 fiscal year financial results need to be approved by the City Council and will detail the second quarter ending March 31, 2013, for the General, Water & Sewer, Hotel/Motel Tax, Drainage, and Self-Funded Health Insurance Funds;

Whereas, included in the second quarter results are various schedules detailing grants, sales tax, capital projects and investments; and

Whereas, the City Council deems it in the public interest to authorize this action.

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

Part 1: The City Council approves the second quarter 2012-2013 fiscal year financial results, 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 16th day of **May**, 2013.

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

05/16/13
Item #4(I)
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 2012-2013.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: This item is to recommend various budget amendments, based on the adopted FY 2012-2013 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

FISCAL IMPACT: The total amount of budget amendments is \$11,491,903.

ATTACHMENTS:

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

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2013 BUDGET
May 16, 2013

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
110-2057-521-2121		Firearms/Munition (Police Department)	\$ 14,605	
110-0000-442-0720		Police Revenue		\$ 14,605
Guns taken out of Evidence that were turned over to the Police Department and sold to GT Distributors for credit.				
110-2011-521-1119		Overtime (Police Department - Admin Overhead)	\$ 35,000	
110-0000-442-0718		Police Overtime Revenue		\$ 35,000
Appropriate expenditure and revenue related to the agreement dated 11/15/2012, with the City of Temple Police Department and Bechtel Corporation to provide off-duty police officers for security work. Bechtel agrees to reimburse the City for 100% (overtime) salary and benefits paid to the off-duty police officers. Originally they estimated \$28,800 per year. That estimation was based on one officer working 2 hours per day. Starting around the first of April, they increased that to two officers working 2 hours per day.				
520-5200-535-2250		Meters & Meter Boxes (Water Distribution)	\$ 75,000	
520-0000-443-2525		Tap Fees Revenue		\$ 75,000
This budget adjustment recognizes an increase in revenues and expenditures associated with new water service taps. Our large meter taps have increased by 75% over all of last fiscal year. Both the revenue and expenditure accounts have already exceeded budget at 58% of the fiscal year. We had a record setting 107 new water service taps in the month of March.				
361-2400-519-6807	100925	City Hall Renovations	\$ 20,000	
361-3400-531-2588	100681	NW Loop 363		\$ 20,000
This budget adjustment appropriates additional funding to the city hall renovation project. These additional funds will fund additional services performed by Vanguard, IT equipment, and fees related to the asbestos abatement.				
365-2800-532-6810	100927	Traffic Signal - Airport @ Research Parkway	\$ 1,512	
365-2800-532-6810	100504	Traffic Signal - S 5th @ FM 93	\$ 250,000	
365-2800-532-6810	100956	Traffic Signal - West Adams @ Westfield	\$ 250,000	
365-2800-532-6810	100926	Traffic Signal - SH 317 @ FM 2483	\$ 250,000	
365-2800-532-6810	100957	Traffic Signal - SH 317 @ Prairie View	\$ 250,000	
365-2800-532-6861	100983	Signal Communication Equipment	\$ 300,000	
365-3400-531-6859	100970	Westfield Boulevard Improvements	\$ 1,622,406	
365-3400-531-6860	100971	S. Pea Ridge Road Improvements	\$ 1,161,845	
365-3400-531-6862	100984	Prairie View Road Improvements	\$ 300,000	
365-3400-531-6532		Capital - Special Project/Contingency Fund Balance	\$ 550,000	
365-3400-531-6527	100953	Street/Road Improvements		\$ 3,904,287
365-2800-532-6323	100403	Traffic Signals		\$ 1,031,476
This budget adjustment appropriates the proceeds from the 2012 Certificates of Obligation Bonds to projects identified in the FY 2013 TCIP. In addition, it designates a grant match of \$550,000 (25%) for a Texas Department of Transportation, Transportation Enhancement Program which was approved by Council on November 15, 2012. The total amount of the grant is \$2,200,000.				

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2013 BUDGET
May 16, 2013

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
561-5100-535-6906	100679	WTP - Generator Phase 2	\$ 132,306	
561-5100-535-6906	100933	WTP - Generator Phase 2B	\$ 12,904	
561-5100-535-6904	100988	WTP - Backwash Tank Rehab	\$ 450,000	
561-5200-535-6942	100989	Pin Oak Waterline Improvements	\$ 500,000	
561-5200-535-6946	100987	Water Line Improvements - I-35 Valve Improvements	\$ 200,000	
561-5400-535-6943	100985	WW Line Replacement - Lengefeld	\$ 200,000	
561-5400-535-6905	100990	Williams Creek Lift Station	\$ 350,000	
561-5400-535-6905	100991	Hickory Lift Station Pump Replacement	\$ 300,000	
561-5400-535-6925	100980	Bird Creek - Phase 3	\$ 1,200,000	
561-5500-535-6944	100992	WWTP SCADA Project	\$ 300,000	
561-5500-535-6945	100993	WWTP Doshier RAS Pump Replacement	\$ 300,000	
561-5000-535-6532		Special Project - Contingency	\$ 216,325	
561-5400-535-6941	100851	Leon River		\$ 643,720
561-5200-535-6909	100333	South Temple Water Improvements		\$ 1,636,959
561-5200-535-6939	100608	Charter Oaks Waterline		\$ 1,880,856
520-5900-535-6521	100986	Utility Improvements - North Loop 363/IH 35	\$ 2,250,000	
520-5900-535-6361	100807	Sewer Line Replacement - Hillcrest		\$ 103,519
520-5900-535-6361	100808	Sewer Line Replacement - Marlandwood		\$ 180,118
520-5900-535-6611	100805	Friar's Creek Lift Station		\$ 5,000
520-0000-373-0411		Water & Sewer Unreserved Retained Earnings		\$ 1,961,363
Reallocate project funds that are available due to the re-prioritization of FY 2013 CIP.				
TOTAL AMENDMENTS			\$ 11,491,903	\$ 11,491,903
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	\$	(39,859)
		Net Balance of Judgments & Damages Contingency Account	\$	40,141
		Beginning Compensation Contingency	\$	403,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(403,000)
		Net Balance of Compensation Contingency Account	\$	-
		Net Balance Council Contingency	\$	40,141
		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	\$	(11,882)
		Net Balance of Contingency Account	\$	38,118

CITY OF TEMPLE
BUDGET AMENDMENTS FOR FY 2013 BUDGET
May 16, 2013

ACCOUNT #	PROJECT #	DESCRIPTION	APPROPRIATIONS	
			Debit	Credit
		Beginning Compensation Contingency	\$	142,000
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(97,509)
		Net Balance of Compensation Contingency Account	\$	44,491
		Net Balance Water & Sewer Fund Contingency	\$	82,609
		HOTEL/MOTEL TAX FUND		
		Beginning Contingency Balance	\$	147,759
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	(45,999)
		Net Balance of Contingency Account	\$	101,760
		Beginning Compensation Contingency	\$	10,100
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(10,100)
		Net Balance of Compensation Contingency Account	\$	-
		Net Balance Hotel/Motel Tax Fund Contingency	\$	101,760
		DRAINAGE FUND		
		Beginning Contingency Balance	\$	69,100
		Added to Contingency Sweep Account	\$	-
		Carry forward from Prior Year	\$	-
		Taken From Contingency	\$	-
		Net Balance of Contingency Account	\$	69,100
		Beginning Compensation Contingency	\$	25,100
		Added to Compensation Contingency	\$	-
		Taken From Compensation Contingency	\$	(25,100)
		Net Balance of Compensation Contingency Account	\$	-
		Net Balance Hotel/Motel Tax Fund Contingency	\$	69,100
		FED/STATE GRANT FUND		
		Beginning Contingency Balance	\$	-
		Carry forward from Prior Year	\$	39,839
		Added to Contingency Sweep Account	\$	114,528
		Taken From Contingency	\$	(11,413)
		Net Balance of Contingency Account	\$	142,954

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2012-2013 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on the 30th day of August, 2012, the City Council approved a budget for the 2012-2013 fiscal year; and

Whereas, the City Council deems it in the public interest to make certain amendments to the 2012-2013 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 2012-2013 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 16th day of May, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

ATTEST:

APPROVED AS TO FORM:

Lacy Borgeson
City Secretary

Jonathan Graham
City Attorney



COUNCIL AGENDA ITEM MEMORANDUM

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DEPT. / DIVISION SUBMISSION & REVIEW:

Beverly Zendt, Interim Director of Planning

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING - Z-FY-13-13: Consider adopting an ordinance authorizing a zoning change from Agricultural District (AG) to Single Family- One (SF-1) For Lots 1-3 and Lot 5 – 20 Block 1, and all of Blocks 2-5, The Highlands Phase 1, located on the north side of West Adams Avenue, west of Windmill Farms Subdivision.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its April 15, 2013 meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of the proposed rezoning.

STAFF RECOMMENDATION Conduct public hearing and adopt ordinance as presented in item description on first reading, and schedule a second reading and final adoption for June 6, 2013.

Staff recommends approval of the proposed rezoning for the following reasons:

- The proposed rezoning is compatible with the existing development pattern of the subdivision and provides the owners with an appropriate designation for this residential neighborhood;
- The proposed rezoning is compatible with the Temple Comprehensive Plan/Future Land Use map;
- The proposed rezoning ensures that future changes and transitions in this area will be compatible with the existing residential character of the subdivision.

ITEM SUMMARY: In 1996, the City of Temple annexed a 4.67 square mile tract in west Temple that included the Highlands Phase 1 subdivision. Per the Unified Development Code Section 4.2, all territory annexed to the city must be temporarily classified as AG, Agricultural Zoning District, until the City Council establishes a permanent zoning district for the property. The procedure for establishing permanent zoning on annexed territory must conform to the procedures governing standard rezoning. This area, although currently zoned Agricultural, was designed and constructed as a single family neighborhood in the mid-1980's. Lot sizes range from ¼ acre to ½ acre with all uses identified as single family detached residential. This request is being brought forward by the City of Temple to assign a permanent zoning designation to the area that is compatible with the existing development pattern and that is consistent with the Temple Comprehensive Plan/Future Land Use Map.

A "neighborhood meeting" was held on April 2, 2013 in City Council Chambers from at 5:00 p.m. Staff prepared a presentation addressing multiple topics related to the rezoning to include:




- The 1996 Annexation and temporary zoning classification,
- The rezoning process,
- Full schedule for change of zoning process,
- Differences between AG zoning classification and SF-1 zoning classification, and
- Common property owner questions.



Additional questions and comments from property owners related to the following:

- The effect of rezoning on school district designation;
- The extension of city sewer to the subdivision;
- The 1996 Annexation; and
- Surrounding zoning designations.

A revised presentation was posted on the planning page of the city's website. The revised presentation included new questions raised at the neighborhood meeting.

SURROUNDING PROPERTY AND USES: The following table shows the subject property, existing zoning, and current land uses:

Subject Property	AG	Single Family Detached homes. Image from St. Andrews at the entrance	
South across FM 2305	UE	Church/ Residential	
North	AG	Undevelope d	

East	AG	Undeveloped	
West	UE	Residential	

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

Document	Policy, Goal, Objective or Map	Site Conditions	Compliance?
CP	Map 3.1 - Future Land Use and Character (FLUP)	Suburban Residential**	Y
CP	Map 5.2 - Thoroughfare Plan	FM 2305 – Major Arterial** Ben Nevis Lane 30' wide ; St. Andrew's Place 40' wide; Inverness Road 30' wide	Y
CP	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Subject area is served by City of Temple water by means of a 10" water line. Existing lots have onsite sewage (septic) facilities.	Y
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	West Adams Ave has been identified and constructed as a Citywide Spine Trail	Y

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

The Land Use and Character Map identify this area as Suburban Residential allowing for mid-size single family detached homes identified in the Unified Development Code. According to the Comprehensive Plan, development in this district should feature curvilinear streets, increased open space and vegetation, variation in the building envelope, and larger varied lot sizes. The development pattern of this subdivision is compatible with this land use designation.

The Thoroughfare Plan identifies West Adams Ave as a Major Arterial which supports adjacent residential and commercial development. Major arterials can intersect with both collectors and local streets although driveway access is restricted. All streets within the subdivision are built to a local street or local collector street standard.

West Adams Avenue currently provides a 10' sidewalk in accordance with Article 8 of the Unified Development Code. No sidewalks are required within the existing residential development.

Article 4: Zoning Districts
Sec. 4.5. Residential Dimensional Standards

4.5.1 Single-Family Detached Dwelling

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 ac.	22,500	7,500	5,000	4,000	5,000	3,000	2,300	4,000	6,000	6,000	5,000	-	6,000	6,000	6,000	5,000	5,000	5,000	-	-	
Min. Lot Width (ft.)	100	80	60	50	40	50	30	20	40	50	50	50	-	50	50	50	50	50	50	-	-	
Min. Lot Depth (ft.)	150	125	100	100	100	100	100	100	100	100	100	100	-	100	100	100	100	100	100	-	-	
Min. Front Yard Setback (ft.)	50	30	25	25	15	25	15	15	15	25	25	25	-	25	25*	15	15	See 4.4.4F.1.d*			-	-
Min. Side Yard Setback (ft.)	15	15	10% of lot width 6 min 7.5 max	5	5	5	5	5	10% width of lot 5 min	5	10% of lot width 5 min		-	10% of lot width 5 min	10% of lot width 5 min*	10% of lot width 5 min					-	-
Min. Side (Corner) Yard Setback (ft.)	15	15	15	15	15	15	15	15	15	15	15	15	-	15	15*	15	15	15	15	-	-	
Min. Rear Yard Setback (ft.)	10	10	10	10	10	10	10	10	10	10	10	10	-	10	10	10	10	10	10	-	-	
Max. Building Coverage (%) for Rear Half of Lot	50	50	50	50	50	50	50	50	50	50	50	50	-	50	50	50	50	50	50	-	-	
Max. Height (stories)	3	3	2	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	2 ½	3	4	-	3	ALH	2 ½	3	ALH	ALH	-	-	

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

PUBLIC NOTICE: On March 25, 2013, 25 notices of the Planning and Zoning Commission public hearing were sent out to property owners within 200' of case Z-FY-13-13 as required by State law and City Ordinance. An additional 48 notices were mailed out to property owners within the boundary of the area being considered for rezoning. As of Tuesday May 7, 2013, of the 48 property owners who were noticed within the rezoning boundary: four notices were returned in favor of the proposed rezoning; four notices were returned in opposition to the proposed rezoning and one notice was returned expressing neither support nor opposition to the proposed rezoning. An additional three notices, from property owners within 200' of the proposed rezoning, were returned in support of the proposed rezoning.

The newspaper printed notice of the Planning and Zoning Commission public hearing on April 4, 2013 in accordance with state law and local ordinance.

FISCAL IMPACT: Not Applicable

ATTACHMENTS:

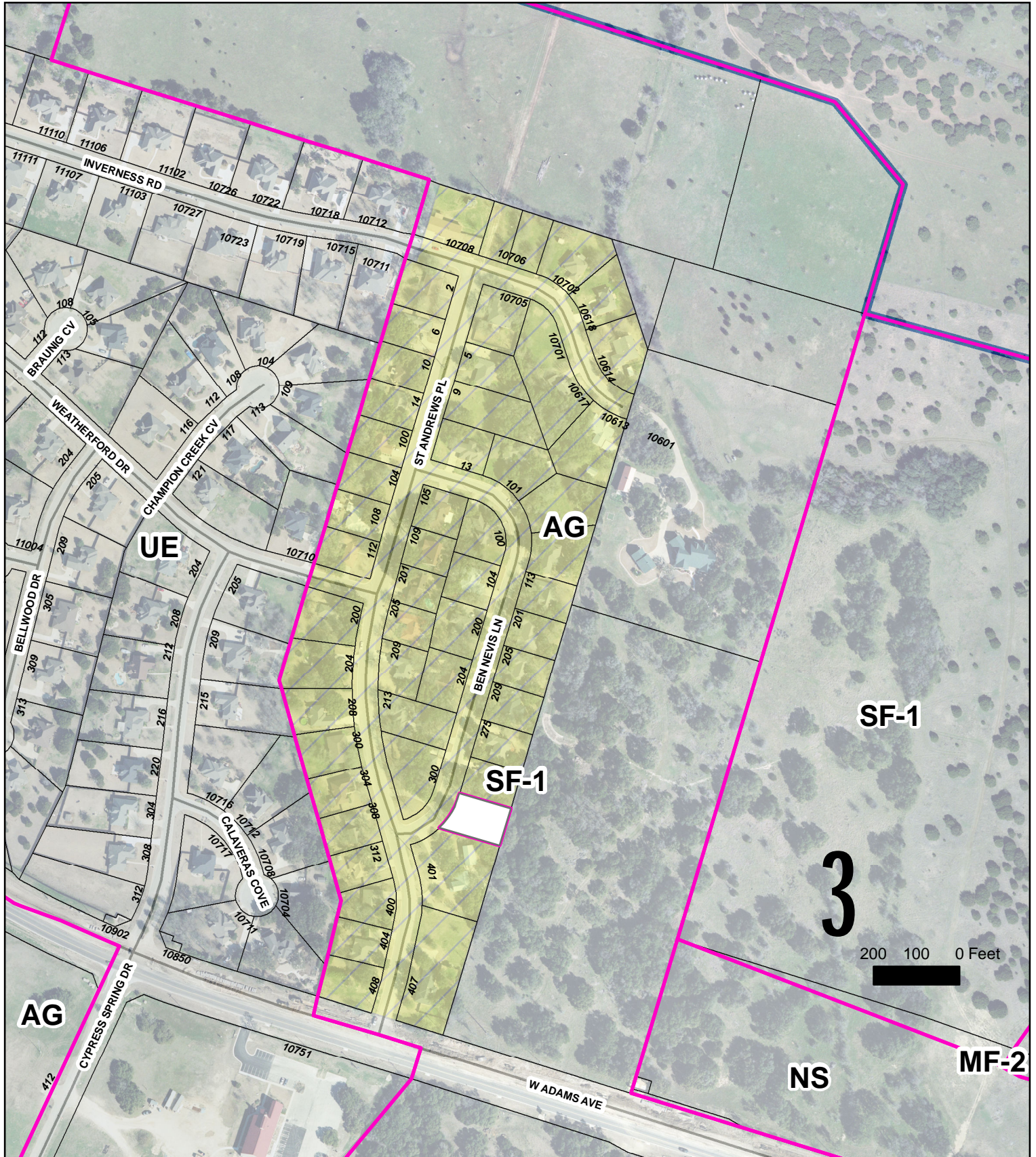
[Zoning and Location Map](#)
[Notice Map and Response Letters](#)
[PZ Excerpts](#)
[Ordinance](#)



Z-FY-13-13

Highlands Phase I Rezoning: Agricultural to Single Family I

Highlands Phase I
NW W.
Adams Avenue



Zoning Cases 1234 Addresses City Limits

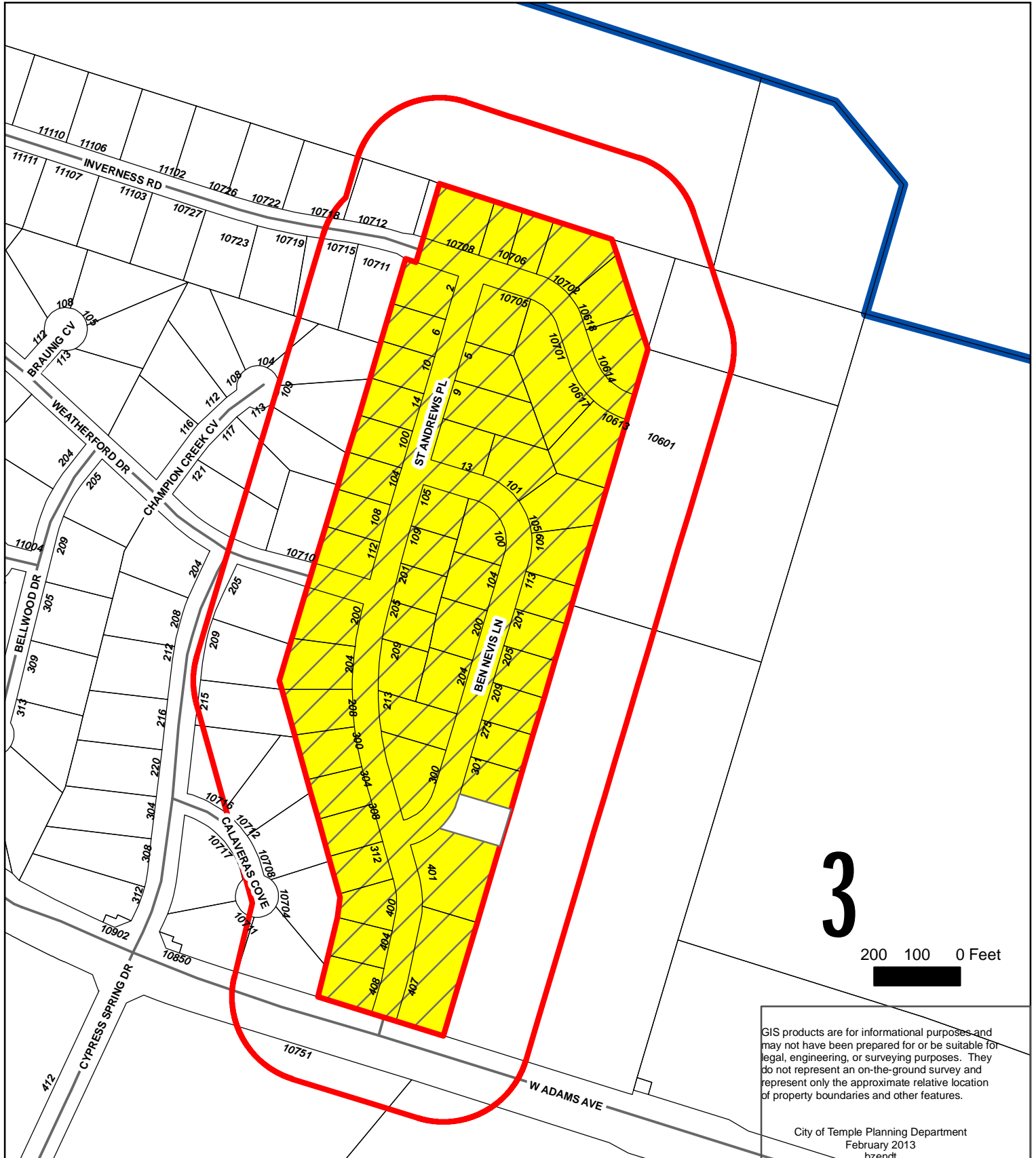
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.



Z-FY-13-13

Highlands Phase I Rezoning: Agricultural to Single Family I

Highlands Phase I
NW W.
Adams Avenue



 Cases_Buffer  Cases 1234Addresses  TempleSDE.GIS.Temple_Boundary



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Bobby M. Bradley
105 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

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

Comments:

B.M. Bradley
Signature

3-23-13

B.M. BRADLEY
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

MAR 26 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Beth Etvir Fayne Holloway
401 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

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

Comments:

Beth Holloway
Signature

Beth Holloway
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED
MAR 25 2013
City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE

Patrick Etux Rachel Johnson
2 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

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

Comments:

I AGREE W/ THE ZONE CHANGE. IT WOULD BE BENEFICIAL FOR THIS NEIGHBORHOOD TO BE ZONED TO A STANDARD OF OTHER LIKE AREAS. IT GIVES US AS HOMEDOWNERS A BETTER DEFINED SCOPE OF WHAT WE CAN/CANT DO WITH OUR HOMES. APPROVAL OF THIS ZONE CHANGE IS THE BEST OPTION FOR OUR NEIGHBORHOOD.


Signature

Patrick Johnson
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 04 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Joel & Donna Weatherford
404 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

I recommend () approval

(☒) denial of this request.

Comments:

Signature

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED
MAR 28 2013
City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE

David & Pamela Marmon
Revocable Living Trust
205 Ben Nevis Lane
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

I recommend () approval

(☒) denial of this request.

Comments:

David Marmon

Pamela Marmon

Signature

DAVID MARMON

Pamela MARMON

Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

MAR 28 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Dennis & Dorothy Zacha
10708 Inverness Road
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

I recommend () approval ☒ denial of this request.

Comments:

Annexed = increased taxes
Rezoning = more increased taxes

Dennis W. Zacha / Dorothy Zacha
Signature

DENNIS W. ZACHA / DOROTHY ZACHA
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 02 2013

**City of Temple
Planning & Development**

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE

Oscar Jr. Etux Geraldine Houser
205 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

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

Comments:

I Am On The Fence About This MATter. I defer To
my Neighbors. We WANT To Get Sewer Service here!
How soon Can That happen?

Oscar S. Houser
Signature

Oscar S. Houser
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 09 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE

David Etux Barbara Hardwick
10708 Calaveras Cove
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

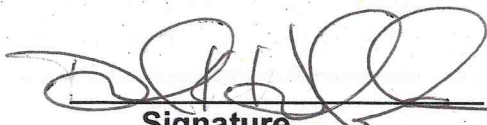
Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

The proposed zone change 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

DAVID K. HARDWICK
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 08 2013

City of Temple
Planning & Development

Number of Notices Mailed: 25

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

James Etux Kimberly Maddox
205 Cypress Springs Drive
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

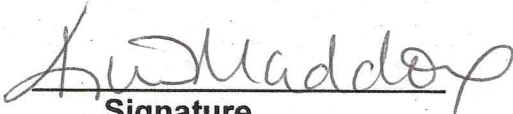
Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

The proposed zone change 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


Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED
MAR 26 2013
City of Temple
Planning & Development

Number of Notices Mailed: 25

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Clayton Etux Michelle Crews
117 Champion Creek Cove
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

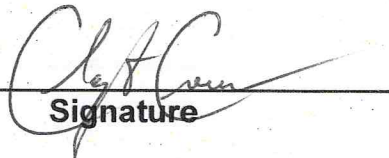
Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

The proposed zone change 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

Clayton Crews
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 04 2013

City of Temple
Planning & Development

Number of Notices Mailed: 25

Date Mailed: March 25, 2013



**RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE**

Mary Martinez
407 St Andrews Place
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

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

Comments:


Signature

MARY A Martinez
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 15 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013



RESPONSE TO PROPOSED
ZONING REQUEST
CITY OF TEMPLE

Wayne Etux Judith Parker
301 Ben Nevis Lane
Belton, Texas 76513

Zoning Application Number: Z-FY-13-13

Project Manager: Beverly Zendt

Location: On the north side of West Adams Avenue, west of Windmill Farms Subdivision

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

I recommend ☒ approval () denial of this request.

Comments:

Wayne Parker
Signature

Wayne B. Parker
Print Name

Please mail or hand-deliver this comment form to the address shown below, no later than April 15, 2013

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

RECEIVED

APR 18 2013

City of Temple
Planning & Development

Number of Notices Mailed: 48

Date Mailed: March 25, 2013

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, APRIL 15, 2013**

ACTION ITEMS

Item 5: Z-FY-13-13 - Hold a public hearing to consider and recommend action on a zone change from Agricultural District (AG) to Single Family One District (SF-1) for lots 1-3 and Lots 5-20, Block 1, and all of Blocks 2 – 5, The Highlands Phase 1, located on the north side of West Adams Avenue, west of Windmill Farms Subdivision. (City-Initiated)

Commissioner Johnson stated he would abstain from this item.

Ms. Zendt stated this was a City initiated rezoning and will go forward to City Council on May 16th for first reading and June 5th for second reading.

This subject area was annexed in 1996 as part of a 4.67 square mile area brought into the City. At that time and in accordance with the applicable regulations, the property had a temporary zoning designation of Agricultural (AG). The subdivision was already constructed and built as a single family residential subdivision in the 1980s.

The purpose of the rezoning is to establish an appropriate zoning designation for the area that is compatible with the existing development pattern already on the ground and consistent with the City's Future Land Use and Character Map which designate the area as Suburban-Residential—appropriate for mid-sized residential lots.

Surrounding properties include Urban Estates (UE) to the south, undeveloped land lies to the north and east, and a residential subdivision to the west.

Several allowed and prohibited uses in AG and Single Family-One (SF-1) are given.

Dimensional requirements will vary. Most of the existing lots range from a quarter of an acre to half an acre, depending on the location, and fall into the SF-1 range. The setbacks will change from AG with a 15 foot minimum setback to a six foot minimum setback in SF-1.

West Adams is constructed as a major arterial and all streets within the subdivision have been constructed to local street or local collector street standards. West Adams already has a 10 foot sidewalk constructed and is currently served by Temple water with a 10-inch water line serving the subdivision. On-site sewage facilities are currently in effect for wastewater needs.

Forty-eight property owner notices were mailed out: three notices were received in favor, four notices were in opposition; and one notice was on the fence.

On April 2nd, Staff held a neighborhood meeting which had approximately 12 property owners in attendance. A slideshow presentation was given explaining why and how the annexation process occurred, why the AG zoning was designated, and why the SF-1 rezoning was initiated.

Staff recommends approval of the rezoning because it is compatible with the existing development pattern of the residential neighborhood, provides the owners with an appropriate zoning designation for the residential area, the rezoning is compatible with the Comprehensive Plan and the Future Land Use and Character Map, and the proposed rezoning ensures that future changes and transitions in the area will be compatible with the existing residential character of the subdivision.

Vice-Chair Sears asked about possible sewer facilities clarification for the subdivision. Ms. Zendt stated the City has a wastewater fund and a certain amount of money is set aside every year and primarily used for cost sharing and new development projects. There is a provision that allows that funding to be used for the extension of sewer to existing subdivisions. Ms. Zendt is not familiar with all of the aspects of the adopted Ordinance but knows it requires a petition and a certain percentage of the landowners to be agreeable to participate in the cost sharing. There is formula used which breaks down the percentage of what the City and the homeowners each pay for the facilities. There are several preliminary steps that need to be taken and then it is taken forward for City Council approval. Ms. Zendt explained that the extension of sewer services was not a requirement and was generally brought forward when initiated by the property owners.

Information about sewer facilities was given at the neighborhood meeting but to date, Ms. Zendt has not had any calls or emails regarding the issue.

Chair Staats opened the public hearing.

There being no speakers, the public hearing was closed.

Vice-Chair Sears made a motion to approve Item 5, Z-FY-13-13, and Commissioner Talley made a second.

Motion passed: (8:0)

Commissioner Johnson abstained

ORDINANCE NO. _____

(PLANNING NO. Z-FY-13-13)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM AGRICULTURAL DISTRICT (AG) TO SINGLE FAMILY-ONE (SF-1) DISTRICT ON LOTS 1-3 AND LOTS 5-20, BLOCK 1 AND ALL OF BLOCKS 2-5 OF THE HIGHLANDS PHASE I, LOCATED ON THE NORTH SIDE OF WEST ADAMS AVENUE, WEST OF WINDMILL FARMS SUBDIVISION; 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 permanent zoning from Agricultural District (AG) to Single Family-One (SF-1) on lots 1-3 and lots 5-20, block 1 and all of blocks 2-5, The Highlands Phase I, located on the north side of west Adams Avenue, west of Windmill Farms Subdivision, 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 **16th** day of **May**, 2013.

PASSED AND APPROVED on Second Reading on the **6th** day of **June**, 2013.

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

05/16/13
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 21, "Minimum Building Standards," of the Code of Ordinances of the City of Temple, Texas.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description on first reading, and schedule a second reading and final adoption for June 6, 2013.

ITEM SUMMARY: Code revisions include the incorporation of the statutory requirements set forth in Chapter 54 and Chapter 214 of the Texas Local Government Code. The revisions provide a clearer definition of what constitutes a "dangerous building or structure" and a more streamlined process for ordering the repair and demolition of a dangerous building or structure. The changes also ensure that the City's policies and practices with respect to code enforcement and condemning (demolishing) substandard and dangerous structures will withstand the constitutionality test outlined in *City of Dallas v. Stewart*, 361 S.W.3d 562 (Tex. 2012). The cumulative effect of the changes should bring greater clarification and guidance for the City's Building Official and the Building & Standards Commission.

FISCAL IMPACT: None

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. 2013-4586

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 21, "MINIMUM BUILDING STANDARDS," 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, the Staff recommends amending Chapter 21, "Minimum Building Standards," of the Code of Ordinances to incorporate statutory requirements set forth in Chapter 54 and Chapter 214 of the Texas Local Government Code;

Whereas, the revisions provide a clearer definition of what constitutes a "dangerous building or structure" and a more streamlined process for ordering the repair and demolition of a dangerous building or structure;

Whereas, the revisions will also ensure that the City's policies and practices with respect to code enforcement and condemning (demolishing) substandard and dangerous structures will withstand the constitutionality test and will bring greater clarification and guidance of the City's Building Official and the Building & Standards Commission; 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: The City Council amends Chapter 21, "Minimum Building Standards," of the Code of Ordinances of the City of Temple, Texas, as outlined in Exhibit A, attached hereto and incorporated herein for all purposes.

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

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

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

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

PASSED AND APPROVED on First Reading and Public Hearing on the **16th** day of **May**, 2013.

PASSED AND APPROVED on Second Reading on the **6th** day of **June**, 2013.

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

05/16/13
Item #7
Regular Agenda
Page 1 of 1

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: FIRST READING – PUBLIC HEARING: Consider adopting an ordinance approving and adopting rate schedule “RRM – Rate Review Mechanism” for Atmos Energy Corporation, Mid-Tex Division to be in force in the City of Temple for a period of time as specified in the rate schedule.

STAFF RECOMMENDATION: Conduct public hearing and adopt ordinance as presented in item description on first reading, and schedule a second reading and final adoption for June 6, 2013.

ITEM SUMMARY: The City of Temple is a gas utility customer of Atmos Energy Corporation, Mid-Tex Division and a regulatory authority with an interest in the rates and changes of Atmos Mid-Tex. The City is a member of the Atmos Cities Steering Committee (ACSC), a coalition of cities which retain original jurisdiction over the rates and services of Atmos Mid-Tex.

In 2007, ACSC member cities and Atmos Mid-Tex developed the RRM tariff that allows for an expedited rate review process controlled by the cities as a substitute for the legislatively-constructed Gas Reliability Infrastructure Program (GRIP). The GRIP does not permit the City to review rate increases. The RRM process permits City review of the requested rate increases and provides for a holistic review of the true cost of service for Atmos Mid-Tex. The initial tariff expired in 2011.

ACSC’s representatives have worked closely with Atmos Mid-Tex to negotiate a renewal of the RRM process that avoids litigation and Railroad Commission filings and the ACSC Executive Committee recommended ACSC members approve the negotiated new RRM tariff. The new rate schedule provides for a reasonable expedited rate review process that is a substitute for, and is superior to, the statutory GRIP process. The expedited rate review process avoids piecemeal ratemaking.

FISCAL IMPACT: N/A

ATTACHMENTS:

[Ordinance](#)

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING AND ADOPTING RATE SCHEDULE “RRM – RATE REVIEW MECHANISM” FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION TO BE IN FORCE IN THE CITY FOR A PERIOD OF TIME AS SPECIFIED IN THE RATE SCHEDULE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND ACSC LEGAL COUNSEL; .

Whereas, the City of Temple, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “the Company”), and a regulatory authority with an interest in the rates and charges of Atmos Mid-Tex;

Whereas, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of cities, most of whom retain original jurisdiction over the rates and services of Atmos Mid-Tex;

Whereas, in 2007 ACSC member cities and Atmos Mid-Tex collaboratively developed the Rate Review Mechanism (“RRM”) Tariff that allows for an expedited rate review process controlled by cities as a substitute for the legislatively-constructed Gas Reliability Infrastructure Program (“GRIP”);

Whereas, the GRIP mechanism does not permit the City to review rate increases, and constitutes piecemeal ratemaking and the RRM process permits City review of requested rate increases and provides for a holistic review of the true cost of service for Atmos Mid-Tex;

Whereas, the initial RRM tariff expired in 2011 and ACSC’s representatives have worked with Atmos Mid-Tex to negotiate a renewal of the RRM process that avoids litigation and Railroad Commission filings;

Whereas, the ACSC’s Executive Committee and ACSC’s legal counsel recommend ACSC members approve the negotiated new RRM tariff;

Whereas, the attached Rate Schedule “RRM – Rate Review Mechanism” (“RRM Tariff”) provides for a reasonable expedited rate review process that is a substitute for, and is superior to, the statutory GRIP process;

Whereas, the expedited rate review process as provided by the RRM Tariff avoids piecemeal ratemaking;

Whereas, the RRM tariff reflects the ratemaking standards and methodologies authorized by the Railroad Commission in the most recent Atmos Mid-Tex rate case, G.U.D. No. 10170;

Whereas, the RRM Tariff provides for an annual reduction in Atmos Mid-Tex’s requested rate increase of at least \$3 million;

Whereas, the RRM Tariff provides for a lower customer charge than if Atmos Mid-Tex pursued GRIP filings and the attached RRM Tariff as a whole is in the public interest; and

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

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

Part 1: That the findings set forth in this Ordinance are hereby in all things approved and that the City Council finds that the RRM Tariff, which is attached hereto and incorporated herein as Attachment A, is reasonable and in the public interest, and is hereby in force and effect in the City.

Part 2: That to the extent any resolution or ordinance previously adopted by the City Council is inconsistent with this Ordinance, it is hereby repealed.

Part 3: That if any one or more sections or clauses of this Ordinance is judged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

Part 4: That this Ordinance shall become effective from and after its passage.

Part 5: That a copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Christopher Felan, Vice President of Rates and Regulatory Affairs for Atmos Mid-Tex Division, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1600, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

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 **16th** day of **May**, 2013.

PASSED AND APPROVED on First Reading and Public Hearing on the **2nd** day of **June**, 2013.

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

05/16/13
Item #8
Regular Agenda
Page 1 of 2

DEPT./DIVISION SUBMISSION & REVIEW:

Jonathan Graham, City Attorney

ITEM DESCRIPTION: Consider adopting a resolution authorizing a tax abatement agreement with Buc-ee's, Ltd., covering increases in the taxable value of real property for a 25.171 acre tract of land (Tax Abatement Reinvestment Zone Number 26) at the southeast corner of North Loop 363 and I-35.

Executive Session: Pursuant to Section 551.087 of the Government Code, the City Council may meet in executive session to discuss either commercial or financial information that the City has received from a business prospect that the City wishes to locate, stay or expand within the City limits and with which the City is conducting economic development negotiations, or to deliberate the offer of a financial or other incentive to a business prospect the public discussion of which would adversely affect ongoing economic development negotiations.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

ITEM SUMMARY: The proposed resolution authorizes the City Manager to execute an agreement with Buc-ee's, Ltd. ("Buc-ee's"), which if approved gives the company ten years of 50% tax abatement on the increased taxable value of real property improvements on a 25.171 acre tract of land located at the southeast corner of North Loop 363 and I-35.

The proposed agreement covers approximately 25.171 acres of land that has been designated as City of Temple Tax Abatement Reinvestment Zone Number 26. The site will be the location of Buc-ee's Travel Center. The tax abatement applies only to *new* real property improvements. The agreement provides that the tax abatement period commences in the first full calendar year after the Travel Center opens for business.

Buc-ee's timely filed an application to receive tax abatement on improvements to real property proposed for a Travel Center to be constructed on the tract described above. The City Council has previously approved an ordinance designating the property on which the improvements will be located as a tax abatement reinvestment zone. Tax abatement is being sought for real property improvements consisting of the construction of a Buc-ee's Travel Center. Buc-ee's estimates that its investment will be in the neighborhood of \$16 million. The actual value of the improvements, and the value of our tax abatement, is dependent on appraisal by the Bell County Appraisal District.

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

The Staff has provided the other taxing entities involved with notice and a copy of the proposed agreement. Under State law, the other taxing entities will have 90 days to elect to enter into an agreement with identical terms. The proposed agreement is drafted for the signature of each taxing entity, but will be effective between Buc-ee's and any of the taxing entities which sign the agreement even if not all sign.

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

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

FISCAL IMPACT: The tax abatement agreement would have the potential of abating approximately \$469,120 in City taxes over the 10 year life of the agreement using the City's current tax rate of \$0.5864 per \$100 value based on an anticipated increase in appraised real property improvements of \$16 million.

ATTACHMENTS:

[Resolution](#)

RESOLUTION _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE CITY MANAGER TO EXECUTE A TAX ABATEMENT AGREEMENT WITH BUC-EE'S, LTD., COVERING INCREASES IN THE TAXABLE VALUE OF REAL PROPERTY FOR A 25.171 ACRE TRACT OF LAND, LOCATED AT THE SOUTHEAST CORNER OF NORTH LOOP 363 AND I-35; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

Whereas, on November 17, 2011, the City Council adopted Ordinance No. 2011-4489, establishing a comprehensive economic development policy for the City of Temple, which policy includes criteria and guidelines for granting tax abatement within the City of Temple in accordance with Chapter 312 of the Tax Code;

Whereas, Buc-ee's, Ltd., timely filed an application to receive tax abatement on improvements to real property proposed for a Travel Center and the application meets the standards for granting tax abatement on the increase in real property improvements established by the City's Criteria and Guidelines for tax abatement;

Whereas, the proposed agreement covers approximately 25.171 acres of land that has been designated as the City's Tax Abatement Reinvestment Zone Number Twenty-Six and applies only to new real property improvements;

Whereas, Buc-ee's, Ltd., has requested that the City consider granting the company ten years of 50% tax abatement on the increased taxable value of real property improvements - the tax abatement period will commence in the first full calendar year after the Travel Center opens for business;

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

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

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

Part 1: The City Manager, or his designee, is authorized to execute a tax abatement agreement on eligible real property improvements between the City of Temple and Buc-ee's, Ltd., after approval as to form by the City attorney, for a 25.171 acre tract of land located at the southeast corner of north Loop 363 and I-35.

Part 2: Buc-ee's, Ltd., has requested that the City consider granting the company ten years of 50% tax abatement on the increased taxable value of real property improvements - the tax abatement period will commence in the first full calendar year after the Travel Center opens for business.

Part 3: The City Council approves the attached Tax Abatement Agreement with Buc-ee's, Ltd., substantially in the form of the copy attached hereto as Exhibit A.

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 **16th** day of **May**, 2013.

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

05/16/13
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Page 1 of 3

DEPT. / DIVISION SUBMISSION & REVIEW:

Beverly Zendt, Interim Director of Planning

ITEM DESCRIPTION: Z-FY-13-16: Consider adopting a resolution approving an Appeal of Standards in Sec. 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District for landscaping, parking, screening and wall standards, architectural standards, signs, and lighting for Golden Corral located on the east side of South General Bruce Drive, north side of Tristan Lane.

PLANNING AND ZONING COMMISSION RECOMMENDATION: At its April 15, 2013 meeting, the Planning and Zoning Commission voted 9/0 to recommend approval of all appeals submitted for consideration by the applicant.

STAFF RECOMMENDATION: Adopt resolution as presented in item description.

Staff recommends approval all appeals with the following exception:

Unified Development Code 6.7.5 K2 Reasonableness of Intensity:

Maximum allowable total lumens generated on each parcel are 80,000 lumens per net acre with full-cutoff lighting. Parcels less than one net acre are allowed full-cutoff lumens in a portion equal to the parcel's portion of a net acre.

Staff recommends that the applicant provide an average illumination of 8 foot candles or a lighting scheme of 700,000 lumens or less.

ITEM SUMMARY: The project is located in the I-35 Corridor Overlay District in the Freeway Retail/Commercial Sub-District. The site is currently being developed for the purpose of siting a Golden Corral restaurant. The applicant is proposing a new 8,035 structure on an approximate two acre site. The new restaurant will seat approximately 314 people.

In accordance with Article 6 of the Unified Development Code relating to Interstate 35 Corridor Overlay, all new construction is required to conform to the standards of the I-35 Overlay District in accordance with the table below.

Development Type	Site Plan Review	Tree Preservation	Parking	Screening and Wall Standards	Architectural Design	Landscape	Signs	Lighting	Utilities
New construction	✓	✓	✓	✓	✓	✓	✓	✓	✓

The following list summarizes all standards that are applicable.

- Site Plan Review
- Tree Preservation
- Parking
- Screening and Wall Standards
- Architectural Design
- Landscape
- Signs
- Lighting
- Utilities

The applicant has worked with City Staff to develop a plan that meets the spirit and intent of the I-35 Overlay District. Staff has worked with the applicant to balance the City's overall goals for this important corridor with the operational needs of the applicant. The applicant has provided a substantial landscape plan for this site and has worked closely to with staff to comply with other applicable I-35 Overlay District regulations. Staff is recommending approval of all requested appeals with the exception of the maximum allowable lumens allowed for this site. The applicant has proposed 1,100,000 lumens where I-35 Overlay District regulations call for not more than 160,000 lumens for the site. Staff is seeking greater compliance on this item as the subject site is situated adjacent to an existing hotel. The Illuminating Engineering Society/International Dark Sky Association's Model Ordinance recommends 5 lumens per SF of hardscape for commercial corridors where moderate to high lighting is needed. Total lumens allowed under this standard would be 435,600. Additionally, staff has consulted with other lighting firms (RUUD Lighting Inc; Spectrum Lighting Austin; Rabroker & Ass. PC Temple) for additional guidance on industry standards. The following is a summary of average foot candle illumination for some typical commercial sites:

- McDonalds- 6-12 FC
- Culvers= 2-4 FC
- HEB- 4-6 FC

- Best Buy 3-4 FC
- Burger King- 8 FC
- Typical Commercial Strip Center 4-5
- Golden Corral 10-15 FC

Based on the information provided by other lighting firms, staff is requesting that the lighting meet an 8 average FC maximum standard for this site or a maximum of 700,000 lumens for the total site.



The applicant desires to pursue a request for relief from complying with all standards in the form of this appeal.

FISCAL IMPACT: Not Applicable.

Attachments:

[Summary Of Compliance/Appeals](#)
[Site Layout Plan](#)
[Sign Rendering](#)
[Landscape Plan](#)
[Building Elevations](#)
[PZ Excerpts](#)
[Resolution](#)

35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
SITE PLAN REVIEW			
Applicant has submitted site plans for review on this project.			
TREE PRESERVATION			
No protected species on site			
PARKING (GENERAL)			
The following is a summary of those parking standards the applicant has met: <ul style="list-style-type: none">• Curb and gutter provided around perimeter of all parking and landscape areas• Parking to the rear and side of building is preferred• Parking must be planned so that vehicles are not required to back out of parking spaces directly into a public or private street.• No parking is allowed in the landscape buffer• Parking aisles must be designed to be perpendicular to the front of the building• Parking spaces that face and are adjacent to a building utilize wheel stops• Required parking spaces (1 for every 3 seats)			
Parking spaces that face and are adjacent to a building utilize wheel stops	Curb and gutter provided, no wheel stops	<u>NOT MET</u> APPEAL REQUESTED	Stand up curb is provided and will be maintained by the owner as needed. Staff recommends approval of appeal.
Wheel stops are required adjacent to all landscaped areas. Wheel stops are required adjacent to all sidewalks, except for raised sidewalks at least 6 feet in width (8 feet if parking spaces front both sides)	Curb and gutter provided, no wheel stops	<u>NOT MET</u> APPEAL REQUESTED	Stand up curb is provided and will be maintained by the owner as needed. Staff recommends approval of appeal.
SCREENING AND WALL STANDARDS			
The following is a summary of those screening and wall standards the applicant has met: No storage in connexes, shipping containers or portable buildings Roof mounted equipment must be screened from a vantage point of 6’ above finished grade Refuse storage/compacters/vehicle loading and unloading must not be clearly visible at eye level from any public street or located within 100’ of any public street			
All ground mounted service equipment must be located at the rear of buildings (unless rear faces I-35), integrated into the building	Gas and Electric Meters on Tristan Lane	<u>NOT MET</u> APPEAL REQUESTED	Substantial landscaping and buffering should impede visibility to meters. Staff recommends approval of appeal.

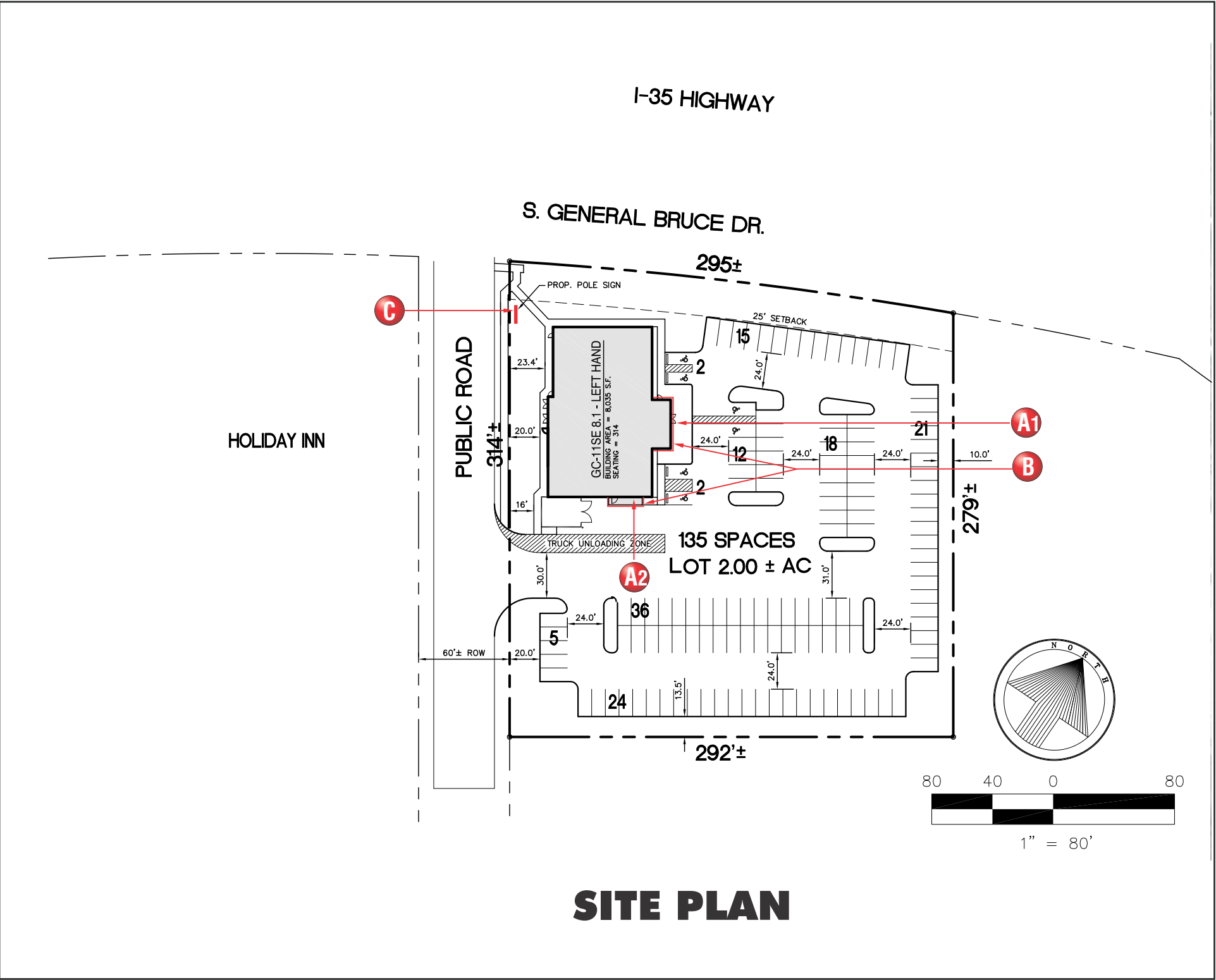
35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
envelope, or enclosed service area			
Loading Zones and Mechanical Equipment must not be clearly visible at eye level from any public street	Service Doors on Tristan Lane. Loading Zone at Main Entry on Tristan Lane.	<u>NOT MET</u> APPEAL REQUESTED	Loading includes service related deliveries that will not occur during evening hours. Full landscape buffer provided on both Tristan Lane I-and 35 sides will provide screening and buffering. Staff recommends approval of appeal.
LANDSCAPE (GENERAL)			
<p>The following is a summary of those landscape standards the applicant has met:</p> <ul style="list-style-type: none"> • A total of 15% of the total site area must be landscaped with living approved trees, shrubs, and groundcovers. (30.4% provided) • All landscape areas irrigated and maintained • No drainage facilities are planned in landscape areas • Vegetation used to soften the appearance of walls • 20% Required landscape buffer has native grass beds or wildflowers • Areas not covered by building or pavement must be landscaped • Plants have been selected from the drought tolerant list • Parking screen of hedge row/earthen berm, or retaining wall 2.5' to 4' high for all parking areas visible from public view. • Landscape buffer (size) required adjacent to any public street ROW- 25 ft. front and adjacent to public street (10 ft. rear ;10 ft. interior side; 20 ft. street side) – provided 25' on I-35; 23' on Tristan ; turfed areas at min 10' on interior and rear sides • Interior parking islands 1 per every 10 spaces minimum 170 sq ft (one 3" tree required in each) non- inventory. 6 required – 6 provided. Interior island sizes are 178 SF for perimeter, and 347 SF for interior double. 			
Foundation plantings are required within a planting area of 6" width along 70% of the length of any façade visible to the public.	I-35 side- 100% Entry façade- 62% percent Tristan Lane side – 0% Interior side not visible from street- 0% Total :54 % foundation plantings provided. Bed width: Entry façade, 48% of the length is a narrower 3'-4" bed, and 14% is 6 ft. or wider.	<u>NOT MET</u> APPEAL REQUESTED	Staff recommends approval of appeal. Foundation plantings combined with plantings along walkway creates a comprehensive landscape effect at the base of building. Staff recommends approval of appeal.

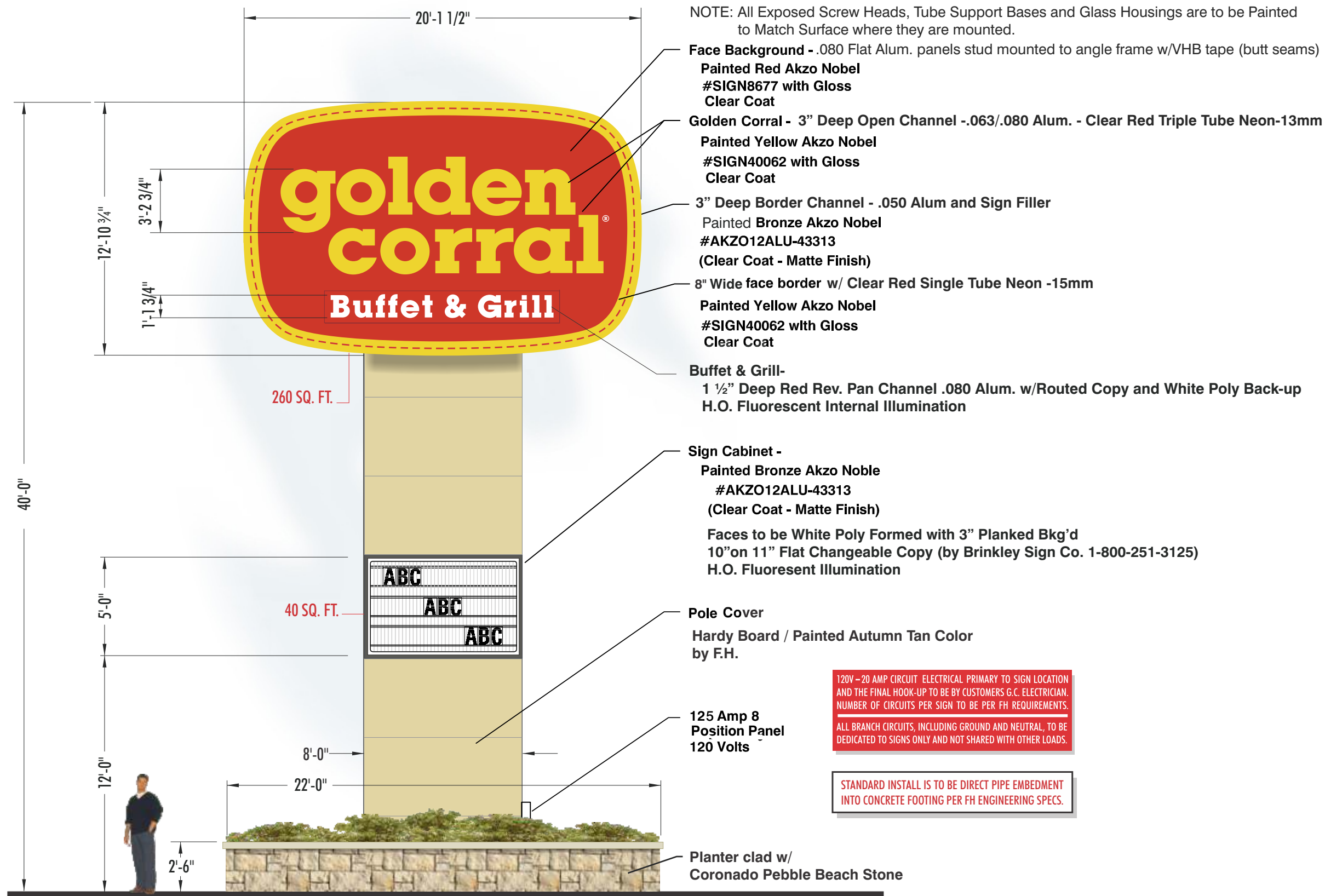
35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
Landscape buffer plantings- (for street side buffers) One min. 3" caliper canopy tree must be planted for every 30' of frontage along public ROW. If power lines are present four ornamental trees may be substituted for one canopy tree	<p>Landscape area along General Bruce Drive approx. 295' of linear frontage requires 9/10 (9.8) large 3" caliper trees. Provided equivalent of 8 :</p> <ul style="list-style-type: none"> 7 large (canopy) trees 3" caliper 5 small (ornamental) trees <p>Landscape area along Tristan Lane approx. 314' of linear frontage requires 10 -3" caliper trees. No trees in buffer adjacent to street. Applicant has provided buffer adjacent to building. Provided equivalent of 8 :</p> <ul style="list-style-type: none"> 7 large (canopy) trees 3" caliper 6 small (ornamental) trees 	<u>PARTIALLY</u> <u>MET</u> APPEAL REQUESTED	Substantial compliance proposed. Applicant has provided buffers in compliance with ordinance. Landscape plan calls for a diversity of plantings in the buffers and includes shrubs, ornamental trees, and large canopy trees. Overall landscaping plan will create a full and visually diverse landscape effect for the subject site. Staff recommends approval of appeal.
Required landscape buffer must have a minimum of 60% evergreen trees	Total 54% evergreen trees in the buffer (General Bruce Drive) (7 of 11) Total 63% evergreen trees in the buffer/ foundation (Tristan Lane) (7 of 12)	<u>PARTIALLY</u> <u>MET</u> APPEAL REQUESTED	Site has considerable evergreen landscaping/substantial compliance. Staff recommends approval of appeal.
Minimum 2" tall berm must be installed in 50% of the buffer area	24"- 30" berm provided in 42 % of total buffer area for both Tristan Lane and I-35 frontage.		Applicant has provided berms for over 5,148 SF of required 12,233 landscape buffer area and a total of 609 linear feet of frontage. Substantial buffering has been provided for this site. Staff recommends approval of appeal.
Terminal parking islands at the end of each row minimum 360 SF; two- 3" caliper tree required in each	Terminal Islands provided for all parking bays; varying from 261-415 SF per. Required – 22 - 3" caliper trees ; - 11 -3" caliper provided;	<u>PARTIALLY</u> APPEAL REQUESTED	Overall area for combined islands provides substantial compliance. Trees have been combined with shrubs adding visual interest and variety and creating a fully landscaped parking area. Staff recommends approval of

35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
			appeal.
ARCHITECTURAL			
<p>The following is a summary of those architectural standards the applicant has agreed to meet:</p> <p>All buildings must be architecturally finished on all sides with same materials, detailing and features.</p> <p>All buildings must incorporate no less than 3 architectural elements.</p> <p>All buildings must be designed and constructed in tri-partite architecture</p> <p>Color of structures must be earth-tone in hue. (Planning Dir. may approve 10% variation).</p> <p>Windows must not be glazed or re-glazed with mirrored or reflective glass.</p> <p>Building entrances must be articulated and defined to present a strong entry presence. Must be inset or offset by min 6'. Front foyer is articulate 9'.</p> <p>No single building material may cover more than 80% of the front of any building.</p>			
Windows must be a minimum of 40% up to a maximum of 80% of each building elevation	South –rear- 10% West – 14% East 8% North- front – 20%	<u>NOT MET</u> APPEAL REQUESTED	Overall compliance in landscaping and building configuration allows this site to present well from I-35. Staff recommends approval of this appeal.
Must select from list of approved building materials (max 90%; min 70%) Stone, Architectural metal, brick, stucco, granite, marble, painted tilt wall and accent materials (max 30% and min 10%) (UDC 6.7.9 D. 3.g) cast stone, wood, glass block, tile, granite, marble, textured or patterned concrete	<u>North</u> --Primary Entrance Stone 39% Hardie Siding -36% Hardie Stucco -25% <u>West</u> --I-35 Stone 39% Hardie Siding – 27% Hardie Stucco 34% <u>East – Side</u> Stone 30% Hardie Siding –52% Hardie Stucco 16% <u>Rear</u> –South Tristan Stone 39% Hardie Siding – 48%	MEETS	Proposed Fiber –Fibrous masonry siding has been approved as a primary material - two types are proposed: Hardie Siding (wood like finishing) and Hardie Stucco (stucco finish). Staff has asked that applicant utilize largest commercially available Hardie Stucco panels to simulate a stucco finish rather than a siding finish. All seams should be eliminated or minimized to create a smooth face finish. No lap siding.

35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
	Hardie Stucco 13 %		
LIGHTING			
The applicant has agreed to meet all lighting standards with the following exceptions:			
Maximum allowable total lumens generated on each parcel are 80,000 lumens per net acre with full-cutoff lighting. Parcels less than one net acre are allowed full-cutoff lumens in a portion equal to the parcel's portion of a net acre.	2 acre site – allows for 160,000 lumens Applicant proposing 1,100,000 lumens.	NOT MET	<p>Staff is seeking greater compliance on this item as the subject site is situated adjacent to an existing hotel– Illuminating Engineering Society/International Dark Sky Association’s Model Ordinance recommends 5 lumens per SF of hardscape for commercial corridors where moderate to high lighting is needed. Total lumens allowed under this standard - 435,600. Other considerations:</p> <p><u>Average Foot Candle Illuminations: (Source RUUD Lighting Inc; Spectrum Lighting Austin; Rabroker & Ass. PC Temple)</u></p> <p>McDonalds- 6-12 FC Culvers= 2-4 FC HEB- 4-6 FC Best Buy 3-4 FC Burger King- 8 FC Typical Commercial Strip Center 4-5 Golden Corral 10-15 FC</p> <p>Staff is requesting that the lighting meet an 8 average FC maximum standard for this site or a maximum 700,000 lumens for the total site.</p>

35 Requirements Freeway Retail/Commercial Sub-District	Proposed	Standard Met?	Staff Comments
The maximum illumination at 10 feet inside an adjacent nonresidential parcel or on a public roadway, or beyond, must not exceed 0.1 horizontal foot-candles or 0.1 vertical foot-candles.	MEET STANDARDS	MEETS	Applicant has reduced pole height and adjusted lighting configuration to achieve compliance with this standard. Applicant has already provided a 17% reduction in total average FC to meet this requirement.
SIGNS			
The applicant has agreed to meet all sign requirements with no requested appeals.			
UTILITIES			
The applicant has agreed to meet all utility requirements with no requested appeals.			





SIGN TYPE **C** **NON-STANDARD D/F GROUND SIGN**
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Tampa, FL - Daytona Beach, FL - Orlando, FL

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Revisions:

R1 BW 3/22/13 Add planter & revise pole cover on pylon sign (C).

R1 JDR 4/10/13 Revise pylon height & Pole cover T/M Bldg (C).

Colors Depicted In This Rendering May Not Match Actual Finished Materials. Refer To Product Samples For Exact Color Match.

Client Approval/Date: _____

Landlord Approval/Date: _____

Account Rep: DEE WALLACE

Project Manager: MARY MCKENZIE

Drawn By: J. CARPENTER

UL Underwriters Laboratories Inc. nfc ELECTRICAL TO USE U.L. LISTED COMPONENTS AND SHALL MEET ALL N.E.C. STANDARDS

ALL ELECTRICAL SIGNS ARE TO COMPLY WITH U.L. 48 AND ARTICLE 600 OF THE N.E.C. STANDARDS, INCLUDING THE PROPER GROUNDING AND BONDING OF ALL SIGNS.

Project / Location:



5101 S. GENERAL BRUCE DR.
TEMPLE, TX 76502

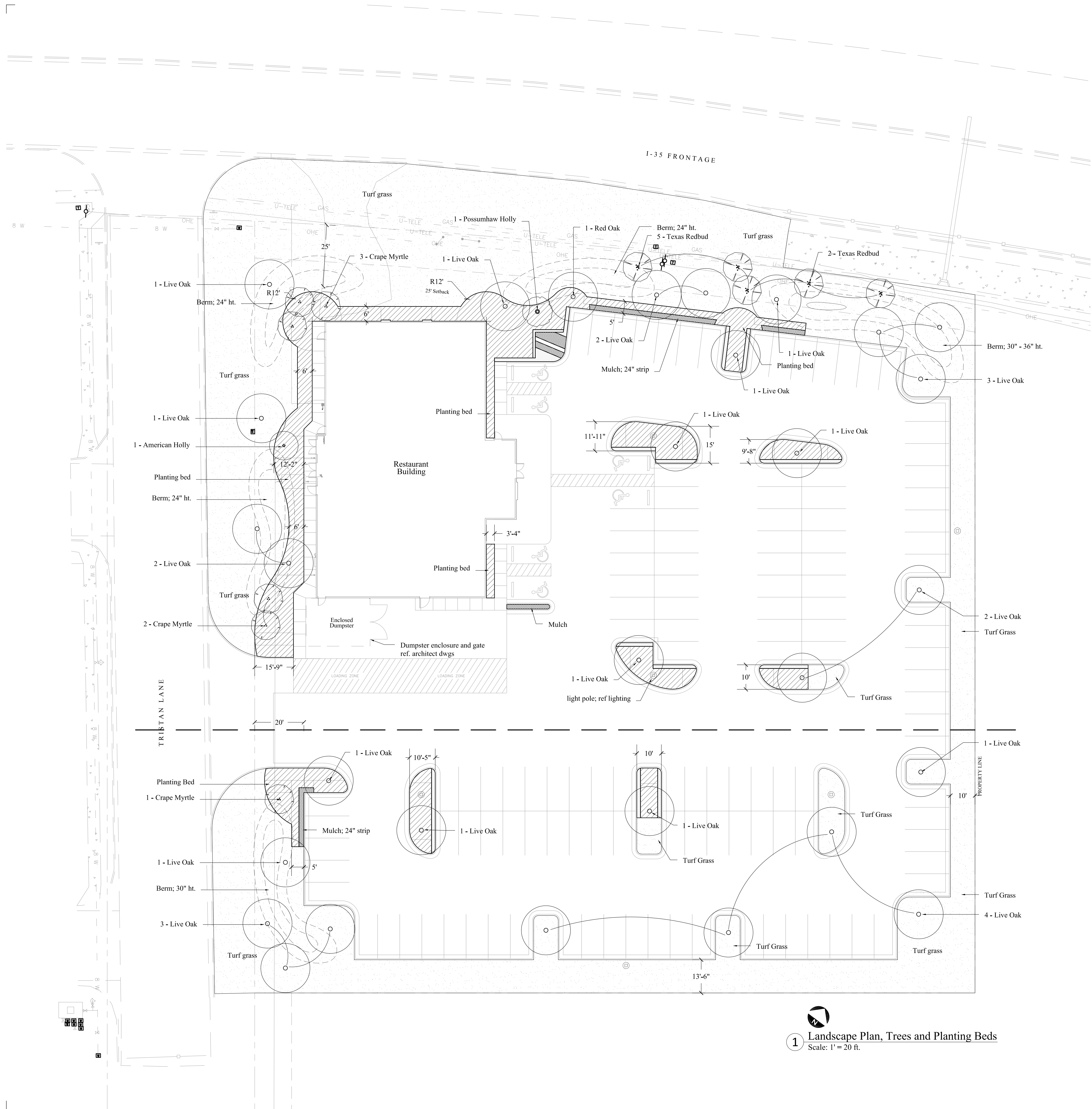
Job Number: **23-18060-10**

Date: **MARCH 11, 2013**

Sheet Number: **5** Of **5**

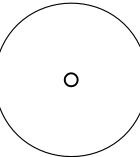
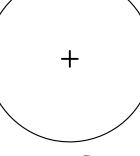
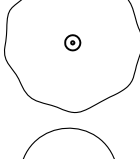
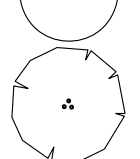
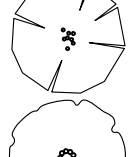
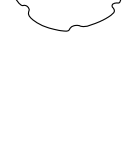
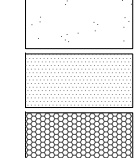




Design Number: **23-18060-10-R1**

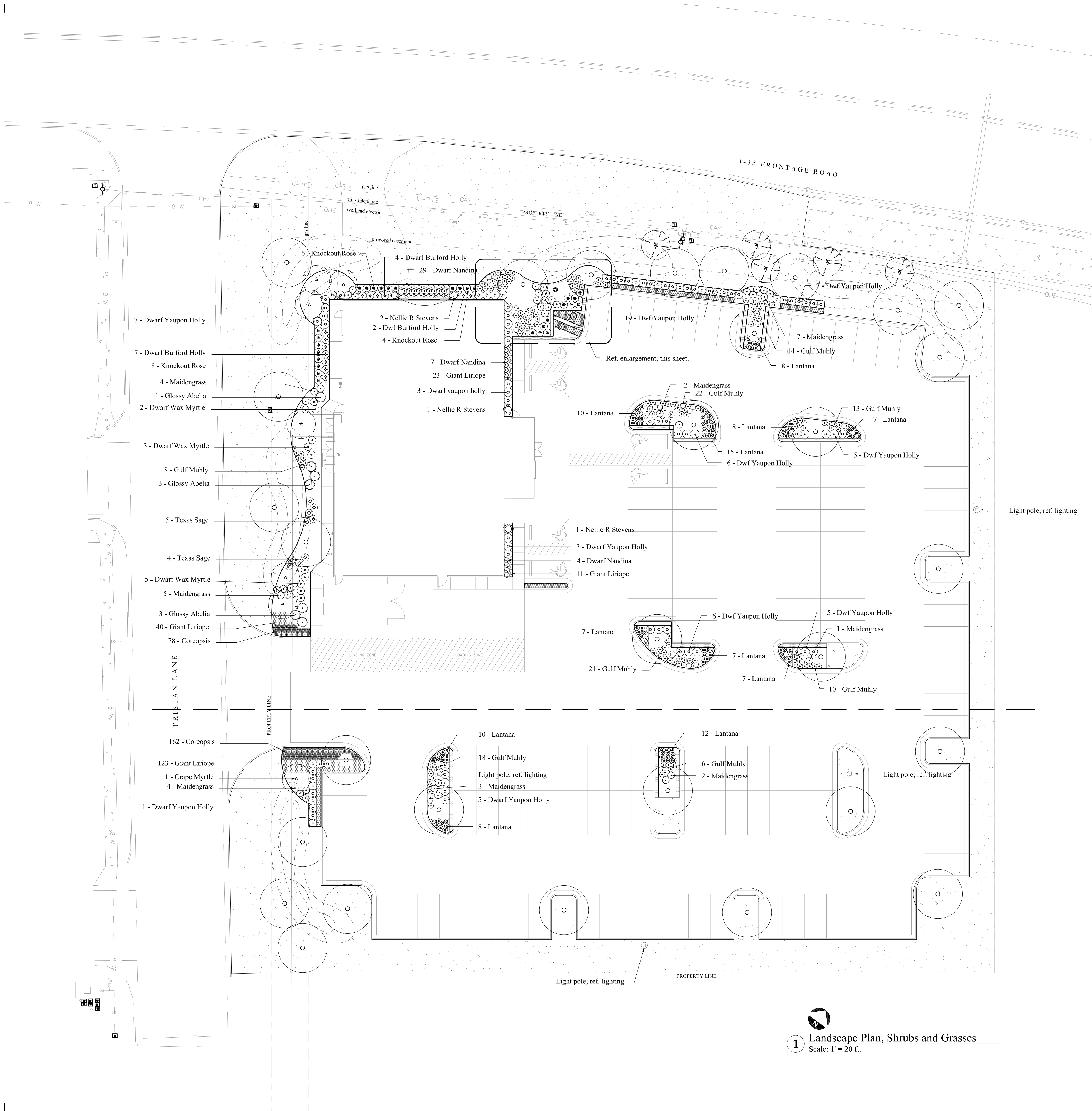
This original drawing is provided as part of a planned project and is not to be exhibited, copied or reproduced without the written permission of Federal Heath Sign Company, LLC or its authorized agent. © FHSC



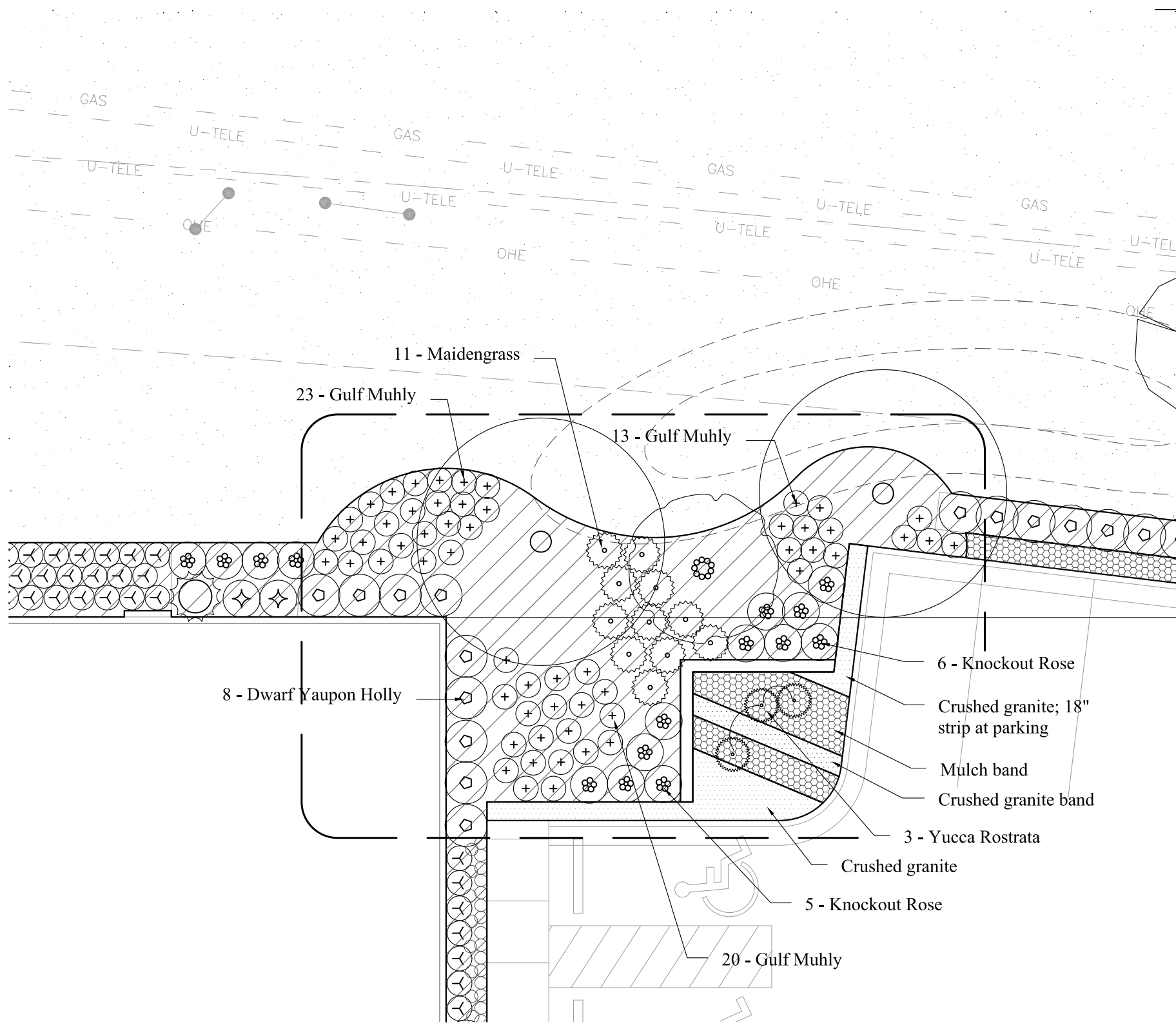
1 Landscape Plan, Trees and Planting Beds
Scale: 1" = 20 ft.

Tree and Landscape Schedule

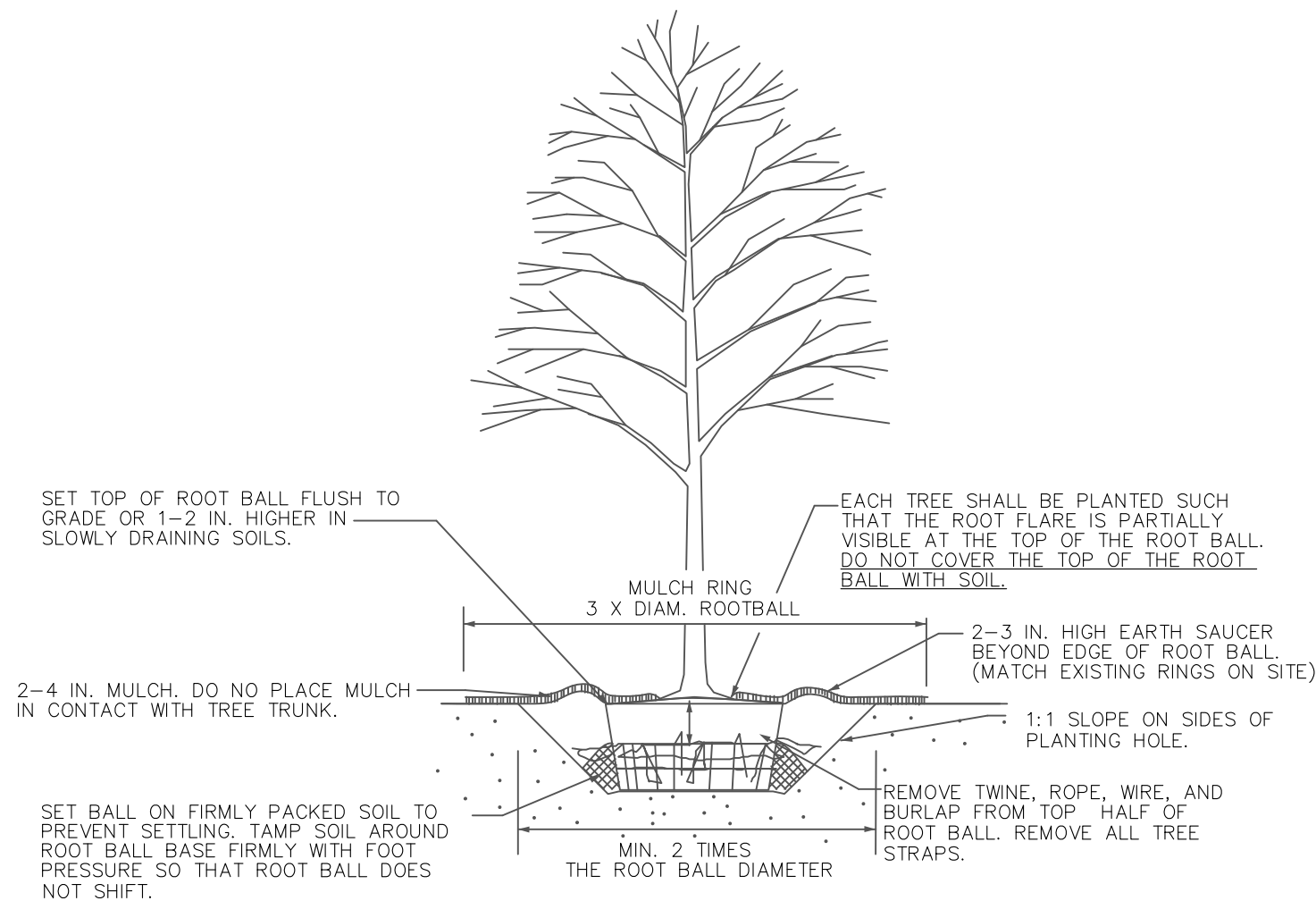
	Qty.	Unit	Notes
	29	Live oak	Quercus virginiana; 3" cal.
	0	Red oak	Quercus buckleyi; 3" cal.
	0	Texas mountain laurel	Sophora secundiflora; 6 ft. tall
	1	American Holly	Ilex opaca; 4' tall.
	6	Crape myrtle	Lagerstroemia indica; 6 ft. tall
	5	Texas Redbud	Cercis canadensis var. texensis; 6 ft. tall
	1	Possumhaw Holly	Ilex deciduas; 6 ft. tall
	X sf	Turf grass	Solid sod; Bermuda or other as chosen by owner.
	X sf	Crushed granite	Pink granite; 3" thick with weed barrier
	X sf	Mulch bed	Shredded cypress or other as chosen by owner; 3" thick with weed barrier
	X sf	Mulch bed	Shredded cypress or other as chosen by owner; 3" thick with weed barrier



1 Landscape Plan, Shrubs and Grasses
Scale: 1" = 20 ft.



2 Enlargement Plan
Scale: 1" = 10 ft.



- NOTES
- PRUNE ONLY CROSSOVER LIMBS, CO-DOMINANT LEADERS, AND BROKEN OR DEAD BRANCHES. SOME INTERIOR TWIGS AND LATERAL BRANCHES MAY BE PRUNED; HOWEVER, DO NOT REMOVE THE TERMINAL BUDS OF BRANCHES THAT EXTEND TO THE EDGE OF THE CROWN. ALL PRUNING SHALL CONFORM TO ANSI A300 STANDARDS. IMPROPERLY PRUNED TREES MAY BE REJECTED.
 - STAKE TREES ONLY WHEN NECESSARY USING STANDARD T-RAIL STAKE, WIRE, AND HOSE SLEEVE PROTECTOR.

3 Typical Tree Planting
Scale: NTS

Shrub Schedule

○	X	Glossy Abelia	Abelia grandiflora; 15 gal. or 4' tall.
⊗	X	Nellie R Stevens Holly	Ilex x 'Nellie R. Stevens'; 4' ht.
⊙	X	Knockout Rose	Rosa 'Knock Out'; 5 gal. @ 36" o.c.
⊖	X	Dwarf Wax Myrtle	Myrica pusilla; 5 gal. @ 36" o.c.
⊕	X	Dwarf yaupon	Ilex vomitoria nana; 5 gal. @ 36" o.c.
⊗	X	Dwarf nandina	N. domestica 'Harbour Dwarf'; 5 gal. @ 36" o.c.
⊕	X	Dwf. Burford Holly	Ilex cornuta 'Burfordii'; 5 gal. @ 36" o.c.
⊖	X	Gulf muhly	Muhlenbergia capillaris; 3 gal.
⊗	X	Maidengrass	Miscanthus sinensis; 3 gal.
⊕	3	Yucca Rostrata	Yucca Rostrata; 36" ht.
⊗	X	Lantana	Lantana urticoides; 1 gal. @ 24" o.c.
*	X	Coreopsis	Coreopsis sp.; 4" pot @ 12" o.c. or 1 gal. @ 24" o.c.
○	X	Giant liriop	Liriope muscari; 1 gal. @ 12" o.c.

■	X sf	Turf grass	Solid sod; Bermuda or other as chosen by owner.
■	X sf	Crushed granite	Pink granite; 3" thick with weed barrier
■	X sf	Mulch bed	Shredded cypress or other as chosen by owner; 3" thick with weed barrier
■	X sf	Mulch bed	Shredded cypress or other as chosen by owner; 3" thick with weed barrier



13112 GC TEMPLE TX - PROPOSED EXTERIORS

**EXCERPTS FROM THE
PLANNING & ZONING COMMISSION MEETING
MONDAY, APRIL 15, 2013**

ACTION ITEMS

Item 4: Z-FY-13-16 - Consider and make a recommendation on an Appeal of Standards in Sec. 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District for landscaping, parking, screening and wall standards, architectural standards, signs, and lighting. (Justin Fuller for Golden Corral Development)

Ms. Beverly Zendt, Interim Director of Planning, stated this was an I-35 appeal for the new Golden Corral restaurant located on South General Bruce Drive, in the I-35 Freeway Retail Commercial District.

The building will be an approximately 8,000 square feet structure with 314 seats on a two acre site of undeveloped property. New construction along I-35 triggers all requirements.

A summary of general standards met included the following:

- The site plan was submitted;

- No protected trees on site;

- No storage in connexes, shipping containers or portable buildings;

- Roof mounted equipment must be screened from a vantage point of six feet above finished grade; and

- Refuse storage/compactors/vehicle loading and unloading must not be clearly visible at eye level from any public street or located within 100 feet of any public street.

A summary of landscape standards met included the following:

- Parking screen of hedge row/earthen berm, or retaining wall two and a half to four feet high to shield parking areas visible from public view;

- Landscape buffer has been provided in accordance with I-35 standards on both I-35 and Tristan Lane side. They are turfed and meet the maximum width requirements (20' on freeway side and 20 feet on the public street side;

- Interior parking islands, one per every 10 spaces were provided, 170 square feet area (one three-inch tree required in each) all provided in accordance with the Unified Development Code (UDC);

- Applicant has provided 30 percent landscaping and 15 percent is required. Applicant stated this will be irrigated and maintained;

- No drainage facilities in landscape areas;

- Vegetation has been used to soften the appearance of the walls with foundation plantings and buffering adjacent to the walkways;

- Twenty percent required landscape buffer has native grass beds or wildflowers;

Areas not covered by building or pavement must be landscaped; and
Plants have been selected from the drought tolerant list.

A summary of architectural standards met included the following:

Buildings must be finished on all sides with same materials, detailing and features;

No less than three architectural elements;

All buildings must be designed and constructed in tri-partite architecture;

Color of structures must be earth-tone in hue;

Windows must not be glazed or re-glazed with mirrored or reflective glass;

Building entrances must inset or offset by minimum of six feet. Front foyer is articulate nine feet; and

No single building material may cover more than 80 percent of the front of any building.

Building elevations are shown with hardi-siding/stucco materials. Staff requests that the hardi-stucco is only being considered as an alternative building material provided the seams are minimized or eliminated entirely to simulate a stucco appearance.

A summary of sign and utility standards met included the following:

Applicant agrees to comply with all utility requirements and sign requirements. A 40 foot sign has been provided.

A summary of lighting standards met included the following:

Applicant has agreed to all lighting standards including:

All luminaires of 1,800 or more lumens must be full-cutoff;

Exterior lighting must have soft, indirect illumination;

Site lighting used for building illumination must be down wall washing only.

Maximum illumination at 10 feet inside an adjacent nonresidential parcel or on a public roadway, must not exceed 0.1 horizontal foot-candles or 0.1 vertical foot-candles.

Summary of Appeals Requested:

Parking: Wheel stops are required but no wheel stops are proposed either adjacent to the building or the landscape areas. Staff recommends approval of this request. They have provided a standup curb around the entire off-site parking area and around the proposed bed areas which will be maintained.

Screening and Buffering: Ground mounted service equipment must be located at the rear of building. Applicant has gas and electric meters on Tristan Lane along with service doors and a loading zone at the main entry on Tristan Lane. Staff recommends approval of this request since Tristan Lane is a heavily landscaped side of the site since it faces a public road.

Landscaping: 70 percent of the façade is required to be landscaped and applicant has provided 54 percent of the foundation plantings. Nine to 10 trees are required in the

buffer along General Bruce Drive and applicant provided eight trees. Ten canopy, three-inch caliper trees are required along Tristan Lane and applicant has provided eight. The landscape buffer must have a minimum of 60 percent evergreen trees and applicant proposes 54 percent.

Staff recommends approval of these appeal requests since applicant has shown substantial compliance on most of the standards.

A minimum two inch tall berm must be installed in 50 percent of the buffer area. The berm varies from 24 to 30 inches and has been provided in 42 percent of the total buffer area for both Tristan Lane and I-35.

Terminal parking islands at the end of each row have all been provided. The square feet requirement is 360 feet and applicant has provided between 261 and 415 square feet.

Twenty-two trees are required and applicant has provided 11 three-inch caliper trees and Staff recommends approval as applicant has fully shrubbed all the beds and provided all required islands per I-35 standards creating a considerable landscaping plan for the entire site. Staff recommends approval of this request.

Architectural: Windows must be a minimum of 40 percent on each building elevation and applicant has not met that standard on any of the buildings. Staff feels it will present well from I-35 and recommends approval.

Lighting: Staff has recommended additional compliance. The UDC states the maximum allowable total lumens generated on each parcel are 80,000 lumens per net acre. This location would permit 160,000 lumens. The applicant has proposed 1,000,000 ±.

In order to have a sense of this amount of lumens, Staff has compared several business lighting standards (average foot candle):

McDonalds has an average of six to 12 foot candle lighting;

Culver's has an average of two to four foot candles;

HEB has an average of four to six foot candles;

Best Buy has an average of three to four foot candles; and

Burger King has an average of eight foot candles.

Professional lighting firms have informed Staff that the typical commercial strip center may have an average of four to five foot candles. Golden Corral would have a typical lighting scheme of 10 to 15 foot candles for their site. They started at 12 and have reduced it to 10; however, Staff would like them to reduce it to an eight foot candle range or provide a lighting scheme no greater than 700,000 lumens. Staff is asking for consideration on this particular issue because of the proximity of the hotel next to their site.

Staff recommends approval of all appeals as with the following exception:

Staff recommends that the applicant provide an average illumination of 8 Foot Candle for the entire site or a lighting scheme with 700,000 lumens or less.

A public hearing is not required on this item, however, Chair Staats wanted to hear comments from the applicant.

Mr. Aaron Parr, Vice-President of Construction, 5151 Glenwood Avenue, Raleigh, NC, stated their lighting requirement use to be 12 to 14 and for security reasons they do not like to go below 12 for both customers and employees. The employees are not allowed to go outside the building after dark but they use a compacter attached to the building. Mr. Parr stated the employees' park at the outer edge of the parking lot. Mr. Parr stated this site is very wooded and safety is a main concern for the employees. There are no other buildings except for the Holiday Inn.

Mr. Parr stated the other businesses referenced by Staff were not taking into account of their foot candles any lighting off of the building. The parking lots of the fast food locations do not extend out as far of Golden Corral's does.

Chair Staats asked what other restaurant comparable to Golden Corral uses the same lighting. Mr. Parr stated they vary a lot—McDonald's is around 10. Chair Staats asked if they planned to draw down the lights after closure and Mr. Parr stated they did not but he could look into it, perhaps around the perimeter.

Chair Staats stated his concern was for the hotel. Mr. Parr stated that the light poles have been dropped down to 18 feet making the building taller than the poles, so most of that would be blocked.

Mr. Parr stated this issue has only come up once before in Albuquerque, New Mexico and they ended up with their standard lighting. The spot lighting is left on full blast through the night.

Mr. Parr stated the deliveries would happen during the morning or during the day; there are no deliveries at night.

Commissioner Rhoads made a motion to approve Item 4, Z-FY-13-16, as presented by the applicant, and Commissioner Martin made a second.

Motion passed: (9:0)

RESOLUTION NO. _____

[PLANNING NO. Z-FY-13-16]

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN APPEAL OF STANDARDS IN SECTION 6.7 OF THE UNIFIED DEVELOPMENT CODE RELATED TO THE I-35 CORRIDOR OVERLAY ZONING DISTRICT FOR LANDSCAPING, PARKING, SCREENING AND WALL STANDARDS, ARCHITECTURAL STANDARDS, AND LIGHTING FOR ASTON MANAGEMENT, LLC/GOLDEN CORRAL, LOCATED ON THE EAST SIDE OF SOUTH GENERAL BRUCE DRIVE, NORTH SIDE OF TRISTAN LANE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant is requesting an appeal of the standards relating to a new 8,035 Golden Corral restaurant structure on an approximate two acre site – the restaurant will seat approximately 314 people;

Whereas, in accordance with Article 6 of the Unified Development Code relating to the Interstate 35 Corridor Overlay, all new construction is required to conform to the standards;

Whereas, on April 15, 2013, the Planning and Zoning Commission approved an appeal of standards of Section 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District as shown on Exhibit A, Appeals Table; Exhibit B, Site Plan; Exhibit C, Landscape Plan; Exhibit D, Building Elevations for landscaping, parking, screening and wall standards, architectural standards, and lighting for Aston Management, LLC/Golden Corral, located on the east side of South General Bruce Drive, north side of Tristan Lane;

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

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

Part 1: The City Council authorizes an appeal of standards to Section 6.7 of the Unified Development Code related to the I-35 Corridor Overlay Zoning District as shown on Exhibit A, Appeals Table; Exhibit B, Site Plan; Exhibit C, Landscape Plan; Exhibit D, Building Elevations for landscaping, parking, screening and wall standards, architectural standards, signs, and lighting for Golden Corral Restaurant located on the east side of South General Bruce Drive, north side of Tristan Lane;

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 **16th** day of **May**, 2013.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, MAYOR

ATTEST:

Lacy Borgeson
City Secretary

APPROVED AS TO FORM:

Jonathan Graham
City Attorney