

#### MEETING OF THE

# TEMPLE CITY COUNCIL MUNICIPAL BUILDING 2 NORTH MAIN STREET 3<sup>rd</sup> FLOOR – CONFERENCE ROOM THURSDAY, MARCH 2, 2017 4:00 P.M.

#### **AGENDA**

- 1. Discuss, as may be needed, Regular Meeting agenda items for the meeting posted for Thursday, March 2, 2017.
- 2. Receive an update on right-of-way negotiations and acquisitions for the Santa Fe Plaza Project.

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

- 3. Receive an update on right-of-way negotiations and acquisitions for the expansion of Old Howard Road and Moores Mill Road, also known as the Research Parkway project.
  - Executive Session Pursuant to Chapter 551, Government Code § 551.072 Real Property The City Council may enter into executive session to discuss the purchase, exchange, lease or value of real property relating to City projects, the public discussion of which would have a detrimental effect on negotiations with a third party.
- 4. Receive an update on right-of-way negotiations and acquisitions for the MLK Festival Fields and Santa Fe Market Trail project.

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

#### 5:00 P.M.

#### **MUNICIPAL BUILDING**

# 2 NORTH MAIN STREET CITY COUNCIL CHAMBERS – 2<sup>ND</sup> FLOOR TEMPLE, TX

# TEMPLE CITY COUNCIL REGULAR MEETING AGENDA

#### I. CALL TO ORDER

- 1. Invocation
- 2. Pledge of Allegiance

#### II. 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 three minutes. No <u>discussion</u> or final action will be taken by the City Council.

#### III. REPORTS

3. Receive the Temple Economic Development Corporation Annual Report.

# **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 and ordinances for each of the following:

#### **Minutes**

(A) February 16, 2017 Special and Regular Meeting

#### Contracts, Leases, & Bids

- (B) 2017-8553-R: Consider adopting a resolution authorizing the purchase of one property necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds and authorizing closing costs associated with the purchase, in an amount not to exceed \$15,500.
- (C) 2017-8554-R: Consider adopting a resolution authorizing the purchase of one property necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds in an amount not to exceed \$6.026.

- (D) 2017-8555-R: Consider adopting a resolution amending an agreement with Kasberg, Patrick & Associates, LP, in an amount not to exceed \$97,950 for professional services required to design an extension of South First Street at Loop 363.
- (E) 2017-8556-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, in an amount not to exceed \$391,906 for preliminary design of Phase 6 of the Outer Loop (connection to I35).
- (F) 2017-8557-R: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick, & Associates, LP of Temple, in an amount not to exceed \$94,900 for professional services required for the preparation of the 2030 Reinvestment Zone Master Plan.
- (G) 2017-8558-R: Consider adopting a resolution authorizing acceptance of a Texas Department of Transportation, Aviation Division, Non-Primary Entitlement Grant, in the total amount of \$166,667 (City match of \$16,667), in fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.
- (H) 2017-8559-R: Consider adopting a resolution authorizing acceptance of the Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant, in the amount of \$100,000 (City match of \$50,000) for fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.

#### Ordinances - Second & Final Reading

(I) 2017-4831: SECOND AND FINAL READING: Consider adopting an ordinance amending Ordinance No. 2014-4686 to change the name of the franchised company from Serenity EMS, LLC d/b/a Ameristat Ambulance to Serenity EMS, LLC d/b/a Texas Star Ambulance.

#### Misc.

- (J) 2017-8560-R: A-FY-17-05: Consider adopting a resolution authorizing the release of the 15' wide public utility easements located in Las Colinas Subdivision along the east boundaries of Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3, to allow the reconfiguration of utility easements for a pending replat.
- (K) 2017-8561-R: Consider adopting a resolution accepting the TMED South Strategic Master Plan.
- (L) 2017-8562-R: Consider adopting a resolution declaring the candidates for the May 6, 2017, District 2 and District 3 City Councilmember as unopposed and elected to office; thereby canceling the election as ordered.
- (M) 2017-8563-R: Consider adopting a resolution authorizing budget amendments for fiscal year 2016-2017.

#### V. REGULAR AGENDA

#### ORDINANCES – FIRST READING/PUBLIC HEARING

- 5. 2017-4832: FIRST READING PUBLIC HEARING Consider adopting an ordinance amending Ordinance Number 2016-4796 which amended the Code of Ordinances, Chapter 2, Article II, "Code of Ethics," to change the effective date of the ordinance to October 1, 2017.
- 6. 2017-4833: FIRST READING PUBLIC HEARING Z-FY-17-03: Consider adopting an ordinance authorizing a rezoning from the Neighborhood Services zoning district to the Planned Development-Neighborhood Services zoning district on 7.35 +/- acres, 1-lot, 1-block non-residential subdivision, proposed for a mini-storage facility, situated in the Redding Roberts Survey, Abstract No. 692, Bell County, City of Temple, Texas, located at 5785 South 31st Street.
- 7. 2017-4834: FIRST READING PUBLIC HEARING Z-FY-17-12: Consider adopting an ordinance amending the existing Planned Development district (Ordinance 2008-4263), decreasing the Planned Development-General Retail portion from 12.2 +/- acres to 5.48 +/- acres and increasing the Planned Development Single Family Two portion from 38.5 +/- acres to 45.20 +/- acres for a total 50.7± acres located at 276 West FM 93, the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.
- 8. 2017-4835: FIRST READING PUBLIC HEARING Z-FY-17-14: Consider adopting an ordinance authorizing a rezoning from Office-One zoning district to General Retail zoning district on a 2.770 +/- acres and Office-One to Planned Development-General Retail on a 2.142 +/- acres, portion of a 4.912 +/- tract of land, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, located at 6490 West Adams Avenue.

#### **RESOLUTIONS**

- 9. 2017-8564-R: Consider adopting a resolution approving a request from Central Texas Christian School for a 1,000 foot spacing requirement between the school and a place of business which sells alcoholic beverages, pursuant to Code of Ordinances, Chapter 4, Section 4-2.
- 10. 2017-8565-R: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that one property situated in the M.A. Young Survey, Abstract #937, J.B. Daniel Survey, Abstract #259, and the Henry Millard Survey, Abstract #552, Bell County, Texas, is necessary for the proposed expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35 and authorizing the use of eminent domain to condemn the property.

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 11:00 AM, on Friday, February 24, 2017.

City Secretary, TRMC



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(A) Consent Agenda Page 1 of 1

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

Lacy Borgeson, City Secretary

**ITEM DESCRIPTION:** Approve Minutes:

(A) February 16, 2017 Special and Regular Meeting

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

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

FISCAL IMPACT: N/A

**ATTACHMENTS:** 

February 16, 2017 Special and Regular Meeting



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(B) Consent Agenda Page 1 of 2

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

Kayla Landeros, City Attorney Christina Demirs, Deputy City Attorney

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing the purchase of one property necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds and authorizing closing costs associated with the purchase, in an amount not to exceed \$15,500.

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

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

<u>ITEM SUMMARY:</u> The development of the Santa Fe Market Trail project is in conjunction with the recently developed Downtown Master Plan. The Santa Fe Market Trail project will extend from the future Santa Fe Plaza east to Martin Luther King, Jr. Drive.

In February 2016, Council entered into a services agreement with Stateside Right of Way Services, LLC ("Stateside") for land acquisition and relocation services for approximately 20 tracts of land. As the design phase of this project progressed, the Parks & Recreation Department and the Project Committee for the Reinvestment Zone No. 1 Board requested that six additional parcels be acquired for use in the project. Council entered into a second services agreement for these six parcels in December 2016.

Appraisals have been performed on all of the parcels and the City has made offers to the owners. One property owner has accepted the City's offer. Stateside has been actively negotiating with the remaining owners.

Staff is seeking authorization to complete the purchase of the following property and pay necessary closing costs, in an amount not to exceed \$15,500. The property to be acquired is 202 South Martin Luther King Jr. Drive (Bell CAD ID #27146).

03/02/17 Item #4(B) Consent Agenda Page 2 of 2

<u>FISCAL IMPACT:</u> Funding is available for the purchase of 202 South Martin Luther King Jr. Drive, which is necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds, in an amount not to exceed \$15,500 in account 795-9500-531-6566, project #101262.

## **ATTACHMENTS:**

Resolution

#### RESOLUTION NO. <u>2017-8553-R</u>

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF ONE PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE PROPOSED SANTA FE MARKET TRAIL/MLK FIELDS FESTIVAL GROUNDS; AUTHORIZING CLOSING COSTS ASSOCIATED WITH THE PURCHASE IN AN AMOUNT NOT TO EXCEED \$15,500; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, the development of the Santa Fe Market Trail project is in conjunction with the recently developed Downtown Master Plan and will extend from the future Santa Fe Plaza east to Martin Luther King, Jr. Drive;

Whereas, in February 2016, Council entered into a services agreement with Stateside Right of Way Services, LLC ("Stateside") for land acquisition and relocation services for approximately 20 tracts of land - as the design phase progressed, the Parks & Recreation Department and the Project Committee for the Reinvestment Zone No. 1 Board requested 6 additional parcels be acquired for use in the project;

**Whereas,** appraisals have been performed on all of the parcels and the City has made offers to the owners - one property owner has accepted the City's offer and Stateside has been actively negotiating with the remaining owners;

Whereas, Staff recommends Council authorize the purchase of the property located at 202 South Martin Luther King Jr. Drive, Temple, Texas, and authorize the payment of any necessary closing costs, in an amount not to exceed \$15,500;

**Whereas,** funding for the purchase of this property is available in Account No. 795-9500-531-6566, Project No. 101262; 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:

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council authorizes the purchase of the property located at 202 South Martin Luther King Jr. Drive, Temple, Texas, and authorizes the payment of any necessary closing costs in an amount not to exceed \$15,500, which is necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds.

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

<u>Part 4</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



#### **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(C) Consent Agenda Page 1 of 1

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

Kayla Landeros, City Attorney Christina Demirs, Deputy City Attorney

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing the purchase of one property necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds in an amount not to exceed \$6.026.

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

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

<u>ITEM SUMMARY:</u> The City is currently in the design phase for the proposed Santa Fe Market Trail and MLK Fields festival grounds. The design originally encompassed 25 properties, including six previously acquired by the City. Stateside Right-of-Way Services was selected in February 2016 to assist with the remaining acquisitions.

The City has acquired, or has reached an agreement to acquire, nineteen of the needed properties. Council has authorized the use of eminent domain for two of the properties. One of the properties was dropped from the scope of the project, but was added back in and Stateside has reinstated negotiations with that property owner.

Staff is seeking authorization to complete the purchase of one property in an amount not to exceed \$6,026. The property to be acquired is located at 402 South 6<sup>th</sup> Street (Bell CAD ID #62337).

**FISCAL IMPACT:** Funding is available for the purchase of 402 South 6<sup>th</sup> Street, which is necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds, in an amount not to exceed \$6,026 in account 795-9500-531-6566, project #101262.

#### **ATTACHMENTS**:

Resolution

#### **RESOLUTION NO. 2017-8554-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE PURCHASE OF ONE PROPERTY NECESSARY FOR THE CONSTRUCTION OF THE PROPOSED SANTA FE MARKET TRAIL/MLK FIELDS FESTIVAL GROUNDS IN AN AMOUNT NOT TO EXCEED \$6,026; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is currently in the design phase for the proposed Santa Fe Market Trail/MLK Fields festival grounds which originally encompassed 25 properties, including six properties previously acquired by the City - Stateside Right-of-Way Services was selected in February 2016 to assist with these acquisitions;

**Whereas,** the City has acquired, or has reached an agreement to acquire, nineteen of the needed properties and has authorized the use of eminent domain for two of the properties - one of the properties was dropped from the scope of the project, but was added back in and Stateside has reinstated negotiations with that property owner;

**Whereas,** Staff recommends Council authorize the purchase of the property located at 402 South 6<sup>th</sup> Street, Temple, Texas, in an amount not to exceed \$6,026;

**Whereas,** funding for the purchase of this property is available in Account No. 795-9500-531-6566, Project No. 101262; 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:

- <u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.
- <u>Part 2</u>: The City Council authorizes the purchase of the property located at 402 S. 6<sup>th</sup> Street, Temple, Texas, in an amount not to exceed \$6,026, which is necessary for the construction of the proposed Santa Fe Market Trail/MLK Fields festival grounds.
- <u>Part 3</u>: The City Council authorizes the City Manager, or his designee, after approval as to form by the City Attorney, to execute any documents that may be necessary for this purchase.
- <u>Part 4</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(D) 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 amending an agreement with Kasberg, Patrick & Associates, LP, in an amount not to exceed \$97,950 for professional services required to design an extension of South First Street at Loop 363.

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

<u>ITEM SUMMARY:</u> The Temple Medical Education District (TMED) is a strategic area of redevelopment. The intersection of South First Street with Loop 363 will be an entrance to this district and its corridor connecting State right-of-way to downtown. Improvements to define this gateway intersection are under construction. The planned extension of South First Street from this intersection is required to support growth and development. This scope addition will be designed in accordance with the RZ's Master Plan and incorporate the TMED standards recently constructed north of the intersection.

The following tasks and costs are recommended for amendment to KPA's professional services contract for the Spur 290 @ Loop 363 project:

Route & Design Studies	\$ 3,250
Surveying	\$ 13,800
Civil Design	\$ 64,500
Landscape Design	\$ 6,800
Misc. Design & Coordination	<u>\$ 9,600</u>

TOTAL \$ 97.950

Design will be completed within 45 calendar days.

**FISCAL IMPACT:** Funds are available in the Reinvestment Zone No. 1 Financing Plan, TMED Projects, Account # 795-9500-531-6872, for Project #101627 for this professional services agreement in the amount of \$97,950.

03/02/17 Item #4(D) Consent Agenda Page 2 of 2

Funding for this agreement is currently available from remaining funds for the Loop 363 Frontage Road (UPRR to 5th). TxDOT is currently under contract with JD Abrams to construct these improvements. The proposed extension of South First Street will be constructed under TxDOT's construction contract with JD Abrams. The extension of South First Street at Loop 363 project is currently estimated at \$1,320,000 for design and construction. A Financing Plan amendment will be presented to the Reinvestment Zone No. 1 Board on March 22, 2017 to fully fund this project and to replenish the funding of the Loop 363 Frontage Road (UPRR to 5th) project. The Financing Plan amendment will be presented to Council for first reading on April 6, 2017.

#### **ATTACHMENTS:**

Engineer's Proposal Project Map Resolution



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS
Texas Firm F-510

Temple
One South Main Street
Temple, Texas 76501
(254) 773-3731

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown 1008 South Main Street Georgetown, Texas 78626 (512) 819-9478

February 9, 2017

Mr. Don Bond, P.E., CFM 3210 E. Avenue H Building A Temple, Texas 76501

Re:

City of Temple

TMED South Phase I

Final Design

Dear Mr. Bond:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this proposal for the above referenced project. This project will develop 100% final design for TMED South Phase I. TMED South Phase I is an extension of 1<sup>st</sup> Street south of Loop 363 that will include traffic signal, dedicated turn lanes from Loop 363, landscaping, drainage and water utilities. This project will develop final design to be incorporated into the existing Loop 363/Spur 290 project currently under construction. An exhibit is included with this proposal for illustration. The design will follow the thoroughfare plan, previous master planning for this corridor and match the sections that are currently under construction for 1<sup>st</sup> Street (Spur 290) north of Loop 363. The final product will be plans ready for incorporation into the existing Loop 363/Spur 290 project. Development of metes and bounds for the required rights-of-way and easements are also included in the project.

The work to be performed by KPA under this contract consists of providing engineering services for design of the project described above to include 100% design and preparation of plans, specifications and estimates based on the current unit bid prices in the Loop 363/Spur 290 project. The project consists of construction of approximately 400 linear feet arterial roadway with associated drainage, utilities as defined by the utility master plan, striping, signage, and erosion control. The timeframe for design of the project is forty-five days from the Notice to Proceed. Determination of rights-of-way requirements will be completed with metes and bounds for rights-of-way and easements.

KPA will perform all work and prepare all deliverables in accordance with the latest version of AASHTO, TxDOT and City of Temple specifications, standards and manuals.

Mr. Don Bond, P.E., CFM February 9, 2017 Page 2

KPA will perform quality control and quality assurance (QA/QC) on all deliverables associated with the project. All traffic control will be in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

The following services will be performed:

#### I. ROUTE AND DESIGN STUDIES

- A. Data Collection Obtain and review any existing data from the City and other entities that may have record documents and are allowed to release the information. i.e. Atmos, AT&T, Oncor, etc.
- **B.** Geometric Design Develop geometric design for the full length of the project to establish survey and investigation limits. All designs shall be in accordance with TXDOT and City of Temple design guidelines and criteria.
- C. Rights-of-Way Data
  - 1. Perform sufficient property records research to obtain current ownership and deed information of affected properties current per Bell County Appraisal District Records at the time of plan development.
  - 2. Prepare overall ROW Plan Sets to be used to illustrate rights-of-way needs.
  - 3. Metes and bounds will be developed and submitted to the City of Temple Staff. There is not any acquisition services included in this proposal.
- **D.** Utility Coordination -Efforts to ensure utility relocations and adjustments required to accommodate the proposed project development shall include Field Surveys and Utility Adjustment Coordination.
  - 1. Field surveys shall locate horizontally; crossings of all utilities within the project area identified by markings obtained from performing a one call utility locate service.
  - 2. After design surveys have located marked utilities from the one call service, verification of utilities will be performed as available from meeting with the utility companies (Atmos, AT&T, Oncor, etc.)
  - 3. Initial notifications of the project details and expected time lines for project development shall be conveyed to all utility owners existing within the project limits.
  - 4. Upon determination of required relocation and/or adjustments, intense coordination with impacted utility owners shall be initiated.

#### II. PROJECT MANAGEMENT

#### A. Meetings

- 1. Prepare, attend and document Progress Meetings at the City Office.
- 2. Prepare, attend and document Utility Coordination Meetings.
- 3. Prepare, attend and present as necessary updates to the Temple Re-investment Zone Project Group and Board.

#### B. General Contract Administration

- 1. Develop monthly invoices and progress reports.
- 2. Sub-consultant coordination.
- 3. Design coordination with the City of Temple and TxDOT.

#### III. FIELD SURVEYING

#### A. General

- 1. Unless previously obtained, the City of Temple shall obtain right-of-entry (ROE) agreements with property owners for the required field surveys.
- Verify and compare previously located utility data with current ground conditions. Contact the One-Call System in advance of performing field surveys so that data collection includes ties to location of marked utilities. Reasonable attempts to coordinate with utility owners shall be made to achieve efficiency in data collection.

#### B. Topographic Surveys for Engineering Design and Hydraulic Analysis

- 1. Control shall be established to adequately position horizontal control points as needed for project design activities and plan notations thereof. Data for the horizontal control shall be based on Texas State Plane, Central Zone, NAD 83 (93).
- 2. Vertical control shall be established for the design of the project. Benchmarks shall be established via differential level loops from recovered known project controls. A vertical benchmark system shall be perpetuated for future reference.
- 3. Survey data shall be developed to prepare design for the project.
- 4. Data collection shall consist of spot elevations for improvements, edge of roadway, driveways, visible or marked utilities, drainage features, centerline of roadway and grade breaks. Individual roadway cross sections shall be taken at intervals approximately 100 feet or as required to properly define the surface of the project and generate accurate Digital Terrain Models (DTMs).
- 5. The survey shall include topographic features within proximity of drainage features along the proposed roadway or a sufficient distance to ensure and/or verify hydraulic cross sections can be developed to adequately accommodate the 100-year rainfall event. Within these limits, the survey shall extend

- approximately 150 feet left and right of the proposed roadway centerline, provided ROE allows such access.
- 6. Field surveys shall provide the locations of small signs, mailboxes and other visible surface features.

#### IV. ROADWAY DESIGN CONTROLS

#### A. 30% Complete Plan Set

- Geometric Design Develop the horizontal and vertical alignments, typical sections and resultant design cross sections to ensure compliance with current design criteria. Delineate and discuss potential deficiencies with City Staff. Review constructability of preliminary design including connections and access.
- 2. Typical Sections Develop existing and proposed roadway typical sections for the project.
- 3. Alignment Data Sheets Prepare horizontal and vertical alignment data sheets.
- 4. Plan & Profile Drawings Prepare preliminary plan & profile sheets for the project.
- 5. Intersection Layouts Develop layouts that define preliminary horizontal and vertical geometry for the following intersections, overpasses and connections:
  - Loop 363
- 6. Develop preliminary rights-of-way and easement requirements for the proposed roadway infrastructure.
- 7. Coordination with private utilities After the Preliminary Engineering is complete, all utilities that appear effected will be contacted for coordination for relocation.

#### B. 100% Complete Plan Set

The following items shall be prepared for the project:

- 1. Typical Sections Finalize typical sections prepared during the 30% completion phase.
- 2. Plan & Profile Drawings Finalize plan & profile drawings prepared during the 30% completion phase.
- 3. Intersection Layouts Finalize intersection and connection layouts prepared during the 30% completion phase. The following list of intersections and connections will be completed.
  - Loop 363
- 4. Miscellaneous Roadway Details Develop various details, as required, for pavement, curb, riprap, etc.
- 5. Removal Layouts Prepare removal and demolition layout sheets showing all features that are to be removed including pavement, structures, signing, etc.
- 6. Roadway Cross Sections Finalize roadway cross sections prepared during the 30% completion phase.

- 7. Finalize requirements for rights-of-way and easements for all proposed roadway infrastructure.
- 8. Develop summary of final quantities for all roadway infrastructure utilizing all existing bid items and documenting new items not covered in the current bid.

#### V. DRAINAGE

#### A. 30% Complete Plan Set

- 1. Incorporate all design surveys into computer aided drafting and develop topographies and surfaces. This data shall be utilized to develop drainage areas, hydrology and hydraulics. This shall include topographic working drawings to prepare the preliminary drainage design.
- 2. Develop storm water hydrology for the ultimate roadway section throughout the limits of the project. The hydrology shall be modeled utilizing HEC-HMS with City of Temple drainage criteria. The model shall incorporate the 4% and 1% annual chance storm (25-year, and 100-year) events. Modeling shall develop storm water flows to all cross culverts and roadway conveyances. Based on the data developed, drainage infrastructure shall be designed in a preliminary format for the project area. The level of detail shall be sufficient to establish cost estimates.
- 3. Develop preliminary hydraulics to all cross culvert conveyances and the roadway system.
- 4. Develop preliminary designs for all cross drainage structures throughout the project limits.
- 5. Develop preliminary designs for proposed storm water collection systems for the proposed curb-and-gutter portion of the project area.
- 6. Determine potential utility conflicts based on preliminary design for the project area.
- 7. Develop preliminary drainage easement requirements for the project area.
- 8. Coordinate the preliminary design with the City of Temple. Comments and direction shall be incorporated into final designs.

#### B. 100% Complete Plan Set

- 1. Develop final designs for all cross drainage structures within the project limits. All cross drainage structures shall be illustrated in plan profile sheets as well as detail sheets in the 100% plans. Grading to existing ground elevations shall be detailed as well as elevations for flow lines and headwalls. Hydraulic grade lines for the 4% and 1% annual chance storm (25-year and 100-year) events shall be illustrated in the profile views. Designs for conveyance to reduce erosion shall be completed and detailed in the plans.
- 2. Develop final designs for the storm water collection system for the curb-and gutter portion of the project. Flow lines shall be detailed as well as hydraulic grade lines for the 4% and 1% annual chance storm (25-year and 100-year)

- events. All drainage infrastructure shall be designed and presented in the drawings in plan and profile.
- 3. Design storm water conveyance to existing streams and channel ways. Design shall include conveyance for positive drainage and shall check current water surface elevations to proposed water surface elevations after project completion.
- 4. Determine potential utility conflicts based on final design for the project area. Existing utility locations shall be illustrated in the drainage plan profile sheets.
- 5. Develop final drainage easement requirements for the project area. Layouts for drainage easements shall be prepared for review with the City. Details will be provided for the production of metes and bounds for acquisition.
- 6. Prepare Hydraulic Data Sheets as appropriate reflecting the results of the hydraulic analyses and designs for proposed cross road culverts and storm sewer systems.
- 7. Develop summary of final quantities for all drainage infrastructure and prepare cost estimates based on current bid data.
- 8. Coordinate with the City of Temple to review the final drainage design, phasing for the project, utility conflicts and relocations. All comments and direction shall be incorporated into final designs.
- 9. Storm Water Pollution Prevention Plans (SW3P) Develop SW3P to minimize potential impact to receiving waterways. The SW3P shall include quantities, type and locations of erosion control devices and any required permanent erosion control measures in accordance with the City of Temple Policy.

#### VI. SIGNING AND MARKINGS

#### A. 100% Complete Plan Set

- 1. Signing and Markings Layouts Prepare signing and pavement markings layouts for the full roadway sections. The layouts shall include the signing and striping, roadway layout, centerline with stationing, existing signs to remain, to be removed or to be relocated, proposed signs and proposed permanent markings including pavement markings, object markers and delineation. Details shall be in accordance with TMUTCD,
- 2. Sign Details Prepare details for signs included in the Project. Intersection Layouts Prepare detailed signing and striping layouts at the following intersections:
  - Loop 363

#### VII. UTILITY DESIGN

- A. 30% Complete Plan Set
  - 1. Develop layout for 16-inch water line as shown in the City of Temple Water Master Plan. Layout shall be along 5<sup>th</sup> Street to Loop 363 and then to the proposed 1<sup>st</sup> Street extension.
  - 2. Develop layout for 8-inch water line adjacent to the 1<sup>st</sup> Street extension as shown in the TMED South Master Plan.
  - 3. Develop layouts for hydrants to meet the City of Temple codes and regulations.
- B. 100 % Complete Plan Set
  - 1. Prepare plan and profile for 16-inch water line as shown in the City of Temple Water Master Plan. Layout shall be along 5<sup>th</sup> Street to Loop 363 and then to the proposed 1<sup>st</sup> Street extension.
  - 2. Prepare plan and profile for 8-inch water line adjacent to the 1<sup>st</sup> Street extension as shown in the TMED South Master Plan.
  - 3. Call out fittings, hydrants, valves, etc on the plan profile sheets.
  - 4. Prepare details for water utilities. Details shall be in accordance with current City of Temple standards.
  - 5. Develop summary of final quantities for all utility infrastructure.

#### VIII. LANDSCAPE DESIGN

a. Develop landscape design in accordance with the TMED South Master Plan including irrigation.

#### IX. MISCELLANEOUS DESIGN

- A. 30% Complete Plan Set
  - 1. Miscellaneous Drawings Prepare the following miscellaneous drawings:
    - Title Sheet
    - Index of Sheets
  - 2. Traffic Signal
    - Design integrated traffic signal for full intersection movements at the extension of 1st Street
  - 3. Illumination and Electric
    - Design conduit layout for future installation of street lighting.
    - Coordinate with Oncor Electric for future installation of traffic lights.
- B. 100% Complete Plan Set
  - 1. Illumination and Electric

- Develop final conduit layout for future installation of street lighting.
- Coordinate with Oncor for final layout for the project.
- 2. Traffic Signal
  - Design integrated traffic signal for full intersection movements at the extension of 1<sup>st</sup> Street.
- 3. Bid Proposal- Prepare the final quantities utilizing the bid received from JD Abrams and develop change order bid items and quantities for items not included in the original bid.
- 4. Miscellaneous Drawings Prepare the following miscellaneous drawings:
  - Title Sheet / Index of Sheets
  - Project Layout

The following scope of work for TMED South Phase I can be completed for the lump sum price of \$97,950. Below is a breakdown of project costs. We are pleased to submit this proposal and look forward to the benefit it will bring the City of Temple.

ROUTE AND DESIGN STUDIES	\$ 3,250.00
FIELD SURVEYING	\$ 7,500.00
METES AND BOUNDS	\$ 6,300.00
ROADWAY DESIGN	\$ 19,400.00
DRAINAGE	\$ 11,100.00
SIGNING & PAVEMENT MARKING	\$ 3,500.00
UTILITY DESIGN	\$ 18,400.00
TRAFFIC SIGNAL DESIGN	\$ 12,100.00
LANDSCAPING	\$ 6,800.00
MISC. DESIGN	\$ 4,100.00
GENERAL MANAGEMENT & COORDINATION	\$ 5,500.00
TOTAL	\$ 97,950.00

Sincerely,

R. David Patrick, P.E., CFM

xc: File

Mr. Don Bond, P.E., CFM February 9, 2017 Page 9

# **ATTACHMENT "C"**

## **Charges for Additional Services**

# City of Temple TMED South Phase I Final Design

POSITION	MULTIPLIER	SALARY COST/RATES
Principal	2.4	\$ 75.00 – 95.00/hour
Project Manager	2.4	60.00 – 75.00/hour
Project Engineer	2.4	50.00 – 60.00/hour
Engineer-in-Training	2.4	40.00 – 50.00/hour
Engineering Technician	2.4	35.00 – 50.00/hour
CAD Technician	2.4	30.00 - 50.00/hour
Clerical	2.4	15.00 – 30.00/hour
Expenses	1.1	actual cost
Computer	1.0	15.00/hour
Survey Crew	1.1	125.00 – 160.00/hour
Registered Public Surveyor	1.0	130.00/hour
On-Site Representative	2.1	30.00 - 40.00/hour



#### **RESOLUTION NO. 2017-8555-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK & ASSOCIATES, LP OF TEMPLE, TEXAS, IN THE AMOUNT OF \$97,950, FOR PROFESSIONAL SERVICES REQUIRED TO DESIGN AN EXTENSION OF SOUTH FIRST STREET AT LOOP 363; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Temple Medical Education District (TMED) is a strategic area of redevelopment and the entrance to this district and its corridor connecting State right-of-way to downtown is located at South First Street and Loop 363;

Whereas, improvements to define this gateway intersection are under construction and an extension of South First Street from this intersection is required to support growth and development;

Whereas, this scope addition will be designed in accordance with the Reinvestment Zone's Master Plan and incorporate the TMED standards recently constructed north of the intersection;

**Whereas,** funding for this contract amendment is available in the Reinvestment Zone No. 1 Financing Plan, TMED Projects, Account No. 795-9500-531-6872, Project No. 101627; 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:

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council authorizes the City Manager, or his designee, after approval as to form by the City Attorney, to execute an amendment to the professional services agreement with Kasberg, Patrick & Associates, LP, in the amount of \$97,950, for professional services required to design an extension of South First Street at Loop 363.

<u>Part 3</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	 Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(E) Consent Agenda Page 1 of 2

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

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

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick & Associates, LP, in an amount not to exceed \$391,906 for preliminary design of Phase 6 of the Outer Loop (connection to I35).

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

<u>ITEM SUMMARY:</u> The Outer Loop south of FM 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to IH 35. Phase 3A at Adams Avenue has recently been constructed and ROW is being acquired for the next phase (3B) to extend to Tarver Road and Jupiter Drive. Phase 6 will provide a critical intersection with the interstate highway.

The following tasks and costs are recommended for authorization:

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Route & Design Studies	\$	62,100
Surveying	\$	41,200
Metes & Bounds	\$	21,600
Road Design	\$	71,896
Drainage	\$	28,000
Signage	\$	12,060
Utility Design	\$	18,425
Structural Design	\$	72,450
Environmental	\$	30,750
Geotech	\$	18,600
Misc. Design	\$	7,750
Management & Coordination	\$	7,075

TOTAL <u>\$ 391,906</u>

Design will be completed within 270 calendar days.

03/02/17 Item #4(E) Consent Agenda Page 2 of 2

<u>FISCAL IMPACT:</u> Funds are available in the Reinvestment Zone No. 1 Financing Plan, Line 320, in the amount of \$2,500,000 for the full design and ROW acquisition of Phase 6 of the Outer Loop to be funded with the 2017 TIRZ bond issue. The bonds will not be issued until May 2017. To expedite the preliminary design of this project, we are proposing to fund this agreement with cash currently available. We will fund \$400,000 of the Phase 6 of the Outer Loop with current revenues and fund \$400,000 of the Santa Fe Plaza Project with bond proceeds that were originally funded with current revenues.

Funding for this agreement is available in the Reinvestment Zone No. 1 Financing Plan, account 795-9500-531-6657, project 101585 in the amount of \$400,000.

#### **ATTACHMENTS:**

Engineer's Proposal Project Map Resolution



KASBERG, PATRICK & ASSOCIATES, LP

CONSULTING ENGINEERS
Texas Firm F-510

Temple
One South Main Street
Temple, Texas 76501
(254) 773-3731

RICK N. KASBERG, P.E.
R. DAVID PATRICK, P.E., CFM
THOMAS D. VALLE, P.E.
GINGER R. TOLBERT, P.E.
ALVIN R. "TRAE" SUTTON, III, P.E., CFM
JOHN A. SIMCIK, P.E., CFM

Georgetown 1008 South Main Street Georgetown, Texas 78626 (512) 819-9478

February 8, 2017

Mr. Don Bond, P.E., CFM 3210 E. Avenue H
Building A
Temple, Texas 76501

Re:

City of Temple

Outer Loop (IH35 South to Old Waco Road)

30% Design

Dear Mr. Bond:

At the request of the City of Temple Reinvestment Zone #1 (TRZ), we are submitting this proposal for the above referenced project. This project will develop 30% design for the Outer Loop from IH35 South to a connection point with Old Waco Road. An exhibit is included with this proposal for illustration. The connection to IH-35 will be north of the intersection of Twin City Boulevard and IH-35. The design will follow the previous master planning for this corridor and match the sections that are currently under construction for the Outer Loop at F.M. 2305. The final product will be 30% plans and estimates ready for bidding through the City of Temple Purchasing Department. Development of metes and bounds for the properties required for rights-of-way are also included in the 30% design. Our Preliminary Opinion of Probable Construction Cost for this project is \$12,950,000.

The work to be performed by KPA under this contract consists of providing engineering services for design of the project described above to include 30% design, preparation of plans, and estimates. The project consists of reconstruction and construction of approximately 4,500 linear feet major arterial roadway with associated drainage, utilities as defined by the utility master plan, elevated bridge structures over the BNSF Railroad, Charter Oak and Pepper Creek, striping, signage, phasing plan and erosion control. The timeframe for design of the project is nine (9) months. Determination of rights-of-way requirements will be completed with metes and bounds for rights-of-way and easements. Rights-of-entry will be required for this project. The City of Temple will be responsible for obtaining all rights-of-entry.

KPA will perform all work and prepare all deliverables in accordance with the latest version of AASHTO and City of Temple specifications, standards and manuals.

Mr. Don Bond, P.E., CFM February 8, 2017 Page 2

KPA will perform quality control and quality assurance (QA/QC) on all deliverables associated with the project. All traffic control will be in accordance with the Texas Manual on Uniform Traffic Control Devices (TMUTCD).

The following services will be performed:

#### I. ROUTE AND DESIGN STUDIES

- A. Data Collection Obtain and review any existing data from the City and other entities that may have record documents and are allowed to release the information. i.e. Atmos, AT&T, Oncor, etc.
- **B.** Geometric Design Develop geometric design for the full length of the project to establish survey and investigation limits. All designs shall be in accordance with City of Temple design guidelines and criteria.
- C. Rights-of-Way Data
  - 1. Perform sufficient property records research to obtain current ownership and deed information of affected properties current per Bell County Appraisal District Records at the time of plan development.
  - 2. Prepare overall ROW Plan Sets to be used to illustrate rights-of-way needs and estimate the cost to acquire rights-of-way.
  - 3. Metes and bounds will be developed and submitted to the City of Temple Staff. There is not any acquisition services included in this proposal.

#### **D.** Utility Coordination

Efforts to ensure utility relocations and adjustments required to accommodate the proposed project development shall include Field Surveys and Utility Adjustment Coordination.

- 1. Field surveys shall locate horizontally; crossings of all utilities within the project area identified by markings obtained from performing a one call utility locate service.
- 2. After design surveys have located marked utilities from the one call service, verification of utilities will be performed as available from meeting with the utility companies (Atmos, AT&T, Oncor, etc.)
- 3. Initial notifications of the project details and expected time lines for project development shall be conveyed to all utility owners existing within the project limits.
- 4. Upon determination of required relocation and/or adjustments, coordination with impacted utility owners shall be initiated.

#### II. PROJECT MANAGEMENT

#### A. Meetings

- 1. Prepare, attend and document Progress Meetings at the City Office.
- 2. Prepare, attend and document Utility Coordination Meetings.
- 3. Prepare, attend and present as necessary updates to the Temple Re-investment Zone Project Group and Board.

#### B. General Contract Administration

- 1. Develop monthly invoices and progress reports.
- 2. Sub-consultant coordination.
- 3. Design coordination with the City, TxDOT and BNSF.

#### III. FIELD SURVEYING

#### A. General

- 1. Unless previously obtained, the City of Temple shall obtain right-of-entry (ROE) agreements with property owners for the required field surveys.
- 2. Verify and compare previously located utility data with current ground conditions. Contact the One-Call System in advance of performing field surveys so that data collection includes ties to location of marked utilities. Reasonable attempts to coordinate with utility owners shall be made to achieve efficiency in data collection.

# B. Topographic Surveys for Engineering Design and Hydraulic Analysis

- 1. Control shall be established to adequately position horizontal control points as needed for project design activities and plan notations thereof. Data for the horizontal control shall be based on Texas State Plane, Central Zone, NAD 83 (93).
- 2. Vertical control shall be established for the design of the project. Benchmarks shall be established via differential level loops from recovered known project controls. A vertical benchmark system shall be perpetuated at approximate 1,000 foot intervals.
- 3. Survey data shall be developed to prepare design for the project.
- 4. Data collection shall consist of spot elevations for improvements, edge of roadway, driveways, visible or marked utilities, drainage features, centerline of roadway and grade breaks. Individual roadway cross sections shall be taken at intervals approximately 100 feet or as required to properly define the surface of the project and generate accurate Digital Terrain Models (DTMs).
- 5. The survey shall include topographic features within approximately 500 feet from each end of certain drainage features along the roadway or a sufficient distance to ensure and/or verify hydraulic cross sections can be developed to adequately accommodate the 100-year rainfall event. Within these limits, the

- survey shall extend approximately 150 feet left and right of the proposed roadway centerline, provided ROE allows such access.
- 6. Channel cross sections shall be provided from the face of the existing drainage structures or edge of channel connection (4 sections each) to approximately 200 feet upstream and downstream. The sections shall indicate any ground breaks, top of banks, toe of slopes, etc., that define the actual contour of the section and the overbank area, provided ROE allows such access.
- 7. A stream alignment and profile extending the entire limits of the channel cross sections described above shall be developed from the channel cross section information.
- 8. Profiles of intersecting driveways within the project limits shall extend a sufficient distance beyond the existing ROW to ensure adequate data is available to determine tie-ins with proposed vertical alignment changes, provided ROE allows such access.
- 9. Field surveys shall provide the locations of small signs, mailboxes and other visible surface features.

#### IV. ROADWAY DESIGN CONTROLS

#### A. 30% Complete Plan Set

- 1. Geometric Design Develop the horizontal and vertical alignments, typical sections and resultant design cross sections to ensure compliance with current design criteria. Delineate and discuss potential deficiencies with City Staff. Review constructability of preliminary design including connections and access.
- 2. Typical Sections Develop existing and proposed roadway typical sections for the project.
- 3. Alignment Data Sheets Prepare horizontal and vertical alignment data sheets.
- 4. Plan & Profile Drawings Prepare preliminary plan & profile sheets for the project.
- 5. Intersection Layouts Develop layouts that define preliminary horizontal and vertical geometry for the following intersections, overpasses and connections:
  - Old Waco Road
  - Charter Oak
  - IH-35
- 6. Bridge Layout Develop geometric layout for the bridge structure at the crossing of the BNSF Railroad, Charter Oak and Pepper Creek. The layout shall include the geometry to clear Charter Oak, Pepper Creek drainage conveyance and the current BNSF right-of-way.
- 7. Develop preliminary rights-of-way and easement requirements for the proposed roadway infrastructure.

8. Coordination with private utilities – After the Preliminary Engineering is complete, all utilities that appear effected will be contacted for coordination for relocation.

#### V. DRAINAGE

#### A. 30% Complete Plan Set

- 1. Incorporate all design surveys into computer aided drafting and develop topographies and surfaces. This data shall be utilized to develop drainage areas, hydrology and hydraulics. This shall include topographic working drawings to prepare the preliminary drainage design.
- 2. Develop storm water hydrology for the ultimate roadway section throughout the limits of the project. The hydrology shall be modeled utilizing HEC-HMS with City of Temple drainage criteria. The model shall incorporate the 4% and 1% annual chance storm (25-year, and 100-year) events. Modeling shall develop storm water flows to all cross culverts and roadway conveyances. Based on the data developed, drainage infrastructure shall be designed in a preliminary format for the project area. The level of detail shall be sufficient to establish cost estimates.
- 3. Develop preliminary hydraulics to all cross culvert conveyances and the roadway system.
- 4. Develop preliminary designs for all cross drainage structures throughout the project limits.
- 5. Develop preliminary designs for proposed storm water collection systems for the proposed curb-and-gutter portion of the project area.
- 6. Determine potential utility conflicts based on preliminary design for the project area.
- 7. Develop preliminary drainage easement requirements for the project area.
- 8. Coordinate the preliminary design with the City of Temple. Comments and direction shall be incorporated into final designs.

# VI. <u>SIGNING AND MARKINGS</u>

#### A. 30% Complete Plan Set

1. Signing and Markings Layouts - Prepare general signing and pavement markings layouts for the full roadway sections. The layouts shall be in accordance with TMUTCD and sufficient for cost estimation.

#### VII. UTILITY DESIGN

A. 30% Complete Plan Set

- 1. Develop layout for 12-inch water line as shown in the City of Temple Water Master Plan. Layout shall be along the roadway alignment.
- 2. Develop layouts for hydrants to meet the City of Temple codes and regulations.
- 3. Develop wastewater infrastructure layout and connections according to the City of Temple Wastewater Master Plan.

#### VIII. STRUCTURAL DESIGN

#### A. 30% Complete Plan Set

- 1. Develop preliminary structural design for elevated bridge structures over BNSF Railroad, Charter Oak and Pepper Creek.
- 2. Develop preliminary structural design for retaining walls.

#### IX. ENVIRONMENTAL

#### A. Phase I Environmental Site Assessment

- 1. Prepare Phase I Site Assessment for the length of the project not currently cleared in accordance with the procedures included in ASTM E 1527-05.
- 2. A full report of all findings will be completed with a recommendation. If additional investigations are required which are not a part of this proposal, a contract amendment will be required.
- 3. At this time there are not any expected submittal or review fees by state or federal agencies and therefore no fees of this kind are included in the proposal.

#### B. Archaeological Clearances

- 1. Complete field investigations in accordance with regulatory requirements to clear the length of the project not currently cleared for archaeological review with the State of Texas.
- 2. A full report of all findings will be completed with a recommendation. If additional investigations are required which are not a part of this proposal, a contract amendment will be required. The finding will be submitted to the Texas Historical Commission for review and clearance of the project. At this time there are not any expected submittal or review fees by state or federal agencies and therefore no fees of this kind are included in the proposal.

#### X. GEOTECHNICAL

#### A. Geotechnical data and design

1. Roadway – Geotechnical field data will be taken for the length of the project every 500 feet in order to establish the subsurface conditions. Boring logs will be established for inclusion in the final report. Borings will be 5 to 10 feet in depth. Traffic loading will be based on City of Temple criteria.

- 2. Bridge Geotechnical field data will be taken for the proposed bridge structure at the BNSF right-of-way in order to establish structural design for the bridge. Borings will be included in the final report.
- 3. A final report of the subsurface investigations and geotechnical design for the roadway and bridge will be completed for the project.

#### XI. MISCELLANEOUS DESIGN

- A. 30% Complete Plan Set
  - 1. Traffic Control Plans (TCP), Detours and Sequence of Construction A conceptual TCP shall be developed including sequence of construction and the existing and proposed traffic control devices (including signs, barricades, pavement markings, etc.). The TCP shall be based on phasing construction to allow traffic flow. The TCP shall also include the evaluation of temporary drainage throughout the construction process to ensure positive flow during construction. TCP shall be based on the TMUTCD and the latest Standards. Plan sheets shall include:
    - Traffic sequencing for phased construction
    - TCP Phasing Overview Layout
    - TCP layouts showing work zones, number of lanes open, typical sections and any necessary detour schematics
  - 2. Miscellaneous Drawings Prepare the following miscellaneous drawings:
    - Title Sheet
    - Index of Sheets
  - 3. Illumination and Electric
    - Design conduit layout for future installation of street lighting.
    - Coordinate with Oncor Electric for future installation of traffic lights.
  - 4. Cost Estimates Prepare a construction cost estimate for the 30% design.

The following scope of work for Outer Loop (IH35 to Old Waco Road) 30% Design can be completed for the lump sum price of \$391,906. Below is a breakdown of project costs. We are pleased to submit this proposal and look forward to the benefit it will bring the City of Temple.

ROUTE AND DESIGN STUDIES	\$ 62,100.00
FIELD SURVEYING	\$ 41,200.00
METES AND BOUNDS	\$ 21,600.00
ROADWAY DESIGN	\$ 71,896.00
DRAINAGE	\$ 28,000.00
SIGNING & PAVEMENT MARKING	\$ 12,060.00
UTILITY DESIGN	\$ 18,425.00
STRUCTURAL DESIGN	\$ 72,450.00
ENVIRONMENTAL	\$ 30,750.00
GEOTECHNICAL	\$ 18,600.00
MISC. DESIGN	\$ 7,750.00
GENERAL MANAGEMENT & COORDINATION	\$ 7,075.00
TOTAL	\$ 391,906.00

Sincerely,

R. David Patrick, P.E., CFM

xc: File

Mr. Don Bond, P.E., CFM February 8, 2017 Page 9

# ATTACHMENT "C"

# **Charges for Additional Services**

## City of Temple Outer Loop (IH35 South to Old Waco Road) 30% Design

POSITION	<b>MULTIPLIER</b>	SALARY COST/RATES	
	*		
Principal	2.4	\$ 75.00 – 95.00/hour	
Project Manager	2.4	60.00 - 75.00/hour	
Project Engineer	2.4	50.00 - 60.00/hour	
Engineer-in-Training	2.4	40.00 - 50.00/hour	
Engineering Technician	2.4	35.00 - 50.00/hour	
CAD Technician	2.4	30.00 - 50.00/hour	
Clerical	2.4	15.00 – 30.00/hour	
Expenses	1.1	actual cost	
Computer	1.0	15.00/hour	
Survey Crew	1.1	125.00 - 160.00/hour	
Registered Public Surveyor	1.0	130.00/hour	
On-Site Representative	2.1	30.00 - 40.00/hour	



#### **RESOLUTION NO. 2017-8556-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK & ASSOCIATES, LP OF TEMPLE, TEXAS, IN THE AMOUNT OF \$391,906 FOR PRELIMINARY DESIGN OF PHASE 6 OF THE OUTER LOOP; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, the Outer Loop south of FM 2305 is a critical north-south arterial that will connect the Adams Avenue growth corridor to IH 35;

**Whereas,** Phase 3A at Adams Avenue has recently been constructed and right of way is being acquired for the next phase (3B) to extend to Tarver Road and Jupiter Drive - Phase 6 will provide a critical intersection with I-35;

**Whereas,** funding for this agreement is available in the Reinvestment Zone No. 1 Financing Plan, Account No. 795-9500-531-6657, Project No. 101585; 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:

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council authorizes the City Manager, or his designee, after approval as to form by the City Attorney, to execute a professional services agreement with Kasberg, Patrick & Associates, LP, in the amount of \$391,906 for preliminary design of Phase 6 of the Outer Loop.

<u>Part 3</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(F) Consent Agenda Page 1 of 4

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

Brynn Myers, Assistant City Manager

**ITEM DESCRIPTION**: Consider adopting a resolution authorizing a professional services agreement with Kasberg, Patrick, & Associates, LP of Temple, in an amount not to exceed \$94,900 for professional services required for the preparation of the 2030 Reinvestment Zone Master Plan.

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

**ITEM SUMMARY:** This project will consist of producing data, information and maps for the existing parks within the Reinvestment Zone as well as explore future expansion and development. The existing parks include the Airport Park, Corporate Campus Park, Industrial Park, Synergy Park, TMED Park and the Downtown Area as well as the properties at Crossroads Park. Development of three dimensional modeling is included in the scope of work utilizing previous project surface models and incorporation into Infraworks. Modeling will include roadways, surfaces, property lines, railways, water utilities, wastewater utilities and dry utilities as the information is available. Additionally the scope of work shall include development of expansion areas for the TRZ and proposed future projects. Expansion areas shall be illustrated with exhibits to include current property owners as available through BellCAD as well as project identification. Future projects identified with the 2030 Master Plan will be illustrated through Infraworks with exhibits and cost estimates. Other elements of the Master Plan shall include review and research for City certifications, review of development and redevelopment in TMED, research of potential public transportation within TMED, maintenance review with cost estimates and Gateways and investigations for opportunities with the IH35 corridor. The final product will be bound Master Plans illustrating all the elements of the project as well as flash drives with the developed Infraworks media. Coordination with the partners of the TRZ will also be included in the Master Plan.

The proposed timeline for the completion of the project is three hundred and sixty five days from the notice to proceed.

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

**Existing TRZ Park Modeling and Updates** - This phase of the Master Plan will include development of a three dimensional model of the existing parks. The Parks that will be modeled are Airport Park, Corporate Campus Park, Industrial Park, Synergy Park, TMED Park and the Downtown Area as well as the properties at Crossroads Park. The following items will be included in the model:

- Existing and proposed roadway infrastructure
- Existing and proposed rail infrastructure
- Existing and proposed water utilities
- Existing and proposed wastewater utilities
- Existing and proposed drainage utilities
- Existing dry utilities to the best information available .Included are gas, electric and communication
- Existing topography
- Current property lines and ownership based off of BellCAD information

**TRZ Future Projects and Expansion** - This phase of the Master Plan will explore future expansion of the TRZ in relation to regional expansion and proposed infrastructure as well as constriction by the legalities restricting the TRZ. Future projects will be identified with a proposed integrated plan that will include financing.

**TMED Revitalization** - This phase of the Master Plan will explore avenues and directives to revitalize the TMED area in conjunction with the projects that have been completed and are in progress. Items included in the Master Plan will be:

- Rehabilitation of existing business and residential infrastructure within TMED
- Development of new infrastructure
- Schools
- Development of "Green" TMED Transportation

**Maintenance within the TRZ** - This phase will define the infrastructure that has been developed within the TRZ and explore the maintenance requirements, scheduling and costs. The infrastructure to be explored shall include:

- Roadways
- Utilities
- Drainage Facilities
- Sidewalks and Trails
- Signs
- Landscaping

**City of Temple Designations and Certifications** - This phase will study the requirements and benefits, for the purpose of recommending attainment of the same to the City Council, for the City of Temple to become certified and/or designated in areas of interest to include:

- Certification or Designation as a "Walkable City"
- Certification or Designation as a "Wireless City"
- Certified or Designation as a "Green City"

**Interstate 14-** This phase will review the current alignment and proposed construction for I-14 in order to study implications of I-14 route alternatives on the Reinvestment Zone for the purpose of making recommendations to the City Council and will include:

- Revised exhibits illustrating the proposed alignment of I-14 with proposed construction completion dates
- Connectivity to I-14 with existing thoroughfares within Temple
- Proposed connectivity to I-14 with associated costs

**Gateway Development** - This phase will explore potential gateway developments for Temple for the purpose of making recommendations to the City Council and shall include:

- Gateway at or near IH35 and the Leon River
- Gateway into Downtown
- Gateway for TMED South
- Other Gateways for the TRZ or the TRZ Parks

**IH35 Corridor** - This phase will explore enhancements and opportunities for the IH 35 corridor through Temple for the purpose of making recommendations to the City Council.

**Coordination with Stakeholders and Partners** - As with the 2022 Master plan, we will coordinate with the Stakeholders and Partners of the TRZ which include, but are not limited to:

- Baylor, Scott & White
- The Veteran's Administration
- Temple College
- The Bioscience District
- TxDOT
- Downtown Development Groups
- TEDC
- Temple Chamber of Commerce
  - Transform Temple Team
  - Temple Independent School District
  - Belton Independent School District
  - Troy Independent School District
  - Bell County
  - Elm Creek Water District

#### **Basic Services**

Existing TRZ Park Modeling	\$ 17,300
TRZ Future Projects & Expansion	\$ 13,100
TMED Revitalization	\$ 11,300
Maintenance within the TRZ	\$ 10,300
City of Temple Designations &	\$ 9,600
I-14	\$ 12,000
Gateway Development	\$ 8,800
IH 35 Corridor	\$ 5,000
Coordination with Stakeholders & Partners	\$ 7,500
Total Basic Services	\$ 94,900

The deliverables for the project shall be as follows:

- 1. 70% review sets. Five sets of the 70% review sets shall be delivered to the Project Manager designated for the City of Temple for distribution to staff. The City of Temple shall notify KPA when comments are ready and they shall be incorporated into the design.
- 2. 90% review sets. Five sets of the 90% sets shall be delivered to the Project Manager designated for the City of Temple for distribution to staff. The City of Temple shall notify KPA when comments are ready and they shall be incorporated into the design.
- 3. Final sets. Five sets of the final sets shall be delivered to the Project Manager designated for the City of Temple for distribution to staff. The City of Temple shall notify KPA when comments are ready and they shall be incorporated into the design. Once these comments have been incorporated into the sets they shall be considered final and the project shall be complete.
- 4. Final deliverables. After the project has been completed, KPA will deliver forty sets of final documents to the City of Temple for distribution.

**FISCAL IMPACT:** Funding is available in the Reinvestment Zone No. 1 Financing and Project Plans, line 50, account 795-9500-531-2616, Professional Services, to fund the agreement in the amount of \$94,900.

#### ATTACHMENTS:

Resolution

#### **RESOLUTION NO. 2017-8557-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH KASBERG, PATRICK & ASSOCIATES, LP OF TEMPLE, TEXAS, IN AN AMOUNT NOT TO EXCEED \$94,900 FOR PREPARATION OF THE 2030 REINVESTMENT ZONE MASTER PLAN; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, the 2030 Reinvestment Zone Master Plan will consist of producing data, information and maps for existing parks within the Reinvestment Zone, as well as, exploring future expansion and development;

**Whereas,** the existing parks include the Airport Park, Corporate Campus Park, Industrial Park, Synergy Park, TMED Park and the Downtown Area as well as the properties at Crossroads Park;

Whereas, the scope of services for this Master Plan include:

- Existing TRZ Park Modeling and Updates;
- TRZ Future Projects and Expansion;
- TMED Revitalization;
- Maintenance within the TRZ;
- City of Temple Designations and Certifications;
- Interstate 14;
- Gateway Development;
- IH35 Corridor:
- Coordination with Stakeholders and Partners; and
- Basic Services:

Whereas, Staff recommends Council authorize a professional services agreement with Kasberg, Patrick & Associates, LP for professional services required for the preparation of the 2030 Reinvestment Zone Master Plan in an amount not to exceed \$94,900;

**Whereas,** funding for this agreement is available in the Reinvestment Zone No. 1 Financing and Project Plans, Line 50, Account No. 795-9500-531-2616; and

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

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

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council authorizes the City Manager, or his designee, after approval as to form by the City Attorney, to execute a professional services agreement with Kasberg, Patrick & Associates, LP, in the amount of \$94,900 for professional services required for the preparation of the 2030 Reinvestment Zone Master Plan.

<u>Part 3</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	 Kayla Landeros
City Secretary	City Attorney



## COUNCIL AGENDA ITEM MEMORANDUM

03/02/17 Item #4(G) Consent Agenda Page 1 of 1

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

Sharon Rostovich, Airport Director Jonathan Graham, City Manager

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing acceptance of a Texas Department of Transportation, Aviation Division, Non-Primary Entitlement Grant, in the total amount of \$166,667 (City match of \$16,667), in fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.

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

**ITEM SUMMARY:** The City of Temple developed a corporate aviation area for future development and growth. In order to continue the growth, the Airport needs to construct a concrete apron to support an additional hangar in the corporate area. The estimated cost for construction of a concrete apron is \$447,000.

A resolution from the City accepting the Non-Primary Entitlement Grant funds in the amount of \$150,000 and assuring the City has funds to provide at least \$297,000 of the total project costs with local funds and understands that any additional costs above \$150,000 in federal funds cannot be increased. A Resolution must be submitted to TxDOT Aviation no later than March 3, 2017 for consideration and approval at the April 28, 2017 Texas Transportation Commission meeting.

**FISCAL IMPACT:** TxDOT will provide \$150,000 to help assist with the apron improvements estimated at \$447,000 through the NPE Grant Program. A breakdown of the estimated project cost and funding is shown below:

\$ 447,000 Estimated project costs - Apron Improvements
 (150,000) NPE Grant Program
 (16,667) NPE Grant Match - Reinvestment Zone No. 1
 \$ 280,333 Remaining amount to be funded from Reinvestment Zone No. 1

#### **ATTACHMENTS:**

Resolution

#### **RESOLUTION NO. 2017-8558-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ACCEPTANCE OF A TEXAS DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, NON-PRIMARY ENTITLEMENT GRANT IN THE TOTAL AMOUNT OF \$166,667 (CITY MATCH OF \$16,667) FOR FISCAL YEAR 2017, FOR IMPROVEMENTS AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, the City of Temple developed a Corporate Aviation Area for future development and growth and in order to continue the growth, the Airport needs to construct a concrete apron to support an additional hangar in the corporate area;

Whereas, Texas Department of Transportation Aviation Division requires a Resolution from the City of Temple accepting the Non-Primary Entitlement Grant funds in the amount of \$150,000 and assuring the following:

- 1) the City has funds to provide at least \$297,000 of the total project costs with local funds;
- 2) the City understands that any additional costs above \$150,000 in federal funds cannot be increased; and
- 3) the City will provide a Resolution to TxDOT Aviation no later than March 3, 2017 for consideration and approval at the April 28, 2017 Texas Transportation Commission meeting;

**Whereas,** Texas Department of Transportation will provide \$150,000 to help assist with the concrete apron improvements in an estimated amount of \$447,000, through the Non-Primary Entitlement Grant Program; 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:

- <u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.
- <u>Part 2</u>: The City Council accepts a Texas Department of Transportation, Aviation Division, Non-Primary Entitlement Grant, in the total amount of \$166,667 (City match of \$16,667), for fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.
- <u>Part 3</u>: The City Manager, or his designee, after approval as to form by the City Attorney, is authorized to execute any documents which may be necessary for the acceptance of this grant, and to accept any and all funds that may be received for this grant.

<u>Part 4</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(H) Consent Agenda Page 1 of 1

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

Sharon Rostovich, Airport Director Jonathan Graham, City Manager

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution authorizing acceptance of the Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant, in the amount of \$100,000 (City match of \$50,000) for fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.

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

<u>ITEM SUMMARY:</u> The City of Temple, as part of our Airport Grant Assurance, has participated in the yearly RAMP grant program through the Texas Department of Transportation, Aviation Division for several years. The RAMP grant is a pro-active, flexible grant program that allows the City to determine projects on an as needed basis upon execution of the grant. Eligible items currently being considered, but subject to change in FY17 includes funding assistance improvements in the corporate aviation area to support future growth.

TxDOT has approved Temple's participation for inclusion in the FY17 RAMP Program at the maximum level of \$100,000 (50-50 share). The City's matching funds are included in the Reinvestment Zone No. 1 Financing Plan in FY17.

The Grant Agreement must be submitted to TxDOT Aviation eGrants program.

<u>FISCAL IMPACT:</u> TxDOT will provide \$50,000 to help assist with improvements in the corporate aviation hangar area to support future growth. The expenditure of \$100,000 (which includes the City's \$50,000 match) was approved in the Reinvestment Zone No. 1 Financing Plan, Line 509, in account 795-9500-531-6559, project 101586 for FY17. TxDOT Aviation will reimburse the City 50% of the total project cost not to exceed \$50,000.

#### ATTACHMENTS:

Resolution

#### **RESOLUTION NO. 2017-8559-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING ACCEPTANCE OF A TEXAS DEPARTMENT OF TRANSPORTATION, AVIATION DIVISION, ROUTINE AIRPORT MAINTENANCE GRANT IN THE AMOUNT OF \$100,000 (CITY MATCH OF \$50,000) FOR FISCAL YEAR 2017, FOR IMPROVEMENTS AT THE DRAUGHON-MILLER CENTRAL TEXAS REGIONAL AIRPORT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, the City of Temple, as part of the Airport Grant Assurance, has participated in the yearly Routine Airport Maintenance Grant (RAMP) program through the Texas Department of Transportation, Aviation Division for several years;

Whereas, the RAMP grant is a pro-active, flexible grant program that allows the City to determine projects on an "as-needed" basis upon execution of the grant and eligible items currently being considered, but subject to change in fiscal year 2017, includes funding assistance improvements in the corporate aviation area to support future growth;

**Whereas,** the Texas Department of Transportation Aviation Division has approved Temple's participation for inclusion in the fiscal year 2017 RAMP Program at the maximum level of \$100,000 (50-50 share);

Whereas, Texas Department of Transportation will provide \$50,000 to help assist with improvements in the corporate aviation hangar area to support future growth;

**Whereas,** the expenditure of \$100,000 (which includes the City's \$50,000 match) was approved in the Reinvestment Zone No. 1 Financing Plan, Line 509, in Account No. 795-9500-531-6559, Project No. 101586 - TxDOT Aviation will reimburse the City 50% of the total project cost not to exceed \$50,000; and

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

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

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council accepts a Texas Department of Transportation, Aviation Division, Routine Airport Maintenance Grant, in the amount of \$100,000 (City match of \$50,000) for fiscal year 2017 for improvements at the Draughon-Miller Central Texas Regional Airport.

<u>Part 3</u>: The City Manager, or his designee, after approval as to form by the City Attorney, is authorized to execute any documents which may be necessary for the acceptance of this grant, and to accept any and all funds that may be received for this grant.

<u>Part 4</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(I) Consent Agenda Page 1 of 1

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

Kayla Landeros, City Attorney Chief Mitch Randles, Fire Chief

**ITEM DESCRIPTION:** SECOND AND FINAL READING: Consider adopting an ordinance amending Ordinance No. 2014-4686 to change the name of the franchised company from Serenity EMS, LLC d/b/a Ameristat Ambulance to Serenity EMS, LLC d/b/a Texas Star Ambulance.

**STAFF RECOMMENDATION:** Adopt ordinance as presented in second and final readings.

<u>ITEM SUMMARY</u>: On November 6, 2014, the City Council passed Ordinance No. 2014-4686 which granted a franchise to Serenity EMS, LLC d/b/a Ameristat Ambulance to operate and maintain a non-emergency ambulance transfer service within the City. The term of the franchise is five years and will expire in 2019.

In December 2016, the "Ameristat Ambulance" name was acquired by Acadian Ambulance. Serenity EMS, LLC will no longer be doing business as "Ameristat Ambulance." Serenity will continue to operate an office in Temple for its "Medical Air" transports and would like to keep the franchise in place. However, Serenity EMS, LLC will be doing business as "Texas Star Ambulance." Due to the name change, an amendment to the original franchise is needed.

**FISCAL IMPACT**: The City would receive 3.5% of the company's total amount billed for ambulance service fee and other income derived from the operation of the ambulance service within the City. During FY 2016, the City received \$22,216.13 from Serenity EMS, LLC d/b/a Ameristat Ambulance.

### **ATTACHMENTS**:

Ordinance No. 2014-4686 Ordinance

#### **ORDINANCE NO. 2014-4686**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, GRANTING TO SERENITY EMS, LLC D/B/A AMERISTAT AMBULANCE A NON-EXCLUSIVE FRANCHISE FOR FIVE YEARS TO OPERATE AND MAINTAIN A NON-EMERGENCY AMBULANCE TRANSFER SERVICE UPON THE PUBLIC STREETS AND HIGHWAYS OF THE CITY OF TEMPLE, TEXAS PURSUANT TO THE PROVISIONS OF THE CONSTITUTION AND LAWS OF THE STATE OF TEXAS, THE CITY CHARTER, AND CHAPTER 5 OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE; DECLARING FINDINGS OF FACT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, Article III, Chapter 5 of the City Code, requires that a person or persons desiring to provide non-emergency ambulance transfer services on the streets of the City of Temple obtain a franchise, under conditions set forth therein;

Whereas, Serenity EMS, LLC d/b/a Ameristat Ambulance ("Ameristat Ambulance") has requested a franchise for a non-exclusive, non-emergency transfer service within the City of Temple;

Whereas, Ameristat Ambulance wishes to offer non-emergency ambulance transfer services to health care providers, including skilled nursing facilities, assisted living facilities, hospice agencies and other related entities - this would include transports from facilities to hospitals, clinics, diagnostic centers, physician offices and other locations under circumstances that do not constitute an emergency;

Whereas, Ameristat Ambulance has leased, and is proposing to operate out of, a station located at 401A Cottingham Drive in Temple - the station will be staffed with one MICU/CCT Ambulance with one EMT and one Paramedic 24 hours a day, 7 days a week;

Whereas, the City will receive a franchise fee of three and one-half (3 ½%) of the total amount billed for ambulance service fees and other income derived from the operation of the ambulance service within the City from AmeriStat Ambulance in return for the right to use the public streets and rights of way for non-emergency ambulance transfer service.

Whereas, franchise fees received will be deposited into account 110-0000-413-0936; and

Whereas, Ameristat Ambulance has established to the satisfaction of the City Council by clear, cogent and convincing evidence that public convenience and necessity will be served by the granting of said franchise.

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

<u>Part 1</u>: A non-exclusive franchise to operate and maintain a non-emergency ambulance transfer service is granted to Serenity EMS, LLC d/b/a AmeriStat Ambulance pursuant to Chapter 5 of the Code of Ordinances of the City of Temple, as amended, and the Charter of the City of Temple, as provided herein.

## Part 2: Definitions.

As used in this ordinance, the following words and phrases shall have the meaning ascribed in this section:

- (a) *City* shall mean the City of Temple, a municipal corporation of the State of Texas, situated in Bell County; the words *in the City* or any similar reference to the territorial limits of the City of Temple, Texas, shall mean the area within the corporate limits of the City of Temple, Texas, as they now exist or as they may hereafter be lawfully modified or extended.
- (b) Company, Transfer Service Franchise Holder, as used herein, unless the context clearly indicates otherwise, shall mean AmeriStat Ambulance, or its legally approved successors and assigns.
- (c) Ambulance or Transfer Service shall mean any motor vehicle used, designed, redesigned or constructed and equipped for the transportation of sick or injured persons, which vehicles for the purposes of this ordinance shall be of the classification of basic life support vehicle or higher, according to the definitions and standards of the City of Temple, Texas or the Bureau of Emergency Management of the Texas Department of Health.
- (d) *Non-Emergency Ambulance Transfer Service* means a response made by a transfer vehicle or ambulance for the transportation of individuals to or from a medical facility, a nursing home or residence under circumstances which do not constitute an emergency.
- (e) *Emergency* is any circumstance that calls for an immediate action and which the element of time in transporting the sick, wounded or injured for medical treatment at an emergency room or a facility providing emergency medical care is or may be essential to the health or life of any person. Such circumstances include, but are not limited to, general accidents, traffic accidents and acts of violence resulting in personal injury, and sudden illness.
- (f) All other words, terms or phrases shall have the meaning assigned to them by Chapter 5 of the City Code, to the extent that such words, terms or phrases have not been assigned other meanings by Chapter 773 of the Texas Health and Safety Code; as amended, or the regulations of the Bureau of Emergency Management of the Texas Department of Health, in which case those assigned meanings shall prevail. In the absence of an assigned meaning by the above-referenced ordinance, statute, or regulations of the Bureau, the meanings of such words, terms and phrases shall have the ordinary meanings applied at law generally or by common usage in the English language.

## Part 3: Notice and Extent of Grant.

The City grants the non-exclusive right and authority to operate and maintain ambulances solely for non-emergency ambulance transfer service of persons upon the public streets and highways of the City of Temple, Texas, for a term ending on **November 5, 2019**, to Company in consideration of the payment of a franchise fee as provided in Part 5 of this ordinance.

## Part 4: Standards and Requirements for Personnel, Vehicles and Equipment.

The Company shall comply with all standards and requirements for personnel, vehicles and equipment as enumerated in Chapter 5 of the Code of Ordinances of the City of Temple.

## Part 5: Payment to the City Required; Franchise Fee.

- (a) The transfer service franchise holder shall, during the life of said franchise, pay to the City of Temple at the Office of the Director of Finance in lawful money of the United States, three and one-half (3 ½%) percent of the total amount billed for the transfer service fees and other income derived from the operation of the transfer service, which said remittance shall be made monthly on or before the tenth day of each calendar month for the preceding calendar month. The compensation provided for in this section shall be in lieu of any other fees or charges imposed by any other ordinance now or hereafter in force during the life hereof, but shall not release the grantee from the payment of ad valorem taxes levied, or to be levied, on property of its own.
- (b) It shall be the duty of the franchise holder to file with the Director of Finance a sworn statement for each calendar quarter showing the total amount billed for the preceding three (3) months which statement shall be filed within ten (10) days following the end of the third month. The franchise holder herein shall be required to install and adequately keep a system of bookkeeping to be approved by the Director of Finance, which books shall be subject to inspections of the governing body of the City of Temple and such person or persons as the City may designate, or either of them, so as to enable the City of Temple to check the correctness of the accounts kept and to compute fairly and accurately the amount billed that may be due to the City.

#### Part 6: Rates.

- (a) The City Council hereby expressly reserves the right, power, and authority to fully regulate and fix, by resolution, the rates and charges for the services of the Company to its customers, fully reserving to the City Council all the rights, powers, privileges, and immunities, subject to the duties, limitations and responsibilities which the Constitution, the laws of the State, and the Charter confer upon the City.
- (b) Company may from time to time propose changes in the general rates by filing an application with the City Secretary for consideration of the City Council. Within a reasonable time consistent with law, the City Council shall afford Company a fair hearing

with reference to the application and shall either approve or disapprove the proposed changes or make such order as may be reasonable.

## Part 7: Liability Insurance Required.

No transfer vehicle shall be operated on the public streets of the City, unless the applicant provides evidence to the City that he has in full force and effect a public liability insurance policy on that transfer vehicle, such insurance policy to be issued by an insurance company licensed to do business in the State of Texas. Such insurance policy shall:

- (a) provide liability coverage for each vehicle of not less than two hundred and fifty thousand dollars (\$250,000) per person, or five hundred thousand dollars (\$500,000) per occurrence for personal injury or death, and one hundred thousand dollars (\$100,000) for property damage;
- (b) name the City of Temple as an additional insured, and provide a waiver of subrogation in favor of the City;
- (c) not contain a passenger liability exclusion; and
- (d) provide for at least thirty (30) days prior written notice of cancellation to the City.

## Part 8: Conditions of Franchise Granted.

The rights, powers and authority herein granted are granted subject to the Constitution and laws of the State of Texas, the Charter of the City of Temple, and where not provided herein, the ordinances and codes of the City of Temple as same now exist or may hereafter be amended so as to constitute reasonable regulations protecting the health, safety and welfare to insure safe, efficient and continuous non-emergency ambulance transfer service, all of which enumerated provisions are incorporated herein by reference and made a part hereof as fully as though the same had been copied herein verbatim.

## Part 9: Manner of Giving Notice.

Notice to Company may be given by leaving a written copy thereof at the principal office of Company during ordinary business hours. Notice to the City may be given by leaving a written copy thereof at the Office of the Director of Finance during ordinary business hours.

# Part 10: Public Convenience and Necessity.

Company has established by clear, cogent and convincing evidence and the City Council has so found and determined that the present and future public convenience and necessity require the operations here authorized to be performed by Company and the public convenience and necessity will be served by the granting of this franchise.

## Part 11: Performance Bond and Revocation Clause.

- (a) The transfer service franchise holder shall establish a Ten Thousand Dollar (\$10,000) performance bond. The purpose of this bond is to recover costs to the City of Temple for accepting and administering the applications for a transfer service franchise in the event the franchise is revoked.
- (b) If the transfer service franchise holder violates any provision or standard of this ordinance or Chapter 5 of the City Code the franchise will be subject to revocation by the City Council of the City of Temple and forfeiture of the performance bond.
- <u>Part 12</u>: This franchise shall become effective as provided in Article 10, Section 10.3 of the Charter of the City of Temple, if Company shall have filed its written acceptance of the franchise within thirty (30) days after the final passage and approval of this ordinance.
- <u>Part 13</u>: 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.
- <u>Part 14</u>: If any provision of this ordinance or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.
- <u>Part 15</u>: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the 2<sup>nd</sup> day of October, 2014.

PASSED AND APPROVED on Second Reading and Public Hearing on the 16<sup>th</sup> day of October, 2014.

PASSED AND APPROVED on Third and Final Reading on the 6th day of November, 2014.

THE CITY OF TEMPLE, TEXAS

DANIEL A. DUNN, Mayor

APPROVED AS TO FORM:

Lacy Borgeson

ATTEST:

City Compton

Kayla Landeros

City Attorney

### Agreement of Franchisee

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

The franchisee, Serenity EMS, LLC d/b/a AmeriStat Ambulance, acting by and through its duly authorized and empowered officer, hereby accepts the terms and conditions of Ordinance No. 2014-4686 granting a non-exclusive franchise to operate and maintain a non-emergency ambulance transfer service upon the public streets and highways of the City of Temple.

SIGNED this 12 day of November, 2014.

SERENITY EMS, LLC D/B/A AMERISTAT AMBULANCE

By:

## ORDINANCE NO. 2017-4831

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NO. 2014-4686 TO CHANGE THE NAME OF THE FRANCHISED COMPANY FROM SERENITY EMS, LLC D/B/A AMERISTAT AMBULANCE TO SERENITY EMS, LLC D/B/A TEXAS STAR AMBULANCE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, on November 6, 2014, Council passed Ordinance No. 2014-4686 which granted a franchise to Serenity EMS, LLC d/b/a Ameristat Ambulance, to operate and maintain a non-emergency ambulance transfer service within the City - the term of the franchise is five years and will expire in 2019;

Whereas, in December 2016, the "Ameristat Ambulance" name was acquired by Acadian Ambulance and Serenity EMS, LLC will no longer be doing business as "Ameristat Ambulance;"

Whereas, Serenity will continue to operate an office in Temple for its "Medical Air" transports, and desires to keep the franchise in place and do business as "Texas Star Ambulance" - due to the name change, an amendment to the original franchise is necessary;

**Whereas,** the City receives 3.5% of the company's total amount billed for ambulance service fee and other income derived from the operation of the ambulance service within the City; 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:

- <u>Part 1:</u> Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.
- <u>Part 2</u>: The City Council amends Ordinance No. 2014-4686, changing the name of the franchised company known as Serenity EMS, LLC d/b/a Ameristat Ambulance to Serenity EMS, LLC d/b/a Texas Star Ambulance.
- <u>Part 3</u>: All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Part 4: 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.

<u>Part 5</u>: 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.

<u>Part 6</u>: It is hereby officially found and determined that the meeting at which this Ordinance was 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 16<sup>th</sup> day of February, 2017.

PASSED AND APPROVED on Second Reading on the 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, MAYOR
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



## CITY COUNCIL ITEM MEMORANDUM

03/02/17 Item #4(J) Consent Agenda Page 1 of 1

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

Tammy Lyerly, Senior Planner

<u>ITEM DESCRIPTION:</u> A-FY-17-05: Consider adopting a resolution authorizing the release of the 15' wide public utility easements located in Las Colinas Subdivision along the east boundaries of Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3, to allow the reconfiguration of utility easements for a pending replat.

**STAFF RECOMMENDATION:** Adopt resolution to be effective upon future replat approval as presented in item description releasing an existing the 15' wide public utility easements located in Las Colinas Subdivision along the east boundaries of Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3.

<u>ITEM SUMMARY:</u> Mr. Mark Rendon, applicant and Las Colinas Subdivision developer, requests this release of an existing 15' public utility easement within Las Colinas Subdivision, located between Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3, to allow the reconfiguration of utility easements for a pending replat. If approved the pending replat would allow the expansion of each of these residential lots without the hindrance of the existing subject utility easement bisecting rear yards.

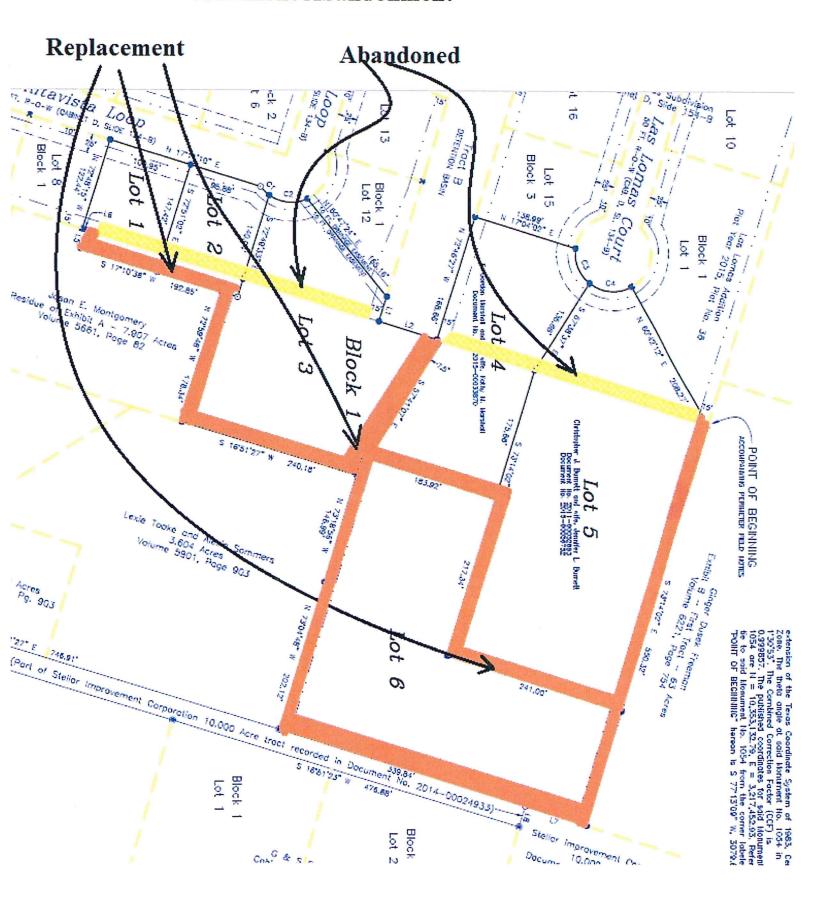
Utility Providers and Public Works/Engineering Departments were contacted regarding the proposed partial 15-foot wide utility easement release/abandonment. There were no objections to the request.

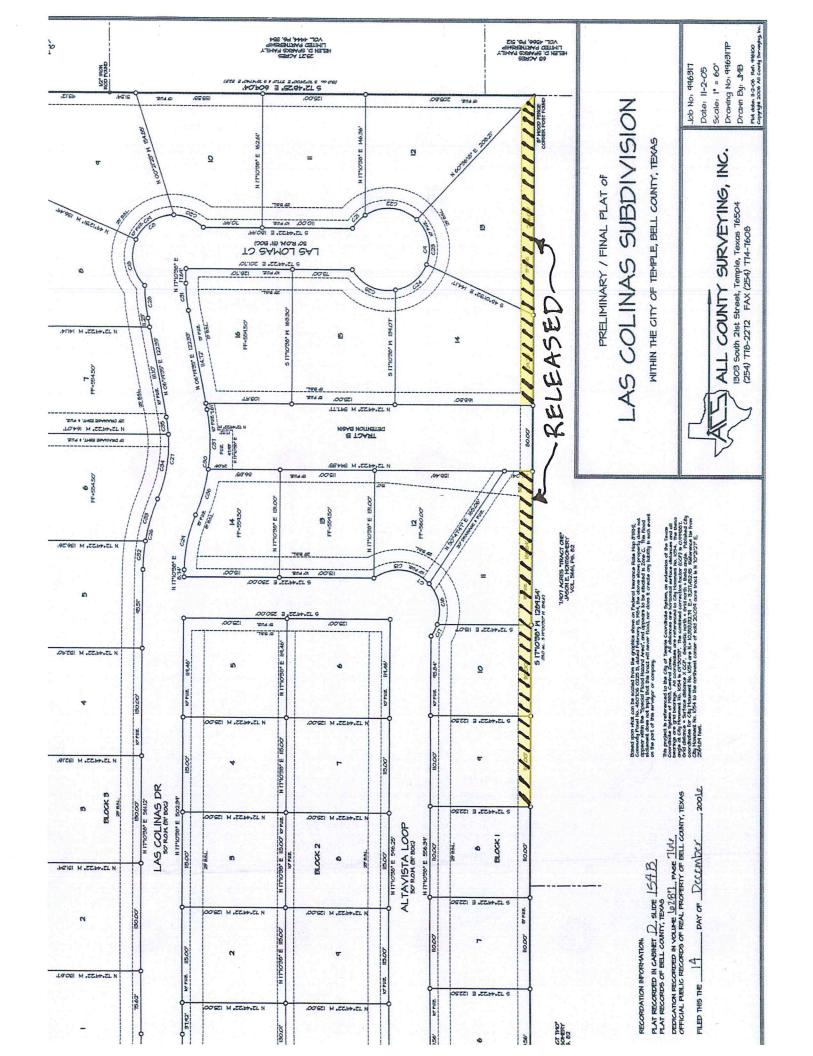
FISCAL IMPACT: N/A

#### **ATTACHMENTS:**

15' Easement Exhibit Las Colinas Subdivision Exhibit Resolution

# **Easement Abandonment**





## RESOLUTION NO. <u>2017-8560-R</u> (A-FY-17-05)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING THE RELEASE OF AN EXISTING 15-FOOT WIDE PUBLIC UTILITY EASEMENT LOCATED WITHIN LAS COLINAS SUBDIVISION ALONG THE EAST BOUNDARIES OF LOTS 9, 10 AND 11, BLOCK 1, AND LOTS 13 AND 14, BLOCK 3, TO ALLOW THE RECONFIGURATION OF UTILITY EASEMENTS FOR A PENDING REPLAT; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the applicant, Mark Rendon, and developer, Las Colinas Subdivision, submitted a request for the release of an existing 15-foot public utility easement located within Las Colinas Subdivision along the east boundaries of Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3, to allow the reconfiguration of utility easements for a pending replat, more particularly described in Exhibit A, attached hereto and made a part hereof for all purposes;

Whereas, if approved, the pending replat will allow the expansion of each of these residential lots without the hindrance of the existing subject utility easement bisecting rear yards;

Whereas, Staff contacted all public and private utility service providers, including the Public Works Department, and confirmed that the easement may be released, as the providers' responses indicated there are no existing public facilities or utilities in the easement and there are no objections to release the easement; and

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

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

- <u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.
- <u>Part 2</u>: The City of Temple, Texas releases the existing 15-foot public utility easement located within Las Colinas Subdivision along the east boundaries of Lots 9, 10 and 11, Block 1, and Lots 13 and 14, Block 3, to allow the reconfiguration of utility easements for a pending replat, and more particularly described in Exhibit A.
- <u>Part 3</u>: The release of the existing 15-foot public utility easement shall become effective upon the approval of the pending replat.
- <u>Part 4</u>: Upon request, the City of Temple will provide a copy of this Resolution and any other evidence of release of the utility easement, which may be reasonably required.

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

PASSED AND APPROVED on the 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson City Secretary	Kayla Landeros City Attorney
STATE OF TEXAS §	
COUNTY OF BELL §	
This instrument was acknowl Daniel A. Dunn, Mayor of the City o	edged before me on the day of March, 2017, by f Temple, Texas.
	Notary Public, State of Texas

## **Return Recorded Document to:**

City Attorney's Office 2 North Main Street, Suite 308 Temple, TX 76501



## COUNCIL AGENDA ITEM MEMORANDUM

03/02/17 Item #4(K) Consent Agenda Page 1 of 2

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

Brynn Myers, Assistant City Manager

**ITEM DESCRIPTION**: Consider adopting a resolution accepting the TMED South Strategic Master Plan.

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

**ITEM SUMMARY:** On May 7, 2015, the City Council authorized a professional services contact with Kasberg, Patrick and Associates, in partnership with TBG Partners, to develop a framework plan to help guide the City Council, Reinvestment Zone, property owners, future developers in the creation of an overall unified plan for the South TMED area.

A three-day stakeholder charrette and workshop process was held in June 2015 which led to the development of a draft TMED South Strategic Master Plan that was presented to the City Council on February 16, 2016.

The objective of this effort is to provide a framework plan to help guide city leaders, property owners, and future developers in the creation of an overall unified plan made up of a variety of urban districts.

The TMED South Strategic Plan is designed to identify the best land use options and to provide a cohesive urban design strategy to unify these areas as well as give guidance regarding future capital improvement projects and potential development & redevelopment areas.

The draft TMED South Strategic Master Plan provides analysis of the study of two areas identified in the Plan as 1) the Friars Creek Neighborhood and 2) the Southern Study area. The draft Plan also includes analysis on the regional impact of TMED including adjacent key assets and impacts such as Blackland Prairie Research Center, Temple College, Veterans Administration Hospital, Baylor Scott and White, 1st and 3rd Street Corridors, and Downtown Temple.

The draft Plan identifies the TMED South district as having the highest potential in the city to serve the needs of young professionals and cultivate the "live, work, play, learn" atmosphere they often seek.

03/02/17 Item #4(K) Consent Agenda Page 2 of 2

The Plan identifies key ideas for each study area including circulation, street framework, and open space plans as well as identifies seven key areas in the Southern study area: 1) TMED Gateway, 2) 5th Street Entry, 3) Community Heart, 4) Residential North, 5) Canyon Creek Roadway, 6) Residential South, and 7) Southern Gateway with ideas and proposed projects associated with each area.

The draft Plan encourages the City of Temple, Tax Reinvestment Zone Number One, and the Temple Economic Development Corporation to continue strategic partnerships with land owners/developers and the Blackland Texas Agrilife Research and Extension Center to create development opportunities that benefit all parties.

FISCAL IMPACT: None.

**ATTACHMENTS:** 

Resolution

#### **RESOLUTION NO. 2017-8561-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, ACCEPTING THE TEMPLE MEDICAL EDUCATION DISTRICT SOUTH STRATEGIC MASTER PLAN; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, on May 7, 2015, Council authorized a professional services contract with Kasberg, Patrick and Associates, in partnership with TBG Partners, to develop a framework plan to help guide the City Council, Reinvestment Zone, property owners, and future developers in the creation of an overall unified plan for the South Temple Medical Education District ("TMED") area;

Whereas, a three-day stakeholder charrette and workshop process was held in June 2015 which led to the development of a draft TMED South Strategic Master Plan that was presented to Council on February 16, 2016 - the objective was to provide a framework plan to help guide city leaders, property owners, and future developers in the creation of an overall unified plan made up of a variety of urban districts;

Whereas, the TMED South Strategic Master Plan is designed to identify the best land use options and provide a cohesive urban design strategy to unify these areas as well as give guidance regarding future capital improvement projects and potential development & redevelopment areas;

Whereas, the TMED South Strategic Master Plan provides analysis of the study of two areas identified in the Plan as 1) the Friars Creek Neighborhood and 2) the Southern Study areathe Plan also includes analysis on the regional impact of TMED including adjacent key assets and impacts such as Blackland Prairie Research Center, Temple College, Veterans Administration Hospital, Baylor Scott and White, 1st and 3rd Street Corridors, and Downtown Temple;

Whereas, the Plan identifies the TMED South district as having the highest potential in the City to serve the needs of young professionals and cultivate the "live, work, play, learn" atmosphere they often seek as well as identifying key ideas for each study area including circulation, street framework, and open space plans. The Plan identifies seven key areas in the Southern study area: 1) TMED Gateway, 2) 5th Street Entry, 3) Community Heart, 4) Residential North, 5) Canyon Creek Roadway, 6) Residential South, and 7) Southern Gateway with ideas and proposed projects associated with each area;

Whereas, the Plan encourages the City of Temple, Tax Reinvestment Zone Number One, and the Temple Economic Development Corporation to continue strategic partnerships with land owners/developers and the Blackland Texas Agrilife Research and Extension Center to create development opportunities that benefit all parties; 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:

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council accepts the Temple Medical Education District South Strategic Master Plan attached hereto as Exhibit A, and made a part hereof for all purposes as presented.

<u>Part 3</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(L) Consent Agenda Page 1 of 1

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

Lacy Borgeson, City Secretary

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution declaring the candidates for the May 6, 2017, District 2 and District 3 City Councilmember as unopposed and elected to office; thereby canceling the election as ordered.

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

**ITEM SUMMARY:** On February 2, 2017, the City Council ordered an Election for May 6, 2017, for both the District 2 Councilmember and the District 3 Councilmember.

The Election Code permits the cancellation of an election under certain circumstances.

In order to cancel an election in the City, the City Secretary must certify in writing to the City Council that only one candidate's name is to appear on the ballot for the election in a particular district; that no write-in candidates have filed to be placed on the list of write-in candidates for this place; and that no proposition is to appear on the ballot. These certifications have been made on the attached *Certification of Unopposed Candidates* regarding the District 2 and District 3 Councilmember election.

Since there is only one candidate for these seats, Bryant Ward (District 2 candidate) and Susan Long (District 3 candidate) the Council can declare the unopposed candidates elected to office, thereby canceling the May 6, 2017 election as ordered. The *Order of Cancellation*, also attached, will be posted on Election Day at the polling place. The Certificate of Election will be presented to Ms. Long and Mr. Ward following the May 6<sup>th</sup> election date.

**FISCAL IMPACT:** Funding in the amount of \$14,800 is appropriated in account 110-1400-511-2517, as part of the City Secretary's budget for the 2017 General Election.

#### **ATTACHMENTS:**

Certificate of Unopposed Candidate
Order of Cancellation
Resolution

#### **RESOLUTION NO. 2017-8562-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, DECLARING THE CANDIDATES FOR THE MAY 6, 2017, DISTRICT 2 AND DISTRICT 3 CITY COUNCILMEMBER ELECTION AS UNOPPOSED AND ELECTED TO OFFICE, THEREBY CANCELING THE ELECTION AS ORDERED; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas,** on February 2, 2017, the City Council ordered an Election for May 6, 2017, for both the District 2 Councilmember and the District 3 Councilmember seats;

Whereas, the Election Code permits the cancellation of an election under certain circumstances and in order to cancel an election in the City, the City Secretary must certify in writing to the City Council that only one candidate's name is to appear on the ballot for the election in a particular district; that no write-in candidates have filed to be placed on the list of write-in candidates for this place; and that no proposition is to appear on the ballot;

Whereas, these certifications have been made on Exhibit 'A' attached, entitled 'Certification of Unopposed Candidates' regarding the District 2 and District 3 Councilmember seats:

**Whereas,** since there is only one candidate for these seats, Bryant Ward (District 2 candidate) and Susan Long (District 2 candidate), the Council can declare the unopposed candidates elected to office, thereby canceling the May 6, 2017, election as ordered;

**Whereas,** the 'Order of Cancellation', attached hereto as Exhibit 'B,' will be posted on Election Day at polling locations and the Certificate of Election will be presented to Ms. Long and Mr. Ward following the May 6<sup>th</sup> election date;

**Whereas,** funding for the 2017 General Election was authorized in the City Secretary's fiscal year 2017 budget and appropriated in Account No. 110-1400-511-2517; and

**Whereas,** the City Council of the City of Temple, Texas 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:

<u>Part 1:</u> Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2</u>: The City Council of the City of Temple, Texas accepts the attached 'Certification of Unopposed Status' of Candidates for District 2 and District 3 Councilmembers for the May 6, 2017 General Election as submitted by the City Secretary.

<u>Part 3</u>: It is officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #4(M) 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 2016-2017.

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

**ITEM SUMMARY:** This item is to recommend various budget amendments, based on the adopted FY 2016-2017 budget. The amendments will involve transfers of funds between contingency accounts, department and fund levels.

**FISCAL IMPACT:** The total amount of budget amendments is \$330,297.

#### **ATTACHMENTS:**

Budget Amendments Resolution

		CITY OF TEMPLE BUDGET AMENDMENTS FOR FY 2017 BUDGET March 02, 2017			
ACCOUNT #	PROJECT #	DESCRIPTION		APPROPI Debit	IONS Credit
110-1800-525-6218	101622	Capital Equipment / Computer Hardware	\$	35,000	Credit
110-0000-317-0000	101022	Court Restricted Fees / Security Funds	Ť	00,000	\$ 35,000
		To allocate funding for the purchase of a new security system for the Jamie Clements Building.			,
361-3250-551-6978	101623	Capital- Bonds / Summit Fitness	\$	34,198	
361-1600-512-6979	101624	Capital- Bonds / Legal	\$	25,251	
361-3400-531-2588	100681	Capital- Bonds / Northwest Loop 363 Improvements			\$ 53,009
361-0000-315-1116		Reserved for Future Expenditures - Fund Balance			\$ 6,440
		To appropriate funding for drainage improvements for Summit Fitness Center. This BA will also appropriate funding for the remodel of Legal's office suites.			
110-3300-519-2584		EDC - Matrix Component	\$	61,517	
110-3300-519-2584		EDC - O&M Funding Component	\$	2,250	
110-0000-352-1345		Designated Capital Projects - Unallocated			\$ 63,767
		Per the 2011 Funding and Operating Agreement between the City of Temple and the Temple Economic Development Corporation (TEDC), the City shall contribute a portion of its annual revenue from sales tax to TEDC. The City's contribution shall include a "Base Contribution" which is comprised of two components: (1) an "Operating Expense Component" and (2) an "Incentive Matrix Component". This budget adjustment increases the appropriation for the FY 2017 "Operating Expense Component" by \$2,249.38 and increases the appropriation for the "Incentive Matrix Component" by \$61,517.00 for a total of \$63,766.38. The result of this adjustment is due to the amount of economic development incentives paid by TEDC and a change in the sales tax growth % estimate. Funds are available in Designated Capital Projects - Unallocated.			
520-5800-535-2224		Capital < \$5,000 / Communication Equipment	\$	1,100	
520-5800-535-2221		Capital < \$5,000 / Computer Equipment	\$	7,000	
520-5800-535-6210	101625	Capital Equipment / Furniture & Fixtures	\$	15,100	
520-5800-535-2214		Capital < \$5,000 / Buildings & Grounds	\$	3,800	
520-5000-535-6532		Capital- Special Projects / Contingency			\$ 27,000
		To appropriate contingency funds for the office restructuring/buildout of Utility Business Office.			
110-2350-540-2516		Other Services / Judgments & Damages	\$	1,895	
110-0000-461-0554		Insurance Claims / Insurance Claims			\$ 1,895
		To appropriate the final insurance proceeds received from TML in the amount of \$1,894.99. Council authorized the appropriation of the original insurance proceeds from TML in the am of \$17,699.97 on 09/15/2016. Solid Waste truck (asset # 13276) hit a light pole at the Cinemark Theater in July 2015.		i	
110-2032-521-2211		Capital < \$5,000 / Instruments/Special Equipment	\$	2,685	
110-0000-317-0000		Court Restricted Fees / Technology Fee Funds			\$ 2,685
		To appropriate Technology Restricted Funds to purchase three ticket writers from Barcodes	, Inc	<b>.</b>	
561-5000-535-6532		Capital- Special Projects / Contingency Fund Balance	\$	140,501	
561-5400-535-6956	101199	Capital- Bonds / Pepper Creek Wastewater Line Extension			\$ 80,959
561-5200-535-6952	101200	Capital- Bonds / Water Line Replacement - 3rd Street/Irving to Nugent			\$ 9,098
561-5200-535-6862	100984	Capital- Bonds / Prairie View Road Improvements, Phase I			\$ 50,444
		To move remaining project funding from completed projects back into contingency account for future use.			
		TOTAL AMENDMENTS	\$	330,297	\$ 330,297

#### CITY OF TEMPLE BUDGET AMENDMENTS FOR FY 2017 BUDGET March 02, 2017

ACCOUNT #	DDO IECT #		APPROPRIATIONS  Dabit Credit		
ACCOUNT #	PROJECT #	DESCRIPTION Deb	ıt	Credit	
		GENERAL FUND Reginning Contingency Relance	•		
		Beginning Contingency Balance Added to Contingency Sweep Account	\$		
		Carry forward from Prior Year			
		Taken From Contingency			
		Net Balance of Contingency Account	\$		
	'	Net balance of contingency Account	Ψ		
	I	Beginning Judgments & Damages Contingency	\$	5,2	
		Added to Contingency Judgments & Damages from Council Contingency			
		Taken From Judgments & Damages			
	1	Net Balance of Judgments & Damages Contingency Account	\$	5,2	
		Beginning Compensation Contingency	\$	560,0	
		Added to Compensation Contingency			
		Taken From Compensation Contingency			
	I	Net Balance of Compensation Contingency Account	\$	560,0	
	!	Net Balance Council Contingency	\$	565,2	
		Device in Delegar Budget Course Continues			
		Beginning Balance Budget Sweep Contingency	\$		
		Added to Budget Sweep Contingency			
		Taken From Budget Sweep	\$		
	!	Net Balance of Budget Sweep Contingency Account	<b>D</b>		
		WATER & SEWER FUND			
	1	Beginning Contingency Balance	\$	50,0	
	,	Added to Contingency Sweep Account			
	-	Taken From Contingency		(41,5	
	1	Net Balance of Contingency Account	\$	8,4	
		Parianian Commonation Continuous	•	440.5	
		Beginning Compensation Contingency	\$	112,5	
		Added to Compensation Contingency			
		Taken From Compensation Contingency Net Balance of Compensation Contingency Account	\$	112,5	
		Not Balance of Componication Contingency / toccart	Ψ_	112,0	
	I	Net Balance Water & Sewer Fund Contingency	\$	120,9	
		HOTEL/MOTEL TAX FUND			
	I	Beginning Contingency Balance	\$		
		Added to Contingency Sweep Account			
		Carry forward from Prior Year			
	-	Taken From Contingency			
	1	Net Balance of Contingency Account	\$		
		Reginning Companyation Contingency	•	00.6	
		Beginning Compensation Contingency	\$	28,3	
		Added to Compensation Contingency			
		Taken From Compensation Contingency Net Balance of Compensation Contingency Account	\$	28,3	
				-	
		Net Balance Hotel/Motel Tax Fund Contingency	\$	28,3	
		DRAINAGE FUND			
		Beginning Contingency Balance	\$		
		Added to Contingency Sweep Account			
		Carry forward from Prior Year			
		Taken From Contingency	•		
		Net Balance of Contingency Account	\$		
	I	Beginning Compensation Contingency	\$	24,3	
		Added to Compensation Contingency	Ψ	,	
		Taken From Compensation Contingency			
		Net Balance of Compensation Contingency Account	\$	24,3	
	1	Net Balance Drainage Fund Contingency	\$	24,3	

CITY OF TEMPLE BUDGET AMENDMENTS FOR FY 2017 BUDGET March 02, 2017					
			APPROP	RIATIONS	
ACCOUNT #	PROJECT #	DESCRIPTION	Debit	Credit	
		FED/STATE GRANT FUND			
Beginning Contingency Balance				\$ -	
	Carry forward from Prior Year			14,947	
Added to Contingency Sweep Account			22,397		
Taken From Contingency			-		
	Net Balar	nce Fed/State Grant Fund Contingency		\$ 37,344	

#### **RESOLUTION NO. 2017-8563-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING BUDGET AMENDMENTS TO THE 2016-2017 CITY BUDGET; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas,** on the 26<sup>th</sup> day of August, 2016, the City Council approved a budget for the 2016-2017 fiscal year; and

**Whereas,** the City Council deems it in the public interest to make certain amendments to the 2016-2017 City Budget.

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

- <u>Part 1:</u> Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.
- <u>Part 2:</u> The City Council approves amending the 2016-2017 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.
- <u>Part 3:</u> It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson City Secretary	Kayla Landeros City Attorney



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #5 Regular Agenda Page 1 of 3

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

Kayla Landeros, City Attorney

<u>ITEM DESCRIPTION</u>: FIRST READING – PUBLIC HEARING - Consider adopting an ordinance amending Ordinance Number 2016-4796 which amended the Code of Ordinances, Chapter 2, Article II, "Code of Ethics," to change the effective date of the ordinance to October 1, 2017.

**STAFF RECOMMENDATION:** Adopt ordinance on first reading as presented in item description and conduct a public hearing. Second reading will be scheduled for the March 16, 2017, City Council meeting.

**ITEM SUMMARY**: Code of Ordinances, Chapter 2, Article II is titled "Code of Ethics." The previous code was adopted in the late 1970's and applies to employees and "officers" of the City which includes Councilmembers and any "appointive member of a board, commission or committee set up by ordinance, Charter or state law." The previous code included ten "standards of conduct" that employees and officers were required to follow. The Article also established certain penalties for violation of those standards. The penalties included "expulsion, reprimand, removal from office or discharge, whichever is applicable."

In 2015, the City Manager created an "Ethics Committee" which consisted of City Staff and citizens. The task of the Committee was to review the language in Chapter 2 and propose possible amendments. After the Committee finished its review and provided draft amendments, City Staff continued to research Ethics Codes in other cities and discuss the internal procedures for handling possible complaints for Ethics Code violations. In February, 2016, the City Council received a presentation on the proposed changes and possible ways to investigate and enforce violations.

After further discussion at a Council workshop in May, 2016, Staff proposed extensive amendments to Chapter 2, Article II. The amendments were presented to Council at the July 21, 2016 meeting and were approved by Council at the August 4, 2016 meeting. The amendments replaced the previous language in Article II.

The amendments adopted in August, 2016, made "city officials" and "employees" subject to the Ethics Code. "City officials" are defined as "a public official, either elected or appointed, that serves the City as a Councilmember or board member for any of the City boards or commissions." "Board or Commission" refers to City boards and commissions that have quasi-judicial authority or responsibilities beyond those that are advisory in nature. Members of the following boards and commissions are subject to the Ethics Code:

- Building & Standards Commission
- Building Board of Appeals
- Civil Service Commission
- Development Standards Review Board
- Planning & Zoning Commission
- Temple Economic Development Corporation Board of Directors
- Reinvestment Zone Number One Board of Directors; and
- Zoning Board of Adjustment

City employees include all City personnel, whether full-time or part-time, including those appointed to their positions by the City Council in accordance with the City Charter. Complaints against City employees would be addressed as set forth in the City of Temple Personnel Policies and Procedures Manual.

The amendments included several standards of conduct, similar to those in the previous code, which would, among other things, require the disclosure of conflicts of interest, prohibit the sharing of confidential information, prohibit the unfair advancement of private interests, and prohibit outside employment which is incompatible with the city official's duties.

The amendments created an "Ethics Review Board" consisting of five members and two alternate members. The members of the Ethics Review Board were appointed by Council on September 15, 2016. The first meeting of the Ethics Review Board was held on November 21, 2016.

The amendments also established a detailed complaint and review process. A complainant would be required to submit a written, sworn complaint to the City Secretary's Office alleging a violation of the Ethics Code by a city official. The complaint must state the name of the city official or employee who is the subject of the complaint, specify the code provision alleged to have been violated, provide the date of the violation, and include a statement of the facts surrounding the allegation. Complaints must be made within 18 months from the date of the alleged violation. Anonymous complaints would not be accepted. The amendments included a detailed process for reviewing, investigating, and ruling on complaints.

The purpose of the proposed amendments was to promote confidence in the governance of the City and thereby enhance the City's ability to function effectively by discouraging conduct which is incompatible with the best interests of the City. For these reasons, Staff recommended approval of the amendments to Chapter 2, Article II.

Over the past several weeks, concerns with the amendments adopted in August, 2016, have been raised. They have asked Staff and Council to consider amendments to the Code of Ethics. To give Staff and Council time to draft and consider amendments, it is proposed that the effective date of Ordinance No. 2016-4796 be changed to October 1, 2017. Ordinance No. 2016-4796 replaced the previous language in Article II with the amended language discussed above. The ordinance became effective immediately. If Council amends the effective date to October 1, 2017, the previous language in Article II will become effective again and will stay in effect until October 1, 2017 or other amendments are adopted.

The previous Code of Ethics and the amendments adopted in August, 2016 are attached to this agenda item.

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**FISCAL IMPACT**: Not Applicable

ATTACHMENTS:
Ordinance No. 2016-4796 Previous Code of Ethics Ordinance

#### ORDINANCE NO. 2016-4796

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING CHAPTER 2, "ADMINISTRATION," ARTICLE II, "CODE OF ETHICS" OF THE CODE OF ORDINANCES OF THE CITY OF TEMPLE, TEXAS, TO CREATE AN ETHICS REVIEW BOARD, ADD STANDARDS OF CONDUCT, ADD COMPLAINT PROCEDURES, AND IMPLEMENT SANCTIONS FOR VIOLATIONS OF THE ETHICS CODE; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Code of Ordinances, Chapter 2, Article II, titled "Code of Ethics," was adopted in the late 1970's and applies to employees and "officers" of the City which includes Councilmembers and any "appointive member of a board, commission or committee set up by ordinance, Charter or state law;"

Whereas, Article II lists ten "standards of conduct" that employees and officers must follow and establishes certain penalties for violation of those standards - the penalties include "expulsion, reprimand, removal from office or discharge, whichever is applicable" and employees may also be subject to disciplinary action;

Whereas, the proposed amendments create an "Ethics Review Board" consisting of five members and two alternate members nominated by the Mayor and each councilmember and confirmed by City Council – two alternate members would also be proposed and confirmed by unanimous vote of the City Council;

Whereas, additional proposed amendments would also establish a detailed complaint and review process which would require a written and sworn complaint to the City Secretary's office alleging a violation of the Ethics Code by a city official – all complaints would be initially reviewed by the City Attorney's office to verify compliance with the Ethics Code and if it meets all Code requirements, it would then be submitted to the Ethics Review Board for a determination on how to proceed;

Whereas, the purpose of the proposed amendments is to promote confidence in the governance of the City and thereby enhance the City's ability to function effectively by discouraging conduct which is incompatible with the best interests of the City;

Whereas, Staff recommends approval of the proposed amendments to Chapter 2 of the Code of Ordinances of the City of Temple; 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:

- <u>Part 1</u>: The City Council amends Chapter 2, "Administration," Article II, "Code of Ethics" of the Code of Ordinances of the City of Temple, Texas, as outlined in Exhibit 'A,' attached hereto and incorporated herein for all purposes.
- <u>Part 2</u>: 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.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: It is hereby officially found and determined that the meeting at which this ordinance was 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 21st day of July, 2016.

PASSED AND APPROVED on Second Reading on the 4th day of August, 2016.

THE CITY OF TEMPLE, TEXAS

DANIEL A. DUNN, MAYOR

ATTEST:

Tomple

APPROVED AS TO FORM:

Kayla Landeros City Attorney

City Secretary

## Chapter 2





#### ARTICLE I. IN GENERAL

#### Sec. 2-1. City seal.

The seal of the city shall be the coat of arms of the State of Texas in a circle with the words "City of Temple, State of Texas" engraved around the margin thereof.

#### Sec. 2-2. Rental or sale of city property or materials.

It shall be unlawful for any officer or employee of the city to rent any equipment belonging to the city to any person, or to sell any materials belonging to the city, unless such rental or sale is previously authorized by the city manager.

#### Sec. 2-3. Change orders.

Change orders involving a decrease or increase in cost of twenty-five thousand dollars (\$25,000.00) or less in contracts for the construction of public works or for the purchase of materials, equipment, and supplies shall be approved by the city manager or his designee for the City of Temple, Texas.

## Sec. 2-4. City Attorney--Qualifications.

The city attorney shall be a licensed lawyer and competent to discharge the duties required of him by the Charter and ordinances of the city.

#### Sec. 2-5. Same--Duties.

It shall be the duty of the city attorney to serve the city council, to advise it as a council, and each of the councilmen respectively, from time to time, with respect to the provisions and a proper interpretation of the Charter, and the powers and authority of the council as the governing body for the city, and to attend the meetings of the council. The city attorney is also charged with the duty to draw all ordinances and resolutions that may be passed on by the council, and to represent the city in all of its litigation in the courts, and to discharge such other duties as are usually imposed upon city attorneys, including advice and counsel from time to time to the city manager.

## Sec. 2-6. Same--Opinions requested by appointive boards, committees, etc.

The city attorney shall, at the request of any appointive board, committee or

commission of the City of Temple, Texas, give written or oral opinions upon any question touching the public interest and concerning the official duties of said board, committee or commission. No request for an opinion of the city attorney shall be made by any board, committee or commission except upon the affirmative vote of a majority of the members thereof present and voting at a meeting open to the public. Every such request shall be made through the chairperson of said board, committee or commission.

#### Sec. 2-7. City engineer to ascertain monuments, make surveys, etc.

It shall be the duty of the city engineer to ascertain the established monuments of the city, and from them to extend surveys thereof and establish others and to locate, establish and survey all private property, streets and alleys where the interests of the city are involved, within the territorial limits of the city, when so called on or required to do so.

#### Sec. 2-8. Legal defense and indemnification of city officers and employees.

- (a) Definitions. For purposes of this section the term "officer" shall include any elected or appointed official of the City, and the term "employee" shall include all employees of the City, whether under civil service or not; including firemen and policemen.
- (b) Indemnification. Any officer or employee who is liable for the payment of any claims or damages, excluding punitive damages, arising out of the course and scope of employment shall be entitled to indemnification by the City provided that the acts or omissions resulting in such liability were done in good faith and without malicious or felonious intent. For the purposes of this section, the term, "arising out of the course and scope of employment" shall not include any action which occurs during a period of time in which the officer or employee is engaged in outside employment or is rendering contractual services to someone other than the City. Whether the acts were done in good faith, without malicious or felonious intent, and within the course and scope of employment shall be determined by the City, and such determination shall be final for the purposes of the representation and indemnity of this section; provided, however, that in the event such representation and indemnity have been denied by the City, if upon a trial on the merits the City determines that the officer or employee was acting in good faith, without malicious or felonious intent and within the scope of employment the indemnification hereunder shall be granted and reasonable legal expenses incurred in the defense of the claim reimbursed. The City shall not be liable for any settlement of any such claim or suit effected without its consent, and the City reserves the right to assert any defense and make any settlement of any claim or suit that it deems expedient.
- (c) Representation in actions. The City shall have the right and duty to provide legal representation through the city attorney, or in its discretion through the selection of

outside legal counsel, to any officer or employee sued in connection with any claim for damages or other civil action against such person arising out of the course and scope of employment, provided that such officer or employee is entitled to indemnification as set forth in this section. Such legal representation shall be provided at no cost to the officer or employee, and any officer or employee may have his or her own counsel assist in the defense at the sole expense of the officer or employee. The officer or employee shall cooperate fully with the City in preparation and presentation of the case, and the failure to cooperate shall waive such officer's or employee's right to representation and indemnity under this section.

- (d) City's defenses. Nothing in this section shall be construed as waiving the City's defense of governmental immunity to it or its employees or officers in any action brought against the City or such officer or employee. For any suit or claim arising under the Texas Tort Claims Act, the indemnity provided by this section shall be limited to the statutory limits applicable to the City provided in said Act, as amended.
- (e) *Notice*. The provisions of this section shall apply only where the City has been given notice of the action brought against the city officer or employee within seven (7) calendar days of service of process upon the officer or employee.
- (f) Disciplinary actions. Nothing in this section shall prevent the City from taking any disciplinary action against any officer or employee for conduct defended or indemnified by the City under this section, either before or after conclusion of the civil suit.
- (g) Suits in behalf of the City. Nothing in this section shall require the City to indemnify any officer or employee for recoveries made against him or her in suits by or on behalf of the City.

Secs. 2-10 – 2-60. Reserved.

#### ARTICLE II. CODE OF ETHICS

### **2-61.- Purpose.**

It is essential in a democratic system that the public have confidence in the integrity, independence, and impartiality of those who act on their behalf in government. Such confidence depends not only on the conduct of those who exercise official power, but on the availability of aid or redress to all persons on equal terms and on the accessibility and dissemination of information relating to the conduct of public affairs.

The purpose of this Code of Ethics is to promote confidence in the governance of

the City of Temple, and thereby enhance the City's ability to function effectively. This Code of Ethics also establishes guidelines for standards of conduct for all officials of the City of Temple by discouraging conduct which is incompatible with the best interests of the City.

#### 2.62.- Title; Application.

This Article may be cited as the City of Temple's Code of Ethics. This Code of Ethics applies to all city officials as defined in this Code. The standards in this Code apply to individuals who are employed by the City on a full-time, part-time or internship basis, including employees who hold Council-appointed positions. Complaints and investigations about employees are addressed as set forth in the City of Temple Personnel Policies and Procedures Manual.

This Code of Ethics is not intended to preempt or prevent the cumulative application and enforcement of State or Federal law, the City Charter or the Personnel Policies and Procedures Manual of the City of Temple.

This Code of Ethics is effective from the date of adoption by the City Council. This Code may not be applied retroactively, as it governs conduct from the date of adoption forward.

#### 2.63.- Definitions.

The following words, terms and phrases, when used in this code, have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Affinity - has the meaning set forth in Texas Government Code Sections 573.024 and 573.025, or as amended.

**Benefit** - anything reasonably regarded as economic gain, or advance, including a benefit to another person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

Board or Commission – for the purposes of this Article, "board or commission" refers to City boards and commissions that have quasi-judicial authority, or responsibilities beyond those that are advisory in nature, including, but not limited to, the Building and Standards Commission, Building Board of Appeals, Civil Service Commission, Development Standards Advisory Board, Planning & Zoning Commission, Temple Economic Development Board of Directors, Reinvestment Zone Number One Board of Directors, Zoning Board of Adjustment, and the Ethics Review Board.

Business entity – a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

Candidate - an individual seeking to be elected or appointed to a position on the City Council, a City board or commission, or any employment position within the City that is appointed by the City Council.

City official - a public official, either elected or appointed, that serves the City as a councilmember or board member for any of the city boards or commissions and all employees including those that are in council appointed positions.

Clear and Convincing Evidence - the measure or degree of proof that produces in a person's mind a firm belief or conviction as to the truth of the allegations sought to be established.

Confidential Information - any information to which a city official has access in such person's official capacity which may not be disclosed to the public except pursuant to State and/or Federal law and which is not otherwise a matter of public record or public knowledge.

Consanguinity - has the meaning set forth in Texas Government Code Sections 573.022 and 573.023, or as amended.

Culpable disregard - conscious disregard of the effects of the city official's conduct that would amount to a gross deviation from the standard of care that a reasonable person in a similar situation would observe.

Intentionally - acting with intent with respect to the nature of conduct or to a result of conduct when it is the conscious objective or desire to engage in the conduct or cause the result.

Knowingly - acting with knowledge with respect to the nature of conduct or the circumstances surrounding conduct when aware of the nature of the conduct or that the circumstances exist; a person acts knowingly with respect to his conduct when he/she is aware that the conduct is reasonably certain to cause the result.

**Probable cause** - after logical inquiry, enough facts exist to lead a reasonable person to believe that a violation has occurred.

**Property** - real estate, intellectual property, personal items, equipment, goods, crops, livestock, or an equitable right to income from real estate, intellectual property, personal items, equipment, goods, crops or livestock.

**Relative** - any person related to a city official within the first degree of consanguinity or affinity, as determined under Texas Government Code, Chapter 573.

**Representation** - all forms of communication and personal appearances in which a person, not acting in performance of official duties, formally or informally, serves as an advocate for private interests, regardless of whether the representation is compensated.

#### 2.64. - Standards of Conduct.

### (a) Conflicts of Interest/ Disclosure of Relationships.

- (1) City officials and candidates are subject to State law governing dual office holding and the common law doctrine of incompatibility.
- (2) City officials must comply with State law pertaining to conflicts of interest of local government officials, including, but not limited to Texas Local Government Code, Chapter 171, as amended, and Chapter 212, as amended, regardless of whether or not the individual defined as a "city official" in this Code would ordinarily be subject to the State law at issue. This provision specifically requires that the affected city official refrain from participation in discussion, deliberation or vote in any matter where a conflict exists, and disclose the nature and extent of the conflict.

## (b) Confidential Information.

## (1) A city official may not:

- (A) Disclose confidential information;
- (B) Disclose or reveal any information, or the contents of any discussion, considered during an executive session or closed meeting conducted pursuant to the Texas Open Meetings Act, Texas Government Code, Chapter 551, as amended, and held by the City Council, any City board, commission, committee, or department;
- (C) Directly or indirectly use any confidential information that was gained by reason of such person's official position for such person's own gain or benefit or for the benefit of others;
- (D) Disclose or reveal any information or the contents of any discussion when disclosure would violate the provisions of the Texas Public Information Act, Texas Government Code, Chapter 552, as amended, or the Texas Open Meetings Act, Texas Government Code Chapter 551, as amended; or

- (E) Use his/her position to secure official information about any person or entity for any purpose other than the performance of his/her official duties.
- (2) This section does not prohibit disclosure that is authorized or required by law or the confidential reporting of illegal or unethical conduct to authorities designated by law.

#### (c) Gifts.

- (1) A city official may not accept or solicit any money, property, service or other thing of value, by way of gift, favor, loan or otherwise which the official knows, or should know, is being offered or given with the intent to unlawfully influence the exercise or performance of such person's official duties, or in return for having exercised or performed official duties.
- (2) This provision does not apply to:
  - (A) an occasional non-pecuniary gift less than \$50.00 in value;
  - (B) an award publicly presented in recognition of public service;
  - (C) an occasional meal, breakfast, lunch, or dinner where public business was discussed;
  - (D) lawful campaign contributions;
  - (E) admission to an event in which the city official is participating in connection with official duties;
  - (F) attending social functions, ground breakings, or civic events pertinent to the public relations and operations of the City;
  - (G) T-shirts, caps, and other similar promotional material;
  - (H) a gift to a city official relating to a special occasion such as a wedding, anniversary, graduation, birth, illness, death, or holiday, provided that the value of the gift is fairly commensurate with the occasion and the relationship between the donor and the recipient;
  - (I) floral arrangements, edible arrangements, fruit and/or gift baskets given to celebrate an achievement, special occasion or holiday, and clearly not given with intent to influence; or

- (J) a gift that would have been offered or given to the official if such person were not a public official.
- (3) A city official must take reasonable steps to persuade a relative not to solicit, accept, or agree to accept any gift or benefit that would violate subsection (1) if the official solicited, accepted, or agreed to accept it.

#### (d) Improper Economic Benefit; Unfair Advancement of Private Interests.

- (1) A city official may not use his/her official position or knowledge from the official position to secure special privileges or exemptions for the purpose of achieving monetary gain for himself/herself or others.
- (2) A city official may not grant any special consideration, treatment or advantage to any citizen, individual, business organization, or group beyond that which is normally available to every other citizen, individual, business or group.
- (3) A city official may not acquire an interest in, or be affected by, any contract, transaction, zoning decision, or other matter, if the official knows, or has reason to know, that the interest will be directly or indirectly affected by impending official action by the City. This subsection does not prohibit a city official from:
- (i) Responding to a request for bid, request for proposal, or request for qualifications advertised or solicited by the City and responded to in accordance with State and local law; or
- (ii) Contracting with the City if the contract is awarded to the city official in accordance with State and local law.
- (4) A city official may not appoint, nominate, or vote to nominate or appoint, any relative within the third degree of consanguinity or within the second degree of affinity. Degrees of consanguinity and affinity must be calculated as set out in Texas Government Code, Chapter 573, as amended.
- (5) A member of the City Council, Planning and Zoning Commission, or Zoning Board of Adjustment, must file a statement with the record keeper, disclosing the existence of a financial interest in property within the statutory 200-foot notice area for a decision on a land matter. If the city official does not have a conflict of interest under State law, and has not filed a protest, the city official may participate in deliberation about the item, but may not vote on the item. For this provision, the term "land matter" should be interpreted broadly to include zoning, permitting, plat approval and variances.

- (6) A city official who is a member of a City board or commission, may not serve as a representative, before that board or commission, of any person, group or entity.
- (7) A city official may not represent any person, group, or entity, other than himself/herself, his/her spouse, or his/her minor children before the City.
- (8) A city official may not represent any person, group, or entity, other than himself/herself, his/her spouse, or his/her minor children, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the City.

#### (e) City Property and Resources.

A city official may not use City supplies, personnel, equipment or facilities for any purpose, including political or campaign purposes, other than to conduct official City business or to the extent those resources are lawfully available for public use.

### (f) Outside Employment and Activities.

- (1) A city official may not accept other employment incompatible with the full and proper discharge of such person's duties and responsibilities with the City, or which might impair the official's independent judgment in the performance of his/her public duty.
- (2) A city official may not knowingly engage in any outside activity which will conflict, or be incompatible with the person's position as an official of the City.
- (3) A City Councilmember who is on the board of a nonprofit organization may not vote on any funding request by that nonprofit organization, unless the nonprofit organization has a board of directors or trustees appointed in whole or part by the City Council.

## 2.65. - Former City Officials.

- (a) A former city official may not represent any person, group, or entity other than himself/herself, his/her spouse, or his/her minor child, before the City for a period of 18 months after vacating his/her position on the City Council, a city board or commission.
- (b) A former city official may not represent any person, group, or entity other than himself/herself, his/her spouse, or his/her minor child, in any litigation to which the City is a party, if the interests of that person, group, or entity are adverse to the interests of the

City and the matter is one in which the former city official personally and substantially participated prior the termination of his/her official duties.

(c) A former city official has a continuing duty of confidentiality and may not use or disclose confidential information acquired during service as a city official. This provision does not prohibit disclosure that is authorized or required by law.

#### 2.66. - Disclosure of Interests.

- (a) All appointed board and commission members are required to disclose economic, financial and property interests annually on a form provided by the City Secretary.
- (b) All city officials shall be required to comply with disclosure of conflicts of interest pursuant to Texas Local Government Code, Chapter 171 and Section 212.017, as amended.

#### 2.67. - Ethics Review Board.

- (a) An Ethics Review Board is hereby created to hear complaints under this Code. The Board will consist of five (5) members and two (2) alternate members. The Mayor and each member of the City Council must nominate one (1) member of the Board, and each nominee must be confirmed by a majority of City Council members. Two (2) alternate members must be proposed and confirmed by unanimous vote of the City Council. The two (2) alternate members may be proposed by any member of the City Council, including the Mayor. The alternate members will serve on the Board in the case of a conflict of another Board member.
- (b) Terms of office for each Board member will correspond with the terms of office of the City Council member who nominated him/her to the Board and will run for such councilmember's corresponding three (3) year term. No member of the Board may serve for more than three (3) full terms. A partial term to which a person is appointed will not be counted as a full three (3) year term for purposes of this Code, except that a partial term will be counted as a full three (3) year term if the person resigns or forfeits his position. If the City Council member who nominated the Board member resigns, forfeits his/her position, or passes away before the end of his/her three (3) year term, the Ethics Review Board member will continue to serve on the Board until the councilmember's successor is elected or appointed and a new Ethics Review Board member is nominated. The two (2) alternate Board members will serve three (3) year terms which will not correspond with any councilmember's term.
- (c) In order to qualify as a member of the Board, a person must be of good moral character and a resident of the City of Temple. A member may not have any convictions for a felony or any crime of moral turpitude.

- (d) A member of the Board may not be:
  - (1) a salaried city official or employee;
  - (2) an elected public official;
  - (3) a candidate for public office;
- (4) a campaign treasurer, campaign manager, officer or other policy or decisionmaker for the campaign of any candidate for the Mayor or any councilmember positions for the City of Temple; or
- (5) a member of any City board or commission other than the Ethics Review Board.
- (e) The Board must include at least one member who is an attorney and one member with expertise in finance or accounting.
- (f) The City Council will fill any vacancy on the Ethics Review Board by a person who will serve the remainder of the unexpired term. The nomination to fill the vacancy will be made by the member of the City Council (or his or her successor) who had nominated the person whose successor is to be selected to fill the vacancy.
- (g) A member of the Board may be removed for cause by a majority of the City Council only after a public hearing at which the member was provided with the opportunity to be heard. Grounds for removal include, but are not limited to: failure to satisfy, or continue to satisfy, the qualifications set forth above; substantial neglect of duty; gross misconduct in office; inability to discharge the powers or duties of office; or violation of any provision of this Code of Ethics or a conviction of a felony or crime of moral turpitude.
- (h) A member of the Board shall recuse himself/herself from any case in which, because of familial relationship (through consanguinity or affinity, as defined by this Article), employment, investments, or otherwise, his/her impartiality might reasonably be questioned. A Board member must not participate in any manner regarding any complaint that the member initiated, that involves the member of City Council who nominated him/her for a seat on the Board, or during the pendency of an indictment or information charging the member with any felony or crime of moral turpitude or after a finding of guilt of such an offense.
- (i) A chair and vice-chair must be elected from among the members and will serve a one year term. The chair may call a meeting of the Board when a quorum of the Board is present. The chair shall preside at meetings of the Board and perform other administrative

duties. The vice-chair shall assume the duties of the chair in the event of a vacancy in that position, or in the circumstances in which the chair has recused himself/herself from participation.

#### 2.68 Jurisdiction and Powers of the Ethics Review Board

- (a) The Ethics Review Board has jurisdiction to investigate and make findings and conclusions concerning an alleged violation of this Ethics Code.
- (b) The Ethics Review Board will not consider any alleged violation that occurred more than eighteen (18) months prior to the date of the filing of the complaint.
- (c) Three members will constitute a quorum of the Ethics Review Board.
- (d) The termination of a city official's duties does not affect the jurisdiction of the Ethics Review Board with respect to alleged violations occurring prior to the termination of official duties.
- (e) The Ethics Review Board has the power:
- (1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations, consistent with this Ethics Code;
  - (2) To meet as often as necessary to fulfill its responsibilities;
- (3) To request from the City Manager the assignment of staff necessary to carry out its duties;
  - (4) To review, maintain on file, and dispose of sworn complaints;
  - (5) To make notifications, extend deadlines, and conduct investigations;
  - (6) To compel the production of sworn testimony, witnesses, and evidence;
  - (7) To recommend cases for prosecution by appropriate authorities and agencies;
- (8) To request the City Attorney to designate an independent counsel to advise and represent the Board, when appropriate or necessary to avoid a conflict of interest; and
- (9) To provide assistance in the training and education of city officials and employees with respect to their ethical responsibilities under this Code of Ethics.

## 2.70.-Complaint Procedures.

- (a) Any person, including a member of the Ethics Review Board, acting personally or on behalf of the Board, who believes there has been a violation of this Code may file a sworn, written complaint with the City Secretary's Office that alleges such violations.
- (b) A complaint filed under this section must be in writing and under oath and must set forth the following information:
  - (1) The name of the complainant;
- (2) The street or mailing address, telephone number, and email address of the complainant;
  - (3) The name of each city official and/or city employee complained about;
- (4) The position or title of each city official and/or city employee complained about;
- (5) The nature of the alleged violation, including, if possible, the specific provision of the Ethics Code alleged to have been violated;
- (6) A statement of the facts constituting the alleged violation and the dates or period of time during which the violation is alleged to have occurred; and
- (7) All documents or other materials in the possession of the complainant that are relevant to the allegation; a list of all documents or other material relevant to the allegation and available to the complainant, but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material relevant to the allegation, but unavailable to the complainant, including the location of the documents, if known.
- (c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is based on personal knowledge and is true and correct, or that the complainant has good reason to believe and does believe, that the facts alleged constitute a violation of this Ethics Code. The complainant shall swear to or affirm the facts under oath before a notary public or other person authorized by law to administer oaths under penalty of perjury. A complaint that is not sworn as required shall be returned to the complainant.
- (d) The complaint must state on its face an allegation that, if true, constitutes a violation of this Code of Ethics.
- (e) A complaint for violation of this Code must be made within 18 months from the date

of the alleged violation(s).

- (f) A general complaint lacking in detail or failing to identify one or more alleged violations of this code, will not be considered sufficient to invoke the procedures set forth herein.
- (g) Anonymous complaints will not be accepted for filing or further action. A person who knowingly makes a false statement in a complaint shall be subject to criminal prosecution for perjury as allowed by the laws of this State.

### 2.71. - Processing of a Complaint.

- (a) Within three (3) business days of filing of the complaint, the City Secretary will forward a copy of the complaint to the City Attorney's Office. The City Attorney's Office will review the complaint for compliance with the filing requirements established by this Code within five (5) business days of receipt from the City Secretary. If the complaint does not substantially comply with the filing requirements, the City Attorney's Office must return the complaint to the complainant with a letter explaining the defects in the complaint. The complainant must amend the complaint within five (5) business days of the date of the City Attorney's letter and file the amended complaint with the City Secretary's Office. If an amended complaint is not received within that time period, the complaint will be considered withdrawn.
- (b) If the complaint alleges a violation of this Code against a city employee and substantially complies with all filing requirements, the complaint will be forwarded by the City Attorney to the Director of Human Resources and enforced as outlined in the Personnel Policies and Procedures Manual.
- (c) If the complaint alleges a violation of this Code against a city official and substantially complies with all filing requirements, the complaint will be forwarded by the City Secretary to the members of the Ethics Review Board and the city official(s) who is/are the subject of the complaint within fifteen (15) business days after receipt of the complaint by the City Secretary.
- (d) The city official who is the subject of the complaint must also be provided with a copy of this Code of Ethics and informed:
- (1) That within ten (10) business days of receipt of the complaint, he or she may file a sworn response with the City Secretary which will be forwarded to the City Attorney's Office and the Ethics Review Board;
  - (2) That failure to file a response does not preclude the Ethics Review Board from

adjudicating the complaint;

- (3) That the complainant will receive a copy of any response filed with the City Secretary by the city official and will be given five (5) business days to respond to the city official's response by sworn writing filed with the City Secretary, a copy of which must be forwarded to the city official;
- (4) That the complainant(s) and city official(s) are entitled to a hearing on the complaint; and
- (5) That city officials and city employees have a duty to cooperate with the Ethics Review Board.
- (e) Except as required by law, the Board shall not disclose any information about a pending sworn complaint, including whether or not a complaint has been filed, to any person other than the city official who is the subject of the complaint, the complainant, a witness or potential witness to the alleged violation, or as otherwise provided by this Code.
- (f) Information otherwise confidential under this section may be disclosed by entering it into the record of a formal meeting or proceeding of the Ethics Review Board.
- (g) Requests for records pertaining to complaints shall be responded to in compliance with the Texas Public Information Act and the Texas Open Meetings Act.

## 2.72. - City Attorney's Duties.

The City Attorney's Office may perform the following duties in administering this Code of Ethics:

- (1) Act as legal counsel to the Ethics Review Board except when a conflict of interest exists which requires the designation of independent counsel;
  - (2) Review complaints for legal sufficiency; and
- (3) Issue advisory opinions to city officials and city employees regarding the requirements and standards imposed by this Code of Ethics.

## 2.73. - Review and Investigation of Complaint.

(a) A complaint against a city employee will be reviewed and investigated by the Director of Human Resources in accordance with the City's Personnel Policies and Procedures Manual.

- (b) A complaint against a city official may be reviewed and investigated by the Ethics Review Board or a designated committee of the Board, the City Attorney's Office, or independent counsel, except that the City Attorney's Office may not investigate complaints made against the Mayor or any City Councilmember.
- (c) Within thirty (30) days of receipt of the complaint by the Ethics Review Board, the Board must meet to determine who will handle review and investigation of the complaint. The City Attorney or Ethics Review Board may request the appointment of an independent counsel for a particular case.
- (d) If the Board votes to review and investigate a complaint, it will meet to review the complaint, responses, replies to responses, and any other information it has requested be provided to assist in investigation of the complaint. The Board must consider whether the facts of the case establish a violation of any provision in this Code, regardless of whether such provisions were identified in the complaint. The Board review and meeting required by this Section may be held in conjunction with the hearing required under subsection (f) and Section 2-74 or separately from those hearings.
- (e) If the Board votes to assign the review and investigation of the complaint to the City Attorney's Office or independent counsel, the City Attorney's Office or independent counsel must present the findings of the investigation to the Ethics Review Board within sixty (60) days of the assignment. If the City Attorney's Office or independent counsel finds that the complaint fails to allege a violation of this Code of Ethics when assuming all facts set forth in the complaint to be true, they may recommend that the Board dismiss the complaint without further proceedings.
- (f) For the purposes of this section, a "frivolous complaint" is a sworn complaint that is groundless and brought in bad faith or groundless and brought for the purpose of harassment.
- (1) By a majority vote of those present, the Board may order a complainant to show cause why the Board should not determine that the complaint filed by the complainant against a city official is a frivolous complaint.
  - (2) In deciding if a complaint is frivolous, the Board may consider:
- (a) The time of the sworn complaint with respect to when the facts supporting the alleged violation became known or should have become known to the complainant;
- (b) The nature and type of any publicity surrounding the filing of the sworn complaint, and the degree of participation by the complainant in publicizing the fact that a

sworn complaint was filed with the Board;

- (c) The existence and nature of any relationship between the city official and the complainant before the complaint was filed;
- (d) If the city official is a candidate for election to office, the existence and nature of any relationship between the complainant and any candidate or group opposing the city official;
- (e) Any evidence that the complainant knew or reasonably should have known that the allegations in the complaint were groundless; and
  - (f) Any evidence of the complainant's motives in filing the complaint.
- (3) Notice of an order to show cause must be given to the complainant, along with a copy to the city official, and shall include:
  - (a) An explanation of why the complaint appears to be frivolous; and
  - (b) The date, time, and place of the hearing to be held under this section.
- (4) Before making a determination that a sworn complaint is frivolous, the Board must hold a hearing at which the complainant may be heard. The complainant may be accompanied by counsel retained by the complainant.
- (5) By a majority vote of those Board members present after the hearing, the Board may determine that a complainant filed a frivolous complaint against a city official and dismiss the complaint.

## 2.74. - Hearing before the Ethics Review Board.

- (a) Except as provided for in Section 2.73(f), before a complaint is disposed of by the Board, a public hearing must be held during which the complainant and the city official who is the subject of the complaint have the right to be represented by counsel, to call, examine, and cross examine witnesses, and to present evidence.
- (b) At any hearing held by the Board during the investigation or disposition of a complaint, the following rules apply:
- (1) All witnesses must be sworn. The Board may establish time limits and other rules relating to the participation of any person in the hearing.
  - (2) No person may be held to have violated this Ethics Code, unless a majority of

the Ethics Review Board finds by a preponderance of the evidence that a violation was committed.

- (3) The Ethics Review Board must rely on evidence of which a reasonably prudent person would commonly rely on in the conduct of their own affairs. The Board must:
  - (a) Hear evidence related to the allegations; and
- (b) Consider only information that is presented and found to be reliable and useful.
- (4) The city official who is subject to the complaint has the right to attend the hearing, the right to make a statement, the right to present witnesses, and the right to be accompanied by legal counsel or another advisor. The time permitted for presentation will be at the discretion of the Board.
- (5) The complainant has the right to attend the hearing, the right to make a statement, the right to present witnesses, and the right to be accompanied by legal counsel or another advisor. The time permitted for presentation will be at the discretion of the Board.

#### 2.75. - Disposition and Sanctions.

- (a) In deciding whether to recommend sanctions, the Ethics Review Board will take into account relevant considerations, including, but not limited to, the following:
  - (1) The culpability of the person alleged to have violated this Code;
  - (2) The harm to public or private interests resulting from the violation;
- (3) The necessity of preserving public confidence in the conduct of local government;
  - (4) Whether there is evidence of a pattern of disregard for ethical obligations; and
- (5) Whether remedial action has been taken that will mitigate the adverse effect of the violation.
- (b) If it is determined that a violation of this Code of Ethics has occurred, the Board may recommend, and the City Council may impose one of the following sanctions:
- (1) A Letter of Notification when the violation is clearly unintentional or inadvertent; a letter of notification must advise the city official of any steps to be taken to

#### avoid future violations;

- (2) A Letter of Admonition when the violation is minor and/or may have been unintentional and inadvertent, but requires a more substantial response than a letter of notification;
- (3) A Letter of Reprimand when the violation is serious and/or the City Council finds that a violation has been committed intentionally or through disregard of this code;
- (4) Recommendation of suspension or removal when the official involved is a board or commission member, as well as a recommendation for a length of suspension, if a suspension is recommended, when the City Council finds that a serious or repeated violation has been committed intentionally or with culpable disregard of this Code;
- (5) Letter or Resolution of Censure if the City Council finds that a serious or repeated violation of this Code has been committed intentionally or through culpable disregard by an elected city official.
  - (A) A Letter of Censure directed to an elected city official shall be transmitted to the City Secretary and published in the official newspaper of the City and shall be posted on the City's website.
- (c) A recommendation to impose sanctions must be agreed to by a majority of the Board members present and by record vote. Within thirty (30) business days of the Ethics Review Board's recommendation, the City Council must consider the recommendation at a regularly scheduled City Council meeting. If the complaint involves one or more members of the City Council, the members complained against may not participate in the deliberation or decision regarding the complaint. The City Council may sustain, reverse, or modify the Board's recommendation. The City Council's decision regarding the complaint is final.
- (d) In the case of a complaint against a majority of the City Council, if the Ethics Review Board or independent counsel finds that a violation did occur, the Ethics Review Board or independent counsel must file its findings with the City Secretary, announce the findings in a public hearing, and may recommend if the circumstances are serious, repeated and/or committed intentionally or with culpable disregard, that the public file a petition for a recall election.
- (e) If the Board, either on its own recommendation or at the recommendation of the City Attorney or independent counsel, following an investigation, or after a public hearing, finds that no violation has been committed, the dismissal of the complaint shall be announced in an open public hearing.

#### 2.76.- Ethics Advisory Opinions.

- (a) Any city official or employee may request from the City Attorney's Office an advisory opinion with respect to whether proposed action by that person would violate the Ethics Code. Such request must be in writing.
- (b) Within twenty (20) business days of receipt of the request, the City Attorney's Office must issue a written advisory opinion. Opinions that address new issues and that are instructive on the application of the Ethics Code must be posted on the City's webpage in a manner that does not reveal the identity of the individual requesting the opinion.
- (c) A person who reasonably and in good faith acts in accordance with a written advisory opinion issued by the City Attorney's Office may not be found to have violated the Ethics Code by engaging in conduct approved in the advisory opinion, provided that:
  - (1) He or she requested the issuance of the opinion;
  - (2) The request for an opinion fairly and accurately disclosed all relevant facts; and
- (3) Less than five (5) years has passed between the date the opinion was issued and the date of the conduct in question.

#### 2.77. Public Records and Open Meetings

Meetings and other proceedings of the Ethics Review Board will be conducted in compliance with the Texas Open Meetings Act. Requests for records will be handled in compliance with the Texas Public Information Act.

#### Sect. 2-78 – 2-111. Reserved.

#### ARTICLE III. PAYMENT BY CHECK OR CREDIT CARD

#### Section 2-112. Fee for returned checks.

The Director of Finance is hereby authorized and directed to assess and collect a fee on all checks issued to the City of Temple, Texas, or any of its departments, which checks are returned by the bank upon which they are drawn. The amount of the fee shall be established by resolution of the City Council. It shall be unlawful for any person who issues such a check to fail or refuse to pay the fee as authorized here.

#### Section 2-113. Postdated checks.

Postdated checks are not acceptable for payment of any funds owed to the City of Temple, Texas, or any of its departments. Upon receipt of a postdated check the City may either return the check to the sender or maker or immediately present the check for payment. Any person who makes payment to the City with a postdated check assumes the risk of overdraft and all consequences of overdraft if the postdated check is paid early.

#### Sec. 2-114. Payment of fees or costs by credit cards.

All municipal officers, officials and employees who collect feels, fines, court costs or other charges, including, but not limited to, the Director of Finance, Clerk of Municipal Court, Director of the Civic Center and the Building Inspector are hereby authorized to accept payment of any such fees, fines, court costs or other charges by credit card. Provided, however, ad valorem taxes shall not be payable in anything other than currency of the United States or by a check or money order or other method consistent with Section 31.06 of the Property Tax Code (V.A.T.C.S.) nor shall credit card payment be authorized if it is otherwise prohibited by law.

#### Sec. 2-115. Service charge.

There is hereby established a service charge, which shall be the same as the fee charged by the City of Temple for the collection of a check drawn on an account with insufficient funds, which shall be collected from the person owing the fee, fine, court cost or other charge, if that person's payment by credit card is not honored for any reason by the credit card company on which the funds are drawn. This fee shall be in addition to the original fee, fine, court costs or other charge and is for the collection of the original amount. The municipal officer, employee or official collecting the service charge shall deposit the fee in the general fund.

## Sect. 2-116. Encumbrance of credit cards; fee.

Any municipal officer, employee or official who collects fees, fines, court costs or other charges is hereby authorized to contract with the company issuing credit cards to collect and seize credit cards issued by the company that are returned or otherwise unauthorized. All such contracts shall be approved by the City Council and the City Attorney. The Director of Finance shall establish a reasonable fee to be charged the credit card company for return of the credit cards. The municipal officer, employee or official collecting the fee shall deposit the fee in the general fund.

#### Sec. 2-117 – 2-169. Reserved.

#### ARTICLE IV. RISK MANAGEMENT

#### Section 2-170. Policy.

- (a) It is the goal of the City Council to provide the requisite municipal services to its citizens most cost-effectively in terms of human, material, and financial resources.
- (b) The City Council recognizes that it has a responsibility to provide a safe working environment for its employees and that each employee must pursue the highest of standards in his or her assigned activities and that all municipal employees must recognize that the well-being of persons involved and the protection of our physical resources are as important as the activity and work being performed.
- (c) The City Council, acting as a trustee of municipal funds and assets, recognizing that there is a constant exposure to risk of loss from occurrences involving damage to property, injury to employees and other individuals, and unforeseen liabilities imposed by law or assumed by contract, hereby establishes this policy for the intensive management of municipal risks, and directs that this policy be implemented in stages over the next several months. This policy applies to all pure risks, such as fire, liability suits, theft, workers compensation, and other risks of property and liability losses, both direct and indirect. It specifically does not apply to deliberately assumed loss of employee benefits, depreciation or normal obsolescence. The policies contained herein supersede any policies currently in force and effect and to the extent that these policies are in conflict with current policies these policies shall control.

## Sec. 2-171. Office of risk management.

There is hereby created an office of risk management within current personnel, material, and financial constraints for the purpose of recognizing, avoiding, preventing and controlling the chance of resource losses by whatever means feasible.

## Sec. 2-172. Appointment and duties of risk manager.

The City Manager is hereby authorized to appoint a risk manager who will be responsible to the City Manager and whose duties will include, but not be limited to, the overall development, supervision, coordination, and implementation of the City of Temple's risk management plans and programs.

## Sec. 2-173. Risk Management Committee.

The City Manager shall appoint a risk management committee. The committee's duties and responsibilities are to oversee the City's risk management plans and

programs, provide general policy guidance to all City departments, evaluate and make recommendations to the City Manager to protect the interests of the City, its employees and citizens, as well as to review the City's operations to insure adequate protection from loss.

## Sec. 2-174. Risk management techniques.

The Office of Risk Management, the Risk Management Committee, and all City departments will be guided by the following policies and techniques:

- (a) Because of the need to protect the assets of this municipality against catastrophic loss (or to provide financial restitution if such loss should occur) and the expense involved in such protection, risk management is a critical part of the total management of the City of Temple, Texas.
- (b) Risk management is a specialized discipline intended to provide the decision-making management level with data pertinent to the identification, analysis, evaluation, and alternative treatment of exposures to loss through chance events, for both program review and planning new undertakings. In these management areas, the City of Temple will utilize the services of qualified risk management specialists either in its own staff or through the use of risk management outside consultants, as required. Provided, however, consultants shall be hired only after approval by the City Council.
- (c) The following techniques of risk management will be employed by the City of Temple, Texas.
  - 1. Recognition. The recognition function will be to identify, analyze, and evaluate all exposure to loss through chance events, either in existence or subsequently created, that involve loss potentials of significant amounts either in one event or in the aggregate annually. In this municipality, acceptable loss exposures will be determined by the Risk Management Committee. From time to time this Committee shall assess such loss exposures and may modify them in accordance with current or anticipated fiscal limitations.
  - 2. Avoidance. The anticipated financial rewards for assuming any exposures to loss should exceed or at least be approximately equal to potential loss. The City of Temple, Texas, will avoid incurring disproportionate exposures to loss in contractual agreements. All new undertakings shall be evaluated carefully and those already in existence shall be re-evaluated periodically for the purpose of determining if any loss exposure can be avoided.

3. Loss Prevention. Once it is decided that a loss exposure should be retained (or transferred) and not avoided, it is the policy of this municipality to try to utilize loss prevention techniques wherever possible, consistent with the costs involved. It is the belief of this municipality that it is preferable to attempt to prevent losses before considering other techniques for handling loss exposures.

The reduction of losses depends primarily upon a careful review of all operations, equipment, and facilities to identify potential hazards and to eliminate or reduce them to their practical minimum. This review must be a constant process--in the design, construction, and operating stages on the part of all management and supervisory personnel. Periodic safety inspections should serve as an overall second look in all the above stages. The essential part of these reviews is the corrective actions taken as a result of the recommendations enacted.

- 4. Retention. Generally, the City of Temple, Texas will retain a loss exposure under the following circumstances.
  - a. when the amount of annual potential loss is relatively so small that it may conveniently be treated as a normal operating expense; or
  - b. when
    - (1) the probability of loss (frequency) is so great that loss is almost certain to occur; and
    - (2) the rates for insurance or other transfer mechanisms are disproportionately high; and
    - (3) potential loss amounts are within the financial ability of the City to retain; and
    - (4) no necessary insurance services are required; or
  - c. When the probability of occurrence is so remote that the ordinarily prudent businessman would not incur any amount of premium expense for insurance; or

- d. When insurance is not available, or only available at prohibitive cost.
- 5. Noninsurance Transfer. In all contractual relationships, the City of Temple, Texas, will transfer to others all exposures to loss from chance events appropriate to the transaction and relationship of the parties. This means that the City of Temple, Texas, will consider before contractually transferring a loss exposure to another party, that party's ability to assume the potential loss, ability to control the loss, and the customs and traditions of the parties and the industries involved. In the absence of adequate net worth of other parties, contractual transfers shall be supported by insurance of the indemnitor and evidence thereof required. Whenever a choice exists among two or more methods of accomplishing a business purpose, the opportunity to transfer the exposure shall be given appropriate consideration.
- 6. *Insurance Transfer*. The City of Temple, Texas, will purchase insurance under the following circumstances:
  - a. when required by law or contract; or
  - b. when the amount of potential loss is too large to be safely retained (measured against assets, operating income, earnings, and cash flow); or
  - c. when the probable annual cost variation is unacceptable and insurance is available on acceptable terms; or
  - d. when insurance can better or more economically provide accessory services required, such as inspection, claims handling, legal qualifications, and loss prevention.
- 7. Joint Insurance Transfer and Retention. The City of Temple, Texas will combine insurance transfer and retention through the use of deductibles, franchises, excess insurance, and retrospective rating plans when relatively low loss amount exposures can be safely retained.

## Sec. 2-175. Dissemination and implementation.

This risk management policy has been developed and will be disseminated by the risk manager to be used as a tool to help all department heads and supervisory personnel to minimize the City's exposure to loss, whether these losses be in the form of funds expended, theft, lost productivity, personal injury, vehicular accidents, inconvenience,

pain and suffering, or in other areas. This office of risk management will make itself available to assist all departments in implementing these policies by providing such advice, guidance, or counseling as required.

## Sect. 2-176. Departmental operation.

The City Council of the City of Temple, Texas, recognizes that no risk management plan, policy, or statement for the City will be any more effective than the weakest link in its chain of command. Therefore, department heads and other supervisory personnel will be required to cooperate fully with the risk manager and the risk management committee to implement and enforce the risk management plan and policy.

Revised by Ordinance No. 2016-4796 (8/4/16)

# **Chapter 2**

#### **ADMINISTRATION**

#### ARTICLE I. IN GENERAL

## Sec. 2-1. City seal.

The seal of the city shall be the coat of arms of the State of Texas in a circle with the words "City of Temple, State of Texas" engraved around the margin thereof.

## Sec. 2-2. Rental or sale of city property or materials.

It shall be unlawful for any officer or employee of the city to rent any equipment belonging to the city to any person, or to sell any materials belonging to the city, unless such rental or sale is previously authorized by the city manager.

#### Sec. 2-3. Change orders.

Change orders involving a decrease or increase in cost of twenty-five thousand dollars (\$25,000.00) or less in contracts for the construction of public works or for the purchase of materials, equipment, and supplies shall be approved by the city manager or his designee for the City of Temple, Texas.

#### Sec. 2-4. City Attorney--Qualifications.

The city attorney shall be a licensed lawyer and competent to discharge the duties required of him by the Charter and ordinances of the city.

#### Sec. 2-5. Same--Duties.

It shall be the duty of the city attorney to serve the city council, to advise it as a council, and each of the councilmen respectively, from time to time, with respect to the provisions and a proper interpretation of the Charter, and the powers and authority of the council as the governing body for the city, and to attend the meetings of the council. The city attorney is also charged with the duty to draw all ordinances and resolutions that may be passed on by the council, and to represent the city in all of its litigation in the courts, and to discharge such other duties as are usually imposed upon city attorneys, including advice and counsel from time to time to the city manager.

#### Sec. 2-6. Same--Opinions requested by appointive boards, committees, etc.

The city attorney shall, at the request of any appointive board, committee or commission of the City of Temple, Texas, give written or oral opinions upon any question touching the public interest and concerning the official duties of said board, committee or commission. No request for an opinion of the city attorney shall be made by any board, committee or commission except upon the affirmative vote of a majority of the members thereof present and voting at a meeting open to the public. Every such request shall be made through the chairperson of said board, committee or commission.

## Sec. 2-7. City engineer to ascertain monuments, make surveys, etc.

It shall be the duty of the city engineer to ascertain the established monuments of the city, and from them to extend surveys thereof and establish others and to locate, establish and survey all private property, streets and alleys where the interests of the city are involved, within the territorial limits of the city, when so called on or required to do so.

# Sec. 2-8. Legal defense and indemnification of city officers and employees.

- (a) *Definitions*. For purposes of this section the term "officer" shall include any elected or appointed official of the City, and the term "employee" shall include all employees of the City, whether under civil service or not; including firemen and policemen.
- (b) *Indemnification*. Any officer or employee who is liable for the payment of any claims or damages, excluding punitive damages, arising out of the course and scope of employment shall be entitled to indemnification by the City provided that the acts or omissions resulting in such liability were done in good faith and without malicious or felonious intent. For the purposes of this section, the term, "arising out of the course and scope of employment" shall not include any action which occurs during a period of time in which the officer or employee is engaged in outside employment or is rendering contractual services to someone other than the City. Whether the acts were done in good faith, without malicious or felonious intent, and within the course and scope of employment shall be determined by the City, and such determination shall be final for the purposes of the representation and indemnity of this section; provided, however, that in the event such representation and indemnity have been denied by the City, if upon a trial on the merits the City determines that the officer or employee was acting in good faith, without malicious or felonious intent and within the scope of employment the indemnification hereunder shall be

granted and reasonable legal expenses incurred in the defense of the claim reimbursed. The City shall not be liable for any settlement of any such claim or suit effected without its consent, and the City reserves the right to assert any defense and make any settlement of any claim or suit that it deems expedient.

- (c) Representation in actions. The City shall have the right and duty to provide legal representation through the city attorney, or in its discretion through the selection of outside legal counsel, to any officer or employee sued in connection with any claim for damages or other civil action against such person arising out of the course and scope of employment, provided that such officer or employee is entitled to indemnification as set forth in this section. Such legal representation shall be provided at no cost to the officer or employee, and any officer or employee may have his or her own counsel assist in the defense at the sole expense of the officer or employee. The officer or employee shall cooperate fully with the City in preparation and presentation of the case, and the failure to cooperate shall waive such officer's or employee's right to representation and indemnity under this section.
- (d) *City's defenses*. Nothing in this section shall be construed as waiving the City's defense of governmental immunity to it or its employees or officers in any action brought against the City or such officer or employee. For any suit or claim arising under the Texas Tort Claims Act, the indemnity provided by this section shall be limited to the statutory limits applicable to the City provided in said Act, as amended.
- (e) *Notice*. The provisions of this section shall apply only where the City has been given notice of the action brought against the city officer or employee within seven (7) calendar days of service of process upon the officer or employee.
- (f) *Disciplinary actions*. Nothing in this section shall prevent the City from taking any disciplinary action against any officer or employee for conduct defended or indemnified by the City under this section, either before or after conclusion of the civil suit.
- (g) Suits in behalf of the City. Nothing in this section shall require the City to indemnify any officer or employee for recoveries made against him or her in suits by or on behalf of the City.

Secs. 2-10 – 2-60. Reserved.

#### ARTICLE II. CODE OF ETHICS

## Sec. 2-61. Declaration of policy.

It is hereby declared to be the policy of the City of Temple that the proper operation of democratic government requires that public officials and employees be independent, impartial and responsible only to the people of the City of Temple; that the governmental decisions and policy be made in the proper channels of the governmental structure; that no officer, employee or member of any standing committee or board should have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity, or incur any obligation of any nature which is in conflict with the proper discharge of his duties in the public interest and that public office not be used for personal gain. To implement such a policy, the city council deems it advisable to enact a code of ethics for all officials and employees, whether elected or appointed, paid or unpaid, to serve as a guide for official conduct of the City's public servants.

#### Sec. 2-62. Definitions.

In this article, unless the context otherwise requires:

- (1) *Employee* means any person employed by the City of Temple whether under civil service or not, including those individuals on a part-time basis, but shall be extended to apply to any independent contractor.
- Officer means any member of the city council and any appointive member of a board, commission or committee set up by ordinance, Charter or state law on a permanent basis but does not include members of a board, commission or committee that functions only in an advisory or study capacity and which does not have the power to make findings as to the rights of specific parties.

#### Sec. 2-63. Standards of conduct.

No officer or employee of the City of Temple shall:

(1) Accept any gift or favor from any person, firm or corporation that might reasonably tend to influence him in the discharge of his official duties, or

- grant in the discharge of his official duties any improper favor, service or thing of value.
- (2) Use his official position to secure special privileges or exemptions for himself and others.
- (3) Grant any special consideration, treatment or advantage to any citizen, individual, business organization or group beyond that which is available to every other citizen, individual, business organization or group. This shall not prohibit the granting of fringe benefits to city employees as a part of their contract of employment or as an added incentive to the securing or retaining of employees.
- (4) Disclose information that could adversely affect the property, government or affairs of the city, or directly or indirectly use any information gained by reason of his official position or employment for his own personal gain or benefit or for the private interest of others.
- (5) Transact any business on behalf of the City in his official capacity with any business entity with which he is an officer, agent or member, or in which he owns an interest of ten (10%) percent or more. In the event that such a circumstance should arise, in the case of an officer, he shall abstain from voting on the matter, or in the case of an employee, he shall turn the matter over to his superior for reassignment, state the reasons for doing so and have nothing further to do with the matter involved.
- (6) Accept other employment or engage in outside activities incompatible with the full and proper discharge of his duties and responsibilities with the City, or which might impair his independent judgment in the performance of his public duty.
- (7) Receive any fee or compensation for his services as an officer or employee of the City from any source other than the City, except as may be otherwise provided by law. This shall not prohibit his performing the same or other services for a private organization that he performs for the City if there is no conflict with his City duties and responsibilities.
- (8)
  (a) No city councilman or employee shall represent, directly or indirectly, or

appear in behalf of private interests of others before any agency of the City or any City board, commission or committee, nor shall he represent any private interest of others in any action or proceeding involving the City, nor participate on behalf of others in any litigation to which the City might be a party, nor shall he ever accept any retainer or compensation that is contingent upon a specific action taken by the City or any of its agencies.

- (b) No other officer shall represent, directly or indirectly, or appear in behalf of the private interests of others before the board, commission or committee of which he is a member, or before the council or board which has appellate jurisdiction over the board, commission or committee of which he is a member with regard to matters that may be the subject of specific action by any such body.
- (9) Use city supplies, equipment or facilities for any purpose other than the conduct of official city business.
- (10) Engage in any dishonest or criminal act or any other conduct prejudicial to the government of the City of Temple or that reflects discredit upon the government of the City of Temple.

# Sec. 2-64. Personal or private interest.

Any officer, whether elected or appointed, who has either a personal or private interest in any matter pending before his committee or board, shall refrain from discussing the same with any other member of the committee or board and shall not vote thereon.

## Sec. 2-65. Penalty.

The failure of any employee to comply with or the violation by any employee of one or more of the foregoing standards of conduct which apply to him shall constitute grounds for expulsion, reprimand, removal from office or discharge, whichever is applicable. In the case of an employee of the city, disciplinary action and appeals therefrom shall be in conformance with procedures established by the City Charter and personnel rules and regulations. In the case of a city councilman, the matter shall be handled as provided for in the City Charter. In the case of members of other boards or commissions other than the city council, the matter shall be decided by the city council.

#### Sect. 2-66 – 2-111. Reserved.

#### ARTICLE III. PAYMENT BY CHECK OR CREDIT CARD

#### Section 2-112. Fee for returned checks.

The Director of Finance is hereby authorized and directed to assess and collect a fee on all checks issued to the City of Temple, Texas, or any of its departments, which checks are returned by the bank upon which they are drawn. The amount of the fee shall be established by resolution of the City Council. It shall be unlawful for any person who issues such a check to fail or refuse to pay the fee as authorized here.

#### Section 2-113. Postdated checks.

Postdated checks are not acceptable for payment of any funds owed to the City of Temple, Texas, or any of its departments. Upon receipt of a postdated check the City may either return the check to the sender or maker or immediately present the check for payment. Any person who makes payment to the City with a postdated check assumes the risk of overdraft and all consequences of overdraft if the postdated check is paid early.

# Sec. 2-114. Payment of fees or costs by credit cards.

All municipal officers, officials and employees who collect feels, fines, court costs or other charges, including, but not limited to, the Director of Finance, Clerk of Municipal Court, Director of the Civic Center and the Building Inspector are hereby authorized to accept payment of any such fees, fines, court costs or other charges by credit card. Provided, however, ad valorem taxes shall not be payable in anything other than currency of the United States or by a check or money order or other method consistent with Section 31.06 of the Property Tax Code (V.A.T.C.S.) nor shall credit card payment be authorized if it is otherwise prohibited by law.

#### Sec. 2-115. Service charge.

There is hereby established a service charge, which shall be the same as the fee charged by the City of Temple for the collection of a check drawn on an account with insufficient funds, which shall be collected from the person owing the fee, fine, court cost or other charge, if that person's payment by credit card is not honored for any reason by the credit card company on which the funds are drawn. This fee shall be in addition to the original fee,

fine, court costs or other charge and is for the collection of the original amount. The municipal officer, employee or official collecting the service charge shall deposit the fee in the general fund.

#### Sect. 2-116. Encumbrance of credit cards; fee.

Any municipal officer, employee or official who collects fees, fines, court costs or other charges is hereby authorized to contract with the company issuing credit cards to collect and seize credit cards issued by the company that are returned or otherwise unauthorized. All such contracts shall be approved by the City Council and the City Attorney. The Director of Finance shall establish a reasonable fee to be charged the credit card company for return of the credit cards. The municipal officer, employee or official collecting the fee shall deposit the fee in the general fund.

#### Sec. 2-117 – 2-169. Reserved.

#### ARTICLE IV. RISK MANAGEMENT

## Section 2-170. Policy.

- (a) It is the goal of the City Council to provide the requisite municipal services to its citizens most cost-effectively in terms of human, material, and financial resources.
- (b) The City Council recognizes that it has a responsibility to provide a safe working environment for its employees and that each employee must pursue the highest of standards in his or her assigned activities and that all municipal employees must recognize that the well-being of persons involved and the protection of our physical resources are as important as the activity and work being performed.
- (c) The City Council, acting as a trustee of municipal funds and assets, recognizing that there is a constant exposure to risk of loss from occurrences involving damage to property, injury to employees and other individuals, and unforeseen liabilities imposed by law or assumed by contract, hereby establishes this policy for the intensive management of municipal risks, and directs that this policy be implemented in stages over the next several months. This policy applies to all pure risks, such as fire, liability suits, theft, workers compensation, and other risks of property and liability losses, both direct and indirect. It specifically does not apply to deliberately assumed loss of employee benefits, depreciation or normal obsolescence. The policies contained herein supersede any

policies currently in force and effect and to the extent that these policies are in conflict with current policies these policies shall control.

# Sec. 2-171. Office of risk management.

There is hereby created an office of risk management within current personnel, material, and financial constraints for the purpose of recognizing, avoiding, preventing and controlling the chance of resource losses by whatever means feasible.

#### Sec. 2-172. Appointment and duties of risk manager.

The City Manager is hereby authorized to appoint a risk manager who will be responsible to the City Manager and whose duties will include, but not be limited to, the overall development, supervision, coordination, and implementation of the City of Temple's risk management plans and programs.

#### Sec. 2-173. Risk Management Committee.

The City Manager shall appoint a risk management committee. The committee's duties and responsibilities are to oversee the City's risk management plans and programs, provide general policy guidance to all City departments, evaluate and make recommendations to the City Manager to protect the interests of the City, its employees and citizens, as well as to review the City's operations to insure adequate protection from loss.

## Sec. 2-174. Risk management techniques.

The Office of Risk Management, the Risk Management Committee, and all City departments will be guided by the following policies and techniques:

- (a) Because of the need to protect the assets of this municipality against catastrophic loss (or to provide financial restitution if such loss should occur) and the expense involved in such protection, risk management is a critical part of the total management of the City of Temple, Texas.
- (b) Risk management is a specialized discipline intended to provide the decision-making management level with data pertinent to the identification, analysis, evaluation, and alternative treatment of exposures to loss through chance events, for both program review and planning new undertakings. In these management areas, the City of Temple

will utilize the services of qualified risk management specialists either in its own staff or through the use of risk management outside consultants, as required. Provided, however, consultants shall be hired only after approval by the City Council.

- (c) The following techniques of risk management will be employed by the City of Temple, Texas.
  - 1. Recognition. The recognition function will be to identify, analyze, and evaluate all exposure to loss through chance events, either in existence or subsequently created, that involve loss potentials of significant amounts either in one event or in the aggregate annually. In this municipality, acceptable loss exposures will be determined by the Risk Management Committee. From time to time this Committee shall assess such loss exposures and may modify them in accordance with current or anticipated fiscal limitations.
  - 2. Avoidance. The anticipated financial rewards for assuming any exposures to loss should exceed or at least be approximately equal to potential loss. The City of Temple, Texas, will avoid incurring disproportionate exposures to loss in contractual agreements. All new undertakings shall be evaluated carefully and those already in existence shall be re-evaluated periodically for the purpose of determining if any loss exposure can be avoided.
  - 3. Loss Prevention. Once it is decided that a loss exposure should be retained (or transferred) and not avoided, it is the policy of this municipality to try to utilize loss prevention techniques wherever possible, consistent with the costs involved. It is the belief of this municipality that it is preferable to attempt to prevent losses before considering other techniques for handling loss exposures.

The reduction of losses depends primarily upon a careful review of all operations, equipment, and facilities to identify potential hazards and to eliminate or reduce them to their practical minimum. This review must be a constant process--in the design, construction, and operating stages on the part of all management and supervisory personnel. Periodic safety inspections should serve as an overall second look in all the above stages. The essential part of these

reviews is the corrective actions taken as a result of the recommendations enacted.

- 4. *Retention*. Generally, the City of Temple, Texas will retain a loss exposure under the following circumstances.
  - a. when the amount of annual potential loss is relatively so small that it may conveniently be treated as a normal operating expense; or
  - b. when
    - (1) the probability of loss (frequency) is so great that loss is almost certain to occur; and
    - (2) the rates for insurance or other transfer mechanisms are disproportionately high; and
    - (3) potential loss amounts are within the financial ability of the City to retain; and
    - (4) no necessary insurance services are required; or
  - c. When the probability of occurrence is so remote that the ordinarily prudent businessman would not incur any amount of premium expense for insurance; or
  - d. When insurance is not available, or only available at prohibitive cost.
- 5. Noninsurance Transfer. In all contractual relationships, the City of Temple, Texas, will transfer to others all exposures to loss from chance events appropriate to the transaction and relationship of the parties. This means that the City of Temple, Texas, will consider before contractually transferring a loss exposure to another party, that party's ability to assume the potential loss, ability to control the loss, and the customs and traditions of the parties and the industries involved. In the absence of adequate net worth of other parties, contractual transfers shall be supported by insurance of the indemnitor and evidence thereof required. Whenever a choice exists

among two or more methods of accomplishing a business purpose, the opportunity to transfer the exposure shall be given appropriate consideration.

- 6. *Insurance Transfer*. The City of Temple, Texas, will purchase insurance under the following circumstances:
  - a. when required by law or contract; or
  - b. when the amount of potential loss is too large to be safely retained (measured against assets, operating income, earnings, and cash flow); or
  - c. when the probable annual cost variation is unacceptable and insurance is available on acceptable terms; or
  - d. when insurance can better or more economically provide accessory services required, such as inspection, claims handling, legal qualifications, and loss prevention.
- 7. *Joint Insurance Transfer and Retention*. The City of Temple, Texas will combine insurance transfer and retention through the use of deductibles, franchises, excess insurance, and retrospective rating plans when relatively low loss amount exposures can be safely retained.

## Sec. 2-175. Dissemination and implementation.

This risk management policy has been developed and will be disseminated by the risk manager to be used as a tool to help all department heads and supervisory personnel to minimize the City's exposure to loss, whether these losses be in the form of funds expended, theft, lost productivity, personal injury, vehicular accidents, inconvenience, pain and suffering, or in other areas. This office of risk management will make itself available to assist all departments in implementing these policies by providing such advice, guidance, or counseling as required.

#### Sect. 2-176. Departmental operation.

The City Council of the City of Temple, Texas, recognizes that no risk management plan, policy, or statement for the City will be any more effective than the weakest link in its

# "Old Code of Ethics"

chain of command. Therefore, department heads and other supervisory personnel will be required to cooperate fully with the risk manager and the risk management committee to implement and enforce the risk management plan and policy.

#### ORDINANCE NO. 2017-4832

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING ORDINANCE NUMBER 2016-4796 WHICH AMENDED THE CODE OF ORDINANCES, CHAPTER 2, ARTICLE II, "CODE OF ETHICS," TO CHANGE THE EFFECTIVE DATE OF THE ORDINANCE TO OCTOBER 1, 2017; PROVIDING A REPEALER; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the Code of Ordinances, Chapter 2, Article II, titled "Code of Ethics," was previously adopted in the late 1970's and applies to employees and "officers" of the City which includes Councilmembers and any "appointive member of a board, commission or committee set up by ordinance, Charter or state law;"

Whereas, the previous code included ten "standards of conduct" that employees and officers were required to follow and the Article established certain penalties for violation of those standards - penalties included "expulsion, reprimand, removal from office or discharge, whichever is applicable;"

Whereas, in 2015, the City Manager created an "Ethics Committee" which consisted of City Staff and citizens which were tasked to review the language in Chapter 2 and propose possible amendments - after the Committee finished its review and provided draft amendments, City Staff continued to research Ethics Codes in other cities and discuss the internal procedures for handling possible complaints for Ethics Code violations;

Whereas, in February, 2016, the City Council received a presentation on the proposed changes and possible ways to investigate and enforce violations and after further discussion at a Council workshop in May, 2016, Staff proposed extensive amendments to Chapter 2, Article II:

Whereas, the amendments were presented to Council at the July 21, 2016, meeting and were approved by Council at the August 4, 2016, meeting - the amendments replaced the previous language in Article II which made "city officials" and "employees" subject to the Ethics Code;

Whereas, "City officials" are defined as "a public official, either elected or appointed, that serves the City as a Councilmember or board member for any of the City boards or commissions" and "Board or Commission" refers to City boards and commissions that have quasi-judicial authority or responsibilities beyond those that are advisory in nature;

Whereas, the amendments included several standards of conduct, similar to those in the previous code, which would, among other things, require the disclosure of conflicts of interest, prohibit the sharing of confidential information, prohibit the unfair advancement of private interests, prohibit outside employment which is incompatible with the city official's duties, and established a detailed complaint and review process;

Whereas, the purpose of the proposed amendments was to promote confidence in the governance of the City and thereby enhance the City's ability to function effectively by discouraging conduct which is incompatible with the best interests of the City. For these reasons, Staff recommended approval of the amendments to Chapter 2, Article II;

**Whereas,** over the past several weeks, concerns have been expressed regarding the amendments adopted in August, 2016 and Staff is requesting time to review and address those concerns:

Whereas, Staff recommends Council amend the effective date of Ordinance No. 2016-4796 which amended the Code of Ordinances, Chapter 2, Article II, "Code of Ethics," to change the effective date of the ordinance to October 1, 2017; 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:

- <u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.
- **Part 2:** The City Council amends the effective date of Ordinance Number 2016-4796 to October 1, 2017.
- <u>Part 3</u>: All ordinances or parts of ordinances in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed.
- Part 4: 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.
- <u>Part 5</u>: 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.
- <u>Part 6</u>: It is hereby officially found and determined that the meeting at which this ordinance was 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  $\mathbf{2}^{nd}$  day of March, 2017.

PASSED AND APPROVED on Second Reading on the 16<sup>th</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, MAYOR
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



# **COUNCIL AGENDA ITEM MEMORANDUM**

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# **DEPARTMENT / DIVISION SUBMISSION & REVIEW:**

Dessie Redmond, Planner

<u>ITEM DESCRIPTION:</u> FIRST READING - PUBLIC HEARING - Z-FY-17-03: Consider adopting an ordinance authorizing a rezoning from the Neighborhood Services zoning district to the Planned Development-Neighborhood Services zoning district on 7.35 +/- acres, 1-lot, 1-block non-residential subdivision, proposed for a mini-storage facility, situated in the Redding Roberts Survey, Abstract No. 692, Bell County, City of Temple, Texas, located at 5785 South 31st Street.

**PLANNING & ZONING COMMISSION RECOMMENDATION**: At their February 6, 2017 meeting, the Planning & Zoning Commission voted two to six to deny a motion for approval of the proposed rezoning. Therefore, the motion failed.

**STAFF RECOMMENDATION:** Based on the following, staff recommends approval with conditions for a rezoning from the NS zoning district to the PD-NS zoning district for the following reasons:

- 1. That the proposed Development Plan/Site Plan has demonstrated compliance with the provisions of the Planned Development Criteria as required by Unified Development Code (UDC) Section 3.4.5;
- 2. That the request complies with UDC, Section 5.3.8 that states for a mini-storage facility the size of each individual storage unit is limited to a maximum of 2,000 cubic feet;
- 3. The proposed mini-storage facility will be adequately buffered and screened from adjacent residential uses;
- 4. The request is in compliance with the Future Land Use Map (FLUM) Auto-Urban Commercial character district designation;
- 5. The proposed zoning is compatible with surrounding zoning and anticipated retail and service uses along this section of South 31<sup>st</sup> Street;
- 6. The request complies with the Thoroughfare Plan and Trails Master Plan; and
- 7. Public facilities are available to serve the subject property.

Staff recommends approval of the request, subject to the following conditions:

- 1. Substantial compliance with the Development/Site Plan;
- 2. Substantial compliance with the Landscape Plans and Elevations;
- 3. That the remaining 2.16 +/- acres will require a separate public development plan review by the Planning & Zoning Commission with approval by City Council prior to any future development;
- 4. Each individual storage unit is limited to a maximum of 2,000 cubic feet;

- 5. A six foot wide sidewalk is required to be built along South 31st Street prior to the opening of the business;
- 6. Outward-facing building facades (as shown in attachment: Outward-Facing Building Facades Graphic) related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units (CMUs), brick and accent metal panels as shown in the Elevations submittal;
- 7. Preservation of most trees within the subject property (perimeter and interior), based on variety and maturity, must be considered;
- 8. A continuous 10-15 foot wide landscape buffer is required between residential and nonresidential uses. The buffer must be installed prior to any nonresidential development and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 9. A continuous 20 foot wide landscape buffer is required along the Georgetown Railroad. This buffer must be installed prior to the completion of Phase II and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 10. All landscaping required by the UDC shall meet or exceed UDC, Section 7.4 Landscaping;
- 11. Any fencing along South 31st Street shall be decorative metal;
- 12. This PD runs with the land and is not affected by the transfer of property owners;
- 13. The maximum building wall height is 21 feet (top of wall and per submitted elevations); and
- 14. The applicant shall comply with all Texas Department of Transportation (TxDOT) requirements.
- 15. All lighting associated with the proposal shall be shielded to prevent light trespass.

<u>ITEM SUMMARY:</u> The applicant, Joshua Valenta with Matkin-Hoover Engineering, Donald Jones with Donald Jones Consulting and Wes Jackson of RVOS Farm Mutual Insurance (property owner), requests a rezoning from the NS zoning district to the PD-NS zoning district for a mini storage facility. The subject property is 7.35 +/- acres and undeveloped (attachments: Site and Surrounding Photos) and currently in the NS zoning district. There are residential and non-residential uses that are permitted by right in the NS zoning district. A summary table of the uses permitted, but not limited to, is in the attachments (Summary of Uses Permitted in the NS Zoning District).

#### February 6, 2017 Planning & Zoning Commission Meeting

During the meeting the Planning & Zoning (P&Z) Commissioners deliberated on my topics including drainage, site characteristics, future development in the area, history of the site and the abutting Georgetown Railroad. The applicant explained the project and the process his team has taken with the project. During the public hearing, many citizens expressed opposition to the project. A motion for approval, per staff recommendation, was made. However, the motion failed with a 2:6 vote (attached DRAFT February 6, 2017 P&Z Excerpt).

#### December 6, 2016 Planning & Zoning Commission Meeting

Z-FY-017-03 was heard at the December 6, 2016 Planning & Zoning (P&Z) Commission meeting. During this meeting there was discussion on the site characteristics and how the proposal works with the constraints (easements) on the property. There was also discussion on tree preservation and lighting. A public hearing was opened and several of the property owners around the subject property spoke in opposition of the project (attachments: December 6, 2016 Meeting Minutes). The P&Z Commission made a motion to continue the case until February 6, 2017 and directed Staff to work with the applicant and property owners.

# January 18, 2017 Public Meeting

On January 18, 2017 staff facilitated a public meeting between the applicant and property owners. At this meeting, approximately 12 people signed the attendance sheet (attachments: Public Meeting – January 18, 2017 Sign-In Sheet). The applicant presented revised plans and a Preliminary drainage study (this study is available for review in the Planning Department).

## February 2, 2017

Based on feedback from staff and the surrounding property owners, the applicant submitted revised documents including a site plan, elevations and landscape plans (see attachments). The applicant also submitted a rendering of the project (attachments: Temple Storage Rendering).

#### Site Characteristics

There are several easements within the subject property (attachment: Surveyor's Sketch). These easements restrict the site from many uses that are allowed by right or with a conditional use permit in the NS zoning district. Staff believes that the mini-storage facility use is a compatible use with the existing constraints and easements on the site.

#### Proposal

In the UDC, Section 11.2 defines a mini-storage facility as "a building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored in the mini-storage warehouse." UDC, Section 5.3.8 states that for a mini-storage warehouse the size of each individual storage unit is limited to a maximum of 2,000 cubic feet.

This proposal includes a mini-storage facility as defined by the UDC, Section 11.2 and does not include storage units greater than 2000 cubic feet and therefore, is compliant with UDC, Section 5.3.8. The proposal includes a range of units between 25 square feet and 200 square feet in either climate controlled or non-climate controlled capacities. There will be a total of approximately 350 self-storage units. The amount of each size of unit has not yet been determined. The proposal also includes a Phase I and a Phase II. The timeline for each Phase has yet to be established and will be determined by construction costs and tenant occupancy. There is approximately 2.16 acres remaining within the site that is not included in this Development/Site Plan design. Currently, the applicant has stated their intentions are to plat the site into two lots at some point in the future. Therefore, this remainder of the site will remain as natural vegetation until (and if) there is future development on the remainder 2.16 acres. This future phasing will require a separate public site plan approval, which is stated on the Development/Site Plan.

#### Planned Development

UDC Section 3.4.1 defines a PD as:

"A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

Per UDC Section, 3.4.3.A, a PD is subject to review and approval by City Council as part of the rezoning. As opposed to a standard rezoning, conditions of approval can be included into the rezoning Ordinance. The Development/Site Plan that has been submitted, provides the boundaries and the layout for the proposed building footprints for the mini-storage facility, parking and traffic circulation areas.

Enhancements are typically an expectation of a PD to off-set the unique manner of the request. While staff has worked closely with the applicant, enhancements for the site are in the form of screening, buffering, landscaping, enhanced exterior building materials and have been discussed and agreed upon with the applicant and are described as follows:

**Screening / Buffering:** A continuous 20 foot wide landscape buffer along the inactive Georgetown Railroad is proposed (attachment: Revised Development/Site Plan). The City owns an easement along the Georgetown Railroad with future plans of a "rails to trails" amenity to the city's trail system. This landscape buffer is in addition to any UDC, Section 7.7 Screening or Buffering requirements.

**Landscaping:** UDC, Section 7.4.4 states that a developer is required to provide a minimum landscaped area of five percent of a lot. This proposal includes approximately 39 percent of the total site to be landscaped and thus significantly exceeds the percentage required by the UDC. The Landscape Plan also includes 15 frontage trees (as required by the UDC) along with other trees, shrubs, groundcovers and ornamental grass, which also exceeds requirements (attachments: Revised Landscape Plans).

**Exterior Building Materials:** Exterior building materials are proposed which provide close to 100% masonry. Materials consist of a combination of Exterior Insulation Finish Systems (EIFS), which meets the approved listing of standard building materials listed in UDC Sec. 7.8.3F, as well as brick, split-faced CMUs and accent metal paneling. The applicant submitted elevations with varying amounts of masonry accent (attachment: Revised Elevations). In order to maintain a consistent architectural design throughout, a recommended condition of approval is: "All exterior building facades related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units, brick and accent metal panels as shown in the Elevations submittal."

#### Texas Department of Transportation

The applicant has been in preliminary discussions with Texas Department of Transportation (TxDOT), which included the existing non-access easement required by TxDOT as shown on the final plat (attachment: RVOS Addition Final Plat). The final plat also shows two possible 50 foot access points along South 31st Street. However, this Development/Site Plan is only utilizing one access to the north. The applicant has stated this curb cut will align with Blue Meadow Drive. Additionally, the applicant is aware that a Driveway Permit Package in coordination with TxDOT is required. A recommended condition of approval includes: "The applicant shall comply with all TxDOT requirements."

<u>SURROUNDING PROPERTIES AND USES:</u> A table in the attachments provides the surrounding properties, FLUM designations, existing zoning and current land uses (attachment: Surrounding Properties & Uses Table).

#### **SCREENING / BUFFERING**

UDC, Section 7.7 Screening & Buffing details that a continuous buffering is required along the common boundary between nonresidential uses and residential zoning districts or uses. The design of this required buffer must either consist of evergreen hedges with a minimum of six feet high and

placed on 36 inches center or consist of fences or walls constructed of wood, masonry, stone or precast concrete, with integrated color, texture and pattern.

There are two existing residences that abut the property to the north and northwest. Therefore, the applicant is required to provide continuous buffering along this portion of the property. A recommended condition of approval includes: "A continuous 10-15 foot wide landscape buffer is required between residential and nonresidential uses. The buffer must be installed prior to any nonresidential development and properly maintained while this property remains as a nonresidential use."

Also, there are some mature, healthy trees existing along this property line, which is why staff is recommending a landscaped buffer versus a fence or wall screening. Preservation of these trees is important to this buffering requirement. A recommended condition of approval includes: "Preservation of most trees within the subject property (perimeter and interior), based on variety and maturity, must be considered."

<u>COMPREHENSIVE PLAN COMPLIANCE:</u> The proposed rezoning relates to the following goals, objectives or maps of the Comprehensive Plan (CP) and Sidewalk and Trails Plan. A summary table of the CP compliance is located the attachments: Comprehensive Plan Compliance Summary Table.

## Future Land Use Map (CP Map 3.1)

In the FLUM, the subject property is designated as the Auto-Urban Commercial character district. This district is intended for commercial uses and generally concentrated at intersections versus strip development along the major roads. The use of a higher landscape surface area, better landscaping along frontages and around and within parking areas. Other signage and design standards would significantly enhance the appearance of these areas.

The proposal is in compliance with the FLUM as it includes a proposed commercial use and a high landscape surface area as described in the "Enhancements" section of this report.

# Thoroughfare Plan (CP Map 5.2)

The subject property takes access from South 31<sup>st</sup> Street, which is designated as a major arterial in the Thoroughfare Plan. This designation requires a six foot wide sidewalk on both sides and is noted on the Landscape Plan. Therefore, this request is compliant with the Thoroughfare Plan.

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

Sewer is available to the subject property through an existing eight inch sewer line along South 31<sup>st</sup> Street. Water is available through an existing 12 inch waterline along South 31<sup>st</sup> Street. Both water and sewer lines will require extensions to the subject property from their current location.

#### Trails Master Plan Map and Sidewalks Ordinance

The Trails Master Plan identifies a proposed local connector trail along South 31<sup>st</sup> Street. A note on the Landscape Plan requiring a six foot wide sidewalk is provided. Therefore, this request is compliant with the Trails Master Plan.

**DEVELOPMENT REVIEW COMMITTEE:** As required by UDC, Section 3.4.2 B, the Development/Site Plan for the proposed mini-storage facility was reviewed by the Development Review Committee (DRC) on November 21, 2016. Site characteristics such as the easements and preservation of mature trees were discussed.

<u>DEVELOPMENT REGULATIONS:</u> Currently, the property can be developed with uses permitted by right that would not require a public process. A table in the attachments (attachment: UDC Standards Comparison Table) compares how the site could be developed (in the NS zoning district) versus how the applicant is proposing to develop the site (in the PD-NS zoning district). The table shows this proposal is exceeding side and rear setbacks, buffering and screening, landscaping, masonry and code requirements. This proposal also includes tree preservation and architectural elements, which are not required by code. Further, this proposal's maximum building wall height is 21 feet (per condition of approval #13); code allows for 28.75 feet.

<u>PUBLIC NOTICE:</u> Twenty-five notices were mailed to property owners within the 200 feet buffer area of the subject property. The notices included information on the public hearing as required by State Law and City Ordinance. As of Friday, February 17, 2017, two notices in agreement with the proposal were returned. One of these is from the current property owner of the subject property. Seventeen notices in disagreement have also been received.

UDC, Section 3.3.4 Protest states that a Zoning district map amendment application requires a three-fourths vote of the City Council in order to be approved if a written protest has been signed and submitted by the owners of a minimum of 20 percent of the area of the properties immediately adjoining the area covered by the proposed changed and extending 200 feet from that area. This threshold is exceeded with 48 percent in opposition to the proposal (attachment: Z-FY-17-03 Opposition Area). Therefore, a protest is triggered.

Also, letters were submitted from the Bentwood Professional Property Owners Association, from residents at the Creeks at Deerfield and from another property owner outside of the 200' buffer area (the Applicant responded to these comments, which can also be found in the attachments). A representative from the Deerfield Estates submitted a petition. These were all in disagreement of the proposal. All public comment is included in the attachments: Returned Property Owner Notices – Within the 200' Buffer Area, Public Comment – Outside of the 200' Buffer Area and Applicant's Response to Property Owner Comments Outside the 200' Buffer Area.

The newspaper printed notice of the public hearing on November 24, 2016 in accordance with state law and local ordinance.

<u>CITY COUNCIL MEETING SCHEDULE</u>: This request is scheduled for a first reading on March 2, 2017 and a second reading on March 16, 2017.

FISCAL IMPACT: Not Applicable

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#### **ATTACHMENTS**

Temple Storage Rendering

Revised Development/Site Plan

**Revised Landscape Plans** 

**Revised Elevations** 

Aerial Map / Utility Map

Zoning Map / Future Land Use and Character Map

Thoroughfare & Trails Map / Notification Map

Site and Surrounding Property Photos

Summary of Uses Permitted in the NS Zoning District

December 6, 2016 Meeting Minutes

Public Meeting – January 18, 2017 Sign-In Sheet

Surveyor's Sketch

**RVOS Addition Final Plat** 

Surrounding Properties & Uses Table / Comprehensive Plan Compliance Summary Table

**UDC Standards Comparison Table** 

Z-FY-17-03 Opposition Area

Returned Property Owner Notices - Within 200' Buffer Area

Public Comment - Outside of the 200' Buffer Area

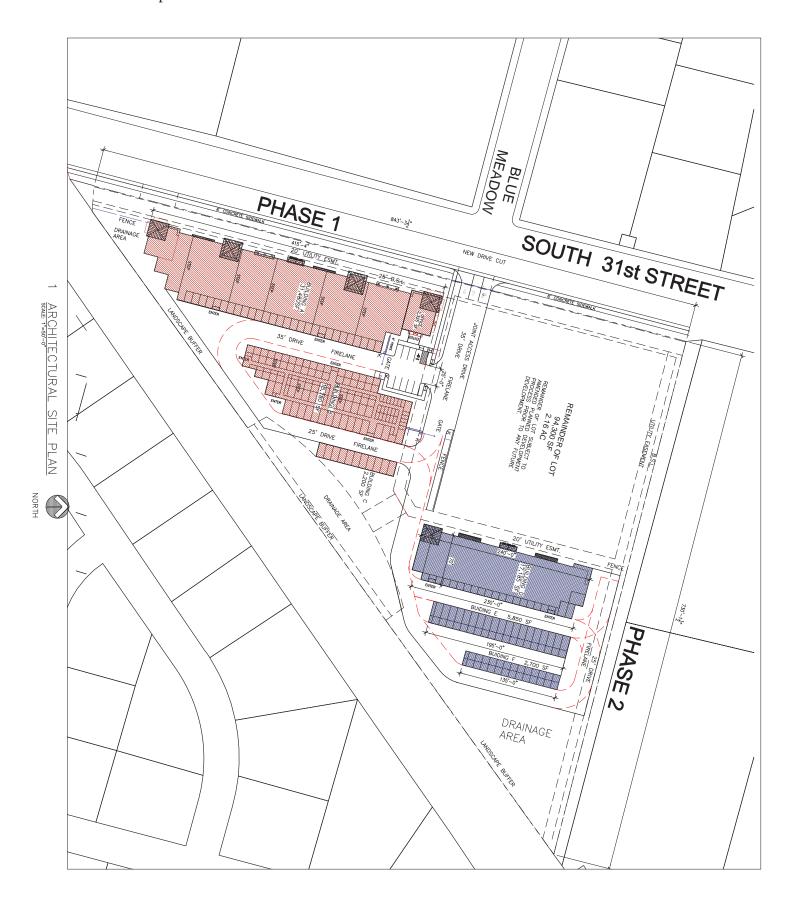
Applicant's Response to Property Owner Comments Outside the 200' Buffer Area

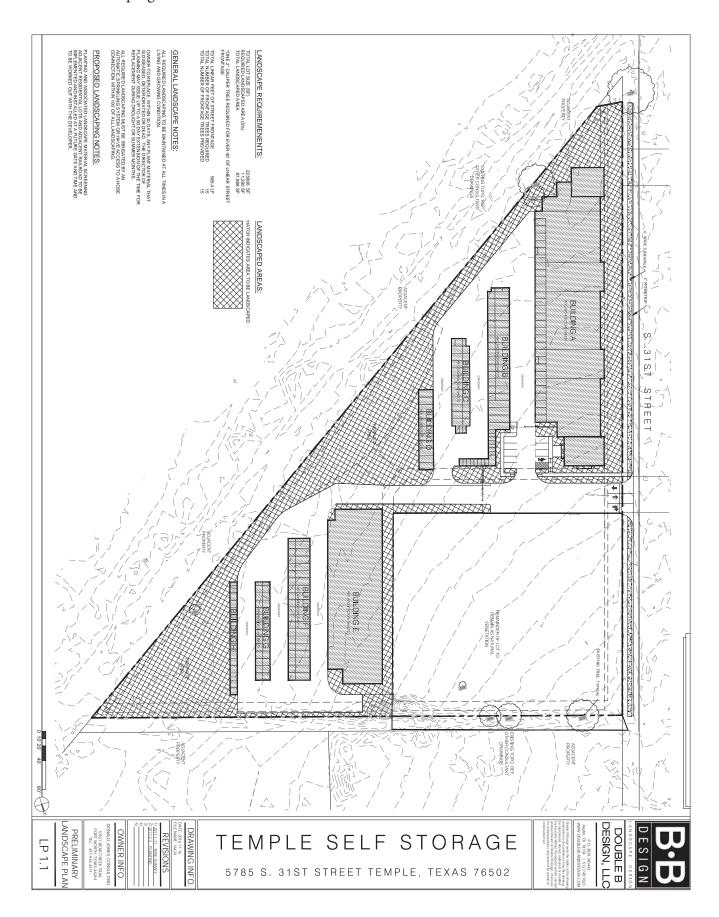
Outward-Facing Building Facades Graphic

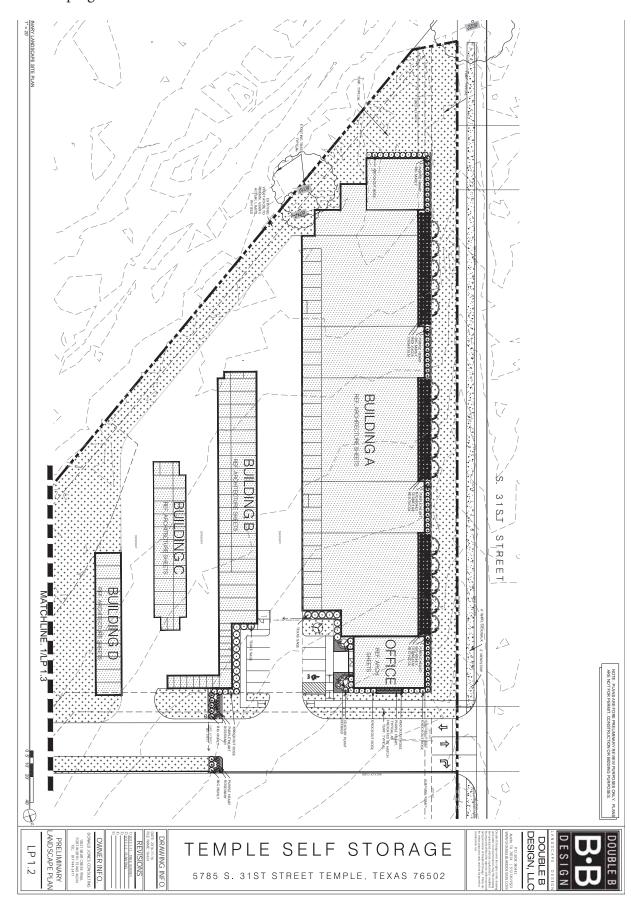
DRAFT February 6, 2017 P&Z Excerpt

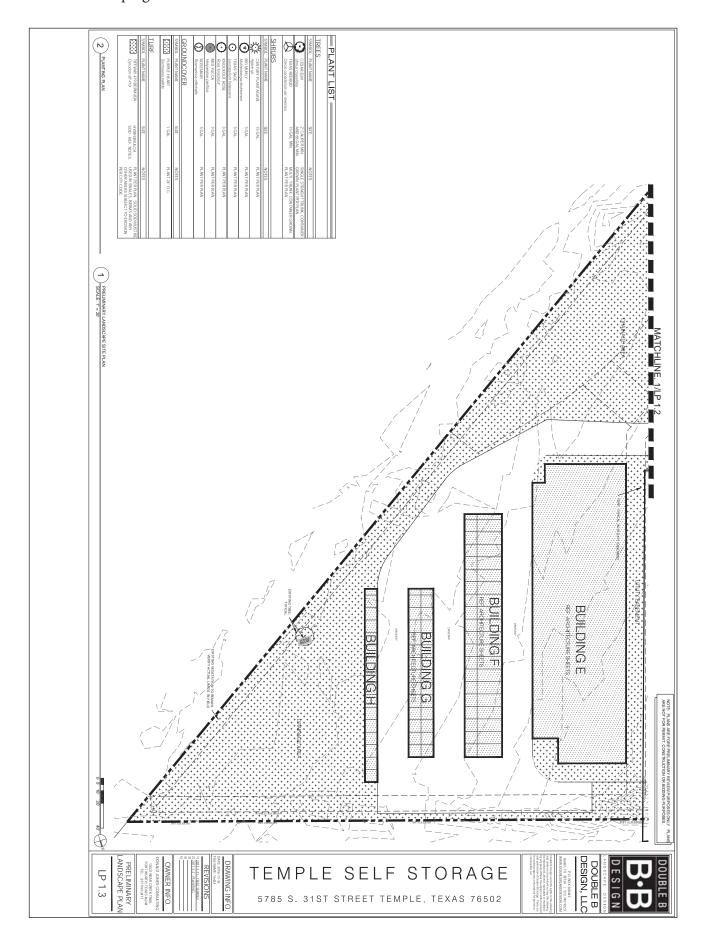
**Ordinance** 



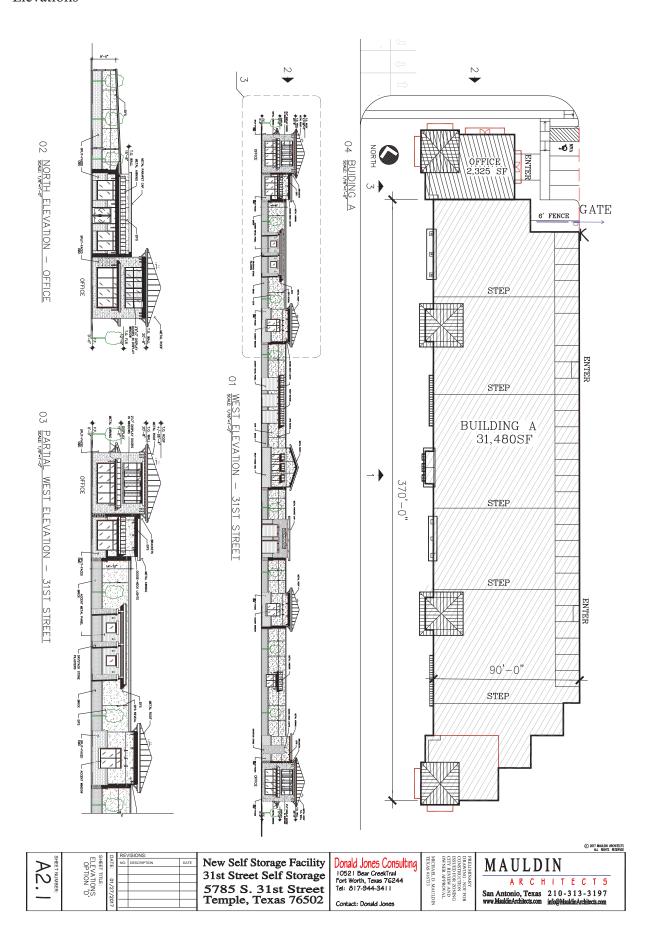








## Elevations

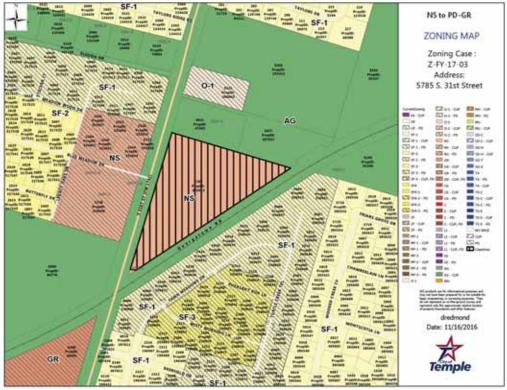




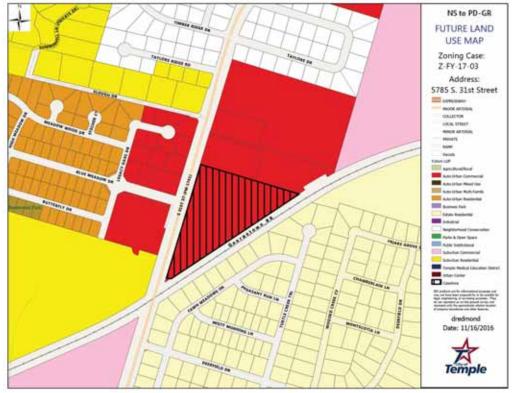
Aerial Map



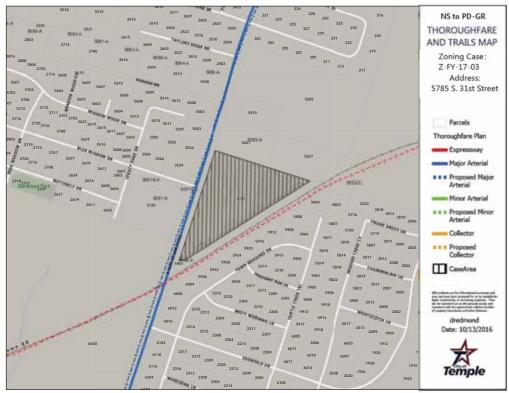
Utility Map



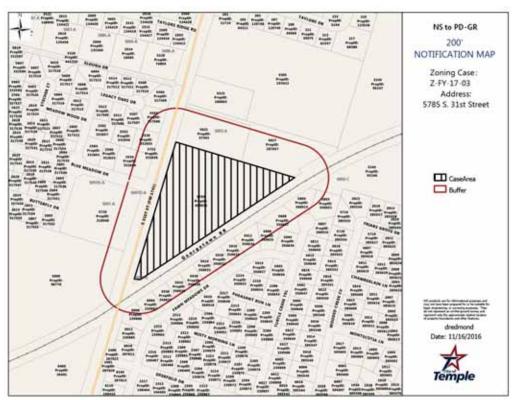
Zoning Map



Future Land Use Character Map



Thoroughfare & Trails Map



Notification Map

# Site Photos

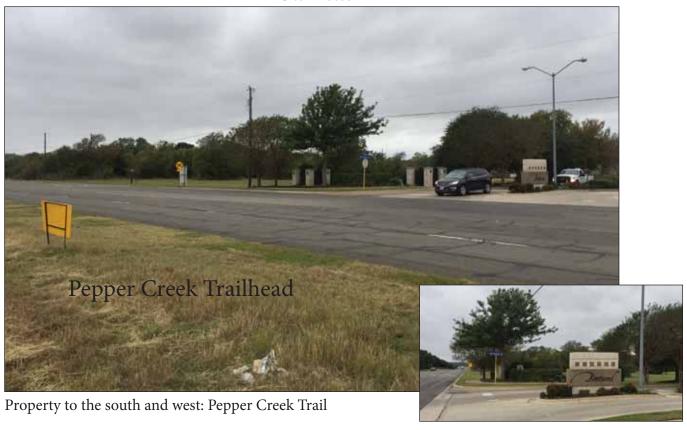


Location of sign posting along W. Adams Ave. on adjacent site to the east of subject property



Property to the north: Scott & White West Campus

# Site Photos





Property to the east: vacant

# Summary of Uses Permitted in the NS Zoning District

	Existing NS
Residential Uses	*Group home
	Single-family
Agricultural Uses	Farm, ranch, orchard
Commercial Uses	none
Education & Institutional	Museum
	*Cemetery
	Place of Worship
Education & institutional	School, business
	*Community Center
	Pre-school/ elementary school
Industrial Uses	*Laboratory medical, dental
Office Uses	Office
Overnight Accommodations	none
Entertainment/Recreational	*Alcoholic beverage sales for on premise consumption: beer & wine only less
	than 75% revenue from alcohol
	(restaurant)
Uses	Park or playground
	*Playfield or stadium
	Theater or playhouse (indoor)
Restaurant Uses	Restaurant (not drive-in)
Retail & Service Uses	Antique shop
	Bank
	Drug store or pharmacy
	Greenhouse
	Food or beverage sales store without fuel
	Bakery or confectionary shop
	Barber shop or beauty shop
	*Exercise gym
	Florist or garden shop
	Laundry and cleaning (self-service)
	Office supply store
	Retail shop, gift, apparel, acessory and similar items
	Travel agency
Vehicle Service Uses	*Fuel sales

<sup>\*</sup>Conditional Use Permit required

# PLANNING AND ZONING COMMISSION DECEMBER 6, 2016 5:30 P.M.

#### PLANNING AND ZONING MEMBERS PRESENT

Chair Greg Rhoads

Bryant Ward Omar Crisp
Lydia Alaniz Jeremy Langley
Lee Armstrong David Jones
Derek Marshall

# **MEMBERS ABSENT:**

Lester Fettig

# STAFF PRESENT:

Brian Chandler, Director of Planning Lynn R. Barrett, Asst. Director of Planning Trudi Dill, Deputy City Attorney Tammy Lyerly, Senior Planner Dessie Redmond, Planner Leslie Evans, Planning Technician Kelli Tibbit, Administrative Assistant

The agenda for this meeting was posted on the bulletin board at the Municipal Building, December 2, 2016, at 4:30 p.m. in compliance with the Open Meetings Law.

The following is a summary of the proceedings of this meeting. It is not intended to be a verbatim translation.

Chair Rhoads called Meeting to Order at 5:30 P.M.

Invocation by Commissioner Jones; Pledge of Allegiance by Commissioner Ward.

#### A. CONSENT ITEMS

**Item 1:** Approval of Minutes: Work session and the regular meeting of November 21, 2016.

Approved by general consent.

#### B. ACTION ITEMS

Item 2: <u>TMED-FY-17-01</u> – Hold a public hearing to consider and recommend action to amend Ordinance No. 2016-4749, for a TMED Planned Development District site plan on .85 +/- acres, Lot 11, Block 1, Highline Addition, to allow for a drive-

through restaurant located at 2110 South 31st Street, as well as to amend the overall development site plan to consider allowing a public sidewalk in lieu of a private trail.

Mr. Brian Chandler, Director of Planning, stated there were two parts to this request. The first part is to allow a drive-through at the subject property location (Lot 3B platted as Lot 11) by approving an amendment to the original site plan.

The site plan with building footprint shown. The building is 6,600 square feet and will be occupied by multiple tenants.

Another site plan is shown with an outdoor patio space of greater than 1,500 square feet which exceeds the Planned Development District Ordinance.

Current aerial site plan is shown.

The applicant will need to comply with the landscaping and proposed architectural standards of the Unified Development Code (UDC) and as approved in the Planned Development District Ordinance.

Part two of the request is a public sidewalk in lieu of a private trail.

Aerial site plan is shown for with the proposed private trail which would essentially connect the 200 plus apartment project with the South 37<sup>th</sup> Street stub-out road adjacent to the Candlewood Suites Hotel.

Another aerial shows what the area looks like currently with the preserved trees and the drainage easement. Whether developed as a trail or not, the trees are to remain.

The applicant is proposing a sidewalk in lieu of the proposed trail for connectivity. A six foot sidewalk is proposed along Scott Boulevard (in orange) for pedestrian connectivity all the way to the drainage area, which requires a Waters of the US Permit. The applicant has received this permit through the Army Corps of Engineers for the detention pond and the drainage work (indicated in the red-lined area).

The drainage portion (blue-lined area) requiring a Waters of the US Permit that would be outside of the scope of what the developer is requesting.

The green-lined area abuts another lot and upon future development a sidewalk will be required there. The City would need to provide pedestrian crossing from that sidewalk down to the leg of the Jaycee Park.

This proposal would implement the Trails Master Plan (TMP) as part of the Temple Medical Education District (TMED) standards for new development. The TMP does show a trail along Scott Boulevard connecting to Jaycee Park.

Cost estimates have been provided by the applicant/developer comparing the trail costs of \$80,000 for a decomposed granite trail, tree work, etc., and the sidewalk construction of \$100,000 which is higher than the actual trail costs due to unknown expenditures for

the reconstruction of driveways for Candlewood Suites and the office building to the west to meet ADA requirements.

The Thoroughfare Plan designates Scott Boulevard as a collector which requires a four-foot wide sidewalk, except in TMED it requires a six-foot wide trail.

Jaycee Park Master Plan is shown. Jaycee Park is funded for bond improvements (\$1.1 million estimate).

Additional view of the "Trail" and Candlewood Suites and how the connectivity would be proposed.

The office building located at 2002 Scott Boulevard would also be affected, if approved.

Development Review Committee (DRC) reviewed this site plan on November 21, 2016 and the applicant has adequately addressed all comments.

Seven notices were mailed in accordance with all state and local regulations with zero notices returned in agreement or in disagreement.

Staff recommendation is approval with the following conditions:

That the sidewalk is six-feet wide for consistency with:

The other Scott Boulevard sidewalk required by the developer; and

The Trails Master Plan minimum width; and

That the length of the sidewalk extends to either:

The drainage channel per the Proposed Sidewalk Exhibit; or

As far west as the estimated \$100,000 will go:

The cost of the two driveways at 1850 and 2002 Scott Boulevard could change based on ADA sloping requirements

Mr. Chandler explained Candlewood Suites may have been built around 2005-2006 which predates TMED and is not actually located within the TMED. Mr. Chandler is unsure why the sidewalk was not required for Candlewood Suites at the time of construction.

Chair Rhoads explains the time limits procedure in order for everyone in attendance to have an opportunity to speak.

The public hearing was opened.

There being no speakers, the public hearing was closed.

Commissioner Crisp made a motion to approve Item 2, **TMED-FY-17-01**, and Commissioner Ward made a second.

Motion passed: (8:0) Vice-Chair Fettig absent Item 3: Z-FY-17-02 — Hold a public hearing to consider and recommend action on a rezoning from Agricultural (AG) to Single Family-One (SF-1) and on permanent zoning upon annexation of a tract of land consisting of a total of 86.91 +/- acres proposed for Single-Family One (SF-1) District, located south of FM 93, east of Southwood Drive and west of Boutwell Road, situated in the Redding Roberts Survey, Abstract 692, Bell County, Texas, in Temple's southern Extra Territorial Jurisdiction (ETJ). Applicant requests postponement until the 12/19/16 P&Z meeting to develop a site plan and to amend the zoning request to PD-SF-1 (Planned Development District Single-Family One).

Ms. Tammy Lyerly, Senior Planner, stated since Planning advertised this item for a public hearing Planning and Zoning is required to open a public hearing if anyone would like to speak. The applicant has requested the item be postponed until the next P&Z meeting scheduled for December 19, 2016.

Chair Rhoads opened the public hearing.

There being no speakers, the public hearing was closed.

Ms. Lyerly reminded the Commission that whatever motion is made to include the postponement to the December 19, 2016 P&Z meeting.

Commissioner Ward a motion to table Item 3, **Z-FY-17-02**, and will remain opened for a public hearing and Commissioner Marshall made a second.

Motion passed: (8:0) Vice-Chair Fettig absent

Item 4: Z-FY-17-03 — Hold a public hearing to consider and recommend action on a rezoning from the Neighborhood Services (NS) zoning district to the Planned Development-General Retail (PD-GR) zoning district on 7.35 +/- acres, 1-lot, 1-block non-residential subdivision, proposed for a mini-storage facility, situated in the Redding Roberts Survey, Abstract No. 692, Bell County, City of Temple, Texas, located at 5785 South 31st Street.

Ms. Dessie Redmond, Planner, explained that since delivery of the packet on December 2, 2016, Staff has changed their recommendation of approval with conditions to PD-NS and not PD-GR and stated in the staff report in the packet.

This item is scheduled to go to City Council for first reading on January 5, 2017 and second reading on January 19, 2017.

The applicant/property owner is Mr. Wes Jackson, RVOS Farm Mutual Insurance, and Trey Pike.

The property is currently vacant, undeveloped, and located in the RVOS Addition Subdivision. There are some and existing drainage easements on the site. The Georgetown Railroad runs along the southern portion of the subject property.

Surrounding properties include undeveloped land to the east, residential to the north, the Bentwood Subdivision to the west, and the Georgetown Railroad (which is inactive) abuts the property on the south.

The applicant is proposing a mini-storage warehouse as defined by the Unified Development Code (UDC) Section 11.2 – Definitions:

<u>Mini-Storage Warehouse</u>. A building or group of buildings consisting of individualized shelters of various sizes for rent or lease for the purpose of providing protection of commodities stored in the mini-storage warehouse.

UDC, Section 5.38 states that the unit size is limited to a maximum of 2,000 cubic feet:

#### 5.3.8 Mini-Storage Warehouse

A mini-storage warehouse may be permitted in accordance with the use table in Sec. 5.1 provided that the size of each individual storage unit of a mini-storage warehouse is limited to a maximum of 2,000 cubic feet.

The proposed units range in size from 25 square feet to 200 square feet;

Some buildings are climate controlled;

Some buildings are non-climate controlled;

Approximately 350 total units (number of sizes yet to be determined);

Combination of Exterior Insulation Finish Systems (EIFS), brick, split-faced concrete masonry units (CMUs) and accent metal paneling (visible facades as shown in the north and west elevations):

\*A 20 foot wide buffer along the Georgetown Railroad for future "rails to trails" amenity:

\*39% of site is proposed to be landscaped; and

The remaining 2.16 +/- acres are not included in this site plan and would require a PD amendment if developed in the future.

(\*Staff considers enhancements to the site because the proposal exceeds requirements by the UDC)

Site plan shown. The proposal is split into two phases and Phase One includes an office space.

Ingress and egress will be located off of South 31st Street.

Elevations and landscaping plans shown.

In accordance with the UDC, Section 3.4.3 and 3.4.4, a Planned Development requires approval of a development/site plan which is binding to the project.

In UDC, Section 3.4, a Planned Development is defined as:

"A flexible overlay zoning district designed to respond to unique development proposals, special design considerations and land use transitions by allowing evaluation of land use relationships to surrounding areas through development plan approval."

#### A PD typically includes:

Screening/Buffering;

Landscaping; and

Combination of Exterior Building Materials.

The existing zoning map shows AG to the north, Single Family One (SF-1) to the south, NS to the west (with a PD), and SF-1 to the east.

In the Future Land Use and Character Map, the subject property is designated as the Auto-Urban Commercial district which provides for commercial uses and requires a higher landscaped surface area. The UDC requires five percent and the applicant is proposing 39 percent, therefore, the request is compliant with the Future Land Use and Character Map.

The Thoroughfare Plan designates South 31<sup>st</sup> Street as a major arterial with existing adequate right-of-way and will provide ingress and egress to the property.

A six-foot wide sidewalk is required on the applicant's side of the road and this sidewalk is included on the applicant's submitted landscape plan.

The Trails Master Plan indicates a City-wide proposed trail along the Georgetown Railroad. The applicant has confirmed the trees will be preserved and supplement trees as needed within the buffer along the railroad. This request is compliant with the Thoroughfare Plan and Trails Master Plan.

Public facilities are available to the property which may require extensions.

The applicant's request is in compliance with the Future Land Use and Character Map, the Thoroughfare Plan, the Trails Master Plan and Sidewalk Ordinance, UDC, Section 3.4.5 Planned Development Criteria, and is consistent with the City's infrastructure and public service capacities.

Development Review Committee (DRC) reviewed this request on November 21, 2016 to discuss the following:

#### Site Characteristics:

Existing easements;

Constraints;

Existing mature trees;

Preservation of perimeter and interior trees based on species and maturity;

Georgetown Railroad; and

"Rails to Trails" possible future amenity for the city's trail system.

Comparison between NS and PD-GR uses are given.

Twenty-five notices were mailed in accordance with all state and local regulations with two response notices being returned in agreement and 12 response letters returned in disagreement.

UDC, Section 3.3.4. - Protest, states that 20 percent or more of the area within the buffer accounts for property owners in disagreement of the rezoning request will trigger a protest. This means that a three-fourths vote by City Council is required in order for this action to be approved.

The total area of the buffer portion of this request is approximately 665,472 square feet; and the opposition area is approximately 135,238 square feet, which equals 20.322 percent of the buffer.

Staff recommends approval for a rezoning from NS to Planned Development Neighborhood Services (PD-NS) with the allowed use of a mini-storage warehouse and with the following conditions:

Substantial compliance with the Development/Site Plan;

Substantial compliance with the Landscape Plans and Elevations;

That the remaining 2.16 +/- acres will require a separate Development/Site Plan review by the Planning & Zoning Commission with approval by City Council prior to any future development;

Each individual storage unit is limited to a maximum of 2,000 cubic feet;

A six-foot wide sidewalk is required to be built along South 31st Street prior to the opening of the business;

All exterior building facades related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units (CMUs), brick and accent metal panels as shown in the Elevations submittal:

Preservation of most trees within the subject property (perimeter and interior), based on variety and maturity, must be considered;

A continuous 10- to 15-foot wide landscape buffer is required between residential and nonresidential uses. The buffer must be installed prior to any nonresidential development and maintained per UDC, Section 7.4.8. - Maintenance and Irrigation;

A continuous 20-foot wide landscape buffer is required along the Georgetown Railroad. This buffer must be installed prior to the completion of Phase II and maintained per UDC, Section 7.4.8. - Maintenance and Irrigation;

All landscaping required by the UDC shall meet or exceed UDC, Section 7.4 - Landscaping;

Any fencing along South 31st Street shall be decorative metal;

This PD runs with the land and is not affected by the transfer of property owners;

The maximum building height allowed is 30 feet (top of wall and per submittal elevations); and

The applicant shall comply with all Texas Department of Transportation (TxDOT) requirements.

Chair Rhoads asked about lighting on the project. Ms. Redmond deferred to the applicant for response.

Chair Rhoads opened the public hearing.

Mr. Donald Jones, 4216 Little Bend Court, Fort Worth, Texas, stated he was representing Mr. Trey Pike. Mr. Jones provided a brief background on this project.

Mr. Jones has been in the storage business for 24 years and has worked all over the country.

When Mr. Jones was consulted about the subject property, he felt this property was most conducive to what he considered a good self-storage location: 1) it would accommodate a smaller self-storage property that would have nice curb appeal; 2) it would limit the growth of the business; 3) the 2.16 +/- acreage could possibly accommodate some other type of business; and 4) it is a multi-phase project which leaves access.

In the design of the facility the entire back portion was intentionally left as-is.

The applicant intends to preserve the trees on site.

The applicant will work with the City on the future Trails and Rails project.

Mr. Jones addressed the lighting question by stating through LED lighting, the lighting can be kept low enough and downward that there will be zero impact on the residential areas. It would not be overt just provide security.

Mr. Jones invited any of the neighbors/property owners/residents/HOAs to meet with him to discuss the project between tonight's P&Z meeting and the first City Council meeting. Mr. Jones looks forward to working with the residents on any concerns raised.

Brief discussion about the Waters Dairy storage project which was a totally different group.

Mr. Tex Burrows, 6205 Turtle Creek, Temple, Texas, asked about the difference between NS and PD-NS.

Ms. Redmond clarified that a PD requires the submittal of a site plan, elevations, etc., which becomes binding to the property and project.

Mr. Brian Chandler, Director of Planning, explained that this use would not be allowed in NS or GR unless it were tied to a PD district. The subject project would be bound to the elevations and the site plan if a mini-storage were to be built. Staff asked the applicant if they needed the GR zoning and they said no. If this project fails, the NS zoning district still prevails.

Mr. Burrows lives in Deerfield Estates and is representing both his neighborhood and the Creeks of Deerfield. The Creeks of Deerfield created a letter and petition which included 38 signatures against this proposal. Copies of these documents were given to P&Z.

Mr. Burrows is on the Board of Directors of the HOA for Deerfield Estates. His main point tonight is the zoning that has been used by the City for this area which is NS. This

zoning was developed by the City to maintain the integrity of the neighborhoods around this area which include several neighborhoods/subdivisions.

Mr. Burrows asked the Commission to maintain the integrity of the original plan with the NS zoning, which is the most restrictive, since GR is inappropriate and creates other problems.

Mr. Burrows felt that the definition given for the PD-NS may calm a lot of fears but it is still a concern for many residents.

Commissioner Jones stated the subject project did not look like the standard ministorage building(s) people equate with and asked if the mini-storage facility itself was causing concerns. Mr. Burrows responded that none of the residents he spoke with prior to the meeting were aware of the type of mini-storage explained here tonight. It was Mr. Burrows' opinion that some residents may feel better about the mini-storage facility but others may not just because it is a mini-storage. Mr. Burrows personally felt the concept was better than what was known prior to the meeting.

The mini-storage buildings include a combination of climate-controlled units and non-climate controlled units.

Mr. John Shanafelt, 5934 Fawn Meadow Drive, Temple, Texas, stated his property backs up to the subject property. There are three other storage facilities within a mile and a half and he questions why another is needed.

Mr. Shanafelt had concerns about the 25-foot setback since nothing else in the area was that close to the road. He also had concerns about the flat roofline and the height of the building.

When it rains, the subject property drains through the back yards of the residents. There was considerable concern about where the water would go and who would maintain it.

Mr. Shanafelt stated putting this building with a 730-foot front wall, being 15-feet tall, and the corners being 30-feet tall (the height of a telephone pole), in a residential area, it is too close to the street, too massive on the face, and the drainage needs to be addressed in advance of any proposal.

Mr. Chandler responded to the drainage issue by stating it was preliminarily reviewed through the DRC (which consists of City Staff) and they are aware of the issue. At permitting, the applicant would need to address the drainage plan requirements.

Mr. Chandler added in regards to the setback issue, the 25-foot setback starts from behind the utility poles which are located in the utility easement. A lot of the front area is right-of-way and would not be in direct conflict.

Ms. Susan Head, 5621 South 31<sup>st</sup> Street, Temple, Texas, stated she owns the property across the street from the subject property.

Ms. Head is against the mini-storage facility and does not believe it is the best use for the property. Ms. Head has lived in her home for 40 years and seen many changes in the area over time.

Ms. Head is concerned that people would start using her driveway as a turnaround, thievery will increase, and she has never known a mini-storage to look nice. To Ms. Head, the design sounds fort-like with 30 foot towers, lots of fencing and concrete, and lots of metal.

Ms. Head feels the community should remain as it is.

Mr. Mark Hacker, 5604 Legacy Oak, Temple, Texas, stated he is representing some of the neighbors and they are against this idea since it would detract from the neighborhood and not the best use for the land.

Mr. Dan Mares, 5804 Turtle Creek Trail, Temple, Texas, stated he was concerned about the drainage situation. Mr. Mares moved to the area in 2006 and he has dealt with the runoff from the subject property and the railroad tracks for ten years. Mr. Mares explained the City did put in a small culvert on the east side of the railroad track which has helped some; however, there is still a lot of drainage/runoff occurring.

Mr. Mares commented the subject property has been vacant since he moved to the area.

Mr. Mares stated he was opposed to the storage facility and does not believe it is appropriate for the area.

Mr. Paul Cox, 6004 Fawn Meadows Drive, Temple, Texas, stated he was in agreement with the facility, but not for three stories tall. Mr. Cox feels there is a lot less traffic coming in and out of the storage facility than the subdivision or the office complex.

Mr. Cox felt the applicant would provide more security for the business than it has currently and did not have concerns about that.

It was asked of the applicant if there needed to be a three-story tall building at each end of the facility.

Mr. Donald Jones returned to the podium and stated the applicant is willing to make adjustments to any of the stated concerns and the three-story parapets façade could be adjusted to be smaller.

The drainage issue was not created by the applicant but Mr. Jones can assure that the City will make the applicant fix the problem. The applicant/developer is already working with a civil engineering group out of Austin and Mr. Jones feels a detention pond is being designed to accommodate the issue for the entire seven acres.

Mr. Paul Cox asked what type of barrier/fence would be along the railroad tracks and the storage units, the "trash" trees, and would the landscaping be done during Phase II.

Mr. Jones responded that a wrought iron (expanded tubed metal with shepherd's hook) fence would be installed since it creates a barrier to keep people from crossing over the fence. Security is extremely important to the facility.

The trees on the back lot would be inspected to identify the trees and what needs to be removed or preserved with any preserved trees accounting towards the landscaping agreement requirements.

The applicant is only developing the first three and a half acres and will need to work with the City on what they can or cannot do. This is a two-phased project. The initial thought is to fix the tree line immediately behind the property in the first phase and then phase II would include the remaining portion of the tree line; however, Mr. Jones is open to discussion.

Mr. Jones confirmed there will be no outdoor storage whatsoever. Mr. Jones also confirmed that the applicant is not interested in having or including any truck rentals/sales (U-Haul, Ryder, etc.).

Ms. Susan Head returned to ask about the fencing along South 31<sup>st</sup> Street (the section facing the road).

Mr. Jones responded there would be zero fencing on 31st Street since the wall (façade) is what they would want to show to the community and to look nice. The only fencing involved would be on the back portion of the subject property against the Georgetown Railroad section to prevent anyone from coming in the back way and close off any access points from the side.

Additionally, the location of the main drive is for safety of and clear ingress and egress. The applicant prefers only one driveway on the entire subject property which could also serve as a shared common driveway if the other property is sold or developed.

Chair Rhoads clarified that the remainder 2.61 +/- acres would be untouched since it was a project for a later time, which would need to return to the Planning & Zoning Commission and ultimately City Council.

Ms. Head is against the proposal.

There being no further speakers, the public hearing was closed.

Staff has asked the applicant to submit an additional elevation for the front building of phase II (Building E) but has not received it to date. A condition for approval addresses the façade. All exterior building façades related to the mini-storage building shall have exterior combination of materials as shown in the elevation.

Mr. Chandler clarified that this meant the public facing façade (what people would see). The internal units were not necessarily required to be masonry and would defer to the applicant to address the interior facades.

Chair Rhoads reopened the public hearing for the applicant to explain.

Mr. Donald Jones stated the intention was to make the front façade on 31st Street as nice as possible. When the applicant builds the Trails and Rails portion, they want the back portion to be as nice as possible as well. Mr. Jones stated it would be alright with the applicant to do split-faced blocks in between the buildings but you generally would not do an EIFS-type product. In Phase II, the large building façade would be very nice since it will be visible from S. 31st Street.

The building on the back side by the drainage pond could be done in brick or face block or something similar to have a nice clean façade to the public if Trails and Rails is created. The three interior buildings will not have stucco, etc., but could do split-faced block in between the doors.

Chair Rhoads closed the public hearing.

Commissioner Jones offered up a motion to table the item and explained there were too many issues creating confusion and several unresolved matters.

Commissioner Crisp agreed with Commissioner Jones' comments.

Chair Rhoads agreed with the comments made and stated growth is coming and inevitable in the area, as well as the rest of the City.

Chair Rhoads reiterated the three-fourths vote will be required for approval by City Council due to the number of responses in disagreement of the request.

Commissioner Marshall asked if the Commission decided to table this item, is the Commission allowed to request to have a site drainage study/information included with the resubmitted elevations. Mr. Chandler confirmed the Commission is allowed to request this item in the motion; however, the applicant should be allowed to state how much time they would need to provide the information. The motion should include a specific date to return to the P&Z Commission.

Mr. Chandler stated after conferring with Ms. Trudi Dill, Deputy City Attorney, it was not necessary to open and close a public hearing to hear the applicant speak. Applicants may make comments at any time during meetings.

Mr. Jones replied with the holidays coming up and his current travel schedule, he requested to return to P&Z on February 6, 2017.

Mr. Chandler stated Staff would coordinate with applicant and residents to provide any dialogue and feedback for the applicant to make any changes prior to February 6, 2017.

Commissioner Jones made a motion to table Item 4, **Z-FY-17-03**, until February 6, 2017 Planning & Zoning meeting and directed Staff to work with the applicant and property owners with any dialogue, feedback, and/or meetings needed and Commissioner Crisp made a second.

Motion passed: (8:0) Vice-Chair Fettig absent

There being no further business, the meeting was adjourned at 7:21 p.m.

Respectfully submitted, Leslie Evans

# PUBLIC MEETING – JANUARY 18, 2017 SIGN-IN SHEET Z-FY-17-03

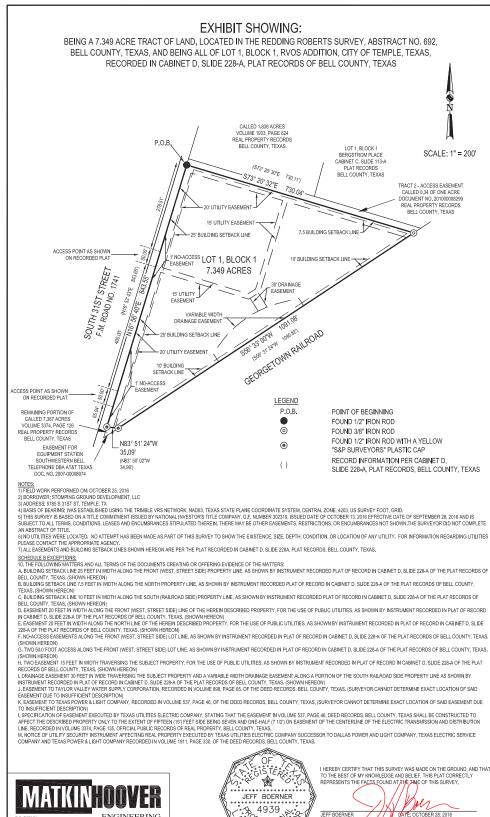
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Name	Address	Phone#	Emnil
Tim Pastan	5504 FAWN MEASONS Dr.	972-3/5- 5855	TEPASTER @ GMAIL. COM
JOHN SCHANATED	5924 FAW & MEDICAR		schanatell esteglobal, net
Donald Genes		817-456 465 8	

# PUBLIC MEETING – JANUARY 18, 2017 SIGN-IN SHEET Z-FY-17-03

NAME Please Print	ADDRESS	PHONE #	EMAIL ADDRESS
JOSHUA VALENTA	בוו עסטומ הוא אוט	361-367-4722	Juneats Omition Homser com
Gary Fraytag	248 Holdings, Lld.	254-300-1939 254	gary . Fraylog & boltainder . com
Day Fraying 1 N. Vogel	6511 SPAINGWOOD	939-6245	
David Nix	2526 Blue Madow FT 7650Z	770-3355	nixdøl@nationwide.com
Math. Rute M	2566 Blue Weeds 76502	~778-88 <i>0</i> 8	Wakent @ Hot. RRCon
LAND Allis	5912 FALOW MEMBERS	742-0526	SITURE - Verteur @ YARRO COO
Juszpia Paul	5808 Tu- 1/2 check Tu!	791-8289	jamb 740 jahou. con

#### PUBLIC MEETING – JANUARY 18, 2017 SIGN-IN SHEET Z-FY-17-03

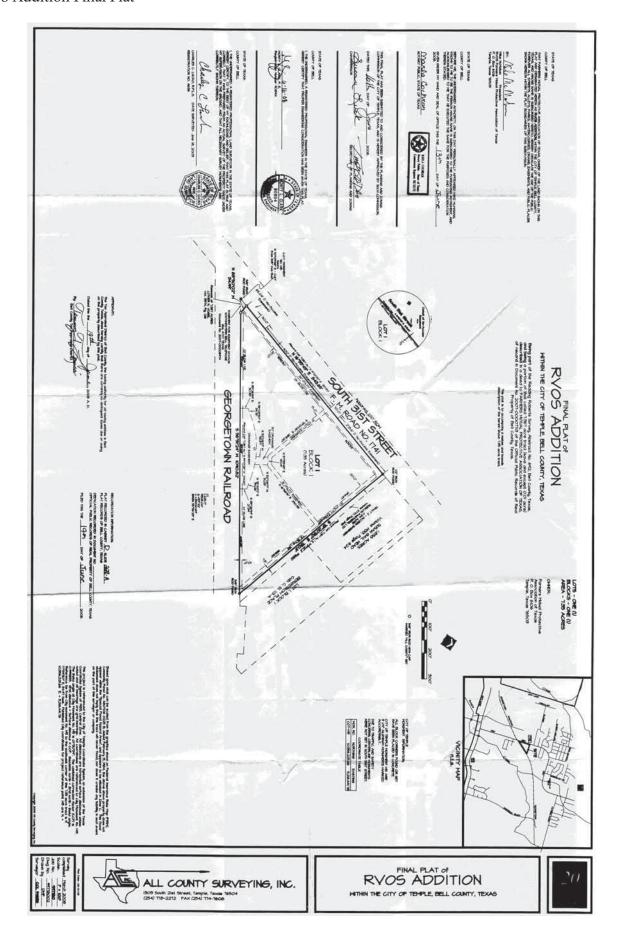
Address	Phone	Email
5804 Turthe Creeks Trail, Temple, TX 76502	254-771-1965	dan.norma@sbcglobal.com
620 5 TURTECAREN		ownersporco
	5804 Turtle Creeke Trail, Temple, TX 76502 6205 Turtle Creek	5804 Turtle Creeks Trail, Temple, TX 76502 254-771-1965







JEFF BOERNER
REGISTERED PROFESSIONAL AND SURVEYOR
TEXAS REGISTRATION NO. 4939
JOB NO. 16-4146



# **Surrounding Properties & Uses Table**

Direction	FLUM	Zoning	Current Land Use
Site	Auto-Urban Commercial	NS	vacant
North	Auto-Urban Commercial	AG	single family residential
South	Estate Residential	PD-SF1	single family residential
West	Auto-Urban Commercial	PD-NS	vacant/retail
East	Estate Residential	PD-SF1	single family residential

# **Comprehensive Plan Compliance Summary Table**

Document	Policy, Goal, Objective or Map	Compliance?
СР	Map 3.1 - Future Land Use Map	Yes
СР	Map 5.2 - Thoroughfare Plan	Yes
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	Yes
STP	Temple Trails Master Plan Map and Sidewalk Ordinance	Yes
UDC	UDC, Section 3.4.5 Planned Development Criteria	Yes

CP = Comprehensive Plan STP = Sidewalk and Trails Plan

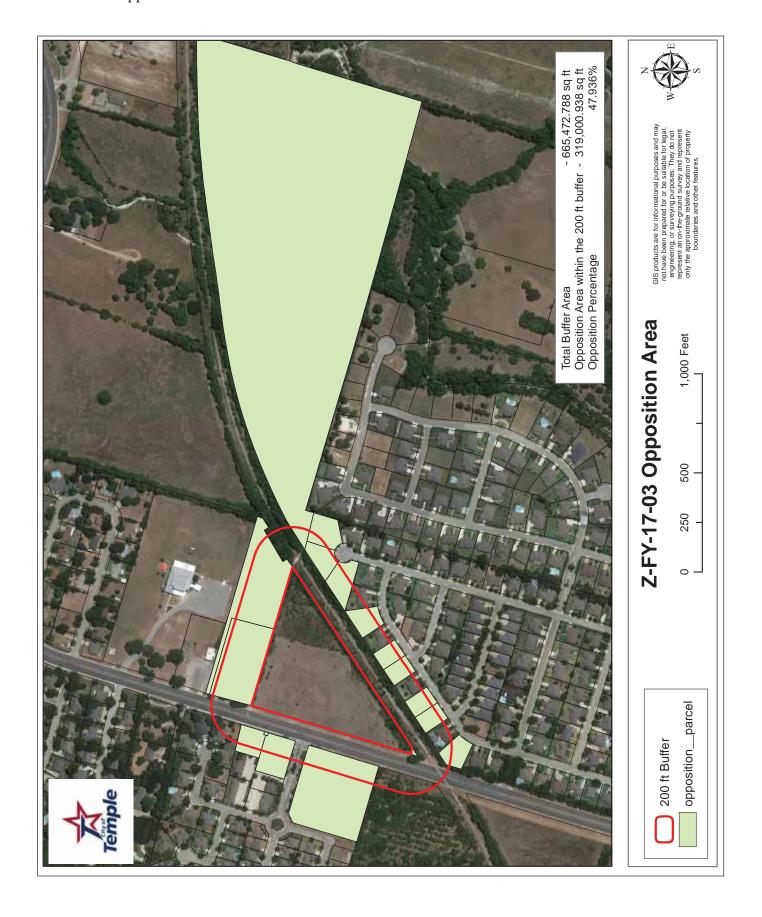
# **UDC Standards Comparison Table**

	Existing NS	Proposed PD-NS
Minimum Lot Size	n/a	320,166 sq ft
Minimum Lot Width	n/a	820 ft
Front Setback	15 ft (per plat 25 ft)	25 ft
Side Setback	10 ft	50 ft
Rear Setback	0*	30 ft
Max Building Height	2.5 stories (28.75 ft)**	21 ft (COA)
Landscaping	5% of entire site	39% of entire site
Buffer Between Residential and Non-Residential Uses	6-8' high fence or evergreen hedges 6 ft high on 36 in center	10-15 ft wide landscape buffer (COA)
Buffer Along Georgetown Railroad	not required	20 ft wide landscape buffer (COA)
Masonry on Facades	70% if visible from ROW	100% on all outward facing facades (including some rear facades) (COA)
Tree Preservation	not required	preservation of most trees (interior and perimeter) (COA)
Architectural Elements	not required	corbels, pitched roof, varying roof lines and overhangs

COA = Condition of Approval

<sup>\* =</sup> See Section 4.4 Measurements & Special Cases.

<sup>\*\*</sup>UDC defines the standard height for a story as 11.5 ft.





COX, PAUL H ETUX AMY B 6004 FAWN MEADOWS DR TEMPLE, TX 76502-7902		
Zoning Application Number: Z-FY-17	-03 <u>Case Manager</u> :	Dessie Redmond
Location: 5785 South 31st Street, Temp	le, Texas	<del>_</del>
The proposed rezoning is the area show own property within 200 feet of the requ this form to indicate whether you are in the attached notice, and provide any ad	uested change, your opinions are very favor of the possible rezoning of the	welcomed. Please use
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Comments:  Scrity and ortdoor  residential back  No outside Storage of  Inside t closed	lighting be minimal garas	
Signature My	PAU & Am	y Cox
If you would like to submit a response, the Case Manager referenced above comment form to the address below, no	, dredmond@templetx.gov, or ma	
	City of Temple Planning Department	NOV 2 8 77.53
	2 North Main Street, Suite 102 Temple, Texas 76501	City of Temple Planning & Development
Number of Notices Mailed: 25	Date Mailed:	November 23, 2016
OPTIONAL: Please feel free to email qus at 254.298.5668.	uestions or comments directly to th	ne Case Manager or call



FARMERS MUTUAL PROTECTIVE A PO BOX 6106 TEMPLE, TX 76503-6106	SSOCIATION OF TEXAS
Zoning Application Number: 2-FY-1	7-03 <u>Case Manager</u> : Dessie Redmond
Location: 5785 South 31st Street, Tem	ple, Texas
- vwii property within 200 feet at the fer	own in hatched marking on the attached map. Because you quested change, your opinions are welcomed. Please use favor of the possible rezoning of the property described on dditional comments you may have.
I (Vagree	( ) disagree with this request
Comments:	
Signature Signature	29/2016 THINES E. Smith Print Name
If you would like to submit a response, the Case Manager referenced above comment form to the address below, no	please email a scanned version of this completed form to dredmond@templetx.gov, or mail or hand-deliver this later than December 6, 2016.
	City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501
Number of Notices Mailed: 25	Date Mailed: November 23, 2016
OPTIONAL : Please feel from to amoit or	regions as accessed of a state of a

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



NIX. JOHN DAVID 2526 BLUE MEADOW DR TEMPLE, TX 76502-7924

Zoning Application Number: Z-FY-17-03

Case Manager:

Dessie Redmond

Location: 5785 South 31st Street, Temple, Texas

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

! ( ) agree

disagree with this request

After reading entire document, and seeing mini- storage facility, I would be against any change in Zoning. The investment of business and individuals would be hurt. The long term plan for development of our area would be hurt.

Signature

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, dredmond@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than December 6, 2016.

> City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed:

November 23, 2016

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254, 298, 5668.

# Returned Property Owner Notices - Within 200' Buffer Area - Nix, Updated Comments

#### **Dessie Redmond**

From: NIXD01@nationwide.com

Sent: Thursday, January 19, 2017 9:51 AM

To: Dessie Redmond

**Subject:** Jan 18 - Public Forum for Rezoning request Z-FY-16-03

Follow Up Flag: Follow up Flag Status: Completed

I appreciate the public forum last night. It was good to meet you.

Will there be opportunity for public comment to the P&Z? Should I put in my written response to the comments made last night? Can you just forward this to the members so they will know my thoughts?

I still strongly oppose changing the zoning on this property. I wanted to hear the developer, and I wanted to see the plans. Neither impressed me. The proposed location is not the place for this development. The location is well suited as it is currently zoned. There is no need on the part of this community to change the zoning just to fit this investor's needs. I am sure there are sites in Temple appropriately zoned for the desired business.

I understand Mr. Jones has a job to do. He is hired by an investor to find him a location that works for a self storage facility. I have looked on his website. The locations on his web site look like mini storage facilities (obviously, because that is what they are). The proposed facility, in spite of the proposed design, will look like mini warehouses. They may be nice mini warehouses, but they are mini warehouses.

#### My summary:

- Trey Pike, an investor from Austin, wants to build a mini warehouse facility in Temple.
- He reached out to Donald Jones, a consultant and manager of mini warehouse facilities, to help him find a
  feasible spot in Temple.
- Jones gets Lee Idom, a realtor, to find a spot.
- Idom finds the proposed location, even though it is not zoned appropriately.
- Jones starts the process of getting this location's zoning changed to fit his investor's needs
- Temple is obligated to allow the due process of going through the re-zoning request
- Jones listens to concerns and agrees to put lipstick on the mini warehouses
- •

I understand perfectly that to the investor, the consultant, the realtor and even the engineer involved in this proposal this is simply a business deal. I get that, and I totally understand and respect that. They want us to change our zoning so they can profit from this location. But our community has no obligation to change our zoning just to make this a good business deal for these folks. Is it good for Temple? Is it good for the neighborhood? Is it good for the people that have invested already in this area? Will it be good in the long term for one of our communities most travelled entries? I think not.

Thanks, David Nix



FOSSUM, RICHARD F

2000 RIVER RANCH RD TEMPLE, TX 76504-4239		
Zoning Application Number: Z-FY-17	7-03 <u>Case Manager</u> :	Dessie Redmond
Location: 5785 South 31st Street, Temp	le, Texas	
The proposed rezoning is the area show own property within 200 feet of the required this form to indicate whether you are in on the attached notice, and provide any	uested change, your opinions are n favor of the possible rezoning of	welcomed. Please use of the property described
I () agree	disagree with this req	uest
this neighborhood, I	erest of the commun feel zoning should be K	ept the
- M	Richard	Possery
Signature	Print Name	
If you would like to submit a response, the Case Manager referenced above comment form to the address below, no	, dredmond@templetx.gov, or n	of this completed form to nail or hand-deliver this
	City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501	
Number of Notices Mailed: 25	Date Mailed	: November 23, 2016

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



KIELLA FAMILY LTD PO BOX 1344 TEMPLE, TX 76503-1344

Zoning Application Number: Z-FY-17-03 Case Manager: Dessie Redmond

Location: 5785 South 31st Street, Temple, Texas

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

I ( ) agree	M disagree with this request		
Comments: Do Not want	Mini Warchouses	NS	
is the correct Zami	ny for this parcell	10	
	1 bhatiella		
Signature	Print Name		

if you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <u>dredmond@templetx.gov</u>, or mail or hand-deliver this comment form to the address below, no later than December 6, 2016.

City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Number of Notices Mailed: 25 Date Mailed: November 23, 2016

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



PRINZING, DOROTHY M 5243 S 31ST ST TEMPLE, TX 76502-3514 Dessie Redmond Case Manager: Zoning Application Number: Z-FY-17-03 Location: 5785 South 31st Street, Temple, Texas The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have. (X) disagree with this request ( ) agree not conducive to a residential neighborhood Comments: DOROTHY M PRINZING If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, dredmond@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than December 6, 2016. City of Temple **Planning Department** 2 North Main Street, Suite 102 Temple, Texas 76501 Date Mailed: November 23, 2016 Number of Notices Mailed: 25

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call RECEIVED us at 254,298,5668.

DEC - 1 2016

City of Temple Planning & Development



RICHTER, JESSICA ETVIR RENE 5936 FAWN MEADOWS DR TEMPLE, TX 76502

Location: 5785 South 31st Street, Temple, Texas

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

Gomments:

We have 4 storage Units within a 5 minute drive from this localization there is limited need for another one. This localize is visited 134 through there is limited need for another one. This localize is visited 134 through at people every spring due to the abundance of BlueBoards that Blood them they are the start of the Blood them they are the start of the Blood that they are the start of the

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <u>dredmond@templetx.gov</u>, or mail or hand-deliver this comment form to the address below, no later than **December 6**, 2016.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

Number of Notices Mailed: 25 Date Mailed: November 23, 2016

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254,298,5668.



RAUB, JOSEPH R ETUX SYLVIA SIMOUNET 2122 BIRDCREEK DR TEMPLE, TX 76502-1020

Zoning Application Number:	Z-FY-17-03	Case Manager:	Dessie Redmond
Location: 5785 South 31st Street	et, Temple, Texas		
The proposed rezoning is the a own property within 200 feet o this form to indicate whether yo the attached notice, and provide	f the requested cha ou are in favor of the	ange, your opinions are possible rezoning of	the property described or
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Comments:			
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n. b -	_	Joseph	Roub, Su
Signature		Print Name	14.3
If you would like to submit a n	esponse, please er	nail a scanned version	of this completed form t
the Case Manager reference comment form to the address	ed above, dredmo	nd(a)templetx.gov, or	mail or hand-deliver thi
	City of		
		g Department Main Street, Suite 10	)2
		Texas 76501	<del>-</del>
Number of Notices Mailed: 25	5	Date Mail	ed: November 23, 2016
OPTIONAL: Please feel free	to email questions	or comments directly to	o the Case Manager or ca
us at 254.298.5668.			ECEIVED
			DEC - 2 2016

City of Temple Planning & Development

Dessie Redmond	
From: Sent: To: Subject:	Gary Goins <g6518@icloud.com> Friday, December 02, 2016 9:39 AM Dessie Redmond Zoning</g6518@icloud.com>
to object to the mini stor will increase more crime	n the rezoning by Deerfield estates my name is Gary goins I live at 6008 fawnmeadows dr I like rage units that is propose are crime rate has increase and I think with mini storage units there it because it will make are values of our homes decrease thank you
Sent from my iPhone	



VOGEL, LUTHER N 6511 SPRINGWOOD CT TEMPLE, TX 76502-8765			
Zoning Application Number: Z-FY-	17-03 <u>C</u>	ase Manager:	Dessie Redmond
Location: 5785 South 31st Street, Tem	ple, Texas		
The proposed rezoning is the area sho own property within 200 feet of the re this form to indicate whether you are in the attached notice, and provide any a	quested change, n favor of the pose additional commer	your opinions are sible rezoning of	e welcomed. Please use the property described on
Comments:	82 <b>5</b> 8		
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If you would like to submit a response the Case Manager referenced above comment form to the address below, r	re, <u>dredmond@te</u>	mpletx.gov, or r	
	City of Temple		
	Planning Dep	artment	DEC - 5 2016
	2 North Main Temple, Texa	Street, Suite 102 s 76501	City of Temple Planning & Development
Number of Notices Mailed: 25		Date Maile	d: November 23, 2016
OPTIONAL: Please feel free to email us at 254.298.5668.	questions or com	ments directly to	the Case Manager or call



HEBERT, JAMES E ETUX BEVERLY 5920 FAWN MEADOWS DR TEMPLE, TX 76502-7936

Number of Notices Mailed: 25

Location: 5785 South 31st Street, Temple, Texas

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

Comments:

Regarded this property to non-residential would centrally about the repet of our property of the sufficient o

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <u>dredmond@templetx.gov</u>, or mail or hand-deliver this comment form to the address below, no later than **December 6**, 2016.

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

RECEIVED

DEC - 5 2016

City of Temple Planning & Development

Date Mailed:

November 23, 2016

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



us at 254,298,5668.

#### RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

VOYTKO, JAMES E LIVING TRUST AGREEMENT C/O VOYTKO, JAMES E & MARY R 5932 FAWN MEADOWS DR TEMPLE, TX 76502-7936

Dessie Redmond Zoning Application Number: Z-FY-17-03 Case Manager: Location: 5785 South 31st Street, Temple, Texas The proposed rezoning is the area shown in hatched marking on the attached map. Because you own property within 200 feet of the requested change, your opinions are welcomed. Please use this form to indicate whether you are in favor of the possible rezoning of the property described on the attached notice, and provide any additional comments you may have. M disagree with this request () agree Comments: scenera Temple and buildings along this you te Print Name Signature If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, dredmond@templetx.gov, or mail or hand-deliver this comment form to the address below, no later than December 6, 2016. RECEIVED City of Temple DEC - 5 2016 Planning Department 2 North Main Street, Suite 102 City of Temple Planning & Development Temple, Texas 76501 Date Mailed: November 23, 2016 Number of Notices Mailed: 25 OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call

#### Returned Property Owner Notices - Within 200' Buffer Area - Allis

#### Dessie Redmond

From: Larry Allis <silver\_veteran@yahoo.com> Sent: Friday, December 02, 2016 5:57 PM

To: Dessie Redmond

Subject: Response to Zoning Request Attachments: IMG\_20161202\_0001.pdf

Ms. Dessie Redmond' attached you'll find a scanned copy of my disagreement with the zoning change request that will be discussed at the December 6th meeting. Health reasons will prevent me from attending this meeting in person but I am very much opposed to changing the zoning classification of the property in question. When I moved here form Pennsylvania 11+ years ago I purchased a home in Deerfield Estates. I asked the question prior to purchasing the property what if anything could be built behind my home. The answer was nothing but possibly other homes. (This was according to Stillwater Homes). Now in an area that is purely residential there is a proposal to change the zoning to allow commercial properties to be comingled with residential. This (in my opinion) if approved is not only totally absurd, but it would demonstrate that Temple Texas does not have a professional zoning and development board in place that can properly manage growth. And if that's the case then how does Temple expect to entice professional talent to our city.

Again attached is my form and I hope that the board will disapprove this request.

Respectfully

Larry Allis



ALLIS, LARRY C ETUX MARGUERITE E 5912 FAWN MEADOWS DR TEMPLE, TX 76502-7936

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

() agree

M disagree with this request

VERN AU THE AREA ACTAIN	ent to this property Is RESIDENTAL
NE NO IS THE SURE NOT	espective the nuttes NO SENSE. It will only to the adjacent properties but
TO TEMPLE AS A WHOLE	Commity. How do you Attend people to Temple to want will Eventually be built west to their People
Land C. allis	LARRY C. Allis
Signature	Print Name

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <u>dredmond@templetx.gov</u>, or mail or hand-deliver this comment form to the address below, no later than **December 6, 2016**.

City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Number of Notices Mailed: 25

Date Mailed: November 23, 2016

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.



MARES, DANIEL F SR ETUX NORMA F 5804 TURTLE CREEK TRL TEMPLE, TX 76502-7947	₹		
Zoning Application Number: Z-FY-17-	03 <u>Case Mana</u>	ger:	Dessie Redmond
Location: 5785 South 31st Street, Temple	e, Texas		
The proposed rezoning is the area show own property within 200 feet of the requ this form to indicate whether you are in fa the attached notice, and provide any add	ested change, your opini avor of the possible rezon	ons are ving of the	velcomed. Please use
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If you would like to submit a response, puthe Case Manager referenced above, comment form to the address below, no	elease email a scanned v	<u>v,</u> or ma <b>016.</b>	
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Number of Notices Mailed: 25	Date	Mailed:	November 23, 2016
OPTIONAL: Please feel free to email quus at 254.298.5668.	estions or comments dire	ctly to the	e Case <mark>Manager or cal</mark>



MYERS, JOHN D ETUX SHANNON L 5803 TURTLE CREEK TRL TEMPLE, TX 76502-7940		
Zoning Application Number: Z-FY-1	7-03 <u>Case Manager</u> :	Dessie Redmond
Location: 5785 South 31st Street, Temp	ple, Texas	
The proposed rezoning is the area sho own property within 200 feet of the re- this form to indicate whether you are in the attached notice, and provide any a	quested change, your opinions are n favor of the possible rezoning of the	welcomed. Please use ne property described on
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Street is becoming a very nice for 15 years. I have been pleased for schedul refuil it has has polen highly visible area of 31 th street.  Signature  f you would like to submit a response the Case Manager referenced above	Community of Neighbors. As a cuith the development. If all out that to destroy the neighborhood, we would like to keep the neighborhood.  Print Name  please email a scanned version of the destroy of the neighborhood.  City of Temple Planning Department	resident in this area wed to rezune the area wed to rezune the area wed to resident in the area weeklick on a however this area completed form to rail or hand-deliver this RECEIVED
Street is becoming a very nice for 15 years, I have been pleased	Commulty of Neighbors. As a cuit the development. If allow that to destroy the neighborhood, we would like to keep the neighborhood.  Print Name  please email a scanned version of the destroy demand@templetx.gov, or mo later than December 6, 2016.  City of Temple Planning Department 2 North Main Street, Suite 102	desident in this area and the rezunc the area and the rezunc the area and the sheet is an a therefore the completed form to rail or hand-deliver this area and the completed form to rail or hand-deliver this area and the completed form to rail or hand-deliver this area and the complete form to rail or hand-deliver this area and the complete form to rail or hand-deliver this area and the complete form to rail or hand-deliver this area area.

## J&B HOLDINGS, LTD

November 30, 2016

Ms. Dessie Redmond City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Re: Zoning Application Number Z-FY-17-03

Ms. Redmond:

J&B Holdings, LTD ("J&B Holdings"), disagrees and objects to the above referenced General Retail ("GR") zoning application.

The applicant's property is directly across 31<sup>st</sup> Street from our NS zoned and nearby SF1 residential zoned properties (see attached photographic depiction).

When our property was developed as *Bentwood Addition*, the Developer requested GR zoning for 31<sup>st</sup> Street frontage, however the City opposed GR due to the "residential nature of the area". Zoning was finally approved Neighborhood Services ("PD-NS"), with "convenience stores with gasoline sales" prohibited (see attached Ordinance 2001-2790 and staff briefing paper). Such facilities are permitted in GR and Commercial ("C") zones.

Summarizing, J&B Holdings opposes and strongly urges denial of this application for GR zoning (and if amended to C). GR and C zoning is inconsistent with surrounding NS and Residential zoning (and uses). It also conflicts with Temple's Comprehensive Plan.

A self-storage facility in this location would be undesirable, would not "fit in" with existing development, and would substantially devalue neighboring properties.

Respectfully,

J&B Properties. LTD

Digitally signed by James I. Howe DN: cn=James I. Howe, o, ou, email=jim.howe@belfairdev.com, c=US Date: 2016.12.01 12:42:54 -06'00'

James I. Howe, President

Encl: Area Photographic Maps







### RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

HEAD SUSAN GAIL

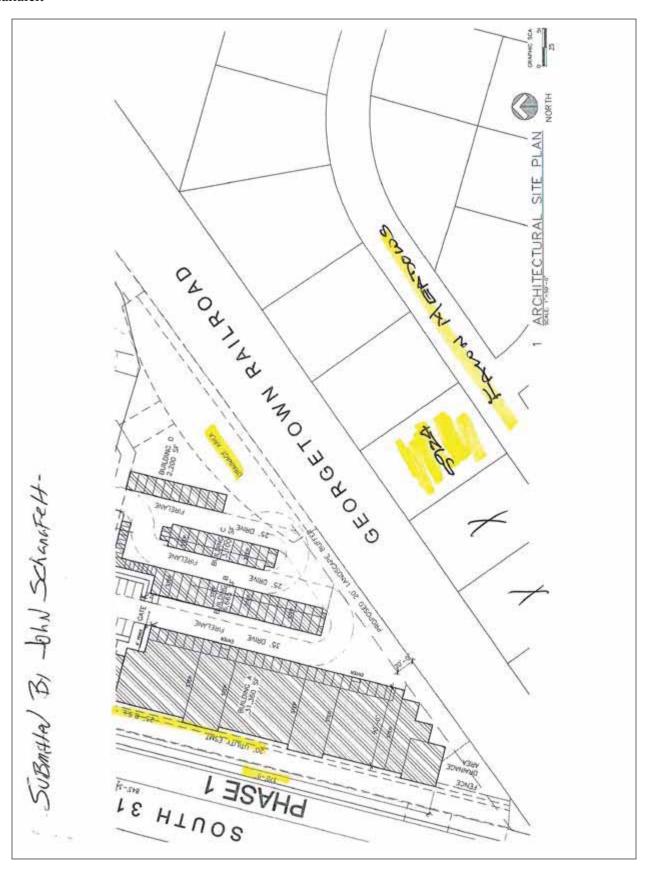
Zoning Application Number: Z-FY-17-03	Case Manager:	Dessie Redmond
Location: 5785 South 31st Street, Temple, Texas	K	
The proposed rezoning is the area shown in hat own property within 200 feet of the requested c this form to indicate whether you are in favor of t the attached notice, and provide any additional or	hange, your opinions are he <u>possible</u> rezoning of	e welcomed. Please use the property described or
I () agree	disagree with this red	quest
Comments: This is not the hest use Whave houses will bring high Chain link feneing fad a core about Temple. Falso	for His proper to the first for his	ght the does
Sugner rate of crime.	SUSAN 6	Head.
Signature	Print Name	

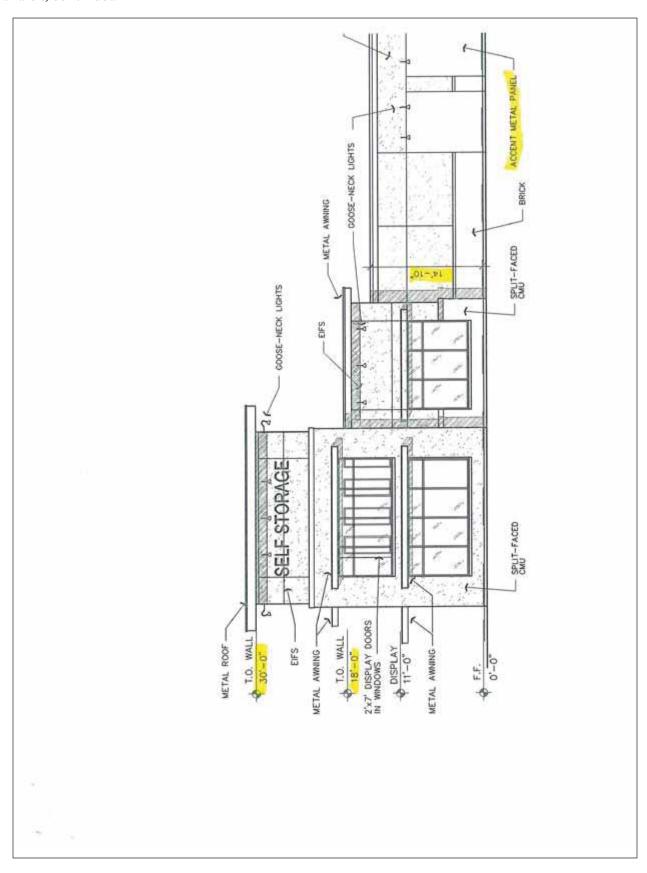
City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

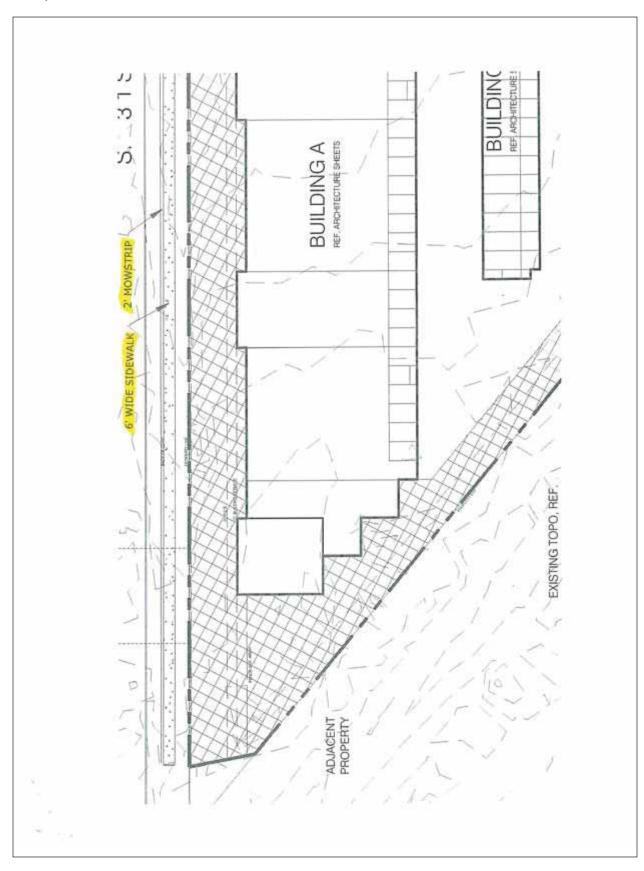
Number of Notices Mailed: 25

November 23, 2016 Date Mailed:

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call us at 254,298,5668.







Response to Proposed Rezoning Request Zoning Application Number: Z-FY-17-03 Property Location: 5785 South 31st Street, Temple TX We strongly appose the rezoning of the 7.35+ acres located at 5785 S 31st Street. In 1997 the City Council had a land use study done to help them make decisions on requests by landowners for rezoning on the South 31st Street corridor. The land use plan presented and adapted at that time was for Residential and Office II. All development on South 31st street since 1997 has held to the approved land use plan. If the city council approves this request, then the "spot zoning" is starting all over again and the approved land use plan is ignored. No other storage facilities in Temple are located in the middle of a primarily residential area. As homeowners we do not want to share our backyard with a storage facility. Thank You, Gary and Gayle Bergstrom 5627 South 31st Street

## BENTWOOD PROFESSIONAL PROPERTY OWNERS ASSOCIATION

#### 2566 Blue Meadow Drive

Temple, TX 76502

#### 12-01-2016

On behalf of the Bentwood Professional Property Owners Association, I would like to express my disagreement with the proposed rezoning request number Z-FY-17-03.

The Bentwood Professional Property Owners Association is comprised of six offices located directly across the street from the proposed rezoning site. The office park, and the individual offices, were developed with great insight from the City of Temple, its P&Z board, and community input. As a result, you have a model office park this community can be proud of.

South  $31^{st}$  street, from FM 93, is a gateway into our community. The City as well as developers has been very conscious of the development of this gateway. The proposed zoning change, in our opinion, would deter from the gateway both now and in the future.

We would greatly appreciate the P&Z Commission declining this request for rezoning.

Respectfully Submitted,

Marty Kent President

Bentwood Professional Property Owners Association

SuBrited BI TEX BURGUS -

Deerfield Estates Petition to Temple Planning and Zoning Commission

December 5, 2016

Planning and Zoning Commission City of Temple Suite 206 Municipal Building 2 North Main Street Temple, Texas 76501

Re: Case # Z-FY-17-03

Dear Commission Members,

As a representative of the residents of Deerfield Estates I respectfully oppose the rezoning of the 7.69 acres adjacent to and north of Deerfield Estates. Working on short notice I have not had time to petition all the residents of Deerfield, but we will present the City Council our petition when they meet on January 5, 2017.

The City of Temple in their master planning approved the current zoning, Neighborhood Services, to control the undesirable effects of no zoning and/or the less restrictive zoning of General Retail. Our neighborhood as well as other neighborhoods will be adversely affected by rezoning this land to General Retail.

The City Council recently voted not to change the zoning for three acres of land to the south of Deerfield Estates from Neighborhood Services to General Retail for the same reasons we are opposed to changing the zoning on this land.

Reasons we oppose rezoning this land include but are not necessarily limited to:

- General Retail is not appropriate for this area. The current zoning is appropriate.
- The residential neighborhood quality of the surrounding neighborhoods should be maintained.
- This portion of S. 31<sup>St</sup>. is busy now and has a speed limit of 50 MPH. Adding additional traffic will increase the risk of accidents.
- · A Mini Storage operation will be lighted all night thus contributing to Light pollution.

Please contact me should you have any questions.

Tex Burrous

Respectfully submitted,

Tex Burrows Board of Governors Deerfield Estates SUBHITE BY TEX BURDYS - CITIZEN-

Creeks at Deerfield/Temple Planning and Zoning Commission

December 5, 2016

Planning and Zoning Commission City of Temple Suite 206 Municipal Building 2 North Main Street Temple, Texas 76501

Re: Case # Z-FY-17-03

Dear Commission Members:

We, the undersigned residents of the Creeks at Deerfield, respectfully oppose the rezoning proposed pursuant to case #Z-FY-17-03. Other residents likely oppose the rezoning, but on short notice we have not been able to obtain everyone's signatures.

Our understanding is that the proposed rezoning would allow the construction of a mini-storage facility. We believe this would be inappropriate for at least the following reasons.

First, the vast majority of the surrounding properties are residential. The surrounding properties include Timber Ridge, the Slough Road, Bentwood, Deerfield, the Creeks at Deerfield and D'Antoni's Crossing. The residential character of the area should be maintained.

Second, Thirty-First Street is already quite busy with a speed limit of 50 m.p.h. Traffic entering and exiting a mini-storage facility would often be slowly moving and heavily laden, increasing the probability of accidents.

Third, a mini-storage facility would be lighted 24 hours a day. The lights would disturb our neighbors in Deerfield whose properties back up to the subject property.

Please feel free to contact us if we can be of further assistance and thank you for your efforts in making sure our city is properly zoned.

Sincerely,

### Creeks at Deerfield/Temple Planning and Zoning Commission

SIGNATURE PRINTED NAME	ADDRESS	PHONE NUMBER
Mildred Droeme	2 1915 Despeld Dr.	541-9910
Janet Lockwood	1912 DEERFIELD	774-8489
Dayed Lockwo	00 " "	q
Leve HOACH	1812 DESIGNAD	721-6222
man Jan Road	10. 0	0 721-0017
TED EDENS	2002 MONTSCOT	ial 2548991525
Donna Edor	ue 2002 Montscatia	Ln. 899-1525
Gerold Wagn	n 2008 Mexscotia hu	142-2486
Shayon Wago	nu 2008 Montocotial	ane 742-2486
CLTW	2012 MONTSCOTTA	713:
Cuti Miles	2022 Friers Grove Dr.	254-718-4751
John Fost	S 2017 MONTSCORA	CN 251-291-4497
San foote	2 247 MONTE OFAL	N 251-291-4497
FRO	2008 CHAMBREAN L	and the second of the second o
Ged Josephyn	203 Champolain L	_ 760-3713
Matha Time	1 1920 Deerfield Dr	773 456 9051
Rondall- Man	L 1923 Deerfin	541-8724
Pamela Mathen	1923 Deerfield	(259ko 24 5177

SIGNATURE PRINTED NAME	ADDRESS	PHONE NUMBER
DIANN PAWELEK Deam Pawels	1928 Doorfield Tample Tx	254/778.0076
1994	Will Shadow Creeker Sand	17
MARK CONSTANCE	GITL SHADOW CREEK OU	254-913-8327
John G. Schucken	2028 Deerfield Dr Temple, TX	254-779-9157
Synda Schuch mann Linda Schuch mann		054-774-9157
Caralen Rosa	6107 Woodel Creek Cove	254-598-2193
Halan Haister	6111 Wooded had love to	pl 254 7739646
Melodie Webster	6115 Wooded Creek Cu	Miles and the second of the se
MENUISTER ALLEN WETSSTER	6115 WOODED ENEEKED	254-4167545
LEONAR KLANRUD	6209 Wooded Creek Cove	
anna Martin	6212 Headel Crah	25U-778-1955
Kurt Schwarz	6114 Wooded Creek	(34)7-246660.
Havia Tapata	6114 Wooded Cheek Cu	(347) 210·0847
Vanessa Yawa	4110 Wooded Creek CV.	44-384-9612
Natali Hode	6014 Wooded Woodeling	ex 978-250-1014
John Huder	Levit Wooded creeke	512-419-2401
Delia Brockway	6010 Woodal CR	CN 974778-0808
aues 4 Erelasa	6010 Wooded here Cu	
Madhasa Berran	6007 Unaled Cons	254-899-2047

## Public Comment - Outside of the 200' Buffer Area - Schuchmann

#### **Dessie Redmond**

From: John Schuchmann < jschuchmann@msn.com>
Sent: Wednesday, February 01, 2017 8:29 PM

To: Dessie Redmond

**Subject:** Information for P&Z Meeting on Feb 6th concerning Z-FY-17-03

Dear Ms. Redmond.

Thank you for the helpful information concerning the rezoning of the above property on 31st Street. I have shared this with a good number of residents in our direct neighborhood and all are quite enthusiastic about the possibility of developing a walk/jog/bike trail on the abandoned rail line from 31st St to 5th St. while also developing a playground for children on the 31st Street property while preserving as many wildflowers as possible on this site.

At this time, we recommend not changing the zoning but recommend that the City of Temple fully evaluate our proposal and strongly consider implementing it to help enhance the fitness and well being of our adults and children.

Thanks.

John A. Schuchmann, M.D.

# PROPOSAL TO CONSIDER ALTERNATE USE OF LAND ON 31st STREET IN TEMPLE: AN OPPORTUNITY TAKEN OR FOREVER MISSED Land in Question Z-FY17-03 - 7+ acres

#### **CURRENT SITUATION AND RECOMMENDATION:**

- 1. The above plot of land is located on the **east side of 31**st **Street just north of the abandoned Temple-Belton Railroad line.** A request has been made to change zoning of this piece of land to allow commercial development.
- 2. It is recommended that the zoning <u>not</u> be changed on this land, as this land, if developed properly, has the potential to become a major asset to the City of Temple, its residents as well as others from surrounding areas.

#### **FACTS ABOUT TEMPLE:**

- 1. Many people enter and leave Temple via Highway 93, then turning onto south 31st Street. They pass the land to get to their destinations.
- 2. They come to work, to shop, to frequent our restaurants and other businesses
- 3. They come for their or their family medical and hospital needs
- 4. 31st Street for many is the **Gateway to Temple**
- 5. Many new housing developments are being built in south Temple along south 31st Street, Hartrick Bluff, 5th Street and along Highway 93.

#### FACTS ABOUT THE LAND UNDER CONSIDERATION:

The above piece of property has a number of **unique features**:

1

## Public Comment - Outside of the 200' Buffer Area - Schuchmann, continued

- 1. This land is the site of **spectacular displays of wildflowers** in the spring. Many people come for family pictures, pictures of the kids or the family pets, wedding pictures and even just to enjoy the flowers.
- 2. This land also has a **unique and very valuable location** adjacent to the abandoned Belton-Temple Railroad Line.
- 3. This piece of land could be used in **several very beneficial ways** to enhance our city for children and adults alike (as described below).

#### **FACTS ABOUT THE HEALTH OF TEXANS:**

Not all Texans are the picture of health as noted by the following statistics:

- 1. The incidence of Obesity is rising in our state. In 1990, 10.7% of Texan were obese. In 2000- 21.7%. In 2016- 32.4%
- 2. 11.4% (1.962 million Texans) suffer from Diabetes
- 3. 29.5% (4.3 million Texans) have Hypertension
- 4. 1,261,654 of Texans have some form of Heart Disease
- 5. 4,426,828 Texans have some type of Arthritis
- 6. It is estimated that 328,379 (20%) of **Cancers are obesity-related**. (These cancers include- breast in post-menopausal females, endometrial, colon, rectal, kidney, prostate, possibly pancreatic.)

#### **HEALTH ENHANCEMENT:**

A number of measures can be recommended to enhance the health of our residents- proper diet, appropriate use of medications, avoidance of drugs, tobacco and excess alcohol but one of the most important measures of all is **obtaining regular exercise** for children as well as adults of all ages.

#### WHAT CAN WE DO TO ENHANCE THE HEALTH OF OUR RESIDENTS?

- 1. Currently, Temple and Belton have a number of walk/jog/bike trails such as the Pepper Creek Trail in west Temple and Confederate Park in Belton. People living in these areas frequently use these trails as safe ways to regularly exercise to enhance their health and well-being.
- 2. **South Temple** is now steadily growing with much more growth planned for the future. South Temple suffers from a **lack of appropriate sidewalks and trails (as well as park space for our children).** It is difficult and often hazardous for our residents and especially our children to get outdoors for adequate amounts of regular exercise and activity.
- 3. The abandoned Belton-Temple Railroad line provides an excellent location for developing a multi-use walk/jog/bike trail. The rail line is not in suitable condition for trains and would require major redevelopment to allow railroad use again. The railroad bed is relatively flat and could be developed into a very attractive and useful rail to trail. The railroad from 31st Street east to 5th Street passes quite close to many areas that are now and will in the future be used for residential development. The abandoned railroad line is quite scenic and will allow a safe trail for exercise and activity for children as well as adults. At this time, it is recommended that a multi-use (walk/jog/bike) rail-to-trail be developed between 31st Street and 5th Street.
- 4. A **trailhead with parking for 10-20 cars** should be developed on the **31**<sup>st</sup> **Street site** (along with **bathroom facilities** and source of drinking water.) A **playground for children** should be developed at this site. Consideration should be given to enlisting a civic organization in the planning and development of this parkland.
- 5. Another smaller trailhead with several spaces for parking should be developed where the trail crosses **Hartrick Bluff** so that residents in that area can easily access the trail. A sidewalk should be considered from the new developments on Hartrick Bluff to the trailhead to facilitate trail access.
- 6. The trail should also have a trailhead with bathroom and water availability at the **Lion's Junction Park area** a site where ample parking already exists.

7. Additional sidewalks should be completed along 31st Street to allow residents a safe pathway to walk or ride bikes to the trail. A suitable sidewalk now exists adjacent to the D'Antonio's Crossing subdivision but unfortunately this does not connect to any other sidewalks or to the proposed trail.

#### WHY THIS PROPERTY ON 31st STREET?

Having the major trailhead, parking and a playground for children on the 31st Street property will have many benefits for our city as well as our residents and especially our children:

- 1. Such a facility will place a **playground** and **developed trail** in a busy and growing part of our city. Obtaining safe exercise and outdoor activity will be much easier for residents in the new neighborhoods developing in south Temple.
- 2. The location of the major trailhead on the 31st Street site will allow exposure to many residents, neighbors and visitors to Temple and will convey that we care about the health and well-being of our residents.
- 3. The trailhead and playground on 31st Street will not need all of the space on the 31st Street location. It is recommended that other portions of the site be developed as a **Gateway to Temple** with a "**Welcome to Temple**" emphasis as well as maintaining as much of the **spring wildflower display** as possible. The wildflower display should continue to draw people and should also provide a **positive impression** as they enter Temple. Many should be intrigued with the facility and choose to visit it frequently.
- 4. **Why not elsewhere?** This site is a perfect location with the abandoned railroad being a great site for a multiuse trail, the land's history as a location of abundant wildflowers, and the location where this could be developed into a beautiful and functional "Gateway to Temple."
- 5. It would be a shame to miss such an opportunity to enhance our community and its well being.

#### 2/1/2017

Developed in the interest of a healthier Temple,

John Schuchmann, M.D.
Retired Scott and White Physical Medicine and Rehabilitation Physician 2028 Deerfield Drive
Temple, TX 76502
Home phone – 774-9157
e-mail-jschuchmann@msn.com

## Applicant's Repsone to Property Owner Comments Outside the 200' Buffer Area

#### **Dessie Redmond**

From: Donald Jones <djones@donaldjonesconsulting.com>

Sent: Thursday, February 02, 2017 9:02 AM

To: jschuchmann@msn.com
Subject: 31st street Development

Dessie with the City Staff sent me the letter that would be delivered to P&Z for Monday's meeting.

I appreciate your comments and what the residents and you desire. I assure you I have listened and understand.

What is not written in your letter is the following:

- 1) Who is going to pay for the 7 acres? The seller wants to sell now. He doesn't want to wait for a referendum to sell.
- 2) Is this a proposal encouraging the city of Temple to pay for the land, pay for the park, pay for upgrades and improvements and maintenance in addition to the hike and bike trail that is a desire by the city but not even planned

or budgeted?

I have seen this hundreds of times where residents want to dictate what happens with development, but the reality

is - the seller has the right to sell and the developer has a right to develop. We have bent over backwards to do everything possible for the residents.

I would offer up one thing on behalf to the residents and the HOA. If your group wanted to reimburse my developer

for all of his expenses and then close on the land, we could consider walking away and looking for another site. Then

the HOA could donate the 7 acres to the city and that might encourage them to build the park you want

Beyond this, I will attend the meeting on Monday evening and will continue to move our agenda forward.

Feel free to call me if you would like to chat.

Regards,

#### **Donald Jones**

Cell - 817-456-4658

www.DonaldJonesConsulting.com



Outward-Facing Building Facades Graphic related to Condition # 6 which states, "All exterior Outward-facing building facades (as shown in attachment: Outward-Facing Building Facades Graphic) related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units (CMUs), brick and accent metal panels as shown in the Elevations submittal;"

The yellow highlighted facades are "outward-facing building facades."

#### **EXCERPTS FROM THE**

# PLANNING & ZONING COMMISSION MEETING MONDAY, FEBRUARY 6, 2017

#### **ACTION ITEMS**

Item 2: Z-FY-17-03 - Hold a public hearing to discuss and recommend action on a rezoning from Neighborhood Services (NS) to Planned Development-General Retail (PD-GR) and site/development plan on 7.35 +/- acres, 1-lot, 1-block non-residential subdivision, proposed for a mini-storage facility, located at 5785 South 31st Street, Temple, Texas.

Ms. Dessie Redmond, Planner, showed the location of the subject property and indicated this item is scheduled to go forward to City Council for first reading on March 2, 2017 and second reading on March 16, 2017.

The applicant and property owner is Mr. Wes Jackson, RVOS Farm Mutual Insurance, and Mr. Trey Pike. The subject property is currently vacant and undeveloped and located in the RVOS Subdivision. There are existing drainage easements and the property abuts the Georgetown Railroad. The applicant is requesting a rezoning from Neighborhood Services (NS) to Planned Development General Retail (PD-GR); however, Staff is recommending NS to PD-NS.

At the December 6, 2016 P&Z Commission meeting several topics were covered, including but not limited to:

- Site characteristics, existing easements, constraints to property
- Tree preservation
- Lighting (condition 15 added)
- Several property owners spoke in opposition to the proposal
- P&Z Commission made a motion to continue to February 6, 2017 and directed Staff to facilitate a meeting with the property owners

At the January 18, 2017 Public Meeting held in City Council Chambers at City Hall:

- Staff hosted and facilitated a meeting between applicant and property owners
- 12 people signed attendance sheet
- Applicant presented revised plans and provided a preliminary drainage study

On February 2, 2017 based on comments received at the public meeting:

- Applicant submitted additional revised documents
- Submitted a Rendering

Revised drawings, site plan, elevations (mainly building height), and landscaping plans are shown and compared with December 6, 2016 renderings. The applicant is proposing approximately 39 percent of landscaping for the entire site which exceeds the City's required five percent.

The request is in compliance with the Future Land Use and Character Map, the Thoroughfare Plan, Temple Trails Master Plan and Sidewalk Ordinance, Unified Development Code (UDC) Section 3.4.5 - Planned Development Criteria, and is consistent with the City's infrastructure and public service capacities.

Multiple permitted uses in the NS zoning district are cited.

Twenty-five notices were mailed in accordance with all state and local regulations with two notices returned in agreement and 17 notices returned in disagreement.

With the amount of responses in disagreement, UDC Section 3.3.4 – Protest, indicates:

Twenty percent of the area within the buffer accounts for property owners in disagreement of the rezoning request:

- Requires a three-fourths vote by City Council in order to be approved
- Total area: 665,472 square feet
- Opposition area: 319,000 square feet
- With this request there is a 47.9 percent opposition which triggers a protest

Staff recommends approval for a rezoning from NS to PD-NS with the allowed use of a mini-storage warehouse including the following conditions:

- 1. Substantial compliance with the Development/Site Plan;
- 2. Substantial compliance with the Landscape Plans and Elevations;
- 3. That the remaining 2.16 +/- acres will require a separate Development/Site Plan review by the Planning & Zoning Commission with approval by City Council prior to any future development;
- 4. Each individual storage unit is limited to a maximum of 2,000 cubic feet;
- 5. A six-foot wide sidewalk is required to be built along South 31st Street prior to the opening of business;
- 6. Outward-facing building façades (as shown in the Outward-Facing Building Façades Graphic) related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units (CMUs), brick and accent metal panels as shown in the Elevations submittal;
- 7. Preservation of most trees within the subject property (perimeter and interior), based on variety and maturity, must be considered;
- 8. A continuous 10- to 15-foot wide landscape buffer is required between residential and nonresidential uses. The buffer must be installed prior to any nonresidential development and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 9. A continuous 20-foot wide landscape buffer is required along the Georgetown Railroad (combination of new and existing trees). This buffer must be installed prior to the completion of Phase II and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 10. All landscaping required by the UDC shall meet or exceed UDC, Section 7.4 -Landscaping;
- 11. Any fencing along South 31st Street shall be decorative metal;
- 12. This PD runs with the land and is not affected by the transfer of property owners;
- 13. The maximum building wall height allowed is 21-feet (top of wall and per submittal elevations);
- 14. The applicant shall comply with all Texas Department of Transportation (TxDOT) requirements; and
- 15. All lighting associated with the proposal shall be shielded to prevent light trespass.

Commissioner Crisp asked about drainage. Mr. Richard Wilson, Deputy City Engineer, responded one of the issues addressed in the submitted report was pre- and post-discharge rates by having detention. What was not addressed is conveyance off-site and increased volumes of water that will be conveyed off-site. Mr. Wilson will

be looking to the applicant to address this issue. Currently, the water builds up because the railroad is a dam, along with an access road that is built and the water spills over into the back yards. Mr. Wilson added that this will still be the case--the water will still discharge over the railroad track faster than they can get it out of the backyards.

An alternate conveyance methodology will be required. Mr. Wilson has not seen anything to date.

Chair Rhoads opened the public hearing and asked the applicant to come up first.

Mr. Donald Jones, 4216 Little Bend Court, Keller, Texas, stated development takes a long time and his company is not anywhere close to being finished. Additionally, due to the December 6, 2016 P&Z meeting and the public meeting held with property owners on January 15, 2017, Mr. Jones feels he has addressed all comments made regarding this project.

Mr. Jones stated they cannot fix everything being asked for but can certainly make efforts, which he believes has been done.

Mr. Jones went into some history of the subject property which has been for sale for many years, which consists of a triangular-shaped 7.3 +/- acres making it very difficult to develop. The developer is willing to purchase the entire acreage and utilize and design the property in the best manner available, which he believes this proposed project would do.

Mr. Jones stated on March 2, 2011, the Georgetown Railroad sold the spur easement, a 100-foot wide strip, to the City for \$10.00 (Ten Dollars). This railroad easement lies between the houses located there and the subject property (50-feet on the residential side and 50-feet on the subject property side).

When Mr. Jones physically walked this strip of land, he stated there were 30-foot tall trees and so much vegetation on both sides he could not see through it on either side. Photos shown of the strip of land. One of the concerns expressed by residents was that everyone would be able to see the proposed project. Mr. Jones disagreed due to the existing vegetation.

Mr. Jones explained there were 11 homes that abut the railroad track and would be affected; however, he added these 11 homes would not be able to see the proposed project due to the existing greenery and growth. The buffer would be equivalent to 50-feet, plus the railroad track, plus an additional 50-feet. Mr. Jones has no control over this vegetation since it is not part of the proposed project.

The back portion of the proposed project which abuts the railroad was initially going to be landscaped by the developer. However, due to the existing vegetation, there is no reason to spend money cleaning it up and planting additional trees and shrubs no one will ever see. Mr. Jones made a new proposal that they would cut what they needed to cut in order to comply and build the required buildings. The balance of the remaining vegetation would be left as is.

Mr. Jones assured that the drainage issue on the subject property would be monitored and maintained. In order to do this, the buildings in Phase I were adjusted and also some removed in order to allow more land/space for drainage.

Additional architectural features (parapets, wall, façade, etc.) have also been added that were not in the original plans.

Mr. Jones explained in asking for this proposed PD, the applicant/developer will be held to and accountable for the submitted plans.

The signage will be a monument sign in the front.

On Phase I there were 3 or 4 smaller buildings that have now been redesigned as one building in order to effect better lighting and the quantity of caps needed.

Site plans shown for comparison.

Mr. Jones discussed drainage and mentioned the water damming up in a certain location. Apparently there is a 0.1 +/- acre tract of land belonging to Mr. C.E. Dever *(phonetic spelling)* on the east side of the railroad track, not located on the subject property, where water is damming up.

Mr. Jones explained they would take the water to the northeast corner and triple feed it back to the same point and also clear out some of the vegetation to help facilitate the water come out.

Mr. Jones suggested since there was a big concern about the drainage, perhaps the HOA should pay for a study on the back side and mirror what the developer will be doing. Mr. Jones has instructed his engineer to overengineer the drainage to make sure it works.

Mr. Jones offered to take the money that would have gone for landscaping on the back side of the railroad, and if and when the City comes in and builds a park or walking trail in the area, they can escrow at the front or escrow at the back \$10,000 for landscaping of that project or whatever project the City would rather put the funds toward.

In regards to the bluebonnets, Mr. Jones offered to have their fire lane marked with allocated parallel parking on the north side so people can get stay off the street and park in the appropriate areas. Since the developer is required to build a six-foot sidewalk along the entire length of the project, that amenity would be available for everyone to use and photograph/enjoy the bluebonnets.

Mr. Jones also offered to make sure the entire two acres would be barricaded and blocked off to make sure no contractor touches that portion of the property during the entire construction period. This would be made part of the proposed plan in order to protect that section for the time being. Mr. Jones reminded everyone that; however, at some point in the future, someone will come along and develop that property.

Mr. Jones added that a lot of growth for single family residential is occurring in this area and storage space will be needed. NS best describes this service and project and there is no storage in new residential homes.

Chair Rhoads thanked the applicant and stated his appreciation for the follow-through, effort, and transparency on his part.

Chair Rhoads repeated the super majority rule for when this item goes forward to City Council whether the request is approved or not.

Ms. Rebecca Burrow, 9914 South Whitehall Road, Temple, Texas, stated this project would be more economically infeasible than believed.

Ms. Burrow stated Temple is the wildflower city of Texas and if this project goes forward there will be no green space in the area. Ms. Burrow stated the less green space per family household, the more depressive that area is. Because of this reason Ms. Burrow believes medically, this is not a good idea.

Ms. Burrow, as an Ecologist, commented three-quarters of the native land would be cut off. The tree coverage is soaking up most of the water and currently, without that, there is still a huge drainage problem. Adding 50 percent impervious cover will not help no matter how deep or what is done. There are already problems and it will be exacerbated after this with 50 percent impervious cover.

Ms. Burrow proposed leaving the property as is, do some small modifications to add in native plantings that will fix the drainage problems, or develop a low maintenance park with native plants. She would rather the 7 +/- acres be used as an enhanced service to the citizens that have nothing else in the area.

Ms. Burrow wants to encourage the City, as the wildflower city of Texas, to do something to earn that designation.

Mr. Tex Burrows, 6205 Turtle Creek, Temple, Texas, stated NS zoning specifically prohibits storage facilities.

Mr. Burrows stated a petition drive is being conducted in Deerfield Estates to prevent this project was proceeding and approximately 75 percent of the residents are against this proposal.

Mr. Burrows requested that the NS zoning stay as is.

In regards to drainage, Mr. Burrows commented that the applicant/developer would do the right thing on the property to the best that they can within the laws and regulations required, but that is not enough. Once the water leaves the property, it becomes the City's problem. Mr. Burrows recommended before development begins, the City have a plan in place to deal with the runoff water because it will go into the back yards, down Turtle Creek and become worse.

Mr. Burrows felt that accent metal panels do not fit with the décor of the neighborhood and even with the updated plans, Mr. Burrows does not feel this is an appropriate fit for the area.

Mr. John Schuchmann, 2028 Deerfield Drive, Temple, Texas, stated he was a retired physical medicine and rehabilitation physician from Scott and White and health is his main issue on this matter.

Mr. Schuchmann felt this property should be used to enhance the health and well-being of the citizens of Temple. There have been discussions for a number of years of putting a hike and bike trail along the Georgetown Railroad which goes from 31<sup>st</sup> Street to 5<sup>th</sup> Street. It would be an ideal outdoor space/trail/hike/bike area for the existing and future residents due to the growth of the area. Obtaining regular exercise is a tremendous benefit for maintaining and improving health.

Mr. Schuchmann stated there were a number of nice parks in Temple and Belton but those are not close enough to this area. His proposal was to develop this area into a Rail Trail with parking and amenities for the community and turn down the proposed project and rezoning request.

Mr. Brian Chandler, Director of Planning, stated he sits on the Bicycle Pedestrian Advisory Committee for the Killeen Temple Metropolitan Planning Organization (KTMPO). The Committee is continuing to look at this potential trail but it is not as simple as it may seem in terms of ownership and whether the railroad easement legally allows for a potential trail.

Mr. Chandler reassured the P&Z Commission and citizens that the Committee is looking at it and has submitted a future grant application through KTMPO to eventually have a trail that extends from South Temple Park, Lions Junction, and hopefully down to the Leon River.

Mr. David Nix, 2526 Blue Meadow Drive, Temple, Texas, stated there are six very nice office buildings in the complex and they are proud of what has been done. Mr. Nix requested that the property be left zoned as is since it better serves the community and long term purpose.

Mr. Larry Allis, 5912 Fawn Meadow Drive, Temple, Texas, stated he agreed it was not the right location for this project. The biggest concern is the drainage issue and agrees with Ms. Burrow's comments. In addition to the previously mentioned drainage issues, he feels it will also create a mosquito breeding ground which endangers the communities and will attract wildlife as a water source. Mr. Alice would like to know where the water will go after it leaves the property since the drainage is located right behind the houses.

Mr. Allis agrees this is not the right area for this project.

Ms. Pam Matthews, 1920 Deerfield Drive, Temple, Texas, echoed she was concerned about the drainage problems. Ms. Matthews does not currently experience drainage problems but she lives on the creek and stated a 100 year flood plain goes past the area. Ms. Matthews feels this project would contribute to future problems.

Ms. Matthews also agrees with Ms. Burrow's comments and would rather keep this as a green space.

Mr. Tim Pastor, 5904 Fawn Meadow Drive, Temple, Texas, stated he has witnessed drainage running down Fawn Meadow and Turtle Creek several times. Mr. Pastor discussed this issue with a City engineer and stated he was told there was another detention pond further up along the Georgetown Railroad that was not working correctly which compounds the problem.

Mr. Pastor purchased his property knowing the problems already existed; however, he does not feel this is a good development for the neighborhood and will be an eyesore.

Chair Rhoads clarified that the buildings for the proposed project were pushed further back than typical storage facilities.

Dr. Meera Beharry, 2313 Windsong Lane, Temple, Texas, stated she agreed the property should be kept as NS. Dr. Beharry's major concerns are the issues already discussed and safety issues for people who choose to use it, especially if a hike and bike trail were to eventually come to the area.

Dr. Beharry would not want to live in a neighborhood that seems more industrial and commercial which is why she chose this area.

Mr. Josh Valenta, Civil Engineer, 211 Woodland Blvd., Woodland, Texas, wanted to reiterate some of the points Mr. Jones touched on previously. The City has an extensive ordinance on drainage and a lot of time, effort and thought have been put into this project to protect the area. Mr. Jones instructed Mr. Valenta to go above and beyond what was required.

Mr. Valenta stated detention is based on rate, not volume, and the detention ponds take the large flow of water and make it lower—trickle channel effect. The proposed detention ponds will fill up and drain within 35 minutes to an hour. If the detention ponds are designed and built correctly, which his company does, there will be no mosquito or wildlife problems.

Mr. Valenta commented that the appearance of this storage facility is unlike any other; it is much nicer. With the current zoning in place the area would get much less since it is allowed.

Mr. Donald Jones returned and stated the area they want to develop is higher than the railroad track and the homes are lower. Brief discussion about where the water flows.

Chair Rhoads closed the public hearing.

Commissioner Jones thanked the audience for coming to the meeting tonight and explained that no matter what the vote is, this matter will continue on to City Council.

Commissioner Crisp made a motion to approve Item 2, **Z-FY-17-03**, per Staff recommendation as PD-NS, and Commissioner Langley made a second.

Motion failed: (2:6)

Commissioners Crisp and Langley voted Aye; Commissioners Alaniz, Armstrong, Jones, Marshall, Vice-Chair Fettig, and Chair Rhoads voted Nay; Commissioner Ward absent

#### ORDINANCE NO. <u>2017-4833</u> (Z-FY-17-03)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AUTHORIZING A REZONING FROM NEIGHBORHOOD SERVICES ZONING DISTRICT TO PLANNED DEVELOPMENT-NEIGHBORHOOD SERVICES ZONING DISTRICT ON APPROXIMATELY 7.35 ACRES, 1 LOT, 1 BLOCK NON-RESIDENTIAL SUBDIVISION, PROPOSED FOR A MINISTORAGE FACILITY, SITUATED IN THE REDDING ROBERTS SURVEY, ABSTRACT NO. 692, BELL COUNTY, TEMPLE, TEXAS, AND LOCATED AT 5785 SOUTH 31<sup>ST</sup> STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

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

<u>Part 1</u>: The City Council approves a rezoning from Neighborhood Services zoning district to Planned Development-Neighborhood Services zoning district on an approximately 7.35 acres, 1 Lot, 1 Block non-residential subdivision, proposed for a ministorage facility, situated in the Redding Roberts Survey, Abstract No. 692, Bell County, City of Temple, Texas, located at 5785 South 31<sup>st</sup> Street, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

<u>Part 2</u>: Staff recommends approval for a rezoning from Neighborhood Services zoning district to Planned Development-Neighborhood Services zoning district with the following conditions:

- 1. Substantial compliance with the Development/Site Plan, attached hereto as Exhibit B;
- 2. Substantial compliance with the Landscape Plans and Elevations as depicted in Exhibit C;
- 3. That the remaining 2.16 +/- acres will require a separate public development plan review by the Planning & Zoning Commission with approval by City Council prior to any future development;
- 4. Each individual storage unit is limited to a maximum of 2,000 cubic feet;
- 5. A six foot wide sidewalk is required to be built along S. 31<sup>st</sup> Street prior to the opening of the business;
- 6. Outward-facing building facades (as shown in Exhibit C: Outward-Facing Building Facades Graphic) related to the mini-storage buildings shall have exteriors containing a combination of Exterior Insulation Finish Systems (EIFS), split-faced concrete masonry units (CMUs), brick and accent metal panels as shown in the Elevations submittal;
- 7. Preservation of most trees within the subject property (perimeter and interior), based on variety and maturity, must be considered;

- 8. A continuous 10-15 foot wide landscape buffer is required between residential and nonresidential uses. The buffer must be installed prior to any nonresidential development and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 9. A continuous 20 foot wide landscape buffer is required along the Georgetown Railroad. This buffer must be installed prior to the completion of Phase II and maintained per UDC, Section 7.4.8. Maintenance and Irrigation;
- 10. All landscaping required by the UDC shall meet or exceed UDC, Section 7.4 Landscaping;
- 11. Any fencing along S. 31st Street shall be decorative metal;
- 12. This PD runs with the land and is not affected by the transfer of property owners;
- 13. The maximum building wall height is 21 feet (top of wall and per submitted elevations); and
- 14. The applicant shall comply with all Texas Department of Transportation (TxDOT) requirements.
- 15. All lighting associated with the proposal shall be shielded to prevent light trespass.

<u>Part 3</u>: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.

<u>Part 4</u>: 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.

<u>Part 5</u>: 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.

<u>Part 6</u>: It is hereby officially found and determined that the meeting at which this Ordinance was 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 **2<sup>nd</sup>** day of **March**, 2017.

PASSED AND APPROVE	ED on Second Reading on the <b>16<sup>th</sup></b> day of <b>March</b> , 2017.
	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



### **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #7 Regular Agenda Page 1 of 5

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

Lynn Barrett, Assistant Director of Planning

**ITEM DESCRIPTION:** FIRST READING - PUBLIC HEARING - Z-FY-17-12: Consider adopting an ordinance amending the existing Planned Development district (Ordinance 2008-4263), decreasing the Planned Development-General Retail portion from 12.2 +/- acres to 5.48 +/- acres and increasing the Planned Development Single Family Two portion from 38.5 +/- acres to 45.20 +/- acres for a total 50.7± acres located at 276 West FM 93, the northeast corner of FM 93 and South 5th Street, out of the Maximo Moreno Survey, Abstract No. 14.

PLANNING & ZONING COMMISSION RECOMMENDATION: At their February 6, 2017 meeting, the Planning and Zoning Commission voted unanimously eight to zero to recommend amendment of the proposed rezoning from Planned Development Commercial (PD-C) district to Planned Development General Retail (PD-GR) district as recommended by Planning staff, and Commissioner Armstrong added the motion was also contingent upon TXDOT review of entrances and exits and water run-off of neighboring properties.

**STAFF RECOMMENDATION:** Based on the following, staff recommends approval with conditions for amending the current PD for the following reasons:

- 1. That the amendment merely changes the proportions of the two uses on the property and continues to demonstrate compliance with the provisions of the Planned Development Criteria as required by UDC Section 3.4.5;
- 2. The PD-GR and PD-SF-2 zoning is compatible with the Future Land Use;
- 3. The PD-GR and PD-SF-2 zoning is compatible with surrounding zoning, existing and anticipated uses;
- 4. The zoning complies with the Thoroughfare Plan;
- 5. Public and on-site facilities are available to serve the subject property;
- 6. FM 93 access and drainage concerns will be addressed at the subdivision plat stage, and
- 7. The proposed development will be an extension of Alta Vista, an existing single family subdivision.

#### **CONDITIONS:**

- A. The following uses (previously codified in the existing PD with tree nursery removed) require a conditional use permit within the PD-GR District:
  - 1. Restaurant or eating place (drive-in service)
  - 2. Health and reducing or similar service studio
  - Veterinarian hospital (inside pens)
  - 4. Tool rental (outside equipment storage)
- B. The following uses are prohibited within the PD-GR District (previously codified as the existing PD on this property):
  - 1. Single family detached residential
  - 2. Single family attached dwelling
  - 3. Townhouse
  - 4. Two family dwelling (duplex)
  - 5. Industrialized housing
  - 6. Single family dwelling attached 3
  - 7. Family home/Group home
  - 8. Accessory dwelling
  - 9. Accessory building (residential)
  - 10. Backyard compost operation
  - 11. Home occupation
  - 12. Hotel or motel
  - 13. Stable (private)
  - 14. Electrical substation (high voltage bulk power)
  - 15. Electrical transmission line (high voltage)
  - 16. Gasoline and regulation station (wholesale)
  - 17. Cleaning Plant (Commercial)
  - 18. Household appliance service or repair
  - 19. Pawn Shop
  - 20. Radio or television tower
  - 21. Radio, television transmitting station
  - 22. Telephone Exchange Switch-relay or transmitting equipment
  - 23. Public building shop yard of local, state or federal government
  - 24. Water Treatment Plant
  - 25. Playfield or stadium (public)
  - 26. Roller or ice rink
  - 27. Child Care: small home facility
  - 28. Fraternity or sorority
  - 29. Helistop
  - 30. Railroad track or right-of-way
  - 31. Veterinarian Hospital (outside pens only)
  - 32. Farm, ranch orchard or garden
  - 33. Flea market (indoors)
  - 34. Plumbing shop
  - 35. Warehouse office

- C. The following buffering standards shall apply to the PD-GR District:
  - 1. Landscape and wall buffers shall be installed along the north and east boundaries of the PD-GR District, excluding the curb cut for street access and the intersection visibility triangles.
    - a. The landscape buffers must be 10 feet wide and consist of hardwood trees on 25 foot centers, with a minimum two inch diameter at breast height size, with five gallon shrubs placed five feet on center between trees located outside of the buffering wall.
    - b. Buffer fence shall consist of six foot residential privacy fences constructed as residential lots are developed.
  - 2. Landscaping along 5th and Hwy 93, excluding the curb cut for street access and the intersection visibility triangles.
    - A landscape buffer must be installed along the south and west sides of the PD-GR District (adjoining FM 93 and South Fifth Street), consisting of hardwood trees on 25 foot centers, with a minimum two inch diameter at breast height, and five gallon shrubs placed five feet on center between the hardwood trees.
  - 3. Total landscaped area. The total area of landscaping on private property within the PD-GR District must equal or exceed five percent of the aggregate lot area.
  - 4. Time of installation. Buffering fences will be installed on adjacent residential lots as each lot is developed. Landscaping must be installed prior to issuance of a certificate of occupancy.
- D. The following standards shall apply to the PD-SF2 District:
  - 1. Privacy fences will be installed along the backs of the lots bordering South 5th Street as the residential lots are developed. A landscape strip with two additional trees on each lot outside the privacy fences will also be required on the two lots bordering Highway 93 when each residential lot is developed.
  - 2. Residential Landscaping standards:
    - a. Front yard shall be sodded
    - b. One tree required in the front yard to be a minimum of five foot planted height and 15 gallon
    - c. Shrubs: minimum of 3-5 gallon shrubs and 5-1 gallon shrubs placed in the front yard
  - Residential Architectural standards:
    - a. Front façade must have at least two architectural features, items may include but not limited to: roof breaks, columns, gables, varied roof pitch, etc.
    - b. Facade of homes is required to be at least 80% brick, rock, stucco, hardie or other cementitious products.
  - 4. Residential sidewalks shall be installed as shown on attached Development Plan. Residential sidewalks shall be constructed as each lot is developed. Perimeter sidewalk along 5th Street and West FM 93 shall be installed as required by City of Temple Ordinance.
  - 5. Development or redevelopment of the property shall be in accordance with the approved attached Development Plan.
- E. FM 93 access and drainage approval by TXDOT are required to be addressed at the subdivision plat stage.

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

#### **BACKGROUND:**

A previous zoning case in 2008 established a Planned Development PD-GR and PD-SF-2 zoning for the property specifying more than 12 acres of General Retail use on the 50.7 acre tract at the corner of Fifth Street and FM 93. Subsequent owners now seek to increase the proportion of SF-2 on the property and decrease the PD-GR apportionment to 5.48 acres. They also seek a change in the landscaping provisions along the Fifth Street frontage of the subdivision while offering to construct internal sidewalks and asking to add residential architectural standards.

#### Surrounding Property and Uses

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

Direction	Zoning	Current Land Use
North	AG	Church
	SF-2	Existing Alta Vista Subdivision
East	ETJ-MKT Railroad	Vacant
South	AG	Rural Residential
West	AG	Rural Residential

#### Future Land Use Plan & Future Trends

The Future Land Use Plan shows the area as a combination of Suburban Commercial on the corners which would support the PD-GR zoning on the corner portion, and Suburban Residential, which allows for the PD-SF-2, for the single family residential subdivision. Both requests conform to the Future Land Use Plan.

#### Thoroughfare Plan

Both FM 93 and South 5th Street are shown as Major Arterials, which will provide access to the general retail and residential subdivision development. The request conforms to the Thoroughfare Plan. Access from SH 93 will require approval of a TXDOT permit.

#### Adequacy of Public Facilities

Adequate water and sewer are available to serve the subject tract.

<u>Planned Development Single Family 2 (PD-SF-2)</u> The SF-2 district allows single family-residential development only, with a maximum building height of 2 ½ stories. The SF-2 dwelling district is designed to accommodate single family detached homes. The minimum lot area for SF-2 is 5,000 square foot with setbacks for 25 feet in the front yard, 5 feet in the side yard and 10 feet in the rear yard.

<u>Planned Development General Retail (PD-GR)</u> The General Retail District is the standard retail district and allows most retail sales, restaurants, grocery store, department store, or offices and most residential uses except apartments, with a maximum building height of three stories. There is no minimum lot area, width or depth. The building setback for the front yard is 30' from the street centerline, and 10' adjacent to a residential distinct with a screening fence to separate the commercial from the residential use.

The use of a Planned Development provides flexibility for development standards because of proximity of other development, topography, road access and the environment. Here the planned GR is at the intersection of two Major Arterial Streets. Staff recommends a PD approach for land uses, the required screening and buffering and landscaping to prohibit some incompatible uses when located next to single family residential, ensures separation from loading and service areas from the retail to the residential area and to ensure the recommended landscape standards.

#### **Public Notice**

A total of 36 notices were sent out to property owners within 200 feet of the subject property January 26, 2017. As of February 17th at 5 PM, six notices were received in agreement, one in disagreement, one undecided and one was undeliverable. The newspaper printed notice of the public hearing on January 26, 2017 in accordance with state law and local ordinance.

FISCAL IMPACT: N/A

#### ATTACHMENTS:

Site Plan
Site Photos
Maps
Previous PD Ordinance
Responses
Ordinance



### Site photos



View looking
North from W
FM 93 toward
subject property;
Memorial
Baptist Church is
visible in the
background



View of proposed Stonehaven Drive connection with existing Alta Vista Subdivision

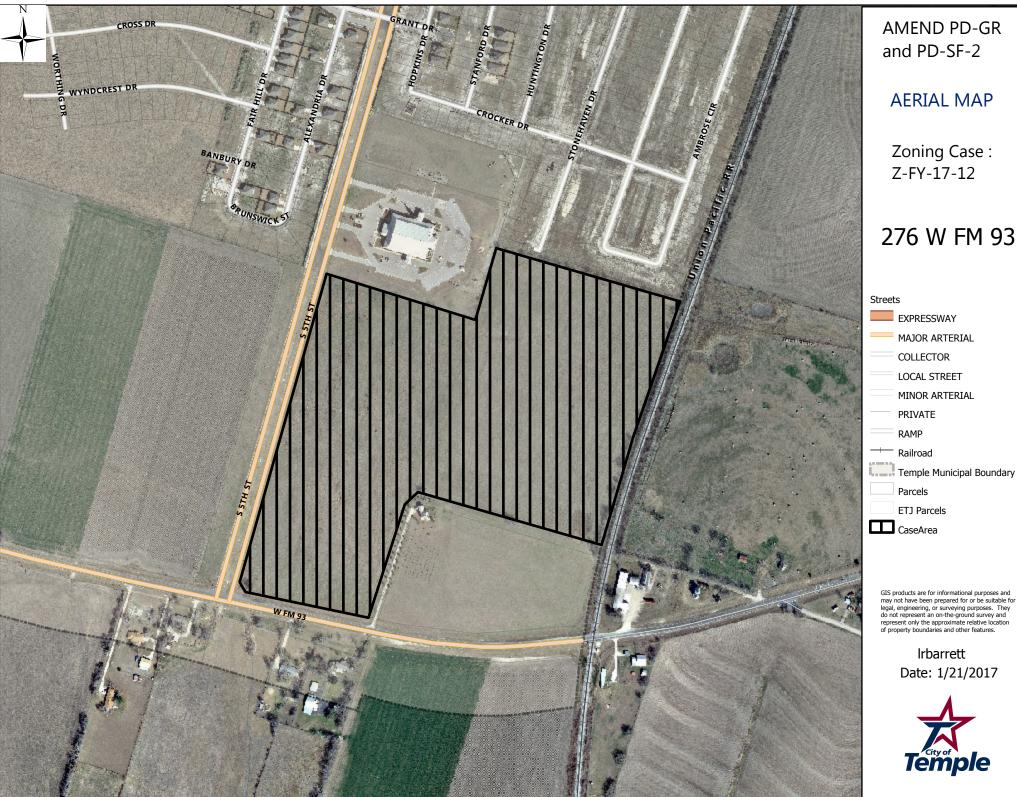


Sidewalk construction by developer in existing Alta Vista Subdivision along Stonehaven Drive



View of Existing Alta Vista Subdivision to the north





**AMEND PD-GR** and PD-SF-2

### **AERIAL MAP**

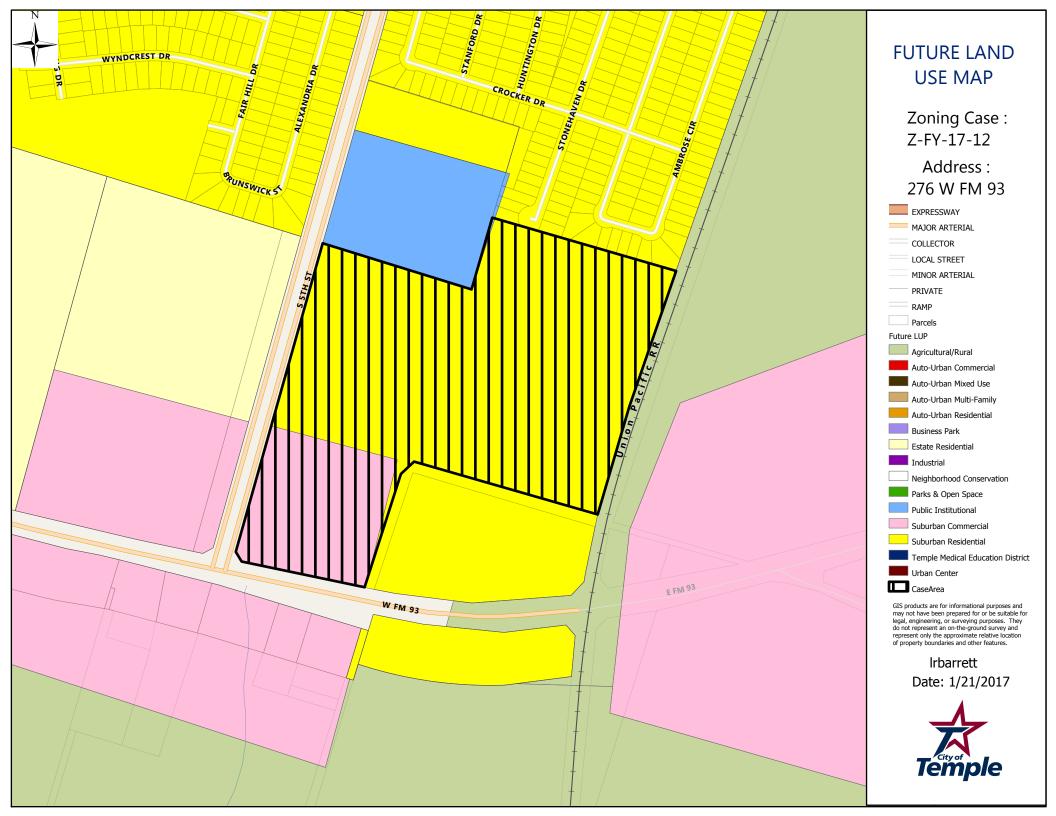
Zoning Case: Z-FY-17-12

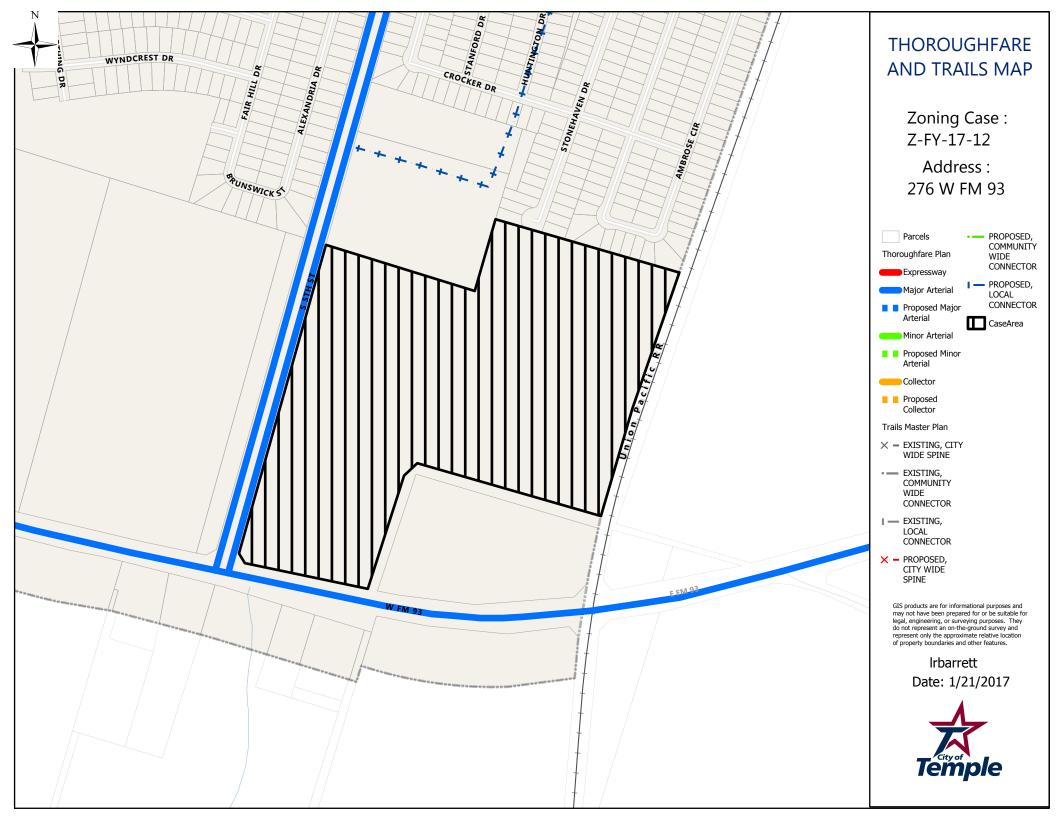
## 276 W FM 93

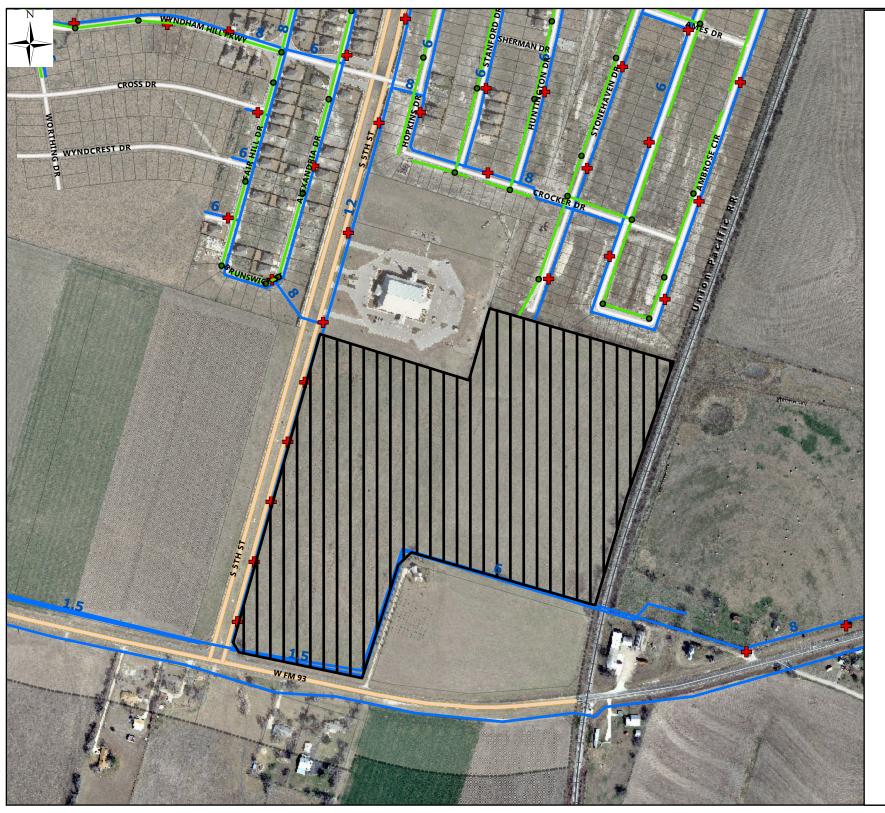
GIS products are for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. They do not represent an on-the-ground survey and represent only the approximate relative location of property boundaries and other features.

Irbarrett









AMEND PD-GR and PD-SF-2

## **UTILITY MAP**

Zoning Case: Z-FY-17-12

Address: 276 W FM 93

Manhole

Gravity Main

**+** Hydrant

Main

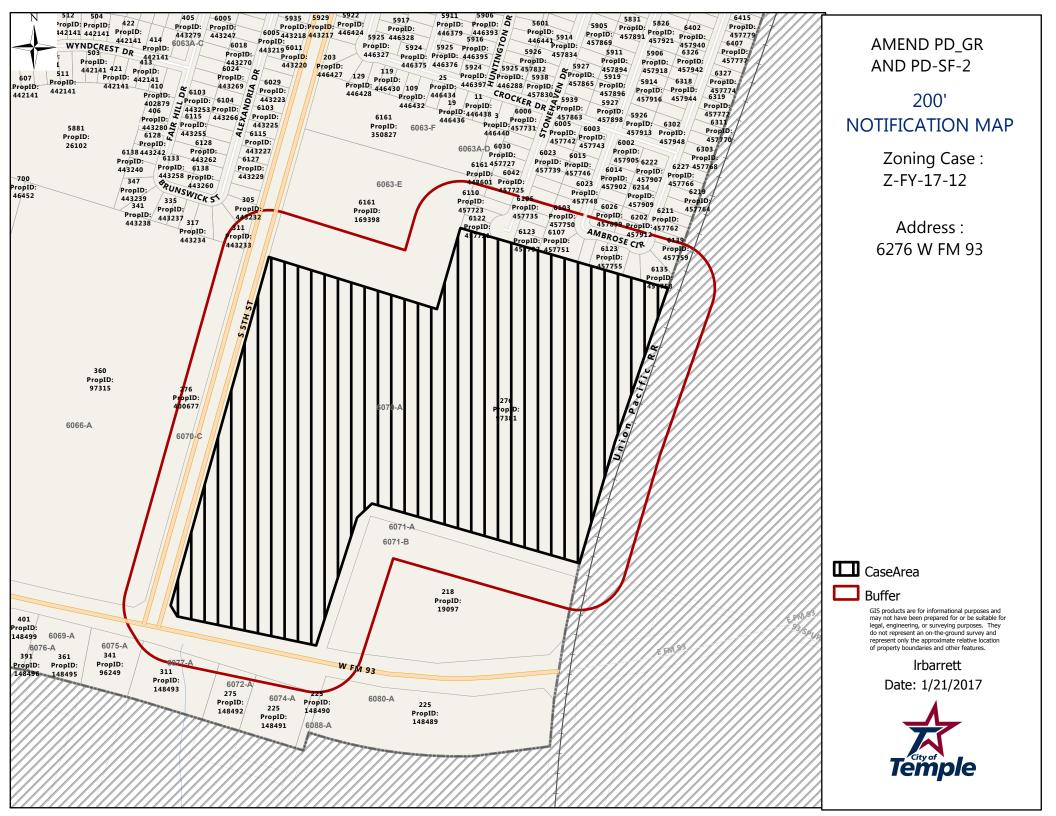
Parcels

CaseArea

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.

Irbarrett
Date: 1/21/2017





#### ORDINANCE NO. 2008-4263

### [PLANNING NO. Z-FY-08-37]

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT GENERAL RETAIL DISTRICT (PD-GR) ON AN APPROXIMATELY 12.2 ACRE TRACT OF LAND AND A ZONING CHANGE FROM AGRICULTURAL DISTRICT (A) TO PLANNED DEVELOPMENT SINGLE **FAMILY TWO** DISTRICT (PD-SF2) ON APPROXIMATELY 38.5 ACRE TRACT OF LAND, FOR A TOTAL REZONING OF APPROXIMATELY 50.7 ACRES OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14, ON THE NORTHEAST CORNER OF FM 93 AND SOUTH 5<sup>TH</sup> STREET, IN ACCORDANCE WITH SECTIONS 7-500 THROUGH 7-509 OF THE COMPREHENSIVE **ZONING** ORDINANCE: **PROVIDING** SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the owner of the property consisting of an approximately 50.7 acres out of the Maximo Moreno Survey, Abstract No. 14, on the corner of FM 93 and South 5<sup>th</sup> Street, requested a zoning change from Agricultural District (A) to Planned Development General Retail District (PD-GR) on approximately 12.2 acres and a zoning change from Agricultural District (A) to Planned Development Single Family Two District (PD-SF2) on approximately 38.5 acres; and

Whereas, the City Council, after notice and a public hearing, finds that it is in the public interest to authorize this action.

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

Part 1: The City Council approves a zoning change from Agricultural District (A) to a Planned Development General Retail District (PD-GR) on an approximately 12.2 acre tract of land and a zoning change from Agricultural District (A) to Planned Development Single Family Two District (PD-SF2) on an approximately 38.5 acre tract of land, for a total rezoning of approximately 50.7 acres out of the Maximo Moreno Survey, Abstract No. 14, on the northeast corner of FM93 and South 5<sup>th</sup> Street, more fully described in Exhibit A, attached hereto and made a part hereof for all purposes.

<u>Part 2</u>: In accordance with Sections 7-500 through 7-509 of the Comprehensive Zoning Ordinance of the City of Temple, Texas, Ordinance No. 91-2101 is amended by changing the zoning classification of the property described in Part 1 above, to Planned

Development (General Retail) District and Planned Development (Single Family Two) District. Development of the property shall comply with all applicable sections of the Code of Ordinances of the City of Temple, Texas, and all local, State and Federal laws and regulations as they may now read or hereafter be amended, including but not limited to the following conditions:

- A. The following uses shall be permitted within the PD-GR District:
  - 1. Antique shop
  - 2. Art supply store
  - 3. Retail bakery
  - 4. Bank or saving and loans office
  - 5. Barber or beauty shop
  - 6. Book or stationery shop
  - 7. Cleaning and pressing small shop and pick up
  - 8. Customer personal service shop
  - 9. Discount or department store
  - 10. Drug store or pharmacy
  - 11. Florist or garden shop
  - 12. Food beverage sales store with gasoline pumps
  - 13. Food beverage sales store without gasoline pumps
  - 14. Furniture and appliance store
  - 15. Greenhouse or plant nursery (retail sales)
  - 16. Handcraft shop and art objects
  - 17. Hardware store or hobby shop
  - 18. Key shop
  - 19. Laboratory, Medical or Dental
  - 20. Laundry and cleaning (self-service)
  - 21. Medical appliances, fitting, sales or rental
  - 22. Offices, general business and professional
  - 23. Pet shop
  - 24. Restaurant or cafeteria (not drive-in type)
  - 25. Retail shop, gift, apparel, accessory and similar items
  - 26. Retail shop other than listed
  - 27. Photographer studio
  - 28. Studio, music, dance or drama
  - 29. Tool rental (inside only)
  - 30. Travel bureau or consultant
  - 31. Veterinarian office only (no animal hospital, no inside pens)
- B. The following uses require a conditional use permit within the PD-GR District:
  - 1. Florist or garden shop
  - 2. Restaurant or eating place (drive-in service)
  - 3. Health and reducing or similar service studio
  - 4. Veterinarian hospital (inside pens)
  - 5. Tool rental (outside equipment storage)
- C. The following uses are prohibited within the PD-GR District:
  - 1. Single family detached residential
  - 2. Single family attached dwelling

- 3. Townhouse
- 4. Two family dwelling (duplex)
- 5. Industrialized housing
- 6. Single family dwelling attached 3
- 7. Family home
- 8. Accessory dwelling
- 9. Accessory building (residential)
- 10. Backyard compost operation
- 11. Home occupation
- 12. Hotel or motel
- 13. Stable (private)
- 14. Electrical substation (high voltage bulk power)
- 15. Electrical transmission line (high voltage)
- 16. Gasoline and regulation station
- 17. Cleaning Plant (Commercial)
- 18. Household appliance service or repair
- 19. Pawn Shop
- 20. Radio or television tower
- 21. Radio, television transmitting station
- 22. Telephone Exchange Switch-relay or transmitting equipment
- 23. Public building shop yard of local, state or federal government
- 24. Water Treatment Plant
- 25. Playfield or stadium (public)
- 26. Roller or ice rink
- 27. Child Care: small home facility
- 28. Fraternity or sorority
- 29. Helistop
- 30. Railroad track or right-of-way
- 31. Veterinarian Hospital (outside pens only)
- 32. Farm, ranch orchard or garden
- 33. Flea market (indoors)
- 34. Plumbing shop
- 35. Warehouse office
- D. The following buffering standards apply to the PD-GR District:
  - 1. <u>Landscape and wall buffers between retail and residential uses</u>. A landscape and wall buffer must be installed along the north and east boundaries of the PD-GR District, excluding the curb cut for street access and the intersection visibility triangles.
    - a. The landscape buffers must be 10 feet wide and consist of hardwood trees on 25 foot centers, with a minimum 2 inch caliper and 5 foot planted height, with 5 gallon shrubs placed 5 feet on center between trees located outside of the buffering wall.
    - b. The buffering walls must consist of fences or walls constructed of brick or rock columns, supported by a capstone, placed on 50-75 foot centers, interspersed with wood plank fencing supported by a rot board and stained a compatible color to the brick or rock columns, with a minimum 6 foot vertical height and a maximum 8

foot vertical height.

- c. Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.
- 2. <u>Landscaping along highways</u>. A landscape buffer must be installed along the south and west sides of the PD-GR District (adjoining FM 93 and South Fifth Street), consisting of hardwood trees on 25 foot centers, with a minimum 2 inch caliper and 5 foot planted height, and 5 gallon shrubs placed 5 feet on center between the hardwood trees.
- 3. <u>Landscape islands in parking lot</u>. One hardwood tree with a minimum 2 inch caliper and 5 foot planted height shall be installed in a landscape island in the parking lot for every 20 parking spaces. Landscape islands shall be a minimum of 128 square feet.
- 4. <u>Total landscaped area</u>. The total area of landscaping on private property within the PD-GR District must equal or exceed 5 percent of the aggregate lot area.
- 5. <u>Time of installation</u>. Buffering walls must be installed after the City of Temple's acceptance of infrastructure installed for water, sewer and storm drainage, and prior to the issuance of any building permit. Landscaping must be installed prior to issuance of a certificate of occupancy.
- 6. <u>Maintenance</u>. If the PD-GR District is divided into two or more lots, the developer must establish a property owners' association (POA) and record covenants so that every lot in the subdivision is sold subject to covenants that require the POA to perpetually maintain buffering and landscaping in compliance with the standards for the PD-SF2 District.
- E. The following buffering standards apply to the PD-SF2 District:
  - 1. <u>Buffering walls</u>. Buffering walls must be installed on the western edge of the lots next to South 5th Street and the southern edge of the southernmost lots (abutting the abandoned road parallel to FM 93).
    - a. The buffering walls must consist of fences or walls constructed of brick or rock columns, supported by a capstone, placed on 50-75 foot centers, interspersed with wood plank fencing supported by a rot board and stained a compatible color to the brick or rock columns, with a minimum 6 foot vertical height and a maximum 8 foot vertical height.
    - b. Openings in fence or wall buffering must not contain openings constituting more than 20 square inches in each square foot of wall or fence surface. The objective is to create a visual barrier.
  - 2. <u>Time of installation</u>. The buffering walls must be installed after the infrastructure of water, sewer, paving and drainage is accepted by the City of Temple and prior to the issuance of any building permit.
  - 3. <u>Maintenance</u>. The developer must establish a homeowners' association and record covenants so that every lot in the subdivision is sold subject to covenants that require the HOA to perpetually maintain buffering in compliance with the standards for the PD-SF2 District.

F. Development or redevelopment of the property shall be through the building permit process, in accordance with the Aberdeen Heights Concept Plan, which is attached hereto as Exhibit B.

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

<u>Part 4:</u> The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map accordingly.

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

<u>Part 6:</u> 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.

<u>Part 7:</u> 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 6<sup>th</sup> day of November, 2008.

PASSED AND APPROVED on Second Reading on the  $20^{\text{th}}$  day of November, 2008.

THE CITY OF TEMPLE, TEXAS

WILLIAM A. JONES, III, Mayor

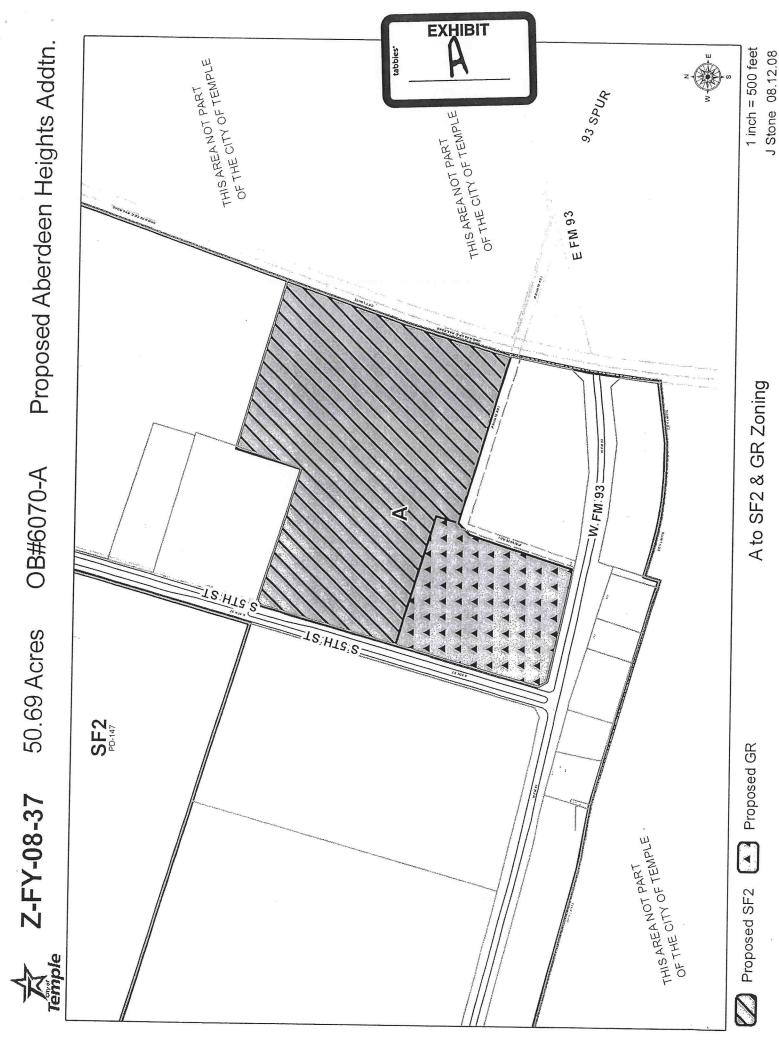
ATTEST:

Temple

Tout

Jonathan Graham City Attorney

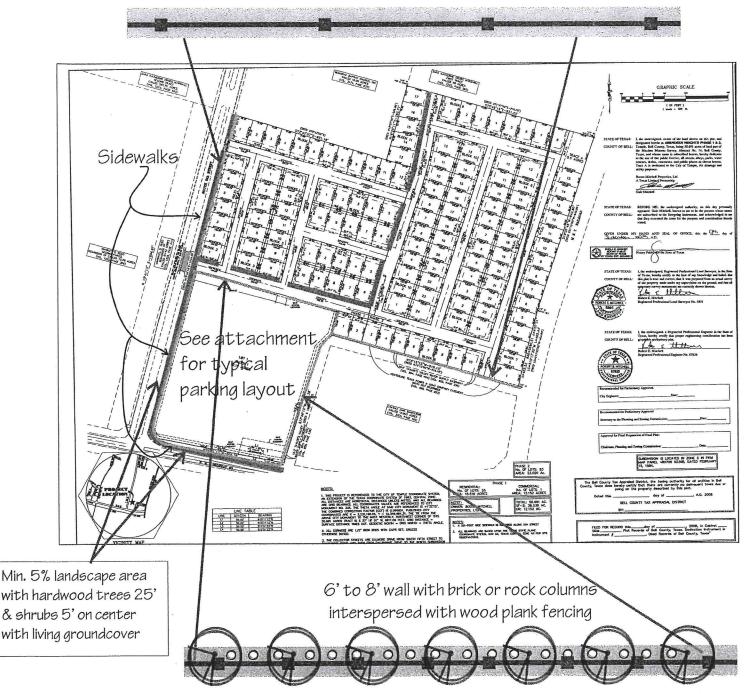
City Secretary



Aberdeen Heights Concept Plan

6' to 8' stained wood fence with brick or rock columns with capstones 50' to 75' apart Maintained by Home Owners Association

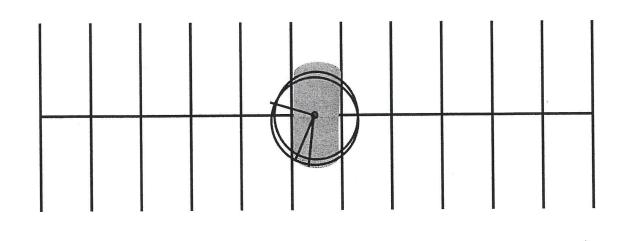




Hardwood trees 25' on center with shrubs 5' on center Maintained by Property Owners Assoc.

Note: In addition to improvements noted on this Concept Plan, development must meet Landscaping Regulations of the Zoning Ordinance

## Aberdeen Heights Concept Plan Typical Parking Layout



20 spaces maximum with 128 sq. ft. island and 1 tree



Case Manager:

JACKSON, PATSY REED 4706 STAGECOACH TRL TEMPLE, TX 76502-3861

**Zoning Application Number: Z-FY-17-12** 

Location: 276 West FM 93, Temple, Texas	
The proposed rezoning is the area shown in hatched marking on the own property within 200 feet of the requested change, your opinion this form to indicate whether you are in favor of the possible rezonithe attached notice, and provide any additional comments you may	ons are welcomed. Please use ing of the property described or
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Patsy Reed Jacksm Patsy K Signature Print Name	Reed Jackson
If you would like to submit a response please email a scanned ve	ersion of this completed form to

Number of Notices Mailed: 36

form to the address below, no later than February 6, 2017.

Date Mailed: January 26, 2017

RECEIVED

City of Temple

Planning & Development

**Lynn Barrett** 

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

the Case Manager referenced above, Irbarrett@templetx.gov, or mail or hand-deliver this comment

**City of Temple** 

**Planning Department** 

Temple, Texas 76501

2 North Main Street, Suite 102



Case Manager:

**Lynn Barrett** 

MATHIAS, PHILLIP L ETUX DOROTHY L 6105 STONEHAVEN DR TEMPLE, TX 76502

**Zoning Application Number: Z-FY-17-12** 

form to the address below, no later than February 6, 2017.

Location: 276 West FM 93, Temple, Tex	as
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	please email a scanned version of this completed form to <a href="mailto:arrett@templetx.gov">arrett@templetx.gov</a> , or mail or hand-deliver this comment

City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

FEB - 1 2017

City of Temple
Planning & Development

RECEIVED

Number of Notices Mailed: 36 Date Mailed: January 26, 2017



Case Manager:

**Lynn Barrett** 

BANKSTON, CYNTHIA JANE 4311 S 31ST STE 150 NUMBER 130 TEMPLE, TX 76502-3352

**Zoning Application Number: Z-FY-17-12** 

Location: 276 West FM 93, Temple,	Texas
own property within 200 feet of the re	nown in hatched marking on the attached map. Because you equested change, your opinions are welcomed. Please use in favor of the possible rezoning of the property described on additional comments you may have.
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City of Temple
Planning Department
2 North Main Street, Suite 102
Temple, Texas 76501

City of Temple
Planning & Development

FEB - 2 2017

Number of Notices Mailed: 36 Date Mailed: January 26, 2017



WBW DEVELOPMENT MANAGEMENT III LLC 3000 ILLINOIS AVE STE 100 KILLEEN, TX 76543-5372

Zoning Application Number: Z-FY-1	7-12 <u>Case Manager</u> : Lynn Barrett
Location: 276 West FM 93, Temple, Te	xas
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Signature	Print Name
	please email a scanned version of this completed form to barrett@templetx.gov, or mail or hand-deliver this comment in February 6, 2017.
	City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501  FEB - 3 2017 City of Temple Planning & Development
Number of Notices Mailed: 36	Date Mailed: January 26, 2017



WBW LAND INVESTMENTS LP 3000 ILLINOIS AVE STE 100 KILLEEN, TX 76543-5372

Zoning App	olication Number: Z-FY	-17-12 <u>Ca</u>	ise Manager:	Lynn Barrett
Location: 27	76 West FM 93, Temple,	Гехаѕ		
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Number of I	Notices Mailed: 36		Date Maile	d: January 26, 2017



THERIOT, ROBERT P ETUX TINA M 6110 STONEHAVEN DR TEMPLE, TX 76502

Case Manager:	Lynn Barrett
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If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <a href="mailto:lrbarrett@templetx.gov">lrbarrett@templetx.gov</a>, or mail or hand-deliver this comment form to the address below, no later than **February 6, 2017.** 

City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Number of Notices Mailed: 36 Date Mailed: January 26, 2017



Case Manager:

**Lynn Barrett** 

RECEIVED

FEB - 6 2017

City of Temple

Planning & Development

HUGHLING, JOHN D 225 W FM 93 TEMPLE, TX 76502-7619

**Zoning Application Number: Z-FY-17-12** 

Location: 276 West FM 93, Temple, Texas

own property within 200 feet of the requested	natched marking on the attached map. Because you dischange, your opinions are welcomed. Please use of the possible rezoning of the property described on all comments you may have.
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Number of Notices Mailed: 36 Date Mailed: January 26, 2017

form to the address below, no later than February 6, 2017.

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

the Case Manager referenced above, Irbarrett@templetx.gov, or mail or hand-deliver this comment

**City of Temple** 

**Planning Department** 

Temple, Texas 76501

2 North Main Street, Suite 102



Case Manager:

Lynn Barrett

FLOYD, KYLE 6106 STONEHAVEN DR TEMPLE, TX 76502

us at 254,298,5668.

Zoning Application Number: Z-FY-17-12

Location: 276 West FM 93, Temple, Tex	as
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My January Signature	Kyle Floyd Print Name
	olease email a scanned version of this completed form to arrett@templetx.gov, or mail or hand-deliver this comment <b>February 6, 2017</b> .  RECEIVED
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Number of Notices Mailed: 36	Date Mailed: January 26, 2017

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call

### ORDINANCE NO. <u>2017-4834</u> (Z-FY-17-12)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, AMENDING AN EXISTING PLANNED DEVELOPMENT DISTRICT BY DECREASING THE PLANNED DEVELOPMENT-GENERAL RETAIL PORTION FROM APPROXIMATELY 12.2 ACRES TO 5.48 ACRES AND INCREASING THE PLANNED DEVELOPMENT SINGLE-FAMILY TWO PORTION FROM APPROXIMATELY 38.5 ACRES TO 45.20 ACRES FOR A TOTAL APPROXIMATELY 50.7 ACRES, LOCATED AT 276 WEST FM 93, THE NORTHEAST CORNER OF FM 93 AND SOUTH 5<sup>TH</sup> STREET, OUT OF THE MAXIMO MORENO SURVEY, ABSTRACT NO. 14; 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 amends the existing Planned Development district (Ordinance No. 2008-4263), decreasing the Planned Development-General Retail portion from approximately 12.2 acres to approximately 5.48 acres and increasing the Planned Development Single Family Two portion from approximately 38.5 acres to approximately 45.20 acres for a total approximately 50.7 acres, located at 276 West FM 93, the northeast corner of FM 93 and South 5<sup>th</sup> Street, out of the Maximo Moreno Survey, Abstract No. 14, as outlined in the attached site plan notes attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

<u>Part 2</u>: Staff recommends amending the existing Planned Development (Ordinance No. 2008-4263) with the following conditions:

- A. The following uses (previously codified in the existing PD with tree nursery removed) require a conditional use permit within the PD-GR District:
  - 1. Restaurant or eating place (drive-in service)
  - 2. Health and reducing or similar service studio
  - 3. Veterinarian hospital (inside pens)
  - 4. Tool rental (outside equipment storage)
- B. The following uses are prohibited within the PD-GR District (previously codified in the existing PD on this property):
  - 1. Single family detached residential
  - 2. Single family attached dwelling
  - 3. Townhouse
  - 4. Two family dwelling (duplex)
  - 5. Industrialized housing
  - 6. Single family dwelling attached 3
  - 7. Family home/Group home
  - 8. Accessory dwelling
  - 9. Accessory building (residential)

- 10. Backyard compost operation
- 11. Home occupation
- 12. Hotel or motel
- 13. Stable (private)
- 14. Electrical substation (high voltage bulk power)
- 15. Electrical transmission line (high voltage)
- 16. Gasoline and regulation station (wholesale)
- 17. Cleaning Plant (Commercial)
- 18. Household appliance service or repair
- 19. Pawn Shop
- 20. Radio or television tower
- 21. Radio, television transmitting station
- 22. Telephone Exchange Switch-relay or transmitting equipment
- 23. Public building shop yard of local, state or federal government
- 24. Water Treatment Plant
- 25. Playfield or stadium (public)
- 26. Roller or ice rink
- 27. Child Care: small home facility
- 28. Fraternity or sorority
- 29. Helistop
- 30. Railroad track or right-of-way
- 31. Veterinarian Hospital (outside pens only)
- 32. Farm, ranch orchard or garden
- 33. Flea market (indoors)
- 34. Plumbing shop
- 35. Warehouse office

#### C. The following buffering standards shall apply to the PD-GR District:

- 1. Landscape and wall buffers shall be installed along the north and east boundaries of the PD-GR District, excluding the curb cut for street access and the intersection visibility triangles.
  - a. The landscape buffers must be 10 feet wide and consist of hardwood trees on 25 foot centers, with a minimum 2 inch diameter at breast height size, with 5 gallon shrubs placed 5 feet on center between trees located outside of the buffering wall.
  - b. Buffer fence shall consist of 6 foot residential privacy fences constructed as residential lots are developed.
- 2. Landscaping along South 5<sup>th</sup> Street and Hwy 93, excluding the curb cut for street access and the intersection visibility triangles. A landscape buffer must be installed along the south and west sides of the PD-GR District (adjoining FM 93 and South 5th Street), consisting of hardwood trees on 25 foot centers, with a minimum 2 inch diameter at breast height, and 5 gallon shrubs placed 5 feet on center between the hardwood trees.
- 3. Total landscaped area. The total area of landscaping on private property within the PD-GR District must equal or exceed 5 percent of the aggregate lot area.

- 4. Time of installation. Buffering fences will be installed on adjacent residential lots as each lot is developed. Landscaping must be installed prior to issuance of a certificate of occupancy.
- D. The following standards shall apply to the PD-SF2 District:
  - 1. Privacy fences will be installed along the backs of the lots bordering South 5th Street as the residential lots are developed. A landscape strip with two additional trees on each lot outside the privacy fences will also be required on the two lots bordering Highway 93 when each residential lot is developed.
  - 2. Residential Landscaping standards:
    - a. Front yard shall be sodded
    - b. One tree required in the front yard to be a minimum of 5 foot planted height and 15 gallon
    - c. Shrubs: minimum of 3-5 gallon shrubs and 5-1 gallon shrubs placed in the front yard.
  - 3. Residential Architectural standards:
    - a. Front façade must have at least two architectural features, items may include, but not limited to: roof breaks, columns, gables, varied roof pitch, etc.
    - b. Facade of homes is required to be at least 80% brick, rock, stucco, hardie or other cementitious products.
  - 4. Residential sidewalks shall be installed as shown on Development Plan attached hereto as Exhibit B and incorporated herein for all purposes. Residential sidewalks shall be constructed as each lot is developed. Perimeter sidewalk along South 5th Street and West FM 93 shall be installed as required by City of Temple Ordinance.
  - 5. Development or redevelopment of the property shall be in accordance with the approved Development Plan.
- E. FM 93 access and drainage approval by TXDOT are required to be addressed at the subdivision plat stage.
- <u>Part 3</u>: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.
- <u>Part 4</u>: 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.
- <u>Part 5</u>: 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.

<u>Part 6</u>: It is hereby officially found and determined that the meeting at which this Ordinance was 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  $2^{nd}$  day of March, 2017.

2017.	PASSED AND APPROVED on Second Reading on the 16th day of March		
		THE CITY OF TEMPLE, TEXAS	
		DANIEL A. DUNN, Mayor	
ATTEST:		APPROVED AS TO FORM:	
Lacy Borg		Kayla Landeros	
City Secre	tary	City Attorney	



## **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #8 Regular Agenda Page 1 of 4

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

Mark Baker, Senior Planner

<u>ITEM DESCRIPTION:</u> FIRST READING - PUBLIC HEARING - Z-FY-17-14: Consider adopting an ordinance authorizing a rezoning from Office-One zoning district to General Retail zoning district on a 2.770 +/- acres and Office-One to Planned Development-General Retail on a 2.142 +/- acres, portion of a 4.912 +/- tract of land, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, located at 6490 West Adams Avenue.

**STAFF RECOMMENDATION:** Staff recommends approval for a rezoning of the subject property as shown by the boundary map, described by surveyor sketch and field notes attached as Exhibit A, from Office-One (O-1) district to General Retail (GR) district for the following reasons:

- 1. The proposed rezoning is in compliance with the Future Land Use Map's Suburban Commercial District;
- 2. The proposed zoning is compatible with surrounding zoning and anticipated retail and service uses along this section of West Adams Avenue;
- 3. The request complies with the Thoroughfare Plan;
- 4. Public facilities are available to serve the subject property and,

Staff recommends approval of the rezoning for the eastern 180-feet of the subject property, as shown by the boundary map, described by surveyor sketch and field notes, attached as Exhibit A, from Office-One (O-1) district to Planned Development-General Retail (PD-GR) district, subject to the following conditions:

- 1. Site plan approval is required by the Planning & Zoning Commission and City Council; and,
- 2. Site plan approval will include notification of property owners within 200-feet of the boundaries of the PD-GR-zoned area.

<u>PLANNING & ZONING COMMISSION RECOMMENDATION:</u> At their February 21, 2017 meeting, the Planning & Zoning Commission voted five to two to recommend approval of the proposed rezoning from Office-One (O-1) to General Retail (GR) and Planned Development-General Retail (PD-GR), per staff's recommendation.

After considerable discussion from neighbors regarding the potential of fast-food and other restaurant uses being developed along the eastern boundary of the project site, the Planning & Zoning Commission voted unanimously to table this rezoning request during their February 6, 2017 meeting.

Tabling to the February 21, 2017 meeting allowed the applicant time to prepare a surveyor sketch and field notes to identify and isolate the eastern 180-feet of the property as Planned Development-General Retail (PD-GR).

Since neighborhood concerns relate primarily to the eastern portion of the property, closest to the existing neighborhood, public site plan approval required with a Planned Development District would address the location of drive-through or other facilities, enhanced buffering and screening relative to the existing neighborhood. Therefore, a condition for public site plan approval is proposed to accommodate this need.

<u>ITEM SUMMARY:</u> DB Commercial, on behalf of property owner, Mary McDonald, requests rezoning of a 4.823 +/- acre tract of land, (Exhibit A) from Office-One (O-1) zoning district to General Retail (GR) zoning district. The property is currently undeveloped. Per Ordinance 2007-4158, the O-1 district was created from Multi-Family-One (MF-1) to Office (O-1).

Prior to the issuance of a building permit, a subdivision plat is required. The subdivision plat has been submitted and was reviewed by the Development Review Committee (DRC) on February 23, 2017. At such time that the plat has been deemed administratively complete, it will be scheduled for the next available Planning & Zoning Commission meeting. The Planning & Zoning Commission review is required, since extension of the sewer line is necessary as further identified in the Public Facilities section of this report.

As a result of recent staff discussions with the developer, initial development of the site, proposes a minor vehicle servicing use, specifically a quick oil change facility. The facility will be limited to oil changes as well as minor vehicle inspections. Additional development can be anticipated.

Noteworthy is that a 4.889 +/- acre parcel, per Ordinance 2016-4786, was rezoned on Hilliard Road from the Agricultural (AG) district to the General Retail (GR) district. This property has frontage along Hilliard Road and is west of Holy Trinity Catholic High School but is part of the overall expansion of non-residential development of the area.

While the proposed property is currently undeveloped and anticipated to be developed with non-residential uses, there are a number of residential and other non-residential uses that are permitted by right in the GR zoning district. The uses allowed, but not limited to, in the GR district are provided in the attached table.

Prohibited uses include HUD-Code manufactured homes and land lease communities, most commercial uses and industrial uses.

<u>COMPREHENSIVE PLAN (CP) COMPLIANCE:</u> The proposed rezoning relates to the goals, objectives or maps of the Comprehensive Plan and Sidewalk and Trails Plan. Maps compliance is discussed below and summarized in the attached compliance table.

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

The subject property is entirely within the Suburban Commercial land use district. The Suburban Commercial district is intended for office and retail service-related zoning districts, of which the requested GR-zoning is in compliance with the Future Land Use Map.

### Thoroughfare Plan (CP Map 5.2)

The subject property takes access from West Adams Avenue (FM 2305), a major arterial. As a major arterial, a 6-foot sidewalk is required, which would be addressed during the platting stage. No Transportation Capital Improvement Program (TCIP) improvements, scheduled through fiscal year 2024, have been identified for this section of West Adams Avenue.

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

Sewer is available to the subject property through an existing 18-inch sewer line on the south side of West Adams Avenue as well as an 8-inch sewer line at the intersection of Brooks Drive to the east of the subject property. Sewer will need to be extended in order to service the property. Water is available through existing 14-inch and 4-inch waterlines in West Adams Avenue. As identified earlier, sewer line extension is required and will be addressed through the subdivision plat process.

### Temple Trails Master Plan Map and Sidewalks Ordinance

The Trails Master Plan identifies an existing City-Wide spine trail in West Adams Avenue. Sidewalk improvements are currently in place on the project's side of West Adams Avenue. Any sidewalk deficiencies or trail improvements will be addressed during the future platting process. Per City Policy, the existing 10-foot asphalt sidewalk / trail will be required to be upgraded to a concrete sidewalk / trail.

<u>DEVELOPMENT REGULATIONS:</u> Non-residential setbacks in the Office One (O-1) and General Retail (GR) districts are provided in the attached table. Standards for buffering and screening are as follows:

❖ 10' rear setback (Non-residential use abuts a residential zoning district or use - UDC Section 4.4.4.F3) and,

General provisions for buffering and screening for non-residential uses adjacent to residential uses are found in UDC Section 7.7, highlighted provisions include but not limited to:

- \* Landscaping or solid fencing from six to eight feet in height (UDC Section 7.7.4),
- \* Refuse containers located in the side or rear of the property (UDC Section 7.7.6), and
- \* Screened outdoor storage (UDC Section 7.7.8.B1).

<u>PUBLIC NOTICE:</u> Ten notices to property owners within 200-feet of the subject property were sent notice of the public hearing as required by State law and City Ordinance. As of Thursday February 23, 2017 at 12:00 PM, Two notices have been received in disagreement and one notice received is agreement. Additionally, staff has received several phone calls from surrounding neighbors with property that are next to the subject property along Brooks Drive. Concerns regarding future uses and drainage were discussed during these phone calls.

The newspaper printed notice of the public hearing on January 26, 2017, in accordance with state law and local ordinance.

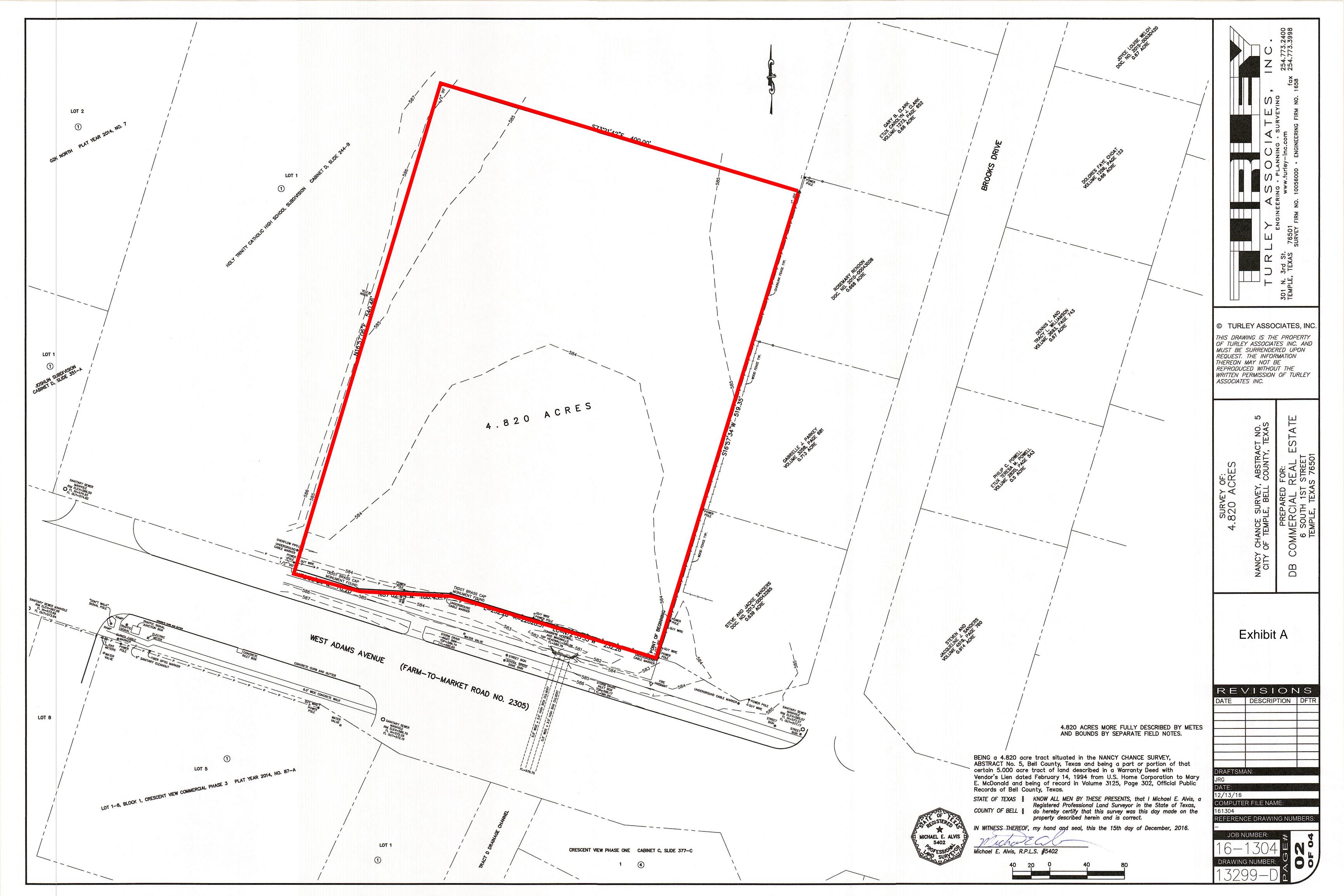
03/02/17 Item #8 Regular Agenda Page 4 of 4

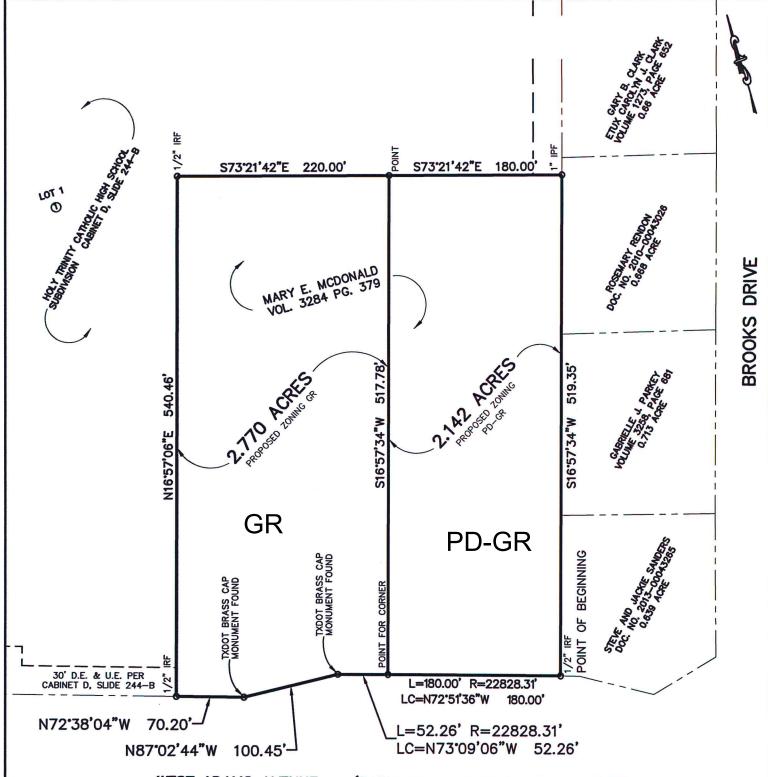
**FISCAL IMPACT:** Not Applicable

### **ATTACHMENTS:**

Ordinance

Boundary Map / Surveyor Sketch & Field notes (Exhibit A)
Site and Surrounding Property Photos
Photos
Maps
Tables
Returned Property Notices
P&Z Excerpts (Feb 6, 2017 only)





NOTES: WEST ADAMS AVENUE (FARM—TO—MARKET ROAD NO. 2305)
ALL CORNERS OF EASEMENT ARE CALCULATED POINTS, UNLESS OTHERWISE SPECIFIED. 2.142
ACRE MORE FULLY DESCRIBED BY METES AND BOUNDS BY SEPARATE FILED NOTES.

BEING a 2.142 acre tract situated in the NANCY CHANCE SURVEY, ABSTRACT No. 5, Bell County, Texas and being a part or portion of that certain 5.000 acre tract of land described in a Warranty Deed with Vendor's Lien dated February 14, 1994 from U.S. Home Corporation to Mary E. McDonald and being of record in Volume 3125, Page 302, Official Public Records of Bell County, Texas.



STATE OF TEXAS §
COUNTY OF BELL §

KNOW ALL MEN BY THESE PRESENTS, that I Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that this survey was this day made on the ground of the property described herein and

on the ground of the property described herein and is correct and that there are no discrepancies, conflicts, shortages in the area, easements, and right—of—ways except as shown hereon, that this tract of land has access to and from a public road, and I have marked all corners with monuments.

This Property is not within the Special Flood Hazard Area as per the Federal Emergency Management Agency Federal Insurance Administration Map No. 48027C0335E, dated September 26, 2008.

IN WITNESS THEREOF, my hand and seal, this the 2nd day of February, 2017.

Michallal

Exhibit A

Michael E. Alvis, R.P.L.S., No. 5402

TURLEY ASSOCIATES, INC.
101 N. 3rd St. EMGINEERING - PLANNING - SURVEYING
254,773,2400
WWW.lturley-inc.com

ZONING TRACT
HERITAGE SQUARE
NANCY CHANCE SURVEY, ABSTRACT NO. 5
CITY OF TEMPLE, BELL COUNTY, TEXAS

DATE: 2/8/2017	SCALE:		DWN. BY: MRG
REFERENCE: 13299-D/16-1304		F.B. & LB.: SKETCH	
FILE NO: 16-1304		SHEET:	1

BEING a 2.142 acre tract situated in the NANCY CHANCE SURVEY, ABSTRACT No. 5, Bell County, Texas and being a part or portion of that certain 5.000 acre tract of land described in a Warranty Deed with Vendor's Lien dated February 14, 1994 from U.S. Home Corporation to Mary E. McDonald and being of record in Volume 3125, Page 302, Official Public Records of Bell County, Texas and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found being in the east boundary line of the said 5.000 acre tract and being in the north right-of-way line of Farm-to-Market Road No. 2305 ( also known as West Adams Avenue ) as described in a Deed dated March 3, 1995 from Mary E. McDonald to the State of Texas and being of record in Volume 3284, Page 379, Official Public Records of Bell County, Texas and being the southwest corner of that certain 0.639 acre tract of land described in a Warranty deed with Vendor's Lien dated September 30, 2013 from Bok Nim Buckland to Steve Sanders and Jackie Sanders and being of record in Document No. 2013-00043265, Official Public Records of Bell County, Texas and being at the beginning of a curve to the left having a radius equals 22,828.31 feet ( calls 22,828.31 feet ), chord bearing equals N. 72° 51′ 36″ W., 180.00 feet for corner;

THENCE 180.00 feet departing the said east boundary line and the said 0.639 acre tract and with the said north right-of-way line of Farm-to-Market Road No. 2305 (West Adams Avenue) and over and across the said 5.000 acre tract to a point for corner;

THENCE N. 16° 57' 34" E., 517.78 feet departing the said north right-of-way line and continuing over and across the said 5.000 acre tract to a point being in the north boundary line of the said 5.000 acre tract and being in a south boundary line of that certain 31.108 acre tract of land described as Lot 1, Block 1, Holy Trinity Catholic High School Subdivision according to the map or plat of record in Cabinet D, Slide 244-B, Plat Records of Bell County, Texas for corner;

THENCE S. 73° 21′ 42″ E., 180.00 feet with the north boundary line of the said 5.000 acre tract ( calls N. 71° 18′ 52″ W., 400.00 feet ) and with a southerly boundary line of the said Lot 1, Block 1, Holy Trinity Catholic High School Subdivision ( calls N. 73° 23′ 16″ W., 400.17 feet ) to a 1″ iron pipe found being the northeast corner of the said 5.000 acre tract and being the most easterly southeast corner of the said Lot 1, Block 1, Holy Trinity Catholic High School Subdivision and being in the west boundary line of that certain 0.668 acre tract of land described in a Deed to Rosemary Rendon and being of record in Document No. 2010-00043026, Official Public Records of Bell County, Texas for corner;

THENCE S. 16° 57′ 34″ W., 519.35 feet departing the said Lot 1, Block 1, Holy Trinity Catholic High School Subdivision and with the east boundary line of the said 5.000 acre tract ( calls N. 19° 00′ 00″ E., 544.50 feet ) and with the west boundary line of the said 0.668 acre tract and continuing with the west boundary line of that certain 0.713 acre tract of land described in a Deed to Gabrielle J. Parkey and being of record in Volume 3258, Page 681, Official Public Records of Bell County, Texas and continuing with the west boundary line of the aforementioned 0.639 acre tract of land ( Document No. 2013-00043265 ) to the Point of BEGINNING and containing 2.142 acres of land.

I, Michael E. Alvis, a Registered Professional Land Surveyor in the State of Texas, do hereby certify that these field notes are a correct representation of a survey made on the ground.

\*\*\*\*\*

Michael E. Alvis, R.P.L.S. #5402

February 8, 2017

MICHAEL E. ALVISO

Exhibit A

Page 1 of 2

THIS PROJECT IS REFERENCED TO THE CITY OF TEMPLE COORDINATE SYSTEM, AN EXTENSION OF THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE. ALL DISTANCES ARE HORIZONTAL SURFACE DISTANCES UNLESS NOTED AND ALL BEARINGS ARE GRID BEARINGS.

ALL COORDINATE VALUES ARE REFERENCED TO CITY MONUMENT NUMBER 511 THE THETA ANGLE AT SAID CITY MONUMENT IS 01° 30' 27"
THE COMBINED CORRECTION FACTOR (CCF) IS 0.999856
PUBLISHED CITY COORDINATES ARE X = 3,212,276.86 Y = 10,381,314.93
THE TIE FROM THE ABOVE CITY MONUMENT TO THE POINT OF BEGINNING (POB) IS N. 73° 24' 26" W., 1272.06 FEET.
GRID DISTANCE = SURFACE DISTANCE X CCF
GEODETIC NORTH = GRID NORTH + THETA ANGLE

## Exhibit A



## Site & Surrounding Property Photos



Site: Undeveloped (O-1)



North: Holy Trinity Catholic High School (SF-1)



East: Single Family Residential Uses (Note Arrow - Fencing in Place) (AG)



East: Existing (Unsubdivided) Single Family Residential Uses – Brooks Drive (AG)



West: Holy Trinity Catholic High School entry (not in photo), Existing Service and Retail Uses (GR)



South: Existing Service & Retail Uses (GR)

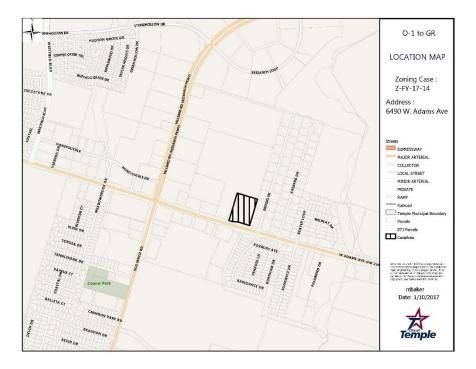


South: Existing Service & Retail Uses (GR)

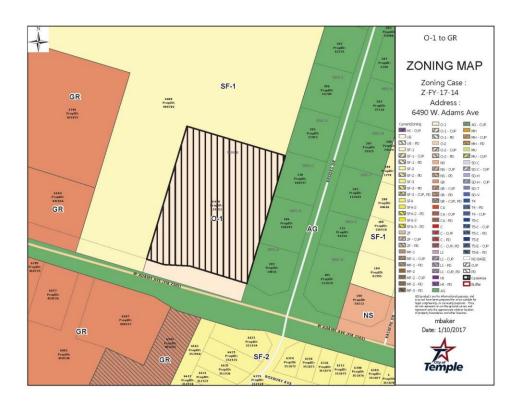
# Maps



**Aerial Map** 



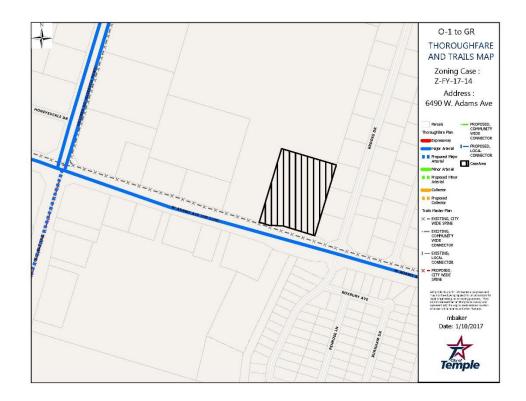
**Location Map** 



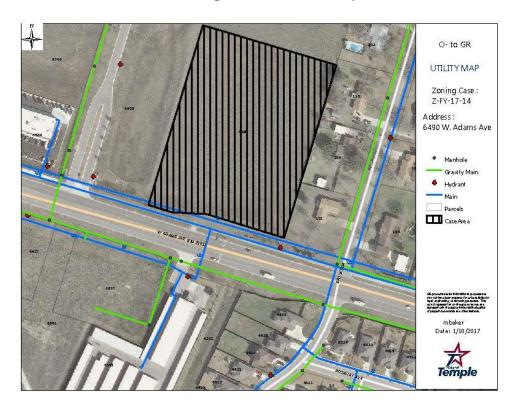
**Zoning Map** 



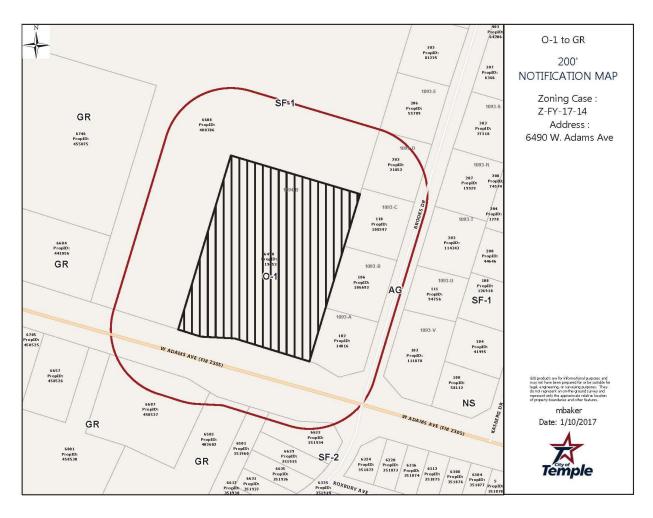
**Future Land Use Map** 



Thoroughfare & Trails Map



**Utility Map** 



**Notification Map** 

# **Tables**

Permitted & Conditional Uses Table (Comparison between O-1 & GR)

Use Type	Office-One (O-1)	General Retail (GR)
Agricultural Uses	* Farm, Ranch or Orchard	* Same as O-1
Residential Uses	* Single Family Residence (Detached & Attached) * Townhouse / Duplex * Industrialized Housing * Family or Group Home (CUP)	* Same as O-1
Retail & Service Uses	* Bank or Savings & Loan * Artist or Photographic Studio	* All Retail & Service Uses * Alcoholic Beverage Sales, off-premise consumption, Package Store (CUP)
Commercial Uses	* None	<ul><li>* Plumbing Shop</li><li>* Upholstery Shop</li><li>* Indoor Flea Market</li></ul>
Industrial Uses	* Temporary Asphalt & Concrete Batching Plat (CUP)  * Laboratory, medical, dental, scientific or research (CUP)	* Temporary Asphalt & Concrete Batching Plat (CUP)  * Laboratory, medical, dental, scientific or research
Recreational Uses	* Park or Playground	* Beer & Wine (On Premise Consumption) < 75% * All Alcohol (On-Premise) > 75% (CUP)
Vehicle Service Uses	* None	* Auto Sales - New & Used * Car Wash * Vehicle Servicing (Minor) * Fuel Sales
Restaurant Uses	* None	* With & Without Drive-In
Overnight Accommodations	* None	* Hotel or Motel
Transportation Uses	* Helistop (CUP)	* Commercial Parking Lot * Helistop

### **Surrounding Property Uses**

	Surrounding Property & Uses		
Direction	FLUP	Zoning	<b>Current Land Use</b>
Site	Suburban Commercial	0-1	Vacant
North	Public Institutional	SF-1	Holy Trinity Catholic High School
South	Suburban Commercial & Auto- Urban Residential	GR & SF-2	Retail / Service Uses & SF Residential Uses
East	Suburban Residential	AG, NS & SF-1	SF Residential Uses & Retail / Service Uses
West	Public Institutional & Suburban Commercial	SF-1 & GR	Retail Uses & Holy Trinity Catholic High School

### **Comprehensive Plan Compliance**

Document	Policy, Goal, Objective or Map	Compliance?
СР	Map 3.1 - Future Land Use Map	YES
СР	Map 5.2 - Thoroughfare Plan	YES
СР	Goal 4.1 - Growth and development patterns should be consistent with the City's infrastructure and public service capacities	YES
STP	Temple Trails Master Plan Map and Sidewalks Ordinance	YES
CP = Comprehensive Plan STP = Sidewalk and Trails Plan		

### **Development Standards**

	<u>Current (O-1)</u> <u>Non-Res</u>	Proposed (GR) Non-Res
Minimum Lot Size	N/A	N/A
Minimum Lot Width	N/A	N/A
Minimum Lot Depth	N/A	N/A
Front Setback	25 Feet	15 Feet
Side Setback	5 Feet	10 Feet
Side Setback (corner)	15 Feet	10 Feet
Rear Setback	10 Feet	10 Feet
Max Building Height	3 Stories	3 Stories



# RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Case Manager:

Mark Baker

PARKEY, GABRIELLE J 106 BROOKS DR TEMPLE, TX 76502-6351

**Zoning Application Number: Z-FY-17-14** 

Location: 6490 West Adams Avenue, Te	emple, Texas	
The proposed rezoning is the area show own property within 200 feet of the requ this form to indicate whether you are in the the attached notice, and provide any add	uested change, your opinions are favor of the possible rezoning of th	welcomed. Please use
l () agree	disagree with this requ	iest
Comments: /	1	
being a homeowner of H	is proparte in 22 cu	and I to fort
F 17	as signeral and 25 and	and I done
Danta Last Loop of Restour	1- 1-11	has been preven
TO DECRETE home re-sal	evalue - Registe fin	at surcered
15 grow, 1c and something	a will be vew lapa fil	How acreage
Wel will yost our vion	But an eating estab	lishment will
Jahry Platar Kees	Galvielle for	key over
Signature /	Print Name	
If you would like to submit a response, the Case Manager referenced above, ml form to the address below, no later than	baker@templetx.gov, or mail or ha	nd-deliver this comment
	City of Temple	RECEIVED
	Planning Department	JAN 3 0 2017
	2 North Main Street, Suite 102 Temple, Texas 76501	City of Temple Planning & Development
Number of Notices Mailed: 10	Date Mailed:	January 26, 2017

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

not only create extreme traffic, but also create a Security risk for our neighborhood. Obtice business is senerally during the day, not constant traffic, so we would still have our evenings of quiet. For these reasons I strongly oppose change of Zoning.



### RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

Case Manager:

Mark Baker

SANDERS, STEVE & JACKIE 103 BROOKS DR TEMPLE, TX 76502-6352

us at 254.298.5668.

Zoning Application Number: Z-FY-17-14

Location: 6490 West Adams Avenue, Te	mpie, i exas	
The proposed rezoning is the area show own property within 200 feet of the requ this form to indicate whether you are in fa the attached notice, and provide any add	ested change, your opinions are valued the second section in the second second section is the second section in the second section in the second section is the second section in the second section in the second section is section in the second section in the second section is section in the second section in the second section is section in the second section in the second section is section in the section in the section in the section is section in the section in the section in the section is section in the section in the section in the section is section in the section in the section in the section is section in the sectio	welcomed. Please use
l () agree	(v disagree with this requ	est
Comments: I would agree to	neighborhood Serv	ice but
not General Reta	<i>i'</i>	
Signature	Steve Sc Print Name	nders
If you would like to submit a response, the Case Manager referenced above, mb form to the address below, no later than	<u>paker@templetx.gov</u> , or mail or ha February 6, 2017.	nd-deliver this commen
		RECEIVED
	City of Temple Planning Department 2 North Main Street, Suite 102	FEB - 6 2017
	Temple Texas 76501	City of Temple Planning & Development
Number of Notices Mailed: 10	Date Mailed:	January 26, 2017

OPTIONAL: Please feel free to email questions or comments directly to the Case Manager or call



### RESPONSE TO PROPOSED REZONING REQUEST CITY OF TEMPLE

EATON, MICHAEL A ETUX TONYA K 6633 BROOKS DR TEMPLE, TX 76502

Zoning Application Number: Z-FY-17-14

Location: 6490 West Adams Avenue, Temple	e, Texas
The proposed rezoning is the area shown in	hatched marking on the attached map. Because you ed change, your opinions are welcomed. Please use of the possible rezoning of the property described on hal comments you may have.
l 💢 agree	( ) disagree with this request
Comments:	FEB 1 3 2017
·	City of Temple Planning & Development
Signature Signature	Print Name
rosponse nle	ase email a scanned version of this completed form to

If you would like to submit a response, please email a scanned version of this completed form to the Case Manager referenced above, <a href="mailto:mbaker@templetx.gov">mbaker@templetx.gov</a>, or mail or hand-deliver this comment form to the address below, no later than **February 6, 2017.** 

City of Temple Planning Department 2 North Main Street, Suite 102 Temple, Texas 76501

Number of Notices Mailed: 10

Date Mailed: January 26, 2017

Mark Baker

Case Manager:

<u>OPTIONAL</u>: Please feel free to email questions or comments directly to the Case Manager or call us at 254.298.5668.

#### **EXCERPTS FROM THE**

#### **PLANNING & ZONING COMMISSION MEETING**

### **MONDAY, FEBRUARY 6, 2017**

#### **ACTION ITEMS**

Item 4: <u>Z-FY-17-14</u> - Hold a public hearing to consider and recommend action on a rezoning from Office-One (O-1) zoning district to General Retail (GR) zoning district on 4.820 +/- acres, being a non-residential subdivision, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, located at 6490 West Adams Avenue, Temple, Texas.

Vice-Chair Fettig stated he would need to abstain from Item 4, left the Council Chambers and did not participate in discussions or voting.

Mr. Mark Baker, Senior Planner, indicated this item is scheduled to go forward to City Council for first reading on March 16, 2017 and second reading on April 6, 2017.

This request is proposed for retail and service uses and the initial development is for a minor vehicle servicing use within the proposed GR zoning. Minor vehicle servicing would be limited to oil change and vehicle inspections. Additional development is to be expected.

Mr. Baker cited a few projects located in the same area which is developing with GR zoning.

The subdivision plat is not part of this rezoning request; however, the plat has been submitted to Staff and is scheduled for review later this month.

Zoning Map shown and described.

The Future Land Use and Character Map designates the subject property as Suburban Commercial, intended for areas of office and retail service uses, supports GR zoning, and allows for minor automotive service-related uses. The request is in compliance with the Future Land Use and Character Map.

Public facilities are available to serve the property with a 14-inch and four-inch water line located in West Adams and an eight-inch sewer located at the intersection of Brooks Drive and West Adams, along with an 18-inch sewer line on the south side of West Adams. The extension of the sewer line will be necessary and is what is triggering the final plat to come before P&Z some point in the future.

The Thoroughfare Plan designates West Adams Avenue as a Major Arterial and no Transportation Capital Improvement Projects (TCIP) are scheduled through 2024.

There is an existing City-wide spine trail along West Adams Avenue with an existing 10-foot wide asphalt sidewalk which will be required to be upgraded to concrete at the Construction Plan stage.

Site photos are shown.

Surrounding properties include Holy Trinity Catholic High School, zoned SF-1, located to the north, West Adams Avenue and existing retail and service uses, zoned GR, located to the south, existing retail and service uses, zoned GR, located to the west, and existing single family residential uses, zoned AG, located to the east.

The existing fencing which appears to be located on individually owned private property may meet screening and buffering requirements, but all buffering and screening that is triggered is the responsibility of the non-residential development. In other words, if the private property owners removed any type of compliant fencing or screening, it would still be the obligation of the non-residential development to provide that screening and buffering in the future.

Comparison between several allowed and prohibited uses for O-1 and GR are shown.

Current and proposed Development Standards are given.

Due to the acreage of the subject property, not all of the uses could be accommodated so the property itself is self-restricting to the uses available for development.

In terms of Buffering and Screening: UDC Section 7.7.4 – Buffering:

- May consist of evergreen hedges composed of five-gallon plants or larger, with a planted height of six-feet on 36-inch centers
- May consist of a six-foot to eight-foot high fence or wall, constructed by any number of allowed materials per UDC Section 7.7.5, such as:

Wood,

Masonry,

Stone or pre-cast concrete

 Compliance to the buffering and screening requirements is the responsibility of the non-residential development.

Ten notices were mailed in accordance with all state and local regulations with zero notices returned in agreement and two notices returned in disagreement. (One notice was undeliverable).

This request is in compliance with the Future Land Use and Character Map, the Thoroughfare Plan, public facilities are available to serve the property, and is compatible with the surrounding uses and zoning.

Staff recommends approval of the request for a rezoning from O-1 to GR.

Mr. Baker explained about the phone calls he received on this project.

Chair Rhoads opened the public hearing.

Mr. Mike Beevers, DB Commercial Real Estate, Managing Partner, 5101 FM 439, Belton, Texas, stated their company tries to look at what the property 'could become' when working with developments, City Staff, and consultants.

Mr. Beevers stated they try to avoid PDs whenever possible since they can be difficult to manage. The applicant is requesting a straight GR rezoning consistent with the land use plan and the Suburban Commercial designation.

DB Commercial has a firm currently interested in this lot for a fast minor automotive repair for a national chain. The other portions of the tract have no potential users to date but DB would like to have the zoning in place for potential interested parties.

Mr. Beevers stated he has reached out to the community and residents in the area to discuss this proposal, met with TxDOT regarding their requirements, and met with City Staff to cover many pre-planning issues.

Three houses abut the subject property.

Ms. Gabrielle Parkey, 106 Brooks Drive, Temple, Texas, stated she was a member of the Temple Chamber of Commerce Red Carpet Ambassador and supports growth and development; however, her neighborhood is concerned about requesting a GR zoning. GR could allow businesses such as a fast food restaurant, convenience store, or hotel on the corner which abuts the homes located there.

Ms. Parkey would like the zoning to remain as Office since it would be the minimum amount of impact to the area. Ms. Parkey is not in favor of a 24/7 type of business which could be intrusive on the neighbors and possibly affect property values.

Mr. Doug Easley, 110 Brooks Drive, Temple Texas, stated he agreed with Ms. Parkey on keeping the Office zoning in place and not having a 24 hour restaurant there since it would be difficult to entire their homes.

Mr. Easley stated there is a flooding issue in the area and, if developed, he would prefer a drainage ditch be installed to keep his property from flooding.

Mr. Easley commented that the restaurants across the way are not a problem since the neighbors do not normally smell them.

Mr. Easley would rather have a tire shop with the air hammers, dumpsters, and cars honking than a real estate neighborhood. Bringing in a business, without food retail, is agreeable to the residents, and include a buffer and irrigation.

Mr. Mike Beevers returned and clarified he did not know what the market would bring to them which is why they met with Staff to discuss GR zoning.

Mr. Beevers stated he would be willing to work with alternate ideas; however, he would not recommend the Commission make decisions on an ad-hoc fashion tonight. How do you zone against a smell? Mr. Beevers suggesting tabling the item, coming back with a PD zoning with a PD retail, and then tailor the uses available.

The current zoning of Office would allow for a building up to three stories tall.

Mr. Chandler commented that if the Commission wanted to add any conditions that are enforceable then it has to be done through a PD, which is not what Mr. Beevers was wanting.

The Future Land Use and Character Map did not necessarily take into consideration the direct impact on those neighbors when it was developed.

The P&Z could table the item, and, with some direction, come back the next time to perhaps discuss prohibiting a use or uses, additional buffering and screening since it abuts a neighborhood, and any other additional conditions.

Mr. Chandler confirmed that GR allows for a drive-through restaurant with no site plan attached.

Chair Rhoads suggested a future workshop be held for the Commissioners to discuss these type of issues since West Adams is growing so rapidly.

Mr. Beevers suggested the Commission rezone the property as PD-GR and site plan approval would be done when it comes back to P&Z for screening and buffering, etc.

Mr. Chandler confirmed the legal notice covers the change because P&Z can recommend something more restrictive which is what a PD is. Mr. Chandler recommended if it is a question of having the opportunity to look at how a building will be sited, or it has a drive-through, or is buffering and screening required, then P&Z can make that recommendation to add the site plan that would have to come back when it is ready, rather than tabling the item.

If P&Z is open to discussions prohibiting certain uses ('carving out') then the item should be tabled since a site plan does not address this.

Chair Rhoads stated the PD-GR makes more sense.

Mr. Beevers added that the site plan would come back whenever there is a specific project; not a week or two.

Chair Rhoads clarified that the possible recommendation is to change the request to a PD-GR for any motion.

Commissioner Jones asked if the residents felt it was reasonable and a good idea to have a PD attached. Chair Rhoads explained to Ms. Parkey that this meant GR leaves it wide open and a PD requires a site plan in place to come back to P&Z and the applicant explains exactly what the plan is.

Commissioner Jones added that advanced notice would go back out and residents would have an opportunity to come back and it would not be decided tonight.

Ms. Gabrielle Parkey stated that was reasonable.

Mr. Dennis Williamson, 203 Brooks Drive, Temple, Texas, stated what would be best is develop a committee from Brooks Drive to work hand-in-hand with the developer allowing the residents to have veto power.

Chair Rhoads stated they cannot do that.

Mr. Williamson stated the neighborhood has been in the area for 50 years and would not like to have a restaurant next door. Mr. Williamson suggested having a buffer around the neighborhoods that have been existing for 20, 50 years.

Office zoning makes it a prime development area.

Chair Rhoads explained when the area was originally zoned years ago, Adams Avenue went a different direction than what it was zoned.

Mr. Phillip Howe, 111 Brooks Drive, Temple, Texas, stated he bought his home in 1991 and it was a unique area.

Mr. Howe stated water sits in the corner and believed the property would never be developed due to the water issue.

Mr. Mike Beevers returned and explained they would change to PD-GR. He felt the main concern was the land that backed up to the houses and the project that is 'priming the pump' is located on the western half.

Mr. Beevers suggested the PD overlay be done only on the eastern half (all the land that abuts the existing houses) and the western half frontage (400 feet wide) would be divided into two lots—200 foot wide lots with a typical GR zoning.

The folks that are moving forward with the quick oil change would put their project behind schedule in order to come back and get a site plan approved for that southwest corner. If it is amenable to the P&Z and residents, it would allow that project to move forward and stick with the GR zoning.

Mr. Beevers explained there would be a center drive off of West Adams in the middle and would be a single joint point of access for the entire tract, with a turnaround at the rear, per TxDOT requirement.

Mr. Baker stated half of the tract would need to be done through field notes to have some type of description to go into the Ordinance.

Commissioner Jones questioned if this would be able to be done tonight.

Mr. Chandler answered it would probably be better to table this item so Staff could work with the applicant in terms of the description. It could move forward tonight if the entire tract were PD-GR, but to take half of it without a description and require a site plan is a challenge.

Mr. Beevers stated he could come back in two weeks with the field notes if the neighborhood supported it. Bringing a site plan back before City Council is a larger delay than two weeks. That would be compromise on the applicant's part.

The next P&Z meeting is scheduled for Tuesday, February 21, 2017.

Ms. Gabrielle Parkey returned and asked if the Quik Lube could go up next to the houses since it was only an eight to five situation; not 24 hour. It might be better than the alternative.

Mr. Beevers stated it was a great idea but they have a contract on the western portion and cannot just change it. Mr. Beevers asked the Commission to table the item and be able to come back with a site plan and field notes in two weeks and be prepared with documentation to move forward to City Council.

Chair Rhoads closed the public hearing.

Commissioner Crisp made a motion to table Item 4, **Z-FY-17-14**, until the next scheduled P&Z meeting on February 21, 2017, and Commissioner Alaniz made a second.

Motion passed: (7:0)

Vice-Chair Fettig abstained; Commissioner Ward absent

### ORDINANCE NO. <u>2017-4835</u> (Z-FY-17-14)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS. AUTHORIZING A REZONING FROM OFFICE ONE ZONING DISTRICT TO **GENERAL** RETAIL ZONING DISTRICT ON APPROXIMATELY 2.770 ACRES, AND FROM OFFICE ONE TO PLANNED DEVELOPMENT-GENERAL RETAIL ZONING **DISTRICT** APPROXIMATELY 2.142 ACRES, A PORTION OF AN APPROXIMATELY 4.912 ACRE TRACT OF LAND, SITUATED IN THE NANCY CHANCE SURVEY, ABSTRACT NO. 5, BELL COUNTY, TEXAS, AND LOCATED AT 6490 WEST ADAMS AVENUE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETINGS CLAUSE.

\_\_\_\_\_

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

<u>Part 1</u>: The City Council approves a rezoning from Office One zoning district to General Retail zoning district on approximately 2.770 acres and from Office One to Planned Development-General Retail on approximately 2.142 acres, a portion of an approximately 4.912 acre tract of land, situated in the Nancy Chance Survey, Abstract No. 5, Bell County, Texas, located at 6490 West Adams Avenue, as outlined in the map attached hereto as Exhibit 'A,' and made a part hereof for all purposes.

- <u>Part 2</u>: Staff recommends approval of a rezoning from Office One zoning district to General Retail zoning district on approximately 2.770 acres as depicted in Exhibit 'B' attached hereto and made a part hereof for all purposes.
- **Part 3:** Staff recommends approval of a rezoning from Office One to Planned Development-General Retail on approximately 2.142 acres as depicted in Exhibit 'B' and subject to the following conditions:
  - 1. Site plan approval is required by the Planning & Zoning Commission and the City Council; and
  - 2. Site plan approval will include notification of property owners within 200-feet of the boundaries of the PD-GR zoned area.
- <u>Part 4</u>: The City Council directs the Director of Planning to make the necessary changes to the City Zoning Map.
- <u>Part 5</u>: 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.

<u>Part 6</u>: 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.

<u>Part 7</u>: It is hereby officially found and determined that the meeting at which this Ordinance was 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  $2^{nd}$  day of March, 2017.

PASSED AND APPROVED on Second Reading on the 16th day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



### **COUNCIL AGENDA ITEM MEMORANDUM**

03/02/17 Item #9 Regular Agenda Page 1 of 1

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

Kayla Landeros, City Attorney

<u>ITEM DESCRIPTION:</u> Consider adopting a resolution approving a request from Central Texas Christian School for a 1,000 foot spacing requirement between the school and a place of business which sells alcoholic beverages, pursuant to Code of Ordinances, Chapter 4, Section 4-2.

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

<u>ITEM SUMMARY:</u> On February 16, 2017, the City Council adopted amendments to Chapter 4 of the Code of Ordinances. Section 4-2 now allows for a private school to request that the City Council apply a 1,000 foot spacing requirement between the school property and a place of business which sells alcoholic beverages, instead of the 300 foot spacing requirement which normally applies. Section 4-2 tracts the language of the Texas Alcoholic Beverage Code Section 109.33.

A private school is defined in Chapter 4 and in State law as a private school that "(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and (2) has more than 100 students enrolled and attending courses at a single location." Central Texas Christian School meets this definition.

In September, 2016, Central Texas Christian School formally requested the 1000 foot spacing requirement, however in conversations with a member of the Board of Trustees, it was explained that amendments to Chapter 4 would first have to be considered by the Council. Since those amendments were approved at the last Council meeting, Central Texas Christian School has confirmed its desire to request the 1000 foot spacing requirement. A copy of the request is attached to this memorandum.

The distance between a school and an establishment which sells alcoholic beverages is measured in a direct line from the property line of the school to the property line of the place of business. The school is located on the property platted as Lot 1, Block 1, Central Texas Christian School Addition. Therefore, measurements will be made from the property lines established by the plat.

**FISCAL IMPACT**: Not applicable.

#### **ATTACHMENTS:**

Letter from Central Texas Christian School Resolution

## Central Texas Christian School

254-939-5700 - office 254-939-5733 - fax www.ctcslions.com

September 26, 2016

Kayla Landeros City Attorney City of Temple

RE: Request prohibiting the sale of alcoholic beverages within 1000 feet of CTCS

Dear Ms. Landeros:

Due to the recent growth in the City of Temple and the impact certain businesses may have on our school in the future, we became aware of Sec 109.33 (a) (3) of TABC Code. Since there are no businesses currently selling alcohol within 1000' of our facility, the CTCS Board of Trustees formally requests the 1000' provision for the sale of alcohol near our campus.

Please feel free to contact me if you have any questions or concerns.

Thank you for your consideration.

Steven Thompson Board of Trustees

Central Texas Christian School

### **RESOLUTION NO. 2017-8564-R**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, APPROVING A REQUEST FROM CENTRAL TEXAS CHRISTIAN SCHOOL FOR A 1,000 FOOT SPACING REQUIREMENT BETWEEN A SCHOOL AND A PLACE OF BUSINESS WHICH SELLS ALCOHOLIC BEVERAGES, PURSUANT TO CODE OF ORDINANCES, CHAPTER 4, SECTION 4-2; AND PROVIDING AN OPEN MEETINGS CLAUSE.

**Whereas**, on February 16, 2017, Council adopted amendments to Chapter 4 of the Code of Ordinances:

Whereas, Section 4-2 now allows for a private school to request that Council apply a 1,000 foot spacing requirement between a school property and a place of business which sells alcoholic beverages, instead of the 300 foot spacing requirement which normally applies - Section 4-2 tracts the language of the Texas Alcoholic Beverage Code Section 109.33;

Whereas, a private school is defined in Chapter 4 and in State law as a private school that "(1) offers a course of instruction for students in one or more grades from kindergarten through grade 12; and (2) has more than 100 students enrolled and attending courses at a single location" - Central Texas Christian School meets this definition;

Whereas, in September, 2016, Central Texas Christian School formally requested the 1000 foot spacing requirement, however in conversations with a member of the Board of Trustees, it was explained that amendments to Chapter 4 would first have to be considered by the Council – Council approved those amendments on February 16, 2017 and Central Texas Christian School has again confirmed its desire to request the 1000 foot spacing requirement;

Whereas, the distance between a school and an establishment which sells alcoholic beverages is measured in a direct line from the property line of the school to the property line of the place of business – Central Texas Christian School is located on property platted as Lot 1, Block 1, Central Texas Christian School Addition and therefore, measurements will be made from the property lines established by the plat; 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:

<u>Part 1</u>: Findings. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

<u>Part 2:</u> The City Council approves the request from Central Texas Christian School for a 1,000 foot spacing requirement between the school and a place of business which sells alcoholic beverages, pursuant to Code of Ordinances, Chapter 4, Section 4-2.

<u>Part 3:</u> It is hereby officially found and determined that the meeting at which this Resolution was 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 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS
	DANIEL A. DUNN, Mayor
ATTEST:	APPROVED AS TO FORM:
Lacy Borgeson	Kayla Landeros
City Secretary	City Attorney



### **COUNCIL AGENDA ITEM MEMORANDUM**

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

Kayla Landeros, City Attorney Christina Demirs, Deputy City Attorney

ITEM DESCRIPTION: Consider adopting a resolution pursuant to Chapter 2206, Government Code § 2206.053 finding that one property situated in the M.A. Young Survey, Abstract #937, J.B. Daniel Survey, Abstract #259, and the Henry Millard Survey, Abstract #552, Bell County, Texas, is necessary for the proposed expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35 and authorizing the use of eminent domain to condemn the property.

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

ITEM SUMMARY: The City is currently in the design phase for the proposed expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35, including a realigned intersection at Pegasus Drive. The design requires the acquisition of right-of-way from 21 different property owners, under Chapter 251, Local Government Code § 251.001. The City has acquired six rights of way and has reached an agreement with six property owners. Staff is actively negotiating with each of the remaining property owners and hopes to reach agreements with each of them this fiscal year. However, despite negotiations, the City and one property owner have not reached an agreement, nor is an agreement anticipated. This property is situated in the M.A. Young Survey, Abstract #937, J.B. Daniel Survey, Abstract #259, and the Henry Millard Survey, Abstract #552, Bell County, Texas. The legal description of the real property needed is included with the Resolution attached to this memorandum. The property needed is as follows:

- Being 15.858 acres of land, more or less, out of the M.A. Young Survey, Abstract #937; J.B. Daniel Survey, Abstract #259; and the Henry Millard Survey, Abstract #552, Bell County, Texas, located at the southwest corner of Moores Mill Road and Wendland Road, Temple, Texas (Bell CAD ID #15887).
  - An appraisal was performed on the property and the City made an offer to purchase, based on the appraisal, to the owner of record on January 6, 2017, via Lone Star Rightof-Way Services (Lone Star).
  - The property owner submitted a counteroffer to the City via Lone Star on January 16, 2017. This counteroffer was substantially higher than the City is willing pay to acquire the property and was refused.

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 A final offer for the appraised amount plus closing costs was sent in February, and if rejected after 14 days, Staff is asking Council to authorize the use of the power of eminent domain to acquire the property.

Staff is asking pursuant to Chapter 2206, Government Code § 2206.053, for the City Council to authorize the use of the power of eminent domain to acquire the property described above, if the parties are ultimately unable to reach agreements.

**FISCAL IMPACT**: Funding for the purchase of this property necessary for the expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35, is appropriated in account 795-9800-531-6864, project #101001.

### **ATTACHMENTS**:

Resolution

#### RESOLUTION NO. 2017-8565-R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, FINDING THAT A PROPERTY SITUATED IN THE M.A. YOUNG SURVEY, ABSTRACT 937, J.B. DANIEL SURVEY, ABSTRACT 259, AND THE HENRY MILLARD SURVEY, ABSTRACT 552, BELL COUNTY, TEXAS, IS NECESSARY FOR THE PROPOSED EXPANSION OF OLD HOWARD ROAD FROM CENTRAL POINTE PARKWAY TO MOORES MILL ROAD, AS WELL AS AN EXPANSION OF MOORES MILL ROAD FROM OLD HOWARD ROAD TO IH-35; AUTHORIZING THE USE OF EMINENT DOMAIN TO CONDEMN THE PROPERTY; AND PROVIDING AN OPEN MEETINGS CLAUSE.

Whereas, the City is currently in the design phase for the proposed expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35, including a realigned intersection at Pegasus Drive;

Whereas, the design requires the acquisition of right-of-way from 21 different property owners, under Chapter 251, Local Government Code § 251.001 – and the City has acquired six rights of way and has reached agreements with six property owners;

Whereas, Staff is actively negotiating with each of the remaining property owners and hopes to reach agreements with each of them this fiscal year, however, despite negotiations, the City and one property owner have not reached an agreement, nor is an agreement anticipated;

**Whereas,** the property is situated in the M.A. Young Survey, Abstract 937, J.B. Daniel Survey, Abstract 259, and the Henry Millard Survey, Abstract 552, Bell County, Texas;

**Whereas,** the legal description of the real property needed is as follows:

Being 15.858 acres of land, more or less, out of the M.A. Young Survey, Abstract #937; J.B. Daniel Survey, Abstract #259; and the Henry Millard Survey, Abstract #552, Bell County, Texas, located at the southwest corner of Moores Mill Road and Wendland Road, Temple, Texas (Bell CAD ID #15887).

**Whereas,** an appraisal was were performed on the property and the City made an offer to purchase, based on the appraisal, to the owners of record on January 6, 2017, via Lone Star Right-of-Way Services ("Lone Star");

Whereas, the property owner submitted a counteroffer to the City via Lone Star on January 16, 2017 which was substantially higher than the appraised value and therefore the counteroffer was refused;

Whereas, a final offer for the appraised amount plus closing costs was sent in February, and if rejected after 14 days, Staff recommends, pursuant to Chapter 2206, Government Code § 2206.053, that Council authorize the use of the power of eminent domain to acquire the property described above;

**Whereas,** funding for the purchase of this property necessary for the expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35, is appropriated in Account No. 795-9800-531-6864, Project No. 101001.

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:

- <u>Part 1</u>: All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council of the City of Temple, Texas, and they are hereby approved and incorporated into the body of this resolution as if copied in their entirety.
- <u>Part 2</u>: The City Council hereby finds and determines that the necessity exists for acquiring, by eminent domain, approximately 15.858 acres of land, more or less, out of the M.A. Young Survey, Abstract #937; J.B. Daniel Survey, Abstract #259; and the Henry Millard Survey, Abstract #552, Bell County, Texas, located at the southwest corner of Moores Mill Road and Wendland Road, Temple, Texas (Bell CAD ID #15887).
- <u>Part 3</u>: The City Council hereby finds and determines that the proposed expansion of Old Howard Road from Central Pointe Parkway to Moores Mill Road, as well as an expansion of Moores Mill Road from Old Howard Road to IH-35 is a public use under Chapter 251, Local Government Code § 251.001(a)(1).
- <u>Part 4</u>: The City Council authorizes the use of the City's eminent domain authority under Article 3, Section 3.6, of the Charter of the City of Temple and the initiation of condemnation proceedings of said property interests.
- <u>Part 5</u>: It is hereby officially found and determined that the meeting at which this Resolution was 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 and the Truth in Condemnation Act, Chapter 2206, Government Code § 2206.053.

PASSED AND APPROVED this the 2<sup>nd</sup> day of March, 2017.

	THE CITY OF TEMPLE, TEXAS	
	DANIEL A. DUNN, Mayor	
ATTEST:	APPROVED AS TO FORM:	
	<u> </u>	
Lacy Borgeson	Kayla Landeros	
City Secretary	City Attorney	