Effective March 16, 2020, Governor Greg Abbott authorized the temporary suspension of certain statutory provisions of the Texas Open Meetings Act. This meeting of the City Council of the City of Midland is being held pursuant to such authorization and will limit face-to-face interactions for the purpose of slowing the spread of the coronavirus (COVID-19).

CITY OF MIDLAND, TEXAS
AGENDA FOR CITY COUNCIL MEETING
November 3, 2020 - 10:00 AM
300 North Loraine
Midland, Texas
Council Chamber - City Hall

Videoconference Information

Please click this URL to join.
https://zoom.us/j/92703200668?pwd=QWZyNGRtNE8rZFZxb3RiUTZlRy9YZz09
Passcode: 661657
Or join by phone:
Dial(for higher quality, dial a number based on your current location):
US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799
Webinar ID: 927 0320 0668
International numbers available: https://zoom.us/u/acPfDgHXID

The City Council may discuss, consider, and take action on any item listed on this agenda.

OPENING ITEMS

1. Invocation – Jon Slaydon, Hope Community Church

2. Pledge of Allegiance

CONSENT AGENDA

3. MOTION APPROVING THE FOLLOWING MINUTES:

   3a. SPECIAL CITY COUNCIL MEETING OF OCTOBER 15, 2020

   3b. REGULAR CITY COUNCIL MEETING OF OCTOBER 20, 2020

4. 2020-168 – RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR MODEL 745 ARTICULATED TRUCK FROM WARREN POWER & MACHINERY, INC., DBA WARREN CAT OF ODESSA, TEXAS, AT A TOTAL COST OF $695,000.00 THROUGH

BUYBOARD (GENERAL SERVICES)

5. 2020-169 – RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR MODEL 349FL HYDRAULIC EXCAVATOR FROM WARREN POWER & MACHINERY, INC., DBA WARREN CAT OF ODESSA, TEXAS, AT A TOTAL COST OF $515,350.00 THROUGH BUYBOARD (GENERAL SERVICES)

6. 2020-170 – RESOLUTION APPROVING THE PURCHASE OF FORTY (40) BUNKER COATS AND FORTY (40) BUNKER PANTS FROM DOOLEY TACKABERRY, INC., AT A TOTAL COST OF $114,920.40 THROUGH HGAC CONTRACT EE08-19 (GENERAL SERVICES)

7. 131-2020 – MOTION TO APPROPRIATE THE SUM OF $70,000.00 FROM THE AIRPORT OPERATING FUND (500) UNAPPROPRIATED FUND BALANCE (35650) TO THE MULTI-FACILITY REHAB PROJECT (900308) (AIRPORTS)

8. 2020-171 – RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN LOT 1A, BLOCK 1, MIDLAND AIRPARK ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, TO ONCOR ELECTRIC DELIVERY COMPANY LLC (AIRPORTS)

9. 2020-172 – RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2021 (CITY MANAGER'S OFFICE)

10. 2020-173 – RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON NOVEMBER 9, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR (CITY MANAGER'S OFFICE)

11. 132-2020 – MOTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE BOYS & GIRLS CLUB OF MIDLAND, INC., FOR THE LEASE OF CERTAIN CITY-OWNED FACILITIES LOCATED AT 110 EAST NEW JERSEY AVENUE, MIDLAND, TEXAS (COMMUNITY SERVICES)

12. 2020-174 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE CASA DE AMIGOS/SOUTHEAST SENIOR CENTER NUTRITION PROGRAM IN THE AMOUNT OF $68,000.00

13. 2020-175 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF $500,000.00 (DEVELOPMENT SERVICES)

14. 2020-176 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH WEST TEXAS FOOD BANK FOR THE WEST TEXAS FOOD BANK PROGRAM IN THE

AMOUNT OF $200,000.00 (DEVELOPMENT SERVICES)

15. 2020-177 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC., FOR THE 2020 BOYS & GIRLS CLUB PERMIAN BASIN PROGRAM IN THE AMOUNT OF $92,000.00 (DEVELOPMENT SERVICES)

16. 133-2020 – MOTION APPROVING A PROPOSED PRELIMINARY PLAT OF SADDLEBACK ESTATES ADDITION, BEING A PLAT OF A 72.256-ACRE TRACT OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 46, BLOCK 38, T-1-S, T&P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS, (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH COUNTY ROAD 1130 AND EAST COUNTY ROAD 95 - EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES)

17. 134-2020 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND BETA CRUDE CONNECTOR, LLC. REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 12, BLOCK 39, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)

18. 135-2020 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND CENTURION PIPELINE, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 5, BLOCK 38 TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)

SECOND READINGS

19. 10117 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,363-SQUARE FOOT PORTION OF LOT 1A, BLOCK 1, PAVILION PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND MOCKINGBIRD LANE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

20. 10118 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 50 FEET OF LOTS 19 THROUGH 24, BLOCK 145, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST PENNSYLVANIA AVENUE AND SOUTH WEATHERFORD STREET), BY PERMITTING A REDUCED MINIMUM LOT WIDTH;

CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

21. 10119 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.482-ACRE PORTION OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A COMMUNITY SERVICE CENTER TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 180 FEET SOUTH OF EAST CUTHBERT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

22. 10120 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,241-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

23. 10121 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 3 AND 4, BLOCK 3, MAYFIELD PLACE ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH MIDKIFF ROAD AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

24. 10122 – AN ORDINANCE VACATING AND ABANDONING A 0.04-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1, 2, 7 AND 8, BLOCK 88, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH GARFIELD STREET, APPROXIMATELY 140 FEET SOUTH OF WEST WALL STREET); ADOPTING THE APPRAISAL BY THE

INTERIM CITY MANAGER OF $6,996.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES) (FIRST READING HELD OCTOBER 20, 2020)

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

25. 136-2020 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC FOR THE DRILLING OF THE OIL AND GAS WELL CHARGER #H120WB; SAID WELL BEING GENERALLY LOCATED 2,410 FEET WEST OF RANKIN HIGHWAY AND 515 FEET SOUTH OF WEST INTERSTATE 20 (DEVELOPMENT SERVICES)

26. 137-2020 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO PERMIAN DEEP ROCK OIL CO., LLC FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: CHARGER #H130WB AND CHARGER #H135WA; SAID WELLS BEING GENERALLY LOCATED BETWEEN 2,043 AND 2,343 FEET WEST OF SOUTH GARFIELD STREET AND 320 FEET NORTH OF WEST COUNTY ROAD 111 (DEVELOPMENT SERVICES)

27. 10123 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,800-SQUARE FOOT PORTION OF BLOCK 1, LESS THE 250-FOOT BY 150-FOOT NORTHWEST CORNER AND LESS THE 224-FOOT BY 150-FOOT SOUTHWEST CORNER, REPLAT OF BLOCKS 1 AND 2, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 277 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

28. 10124 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, “A” STREET COMMUNITY CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH “A” STREET AND VENTURA DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

29. 10125 – AN ORDINANCE VACATING AND ABANDONING A 0.075-ACRE PORTION OF

ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO BLOCK 1, SHILOH SUBDIVISION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN WEST SCHARBAUER DRIVE AND NORTH C STREET, APPROXIMATELY 220 FEET NORTH OF SHELL AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $8,167.50; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES)

30. 10126 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE WEST 0.45 ACRES OF LOT 27, BLOCK 10, PERMIAN ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 303 FEET WEST OF SOUTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

MISCELLANEOUS

31. 10127 – AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2019-2020 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS (FINANCE)

32. 10128 – AN ORDINANCE AMENDING TITLE VI, “POLICE REGULATIONS”, CHAPTER 1, “GENERAL OFFENSES”, OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING SECTION 25, “RESIDENTIAL PICKETING AND TARGETED MARCHES”, SO AS TO PROHIBIT RESIDENTIAL PICKETING AND TARGETED MARCHES ADJACENT TO A RESIDENCE OR DWELLING OF AN INDIVIDUAL; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

EXECUTIVE SESSION

33. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:

    a. Section 551.071, Consultation with the City Attorney

    a.1. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

Respectfully Submitted,

Robert Patrick
Interim City Manager

MEETING ASSISTANCE INFORMATION: The Midland City Hall and Council Chamber are wheelchair accessible. If you need special assistance to participate in this meeting, please contact the City Secretary's Office at (432) 685-7430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

CITY OF MIDLAND, TEXAS
MIDLAND CITY COUNCIL
SPECIAL MINUTES
October 15, 2020

The City Council convened in **Special** Session in the Council Chamber - City Hall, Midland, Texas, at 9:00 AM a.m., Thursday, October 15, 2020.

Council Members present:	Patrick Payton, Spencer Robnett, Scott Dufford, John Norman, Jack Ladd, Lori Blong
Council Members absent:	Michael Trost
Staff members present:	City Attorney John Ohnemiller, Interim City Manager Robert Patrick, Assistant City Manager Morris WIlliams

The meeting was called to order at 9:00 a.m.

SPECIAL SESSION

Mayor Payton began the meeting with a moment of silence.

1. 2020-166 – RESOLUTION APPROVING MATCHING FUNDS IN THE AMOUNT OF $503,041.00 FOR THE PURPOSE OF SUPPORTING THE APPLICATION OF THE MIDLAND INDEPENDENT SCHOOL DISTRICT FOR THE 2020-2021 CORONAVIRUS RELIEF FUND OPERATION CONNECTIVITY BULK-PURCHASE LOCAL MATCH REIMBURSEMENT PROGRAM; AUTHORIZING THE MAYOR AND INTERIM CITY MANAGER TO EXECUTE ALL RELATED DOCUMENTS NECESSARY AND APPROPRIATE TO EFFECTUATE THE ADMINISTRATION OF SAID FUNDS AND SUPPORT; AND AUTHORIZING PAYMENT OF SAID MATCHING FUNDS

   Ann Dixon, Interim Superintendent of MISD, reported that when the technology issue arose, virtual learning was not required, but in essence it is required. They placed a $2 million order for electronic devices through the State along with other schools. They thought they had missed their deadline for the State, but recently learned that the deadline was extended to the 15th which is why they are here today asking for Council's help in paying for the technology. Their original purchase was $2 million and the State is paying for half. All of their COVID money has been used to purchase PPE so the remaining money has to come from their general fund. They learned that the State will match any money they receive so every dollar the City gives will be like giving $2.00. If the City gives $503,000.00 the state will match that and wipe out their remaining balance. The new Chrome books won't be here until January. They had electronic devices last year, but a lot of them were damaged or not returned.

DRAFT

Council Member Ladd asked where the money would come from. Assistant City Manager Morris Williams reported it would come out of the CARES Act money the City received. Finance Director Mark Mason clarified that the City received reimbursement for first responder salaries. That money has been set aside for rental assistance, utility assistance and small business loans for the next year. Mayor Payton expressed concern for not being able to meet the needs of the community and noted he would be watching intently to ensure the funds are being used for an online learning program and used appropriately.

Council Member Norman asked what the delay was in receiving the Chrome books. Ms. Dixon reported she thought it was because of the size of the order and the demand for technology products during the pandemic. Council Member Blong asked if the City did not give them money, from where would they pull funding to pay for the Chrome books. Ms. Dixon reported they would probably take it from the reading program or somewhere else. They have already spent $1 million on preventative measures for COVID.

Council Member Robnett noted that the City is cooperative with other local taxing entities in leveraging federal dollars and asked that in the spirit of cooperation, that the school district do the same.

Scott Dufford moved to approve Resolution No. 2020-166; seconded by Spencer Robnett.

The motion passed by the following vote:
AYE: Payton, Robnett, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: Trost

All the business at hand having been completed, the meeting adjourned at 9:13 a.m.

PASSED AND APPROVED November 3, 2020.

_____
Patrick Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

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MIDLAND CITY COUNCIL
MINUTES
October 20, 2020

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., October 20, 2020.

Council Members present:	Patrick Payton, Spencer Robnett, Michael Trost, Scott Dufford, John Norman, Jack Ladd, Lori Blong
Council Members absent:	None
Staff members present:	City Attorney John Ohnemiller, Interim City Manager Robert Patrick, Assistant City Manager Morris WIlliams

The meeting was called to order at 10:00 a.m.

OPENING ITEMS

1. Invocation – Pastor Ryan Rampton, GCR Church of Christ

2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

   3a. Presentation from Keep Midland Beautiful regarding new program

   Doreen Womack of Keep Midland Beautiful introduced Eva Lopez, their new prevention coordinator, who is spearheading the new program. Ms. Lopez briefly reviewed the new program noting they are asking each Council Member to issue "tickets" to people in their district who are doing things that revolve around their mission such as picking up trash. The ticket holder will have six months to redeem the ticket at one of the local participating businesses. They asked each of the Council Members to participate in distributing tickets.

CONSENT AGENDA

Spencer Robnett moved to approve the Consent Agenda item 4-9, excluding item 5; seconded

DRAFT

by John Norman.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

4. MOTION APPROVING THE FOLLOWING MINUTES:

   4a. REGULAR CITY COUNCIL MEETING OF OCTOBER 6, 2020

6. 127-2020 – MOTION AUTHORIZING THE INTERIM CITY MANAGER OR THE INTERIM CITY MANAGER'S DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS FOR THE NORTHEAST WATER SYSTEM IMPROVEMENTS - ELEVATED TRANSFER PUMP STATION, NEW TRANSMISSION PIPELINE AND DISTRIBUTION PIPELINE PROJECT FOR THE UTILITIES DEPARTMENT (GENERAL SERVICES)

7. 128-2020 – MOTION AUTHORIZING THE INTERIM CITY MANAGER OR THE INTERIM CITY MANAGER'S DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS FOR THE NORTHEAST WATER SYSTEM IMPROVEMENTS - ELEVATED STORAGE TANK PROJECT FOR THE UTILITIES DEPARTMENT (GENERAL SERVICES)

8. 129-2020 – MOTION AUTHORIZING THE ACCEPTANCE OF REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES AND THE U.S. COMMITTEE FOR REFUGEES AND IMMIGRANTS IN THE FOLLOWING AMOUNTS AND FOR THE FOLLOWING PURPOSES: $150,358.00 TO ASSIST THE HEALTH AND SENIOR SERVICES DIVISION WITH THE DELIVERY OF IMMUNIZATION SERVICES; $105,462.00 TO ASSIST WITH THE DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS SERVICES; $31,617.00 TO ASSIST WITH THE DELIVERY OF REFUGEE IMMUNIZATION SERVICES; AUTHORIZING AND DIRECTING THE INTERIM CITY MANAGER OR HIS DESIGNEE TO EXECUTE ALL NECESSARY ACCEPTANCE DOCUMENTS; AND AUTHORIZING AND DIRECTING THE CITY TREASURER TO DEPOSIT SAID REIMBURSEMENT FUNDS INTO THE GENERAL FUND (COMMUNITY SERVICES)

9. 130-2020 – MOTION APPROVING A REQUEST BY WATSON PROFESSIONAL GROUP, INC. TO DEFER PUBLIC WATER, WASTEWATER, PAVING, AND SIDEWALK IMPROVEMENTS FOR COYOTE RUN INDUSTRIAL SUBDIVISION AND TO WAIVE THE CORRESPONDING FINANCIAL SECURITY GUARANTEE VALUED AT $609,638.00, AN AMOUNT EQUAL TO THE ESTIMATED COST OF CONSTRUCTION. THE SUBJECT PROPERTY IS GENERALLY LOCATED ON THE EAST SIDE OF NORTH COUNTY ROAD 1150 (ELKINS ROAD), APPROXIMATELY 8,473 FEET NORTH OF CROWNRIDGE DRIVE IN MARTIN COUNTY (ENGINEERING SERVICES)

The following items were pulled from consent agenda and considered individually.

5. 2020-167 – RESOLUTION AUTHORIZING THE EXECUTION OF A MANAGEMENT SERVICES CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR

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CONSULTING AND MANAGEMENT OF SENIOR SERVICES ASSOCIATED WITH THE OPERATION OF THE MIDLAND SOUTHEAST SENIOR CENTER AND THE MIDLAND SENIOR CENTER FOR THE COMMUNITY SERVICES DEPARTMENT (GENERAL SERVICES)

Council Member Trost asked that the public be given the opportunity to talk since this item is about senior centers. Community Services Director Tina Jauz reported that during the budget process they moved as if they would take this in house since the existing provider decided not to extend their contract. Then they decided to see if there were any existing businesses that would be better suited to manage the contract rather than taking it in house. They have found that organization.

Council Member Ladd thanked Tonya Eckert who runs Casa de Amigos and her board.

Tonya Eckert, Executive Director of Casa de Amigas, reported that she has extensive experience working with seniors and found this to be a real opportunity to join all of the senior centers together and to make a cohesive program for all the seniors of the community. She thinks this is a win-win situation and is really excited about this opportunity.

When asked about delivering senior lunches, Ms. Jauz clarified they have been exploring many avenues and Casa de Amigos will be delivering nutritional lunches to the senior centers. Ms. Eckert added that they will take over the coordination of that as well. They have been working with the City of Midland to make sure this is a unified cohesive transition that will be important to the seniors. They have already reached out to vendors but have not solidified a deal until after Council votes on this item. They will continue the grab and go lunches through the end of the year and are working with Isaac Garnett and thinking of creative ways to ensure seniors continue to get meals and their needs are met. At Casa they have put together food and hygiene boxes to keep seniors from going into stores. They have a lot of opportunities available and feel it is key to make sure they have good relationships across the board to ensure opportunities and options are available.

Jack Ladd moved to approve Resolution No. 2020-167; seconded by John Norman.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

SECOND READINGS

10. 10112 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 15.70-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-3, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF TIN TRAIL, APPROXIMATELY 130 FEET EAST OF NORTH FAIRGROUNDS ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND

DRAFT

DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD SEPTEMBER 8, 2020) (DEFERRED FROM SEPTEMBER 22, 2020)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10112.

Chris Berry of Betenbough Homes reviewed amenities that would be available to this development in the surrounding developments. He reported that of the 80 home sites there will be seven on smaller sites. When asked if they considered putting in a park on this development, Mr. Berry responded that they needed all of the volume they could get from an engineering standpoint. Council Member Ladd expressed concern that this area is far removed from the walking trails. Mr. Berry noted that a school site is going in across the street which is a community feature to those living close.

Dustin Eggleston, of Betenbough, reported they serve families first and there are a number of families waiting for homes. They don't sell to investors and have a list of families who are waiting for homes. There will be a Homeowners Association that will preserve the aesthetics and integrity of the development. They have concern about ADA access but would not be opposed if residents put in soccer goals in the drainage basin. A narrow lot does not equate to a decrease in quality. It is the same house, it is just on a smaller lot. These are 1300 to 1700 square foot homes with garages. If you were driving down the street you couldn't tell the difference and the smaller home sites will be strategically placed in the community between other lots.

Council Member Dufford stated that about seven years ago the request came in to reduce lot widths that were then at 50-feet. This can potentially change the landscape of the community. Development Services Director Chuck Harrington noted that a lot of communities have gone to 40-foot lots and it does offer an opportunity to lower the cost of housing.

Council Member Blong reported that at a recent local nonprofit board meeting that provides affordable homes they are looking at 1600 square foot homes and they are having difficulty getting fair market land values to accommodate a whole lot size. Developers are increasingly landlocked by drilling. People want home ownership, not rentals, and the City has to be creative.

Michael Trost moved to approve the second and final reading of Ordinance No. 10112; seconded by Lori Blong.

The motion passed by the following vote:
AYE: Payton, Trost, Norman, Blong
NAY: Robnett, Dufford, Ladd
ABSTAIN: None
ABSENT: None

11. 10116 – AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES", OF THE CITY CODE OF MIDLAND, TEXAS; CONTAINING A CUMULATIVE CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00); CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (UTILITIES) (FIRST

DRAFT

READING HELD OCTOBER 6, 2020)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10116.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10116; seconded by Michael Trost.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

12. 10117 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,363-SQUARE FOOT PORTION OF LOT 1A, BLOCK 1, PAVILION PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND MOCKINGBIRD LANE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10117.

Mayor Payton opened the public hearing at 10:41 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the second and final reading of Ordinance No. 10117; seconded by Michael Trost.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Blong
NAY: None
ABSTAIN: Ladd
ABSENT: None

13. 10118 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 50 FEET OF LOTS 19 THROUGH 24, BLOCK 145, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST PENNSYLVANIA AVENUE AND SOUTH WEATHERFORD STREET), BY PERMITTING A REDUCED MINIMUM LOT WIDTH;

DRAFT

CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10118.

Mayor Payton opened the public hearing at 10:42 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10118; seconded by John Norman.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

14. 10119 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.482-ACRE PORTION OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A COMMUNITY SERVICE CENTER TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 180 FEET SOUTH OF EAST CUTHBERT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10119.

Mayor Payton opened the public hearing at 10:43 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10119; seconded by Lori Blong.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

15. 10120 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,241-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST

DRAFT

CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10120.

Mayor Payton opened the public hearing at 10:45 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10120; seconded by Lori Blong.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

16. 10121 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 3 AND 4, BLOCK 3, MAYFIELD PLACE ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH MIDKIFF ROAD AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10121.

Mayor Payton opened the public hearing at 10:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10121; seconded by Lori Blong.

The motion passed by the following vote:
AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

17. 10122 – AN ORDINANCE VACATING AND ABANDONING A 0.04-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1, 2, 7 AND 8, BLOCK 88,

DRAFT

WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH GARFIELD STREET, APPROXIMATELY 140 FEET SOUTH OF WEST WALL STREET); ADOPTING THE APPRAISAL BY THE INTERIM CITY MANAGER OF $6,996.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10122.

Mayor Payton opened the public hearing at 10:47 a.m.

Andrew Mellen, 1909 West Wall stated that he knows Midland Central Appraisal District sets the cost of the right-of-way but they have noticed that it is going up significantly and is now $4 per square foot. This is of concern to them and had concern for the rising price.

There being no one else present wishing to speak, the public hearing was closed.

Lori Blong moved to approve the second and final reading of Ordinance No. 10122; seconded by John Norman.

The motion passed by the following vote:
AYE: Payton, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: Robnett
ABSENT: None

Mayor Payton opened the floor for any other public comments. There being no one present wishing to speak, the public comment period was closed.

All the business at hand having been completed, the meeting adjourned at 10:49 a.m.

PASSED AND APPROVED November 3, 2020.

_____
Patrick Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

DRAFT

City Council Meeting

Item Number: 4

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: **Resolution approving the purchase of one (1) Caterpillar model 745 Articulated Truck from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19 for a cost of $695,000.00 for the General Services Department. (GENERAL SERVICES) (GENERAL SERVICES)**

Purpose:

Approval of a resolution approving the purchase of one (1) Caterpillar model 745 Articulated Truck from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19 for a cost of $695,000.00 for the General Services Department.

Recommended City Council Action:

Approve

Fiscal Impact:

Financing for this equipment is available in the Garage Fund.

Discussion:

Staff recommends purchasing a Caterpillar model 745 Articulated Truck from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19. We are members of the Buyboard cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. This unit is a replacement for the Landfill Division. Please see the attached memo from Manuel Salinas, Garage Manager, for additional information.

Therefore, please consider a resolution approving the purchase of one (1) Caterpillar model 745 Articulated Truck from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19 for a cost of $695,000.00.

City Manager's Office

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: Buy Board quote 597-19 for a new Cat 745 Articulated Truck

DATE: 10-15-20

Fleet services is requesting the purchase of one (1) new Caterpillar model 745 Articulated Truck as a replacement for unit 7937, which due to normal wear and tear has gone beyond its serviceable life. This new unit will continue to help in the supporting efforts of our Landfill department in keeping up with the City of Midlands increasing amount of solid waste that is coming into our landfill. Budgeted amount for FY 2021 is $695,000 for one (1) Caterpillar Articulated Truck. Purchase amount through Warren Cat will be $695,000 for one (1) Caterpillar Articulated Truck.

Sincerely,

Manuel Eloy Salinas

City of Midland Garage Superintendent

RESOLUTION NO. _____

RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR MODEL 745 ARTICULATED TRUCK FROM WARREN POWER & MACHINERY, INC., DBA WARREN CAT OF ODESSA, TEXAS, AT A TOTAL COST OF $695,000.00 THROUGH BUYBOARD

WHEREAS, the Buyboard is a cooperative purchasing agency with which the City participates on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV'T CODE § 271.102; and

WHEREAS, Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, submitted a total proposed cost to the City of $695,000.00 for the purchase of a Caterpillar Model 745 Articulated Truck through Buyboard, as shown on the quote attached hereto as Exhibit A and incorporated herein for all purposes; and

WHEREAS, the Council finds the price proposed by Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, through Buyboard for a Caterpillar Model 745 Articulated Truck to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase a Caterpillar Model 745 Articulated Truck through Buyboard;

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

SECTION ONE. That the Interim City Manager is hereby authorized and directed to purchase a Caterpillar Model 745 Articulated Truck from Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, through Buyboard for a total cost of $695,000.00.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, for said Caterpillar Model 745 Articulated Truck from funds available in the Garage Fund upon proper receipt of invoices or statements approved by the Interim City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the

City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM:

_____
John Ohnemiller, City Attorney

Quote 226200-01

October 16, 2020

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

Attention: MARTIN NAVARRETE

Dear MARTIN NAVARRETE, Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New CATERPILLAR Model: 745 Articulated Trucks with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER:C105299 **SERIAL NUMBER:**03T602293

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.
Sincerely,

Jonathan King
Machine Sales Representative

Exhibit A

One (1) New CATERPILLAR Model: 745 Articulated Trucks with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

POWERTRAIN-Auto shift transmission with nine-Engine compression brake-forward and two reverse speeds-Oil cooled brakes, enclosed-Automatic Traction Control-Fluid sampling valves-Cat C18 engine with ACERT technology-Three axle, six wheel drive, six--Engine will be certified and labelled-wheel brake-for emissions compliance as required-Machine speed limiter-for the region of sale-Auto retarder control (ARC)-Differentials, standard with auto-Hill assist-clutched cross-axle differential locks-Waiting brake-for all axles

ELECTRICAL-Electrical system: 24 volt, 10A 24 to-rear, two reversing/working, two-12 volt convertor-stop/tail and width marker-Headlights, four-Hood raise and lower switch-Lights: cab interior, front, side and

OPERATOR ENVIRONMENT-Air conditioning with R134A refrigerant-Seat, fully adjustable, air suspension-Air vents, adjustable-Seat, padded companion/trainer-Radio ready-Seat belts, two retractable-Colour Multi-Purpose Display (CMPD),-Secondary steering-including cycle counter, rear view-Storage: two cup holders, flask-camera and screen-receptacle, under seat storage, door-Electro hydraulic hoist control-pocket, behind seat storage, coat hook-Glass windows, laminated and tinted-Sun visor-front, toughened and tinted rear-Tilt and telescopic steering wheel-Heater and defroster with four-speed fan-Front windshield wiper and washer,-Horn, electric-intermittent-Operator and passenger grab handles-Rear wiper-ROPS/FOPS cab with full instrumentation

OTHER STANDARD EQUIPMENT-Back up alarm-fabricated body-Body, adapted for exhaust heat-Starting receptacle, electric, remote-Guards: rear window and radiator,-Towing eyes front-crankcase and axle-Vandalism protection: lockable caps for-Mirrors, main, auxiliary, left and right-fuel tank and hydraulic oil tank-Mud flaps, body mounted-Fully raised body lock-Spill guard, front, integral part of

MACHINE SPECIFICATIONS

Description	Reference No
745-04A ARTICULATED TRUCK	482-0372
CHASSIS, STANDARD	491-8577
TIRES, 29.5R25 BS ** VLTA E-3	451-7036
FENDER COVER	487-5083
PRODUCT LINK, CELLULAR PLE641	481-8888
BODY, STANDARD	544-6283
TANK, STANDARD FUEL	517-2530
AID, STARTING, STANDARD	493-8967
LUBRICATION, MANUAL	542-1058
NO SOUND SUPPRESSION	493-8938
NO MACHINE SECURITY SYSTEM	480-1971
NO ROOF LIGHTS	480-1973
HEATER, ENGINE COOLANT, 120V	377-1330
FUEL ADDITIVE, ANTI WAX	320-5940
MIRROR, STANDARD	480-7004
ANTIFREEZE, -36C (-33F)	377-1338
AM/FM RADIO (BLUETOOTH READY)	480-1980
NO PAYLOAD	485-0336
SEAT BELT, W/ INDICATION	566-5659
TAILGATE, SCISSOR	526-2725
ROLL ON-ROLL OFF	0P-9918
SERIALIZED TECHNICAL MEDIA KIT	421-8926
FILM GROUP, ANSI	484-6479
EXHAUST, STANDARD	526-4109
ROW ENGINE ARRANGEMENT	580-1108
LANE 3 ORDER	0P-9003
CERT EMISSIONS, OTHER REG	361-1879
AUTOLUBE	

Sell Price	$695,000.00
Ext Warranty	Included
After Tax Balance	**$695,000.00**

WARRANTY

Standard Warranty: Standard 12 Month Unlimited Hour Full Machine Coverage

Extended Warranty: 745 GOVERNMENT 60 / 10000 POWERTRAIN + HYDRAULICS + TECH

F.O.B/TERMS
Odessa

Accepted by_____ **on** _____

_____
Signature

Quote 226200-01

October 16, 2020

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

Attention: MARTIN NAVARRETE

Dear MARTIN NAVARRETE, Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New CATERPILLAR Model: 745 Articulated Trucks with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER:C105299 **SERIAL NUMBER:**03T602293

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.
Sincerely,

Jonathan King
Machine Sales Representative

One (1) New CATERPILLAR Model: 745 Articulated Trucks with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

POWERTRAIN-Auto shift transmission with nine-Engine compression brake-forward and two reverse speeds-Oil cooled brakes, enclosed-Automatic Traction Control-Fluid sampling valves-Cat C18 engine with ACERT technology-Three axle, six wheel drive, six--Engine will be certified and labelled-wheel brake-for emissions compliance as required-Machine speed limiter-for the region of sale-Auto retarder control (ARC)-Differentials, standard with auto-Hill assist-clutched cross-axle differential locks-Waiting brake-for all axles

ELECTRICAL-Electrical system: 24 volt, 10A 24 to-rear, two reversing/working, two-12 volt convertor-stop/tail and width marker-Headlights, four-Hood raise and lower switch-Lights: cab interior, front, side and

OPERATOR ENVIRONMENT-Air conditioning with R134A refrigerant-Seat, fully adjustable, air suspension-Air vents, adjustable-Seat, padded companion/trainer-Radio ready-Seat belts, two retractable-Colour Multi-Purpose Display (CMPD),-Secondary steering-including cycle counter, rear view-Storage: two cup holders, flask-camera and screen-receptacle, under seat storage, door-Electro hydraulic hoist control-pocket, behind seat storage, coat hook-Glass windows, laminated and tinted-Sun visor-front, toughened and tinted rear-Tilt and telescopic steering wheel-Heater and defroster with four-speed fan-Front windshield wiper and washer,-Horn, electric-intermittent-Operator and passenger grab handles-Rear wiper-ROPS/FOPS cab with full instrumentation

OTHER STANDARD EQUIPMENT-Back up alarm-fabricated body-Body, adapted for exhaust heat-Starting receptacle, electric, remote-Guards: rear window and radiator,-Towing eyes front-crankcase and axle-Vandalism protection: lockable caps for-Mirrors, main, auxiliary, left and right-fuel tank and hydraulic oil tank-Mud flaps, body mounted-Fully raised body lock-Spill guard, front, integral part of

MACHINE SPECIFICATIONS

Description	Reference No
745-04A ARTICULATED TRUCK	482-0372
CHASSIS, STANDARD	491-8577
TIRES, 29.5R25 BS ** VLTA E-3	451-7036
FENDER COVER	487-5083
PRODUCT LINK, CELLULAR PLE641	481-8888
BODY, STANDARD	544-6283
TANK, STANDARD FUEL	517-2530
AID, STARTING, STANDARD	493-8967
LUBRICATION, MANUAL	542-1058
NO SOUND SUPPRESSION	493-8938
NO MACHINE SECURITY SYSTEM	480-1971
NO ROOF LIGHTS	480-1973
HEATER, ENGINE COOLANT, 120V	377-1330
FUEL ADDITIVE, ANTI WAX	320-5940
MIRROR, STANDARD	480-7004
ANTIFREEZE, -36C (-33F)	377-1338
AM/FM RADIO (BLUETOOTH READY)	480-1980
NO PAYLOAD	485-0336
SEAT BELT, W/ INDICATION	566-5659
TAILGATE, SCISSOR	526-2725
ROLL ON-ROLL OFF	0P-9918
SERIALIZED TECHNICAL MEDIA KIT	421-8926
FILM GROUP, ANSI	484-6479
EXHAUST, STANDARD	526-4109
ROW ENGINE ARRANGEMENT	580-1108
LANE 3 ORDER	0P-9003
CERT EMISSIONS, OTHER REG	361-1879
AUTOLUBE	

Sell Price	$695,000.00
Ext Warranty	Included
After Tax Balance	**$695,000.00**

WARRANTY

Standard Warranty: Standard 12 Month Unlimited Hour Full Machine Coverage

Extended Warranty: 745 GOVERNMENT 60 / 10000 POWERTRAIN + HYDRAULICS + TECH

F.O.B/TERMS
Odessa

Accepted by_____ **on** _____

_____
Signature

Judy Lopez

From: Martin Navarrete
Sent: Saturday, October 17, 2020 12:17 PM
To: Judy Lopez
Subject: FW: Midland Landfill quotes

Hello Judy,
The quotes are going to be valid thru December 2020. This message from CAT can serve as proof.
Thank you

Landfill Manager
Martin S. Navarrete
MIDLAND
Landfill Division
Office# 432-685-3431
Fax# 432-682-6868

From: Manuel A Sotelo <Manuel.Sotelo@warrencat.com>
Sent: Friday, October 16, 2020 3:27 PM
To: Martin Navarrete <mnavarrete@midlandtexas.gov>
Cc: Jonathan B King <Jonathan.King@warrencat.com>
Subject: RE: Midland Landfill

Hey Martin,
These quotes are good until Dec 28, 2020, Let me know if I need to change the wording on the quote and resend it to you.

From: Martin Navarrete <mnavarrete@midlandtexas.gov>
Sent: Friday, October 16, 2020 3:22 PM
To: Manuel A Sotelo <Manuel.Sotelo@warrencat.com>
Subject: [EXTERNAL] Midland Landfill

Caution: This email originated from outside of the organization. Do NOT click on links or attachments unless you recognize the sender and know the content is safe.

Hello Manuel,
Will these quotes be good still after 30 days? The Garage was requesting it to be 60 days if possible.
Thank you

Landfill Manager
Martin S. Navarrete

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

November 6, 2019

Sent Via Email: joe.novak@warrencat.com

Joe Novak
Warren Cat
702 E. Slaton Rd.
Lubbock, TX 79404

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Award*
Proposal Name and Number: Construction, Road and Bridge, Ditching, Trenching, and other Equipment, Proposal No. 597-19

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal. The contract is effective 12/1/2019 through 11/30/2020, with two possible one-year renewals. The contract documents are those identified in Section 3 of the General Terms and Conditions of the specifications.

To view the items your company has been awarded, please review the proposal tabulation No. 597-19 on the following web-site: www.buyboard.com/vendor. Only items marked as awarded to your company can be sold through the BuyBoard contract. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Enclosed with this letter you will find the following documents:

1. Vendor Quick Reference Guide 2. BuyBoard License and Identity Standards

You are advised that receipt of a purchase order directly from a Cooperative member is not within the guidelines of the Cooperative. Accepting purchase orders directly from Cooperative members may result in a violation of the State of Texas competitive bid statute and termination of this Cooperative BuyBoard contract. **Therefore, all purchase orders must be processed through the BuyBoard in order to comply**. Please forward by email to info@buyboard.com any order received directly from a Cooperative member. If you inadvertently process a purchase order sent directly to you by a Cooperative member, please email the order info@buyboard.com and note it as **RECORD ONLY** to prevent duplication.

As an awarded vendor a BuyBoard user id and password will be sent via e-mail 2 to 3 business days prior to the start of your contract.

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact **Cooperative Procurement Staff** at 800-695-2919.

Sincerely,

Arturo Salinas
Department Director, Cooperative Procurement
v.6.5

The Local Government Purchasing Cooperative is endorsed by the Texas Association of School Boards, Texas Municipal League, Texas Association of Counties, and the Texas Association of School Administrators.

City Council Meeting

Item Number: 5

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR MODEL 349FL HYDRAULIC EXCAVATOR FROM WARREN POWER & MACHINERY, INC., DBA WARREN CAT OF ODESSA, TEXAS, AT A TOTAL COST OF $515,350.00 THROUGH BUYBOARD (GENERAL SERVICES)

Purpose:

Approval of a resolution approving the purchase of one (1) Caterpillar model 349FL Hydraulic Excavator from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19 for a cost of $515,350.00 for the General Services Department.

Recommended City Council Action:

Approve

Fiscal Impact:

Financing for this equipment is available in the Garage Fund.

Discussion:

Staff recommends purchasing a Caterpillar model 349FL Hydraulic Excavator from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19. We are members of the Buyboard cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. This unit will be a new addition to the Landfill Division. Please see the attached memo from Manuel Salinas, Garage Manager, for additional information.

Therefore, please consider a resolution approving the purchase of one (1) Caterpillar model 349FL Hydraulic Excavator from Warren Power & Machinery, Inc. dba Warren Cat through Buyboard contract 597-19 for a cost of $515,350.00

Morris Williams Jr.

City Manager's Office

Fleet Services Division

INTEROFFICE MEMORANDUM

TO: Regina Stephenson

FROM: Manuel Eloy Salinas

SUBJECT: Buy Board quote 597-19 for a new Cat 349FL Hydraulic Excavator

DATE: 10-15-20

Fleet Services is requesting the purchase of one (1) new Caterpillar model 349FL Hydraulic Excavator. This unit will be a new addition to the existing fleet, which is needed due to the increasing amount of solid waste that is coming into our land fill. This new unit will assist in loading the dump trucks to move dirt needed to create more space for the solid waste. Budgeted amount for FY 2021 is $515,350 for one (1) Caterpillar model 349FL Hydraulic Excavator. Purchase amount through Warren Cat will be $515,350 for one (1) Caterpillar model 349FL Hydraulic Excavator.

Sincerely,

Manuel Eloy Salinas

City of Midland Garage Superintendent

RESOLUTION NO. _____

RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR MODEL 349FL HYDRAULIC EXCAVATOR FROM WARREN POWER & MACHINERY, INC., DBA WARREN CAT OF ODESSA, TEXAS, AT A TOTAL COST OF $515,350.00 THROUGH BUYBOARD

WHEREAS, the Buyboard is a cooperative purchasing agency with which the City participates on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV'T CODE § 271.102; and

WHEREAS, Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, submitted a total proposed cost to the City of $515,350.00 for the purchase of a Caterpillar Model 349FL Hydraulic Excavator through Buyboard, as shown on the quote attached hereto as Exhibit A and incorporated herein for all purposes; and

WHEREAS, the Council finds the price proposed by Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, through Buyboard for a Caterpillar Model 349FL Hydraulic Excavator to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase a Caterpillar Model 349FL Hydraulic Excavator through Buyboard;

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

SECTION ONE. That the Interim City Manager is hereby authorized and directed to purchase a Caterpillar Model 349FL Hydraulic Excavator from Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, through Buyboard for a total cost of $515,350.00.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Warren Power & Machinery, Inc., dba Warren Cat of Odessa, Texas, for said Caterpillar Model 349FL Hydraulic Excavator from funds available in the Garage Fund upon proper receipt of invoices or statements approved by the Interim City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED AS TO FORM:

_____
John Ohnemiller, City Attorney

Quote 226269-01

October 16, 2020

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

Attention: MARTIN NAVARRETE

Dear MARTIN NAVARRETE, Thank you for this opportunity to quote Caterpillar products for your business needs. We are pleased to quote the following for your purchase consideration.

One (1) New CATERPILLAR Model: 349FL Hydraulic Excavators with all standard equipment in addition to the additional specifications listed below:

STOCK NUMBER:C102464 **SERIAL NUMBER:**0HPD21037 **YEAR:**2020

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.
Sincerely,

Jonathan King
Machine Sales Representative

Exhibit A

One (1) New CATERPILLAR Model: 349FL Hydraulic Excavators with all standard equipment in addition to the additional specifications listed below:

STANDARD EQUIPMENT

POWERTRAIN-Diesel engine C13 TIER 4-Biodiesel capable (up to B20)-Final, 317.0 kW-115 Amp Alternator-@1,800 rpm-3 Vertical Side-by-Side Cooling System-- 2600m altitude capability-Automatic Engine Speed Control-without de-rate-Electric Fuel Priming Pump-Primary Filter with Water Separator,-Secure start with PIN Code-Water Separator Indicator Switch,-Remote Disable-Fuel absolute pressure sensor in-Dual stage 5.5 micron primary filter-fuel line-4.4Micron 2nd/3rd filter in fuel line-Integrated pre-cleaner air filter-DEF Tank - 50L

UNDERCARRIAGE-Grease Lubricated Track GLT4,-Guard, Heavy Duty Travel-Resin Seal-Motor Protection-Guard, Heavy Duty Bottom without-Towing Eye on Baseframe-Swivel Guard nor Travel Motor-(ISO 15818 Compliant)-Protection (Recessed Bolts)

HYDRAULICS-Capability of Installing CAT-and Medium and QC Valve-Bio Hydraulic Oil-Capability of Installing Additional-Hydraulic Main Pump-Auxiliary Pump (30.3cc /rev) and Circuit-- BTB236 (cc / rev) - K7V280-Capability of Installing Boom Lowering-Main control valve - KMX36-Control Device and Stick Lowering-Auto Warm Up-Check Valve-Cooling fan pump and motor-Capability of Installing CAT-Swing motor - M5X180-Bio Hydraulic Oil-Travel motor-Anti-reaction valve-Boom and stick-Automatic Swing Parking Brake-regeneration circuits-Hydraulic Return Filters-Capability of Installing HP Valve

ELECTRICAL-Power Fuse module-Mounted on Boom Side)-LED Exterior Lights-Compatible with Electronic Technician-(Integrated into Storage Box and

SAFETY AND SECURITY-RH Handrail and Hand Hold-Lockable Fuel drain compartment-(ISO 2867 Compliant)-Signaling / Warning Horn-Lockable External Tool / Storage Box-Capability to Electrically-Caterpillar One Key Security System-Connect a Beacon-Door Locks and Cap Locks Including-Rear view camera-Fuel and Hydraulic Tanks

COOLING-Cooling fan - Dia 1030mm-for hyd fan + e-fan

OTHER STANDARD EQUIPMENT-Service Platform with Anti-Skid-yellow color engine hood-Plate and Recessed Bolts-Tank side cover - Horizontal recess-Grouped location for engine oil-Fine Swing Capability-and fuel filters-Level sensor available on monitor-Sampling ports for Scheduled-Primary and Secondary Machine ECM-Oil Sampling (S.O.S)-Cat Product Link-Remote Flash-Prognostic Database (Super Com2 Lite)-Diagnostic Technician (Remote ET)-Heavy Lift Mode-KATANA New Trade Dress w/

MACHINE SPECIFICATIONS

Description	Reference No
349F L HEX AM-N BCF1	505-4696
GUARD, SWIVEL (FG)	134-8893
ALARM, TRAVEL	231-1771
ROLLERS, SINGLE FLANGE, LC-FG	297-9163
SEAT,H-BACK,HEATER,S/AIR,COOL	316-8885
AIR CLEANER, HIGH EFFICIENCY	324-4361
STARTING AID, ETHER	324-4364
PANEL, STD START SWITCH	324-5778
SUN SCREEN (70/30)	336-1150
ACCUMULATOR WITH CRN	352-7158
CYLINDER, BOOM (W/O BLCV)	358-8432
CYLINDER, STICK (W/O SLCV)	358-8458
AIR CONDITIONER	383-5590
FAN, VARIABLE SPEED	383-6409
349F L FG EXCAVATOR	384-2182
COVER, FENDER, STANDARD	387-4813
LINES, PILOT, BOOM, STD	389-8012
GUARD, BOTTOM, HEAVY DUTY	396-6053
CAB-ROPS, 70/30	424-4597
CONTROL, FINE SWING	433-5612
COUNTERWEIGHT, 19,840LBS	462-9454
SEAT BELT, 2"	488-6541
CAMERA, REAR VIEW, MIRRORS(RH)	493-5700
RADIO, 24V AM/FM	496-8191
DECALS, EXTERIOR ANSI	384-2198
DECALS, CAB ANSI	497-9645
BOOM PKG, REACH	529-3588
STICK, REACH 12'10" TB	331-7838
TRACK, 35" TG, FG	546-1794
GUARD, TRACK GUIDING SEGMENTED	348-0585
IDLERS, STANDARD	415-8520
JOYSTICK STD STP PKG	505-4674
CTRL, CAT PIN GRABBER COUPLER	498-8961
LINES, PILOT, BUCKET, QC	494-9529
COLD WEATHER START PKG	366-6208
LIGHTING CAB PKG	500-0681
MIRROR, CAB, W/O GUARD	327-6552
WIPER-RADIAL, 70/30 W/O LOWER	316-8984
WASHER, WINDSHIELD UPPER	383-5664
CHANGER,HAND CTRL 2-WAY (ANSI)	349-2233
PRODUCT LINK, CELLULAR PL641	460-1148

LIGHTS, HALOGEN, R/M-BOOM	328-0259
QUICK DRAINS, READY (OIL)	344-0830
PACK, ROLL ON ROLL OFF-TRUCK	0G-0211
STORAGE PROTECTION (DOMESTIC)	0G-4131
LANE 2 ORDER	0P-9002
CERT EMISSIONS, EPA TIER 4	361-1880
TIP, HEAVY DUTY ADVANSYS	505-4012
BKT GD 80" 5.00YD3 TB	528-2166

Sell Price	$515,350.00
Ext Warranty	Included
After Tax Balance	**$515,350.00**

WARRANTY

Standard Warranty: Standard 12 Month Unlimited Hour Full Machine Coverage

Extended Warranty: 349 GOVERNMENT 60 / 10000 POWERTRAIN + HYDRAULICS + TECH

F.O.B/TERMS
Odessa

Accepted by_____ **on** _____

_____
Signature

Quote 226269-01

October 16, 2020

CITY OF MIDLAND
FLEET SERVICES DIVISION
MIDLAND
Texas
79702-1152

Attention: MARTIN NAVARRETE

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STOCK NUMBER:C102464 **SERIAL NUMBER:**0HPD21037 **YEAR:**2020

We wish to thank you for the opportunity of quoting on your equipment needs. This quotation is valid for 30 days, after which time we reserve the right to re-quote. If there are any questions, please do not hesitate to contact me.
Sincerely,

Jonathan King
Machine Sales Representative

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COVER, FENDER, STANDARD	387-4813
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GUARD, BOTTOM, HEAVY DUTY	396-6053
CAB-ROPS, 70/30	424-4597
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Sell Price	$515,350.00
Ext Warranty	Included
After Tax Balance	**$515,350.00**

WARRANTY

Standard Warranty: Standard 12 Month Unlimited Hour Full Machine Coverage

Extended Warranty: 349 GOVERNMENT 60 / 10000 POWERTRAIN + HYDRAULICS + TECH

F.O.B/TERMS
Odessa

Accepted by_____ **on** _____

_____
Signature

Judy Lopez

From: Martin Navarrete
Sent: Saturday, October 17, 2020 12:17 PM
To: Judy Lopez
Subject: FW: Midland Landfill quotes

Hello Judy,
The quotes are going to be valid thru December 2020. This message from CAT can serve as proof.
Thank you

Landfill Manager
Martin S. Navarrete
MIDLAND
Landfill Division
Office# 432-685-3431
Fax# 432-682-6868

From: Manuel A Sotelo <Manuel.Sotelo@warrencat.com>
Sent: Friday, October 16, 2020 3:27 PM
To: Martin Navarrete <mnavarrete@midlandtexas.gov>
Cc: Jonathan B King <Jonathan.King@warrencat.com>
Subject: RE: Midland Landfill

Hey Martin,
These quotes are good until Dec 28, 2020, Let me know if I need to change the wording on the quote and resend it to you.

From: Martin Navarrete <mnavarrete@midlandtexas.gov>
Sent: Friday, October 16, 2020 3:22 PM
To: Manuel A Sotelo <Manuel.Sotelo@warrencat.com>
Subject: [EXTERNAL] Midland Landfill

Caution: This email originated from outside of the organization. Do NOT click on links or attachments unless you recognize the sender and know the content is safe.

Hello Manuel,
Will these quotes be good still after 30 days? The Garage was requesting it to be 60 days if possible.
Thank you

Landfill Manager
Martin S. Navarrete

P.O. Box 400
Austin, TX 78767-0400
800.695.2919 | 512.467.0222 | Fax: 800.211.5454
buyboard.com

November 6, 2019

Sent Via Email: joe.novak@warrencat.com

Joe Novak
Warren Cat
702 E. Slaton Rd.
Lubbock, TX 79404

Welcome to BuyBoard!

Re: *Notice of The Local Government Purchasing Cooperative Award*
Proposal Name and Number: Construction, Road and Bridge, Ditching, Trenching, and other Equipment, Proposal No. 597-19

Congratulations, The Local Government Purchasing Cooperative (Cooperative) has awarded your company a BuyBoard® contract based on the above-referenced Proposal. The contract is effective 12/1/2019 through 11/30/2020, with two possible one-year renewals. The contract documents are those identified in Section 3 of the General Terms and Conditions of the specifications.

To view the items your company has been awarded, please review the proposal tabulation No. 597-19 on the following web-site: www.buyboard.com/vendor. Only items marked as awarded to your company can be sold through the BuyBoard contract. In addition, on this website you will find the membership list which will provide you with the names of all entities with membership in our purchasing cooperative.

Enclosed with this letter you will find the following documents:

1. Vendor Quick Reference Guide 2. BuyBoard License and Identity Standards

You are advised that receipt of a purchase order directly from a Cooperative member is not within the guidelines of the Cooperative. Accepting purchase orders directly from Cooperative members may result in a violation of the State of Texas competitive bid statute and termination of this Cooperative BuyBoard contract. **Therefore, all purchase orders must be processed through the BuyBoard in order to comply**. Please forward by email to info@buyboard.com any order received directly from a Cooperative member. If you inadvertently process a purchase order sent directly to you by a Cooperative member, please email the order info@buyboard.com and note it as **RECORD ONLY** to prevent duplication.

As an awarded vendor a BuyBoard user id and password will be sent via e-mail 2 to 3 business days prior to the start of your contract.

On behalf of the Texas Association of School Boards, we appreciate your interest in the Cooperative and we are looking forward to your participation in the program. If you have any questions, please contact **Cooperative Procurement Staff** at 800-695-2919.

Sincerely,

Arturo Salinas
Department Director, Cooperative Procurement
v.6.5

The Local Government Purchasing Cooperative is endorsed by the Texas Association of School Boards, Texas Municipal League, Texas Association of Counties, and the Texas Association of School Administrators.

City Council Meeting

Item Number: 6

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Erika Martinez, Manager, Purchasing

Subject: RESOLUTION APPROVING THE PURCHASE OF FORTY (40) BUNKER COATS AND FORTY (40) BUNKER PANTS FROM DOOLEY TACKABERRY, INC., AT A TOTAL COST OF $114,920.40 THROUGH HGAC CONTRACT EE08-19 (GENERAL SERVICES)

Purpose:

Approval of a resolution approving the purchase of forty (40) Bunker Coats and forty (40) Bunker Pants from Dooley Tackberry, Inc. through HGAC contract EE08-19 for a cost of $114,920.40 for the Fire Department.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding for this equipment is included in the Fire Budget in the General Fund.

Discussion:

Staff recommends purchasing forty (40) Bunker Coats and forty (40) Bunker Pants from Dooley Tackberry Inc. through Houston Galveston Area Council (HGAC) contract EE08-19. We are members of this cooperative and Subchapter F, Section 271.102 of the Local Government Code provides that a local government may participate in a cooperative purchasing program and that purchasing goods or services under Subchapter F satisfies any state law requiring the local government to seek competitive bids for those purchases. This purchase is a budgeted yearly purchase of personal protective equipment in accordance with NFPA 1851. Please see the attached memo from Fire Chief Blumenauer, for additional information.

Therefore, please consider a resolution approving the purchase of forty (40) Bunker Coats and

forty (40) Bunker Pants from Dooley Tackaberry, Inc. of Deer Park, Texas through the Houston-Galveston Area Council (HGAC) for a total cost of $114,920.40.

Morris Williams Jr.

City Manager's Office

MIDLAND Fire Department

Interoffice Memorandum

Date: **10/14/2020**

To: **Regina Stephenson**

From: **Fire Chief Charles Blumenauer**

Subject: **2021 Personal Protective Equipment (PPE) purchase**

We are in the process of our yearly purchase of PPE in accordance with NFPA 1851: Standard on Selection, Care, and Maintenance of Protective Ensembles for Structural Fire Fighting and Proximity Fire Fighting.

This is the same specification that we tested in 2009 through many vendors before settling on the Inno-Tex specs due to quality and price point. We also did a state mandated assessment of our Structural Gear last year. After the assessment, we still believe this is the best gear for our needs.

This purchase was budgeted for this year to replace worn gear and to outfit new employees for this coming year.

Charles Blumenauer

Fire Chief

RESOLUTION NO. _____

RESOLUTION APPROVING THE PURCHASE OF FORTY (40) BUNKER COATS AND FORTY (40) BUNKER PANTS FROM DOOLEY TACKABERRY, INC., AT A TOTAL COST OF $114,920.40 THROUGH HGAC CONTRACT EE08-19

WHEREAS, the Houston Galveston Area Council (HGAC) is a cooperative purchasing agency with which the City participates with on purchases through a cooperative purchasing program in accordance with TEX. LOC. GOV'T CODE § 271.102; and

WHEREAS, Dooley Tackaberry, Inc., submitted a total proposed cost to the City of $114,920.40 for the purchase of forty (40) bunker coats and forty (40) bunker pants through HGAC Contract EE08-19, as shown on the quote attached hereto as Exhibit "A" and incorporated herein for all purposes; and

WHEREAS, the Council finds the price proposed by Dooley Tackaberry, Inc., through HGAC Contract EE08-19 for forty (40) bunker coats and forty (40) bunker pants to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to purchase forty (40) bunker coats and forty (40) bunker pants through HGAC Contract EE08-19;

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

SECTION ONE. That the City Manager is hereby authorized and directed to purchase forty (40) bunker coats and forty (40) bunker pants from Dooley Tackaberry, Inc., through HGAC Contract EE08-19 for a total cost of $114,920.40.

SECTION TWO. That the City Comptroller is hereby authorized and directed to pay Dooley Tackaberry, Inc., for forty (40) bunker coats and forty (40) bunker pants from funds available in the 2020 Operating Budget of the Fire Administration Division (001115) of the General Fund upon proper receipt of invoices or statements approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the

City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Regina Stephenson, General Services Director

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

DOOLEY TACKABERRY
PROTECTING LIFE. GUARDING INVESTMENTS.™

Houston Corporate Headquarters
1515 W. 13th Street
Deer Park TX 77536 USA
Phone: 281.479.9700
Toll Free: 800.833.0247

QUOTATION

Page: 1 of 1
Date: 9/29/2020
Our Reference: 1062218
Your Reference:
Reference Desc.
Salesperson: Jason Billings
Estimator: Morgan Phillips
Email: mphillips@safetyfire.com
Revision: 0

Sold To: 064204

MIDLAND FIRE DEPARTMENT
P.O. BOX 1152
MIDLAND TX 79702
USA

Ship To:

MIDLAND FIRE DEPARTMENT
1500 W. WALL
MIDLAND TX 79701

ITEM	QTY	PART NUMBER AND DESCRIPTION	ORIGIN	ECCN	SCHEDULE B	UNIT PRICE	UOM	Extension
1	40	INNOENERGY-C-SPL Bunker Coat Energy Series Per Customer Specifications **Lead Time** Back-order - 8 to 10 Weeks ARO		EAR99NLR	6201.93.0000	1,706.34	EA	68,253.60
2	40	INNOENERGY-P-SPL Bunker Pants Energy Series Per Customer Specifications **Lead Time** Back-order - 8 to 10 Weeks ARO		EAR99NLR	6203.43.5010	1,166.67	PR	46,666.80
3	1	HGAC-CONTRACT Contract No.: EE08-19 **Lead Time** Back-order TBD				0.00	EA	0.00

Terms: Net 30
Shipping Terms: Ex-works - Factory
Prices Firm: 10/29/2020
Ship Via: Best Way
Freight Terms: Prepaid

QUOTE TOTAL USD
114,920.40

Stock items can only be canceled prior to shipment. Non-stock items are subject to manufacturer's cancellation policy. Fees will apply. Custom "made to order" items cannot be canceled or returned. Acceptable methods of payment: Check, ACH, Wire Transfer, Credit Card. All Credit Card payments are subject to a 3% convenience fee.

DOOLEY TACKABERRY
PROTECTING LIFE. GUARDING INVESTMENTS.™

Houston Corporate Headquarters
1515 W. 13th Street
Deer Park TX 77536 USA
Phone: 281.479.9700
Toll Free: 800.833.0247

QUOTATION

Date: 9/29/2020
Our Reference: 1062218
Your Reference:
Reference Desc.
Salesperson: Jason Billings
Estimator: Morgan Phillips
Email: mphillips@safetyfire.com
Revision: 0

Sold To: 064204

MIDLAND FIRE DEPARTMENT
P.O. BOX 1152
MIDLAND TX 79702
USA

Ship To:

MIDLAND FIRE DEPARTMENT
1500 W. WALL
MIDLAND TX 79701

ITEM	QTY	PART NUMBER AND DESCRIPTION	ORIGIN	ECCN	SCHEDULE B	UNIT PRICE	UOM	Extension
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QUOTE TOTAL USD
114,920.40

Stock items can only be canceled prior to shipment. Non-stock items are subject to manufacturer's cancellation policy. Fees will apply. Custom "made to order" items cannot be canceled or returned. Acceptable methods of payment: Check, ACH, Wire Transfer, Credit Card. All Credit Card payments are subject to a 3% convenience fee.

QuotFormBLH42

City Council Meeting

Item Number: 7

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Justine Ruff, Director

Subject: Motion to appropriate the sum of $70,000.00 from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the Multi-Facility Rehab Project (900308). (AIRPORTS)

Purpose:

Motion authorizing the appropriation of additional funding to the Multi-Facility Rehab Project (900308) at Midland International Air & Space Port.

Recommended City Council Action:

Approve

Fiscal Impact:

City/Airport Share (100%) – NOT TO EXCEED		$70,000.00
Breakout of Expenses:		
Finalize Design Phase and Prepare Bid Documents		$45,000.00
Bidding Phase		$25,000.00
	Total	$70,000.00

Appropriation Language:

That the sum of $70,000.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the Multi-Facility Rehab Project (900308).

Discussion:

The Multi-Facility Rehab project was added to the Parkhill agreement in Amendment #11

(September 2019). Included in this project are various rehabilitation or upgrades to multiple facilities at Midland International Air & Space Port. The facilities include the Terminal Building, Aircraft Rescue & Fire Fighting Facility (Station #7), Airport Maintenance, LaForce Office Complex (Border Patrol/Midessa Telephone), Wright Office Complex (American Red Cross/Permian Basin Apartment Association/MOTOR), Lighting Vault and Parking Lot exit booths. In general, the improvements/rehabilitation will include roof replacement or repair, interior painting, restroom updates, updating the lighting control system, carpeting, plumbing, floor tile, revolving doors (Terminal Building), lighting fixture upgrades, cabinetry replacement and other miscellaneous improvements. The professional services included in this Amendment include Design and Bidding Phases, professional services of Architectural, Mechanical, Plumbing and Electrical Engineering to design the improvements and rehabilitation items in these facilities and prepare bidding documents. Due to the uncertain scope of improvements that this project includes, the design services have been performed under an hourly “NOT TO EXCEED” contract basis. Based on the detailed facility evaluations and facility needs with the Airport staff, additional funds need to be appropriated. This will continue to be on an hourly “NOT TO EXCEED” contract basis to complete the Design Phase, Prepare Bid Documents and provide Bidding Phase Services.

City Manager’s Office

City Council Meeting

Item Number: 8

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Justine Ruff, Director

Subject: RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN LOT 1A, BLOCK 1, MIDLAND AIRPARK ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, TO ONCOR ELECTRIC DELIVERY COMPANY LLC (AIRPORTS)

Purpose:

Consider a resolution authorizing the City Manager to execute, on behalf of the City of Midland, an instrument granting a Utility Easement and Right-of-Way located in Lot 1A, Block 1, Midland Airpark Addition, Section 2, City and County of Midland, Texas to Oncor Electric Delivery Company, LLC.

Recommended City Council Action:

Approve

Fiscal Impact:

Funding is not required.

Discussion:

Resolution No. 2018-288 awarded a lease to Basin Aviation to continue operating the Fixed Base Operator (FBO) at Midland Airpark. One condition of the lease was that Basin “remodel portions of Building 11 passenger lobby and offices or construct a new passenger arrival/departure building to replace existing area contained in Building 11”. Basin is currently in the process of constructing a new passenger arrival/departure building and needs this Oncor Easement to continue construction. The execution of the easement document will allow for an easement and right-of-way for overhead and/or underground electric supply and

communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits and all necessary or desirable appurtenances over, under, through, across and upon City property described as follows: A certain tract of land located in Lot 1A, Block 1, Midland Airpark Addition, Section 2, City and County of Midland, Texas.

Therefore, please consider a resolution authorizing the City Manager to execute, on behalf of the City of Midland, an instrument granting a Utility Easement and Right-of-Way located in Lot 1A, Block 1, Midland Airpark Addition, Section 2, City and County of Midland, Texas.

Robert Patrick

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN LOT 1A, BLOCK 1, MIDLAND AIRPARK ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, TO ONCOR ELECTRIC DELIVERY COMPANY LLC

WHEREAS, the City of Midland owns a tract of land located in Lot 1A, Block 1, Midland Airpark Addition, City and County of Midland, Texas; and

WHEREAS, the City Council finds it to be in the public interest to grant a utility easement and right-of-way located in the above-described City-owned tract of land (the "*Easement*") to Oncor Electric Delivery Company LLC ("*Grantee*");

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

THAT the Interim City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, an instrument granting the Easement to Grantee and to deliver said instrument to Grantee. Said instrument shall be in a form substantially similar to that attached hereto as Exhibit A.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Justine Ruff, Director of Airports

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EASEMENT AND RIGHT-OF-WAY

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

That, **CITY OF MIDLAND, TEXAS,** a home-rule municipal corporation, hereinafter called "Grantor," whether one or more, for and in consideration of Ten and No/100 Dollars ($10.00) and other valuable consideration to Grantor in hand paid by **Oncor Electric Delivery Company LLC**, a Delaware limited liability company, located at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202-1234, hereinafter referred to as "Grantee," has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, their successors and assigns, an easement and right-of-way for overhead and/or underground electric supply and communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits, and all necessary or desirable appurtenances over, under, through, across, and upon Grantor's land described as follows:

A certain tract of land located in Lot 1A, Block 1, Midland Airpark Addition, Section 2, City and County of Midland, Texas, being more fully described in Exhibit "A," which is attached hereto and incorporated herein for all purposes.

Grantor hereby agrees that the easement and right-of-way and its general dimensions hereby granted shall apply to the actual location of the above-described facilities when constructed; provided, however, that the actual location of the above-described facilities shall be entirely within the tract of land described in Exhibit "A."

Together with the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjoining properties for the purpose of and with the right to construct, maintain, operate, repair, remove, replace, reconstruct, abandon in place, and to change the size and capacity of said facilities; the right to prevent excavation within the easement area; the right to prevent construction of, within the easement area, any and all buildings, structures or other obstructions which, in the sole judgment of Grantee, may endanger or interfere with the efficiency, safety, and/or convenient operation of said facilities and their appurtenances, and the right to trim or remove trees or shrubbery within, but not limited to, said easement area, including by use of herbicides or other similar chemicals approved by the U. S. Environmental Protection Agency, to the extent in the sole judgment of Grantee, as may be necessary to prevent possible interference with the operation of said facilities or to remove possible hazard thereto. Grantor shall not make changes in grade, elevation or contour of the land or impound water within the easement area as described above without prior written consent of Grantee.

Following the construction of the above-described facilities and appurtenances, Grantee shall promptly restore the portions of the easement area not occupied by the above-described facilities and appurtenances to the same condition in which those portions existed immediately prior to the construction of the facilities and appurtenances

Grantor reserves the right to use the land within the easement area for purposes not inconsistent with Grantee's use of such property, provided such use shall not, in the sole judgment of the Grantee, interfere with the exercise by the Grantee of the rights hereby granted.

If, in the sole discretion of Grantor, Grantor no longer desires the services necessitating this easement and right-of-way, this easement and right-of-way will terminate and be of no further force and effect. In such event, upon written request from Grantor, Grantee or Grantee's successors and assigns shall promptly execute and record a complete release of this easement and right-of-way and deliver a copy of said release to Grantor.

TO HAVE AND TO HOLD the above-described easement and right-of-way unto the said Grantee, its successors and assigns, until the above-described facilities are abandoned or until Grantor is no longer receiving the services from Grantee or Grantee's successors and assigns necessitating this easement and right-of-way. In such event, said easement and right-of-way shall cease and all rights herein granted shall terminate and revert to Grantor or Grantor's heirs, successors or assigns; and Grantor hereby binds Grantor and Grantor's heirs, successors, assigns, and legal representatives, to warrant and forever defend the above described easement and right-of-way unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

[Signature Page Follows]

EXECUTED this____day of _____, 2020.

GRANTOR:
CITY OF MIDLAND, TEXAS

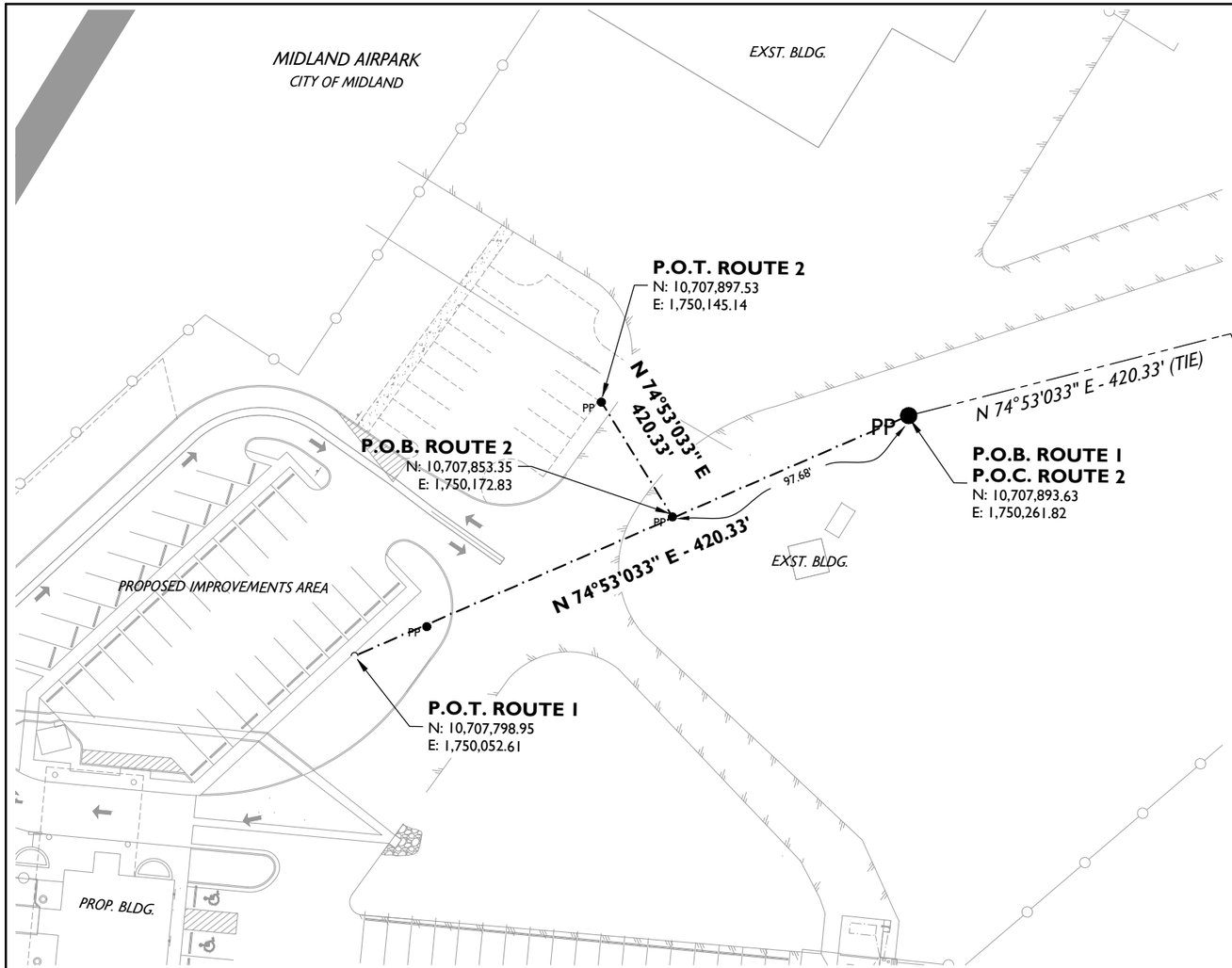
By: _____
Robert Patrick, Interim City Manager

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared **Robert Patrick**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of the **City of Midland, Texas**, as the Interim City Manager thereof, for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2020.

_____
Notary Public in and for the State of Texas



LOT 1A
MIDLAND AIRPARK
SECTION 2
CAB, "I", PG. 1
P.R.M.C.T.

DRAINAGE ESMT.
VOL. 2311, PG. 304
D.R.M.C.T.

LEGEND

◎	FOUND 1/2" IRON ROD W/ ALUM. CAP
PP●	DENOTES EXISTING POWER POLE
PP●	EXST. STAKE AT PROPOSED POWER POLE
⌒	EXST. STAKE AT PROPOSED GUY ANCHOR
—·—·—	DENOTES CENTERLINE 20' EASEMENT
P.R.M.C.T.	PLAT RECORDS MIDLAND CO., TX

BEARING BASIS

BEARINGS, COORDINATES AND DISTANCES ARE THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, NAD83, TEXAS CENTRAL ZONE

N
W E
S

0' 50' 100'

SCALE 1" = 50'

LEGAL DESCRIPTION:

FIELD NOTE DESCRIPTION OF TWO CENTERLINE ROUTES FOR 20 FOOT ELECTRIC EASEMENTS SITUATED IN THE CITY OF MIDLAND TEXAS MUNICIPAL AIRPARK, FALLING 10 FEET TO THE LEFT AND 10 FEET TO THE RIGHT OF THE CENTERLINE OF SAID ROUTES AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

ROUTE 1

COMMENCING *AT N:(Y) 10,708,003.24, E:(X) 1,750,667.60, A ONE HALF INCH IRON ROD WITH ALUMINUM CAP FOUND FOR THE MOST NORTHERLY NORTHWEST CORNER OF LOT 1A, BLOCK 1, MIDLAND AIRPARK ADDITION, SECTION 2, AS RECORDED IN CABINET, "1", PAGE, 1 (ONE), PLAT RECORDS OF MIDLAND COUNTY, TEXAS, ALSO BEING A POINT IN THE SOUTHWEST CORNER TERMINUS OF VETERANS AIRPARK LANE, A 120 FOOT PUBLIC RIGHT OF WAY,* ***THENCE*** *S 74°53'03" W, A DISTANCE OF 420.33 FEET TO AN EXISTING POWER POLE AND THE* ***POINT OF BEGINNING*** *OF THIS ROUTE;*

THENCE *S 65°39'04" W, 229.64 FEET TO AN EXISTING WOODEN STAKE SET AT N(Y): 10,707,798.95, E(X): 1,750,052.61, FOR A FUTURE GUY WIRE AND THE* ***POINT OF TERMINUS*** *FOR THIS ROUTE.*

ROUTE 2

COMMENCING *AT N(Y): 10,707,893.63, E(X): 1,750,261.82, AN EXISTING POWER POLE AND CALLED P.O.B OF ROUTE 1 OF THIS SURVEY,* ***THENCE*** *S 65°39'04" W, A DISTANCE OF 97.68 FEET TO A POINT IN THE CENTERLINE OF ROUTE 1, BEING A WOODEN STAKE SET FOR A FUTURE POWER POLE, AND THE* ***POINT OF BEGINNING*** *FOR THIS ROUTE;*

THENCE *N 74°53'33" E, A DISTANCE OF 420.33 FEET TO A WOODEN STAKE SET AT N(Y): 10,707,897.53, E(X): 1,750,145.14, FOR A FUTURE POWER POLE AND THE* ***POINT OF TERMINUS*** *FOR ROUTE 2 OF THIS SURVEY.*

EXHIBIT "A"

FOR THE CENTERLINE OF TWO 20' ELECTRIC EASEMENTS SITUATED IN THE CITY OF MIDLAND MUNICIPAL AIRPARK, CITY AND COUNTY OF MIDLAND, TEXAS

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THE SURVEY INFORMATION FOUND ON THIS PLAT WAS DERIVED FROM FIELD NOTES AND/OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND NO WARRANTY IS MADE OR INTENDED FOR THE LOCATION OF ANY OR ALL EASEMENTS THAT MAY EXIST WITHIN THE BOUNDS OF THIS SURVEY.

M A V E R I C K
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

13 OCTOBER 2020

GREGORY W. SHOULTS R.P.L.S.#5356 *DATE*

STATE OF TEXAS
REGISTERED
GREGORY W. SHOULTS
5356
PROFESSIONAL
LAND SURVEYOR

F:\2018\180236-PATE & ASSOCIATES-BASIN AVIATION TOPOGRAPHY\DRAWINGS\EXHIBITS\ONCOR EASEMENT\180236 - ONCOR EASEMENT 101220.DWG

EASEMENT AND RIGHT-OF-WAY

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND §

That, **CITY OF MIDLAND, TEXAS,** a home-rule municipal corporation, hereinafter called "Grantor," whether one or more, for and in consideration of Ten and No/100 Dollars ($10.00) and other valuable consideration to Grantor in hand paid by **Oncor Electric Delivery Company LLC**, a Delaware limited liability company, located at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202-1234, hereinafter referred to as "Grantee," has granted, sold and conveyed and by these presents does grant, sell and convey unto said Grantee, their successors and assigns, an easement and right-of-way for overhead and/or underground electric supply and communications facilities, consisting of a variable number of wires and cables, supporting structures, surface mounted equipment, conduits, and all necessary or desirable appurtenances over, under, through, across, and upon Grantor's land described as follows:

A certain tract of land located in Lot 1A, Block 1, Midland Airpark Addition, Section 2, City and County of Midland, Texas, being more fully described in Exhibit "A," which is attached hereto and incorporated herein for all purposes.

Grantor hereby agrees that the easement and right-of-way and its general dimensions hereby granted shall apply to the actual location of the above-described facilities when constructed; provided, however, that the actual location of the above-described facilities shall be entirely within the tract of land described in Exhibit "A."

Together with the right of ingress and egress along and upon said easement and right-of-way and over and across Grantor's adjoining properties for the purpose of and with the right to construct, maintain, operate, repair, remove, replace, reconstruct, abandon in place, and to change the size and capacity of said facilities; the right to prevent excavation within the easement area; the right to prevent construction of, within the easement area, any and all buildings, structures or other obstructions which, in the sole judgment of Grantee, may endanger or interfere with the efficiency, safety, and/or convenient operation of said facilities and their appurtenances, and the right to trim or remove trees or shrubbery within, but not limited to, said easement area, including by use of herbicides or other similar chemicals approved by the U. S. Environmental Protection Agency, to the extent in the sole judgment of Grantee, as may be necessary to prevent possible interference with the operation of said facilities or to remove possible hazard thereto. Grantor shall not make changes in grade, elevation or contour of the land or impound water within the easement area as described above without prior written consent of Grantee.

Following the construction of the above-described facilities and appurtenances, Grantee shall promptly restore the portions of the easement area not occupied by the above-described facilities and appurtenances to the same condition in which those portions existed immediately prior to the construction of the facilities and appurtenances

Grantor reserves the right to use the land within the easement area for purposes not inconsistent with Grantee's use of such property, provided such use shall not, in the sole judgment of the Grantee, interfere with the exercise by the Grantee of the rights hereby granted.

If, in the sole discretion of Grantor, Grantor no longer desires the services necessitating this easement and right-of-way, this easement and right-of-way will terminate and be of no further force and effect. In such event, upon written request from Grantor, Grantee or Grantee's successors and assigns shall promptly execute and record a complete release of this easement and right-of-way and deliver a copy of said release to Grantor.

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[Signature Page Follows]

EXECUTED this____day of_____, 2020.

GRANTOR:
CITY OF MIDLAND, TEXAS

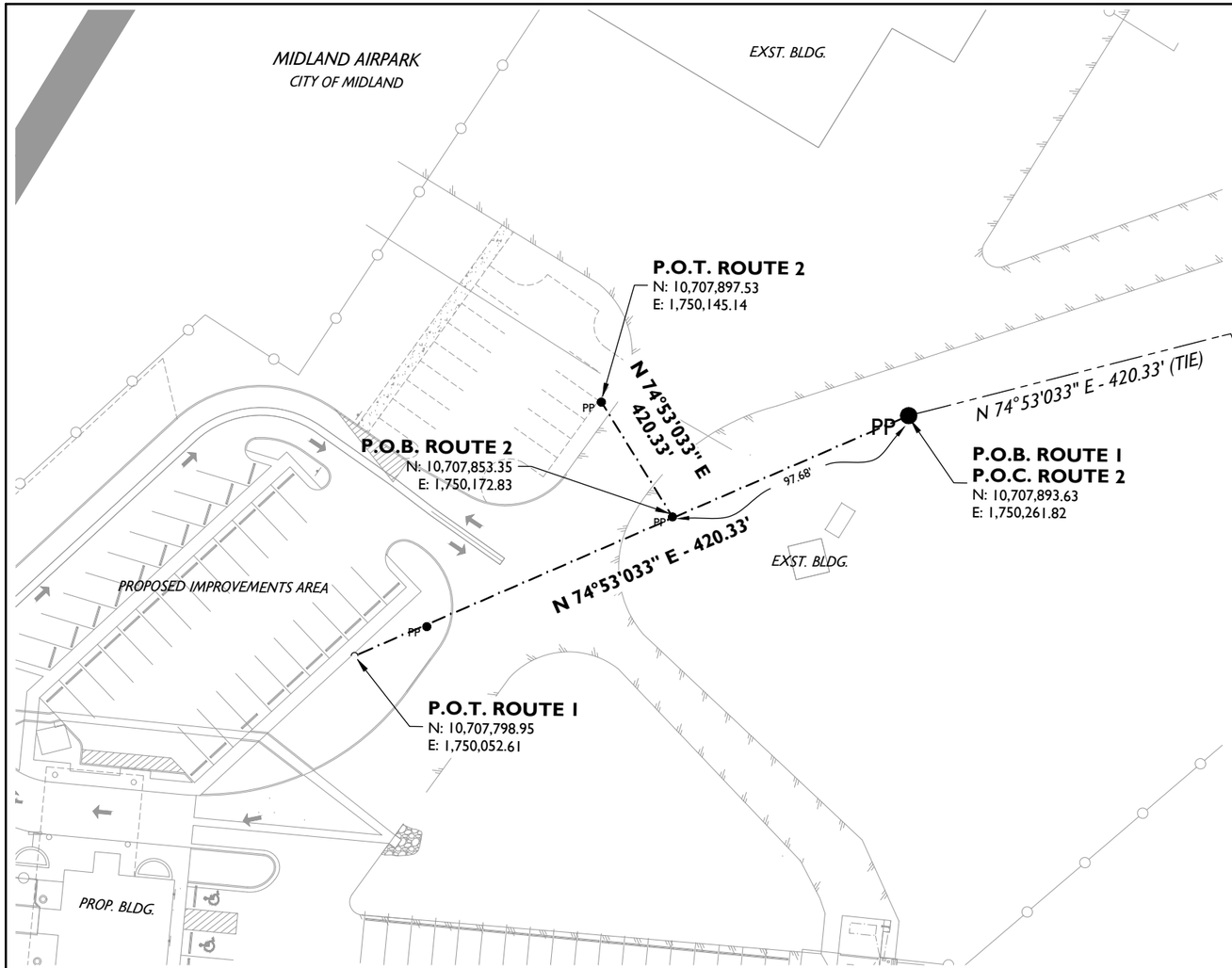
By: _____
Robert Patrick, Interim City Manager

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared **Robert Patrick**, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same as the act and deed of the **City of Midland, Texas**, as the Interim City Manager thereof, for the purposes and consideration therein expressed, in the capacity therein stated and he is authorized to do so.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2020.

_____
Notary Public in and for the State of Texas



LOT 1A
MIDLAND AIRPARK
SECTION 2
CAB, "I", PG. 1
P.R.M.C.T.

DRAINAGE ESMT.
VOL. 2311, PG. 304
D.R.M.C.T.

LEGEND

◎	FOUND 1/2" IRON ROD W/ ALUM. CAP
PP●	DENOTES EXISTING POWER POLE
PP●	EXST. STAKE AT PROPOSED POWER POLE
⌒	EXST. STAKE AT PROPOSED GUY ANCHOR
—·—·—	DENOTES CENTERLINE 20' EASEMENT
P.R.M.C.T.	PLAT RECORDS MIDLAND CO., TX

BEARING BASIS

BEARINGS, COORDINATES AND DISTANCES ARE THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, NAD83, TEXAS CENTRAL ZONE

N
W E
S

0' 50' 100'

SCALE 1" = 50'

LEGAL DESCRIPTION:

FIELD NOTE DESCRIPTION OF TWO CENTERLINE ROUTES FOR 20 FOOT ELECTRIC EASEMENTS SITUATED IN THE CITY OF MIDLAND TEXAS MUNICIPAL AIRPARK, FALLING 10 FEET TO THE LEFT AND 10 FEET TO THE RIGHT OF THE CENTERLINE OF SAID ROUTES AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

ROUTE 1

COMMENCING *AT N:(Y) 10,708,003.24, E:(X) 1,750,667.60, A ONE HALF INCH IRON ROD WITH ALUMINUM CAP FOUND FOR THE MOST NORTHERLY NORTHWEST CORNER OF LOT 1A, BLOCK 1, MIDLAND AIRPARK ADDITION, SECTION 2, AS RECORDED IN CABINET, "1", PAGE, 1 (ONE), PLAT RECORDS OF MIDLAND COUNTY, TEXAS, ALSO BEING A POINT IN THE SOUTHWEST CORNER TERMINUS OF VETERANS AIRPARK LANE, A 120 FOOT PUBLIC RIGHT OF WAY,* ***THENCE*** *S 74°53'03" W, A DISTANCE OF 420.33 FEET TO AN EXISTING POWER POLE AND THE* ***POINT OF BEGINNING*** *OF THIS ROUTE;*

THENCE *S 65°39'04" W, 229.64 FEET TO AN EXISTING WOODEN STAKE SET AT N(Y): 10,707,798.95, E(X): 1,750,052.61, FOR A FUTURE GUY WIRE AND THE* ***POINT OF TERMINUS*** *FOR THIS ROUTE.*

ROUTE 2

COMMENCING *AT N(Y): 10,707,893.63, E(X): 1,750,261.82, AN EXISTING POWER POLE AND CALLED P.O.B OF ROUTE 1 OF THIS SURVEY,* ***THENCE*** *S 65°39'04" W, A DISTANCE OF 97.68 FEET TO A POINT IN THE CENTERLINE OF ROUTE 1, BEING A WOODEN STAKE SET FOR A FUTURE POWER POLE, AND THE* ***POINT OF BEGINNING*** *FOR THIS ROUTE;*

THENCE *N 74°53'33" E, A DISTANCE OF 420.33 FEET TO A WOODEN STAKE SET AT N(Y): 10,707,897.53, E(X): 1,750,145.14, FOR A FUTURE POWER POLE AND THE* ***POINT OF TERMINUS*** *FOR ROUTE 2 OF THIS SURVEY.*

EXHIBIT "A"

FOR THE CENTERLINE OF TWO 20' ELECTRIC EASEMENTS SITUATED IN THE CITY OF MIDLAND MUNICIPAL AIRPARK, CITY AND COUNTY OF MIDLAND, TEXAS

I, THE UNDERSIGNED, DO HEREBY CERTIFY THAT THE SURVEY INFORMATION FOUND ON THIS PLAT WAS DERIVED FROM FIELD NOTES AND/OR ELECTRONIC DATA OF AN ACTUAL ON-THE-GROUND SURVEY MADE BY ME OR UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND NO WARRANTY IS MADE OR INTENDED FOR THE LOCATION OF ANY OR ALL EASEMENTS THAT MAY EXIST WITHIN THE BOUNDS OF THIS SURVEY.

M A V E R I C K
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

13 OCTOBER 2020

GREGORY W. SHOULTS R.P.L.S.#5356 *DATE*

STATE OF TEXAS
REGISTERED
GREGORY W. SHOULTS
5356
PROFESSIONAL
LAND SURVEYOR

F:\2018\180236-PATE & ASSOCIATES-BASIN AVIATION TOPOGRAPHY\DRAWINGS\EXHIBITS\ONCOR EASEMENT\180236 - ONCOR EASEMENT 101220.DWG

City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: **10/20/2020**

TO: City Council / City Manager

FROM: Robert Patrick

SUBJECT: Resolution approving the 2021 City Council Meeting Dates

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Purpose: The attached resolution will set the 2021 City Council Meeting Dates

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact: None

Discussion: None

RESOLUTION NO. _____

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2021

WHEREAS, the City Council finds it to be in the public interest to establish the dates on which the City Council will meet in regular session during the calendar year 2021;

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

THAT the dates of the regular City Council meetings to be held during the 2021 calendar year as shown on Exhibit A, attached hereto and made a part hereof for all purposes, are hereby adopted.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

2021 Council Meeting Dates

January 12	July 13
January 26	July 14 (Budget Workshop)
February 9	July 27
February 23	August 10
March 23	August 24
April 13	September 14
April 27	September 28
May 11	October 12
May 25	October 26
June 8	November 16
June 22	December 14

300 N. Loraine, Midland Tx 79701 • 432-685-7913 • Fax 432-686-1600

City Council Meeting

Item Number: 10

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Morris WIlliams, Assistant City Manager

Subject: RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON NOVEMBER 9, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR (CITY MANAGER'S OFFICE)

Purpose:

This meeting will establish a regular council meeting for November 9, 2020, to discuss various agenda items.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

Agenda items will be discussed.

City Manager's Office

RESOLUTION NO.

RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON NOVEMBER 9, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR

WHEREAS, the City of Midland finds it to be in the public interest to add one (1) regular City Council meeting on November 9, 2020, to the City Council meetings scheduled for the 2020 calendar year;

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

THAT one (1) regular City Council meeting on November 9, 2020, is hereby added to the City Council meetings scheduled for the 2020 calendar year.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

City Council Meeting

Item Number: **11**

Meeting Date: **November 3, 2020**

To: **City Council / City Manager**

From: **Tina Jauz, Director**

Subject: MOTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE BOYS & GIRLS CLUB OF MIDLAND, INC., FOR THE LEASE OF CERTAIN CITY-OWNED FACILITIES LOCATED AT 110 EAST NEW JERSEY AVENUE, MIDLAND, TEXAS. (COMMUNITY SERVICES)

Purpose:

Motion authorizing the execution of an agreement with the Boys & Girls Club of Midland at Halff Park, 110 E. New Jersey.

Recommended City Council Action:

Approve

Fiscal Impact:

None

Discussion:

The Boys & Girls Club of Midland has leased the facility at Halff Park (east of Main Street and south of New Jersey) for many years offering youth development and recreational programs to area citizens. The current lease expired this year and the organization is interested in continuing to operate in the same manner.

The lease agreement would be for a period of five (5) years with an additional five (5) year extension. All operational and maintenance costs will be the responsibility of the Lessee. The agreement is for the same terms and conditions as the current agreement.

Over the years, the Parks and Recreation Division has enjoyed a good relationship with the Boys & Girls Clubs of Midland at both Hallf and Taylor Parks. City staff will continue to work

with their organization to offer youth programming in Midland.

City Manager's Office

LEASE AGREEMENT

This Lease is made effective this 4th day of November, 2020, by and between the City of Midland, Texas, hereinafter referred to as "Lessor," and Boys & Girls Club of Midland, Inc., hereinafter referred to as "Lessee";

W I T N E S S E T H:

WHEREAS, Lessor, holds title to the building commonly known as the Boys & Girls Club, located at 110 E. New Jersey Avenue, Midland, Texas, 79701, within Halff Park; and

WHEREAS, Lessee proposes to lease said building from Lessor for the purpose of implementing youth development and recreational programs sponsored by Lessee; and

WHEREAS, the City Council has determined that leasing the building known as the Boys & Girls Club, located at 110 E. New Jersey Avenue, Midland, Texas, 79701, for the implementation of youth development and recreational programs sponsored by Lessee, would be an enhancement of and a valuable addition to Halff Park and to the public park system of the City of Midland; and

WHEREAS, the City Council has determined that the maintenance and operation of such a facility is within park purposes, so that it is the opinion of the City Council that the City and Boys & Girls Club of Midland, Inc., should cooperate in making such a facility possible and available;

NOW, THEREFORE, AND IN CONSIDERATION OF THE RIGHTS, Covenants and Agreements herein contained, Lessor does hereby lease to Lessee the following facility upon the following terms and conditions, to wit:

1. Lessor does hereby lease unto Lessee the building known as the Boys & Girls Club, located at 110 E. New Jersey Avenue, Midland, Texas, 79701, referred to as the "Leased Premises".

2. The term of this Lease shall be for a period of five (5) years, commencing on November 4, 2020, and ending November 3, 2025, unless terminated earlier as provided herein. However, the Lessor may grant an extension for an additional five (5) year period at the end of the original Lease term. If the Lessee desires to make such an extension, the Lessee shall notify the Lessor in writing at least ninety (90) days prior to the end of the original Lease term. Lessee has no expectation that Lessor will agree to extend the term of this Lease.

Lessor may terminate this Lease at will for no or any reason upon giving at least three hundred sixty-five (365) days' written notice to Lessee. The parties to this Lease understand

and agree that it is in Lessor's sole discretion to cancel the Lease during the term of the Lease without penalty to Lessor. Lessee has no expectation and has received no guarantees that this Lease will not be terminated before the end of the Lease term. The parties have bargained for the flexibility of terminating this Lease upon tender of the requisite notice at any time during the term of the Lease.

3. **BY EXECUTING THIS LEASE AGREEMENT, LESSEE AGREES AND ACKNOWLEDGES THAT LESSEE IS TAKING OR LEASING THE LEASED PREMISES "AS IS" WITH ANY AND ALL LATENT AND PATENT DEFECTS AND THAT THERE IS NO WARRANTY, EXPRESS OR IMPLIED BEING MADE BY LESSOR THAT THE LEASED PREMISES IS FIT FOR A PARTICULAR PURPOSE. LESSEE ACKNOWLEDGES, BY EXECUTING THIS LEASE AGREEMENT, THAT LESSEE IS NOT RELYING UPON ANY REPRESENTATION MADE BY LESSOR WITH RESPECT TO THE CONDITION OF THE LEASED PREMISES, BUT IS RELYING UPON LESSEE'S EXAMINATION OF THE LEASED PREMISES. LESSEE ALSO RECOGNIZES BY EXECUTING THIS LEASE AGREEMENT, THAT LESSEE IS AGREEING TO ACCEPT THE LEASED PREMISES "AS IS" WITH ALL FAULTS, THAT LESSEE AGREES TO MAKE LESSEE'S OWN APPRAISAL OF THE LEASED PREMISES, AND TO ACCEPT THE RISK THAT LESSEE MAY BE WRONG. LESSOR GIVES NO ASSURANCES, EXPRESS OR IMPLIED CONCERNING THE VALUE OR CONDITION OF THE LEASED PREMISES. IN NO EVENT SHALL LESSEE HAVE A RIGHT TO RECOVER CONSEQUENTIAL DAMAGES. LESSEE SHALL TAKE THE LEASED PREMISES UNDER THE EXPRESS UNDERSTANDING THAT THE LEASED PREMISES IS ACCEPTED "AS IS" AND WITH ALL FAULTS, EXCLUDING EXPRESS OR IMPLIED WARRANTIES.**

4. Lessee, in consideration of the use of the Leased Premises and the rights granted herein, and in lieu of rental payments, does covenant and agree to make repairs and all maintenance and improvements to the Leased Premises in accordance with and in compliance with all applicable local, state or federal laws and/or requirements. Lessee shall be responsible for all maintenance of the Leased Premises.

Said improvements shall be completed in accordance with specifications approved by the City Manager. All of the work shall be done at the risk and expense of Lessee.

Prior to occupancy by Lessee, Lessor shall inspect the building for termites and professionally treat for termites if infestation is shown. The Interim City Manager or his designee shall send a copy of the results to the Lessee. The termite inspection and treatment shall be on a periodic basis.

5. Lessee is authorized to use the Leased Premises for the purpose of implementing youth development and recreational programs sponsored by Lessee, and for no other purposes. Lessee agrees to operate the Leased Premises in a proper manner consistent with the use of the premises as a park.

6. Lessee shall, at Lessee's expense, maintain and repair the interior and exterior of the building on the Leased Premises and fixtures therein. Any landscaping desired by Lessee shall be put in and maintained by Lessee at its expense. If Lessee fails to provide any maintenance or repairs required of Lessee within thirty (30) days after written notice by Lessor and to complete the same with reasonable diligence, then Lessor may provide such repairs or maintenance at Lessee's expense.

7. Any and all improvements, additions, alterations, and fixtures existing on the date of execution of this Lease or constructed or placed on any part of the Leased Premises during the Lease term by Lessor or Lessee, shall be considered part of the real property of the Leased Premises, shall remain on the Leased Premises, and shall not be removed by Lessee without the written consent of Lessor. All improvements, additions, alterations, and fixtures on the Leased Premises shall become the sole property of Lessor upon termination of this Lease Agreement without compensation to Lessee. Notwithstanding the above, Lessee shall have the right at any time during Lessee's occupancy of the Leased Premises, or within a reasonable time thereafter, to remove any and all furniture, machinery, equipment, but not fixtures owned or placed by Lessee, in, under, or on the Leased Premises; provided, however, prior to the termination of the Lease term, Lessee shall repair any damage to any buildings or improvements on the Leased Premises resulting from their removal. Any such personal property items which are not removed within sixty (60) days after the termination date of this Lease Agreement shall become the property of Lessor as of that date.

8. Lessee shall not erect, maintain or display any signs or any advertising at, or on, the exterior part of structures on the Leased Premises, or inside the Leased Premises so as to be visible through the windows or exterior doors thereof, without the prior written approval of the City Manager or their designee.

9. Lessor, its agents, officers and employees shall have the right to enter the Leased Premises for the purpose of inspecting the same to ascertain whether Lessee is performing the covenants of this Lease.

10. Lessee shall be solely responsible for the payment of all water, electric, telephone, refuse, natural gas and other public utility services used on the Leased Premises.

11. **INSURANCE -** During the term of this Lease, Lessee shall maintain and keep in full force and effect insurance of the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):	
-Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
-Property Damage:	$500,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit - Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$500,000.00 per accident or occurrence

The Commercial General Liability policy shall be on an occurrence basis. This insurance shall name Lessor as an additional insured and waive subrogation in favor of Lessor.

The Business Automobile Liability policy provided by Lessee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-City vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this Lease. This policy shall name Lessor as an additional insured and waive subrogation in favor of Lessor.

The Workers' Compensation policy provided by Lessee shall inure to the benefit of employees injured during the course and scope of their employment by Lessee pursuant to this Lease. The Workers' Compensation policy shall waive all rights of subrogation in favor of the Lessor.

All insurance policies required pursuant to this Lease shall provide for a waiver of subrogation in favor of the Lessor. All insurance policies required pursuant to this Lease, except for Workers' Compensation Insurance, shall name the Lessor as an additional insured on a claims occurred basis. Lessor shall be provided the notice by Lessee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage.

Lessee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the Leased Premises to obtain insurance

coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors, subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers' compensation).

The parties agree that, prior to the execution of the Lease, Lessee shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of Lessor. Lessor shall not be required to provide any insurance whatsoever pursuant to this Lease.

Lessee certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Lessee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of the Lessee.

12. **INDEMNITY - LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'S COUNCIL MEMBERS, OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSEE, ITS AGENTS OR EMPLOYEES, OR ANY CONTRACTOR OR SUBCONTRACTOR, ARISING OUT OF OR RESULTING FROM LESSEE'S USE OF OR ACTIVITIES ON THE LEASED PREMISES. LESSEE SHALL PAY ANY JUDGEMENT WITH COSTS THAT MAY BE OBTAINED AGAINST LESSOR OR ANY OF ITS COUNCIL MEMBERS, OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.**

LESSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LESSOR AND ALL OF LESSOR'S COUNCIL MEMBERS, OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, ACCIDENTAL DEATH, PERSONAL INJURIES, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LESSOR, LESSOR'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH

NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LESSEE OR LESSEE'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LEASE AND LESSEE SHALL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LESSOR OR ANY OF LESSOR'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

13. In the event that Lessor or Lessee should default in the performance of this Lease or materially breach any of its provisions, the other party shall have the right to terminate this Lease Agreement upon sixty (60) days' written notice to the offending party of its intention to do so. Nothing contained herein constitutes a waiver of the right of either party to damages occasioned by breach of this Lease Agreement. For purposes of this Lease, the term "material breach" may include, but is not limited to, the following:

a. Breach, violation or failure to perform, observe or keep any covenant, agreement or term or condition of this Lease by any party obligated hereunder to observe, keep or perform such condition, term, agreement or covenant, and such default continues for a period of ten (10) days after written notice thereof is given by any aggrieved party hereto to the other party.

b. Bankruptcy of Lessee through voluntary or involuntary proceedings or an assignment made for the benefit of its creditors.

In the event of breach by Lessee, Lessor shall have the right, following sixty (60) days' written notice, to reenter the site and remove Lessee, its employees and agents therefrom, without prejudice to any legal remedies which may be used for the collection of rent. All and every claim for damages by Lessee for or by reason of such reentry is hereby expressly waived.

14. In the event that either party is prevented from completing performance of its obligations hereunder by Acts of God or any other occurrence whatsoever which is beyond the control of either party hereto and that, by the exercise of due diligence Lessor or Lessee is unable, wholly or in part, to prevent or overcome, then such party shall be excused from performance for such period of time as is reasonably necessary after such occurrence to remedy the effects thereof.

15. **GOVERNING LAW AND VENUE -** This Lease shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Lease shall be deemed to have occurred in Midland County, Texas. The obligations and undertakings of each of the parties to this Lease shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this Lease or the performance of this Lease shall be in Midland County, Texas.

16. **INDEPENDENT CONTRACTOR -** It is expressly understood and agreed that Lessee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Lessor; that Lessee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of *respondeat superior* shall not apply as between Lessor and Lessee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Lessor and Lessee. No person performing any of the work and services described hereunder by Lessee shall be considered an officer, agent, servant or employee of the Lessor. Further, it is specifically understood and agreed that nothing in this Lease is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Lessee shall be an independent contractor under this Lease and shall assume all of the rights, obligations and liabilities, applicable to it as such independent contractor hereunder. Lessor does not have the power to direct the order in which the work is done. Lessor shall not have the right to control the means, methods or details of Lessee's work. Lessee shall assume exclusive responsibility for the work. Lessee is entirely free to do the work in its own way.

17. **ATTORNEY'S FEES - BY EXECUTING THIS LEASE, LESSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE LESSOR, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THIS LEASE, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THIS LEASE. LESSEE SPECIFICALLY AGREES THAT IF LESSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LEASE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LEASE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE,**

LESSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LESSEE MIGHT OTHERWISE BE ENTITLED.

LESSEE AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. LESSEE ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE LEASE. LESSEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN LESSOR AND LESSEE. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

LESSEE AND LESSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LEASE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

18. **ASSIGNMENT -** Lessee shall not at any time during the term of this Lease, in any manner, either directly or indirectly, assign, or transfer this Lease or sublease any part of the premises or improvements thereon without the prior written consent of the Lessor. Any such assignment or attempted assignment or transfer shall be void. The issue on whether or not to grant consent to an assignment is in the sole discretion of Lessor.

19. **THIRD-PARTY BENEFICIARY -** There are no third-party beneficiaries to this Lease. No person or entity who is not a party to this Lease shall have any third-party beneficiary or any other right hereunder.

20. **GOVERNMENTAL IMMUNITY -** By executing this Lease, Lessor is not waiving its right of governmental immunity. Lessor is retaining its immunity from suit and liability. Lessor is not granting consent to be sued by legislative resolution or action.

21. **RELEASE - NOTWITHSTANDING ANY OTHER PROVISIONS, LESSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LESSOR, LESSOR'S COUNCIL MEMBERS, EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LESSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LESSOR'S NEGLIGENCE.**

22. **NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES**

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Lease, Lessee or his legal representative, shall give the City Manager, or any other reasonable official of Lessor, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Lease) of such damages, duly verified, within one hundred-twenty (120) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Lessee will settle, the physical and mailing addresses of Lessee at the time and date the claim was presented and the physical and mailing addresses of Lessee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Lessee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Lessor from any liability whatsoever. Lessor is under no obligation to provide notice to Lessee that Lessee's notice is insufficient. Lessor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Lessee's failure to comply with the requirements herein shall perpetually bar Lessee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Lessor has actual or constructive notice or knowledge of said claim or alleged damages. Lessee agrees that the requirements of this entire Lease are reasonable.

23. All notices and communications required or permitted under this Lease, including address changes, shall be in writing and any communication or delivery hereunder shall be deemed to have been duly made if actually delivered, transmitted by telecopier or if mailed by registered or certified mail, postage prepaid, addressed as follows:

Lessor:

City Manager
Midland City Hall
P.O. Box 1152
Midland, Texas 79702

Lessee:

Boys & Girls Club of Midland, Inc.
1321 Goode Street
Midland, Texas 79701

24. The Parties hereby agree and acknowledge that this Lease Agreement is supported by good and valuable consideration.

EXECUTED this _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

_____
Robert Patrick, Interim City Manager

ATTEST:

_____
Amy M. Turner, City Secretary

LESSEE:
BOYS & GIRLS CLUB OF MIDLAND, INC.

Name:_____

Title:_____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the person and officer whose name is subscribed to the foregoing instrument, and acknowledged that she executed and delivered the foregoing instrument on behalf of BOYS & GIRLS CLUB OF MIDLAND, INC., for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2020.

_____
Notary Public, State of Texas

City Council Meeting

Item Number: 12

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Isaac Garnett, Manager, Community Development

Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE CASA DE AMIGOS/SOUTHEAST SENIOR CENTER NUTRITION PROGRAM IN THE AMOUNT OF $68,000.00 (DEVELOPMENT SERVICES)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF COMMUNITY DEVELOPMENT BLOCK GRANT, AND CONTRACTS WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., IN THE AMOUNT OF $68,000.00; APPROPRIATING FUNDS FOR SAID CONTRACTS.

Recommended City Council Action:

Approve

Fiscal Impact:

Funds in the amount of $68,000 are hereby appropriated in the FY 2021 CDBG Project pursuant to Resolution 2020-127

Discussion:

Casa de Amigos of Midland Inc requests funding for the nutrition programs at the Southeast Senior Citizen Center (1803 E Indiana) and at the Casa de Amigos (1101 E Garden Lane). Approximately 262 seniors are expected to benefit from the lunchtime meal program and take-home food boxes in order to supplement their nutritional needs. Meals are prepared daily and delivered to the location for the noon in-person time meal. The CDBG Office requested from HUD a contract revision when Senior Life Midland declined to accept the CDBG Nutrition Program Grant. HUD allowed the CDBG office to grant such a revision to the Nutrition

Program Grant with Casa de Amigos by establishing a contract and resolution by council.

Robert Patrick

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE CASA DE AMIGOS/SOUTHEAST SENIOR CENTER NUTRITION PROGRAM IN THE AMOUNT OF $68,000.00

WHEREAS, the City of Midland, Texas, has heretofore allocated $68,000.00 to Casa de Amigos of Midland, Texas, Inc., to provide funding for nutrition programs at the Southeast Senior Center; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with Casa de Amigos of Midland, Texas, Inc., to provide this service with such funds;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with Casa de Amigos of Midland, Texas, Inc., said contract to be substantially in the form of that attached hereto as Exhibit "1" and made a part hereof for all legal purposes.

SECTION TWO. That funds in the amount of $68,000.00 are appropriated in the FY 2021 CDBG Project pursuant to Resolution 2020-127.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to Casa de Amigos of Midland, Texas, Inc., pursuant to terms of the contract, not to exceed a total amount of $68,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

_____
Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Isaac Garnett, Community Development
Administrator

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE CASA DE AMIGOS/SE SENIOR CENTER NUTRITION PROGRAM

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called "City", and **CASA DE AMIGOS OF MIDLAND, TEXAS, INC.**, hereinafter called "Corporation";

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which Corporation shall perform the Casa de Amigos/SE Senior Center Nutrition Program utilizing Community Development Block Grant (CDBG) funds as described in Exhibit "A", attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by the City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from the City, Corporation is authorized to incur costs against a total amount of SIXTY-EIGHT THOUSAND DOLLARS ($68,000.00). Payments shall be made on a reimbursement basis to Corporation for services and expenses as shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes. All payments shall be made to Corporation upon certification by Corporation and approval by the Community Development Division of the City's Development Services Department and the City Manager. When reimbursements for personal services are requested, time sheets must be presented by Corporation to the City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS ($3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

Corporation will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before Corporation seeks competitive bids on procurement of over TEN THOUSAND DOLLARS ($10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS ($2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to the City and reviewed by the City's Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

CORPORATION WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CORPORATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, CORPORATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

CORPORATION SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH CORPORATION OR CORPORATION'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

CORPORATION AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, Corporation SHALL FURNISH SATISFACTORY EVIDENCE

THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. Corporation shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall waive subrogation in favor of City;

2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Corporation shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. Corporation shall pay for this extended reporting period coverage. Said insurance shall name City as an additional insured.

B. If insurance policies are not written for amounts specified in Subsection A, above, Corporation shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. Corporation shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. Corporation shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. Corporation shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office

of the City of Midland.

F. Corporation shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: CDBG Program Coordinator, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.

2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;

3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Corporation, shall be considered primary coverage, as applicable.

G. Corporation shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Corporation. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, Corporation shall have in effect a general liability insurance policy in an amount of not less than $1,000,000 combined single limit for bodily injury and property damage.This liability policy shall be endorsed to name the City of Midland as an additional insured. Corporation shall provide

City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. Corporation certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Corporation shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Corporation.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Corporation shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Corporation shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and Corporation, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Corporation. No person performing any work hereunder shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Corporation shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Corporation's work. Corporation shall assume exclusive responsibility for the work. Corporation is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

Corporation shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and the City and shall require all contractors and subcontractors to comply with the same. Corporation hereby agrees as follows:

A. Corporation will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. Corporation will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which CDBG funds are expended available to the City.

B. Corporation will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. Corporation will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with CDBG funds. Additionally, Corporation will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. Corporation will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. Corporation will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. Corporation will obtain and maintain documentation evidencing that program beneficiaries meet CDBG program income eligibility criteria, specifically as required by 24 CFR 570.208. Corporation shall further comply with the retention of records provisions of 24 CFR 570.502.

G. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of Corporation shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to Corporation of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of Corporation as an officer, employee, member, or program participant. Corporation shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. Corporation will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. Corporation shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. Corporation will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. Corporation certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of Corporation, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Corporation shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. Corporation shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. Corporation shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. Corporation shall make available to the City, as determined by the City, information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. Corporation shall fully cooperate with City when City monitors the services and work performed under this Agreement, which the City may do at any time during the term of this Agreement. Corporation shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of CDBG acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

Corporation shall upon termination or expiration of this Agreement transfer to the City all CDBG funds and all loans and accounts receivable attributable to the use of CDBG funds that Corporation has on hand at the time of termination. If Corporation ceases to use any asset acquired with CDBG funds for the purposes described in this Agreement, Corporation shall either pay to the City the fair market value of the asset or transfer control of the asset to the City.

X. RECOGNITION OF FUNDING

Corporation shall provide recognition of CDBG funding in its procurement announcements. Corporation shall post, in a publicly visible location where CDBG assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. The City's Community Development Office will determine if posting is adequate given the scale of the CDBG assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by Corporation and submitted in a timely fashion to the City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of CDBG acquired assets shall be submitted to the City, in a form suitable to the City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin May April 2, 2020, and end April 3, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

CORPORATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. GENERAL FUND

It is expressly understood that this Agreement in no way obligates the general fund or any other monies or credits of the City, and is, therefore, expressly contingent on federal funds of the City's CDBG program.

XV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, CORPORATION AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. CORPORATION SPECIFICALLY AGREES THAT IF CORPORATION BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, CORPORATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CORPORATION MIGHT OTHERWISE BE ENTITLED.

CORPORATION AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CORPORATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. CORPORATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND CORPORATION. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

CORPORATION AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XVI. DEFAULT PROVISION

In the event that either Corporation or the City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the non-defaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, Corporation and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or the City and Corporation have not agreed within such time upon a solution to the default, the non-defaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of Corporation and City in writing.

XVII. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Corporation or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Corporation will settle, the physical and mailing addresses of Corporation at the time and date the claim was presented and the physical and mailing addresses of Corporation for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses

upon whom Corporation relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Corporation that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Corporation's failure to comply with the requirements herein shall perpetually bar Corporation's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Corporation agrees that the requirements of this entire agreement are reasonable.

XVIII. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIX. THIRD-PARTY BENEFICIARY

The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XX. ASSIGNMENT

Corporation shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

XXI. TERMINATION WITHOUT CAUSE

The City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to Corporation of City's election to so terminate.

XXII. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXIII. PROCUREMENT SUSPENSION AND DEBARMENT

The City has found that Corporation has not been suspended or debarred from performing work on Federal contracts.

XXIV. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXV. COMPLIANCE

Corporation agrees that it shall comply with Texas Government Code Section 2252.908, as amended. Corporation agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

By_____
Robert Patrick, Interim City Manager

ATTEST:

_____
Amy M. Turner, City Secretary

CASA DE AMIGOS OF MIDLAND, TEXAS, INC.

By_____

Name_____

Title_____

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of CASA DE AMIGOS OF MIDLAND, TEXAS, INC., known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020

_____
Notary Public, State of Texas

Exhibits Contracts

NAME: SE Senior Center Nutrition Program **Request: $68,000**

APPLICANT: Casa de Amigos of Midland Inc.

Description: Casa de Amigos of Midland requests funding for the nutrition programs at the Southeast Senior Citizen Center (1803 E Indiana) and at the Casa de Amigos (1101 E Garden Lane). Approximately 262 seniors are expected to benefit from the lunchtime meal program, and take home food boxes in order to supplement their nutritional needs..

Budget: Previously, only the SE Center meals program has been CDBG supported. CDBG funds would be used to pay for an average 53 meals per day for the October 2020 to September 2021 period. The estimated $7.54 cost per meal includes all costs in providing the meals: personnel, supplies, transportation, food, equipment and administrative overhead.

Eligibility: Per 24 CFR 570.201(e), a public service for senior citizens is considered by HUD as a presumed benefit to low and moderate-income person's activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan: Public services of benefit to the elderly and handicapped individuals are a priority community need.

Other Comments: As an ongoing program, HUD has authorized this office to replace the previous years contracted agency (Senior Life Service of Midland) with Casa de Amigos of Midland given that Senior Life Services declined to enter into a new 2020/2021 program year contract. CDBG assistance has been provided continuously for senior citizen programming in southeast Midland since 1986.

City Council Meeting

Item Number: 13

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Isaac Garnett, Manager, Community Development

Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF $500,000.00 (DEVELOPMENT SERVICES)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH CASA DE AMIGOS OF MIDLAND FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM; APPROVING FUNDS FOR SAID CONTRACTS IN THE AMOUNT OF $500,000.00.

Recommended City Council Action:

Approve

Fiscal Impact:

$500,000 is recovered funds from the CARES GRANTS are available in Fund 065-CARES GRANT for this purpose.

Discussion:

Those who were making a living wage have found themselves without a job because of the layoffs and furloughs due to COVID-19. Many single parents have had no childcare options due to the closure of childcare facilities and the uncertainty of schools. Individuals and families are scared and suffering. Many are worried about the inability to pay their rent and keeping up with the regular utility bills, especially when there is no income for months. The goal of the project is to stabilize low to moderate individuals and families by providing economic relief in the way of rent/utility assistance during this public health and economic crisis.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF $500,000.00

WHEREAS, the City of Midland, Texas, has heretofore allocated $500,000.00 to Casa de Amigos of Midland, Texas, Inc., to provide rental and utility assistance to qualifying households; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with Casa de Amigos of Midland, Texas, Inc., to provide this service with such funds;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with Casa de Amigos of Midland, Texas, Inc., to administer and operate the Social Services Rental and Utility Assistance Program, said contract to be substantially in the form of that attached hereto as Exhibit "1" and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to Casa de Amigos of Midland, Texas, Inc., pursuant to terms of the contract, not to exceed a total amount of $500,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

_____
Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Isaac Garnett, Community Development Administrator

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called "City", and **CASA DE AMIGOS OF MIDLAND, TEXAS, INC.**, hereinafter called "Corporation";

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which Corporation shall perform the Social Services Rental and Utilities Assistance Program utilizing City's Emergency Aid, Relief Economic Security Fund as described in Exhibit "A", attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by the City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from the City, Corporation is authorized to incur costs against a total amount of FIVE HUNDRED THOUSAND DOLLARS ($500,000.00). Payments shall be made on a reimbursement basis to Corporation for services and expenses as shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes. All payments shall be made to Corporation upon certification by Corporation and approval by the Community Development Division of the City's Development Services Department and the City Manager. When reimbursements for personal services are requested, time sheets must be presented by Corporation to the City, in a form suitable to City. Corporation is entitled to reimbursement for administrative expenses at an amount not to exceed TWENTY-FIVE THOUSAND DOLLARS ($25,000.00). Final payment on the project must be at least THREE THOUSAND DOLLARS ($3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

Corporation will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before Corporation seeks competitive bids on procurement of over TEN THOUSAND DOLLARS ($10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS ($2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to the City and reviewed by the City's Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

CORPORATION WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CORPORATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, CORPORATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

CORPORATION SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH CORPORATION OR CORPORATION'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

CORPORATION AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN

THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, Corporation SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. Corporation shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall waive subrogation in favor of City;

2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Corporation shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. Corporation shall pay for this extended reporting period coverage. Said insurance shall name City as an additional insured.

B. If insurance policies are not written for amounts specified in Subsection A, above, Corporation shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. Corporation shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. Corporation shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. Corporation shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office of the City of Midland.

F. Corporation shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.

2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;

3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Corporation, shall be considered primary coverage, as applicable.

G. Corporation shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Corporation. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, Corporation shall have in effect a general liability insurance policy in an amount of not less than $1,000,000

combined single limit for bodily injury and property damage.This liability policy shall be endorsed to name the City of Midland as an additional insured. Corporation shall provide City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. Corporation certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Corporation shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Corporation.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Corporation shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Corporation shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and Corporation, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Corporation. No person performing any work hereunder shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Corporation shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Corporation's work. Corporation shall assume exclusive responsibility for the work. Corporation is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

Corporation shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and the City and shall require all contractors and subcontractors to comply with the same. Corporation hereby agrees as follows:

A. Corporation will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of funds for this program. Corporation will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which

contract funds are expended available to the City.

B. Corporation will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. Corporation will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. Corporation will comply even if the program or activity is not funded wholly or partly with CDBG funds. Additionally, Corporation will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. Corporation will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. Corporation will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. Corporation will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. Corporation shall further comply with the retention of records provisions of 24 CFR 570.502.

G. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. Corporation will insure that subcontractors for work or construction activity under

this Agreement shall comply with 24 CFR Part 84 and 85and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of Corporation shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to Corporation of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of Corporation as an officer, employee, member, or program participant. Corporation shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. Corporation will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. Corporation shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. Corporation will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. Corporation certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of Corporation, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Corporation shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. Corporation shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. Corporation shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. Corporation shall make available to the City, as determined by the City, information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. Corporation shall fully cooperate with City when City monitors the services and work performed under this Agreement, which the City may do at any time during the term of this Agreement. Corporation shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

Corporation shall upon termination or expiration of this Agreement transfer to the City all program funds and all loans and accounts receivable attributable to the use of program funds that Corporation has on hand at the time of termination. If Corporation ceases to use any asset acquired with program funds for the purposes described in this Agreement, Corporation shall either pay to the City the fair market value of the asset or transfer control of the asset to the City.

X. RECOGNITION OF FUNDING

Corporation shall provide recognition of program funding in its procurement announcements. Corporation shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. The City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by Corporation and submitted in a timely

fashion to the City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to the City, in a form suitable to the City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

CORPORATION HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, CORPORATION AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. CORPORATION SPECIFICALLY AGREES THAT IF CORPORATION BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, CORPORATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CORPORATION MIGHT OTHERWISE BE ENTITLED.

CORPORATION AGREES THAT THIS IS THE VOLUNTARY AND

INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CORPORATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. CORPORATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND CORPORATION. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

CORPORATION AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either Corporation or the City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the non-defaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, Corporation and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or the City and Corporation have not agreed within such time upon a solution to the default, the non-defaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of Corporation and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Corporation or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Corporation will settle, the physical and mailing addresses of Corporation at the time and date the claim was presented and the physical and mailing addresses of Corporation for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Corporation relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the

City from any liability whatsoever. The City is under no obligation to provide notice to Corporation that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Corporation's failure to comply with the requirements herein shall perpetually bar Corporation's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Corporation agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

Corporation shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

XX. TERMINATION WITHOUT CAUSE

The City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to Corporation of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

The City has found that Corporation has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

Corporation agrees that it shall comply with Texas Government Code Section 2252.908, as amended. Corporation agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

By_____
Robert Patrick, Interim City Manager

CASA DE AMIGOS OF MIDLAND, TEXAS, INC.

By_____

Name_____

Title_____

ATTEST:

_____
Amy M. Turner, City Secretary

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of CASA DE AMIGOS OF MIDLAND, TEXAS, INC., known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that s/he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020

_____
Notary Public, State of Texas

EXIBIT-A

SCOPE OF SERVICE- 2020 COVID CASA DE AMIGOS PROGRAM

Casa de Amigos of Midland, Texas, Inc. ("Corporation") through its Citywide Community Services ("CCS") department will provide personal protective equipment, food boxes, rental, utilities and misc. products for household needs. The services are for senior citizens and handicapped households on a periodic basis once CCS finds that an individual qualifies for assistance. Service is available throughout the city. CCS accepts clients on a referral basis for emergency/urgent need.

The FIVE HUNDRED THOUSAND DOLLARS ($500,000.00) of Community Development Block Grant ("CDBG") funding will provide operational support and emergency services conducted during the COVID-19 crisis. The program will be operated from Corporation's offices at 1101 E. Garden Lane, Midland, Texas 79701.

A minimum 51% of all participants will be low and moderate income and meet the HUD income criteria as documented and verified by Corporation.

On a monthly basis, Corporation will provide program performance and financial reports to Isaac Garnett, Community Development Administrator for the City of Midland.

Tonya Eckert, Executive Director of Corporation, is responsible for administration of the program.

Corporation is entitled to reimbursement for administrative costs up to an amount not to exceed TWENTY-FIVE THOUSAND DOLLARS ($25,000.00) of the CDBG funding being provided.

City Council Meeting

Item Number: 14

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Isaac Garnett, Manager, Community Development

Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH WEST TEXAS FOOD BANK FOR THE WEST TEXAS FOOD BANK PROGRAM IN THE AMOUNT OF $200,000.00 (DEVELOPMENT SERVICES)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH WEST TEXAS FOOD BANK FOR THE SOCIAL SERVICES FOOD BOX ASSISTANCE PROGRAM; APPROVING FUNDS FOR SAID CONTRACT IN THE AMOUNT OF $200,000.00. (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

Fiscal Impact:

$200,000 in recovered funds from the CARES GRANT are available in Fund 065-CARES GRANT for this purpose.

Discussion:

West Texas Food Bank will procure shelf-stable food items, package the food into boxes weighing 25-30 pounds, then deliver and distribute the “pantry boxes” through our Midland facility in-house pantry or partner agencies’ pantries/distribution sites. Pantry boxes will be used to feed low-income families, including seniors, children, and the homeless or soon to be homeless. Each household will receive a pantry box, as well as, fresh produce, meats, dairy, and bread. Of the households served, 73% were new to our doors. The Midland facility collaborates with 13 other local agencies that have food pantries on site and provide mobile

outreach to Midland resident only.

A $200,000 grant will support the purchase and operational costs for distribution of food from January to June 2021. Funds will be used as follows:

- Purchase 6,912 pantry boxes @ $24.99 each $171,970.56 (includes freight)
- Support personnel costs for a Pantry Manager for the Midland facility @ $10,000
- Support transportation costs for delivery of food to the Midland facility pantry, partner agencies in Midland, and mobile outreaches

Robert Patrick

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH WEST TEXAS FOOD BANK FOR THE WEST TEXAS FOOD BANK PROGRAM IN THE AMOUNT OF $200,000.00

WHEREAS, the City of Midland, Texas, has heretofore allocated $200,000.00 to the West Texas Food Bank to provide food stuff and supplies to qualifying households; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with West Texas Food Bank to provide this service with such funds;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with West Texas Food Bank to administer and operate the West Texas Food Bank Program, said contract to be substantially in the form of that attached hereto as Exhibit "1" and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to West Texas Food Bank pursuant to terms of the contract, not to exceed a total amount of $200,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

_____
Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Isaac Garnett, Community Development
Administrator

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND WEST TEXAS FOOD BANK FOR THE WEST TEXAS FOOD BANK PROGRAM

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called "City", and **WEST TEXAS FOOD BANK**, hereinafter called "WTFB";

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which WTFB will carry out the West Texas Food Bank Program utilizing City's Emergency Aid, Relief and Economic Security Fund as described in Exhibit "A", attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by the City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from the City, WTFB is authorized to incur costs against a total amount of TWO HUNDRED THOUSAND DOLLARS ($200,000.00). Payments shall be made on a reimbursement basis to WTFB for services and expenses as shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes. All payments shall be made to WTFB upon certification by WTFB and approval by the Community Development Division of the City's Development Services Department and the City Manager. When reimbursements for personal services are requested, time sheets must be presented by WTFB to the City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS ($3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

WTFB will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before WTFB seeks competitive bids on procurement of over TEN THOUSAND DOLLARS ($10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS ($2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to the City and reviewed by the City's Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

WTFB WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF WTFB, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, WTFB'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND WTFB WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

WTFB SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH WTFB OR WTFB'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND WTFB WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

WTFB AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN CITY SO DESIRES, WTFB SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE

BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. WTFB shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall provide for a waiver of subrogation in favor of the City;

2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. WTFB shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. WTFB shall pay for this extended reporting period coverage. This insurance shall name the City as an additional insured and shall provide a waiver of subrogation in favor of the City.

B. If insurance policies are not written for amounts specified in Subsection A, above, WTFB shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. WTFB shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. WTFB shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. WTFB shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City Attorney's Office

of the City of Midland.

F. WTFB shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.

2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;

3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and WTFB, shall be considered primary coverage, as applicable.

G. WTFB shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of WTFB. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, WTFB shall have in effect a general liability insurance policy in an amount of not less than $1,000,000 combined single limit for bodily injury and property damage. This liability policy shall be endorsed to name the City of Midland as an additional insured. WTFB shall provide City with a Certificate of Insurance evidencing the required coverage upon execution of this

Agreement.

J. WTFB certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. WTFB shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of WTFB.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that WTFB shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that WTFB shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and WTFB, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and WTFB. No person performing any work hereunder shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. WTFB shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of WTFB's work. WTFB shall assume exclusive responsibility for the work. WTFB is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

WTFB shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and the City and shall require all contractors and subcontractors to comply with the same. WTFB hereby agrees as follows:

A. WTFB will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. WTFB will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which program funds are expended available to the City.

B. WTFB will comply with Title VI of the Civil Rights Act of 1964 (Public Law 88-352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be

subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. WTFB will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. WTFB will comply even if the program or activity is not funded in whole or in part with CDBG funds. Additionally, WTFB will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. WTFB will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. WTFB will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. WTFB will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. WTFB shall further comply with the retention of records provisions of 24 CFR 570.502.

G. WTFB will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. WTFB will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of WTFB shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to WTFB of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of WTFB as an officer, employee, member, or program participant. WTFB shall further comply with the

conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. WTFB will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. WTFB shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. WTFB will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. WTFB certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of WTFB, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, WTFB shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. WTFB shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. WTFB shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. WTFB shall make available to the City, as determined by the City, information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. WTFB shall fully cooperate with City when City monitors the services and work performed under this Agreement, which the City may do at any time during the term of this Agreement. WTFB shall maintain accounts and records adequate to identify and account for

all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of program acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

WTFB shall upon termination or expiration of this Agreement transfer to the City all program funds and all loans and accounts receivable attributable to the use of program funds that WTFB has on hand at the time of termination. If WTFB ceases to use any asset acquired with program funds for the purposes described in this Agreement, WTFB shall either pay to the City the fair market value of the asset or transfer control of the asset to the City.

X. RECOGNITION OF FUNDING

WTFB shall provide recognition of program funding in its procurement announcements. WTFB shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. The City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by WTFB and submitted in a timely fashion to the City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to the City, in a form suitable to the City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

WTFB HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE,

INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, WTFB AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. WTFB SPECIFICALLY AGREES THAT IF WTFB BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, WTFB AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH WTFB MIGHT OTHERWISE BE ENTITLED.

WTFB AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. WTFB ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. WTFB FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND WTFB. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

WTFB AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either WTFB or the City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the nondefaulting party shall

notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, WTFB and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or the City and WTFB have not agreed within such time upon a solution to the default, the nondefaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of WTFB and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, WTFB or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which WTFB will settle, the physical and mailing addresses of WTFB at the time and date the claim was presented and the physical and mailing addresses of WTFB for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom WTFB relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to WTFB that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, WTFB's failure to comply with the requirements herein shall perpetually bar WTFB's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. WTFB agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

WTFB shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

XX. TERMINATION WITHOUT CAUSE

The City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to WTFB of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

The City has found that WTFB has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such inWTFB, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

WTFB agrees that it shall comply with Texas Government Code Section 2252.908, as amended. WTFB agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS

By_____
Robert Patrick,
Interim City Manager

WEST TEXAS FOOD BANK

By_____

Name_____

Title_____

ATTEST:

_____
Amy M. Turner, City Secretary

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of WEST TEXAS FOOD BANK known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020.

_____
Notary Public, State of Texas

EXIBIT-A

SCOPE OF SERVICE-2020-WEST TEXAS FOOD BANK PROGRAM

WTFB has worked to feed hungry families who are seeking food. Currently, West Texas is not only experiencing a drastic increase in the demand for food due to the COVID-19 pandemic, but the extremely high cost of living we have experienced for 2 years has also increased the need for the households we serve.

WTFB requests funds to allow clients of the Midland Senior Client Choice Pantry to receive food twice per month. Prior to a change in services as a result of COVID-19, senior clients (age 60 and over) visited the food pantry twice per month. In order to conserve our resources and meet the increased demand from the entire community, WTFB made the difficult decision to serve clients only once per month..

Clients that visit the pantry each receive a 25-pound pantry box with shelf-stable items, plus fresh produce, meat, breads and dairy (see attached photos). Pantry boxes cost roughly $20 each for the food, transportation and other operational costs. Prior to COVID-19 and strains on the food supply chain, food distributed in our pantries was primarily donated or TEFAP (USDA commodities) product. However, boxes are now filled with roughly 85% purchased product, which makes the box much more expensive to distribute.

BUDGET

Projected cost for the additional food pantry visit:

941 per month x $20/pantry box x 11 months of service (NOVEMBER 2020-SEPTEMBER 2021) = $200,000

City Council Meeting

Item Number: 15

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Isaac Garnett, Manager, Community Development

Subject: RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC., FOR THE 2020 BOYS & GIRLS CLUB PERMIAN BASIN PROGRAM IN THE AMOUNT OF $92,000.00 (DEVELOPMENT SERVICES)

Purpose:

RESOLUTION AUTHORIZING THE EXECUTION OF THE CITY OF MIDLAND EMERGENCY AID, RELIEF, and ECONOMIC SECURITY FUNDS CONTRACTS WITH THE BOYS & GIRLS CLUB OF MIDLAND SOCIAL SERVICES PROGRAM; APPROVING FUNDS FOR SAID CONTRACTS IN THE AMOUNT OF $92,000.00. (DEVELOPMENT SERVICES)

Recommended City Council Action:

Approve

Fiscal Impact:

$93,000 are hereby appropriated from recovered funds from the CARES GRANT that are available in Fund 065-CARES GRANT for this purpose.

Discussion:

Explanation and Justification of Additional Staffing and PPE Costs During Pandemic for Five Additional, Part-Time Employees at Two Facilities

1) To date, the Boys &Girls Club has spent $10,000+ for hospital grade misters, masks, cleaners,sanitizers, and ozonators. We project an additional $5,000 in PPE costs through theend of the pandemic. 2) The grant request for $92,000 in additional staffing is a 13% increase to our employee budget to deal with the extra costs associated with the pandemic:

-Check in and check out procedures are more intensive.
-Staffing to group ratios are smaller due to guidelines.
-Extra required cleaning procedures are very labor intensive.
-Masks issued to children must be washed every day.

Basketball (two seasons) and volleyball (two seasons) are played in the gymnasiums requiring two additional staff members working longer hours and more days (weekends). During the pandemic they have added requirements for two staff to be at both gymnasiums to keep our recreational sports program open. (These two sports alone will have more than 1,500 registrations through this fall and spring. As there are limited practice locations in the community due to the pandemic, the gyms are frequently open seven days a week up to 1pm. In the past, only the league commissioner was required to open gymnasiums.) Four after-school transportation buses and vans must have fewer children riding at one time, and require more intensive cleaning procedures after every ride. ALL staff are required to be trained on procedures. Daily attendance in 2019 was 453 kids a day. They are now at 300+ and growing on a weekly basis. 93% of the kids qualify for the free and reduced meal program, and as are charged $1 a day to attend. The Boys & Girls Club is the only affordable out-of-school program for a majority of Midland families. Since reopening June 1st, no COVID cases have been reported at the Midland Clubs.

City Manager's Office

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC., FOR THE 2020 BOYS & GIRLS CLUB PERMIAN BASIN PROGRAM IN THE AMOUNT OF $92,000.00

WHEREAS, the City of Midland, Texas, has heretofore allocated $92,000.00 to the Boys & Girls Clubs of the Permian Basin, Inc., to provide for additional staffing to maintain health and safety guidelines; and

WHEREAS, the City Council finds it to be in the public interest to enter into a contract with the Boys & Girls Clubs of the Permian Basin, Inc., to provide this service with such funds;

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

SECTION ONE. That the Mayor and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a contract with the Boys & Girls Clubs of the Permian Basin, Inc., to administer and operate the 2020 Boys & Girls Club Permian Basin Program, said contract to be substantially in the form of that attached hereto as Exhibit "1" and made a part hereof for all legal purposes.

SECTION TWO. Recovered funds from the Cares Grant are available in Fund 065 - Cares Grant for this purpose.

SECTION THREE. That the City Comptroller is hereby authorized and directed to make payment to the Boys & Girls Clubs of the Permian Basin, Inc., pursuant to terms of the contract, not to exceed a total amount of $92,000.00, upon receipt of proper invoice or statement approved by the City Manager.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2020, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

_____
Robert Patrick, Interim City Manager

_____
Mark Mason, Director of Finance

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Isaac Garnett, Community Development Administrator

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

AGREEMENT BETWEEN CITY OF MIDLAND, TEXAS AND BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC., REGARDING THE 2020 BOYS & GIRLS CLUB PERMIAN BASIN PROGRAM

This Agreement made by and between the **CITY OF MIDLAND**, a Texas home rule municipal corporation, herein called "City", and **BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC.**, hereinafter called "Corporation";

I. PURPOSE

The purpose of this Agreement is to state the terms and conditions by which Corporation will carry out the Boys & Girls Club Permian Basin Program utilizing City's Emergency Aid, Relief and Economic Security Fund as described in Exhibit "A", attached hereto and incorporated herein for all legal purposes. Any change in the performance schedule, purpose or the location of the operation must be approved in advance by the City.

II. PAYMENT

Upon and after the receipt of a notice to proceed from the City, Corporation is authorized to incur costs against a total amount of NINETY-TWO THOUSAND DOLLARS ($92,000.00). Payments shall be made on a reimbursement basis to Corporation for services and expenses as shown in Exhibit "A", attached hereto and made a part hereof for all legal purposes. All payments shall be made to Corporation upon certification by Corporation and approval by the Community Development Division of the City's Development Services Department and the City Manager. When reimbursements for personal services are requested, time sheets must be presented by Corporation to the City, in a form suitable to City. Final payment on the project must be at least THREE THOUSAND DOLLARS ($3,000.00), and will not be made until all final project reporting is completed.

III. PROCUREMENT STANDARDS

Corporation will make project procurement in accordance with 24 CFR Part 84 and Part 85 and applicable Texas Statutes. At least ten (10) days before Corporation seeks competitive bids on procurement of over TEN THOUSAND DOLLARS ($10,000.00) and for any work contracts of over TWO THOUSAND DOLLARS ($2,000.00) of the above described project, the plans and specifications and other bid documents shall be submitted to the City and reviewed by the City's Community Development Division for conformance with federal and City requirements.

IV. INDEMNITY

CORPORATION WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CORPORATION, ITS AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, ARISING OUT OF, OR RESULTING FROM, CORPORATION'S USE OF, OR ACTIVITIES ON, THE AGREEMENT PREMISES, AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING REASONABLE ATTORNEY'S FEES.

CORPORATION SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATHS, PROPERTY DAMAGE, LOSSES, AND EXPENSE OF ANY CHARACTER WHATSOEVER INCLUDING REASONABLE ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH CORPORATION OR CORPORATION'S EMPLOYEES, AGENTS OR SUBCONTRACTORS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT AND CORPORATION WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF CITY'S OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

CORPORATION AGREES THAT IT WILL INDEMNIFY AND SAVE THE CITY HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, INCLUDING COMMISSARY INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS AGREEMENT. WHEN

CITY SO DESIRES, CORPORATION SHALL FURNISH SATISFACTORY EVIDENCE THAT ALL OBLIGATIONS OF THE NATURE HEREIN ABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED.

V. INSURANCE

A. Corporation shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence hereof to City:

1. Statutory Workers' Compensation; said insurance shall provide for a waiver of subrogation in favor of the City;

2. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of $1,000,000. The policy must provide contractual liability coverage for liability assumed under this Agreement, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Corporation shall maintain coverage for the duration of this Agreement and for six months following completion of the construction improvements associated with this Agreement. Corporation shall pay for this extended reporting period coverage. This insurance shall name the City as an additional insured and shall provide a waiver of subrogation in favor of the City.

B. If insurance policies are not written for amounts specified in Subsection A, above, Corporation shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.

C. Corporation shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.

D. Corporation shall provide all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.

E. Corporation shall not commence work under this Agreement until it has obtained all

required insurance and until such insurance has been reviewed by the City Attorney's Office of the City of Midland.

F. Corporation shall produce an endorsement to each affected policy that contains language similar to the following:

1. That names City of Midland, Texas, Attn.: Isaac Garnett, 300 N. Loraine, P. O. Box 1152, Midland, Texas, 79702, as additional insured (except for Workers' Compensation and Employee's Liability coverage), with right of subrogation against City waived on each affected policy including Worker's Compensation.

2. That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;

3. That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Corporation, shall be considered primary coverage, as applicable.

G. Corporation shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.

H. City reserves the right to review the insurance requirements of this Article V during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Corporation. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

I. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change. During the term of this Agreement, Corporation shall have in effect a general liability insurance policy in an amount of not less than $1,000,000 combined single limit for bodily injury and property damage. This liability policy shall be endorsed to name the City of Midland as an additional insured. Corporation shall provide

City with a Certificate of Insurance evidencing the required coverage upon execution of this Agreement.

J. Corporation certifies that the certificate of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Corporation shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Corporation.

VI. INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Corporation shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of the City; that Corporation shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents employees, contractors, and subcontractors; that the doctrine of respondent superior shall not apply as between City and Corporation, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Corporation. No person performing any work hereunder shall be considered an officer, agent, servant or employee of the City. Further, it is specifically understood and agreed that nothing in this Agreement is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Corporation shall be an independent contractor under this Agreement and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. City does not have the power to direct the order in which the work is done. City shall not have the right to control the means, methods or details of Corporation's work. Corporation shall assume exclusive responsibility for the work. Corporation is entirely free to do the work in its own way.

VII. APPLICABLE LAWS, ORDINANCES

Corporation shall comply with all applicable laws, ordinances and codes of the United States, State of Texas and the City and shall require all contractors and subcontractors to comply with the same. Corporation hereby agrees as follows:

A. Corporation will comply with the policies, guidelines and requirements of 24 CFR Part 84 and 85 and OMB Circulars A-87 and A-122, as they relate to the application, acceptance and use of federal funds for this federally assisted program. Corporation will also comply with the Single Audit provisions of OMB Circular A-133 and make the all audits for fiscal years in which program funds are expended available to the City.

B. Corporation will comply with Title VI of the Civil Rights Act of 1964 (Public Law

88-352), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the applicant received federal financial assistance.

C. Corporation will comply with Section 109 of the Housing and Community Development Act of 1974, and the regulations issued pursuant thereto (24 CFR 570.602), which provides that no person in the United States shall, on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds. Corporation will comply even if the program or activity is not funded wholly or partly with CDBG funds. Additionally, Corporation will comply with regulations at 24 CFR 570.613 concerning eligibility restrictions for certain resident aliens.

D. Corporation will comply with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284), which provides that it is the policy of the United States to provide for fair housing throughout the United States. It prohibits particular discriminatory acts regarding housing if the discrimination is based on race, color, religion, sex, national origin, family status, or mental and physical disability.

E. Corporation will comply with Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u), as amended, and the regulations issued pursuant thereto (24 CFR Part 135) which provides that to the greatest extent feasible opportunities for employment and other economic opportunities be directed to low and very low income City residents and to business concerns which provide economic opportunity to low and very low income persons.

F. Corporation will obtain and maintain documentation evidencing that program beneficiaries meet program income eligibility criteria, specifically as required by 24 CFR 570.208. Corporation shall further comply with the retention of records provisions of 24 CFR 570.502.

G. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with the equal opportunity requirements of Executive Order 11246, as amended.

H. Corporation will insure that subcontractors for work or construction activity under this Agreement shall comply with 24 CFR Part 84 and 85and Section 110 of the Housing and Community Development Act of 1974 and the regulations issued pursuant thereto (24 CFR 570.603), which provide for adherence to certain labor standards.

I. No officer, employee or board member of Corporation shall have a financial interest, direct or indirect, in this Agreement or the monies transferred hereunder, or be financially interested, directly or indirectly in the sale to Corporation of any land, materials, supplies or services purchased with any funds transferred hereunder, except on behalf of Corporation as an officer, employee, member, or program participant. Corporation shall further comply with the conflict of interest provisions of 24 CFR 570.611 and 24 CFR Part 84 and Part 85.

J. Corporation will insure that funds will not be used to directly or indirectly employ, award contracts to or otherwise engage the services of or fund any subcontractor during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

K. Corporation shall follow the provisions of 24 CFR Part 84 and Part 85 concerning standards for financial management systems.

L. Corporation will comply with the property management and disposition requirements of 24 CFR Part 84 and 85 including copyright provisions therein.

M. Corporation certifies that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of Corporation, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, Corporation shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

N. Corporation shall comply with and shall ensure that its subcontractors comply with the provisions of the Drug-Free Workplace Act, 41 U.S.C, 701, et seq.

O. Corporation shall follow the provisions of 24 CFR 570.614 Architectural Barriers Act and the Americans with Disabilities Act.

P. Corporation shall make available to the City, as determined by the City information and/or data which document compliance, in all phases of its work, with the above paragraphs A through O. Corporation shall fully cooperate with City when City monitors the services and work performed under this Agreement, which the City may do at any time during the term of this Agreement. Corporation shall maintain accounts and records adequate to identify and account for all cost pertaining to the Agreement. Records are to be retained in accordance with 24 CFR Part 84 and Part 85.

VIII. PROGRAM INCOME

It is agreed and understood that except in the disposition of program acquired assets that there will be no program income generated as a result of this Agreement which requires compliance with 24 CFR 570.504.

IX. TRANSFER OF ASSETS

Corporation shall upon termination or expiration of this Agreement transfer to the City all program funds and all loans and accounts receivable attributable to the use of program funds that Corporation has on hand at the time of termination. If Corporation ceases to use any asset acquired with program funds for the purposes described in this Agreement, Corporation shall either pay to the City the fair market value of the asset or transfer control of the asset to the City.

X. RECOGNITION OF FUNDING

Corporation shall provide recognition of program funding in its procurement announcements. Corporation shall post, in a publicly visible location where program assisted activity is provided, an acknowledgment that the City of Midland Community Development Block Grant Program is contributing to the project. The City's Community Development Office will determine if posting is adequate given the scale of the program assisted activity.

XI. PROJECT REPORTS

Monthly status reports are to be prepared by Corporation and submitted in a timely fashion to the City. A final performance report shall be prepared and submitted promptly after project completion. An inventory of program acquired assets shall be submitted to the City, in a form suitable to the City, on an annual basis and at the end of the Agreement.

XII. TERM OF AGREEMENT

The term of this Agreement shall begin November 4, 2020, and end September 30, 2021, unless an extension of time is granted by the City Council.

XIII. RELEASE

CORPORATION HEREBY RELEASES, RELINQUISHES, ACQUITS AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH COMPANY HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.

XIV. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, CORPORATION AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. CORPORATION SPECIFICALLY AGREES THAT IF CORPORATION BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS AGREEMENT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, CORPORATION AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH CORPORATION MIGHT OTHERWISE BE ENTITLED.

CORPORATION AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING KNOWN RIGHT. CORPORATION ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THE AGREEMENT. CORPORATION FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE CITY AND CORPORATION. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF SOVEREIGN IMMUNITY.

CORPORATION AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS AGREEMENT WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

XV. DEFAULT PROVISION

In the event that either Corporation or the City fails to perform or is unable to perform substantially its obligations under the terms of this Agreement, the nondefaulting party shall notify the defaulting party in writing of such default. Within five (5) days after receipt of such notification, Corporation and City shall meet to discuss the default, the reasons thereof and the methods to cure default. If the defaulting party has not substantially cured the default within ten (10) days after receipt of such notification, or the City and Corporation have not agreed within such time upon a solution to the default, the nondefaulting party may, at its option, pursue any remedies at law or in equity.

In any event this Agreement may be terminated by the mutual consent of Corporation and City in writing.

XVI. NOTICE OF ALLEGED BREACH; STATUTORY PREREQUISITES

As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this Agreement, Corporation or its legal representative, shall give the City Manager, or any other reasonable official of the City, notice in writing (consisting of one original and seven copies of notice attached to a copy of this agreement) of such damages, duly verified, within one hundred and fifty (150) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Corporation will settle, the physical and mailing addresses of Corporation at the time and date the claim was presented and the physical and mailing addresses of Corporation for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Corporation relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the City from any liability whatsoever. The City is under no obligation to provide notice to Corporation that its notice is insufficient. City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Corporation's failure to

comply with the requirements herein shall perpetually bar Corporation's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if City has actual or constructive notice or knowledge of said claim or alleged damages. Corporation agrees that the requirements of this entire agreement are reasonable.

XVII. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its right of sovereign immunity. The City is retaining its immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

XIII. THIRD-PARTY BENEFICIARY

The City's approval of this Agreement does not create a third party beneficiary. There is no third party beneficiary to this Agreement. No person or entity who is not a party to this Agreement shall have any third party beneficiary or other rights hereunder.

XIX. ASSIGNMENT

Corporation shall not, either directly or indirectly, assign all or any part of this agreement or any interest, right or privilege herein, without the prior written consent of the City. The issue on whether or not to grant consent to an assignment is in the sole discretion of the City.

XX. TERMINATION WITHOUT CAUSE

The City shall have the right, at its sole option, to terminate this Agreement at any time, with or without cause, by giving 90 days written notice to Corporation of City's election to so terminate.

XXI. VENUE AND GOVERNING LAW

This agreement shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this agreement shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this agreement or the performance of this agreement shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this agreement shall be deemed to have occurred in Midland County, Texas. This agreement shall be governed by, interpreted, enforced and construed under the law of the State of Texas. The

laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all contractual claims or disputes, arising from or relating in any way to the subject matter of this agreement, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

XXII. PROCUREMENT SUSPENSION AND DEBARMENT

The City has found that Corporation has not been suspended or debarred from performing work on Federal contracts.

XXIII. FEDERAL WAGE REQUIREMENTS

If applicable, the Davis-Bacon Act, 29 CFR 5.5, and any related acts or regulations are hereby incorporated by reference and made a part of this Agreement, and all terms and requirements under said laws, by such incorporation, are made terms and requirements of this Agreement, to which the parties to this Agreement have agreed to be bound.

XXIV. COMPLIANCE

Corporation agrees that it shall comply with Texas Government Code Section 2252.908, as amended. Corporation agrees that it shall comply with Texas Local Government Code Section 176.006, as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement this the _____ day of _____, 2020.

CITY OF MIDLAND, TEXAS	BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC.
By_____	By_____
Robert Patrick,	
Interim City Manger	Name_____
	Title_____

ATTEST:

_____
Amy M. Turner, City Secretary

THE STATE OF TEXAS §
§
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of BOYS & GIRLS CLUBS OF THE PERMIAN BASIN, INC., known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2020.

_____
Notary Public, State of Texas

EXIBIT-A

SCOPE OF SERVICE-2020-BOYS & GIRLS CLUB PERMIAN BASIN PROGRAM

The Boys & Girls Club of the Permian Basin regularly serves 2,500 kids per year and 450 kids per day in the Permian Basin 93% of which are low-Income families. Pandemic Cleaning and Health Precautions Project will assist in the staffing, monitoring of kids and pay five $15/hour part-time, temporary workers to perform duties primarily at a designated clubs; BGCPB will provide a letter outlining justification of additional staffing and PPE cost during the pandemic for five additional part-time employees at two facilities; Documentation of the above will be maintained by UWM staff and project employees.

Budget

5 part-time, temporary worker / $15 /hour / 30 weeks

Total $92,000

City Council Meeting

Item Number: 16

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Joseph Marynak, Planner

Subject: **Motion approving a proposed Preliminary Plat of Saddleback Estates Addition, being a plat of a 72.256-acre tract of land located in the northeast quarter of Section 46, Block 38, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of S. County Road 1130 and E. County Road 95. Extraterritorial Jurisdiction) (DEVELOPMENT SERVICES)**

Purpose:

The applicant, Maverick Engineering, is proposing to plat a 72.256-acre tract of land located in the northeast quarter of Section 46, Block 38, T-1-S, T&P RR. Co. Survey, Midland County, Texas, into one hundred (100) lots for ownership purposes.

Recommended City Council Action:

Approve

Fiscal Impact:

Processing this request does not require any City funds.

Discussion:

This request has been routed to all respective departments for internal review. The comments are below.

BUILDING CODE: (Approved)

ETJ, no jurisdiction.

SURVEYOR: (Approved)

No comments.

ENGINEERING: (Approved)

IMPACT FEES: Property is located outside designated service areas impact fees not required at this time.

ROW: ROW is fine as shown.

PAVING: Deferral Administratively approved on 5/8/20.

WATER: Deferral Administratively approved on 5/8/20.

FIRE HYDRANTS: Required as needed to meet NFPA, IFC & City Fire Code; and/or comply with directives of City Fire Marshal. After January 14, 2020 - Fire hydrants shall be spaced no more than 500' apart, Pressure Indicator Rings are to be installed and will require the developers/contractors to pay for the flow test.

PRO RATA: None.

SEWER: Deferral Administratively approved on 5/8/20.

DRAINAGE: Drainage study approved 5/20/20.

EASEMENTS: Show existing and proposed.

SIDEWALKS: Deferral Administratively approved on 5/8/20.

DIMENSION: * * *

OTHER: * * *

TRANSPORTATION: (Approved)

No objections to plat.

FIRE: (Approved)

No additional comments.

CODE COMPLIANCE: (Approved)

Not in the City limits- no oil or gas jurisdiction.

HEALTH:

The .5 acre lots need to have public water to the lots for them to have septic systems.

(1) Residential lot sizing.

(A) Platted or unplatted subdivisions served by a public water system, Subdivisions of single family dwellings platted or created after the effective date of this section, served by a public water supply and using individual OSSFs for sewage disposal, shall have lots at least ½ acre.

(B) Platted or unplatted subdivisions not served by a public water system. Subdivisions of single family dwellings platted or created after the effective date of this section not served by public water supply and using individual OSSDs, shall have lots of at least one acre.

Midland County:

Flood plain analysis and permit application would be applicable

If Roads are to be dedicated to the county for maintenance, reference County Subdivision Regulation Section 3 for details and understand that separate instrument is required for dedication

Please define radius of each proposed cul-de-sac

Driveway permits off of SCR 1130 will be required after final plat and acknowledgement and assignment of address by 911

Consider connection of ECR 93 to CR 1133 in lieu of two cul-de-sacs; for emergency access and egress

Lots less than 1 acre are not available for septic sewer system application

If water connections are being considered, a bond may be required to ensure completion of construction of those devices. In addition, evidence of agreement with water authority will be required.

The street names will not be allow in the county. They will have to be changed to County Road Numbers. They will also have to get a permit to connect to the County Road. You may want to check with Andrew Avis on the Right Of Way (ROW). I believe lot 1, 2, and portion of 3 on the Sunset Trail along with Lot 16 and 17 on Saddle Drive are in the County ROW.

[Refer to “County Roads Map” attachment for changes to street names.]

GIS:

There are 3 street names on this plat which are being used inside the City of Midland City limits. Even though this plat is southeast from the City of Midland City limits in the county we

cannot have duplicated street names and duplicated parcel addresses in the city and county because we do not separate city from county in street centerlines and parcels. The duplicated street names inside the city limits with city map index are below

Sunset Street city map index Y-26

Ranch Hand Drive city map index C-36

Lasso Lane city map index D-36

PLANNING:

The Midland Central Appraisal District shows the property consists of 73.032 acres. Verify acreage.

Lots cannot be smaller than one acre if septic systems will be used.

This plat is over 25-acres and meets the conditions in Section 11-2-3 (D) 11 of the Subdivision Ordinance of the City of Midland Code; therefore this plat requires City Council approval.

Verify distance and direction calls. The northern boundary of the property seems to be shifted approximately 30 feet north, and the northern portion of the eastern boundary seems to be too short.

Verify point of beginning, it appears to be shifted approximately 20 feet to the east.

For the Certificate of Approval, the Chairman of the Planning and Zoning Commission is Reggie Lawrence.

This request was recommended for approval at the October 19, 2020 Planning and Zoning Commission meeting.

Staff recommends approval of this preliminary plat of Saddleback Estates Addition, subject to conditions A through B.

Conditions:

A. That the technical items listed above are addressed.

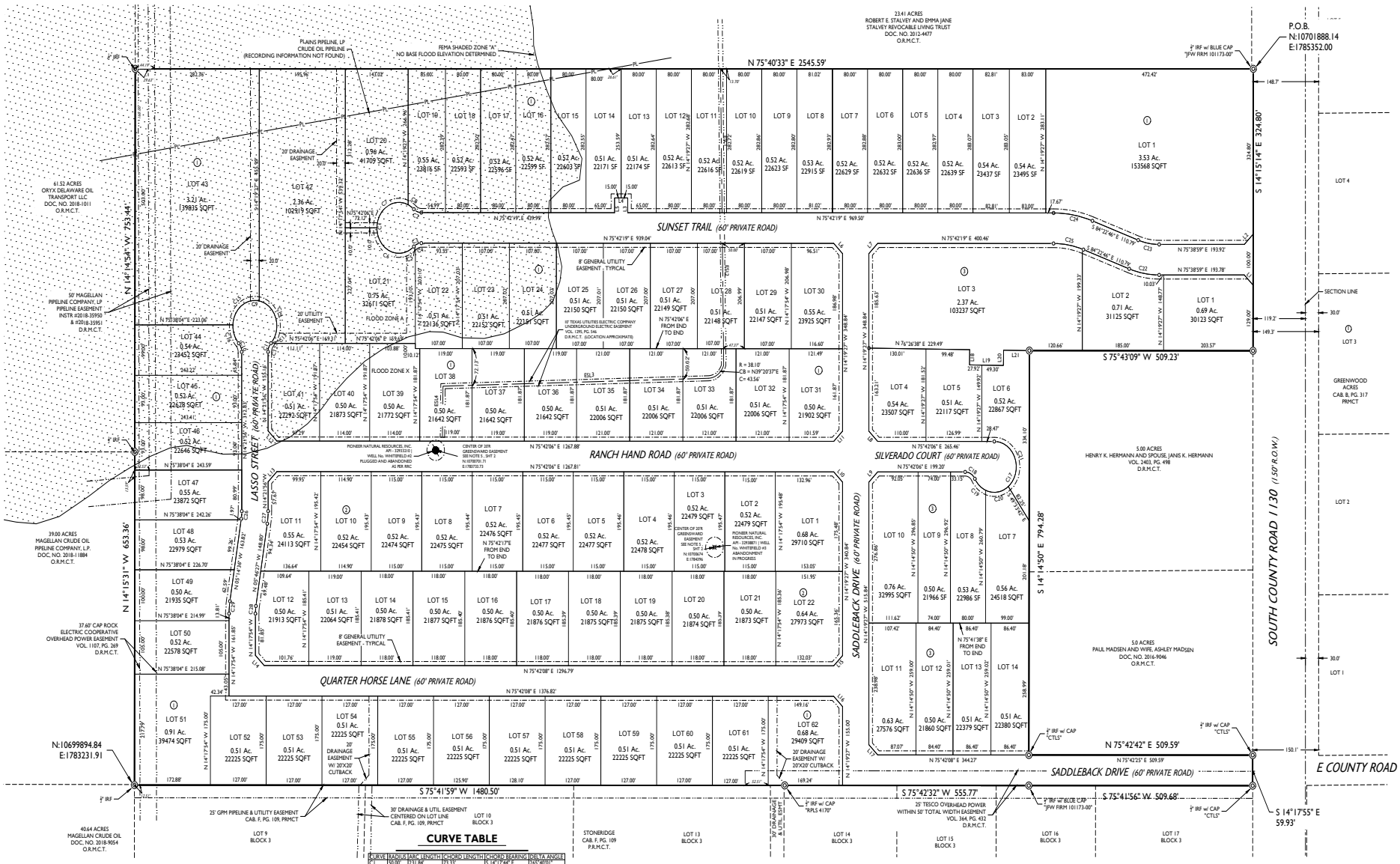
B. All plat comments, conditions, and requirements must be satisfied by all pertinent City departments before filling for recording with the County Clerk of Midland County, Texas.

Attachments:
Proposed Preliminary Plat
Maps
Application
County Road Map

City Manager's Office

SADDLEBACK ESTATES ADDITION

72.256-ACRE TRACT IN THE NORTHEAST QUARTER OF SECTION 46, BLOCK 38, T-1-S,
T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	231.84'	73.33'	S 14°17'44" E	265°40'01"
C2	25.00'	18.67'	18.26'	N 82°32'41" W	42°49'56"
C3	25.00'	18.69'	18.26'	N 54°17'17" E	42°50'03"
C4	25.00'	14.32'	14.03'	N 59°32'33" E	32°50'31"
C5	25.00'	4.47'	4.46'	S 37°39'32" W	10°14'32"
C6	50.00'	115.92'	91.65'	N 80°42'49" W	132°49'50"
C7	50.00'	100.19'	84.25'	N 43°36'13" E	114°48'15"
C8	50.00'	15.74'	15.67'	S 70°28'41" E	18°01'56"
C9	50.00'	231.84'	73.33'	S 71°38'04" W	265°40'01"
C10	25.00'	18.67'	18.26'	S 25°46'56" E	42°50'00"
C11	25.00'	18.69'	18.26'	S 07°03'05" W	42°50'00"
C12	25.00'	18.89'	17.88'	S 06°35'36" W	41°55'03"
C13	25.00'	0.40'	0.40'	N 28°00'36" E	0°54'57"
C14	50.00'	105.80'	87.14'	N 13°09'08" W	121°14'23"
C15	50.00'	86.51'	76.20'	S 37°34'25" W	98°41'59"
C16	50.00'	39.55'	38.53'	N 34°32'13" W	45°19'25"
C17	50.00'	211.42'	85.69'	S 16°44'57" W	242°16'07"
C18	25.00'	27.11'	25.82'	N 73°12'27" W	62°10'55"
C19	50.00'	54.21'	51.55'	N 61°43'07" W	59°12'24"
C20	50.00'	54.70'	52.01'	S 61°20'23" W	62°40'48"
C21	50.00'	172.51'	94.08'	S 34°11'35" E	140°23'05"
C22	200.04'	69.63'	69.28'	S 85°38'46" W	19°56'41"
C23	139.96'	48.72'	48.48'	S 85°39'03" W	19°56'41"
C24	260.00'	90.39'	89.93'	S 85°39'40" W	19°55'08"
C25	200.00'	69.53'	69.18'	S 85°39'40" W	19°55'08"
C26	95.00'	15.12'	15.11'	N 09°48'16" W	9°07'20"
C27	155.00'	24.68'	24.65'	N 09°48'16" W	9°07'20"
C28	95.00'	15.01'	15.00'	N 09°46'15" W	9°03'19"
C29	155.00'	24.50'	24.47'	N 09°46'15" W	9°03'19"

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 59°17'25" W	28.27'
L2	N 30°27'28" E	28.26'
L3	N 14°19'27" W	276.00'
L4	S 75°42'20" W	30.00'
L5	S 14°19'27" E	23.00'
L6	S 59°18'54" E	28.29'
L7	N 30°41'26" E	28.28'
L8	S 30°41'41" E	28.29'
L9	S 30°18'59" W	28.26'
L10	N 59°18'41" W	28.27'
L11	N 30°28'59" E	28.26'
L12	N 59°19'55" W	28.30'
L13	N 30°40'05" E	28.26'
L14	S 59°17'53" E	28.27'
L15	N 30°41'20" E	28.28'
L16	N 59°18'40" W	28.29'
L17	S 59°18'40" E	28.29'
L18	N 13°37'22" W	29.96'
L19	N 76°26'38" E	27.92'
L20	N 13°33'22" W	29.96'
L21	N 76°26'38" E	58.66'

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
ESL1	S 15°01'44" E	282.76'
ESL2	S 15°01'44" E	239.30'
ESL3	S 75°41'28" W	1604.16'
ESL4	S 13°32'36" E	100.42'

LEGEND

- DENOTES FOUND MONUMENTS AS NOTED
- DENOTES PROPOSED PC OR PT
- O.R.M.C.T. OFFICIAL RECORDS, MIDLAND CO., TX
- D.R.M.C.T. DEED RECORDS, MIDLAND CO., TX
- P.R.M.C.T. PLAT RECORDS, MIDLAND CO., TX
- DENOTES BOUNDARY LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES PROPOSED EASEMENT LINE

SCALE 1" = 100'

BEARING BASIS

BEARINGS, COORDINATES AND DISTANCES ARE THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NAD83

PRELIMINARY PLAT

SADDLEBACK ESTATES ADDITION

PLAT FILED FOR RECORD MIDLAND COUNTY, TEXAS

NO. _____ *SLIDE* _____

DATE _____ *PAGE* _____

MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

Drawing: F:\2019\19075-BRETT JOHNSON-SADDLE BACK SUBDIVISION\DRAWINGS\PLAT\PRELIMINARY PLAT\19075 - SADDLEBACK ESTATES - PRELIMINARY PLAT.DWG Last Saved By: AKalensk on 9/15/20

SADDLEBACK ESTATES ADDITION

72.256-ACRE TRACT IN THE NORTHEAST QUARTER OF SECTION 46, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS SADDLEBACK ESTATES, A SERIES OF KINGDOM DEVELOPERS, LLC, IS THE RECORD OWNER OF A TRACT OF LAND SITUATED IN SECTION 46, BLOCK 38, T-1-S, T&P. RR. CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

THAT SADDLEBACK ESTATES, A SERIES OF KINGDOM DEVELOPERS, LLC, BEING THE OWNER OF THE LAND SHOWN ON THIS PLAT DESIGNATED AS SADDLEBACK ESTATES ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AND WHOSE NAME IS SUBSCRIBED HERETO, DO HEREBY DEDICATE TO THE PUBLIC USE FOREVER THE STREETS, ALLEYS, AND EASEMENTS SHOWN THEREON; AND DO HEREBY GIVE AN EASEMENT OF INGRESS AND EGRESS TO THE CITY OF MIDLAND FOR GARBAGE COLLECTION, UTILITY FACILITY ACCESS AND MAINTENANCE, LOCATION AND MAINTENANCE OF TRASH CONTAINERS AND ACCESS THERETO, AND CONDITION SAID EASEMENT THAT NO CONSTRUCTION SHALL COMMENCE ON SAID LOT OR LOTS UNTIL THE EXACT LOCATION OF SAID CONTAINERS THEREWITH HAS BEEN SELECTED AND APPROVED BY THE DIRECTOR OF UTILITIES.

WITNESS MY HAND AT _____ - ___.M.,

THE_____DAY OF _____, 2020.

_____
BY: SADDLEBACK ESTATES, A SERIES OF KINGDOM DEVELOPERS, LLC, BRETT JOHNSON

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

BEFORE ME, THE UNDERSIGNED AUTHORITY, A NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS, ON THIS DAY PERSONALLY APPEARED BRETT JOHNSON, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE FOREGOING INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE WAS ACTING AS OWNER, AND THAT HE EXECUTED THE SAME FOR THE PURPOSES AND CONSIDERATION THEREIN EXPRESSED, AND IN THE CAPACITY THEREIN STATED. GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS

THE _____ DAY OF _____, 2020.

_____
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

DRAINAGE EASEMENT GRANTED WITH THIS PLAT:

1. THE MAINTENANCE OF ANY STORMWATER FACILITY IN THIS EASEMENT IS THE RESPONSIBILITY OF THE PROPERTY OWNER. PROPERTY OWNER AGREES TO MAINTAIN THE FACILITY IN WORKING ORDER WITH INSPECTIONS AND CORRECTIVE ACTION MADE AT LEAST ANNUALLY. REPORTS OF SEARCH INSPECTIONS AND MAINTENANCE SHALL BE KEPT FOR INSPECTION BY THE CITY OF MIDLAND STORMWATER ADMINISTRATOR ON REQUEST, OR MAYBE FORWARDED IT TO THE CITY ENGINEER'S OFFICE.

2. THE CITY OF MIDLAND SHALL HAVE THE RIGHT TO MITIGATE DEFICIENCIES IN THE FUNCTION OF THE STORMWATER FACILITY, AND TO BE REIMBURSED BY THE PROPERTY OWNER, IF THE CITY FINDS IT NECESSARY FOR PUBLIC HEALTH AND SAFETY.

3. THE CITY OF MIDLAND AND IT'S EMPLOYEES, CONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS, SHALL HAVE THE FREE AND UNINTERRUPTED RIGHT OF PASSAGE IN, ON, UPON, OVER, UNDER, ACROSS, ALONG AND THROUGH THE PROPERTY DESCRIBED HEREIN FOR THE PURPOSE OF ESTABLISHING, LYING, CONSTRUCTING, RECONSTRUCTING, INSTALLING, REALIGNING, MODIFYING, REPLACING, IMPROVING, ALTERING, OPERATING, MAINTAINING, ACCESSING, INSPECTING, REPAIRING, RELOCATING AND REMOVING SAID FACILITIES, INCLUDING BUT NOT LIMITED TO, THE RIGHT TO CUT AND TRIM BUSHES AND TREES, TOGETHER WITH THE RIGHT OF INGRESS, EGRESS AND REGRESS FOR SUCH PURPOSES IN, ON, UPON, OVER, UNDER, ACROSS, ALONG AND THROUGH THE PROPERTY DESCRIBED HEREIN.

4. THE DEVELOPER MAY NOT USE ANY PART OF THE PROPERTY DESCRIBED HEREIN IF SUCH USE WILL DAMAGE, DESTROY, INJURE, AND/OR UNDULY INTERFERE WITH THE CITY OF MIDLAND'S USE OF THE PROPERTY. DEVELOPER EXPRESSLY COVENANTS AND AGREES FOR ITSELF, IT'S LEGAL REPRESENTATIVES, SUCCESSORS AND OR ASSIGNS, THAT NO BUILDING, ROADWAYS, OR CURBS AND GUTTERS OF ANY KIND WILL BE PLACED ON THE PROPERTY DESCRIBED HEREIN. WRITTEN PERMISSION FOR THE ABOVE GROUND A PERTINENCES MUST BE OBTAINED FROM THE CITY OF MIDLAND, PRIOR TO INSTALLATION.

DEVELOPMENT NOTES

1. *SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.*
2. *APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.*
3. *BEARINGS/DISTANCES/COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.*
4. *THE INSTALLATION OF IMPROVEMENTS MAY BE REQUIRED BY THE CITY OF MIDLAND AS SUCH TIME AS:*
   (1) THE REPRESENTED LOT S ARE REPLATTED FOR SUBDIVISION INTO MORE THAN ONE LOT OR :
   (2) THE PROPERTY IS REZONED FOR A MORE INTENSIVE USE.
5. *SADDLEBACK ESTATES ADDITION HEREBY DESIGNATES AN AREA AROUND EACH PLUGGED WELL AS SHOWN, IN THE FORM OF A CIRCLE WITH A 20-FOOT RADIUS CENTERED ON THE APPLICABLE WELL, AS A "GREENSWARD EASEMENT." SURFACE OWNERS AGREE THAT NO PERMANENT STRUCTURE FOR HUMAN OCCUPATION, SWIMMING POOLS OR OTHER TYPES OF PERMANENT STRUCTURES WILL BE BUILT WITHIN THE GREENSWARD EASEMENT BY SURFACE OWNER OR ITS SUCCESSORS OR ASSIGNS, AND THAT THE GREENSWARD EASEMENT WILL BE DESIGNATED ON ANY PLATS FILED WITH THE CITY OF MIDLAND AS AN "EASEMENT." SURFACE OWNER MAY USE THE EASEMENT FOR ANY PURPOSE DESIRES, OTHER THAN THE CONSTRUCTION OF ANY PERMANENT STRUCTURE FOR HUMAN OCCUPATION.*

UTILITY COMPANY'S CERTIFICATE

THIS PLAT HAS BEEN CHECKED FOR ACCESSIBILITY OF UTILITIES.

_____
ATMOS ENERGY
BY: _____

_____
AT&T
BY: _____

_____
SUDDENLINK COMMUNICATION
BY: _____

_____
GRANDE COMMUNICATION
BY: _____

_____
ONCOR ELECTRIC DELIVERY
BY: _____

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, GREGORY W. SHOULTS, a Registered Professional Land Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and accurate survey of the land and that the corner monuments shown thereon were properly located under my personal supervision, in accordance with the Subdivision Regulations of the City of Midland, Texas.

_____
GREGORY W. SHOULTS RPLS#5356
Maverick Engineering (TX Firm #10194514)
1909 W. Wall Street, Suite, K
Midland, TX 79701

PRELIMINARY - THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE

CERTIFICATE OF APPROVAL

THIS IS TO CERTIFY THAT THE ABOVE AND FOREGOING PLAT OF SADDLEBACK ESTATES ADDITION WAS APPROVED BY PROPER ACTION OF THE CITY PLANNING AND ZONING COMMISSION OF THE CITY OF MIDLAND, TEXAS ON THIS

_____DAY OF_____ 2020.

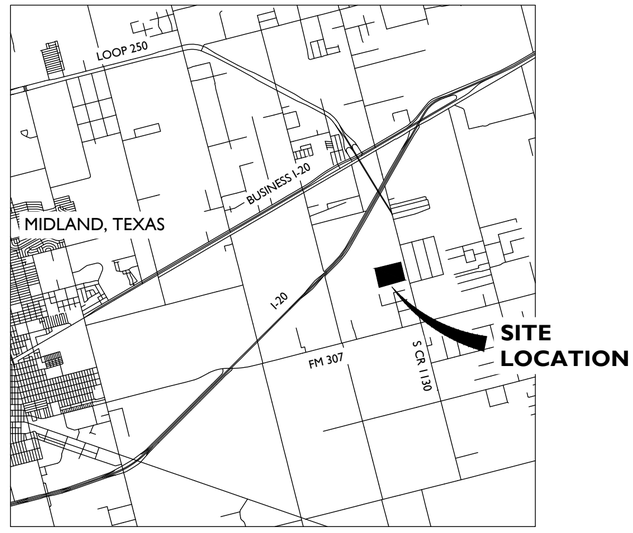
_____
JOSH SPARKS, CHAIRMAN

_____
CRISTINA ODENBORG BURNS, SECRETARY

FEMA NOTE

FLOOD STATEMENT: ACCORDING TO FEMA'S N.F.I.P. FLOOD INSURANCE RATE MAP #48329C0125F, DATED SEPTEMBER 16, 2005, THIS PROPERTY IS MOSTLY WITHIN THE UNSHADED PORTION OF ZONE "X", DESIGNATED AS "AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN." AND A PORTION OF THIS PROPERTY IS WITHIN ZONE "A" DESIGNATED AS "AREAS WITH A 1% ANNUAL CHANCE OF FLOODING AND A 26% CHANCE OF FLOODING OVER THE LIFE OF A 30 YEAR MORTGAGE. BECAUSE DETAILED ANALYSES ARE NOT PERFORMED FOR SUCH AREAS; NO DEPTHS OR BASE FLOOD ELEVATIONS ARE SHOWN WITHIN THESE ZONES".

THIS FLOOD STATEMENT DOES NOT IMPLY THAT THE PROPERTY AND/OR THE STRUCTURES THEREON WILL BE FREE FROM FLOODING OR FLOOD DAMAGE. ON RARE OCCASIONS, GREATER FLOODS CAN AND WILL OCCUR AND FLOOD HEIGHTS MAY BE INCREASED BY MAN-MADE OR NATURAL CAUSES. THIS STATEMENT SHALL NOT CREATE LIABILITY ON THE PART OF MAVERICK ENGINEERING COMPANY.



VICINITY MAP

N.T.S.

PROPERTY OWNER
SADDLEBACK ESTATES, A SERIES OF KINGDOM DEVELOPERS, LLC
PO BOX 598
HICO, TEXAS 76457
INSTR #2019-22138 D.R.M.C.T.

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

NO. _____ CABINET _____

DATE _____ PAGE _____

M A V E R I C K
ENGINEERING / SURVEY / WATER RESOURCES

1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

PRELIMINARY PLAT

SADDLEBACK ESTATES ADDITION

Drawing : F:\2019\190175-BRETT JOHNSON-SADDLE BACK SUBDIVISION\DRAWINGS\PLAT\PRELIMINARY PLAT\190175 - SADDLEBACK ESTATES - PRELIMINARY PLAT.DWG Last Saved By: AKalenak on 9/15/20

MIDLAND
Planning Division

Preliminary Plat Application

Project Number: SUB-20-0329
Case Number: P-20-0133

Proposed Subdivision Plat Name: Saddleback Estates Addition

Legal Description (attached sealed Metes and Bounds): 72.256 Acre Tract in the Northeast Quarter of Section 46, Block 38, T-1-S, T&P RR. Co. Survey, Midland County, Texas

Property Owner Printed Name: Saddleback Estates a Series of Kingdom Developers LLC		Phone ( ) Email	
Address PO Box 598	City Hico	State TX	Zip 76475

Developer *(if different than Owner)* Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Representative *(if acting as Agent, see affidavit on page 2)* Firm: Maverick Engineering Printed Name: Paladin Huckaba / Dean Rasmuson		Phone (432)262.0999 Email phuckaba@maverick-eng.com drasmuson@maverick-eng.com	
Address 1909 W Wall St Ste K	City Midland	State TX	Zip 79701

Current Zoning: ETJ

Reason for Platting: Ownership Purposes

Plat Information	Total Acreage:	72.256
Type: ☐ Single-Family Residential ☐ Multi-Family Residential ☐ Commercial ☒ Extraterritorial Jurisdiction (ETJ)		
Number of Lots: 62	Number of Multi-Family Dwelling Units: 0	

Submittal and Fees

Items to be submitted with this application form:

- 1 FOLDED Copy of Dimensioned Plat
- 1 Extra Copy (11x17)
- Digital Files (JPEG & PDF)
- Application Fee – Payable to the 'City of Midland'

Request for a Development Agreement

Do you expect to request a development agreement with the City? ☐ Yes ☐ No

If yes, contact the City Engineer at (432) 685-7286

Provisions

A plat application will not be considered filed pursuant to Section 212.009 of the Texas Local Government Code until all required documents and fees have been submitted and ***all of the terms and conditions of the Subdivision Ordinance, including all necessary studies, plans and supporting information are accepted and approved,*** or the applicant has filed a waiver request for sections from which the plat deviates. Once a plat meets the requirements to be considered filed with the City, the application will be placed on the Planning and Zoning Commission agenda for consideration under the time requirements set out in Section 212.009.

Signature *(by property owner only – authorized agent must sign affidavit below)*

Property Owner (signature):	Date:

Property Owner (printed) : Brett Johnson

The Preliminary Plat shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Subdivision Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Andrew L. Mellen who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or is authorized by Brett Johnson the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Andrew L. Mellen
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 21st day of September, 20 20, to certify which witness my hand and seal of office.

Kelsey Ann Stine
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

NOTARY PUBLIC STATE OF TEXAS
Kelsey Ann Stine
My Commission Expires
02/19/2022
ID No. 131456388

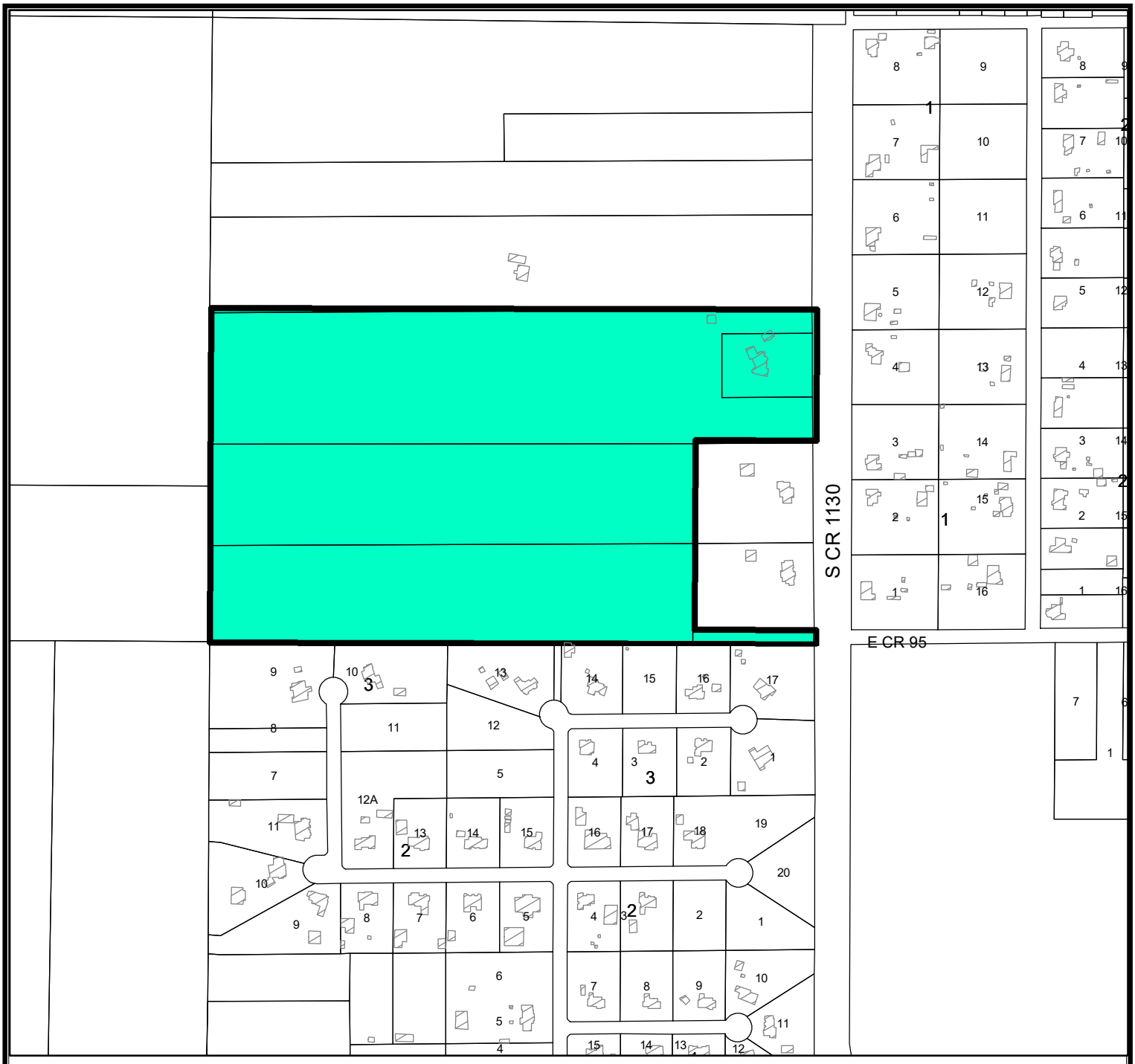
FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ 1 Copy of Dimensioned Plat	☑ Plat in Digital Format (PDF/JPEG)
☐ Application Fee	☑ 1 Copy of Plat (11x17)	
Check #_____		

RECEIVED
SEP 21 2020
BY:

Received By: Joseph Marquez	Date:

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

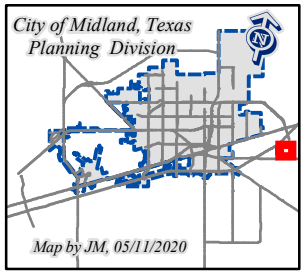
SUB-20-0329 **Scale: 1" = 600'**

Proposed plat of Saddleback Estates Addition, being a plat of a 72.256-acre tract of land located in the northeast quarter of Section 46, Block 38, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Generally located on the northwest corner of the intersection of S. County Road 1130 and E. County Road 95. (Extraterritorial Jurisdiction)

LEGEND

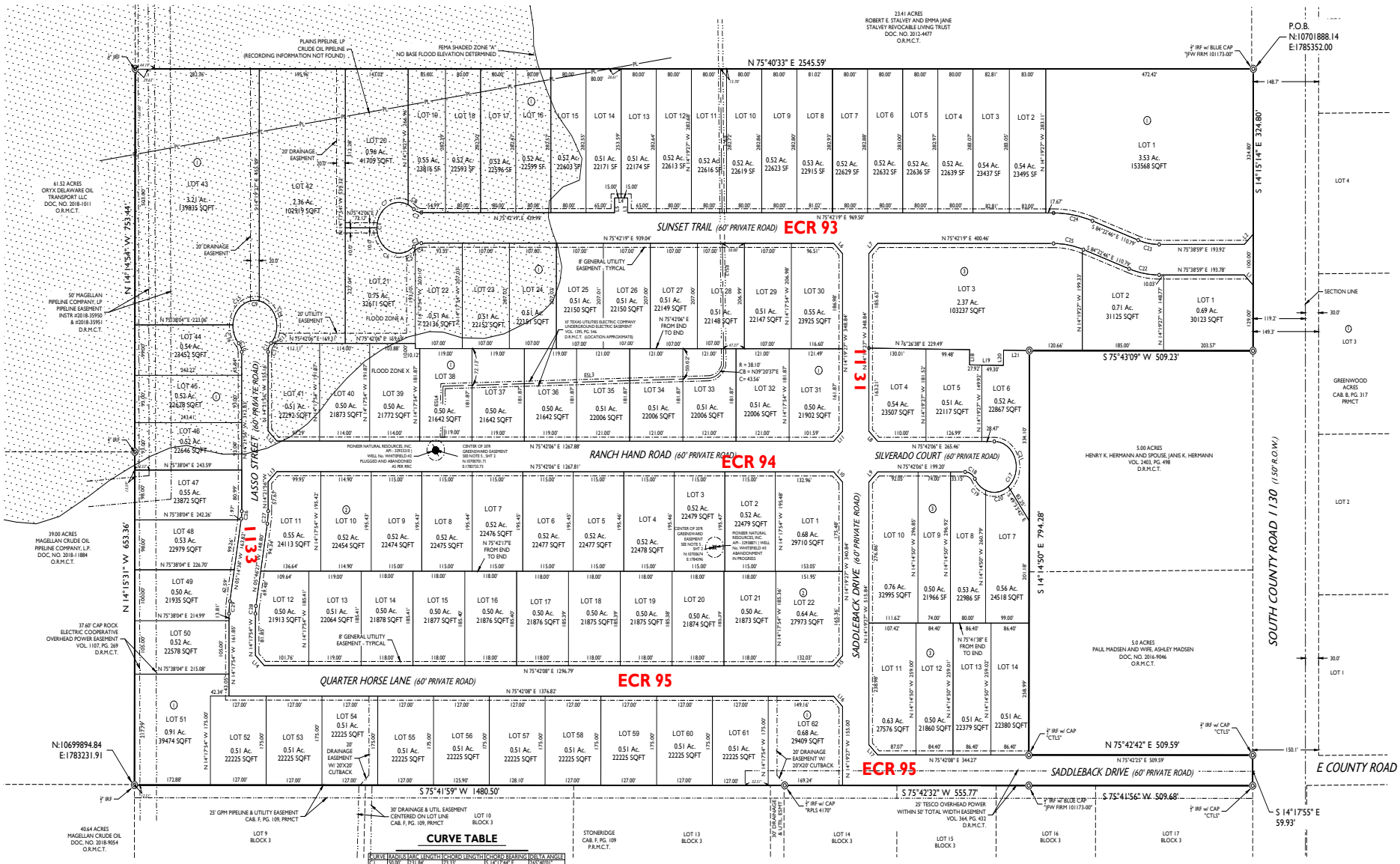
- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2020
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

SADDLEBACK ESTATES ADDITION

72.256-ACRE TRACT IN THE NORTHEAST QUARTER OF SECTION 46, BLOCK 38, T-1-S,
T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS



CURVE TABLE

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	231.84'	73.33'	S 14°17'44" E	265°40'01"
C2	25.00'	18.67'	18.26'	N 82°32'41" W	42°49'56"
C3	25.00'	18.69'	18.26'	N 54°17'17" E	42°50'03"
C4	25.00'	14.22'	14.03'	N 59°32'33" E	32°35'31"
C5	25.00'	4.47'	4.46'	S 37°59'22" W	10°14'32"
C6	50.00'	115.92'	91.65'	N 80°42'49" W	132°49'50"
C7	50.00'	100.19'	84.25'	N 43°36'13" E	114°48'15"
C8	50.00'	15.74'	15.67'	S 70°28'41" E	18°01'56"
C9	50.00'	231.84'	73.33'	S 75°38'04" W	265°40'01"
C10	25.00'	18.67'	18.26'	S 25°45'56" E	42°50'00"
C11	25.00'	18.69'	18.26'	S 07°03'05" W	42°50'00"
C12	25.00'	18.09'	17.88'	S 06°35'36" W	41°55'03"
C13	25.00'	0.40'	0.40'	N 28°00'36" E	0°54'57"
C14	50.00'	105.80'	87.14'	N 13°39'08" W	121°14'23"
C15	50.00'	86.51'	76.20'	S 37°34'25" W	98°41'59"
C16	50.00'	39.55'	38.53'	N 34°32'13" W	45°19'25"
C17	50.00'	211.42'	85.69'	S 16°44'57" W	242°16'07"
C18	25.00'	27.11'	25.82'	N 73°12'27" W	62°10'55"
C19	50.00'	34.21'	33.55'	N 61°47'07" W	39°12'24"
C20	50.00'	54.70'	52.01'	S 67°20'23" W	62°40'48"
C21	50.00'	122.51'	94.08'	S 34°11'35" E	140°23'05"
C22	200.04'	69.63'	69.28'	S 85°38'46" W	19°56'41"
C23	139.96'	48.72'	48.48'	S 85°39'03" W	19°56'41"
C24	260.00'	90.39'	89.93'	S 85°39'40" W	19°55'08"
C25	200.00'	69.53'	69.18'	S 85°39'40" W	19°55'08"
C26	95.00'	15.13'	15.11'	N 09°48'16" W	9°07'20"
C27	155.00'	24.68'	24.65'	N 09°48'16" W	9°07'20"
C28	95.00'	15.01'	15.00'	N 09°46'15" W	9°03'19"
C29	155.00'	24.50'	24.47'	N 09°46'15" W	9°03'19"

LINE TABLE

LINE	BEARING	DISTANCE
L1	N 59°17'25" W	18.27'
L2	N 30°27'28" E	18.26'
L3	N 14°19'27" W	276.00'
L4	S 75°42'20" W	30.00'
L5	S 14°19'27" E	23.00'
L6	S 59°18'54" E	28.29'
L7	N 30°41'26" E	28.28'
L8	S 30°41'41" E	28.29'
L9	S 30°18'59" W	28.26'
L10	N 59°18'41" W	28.27'
L11	N 30°28'59" E	28.26'
L12	N 59°19'55" W	28.30'
L13	N 30°40'05" E	28.28'
L14	S 59°17'53" E	28.30'
L15	N 30°41'20" E	28.28'
L16	N 59°18'40" W	28.29'
L17	S 59°18'40" E	28.29'
L18	N 13°37'22" W	29.96'
L19	N 76°26'38" E	27.22'
L20	N 13°33'22" W	29.96'
L21	N 76°26'38" E	58.66'

EASEMENT LINE TABLE

LINE	BEARING	DISTANCE
ESL4	S 15°01'44" E	282.76'
ESL2	S 15°01'44" E	239.30'
ESL3	S 75°41'28" W	1604.16'
ESL4	S 13°33'26" E	100.42'

LEGEND

- ◎ DENOTES FOUND MONUMENTS AS NOTED
- ○ DENOTES PROPOSED PC OR PT
- O.R.M.C.T. OFFICIAL RECORDS, MIDLAND CO., TX
- D.R.M.C.T. DEED RECORDS, MIDLAND CO., TX
- P.R.M.C.T. PLAT RECORDS, MIDLAND CO., TX
- DENOTES BOUNDARY LINE
- DENOTES EXISTING EASEMENT LINE
- DENOTES PROPOSED EASEMENT LINE

0' 100' 200' 300'
SCALE 1" = 100'

BEARING BASIS

BEARINGS, COORDINATES AND DISTANCES ARE THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, CENTRAL ZONE, NAD83

PRELIMINARY PLAT
SADDLEBACK ESTATES ADDITION

PLAT FILED FOR RECORD MIDLAND COUNTY, TEXAS
NO. _____ DATE _____ PAGE _____

MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
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Drawing: P:\2019\19075-BRETT JOHNSON-SADDLE BACK SUBDIVISION\DRAWINGS\PLAT\PRELIMINARY PLAT\19075 - SADDLEBACK ESTATES - PRELIMINARY PLAT.DWG Last Saved By: AKolesnik on 9/15/20

SHEET 1 OF 2

City Council Meeting

Item Number: 17

Meeting Date: November 3, 2020

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: Motion authorizing the execution of a right-of-way license between the City of Midland and Beta Crude Connector, LLC. regarding city-owned property described as Section 12, Block 39, Township 1 South, T&P RR Co. Survey, Midland County, Texas. (UTILITIES)

Purpose:

This motion will provide an Eleven foot (11') wide right of way in City of Midland, dedicated by plat, road right of way property for a 16" common carrier crude oil pipeline. Proposed pipeline will be located within a 1,342.76 area of the future expansion of Occidental Parkway in this area.

This Right-of-Way License is proposed for a ten (10) year period with automatic ten (10) year renewal upon written request. Terms are consistent with the City's standard license for pipeline facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): $1,000

Annual Lease Rate (81.38 rods x $20/rod): $1,627.80

Surface Damages: (81.38 rods x $10/rod): $813.80

Total Collected: $3,441.60

Discussion:

This common carrier, steel construction crude oil line will be sixteen inches (16) in diameter and buried a minimum of eighty four inches (84) deep. The requested temporary Construction ROW will be forty nine feet (49) and will terminate after construction. Right of Way width and depth of Pipeline as well as location has been approved within future Occidental Parkway by City Engineer.

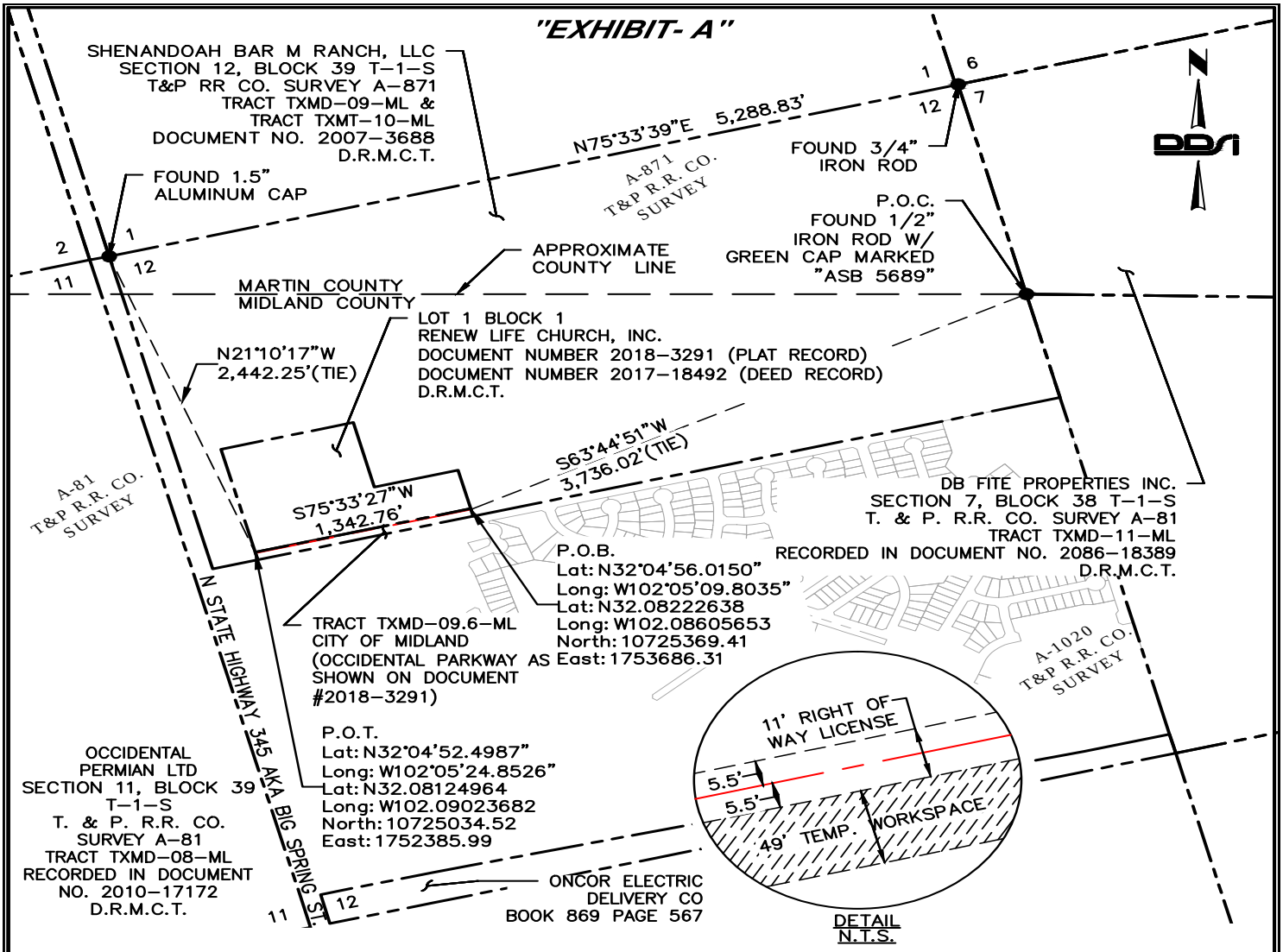
Certificates of Insurance (COI) with City of Midland named as additional insured and a waiver of subrogation in favor of the City of Midland has been collected and on file.

City Secretary to record completed License Agreement

Robert Patrick

City Manager's Office

"EXHIBIT- A"



CENTERLINE DESCRIPTION OF A PROPOSED PIPELINE RIGHT OF WAY LICENSE

BEING A 11' WIDE PROPOSED PIPELINE RIGHT OF WAY LICENSE, HAVING SIDELINES THAT ARE 5.5' EACH SIDE OF THE DESCRIBED RIGHT OF WAY LICENSE CENTERLINE ARE TO BE PROLONGED OR SHORTENED TO CONFORM TO GRANTORS PROPERTY LINES AND BEING SITUATED IN THE T&P RR CO. SURVEY, ABSTRACT NO. 1020, SECTION 12, BLOCK 39, T. 1 S., MIDLAND COUNTY, TEXAS, AND BEING A PORTION OF A TRACT OF LAND DEDICATED TO CITY OF MIDLAND FOR OCCIDENTAL PARKWAY AS SHOWN ON DOCUMENT NUMBER 2018-3291, DEED RECORDS, MIDLAND COUNTY, TEXAS, SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A FOUND 1/2" IRON ROD WITH GREEN CAP MARKED "ASB 5689" ON THE EAST LINE OF SECTION 12, THENCE SOUTH 63°44'51" WEST, 3,736.02 FEET TO THE **POINT OF BEGINNING** ON THE EAST LINE OF SAID TRACT; THENCE SOUTH 75°33'27" WEST, 1,342.76 FEET TO THE **POINT OF TERMINATION** ON THE WEST LINE OF SAID TRACT, FROM WHICH A FOUND 1-1/2" ALUMINUM CAP ON THE EASTERLY RIGHT OF WAY LINE OF N STATE HIGHWAY 345 NEAR THE NORTHWEST CORNER OF SAID SECTION 12 BEARS NORTH 21°10'17" WEST 2,442.25 FEET.

SAID RIGHT OF WAY LICENSE CENTERLINE HAVING A TOTAL LENGTH OF 1,342.76 FEET (81.38 RODS) AND THE RIGHT OF WAY LICENSE CONTAINING 0.34 ACRES (14,770 SQUARE FEET) OF LAND MORE OR LESS.

BASIS OF BEARING: BEARINGS SHOWN HEREON ARE BASED UPON TEXAS STATE PLANE, CENTRAL ZONE, US SURVEY FEET, NORTH AMERICAN DATUM OF 1983. ALL DISTANCES ARE GRID.

NOTES:
1. RESEARCH HAS BEEN PROVIDED BY OTHERS.
2. THIS IS NOT A BOUNDARY SURVEY. THIS PLAT IS FOR RIGHT OF WAY LICENSE PURPOSES ONLY.
3. RIGHT OF WAY LICENSES, SETBACKS, AND OTHER ENCUMBRANCES ARE NOT SHOWN BY AGREEMENT WITH CLIENT.
4. (CM)= CONTROLLING MONUMENT
5. D.R.M.C.T. FOR "DEED RECORDS, MIDLAND COUNTY, TEXAS"

LEGEND:
A- = ABSTRACT
C.M. = CONTROL MONUMENT
TEMP. = TEMPORARY
PERM. = PERMANENT
P.O.B. = POINT OF BEGINNING
P.O.T. = POINT OF TERMINATION
P.O.C. = POINT OF COMMENCEMENT
= DENOTES PROPERTY BOUNDARY
= DENOTES C/L RIGHT OF WAY LICENSE
= DENOTES FOUND MONUMENT

0 500' 1000
SCALE 1"= 1000'

SURVEYOR'S CERTIFICATE

I, JASON S SCYOC, REGISTERED PROFESSIONAL LAND SURVEYOR NO. 6686, STATE OF TEXAS, DO HEREBY CERTIFY THAT THE ABOVE DESCRIBED EXHIBIT WAS PREPARED FROM AN ACTUAL ON THE GROUND SURVEY UNDER MY DIRECT SUPERVISION AND WAS PREPARED FROM PUBLIC RECORDS WITHOUT THE BENEFIT OF A COMMITMENT FOR TITLE INSURANCE.

DATE OF SIGNATURE: 10-15-2020
JASON S. SCYOC R.P.L.S. NO. 6686

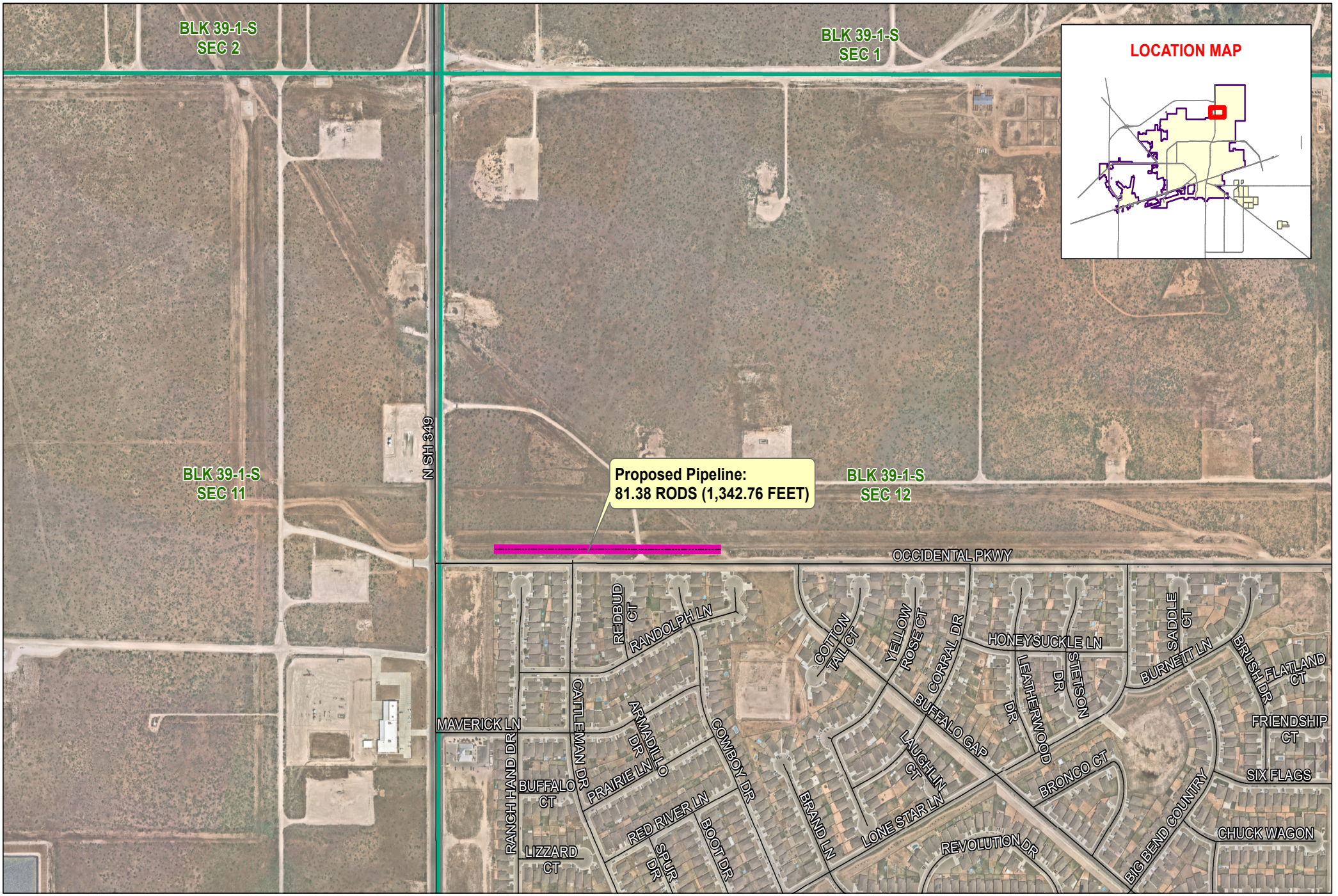
STATE OF TEXAS REGISTERED JASON S. SCYOC 6686 PROFESSIONAL LAND SURVEYOR

DOWNTOWN DESIGN SERVICES, INC.
1127 AURARIA PARKWAY, STE. 203
DENVER, CO 80204
TEL: 303-248-7722 FAX: 918-221-3940
TEXAS FIRM NO. 10194459
www.ddsiglobal.com

BCC
BETA CRUDE CONNECTOR, LLC

CITY OF MIDLAND
SECTION 12, BLOCK 39 T.1S.
T & P RR CO SURVEY A-1020
MIDLAND COUNTY, TEXAS

SURVEY DATE: JUN. 16. 2020	SHEET 1 OF 1 SHEETS
DRAWN: OCT. 15, 2020	DRAWN BY: BLD
TRACT: TXMD-09.6-ML	LINE NAME: MIDLAND MAINLINE



Date: 10/20/2020

Legend

- Proposed Pipeline
- Street
- Survey Section

PACKET

17.171

Beta Crude Proposed Pipeline ROW

November 3, 2020

0 250 500 Feet

©THE CITY OF MIDLAND - 2020
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/10/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, Inc. 1300 S. Main Tulsa OK 74119	**CONTACT NAME:** Denise Bergschneider **PHONE (A/C, No, Ext):** 918-884-2900 **FAX (A/C, No):** 918-884-2999 **E-MAIL ADDRESS:** Denise_Bergschneider@ajg.com
INSURED BETACRU-01 Beta Crude Connector, LLC 4200 E. Skelly Dr., Ste 400 Tulsa OK 74135	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Scottsdale Insurance Company — 41297 **INSURER B :** Mid-Continent Casualty Company — 23418 **INSURER C :** National American Insurance Company (OK) — 23663 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 1742975502 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:	Y	Y	ENS0005527	4/8/2020	4/8/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 1,000,000 $ 100,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	04-CA-002839459	6/14/2020	6/14/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
A	[ ] **UMBRELLA LIAB** [X] OCCUR X **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $	Y	Y	XNS0005674	4/8/2020	4/8/2021	EACH OCCURRENCE AGGREGATE 	$ 10,000,000 $ 10,000,000 $
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	OW23880535	1/1/2020	1/1/2021	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

General Liability Policy includes Additional Insured Endorsement CG2010 10 01, Additional Insured Endorsement (completed operations) CG2037 10 01, Waiver of Subrogation Endorsement CG4 04 05 09, in favor of Certificate Holder as required by written contract. Excess Policy is follow form per CX00 01 04 13. Automobile Policy includes Additional Insured Endorsement MA2004 and Waiver of Subrogation Endorsement MA2003 in favor of Certificate Holder as required by written contract.

CERTIFICATE HOLDER

City of Midland
300 N. Loraine
Midland TX 79701
USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

PACKET 17.172 November 3, 2020

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RIGHT OF WAY LICENSE

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND	§	

Date:	November 3, 2020
Licensor:	CITY OF MIDLAND, TEXAS, a home-rule municipal corporation
Licensor's Representative:	Robert Patrick, Assistant City Manager
Licensor's Mailing Address:	P.O. Box 1152 Midland, Texas 79702
Licensee:	Beta Crude Connector, LLC
Licensee's Representative:	**Kenny Benton**
Licensee's Mailing Address:	4200 East Skelly Drive, Tulsa, Oklahoma 74135
Property:	See **Exhibit A** attached hereto and incorporated herein for all purposes.

Licensee desires use of property owned by Licensor in Midland County, Texas (the "Property"), for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

W I T N E S S E T H:

For and in consideration of the execution of this License and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

I. Term

A. Initial Term. This License shall be for a term of ten (10) years (the "Initial Term"), commencing with the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Renewal Term. This License shall automatically renew at the end of the Initial Term for additional terms of ten (10) years, upon the written request of Licensee received by Licensor on or before one hundred twenty (120) days prior to the expiration of the Initial Term then in effect, subject to renewal payments being made timely by Licensee..

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee commits any material breach or material default in performance of any obligation, prohibition,

restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Upon termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this License.

II. Financial Consideration

A. License Fee. The first year's license fee in the amount of ONE THOUSAND SIX HUNDRED TWENTY-SEVEN and 80/100 Dollars ($1,627.80) shall be due and payable on or prior to the Commencement Date of this License ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%).

B. Surface Damage Fee. Licensee shall pay a one-time surface damage fee to Licensor in the amount of EIGHT HUNDRED THIRTEEN and 80/100 Dollars ($813.80), payable on or prior to the Commencement Date.

C. Annual Fee. Licensee shall pay to Licensor an annual fee in the amount of ONE THOUSAND SIX HUNDRED TWENTY-SEVEN and 80/100 Dollars ($1,627.80), which shall be payable each year on or before the anniversary of the Commencement Date of this License.

D. Application Fee. At the same time the first year License Fee is due, Licensee shall pay a non-refundable one-time fee of ONE THOUSAND and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

E. Fee Adjustment. Prior to commencement of any renewal term, Licensor and Licensee shall negotiate in good faith to agree to an adjustment of the Annual Fee. If Licensor and Licensee are unable to reach an agreement regarding an adjustment to the Annual Fee, then the Annual Fee shall be determined by Licensor in its sole discretion, provided the new Annual Fee shall not exceed twenty-five percent (25%) of the Annual Fee paid for the last year of the Current Term.

F. Delivery of Payment. The License Fee payment shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being forty-nine (49) feet in width of the pipeline location as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline locations, a steel construction pipeline, not to exceed sixteen (16) inches in diameter, for the transportation of crude oil, to have the right of ingress and egress at convenient points for such purpose, and said construction width shall revert to eleven (11) feet after the pipeline is laid. **Licensee shall provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein. The parties agree Licensee's failure to provide Licensor with a complete as-built survey within sixty (60) days of completion of the pipeline(s) and facilities described herein may result in the termination of this License. The decision to accept a complete as-built survey after the sixty-day deadline prescribed herein, or, conversely, to terminate this License shall be in the sole and absolute discretion of Licensor.**

B. Road Repair. Licensee covenants and agrees that it will repair any of Licensor's roads that Licensee damages on Licensor's property so that such roads will comply with Licensor's Standard Specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by Licensor that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of Licensor's Standard Specifications.

D. Depth. Licensee covenants and agrees that it will bury the pipeline(s) to be constructed hereunder no less than eighty-four (84) inches in depth. All backfill used in burying such line shall be compacted to a density of ninety percent (90%), except where such pipeline(s) crosses under a paved or traveled portion of City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline(s) intersects with a City of Midland utility line location, the pipeline(s) shall be bored at a depth of a least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets, alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by Licensor's Representative.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or

improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE(S), CASING, OR COMPRESSOR STATION, ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically revert to Licensor, its successors or assigns, free and clear of any right, title, or interest in Licensee, or any re-entry by Licensor.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her approval. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. Licensee agrees to use existing gates and roadways where available, to enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed." Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express consent thereto in

writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall by promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace above the land covered by this License for any purpose allowed by law and deemed necessary by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through said right of way occupied by Licensee. In the event of such work in connection with said purposes it shall be deemed necessary by Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against Licensor. Should Licensor request relocation of Licensee's pipeline, property, or casing, Licensor shall grant to Licensee a viable alternate right-of-way. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment for alteration or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments.

IV. Standard General Conditions

A. Insurance. Licensee shall at all times during the term of this License maintain and keep in full force and effect insurance in the following types and minimum amounts with companies

authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):	
■ Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
■ Property Damage:	$100,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit-- Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$1,000,000.00 per accident or occurrence
Umbrella Liability:	$10,000,000.00 each occurrence $10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensor.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensor's sole discretion.

Licensor shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and name the City of Midland as an additional insured. Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S),CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY AND SAVE LICENSOR HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION DESCRIBED HEREIN.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSOR, LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S),CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH

COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, AND ALL COSTS AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY OF LICENSEE'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR ANY OF LICENSEE'S HANDLING, STORING, RELEASING, TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING, BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

C. Assignment. The rights granted by this License inure to the benefit of Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of Licensor's City Manager. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager.

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License is intended or shall be construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely

free to do the work in its own way.

E. Waiver of Attorney Fees. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE LICENSE, THE CONSTRUCTION, OR INTERPRETATION, VALIDITY OR BREACH OF THE LICENSE. LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

LICENSEE AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING, KNOWN RIGHT. LICENSEE ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS LICENSE. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN LICENSOR AND LICENSEE. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

LICENSEE AND LICENSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LICENSE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

F. Governing Law & Venue. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE

DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

I. Third Party Beneficiary. Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire License are reasonable.

L. Consideration. The terms of this License are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties agree that this License does not constitute a License or Contract for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government

Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the greatest extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, and maintain Licensor's facilities or structures described herein, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose, but does not require the use of the Property for a specific purpose. This License does not require Licensee to construct, operate, repair, maintain, replace or remove any of Licensee's facilities or structures described herein. Licensee is not providing a service to Licensor but is providing a service to Licensee's customers. Licensee is paying Licensor for a temporary interest in real property not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

LICENSOR:
CITY OF MIDLAND, TEXAS

By:

_____
Robert Patrick, Interim City Manager

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

LICENSEE:
BETA CRUDE CONNECTOR, LLC

By: _____
Printed Name: Kenny Benton Title:
V.P. of Engineering

THE STATE OF_____ §
§
COUNTY OF_____ §

BEFORE ME, the undersigned authority, on this 23 day of OCTOBER, 2020 personally appeared Kenny Benton an officer of Beta Crude Connector, LLC known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 23 day of OCTOBER, 2020.

FRANK GREGORY LAMBERSON
Notary Public, State of Oklahoma
Commission # 19000968
My Commission Expires 01-28-2023

_____
Notary Public, State of OK

Reference No. 20-329-029

City Council Meeting

Item Number: 18

Meeting Date: November 3, 2020

To: City Council / City Manager

From: John Simmons, Manager, Right-of-Way

Subject: Motion authorizing the execution of a Right-of-Way License between the City of Midland and Centurion Pipeline, LP, regarding City-owned property described as Section 5, Block 38 Township 2 South, T&P RR Co. Survey, Midland County, Texas.

(UTILITIES)

Purpose:

Centurion Pipeline LP is requesting a thirty-foot-wide right of way to place a 8" steel construction, private crude pipeline 4,197.70' on City owned Plant Farm property. This Right of Way License will also include a 1,250 sq. ft./ 0.0287 acre surface area for above ground valves.

This Right-of-Way License is proposed for a single five (5) year period with the option for a single five (5) year renewal. Terms are consistent with the City's standard license for pipeline facilities of this nature.

Recommended City Council Action:

Approve

Fiscal Impact:

Application fee (one time): $1,000

Annual Lease Rate (1) (254.41.00 rods x $20/rod): $5,088.20 per year
(2) (1,250 sq. ft x $0.10 per sq. ft.):$125.00 / $400.00 minimum

One time Surface Damages: (1) (254.41rods x $10/rod): $2,544.10

(2) (1,250 sq. ft. x $0.08 / per sq. ft.): $100.00

Total collected this application: $9,132.30

Discussion:

This Right of Way is located in the south half of section 5 Block 39 / 2, south of city owned Plant Farm property for a privately-owned, steel construction, oil pipeline with an additional surface area for an above ground valve connection to tie into existing crude pipeline facilities. All pipelines shall be buried no less than forty-two (42) inches deep.
There will be a various width temporary construction work space which is removed upon completion of work.

Centurion Pipeline Certificate of Insurance is on file and up to date.

City Secretary will record Right of Way License.

_____
City Manager's Office

RIGHT OF WAY LICENSE

THE STATE OF TEXAS	§	
	§	KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF MIDLAND	§	

Date:	November 3, 2020
Licensor:	CITY OF MIDLAND, TEXAS, a home-rule municipal corporation
Licensor's Representative:	Robert Patrick, Assistant City Manager
Licensor's Mailing Address:	P.O. Box 1152 Midland, Texas 79702
Licensee:	Centurion Pipeline L.P.
Licensee's Representative:	Christopher Cantrell
Licensee's Mailing Address:	3600 W. Sam Houston Parkway South, Westchase Park II – Suite 500
Property:	See **Exhibits A and B** attached hereto and incorporated herein for all purposes.

Licensee desires use of property owned by Licensor in Midland County, Texas (the "Property"), for purposes set forth below. Licensee acknowledges and agrees that it must obtain a license (the "License") in order to use the public lands of Licensor.

WITNESSETH:

For and in consideration of the execution of this License and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

I. Term

A. Initial Term. This License shall be for a term of five (5) years (the "Initial Term"), commencing with the date of this License (the "Commencement Date") unless terminated earlier as provided hereafter.

B. Renewal Term. This License shall automatically renew at the end of the Initial Term for one (1) additional term of five (5) years, upon the written request of Licensee received by Licensor on or before one hundred twenty (120) days prior to the expiration of the Initial Term then in effect, subject to the express written consent of the governing body of Licensor.

C. Termination. Licensor may terminate this License if Licensee fails to pay, when due, any amount owing under this License and that failure continues for sixty (60) days or, if Licensee

commits any material breach or material default in performance of any obligation, prohibition, restriction, provision or covenant contained in this License, and the breach or default continues for a period of thirty (30) days after Licensor delivers notice to Licensee reasonably detailing the breach or default.

Additionally, Licensor may terminate this License at will for any or no reason upon giving at least three hundred sixty-five (365) days' written notice to Licensee. The parties to this License understand and agree that it is in Licensor's sole discretion to cancel the License during the term of the License without penalty to Licensor. Licensee has no expectation and has received no guarantees that this License will not be terminated before the end of the License term. The parties have bargained for the flexibility of terminating this License upon tender of the requisite notice at any time during the term of the License. All work and services under the License shall be suspended upon termination of the License becoming effective.

Upon termination of this License, Licensee shall remove all equipment and structures associated with the undertakings contemplated by this License. After removal of all equipment and structures associated with the undertakings contemplated by this License, the surface shall be restored at the expense of Licensee to its original condition, as close thereto as may be practical, subject to the approval of Licensor upon inspection by Licensor's Representative, which approval shall not be unreasonably withheld. All of said work shall be completed within one hundred and eighty (180) days after termination of this License.

II. Financial Consideration

A. License Fee. The first year's license fee in the amount of FIVE THOUSAND TWO HUNDRED THIRTEEN and 20/100 Dollars ($5,213.20) shall be due and payable on or prior to the Commencement Date of this License ("License Fee"). Licensee's failure to make the License Fee payment within thirty (30) days after the License Fee is due shall constitute a late payment and Licensee shall pay Licensor a late charge of five percent (5%).

B. Surface Damage Fee. Licensee shall pay a one-time surface damage fee to Licensor in the amount of TWO THOUSAND SIX HUNDRED FORTY-FOUR and 10/100 Dollars ($2,644.10), payable on or prior to the Commencement Date.

C. Annual Fee. Licensee shall pay to Licensor an annual fee in the amount of FIVE THOUSAND TWO HUNDRED THIRTEEN and 20/100 Dollars ($5,213.10), which shall be payable each year on or before the anniversary of the Commencement Date of this License.

D. Application Fee. At the same time the first year License Fee is due, Licensee shall pay a non-refundable one-time fee of ONE THOUSAND and No/100 Dollars ($1,000.00) to Licensor's Representative. Said fee shall revert to Licensor and Licensee shall have no claim to said fee. The fee shall be used to process the application for the License.

E. Fee Adjustment. Prior to commencement of any renewal term, Licensor and Licensee shall negotiate in good faith to agree to an adjustment of the Annual Fee. If Licensor and Licensee are unable to reach an agreement regarding an adjustment to the Annual Fee, then the Annual Fee shall be determined by Licensor in its sole discretion, provided the new Annual Fee shall not exceed twenty-five percent (25%) of the Annual Fee paid for the last year of the Initial Term.

F. Delivery of Payment. The License Fee payment shall be made to Licensor at the office of Licensor's Representative, Attn: Right of Way Manager, P.O. Box 1152, Midland, Texas, 79702. The License Fee payment shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements.

III. Use

A. Permitted Use. Licensor does hereby grant unto Licensee, the right to enter upon the Property, being temporary workspace access of twenty (20) feet located along, parallel to, and adjoining the northern and western sides of the thirty (30) foot pipeline license location as shown on **Exhibit A** attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described pipeline location, a steel construction pipeline, not to exceed eight (8) inches in diameter, for the transportation of crude oil and to have the right of ingress and egress at convenient points for such purpose. Said temporary workspace access terminating upon completion of construction.

Licensor does hereby grant unto Licensee, the right to enter upon the Property, being temporary workspace access of twenty-five (25) feet located along, parallel to, and adjoining the east and north side of the surface site location as shown on **Exhibit B** attached hereto and incorporated herein for the purpose of placing, constructing, operating, repairing, maintaining, replacing and removing, thereon, along the herein described surface site location, an above ground valve connection and to have the right of ingress and egress at convenient points for such purpose. Said temporary workspace access terminating upon completion of construction.

B. Road Repair. Licensee covenants and agrees that it will repair any of Licensor's roads that Licensee damages on Licensor's property so that such roads will comply with Licensor's Standard Specifications.

C. Utility Repair. Licensee covenants and agrees that Licensee shall, at its own expense, repair all water lines, sewer lines, service lines and water meters owned by Licensor that Licensee, its employees, its agents or assigns, damage so that such water lines, sewer lines and water meters shall comply with the requirements of Licensor's Standard Specifications.

D. Depth. Licensee covenants and agrees that it will bury the pipeline(s) to be bored hereunder no less than forty-two (42) inches in depth. All backfill used in burying such line shall be compacted to a density of ninety percent (90%), except where such pipeline(s) crosses under a paved or traveled portion of City of Midland right of way where such backfill shall be compacted to a density of ninety-five percent (95%). Licensor shall be afforded the opportunity to test the density on all backfill. Notwithstanding any provision to the contrary contained herein, Licensee covenants and agrees that, at any point that Licensee's pipeline(s) intersects with a City of Midland utility line location, the pipeline(s) shall be bored at a depth of a least (i) nine (9) feet under all City of Midland water utility lines and (ii) two (2) feet under all City of Midland sewer utility lines. Licensee agrees that it shall comply with 30 Tex. Admin. Code § 290.44(e), as amended, to the extent applicable to this License.

E. Approval of Bids. Before Licensee seeks bids on any phase of the repair of public streets,

alleys, water lines, sewer lines or any other public utilities, the specifications shall be approved by Licensor's Representative.

F. Reservation of Rights. Licensor expressly reserves the right to install, repair, or reconstruct streets or roads and all ancillary public uses usual and customary in connection with streets and roads, expressly including but not limited to drainage facilities and related structures in the rights of way used and occupied by Licensee.

Licensor reserves the right to lay and permit to be laid, sewer, gas, water, and other pipelines or cables and conduits, and to do and permit to be done, any underground or overhead installation or improvement that may be deemed necessary or proper by the governing body of Licensor, in, on, across, along, over, under, and through any property occupied by Licensee. In permitting such work to be done, Licensor shall not be liable to Licensee for any damage so caused to Licensee's system or property, **NOR SHALL LICENSOR BE LIABLE TO LICENSEE FOR ANY DAMAGES TO LICENSEE'S PIPELINE(S), CASING, OR COMPRESSOR STATION, ARISING OUT OF THE NEGLIGENCE BY LICENSOR, ITS EMPLOYEES, OFFICERS OR AGENTS, OR LICENSOR'S CONTRACTORS OR SUBCONTRACTORS.** If Licensor requires Licensee to remove, alter, change, adapt, or conform Licensee's facilities because of changes in the grade or construction of a street or in the location or manner of constructing a water pipe, sewer pipe, or other surface, underground or aboveground structure owned by Licensor, Licensee shall make the alterations or changes as soon as practicable, and in no event longer than one hundred eighty (180) days, when ordered in writing by Licensor, without claim for reimbursement for the cost of the relocation or for damages against Licensor. If these requirements impose a financial hardship upon Licensee, Licensee shall have the right to present alternative proposals for Licensor's consideration.

G. Non-exclusive. Licensor expressly reserves the full right to grant other easements or rights of way crossing or running parallel with the rights of way used by Licensee.

H. Abandonment. It is especially provided, however, that as an express condition of this License, and not as a mere covenant, in the event Licensee abandons any equipment or appurtenances to the undertakings contemplated by this License, or the Property ceases to be used for the purposes enumerated herein for any period of twelve (12) consecutive months, or longer, other than the time elapsing between the date hereof and construction, and upon giving Licensee one hundred and twenty (120) days' written notice, then and in that event, this License shall automatically revert to Licensor, its successors or assigns, free and clear of any right, title, or interest in Licensee, or any re-entry by Licensor.

I. Approval of Specifications. In the event Licensee desires to reconstruct, repair, maintain, replace or remove any pipeline or casing system built hereunder, Licensee shall submit the plans and specifications that pertain to the rebuilding or repairs of Licensor's streets and roads and the rebuilding or repairs of any of Licensor's public utilities to Licensor's Representative for his or her approval. In the event of emergency repairs necessary to restore service, Licensee shall notify Licensor's Representative before making any repairs if during a Licensor work day. If not on a work day, Licensee shall notify Licensor's Representative on the first work day after repairs have begun.

J. Gates and Fences. Licensee agrees to use existing gates and roadways where available, to

enter, leave and cross the Property; provided that Licensee shall not use any road marked "Closed." Licensee and all persons entering or leaving the Property in connection with Licensee's operations hereunder shall keep all outside and interior gates securely closed except during operations related to this License. Licensee shall keep all outside gates, and all other gates designated by Licensor, securely locked except during operations related to this License. At any gate that is to be locked, Licensor may install its own lock in addition to Licensee's lock.

Licensee agrees that Licensee shall not cut or go over any fence at any time or in connection with any operations on the Property without first obtaining Licensor's express consent thereto in writing. All gates or openings in fences shall be at mutually agreeable location(s) between Licensee and Licensor and shall be constructed as reasonably required by Licensor. Upon the termination of this License, at Licensor's election, gates in fences shall be left in place and shall thereafter be owned by Licensor or Licensee shall remove such gates and restore the fence to its original condition as nearly as reasonably practicable. The terms, provisions and requirements of this provision shall survive the termination or expiration of this License.

K. Trash. Licensee shall keep the Property free of trash and debris at all times. Under no circumstances, will Licensee be allowed to bury any trash, debris or foreign material of any kind on or under the Property. Licensor shall have the right to expel and permanently ban from the Property any person observed disposing of trash on the Property. Upon the completion of any operations, all ribbons, flags, stakes and similar items shall by promptly removed from the Property.

L. Hunting, Fishing and Alcohol Prohibited. No agent, employee, representative, contractor or subcontractor of Licensee or any other person allowed to enter the Property by Licensee shall be permitted to hunt, fish, trap, camp, picnic, ride motorcycles or four-wheelers or otherwise conduct any social gathering on the Property, nor shall any such persons be permitted to bring firearms, archery equipment, dogs, alcoholic beverages or illegal drugs on the Property at any time. Violations of this provision shall cause the violator to be regarded as a trespasser and subject to prosecution under trespass laws of the State of Texas. Licensor shall have the right to expel and permanently ban from the Property any person observed on the Property in violation of this provision.

M. Storage of Machinery and Equipment. Licensee shall use no part of the Property to store machinery, equipment, or other property of Licensee while it is not being used.

N. Additional Reservations. Licensor reserves the right to use the surface, subsurface or airspace above the land covered by this License for any purpose allowed by law and deemed necessary by Licensor and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by Licensor in, on, across, along, over, under, and through said right of way occupied by Licensee. In the event of such work in connection with said purposes it shall be deemed necessary by Licensor, at Licensor's sole discretion, to alter, change, adapt, conform or relocate any pipeline, property, or casing of Licensee, such alteration or change or relocation shall be commenced and completed by Licensee within one hundred eighty (180) days after being ordered in writing by Licensor pursuant to directions from Licensor's City Council without any claim for reimbursement for the cost of the relocation or damages against Licensor. The relocation or alteration shall be at the sole cost of Licensee. Provided, however, that Licensee shall at all times be entitled to receive from appropriate governmental bodies, excluding Licensor, payment

for alteration or relocation of its system to which it may be lawfully entitled to under applicable federal or state laws with respect to relocation payments.

IV. Standard General Conditions

A. Insurance. Licensee shall at all times during the term of this License maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):	
■ Personal Injury:	$1,000,000.00 per person $1,000,000.00 per occurrence
■ Property Damage:	$100,000.00 per occurrence
Business Automobile Liability:	$1,000,000.00 combined single limit-- Personal Injury and Property Damage
Workers' Compensation:	Statutory limits
Employers' Liability:	$1,000,000.00 per accident or occurrence
Umbrella Liability:	$10,000,000.00 each occurrence $10,000,000.00 aggregate

The Commercial General Liability shall be on an occurrence basis. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The Workers' Compensation coverage provided by Licensee shall inure to the benefit of employees injured during the course and scope of their employment by Licensee pursuant to this License. The Workers' Compensation insurance shall waive all rights of subrogation against Licensor.

The Business Automobile Liability insurance provided by Licensee shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-owner vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of $1,000,000.00 covering any vehicle used for the execution of the work that is the subject of this License. This insurance shall name Licensor as an additional insured and all insurance shall waive subrogation in favor of Licensor.

The parties agree that, prior to the execution of the License, Licensee shall provide one or more certificates of insurance showing that the requirements of this article have been met. This decision shall be in Licensor's sole discretion.

Licensor shall be provided the notice by Licensee's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. Licensor shall not be required to provide any insurance whatsoever pursuant to this License.

Licensee shall contractually require all contractors, subcontractors, and sub-subcontractors that

work on any portion of the work that is the subject of this License to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts as required by Licensee, and name the City of Midland as an additional insured. Licensee certifies that the one or more certificates of insurance provided as required herein complies with the requirements of Chapter 1811 of the Texas Insurance Code. Licensee shall not use an unapproved certificate of insurance or insert inappropriate language on a certificate. Compliance with state law is the sole responsibility of Licensee.

B. Indemnity. LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, LICENSEE'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS' NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S),CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE AGREES THAT LICENSEE SHALL INDEMNIFY AND SAVE LICENSOR HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND FURNISHERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF THE PIPELINE(S), CASING SYSTEM, OR COMPRESSOR STATION DESCRIBED HEREIN.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, ACCIDENTAL DEATH, PROPERTY DAMAGE, LOSSES AND EXPENSE OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSOR, LICENSOR'S OFFICERS, AGENTS OR EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH LICENSEE OR LICENSEE'S EMPLOYEES', AGENTS' OR SUBCONTRACTORS'

NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS LICENSE INCLUDING SUCH NEGLIGENT ACTS ARISING FROM OR IN ANY WAY CONNECTED WITH THE PLACEMENT, CONSTRUCTION, OPERATION, REPAIR, MAINTENANCE, REPLACEMENT OR REMOVAL OF ANY PART OF LICENSEE'S PIPELINE(S),CASING SYSTEM, OR COMPRESSOR STATION IN LICENSOR'S RIGHT OF WAY. LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

LICENSEE SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR, AND ALL OF LICENSOR'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL CLAIMS, LOSSES, DAMAGES, LIABILITIES, LIENS, FINES, PENALTIES, CAUSES OF ACTION, SUITS, CHARGES, JUDGMENTS, ADMINISTRATIVE ORDERS, REMEDIATION REQUIREMENTS, ENFORCEMENT ACTIONS OF ANY KIND, AND ALL COSTS AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF FAILURE OF LICENSEE, ANY CONTRACTOR, SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM, OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER TO COMPLY WITH ALL APPLICABLE LOCAL, FEDERAL AND/OR STATE ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) AND THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA) (AS THEY MAY BE REAUTHORIZED AND/OR AMENDED) AND ALL OTHER LOCAL, FEDERAL AND STATE LAWS, IN CONNECTION WITH OR RELATED TO ANY OF LICENSEE'S OPERATIONS OR ACTIVITIES ON THE PROPERTY, OR ANY OF LICENSEE'S HANDLING, STORING, RELEASING, TRANSPORTING OR DISPOSING OF ALL SUBSTANCES, INCLUDING, BUT NOT LIMITED TO HAZARDOUS SUBSTANCES AND HAZARDOUS WASTES, ON OR FROM THE PROPERTY OR ANY OTHER LANDS OF LICENSOR.

C. Assignment. The rights granted by this License inure to the benefit of Licensee. The rights and privileges shall not be assignable by Licensee without the express written consent of Licensor's City Manager. Any required consent is to be evidenced by a letter written by Licensor's City Manager that fully recites the terms and conditions, if any, upon which consent is given. The granting of consent is in the sole discretion of Licensor's City Manager.

D. Independent Contractor. It is expressly understood and agreed that Licensee shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant or employee of Licensor; that Licensee shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder, and all persons performing the same; and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors and subcontractors; that the doctrine of respondeat superior shall not apply as between Licensor and Licensee, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between Licensor and Licensee. No person performing any of the work and services described hereunder shall be considered an officer, agent, servant or employee of Licensor. Further, it is specifically understood and agreed that nothing in this License is intended or shall be

construed as creating a "Community of Pecuniary Interest" or "An Equal Right of Control" which would give rise to vicarious liability. Licensee shall be an independent contractor under this License and shall assume all of the rights, obligations and liabilities applicable to it as such independent contractor hereunder. Licensor does not have the power to direct the order in which the work is done. Licensor shall not have the right to control the means, methods or details of Licensee's work. Licensee shall assume exclusive responsibility for the work. Licensee is entirely free to do the work in its own way.

E. Waiver of Attorney Fees. BY EXECUTING THIS LICENSE, LICENSEE AGREES TO WAIVE, AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE, ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST LICENSOR REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE LICENSE, THE CONSTRUCTION, OR INTERPRETATION, VALIDITY OR BREACH OF THE LICENSE. LICENSEE SPECIFICALLY AGREES THAT IF LICENSEE BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS LICENSE, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS LICENSE, INCLUDING BUT NOT LIMITED TO ANY ACTION PURSUANT TO THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE SECTION 37.001, ET SEQ., AS AMENDED), OR CHAPTER 271 OF THE TEXAS LOCAL GOVERNMENT CODE, LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

LICENSEE AGREES THAT THIS IS THE VOLUNTARY AND INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A PRESENTLY EXISTING, KNOWN RIGHT. LICENSEE ACKNOWLEDGES THAT IT UNDERSTANDS ALL TERMS AND CONDITIONS OF THIS LICENSE. LICENSEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN LICENSOR AND LICENSEE. THIS SECTION SHALL NOT BE CONSTRUED OR INTERPRETED AS A WAIVER OF GOVERNMENTAL IMMUNITY.

LICENSEE AND LICENSOR ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS LICENSE WITH LEGAL COUNSEL PRIOR TO ITS EXECUTION.

F. Governing Law & Venue. All performance and payment made pursuant to this License shall be deemed to have occurred in Midland County, Texas. Exclusive venue for any claims, suits or any other action arising from or connected in any way to this License or the performance of this License shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this License shall be deemed to have been performed in Midland County, Texas. This License shall be construed, interpreted and enforced under the laws of the State of Texas. The laws of the State of Texas shall govern, construe and enforce all the rights and duties of the parties, including but not limited to tort claims and any and all other claims or disputes, arising from or relating in any way to the subject matter of this License, without regard to conflict of laws and rules that would direct application of the laws of another jurisdiction.

G. Release. NOTWITHSTANDING ANY OTHER PROVISIONS, LICENSEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES LICENSOR, LICENSOR'S EMPLOYEES AND OFFICERS FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH LICENSEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR LICENSOR'S NEGLIGENCE.

H. Governmental Immunity. By executing this License, Licensor is not waiving its right of governmental immunity. Licensor is retaining its immunity from suit. Licensor is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF GOVERNMENTAL IMMUNITY.**

I. Third Party Beneficiary. Licensor's approval of this License does not create a third party beneficiary. There is no third party beneficiary to this License. No person or entity who is not a party to this License shall have any third party beneficiary or other rights hereunder.

J. Notices. Any notice or communication required in the administration of this License shall be sent by certified mail, return receipt requested, to the parties' respective mailing addresses as set forth hereinabove.

K. Notice of Alleged Breach; Statutory Prerequisite. As a condition precedent to filing suit for alleged damages incurred by an alleged breach of an express or implied provision of this License, Licensee or its legal representative, shall give the City Manager, or any other reasonable official of Licensor, notice in writing (consisting of one (1) original and seven (7) copies of notice attached to a copy of this License) of such damages, duly verified, within one hundred eighty (180) days after the same has been sustained. The discovery rule does not apply to the giving of this notice. The notice shall include when, where and how the damages occurred, the apparent extent thereof, the amount of damages sustained, the amount for which Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six (6) months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except Licensor from any liability whatsoever. Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government Code. Notwithstanding any other provision, Licensee's failure to comply with the requirements herein shall perpetually bar Licensee's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Licensor has actual or constructive notice or knowledge of said claim or alleged damages. Licensee agrees that the requirements of this entire License are reasonable.

L. Consideration. The terms of this License are supported by good and valuable consideration,

the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

M. Waiver of Governmental Immunity; Chapter 271, TEX. LOC. GOV'T CODE. The parties agree that this License does not constitute a License or Contract for providing goods and/or services to Licensor as discussed in Subchapter I of Chapter 271 of the Texas Local Government Code, and Licensor does not waive, to the maximum extent allowed by law, any constitutional, statutory or common law right to sovereign immunity or governmental immunity from liability or suit. Licensor expressly does not consent to be sued or be liable. To the greatest extent allowed by law, nothing in this License constitutes a waiver of Licensor's governmental immunity and the parties expressly agree that this License shall not constitute, nor be interpreted as a waiver of Licensor's governmental immunity under Subchapter I of Chapter 271 of the Texas Local Government Code, nor shall it constitute nor be interpreted as a waiver of Licensor's governmental immunity for the benefit of any third party lacking privity to the License.

This License does not obligate Licensee to use the Property to construct, repair, operate, replace, and maintain Licensor's facilities or structures described herein, it merely prohibits Licensee from using the Property for any other purpose. This License restricts the use of the Property to a specific purpose, but does not require the use of the Property for a specific purpose. This License does not require Licensee to construct, operate, repair, maintain, replace or remove any of Licensee's facilities or structures described herein. Licensee is not providing a service to Licensor but is providing a service to Licensee's customers. Licensee is paying Licensor for a temporary interest in real property not for a service. Any such provision shall be deemed to be a covenant against noncomplying use, not a covenant to use. Licensee's use of the Property in compliance with a restriction shall not constitute a service, and such complying use shall not operate to waive Licensor's governmental immunity.

N. Compliance. Licensee agrees that it shall comply with Texas Government Code Section 2252.908, as amended, to the extent that this statute applies to this License. Licensee agrees that it shall comply with Texas Local Government Code Section 176.006, as amended, to the extent that this statute applies to this License.

O. Texas Historical Commission Survey. Licensee agrees that it shall comply with Chapter 191 of the Texas Natural Resources Code. By executing this License, Licensee represents that it has contacted the Texas Historical Commission (the "Commission") for the purpose of determining whether the Commission will request that an archaeological survey be completed before Licensee commences operations on the Property, as contemplated herein. Licensee agrees that it shall complete or cause to be completed an archaeological survey before commencing any operations on the Property if the Commission so requests and deliver the same to Licensor. Notwithstanding any provision contained herein, in the event that any site, object, artifact, or other feature of archaeological, scientific, educational, cultural, or historical interest is encountered during the operations authorized by this License, Licensee will immediately notify Licensor and the Commission so that adequate measures may be undertaken to protect or recover such discoveries or findings, as deemed appropriate by Licensor or the Commission.

LICENSOR:
CITY OF MIDLAND, TEXAS

By:_____
Robert Patrick, Interim City Manager

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

LICENSEE:
CENTURION PIPELINE L.P.

By:_____
Printed Name: Christopher Cantrell
Title: Manager of Right-of-Way

THE STATE OF Texas §
§
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this 22 day of October, 2020 personally appeared Christopher Cantrell an officer of Centurion Pipeline L.P. known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the 22nd day of October, 2020.

KALYN NICOLE SCHROEDER
Notary Public, State of Texas
Comm. Expires 09-13-2022
Notary ID 131721494

_____
Notary Public, State of Texas

Reference No. 20-329-028

12 |

LJA SURVEYING

6 Desta Drive, Suite 1800, Midland, Texas 79705
t 432.789.2880 LJASURVEY.com TBPLS 10194449 TBPE F-19613

October 16, 2020
LJAS001-B1138-1010.200

EXHIBIT 'A'
Field Notes for a
30' Wide Pipeline License
and Temporary Work Space

STATE OF TEXAS §
COUNTY OF MIDLAND §

Pipeline License

Field notes describing the centerline of a 30-Foot Wide Pipeline License, lying within and being part of Section 5, Block 38, Township 2 South, Texas and Pacific Railway Company (T.&P. RY. CO.) Survey, Abstract 156, Midland County, Texas; the western tract of the said Section 5 described by General Warranty Deed recorded in Volume 2308, Page 3, Official Public Records of Midland County, Texas; and the eastern tract of the said Section 5 described by Warranty Deed recorded in Volume 148, Page 602, Deed Records of Midland County, Texas; both tracts being owned by The City of Midland; described by metes and bounds as follows:

COMMENCING at a 1/2-inch Iron Rod with cap found on the west line of said Section 5, the south right-of-way line of Interstate 20 (300' width), and the northwest corner of the said western tract;

THENCE S 21°19'51" E, a distance of 1,389.08 feet, to a point on the south line of a proposed Surface Site License, and the **POINT-OF-BEGINNING** (N:10,690,926.93, E:1,771,958.10), for this Pipeline License;

THENCE S 13°57'25" E, a distance of 23.53 feet to a point;

THENCE S 82°51'00" E, a distance of 2,806.06 feet to a point;

THENCE S 14°11'51" E, a distance of 878.12 feet to a point;

THENCE S 74°52'26" E, at 58.68 feet pass the common tract line between the said western and eastern tracts, in all a total distance of 189.57 feet to a point;

THENCE N 75°44'44" E, a distance of 265.42 feet to a point;

THENCE N 14°15'16" W, a distance of 35.00 feet to the **POINT-OF-TERMINATION**, being on the south line of a proposed surface site License, WHENCE a steel fence corner post found at the southwest corner of the said western tract bears S 74°25'15" W, a distance of 3,216.39 feet.

The above described centerline being 4,197.70 feet or 254.41 rods, and contains 2.8910 acres, more or less.

Temporary Work Space

Description of a 20-Foot Wide Temporary Work Space being located along, parallel to, and adjoining the northern and western sides of the said 30-Foot Wide Pipeline License described herein, containing 1.9273 acres, more or less. In addition, adjacent to and across any and all highways, roads, streets, railroads, canals, ditches, streams or other waterways and pipelines and where the bearing of the License changes, grantee shall have the right to use Additional Temporary Work Space, as shown on Exhibit 'C' for the construction of the pipeline and appurtenant facilities.

All bearings are based upon the Texas Coordinate System of 1983, Central Zone '4203' (US Survey foot). All coordinates, distances, and acreages are represented in grid values. Surface values can be established by applying a scale adjustment factor of 1.000098.

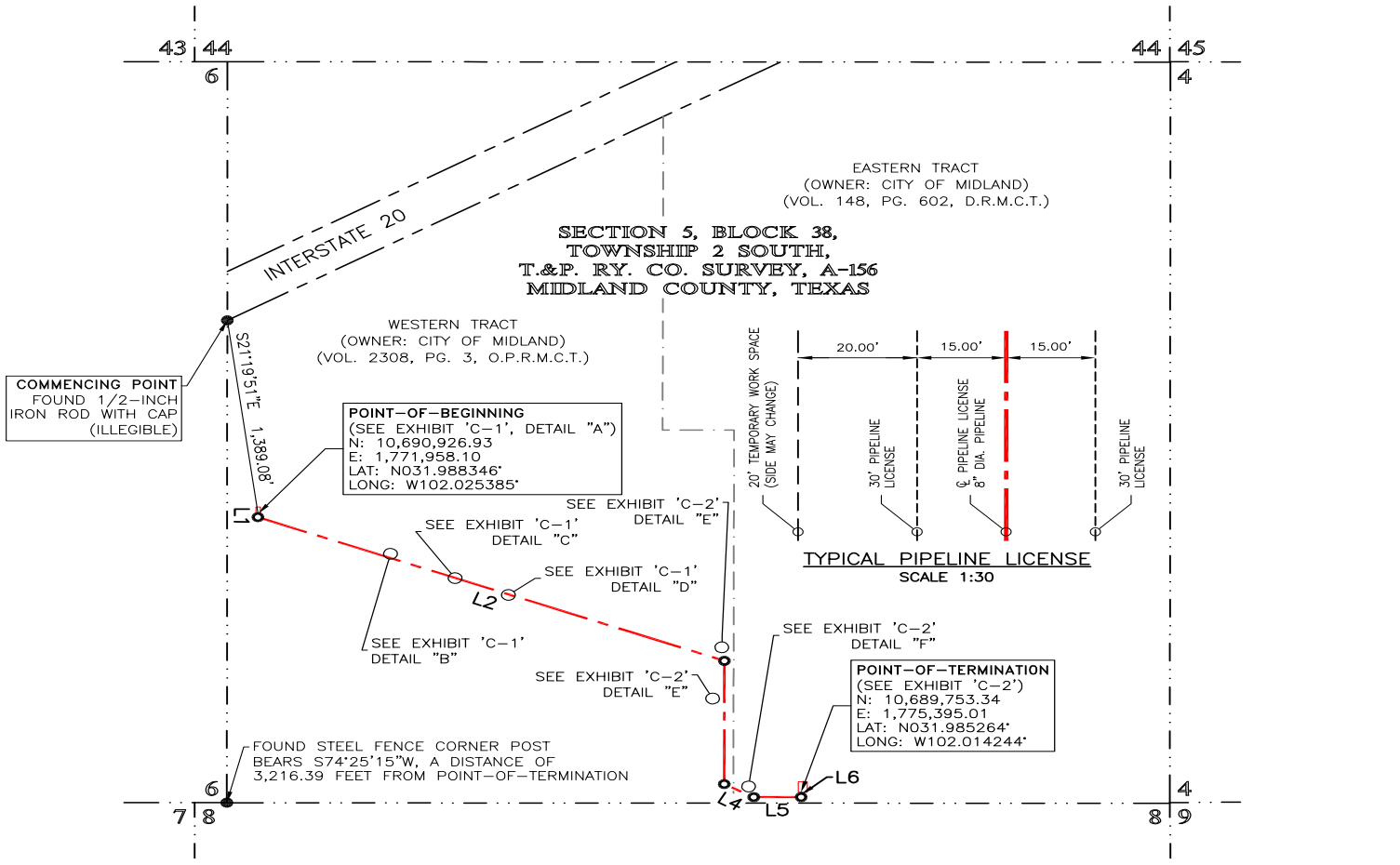
This field notes description is accompanied by a survey drawing dated October 16, 2020, titled Plat Exhibit 'B'.

I, Clinton E. McAdams, Registered Professional Land Surveyor, do hereby certify that this survey was prepared from surveys made on the ground under my supervision, and that said survey is correct to the best of my knowledge, this 16th day of October, 2020.

Professional Surveyor
Texas Registration No. 6695

PLAT EXHIBIT 'A'

30' WIDE PIPELINE LICENSE
LYING WITHIN AND BEING PART OF
SECTION 5, BLOCK 38, TOWNSHIP 2 SOUTH
T.&P. RY. CO. SURVEY, ABSTRACT 156,
MIDLAND COUNTY, TEXAS



PIPELINE LICENSE LINE TABLE		
LINE	BEARING	DISTANCE
L1	S13°57'25"E	23.53'
L2	S82°51'00"E	2,806.06'
L3	S14°11'51"E	878.12'
L4	S74°52'26"E	189.57'
L5	N75°44'44"E	265.42'
L6	N14°15'16"W	35.00'
TOTAL CENTERLINE (℄) IN FEET		4,197.70'
TOTAL CENTERLINE (℄) IN RODS		254.41
TOTAL LICENSE IN ACRES		2.8910 ACRES
TOTAL T.W.S. IN ACRES		1.9273 ACRES
TOTAL A.T.W.S. IN ACRES		1.1905 ACRES

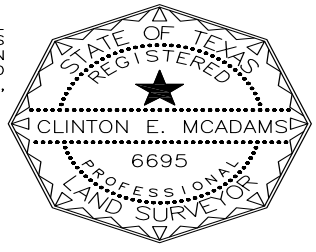
NOTES:

1. HORIZONTAL DATA IS BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983 (2011), CENTRAL ZONE '4203' (US SURVEY FOOT). ALL COORDINATES, DISTANCES, AND ACREAGES ARE REPRESENTED IN GRID VALUES. SURFACE VALUES CAN BE ESTABLISHED BY APPLYING A SCALE ADJUSTMENT FACTOR OF 1.000098.
2. INFORMATION DEPICTED HERON IS BASED ON A SURVEY CONDUCTED FOR THE PURPOSE OF ESTABLISHING A BASELINE FOR MAPPING SELECTED TOPOGRAPHIC FEATURES AND LOCATING NECESSARY LINES FOR ENGINEERING DESIGN AND LICENSE ACQUISITION ON DEEDS SUPPLIED BY CLIENT.
3. THIS IS AN LICENSE DRAWING AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY.
4. THIS SURVEY DRAWING IS ACCOMPANIED BY A FIELD NOTES DESCRIPTION TITLED EXHIBIT 'A', DATED OCTOBER 16, 2020.

I, CLINTON E. MCADAMS, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS DRAWING WAS PREPARED FROM SURVEYS MADE ON THE GROUND UNDER MY SUPERVISION, AND THAT SAID SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE, THIS THE 16th DAY OF OCTOBER, 2020.

C E McAdams

CLINTON E. MCADAMS, R.P.L.S.
TEXAS REGISTRATION NO. 6695



LEGEND:

- ℄ PIPELINE LICENSE
- EDGE OF LICENSE
- POINT FOR CORNER, N.M.F.S.
- PROPOSED SURFACE SITE
- SECTION LINE
- PROPERTY LINE
- PROPERTY CORNER FOUND, AS NOTED
- RIGHT-OF-WAY
- D.R.M.C.T. — DEED RECORDS OF MIDLAND COUNTY, TEXAS
- O.P.R.M.C.T. — OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS

LJA Surveying, Inc.
6 Desta DriveSuite 1800 Phone 432.789.2280
Midland, Texas 79705 cmcadams@ljasurvey.com
TBPLS Firm Reg. No. 10194449 TBPE Firm Reg. No. F-19613

NO.	DATE	REVISION	DRWN	CHK'D	APP'D
E					
D		18.200			
C					
B	10/16/20	SIGNED & SEALED	JKB		CEM
A	10/15/20	ISSUES FOR REVIEW	JKB		CEM

ENDEAVOR GATHERING PROJECT
8" DIA. PIPELINE

LJA PROJECT NO.: LJAS001-B1138-1010.200

PAGE 1 OF 1

November 3, 2020

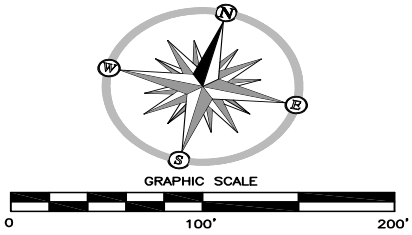
Centurion Pipeline L.P.

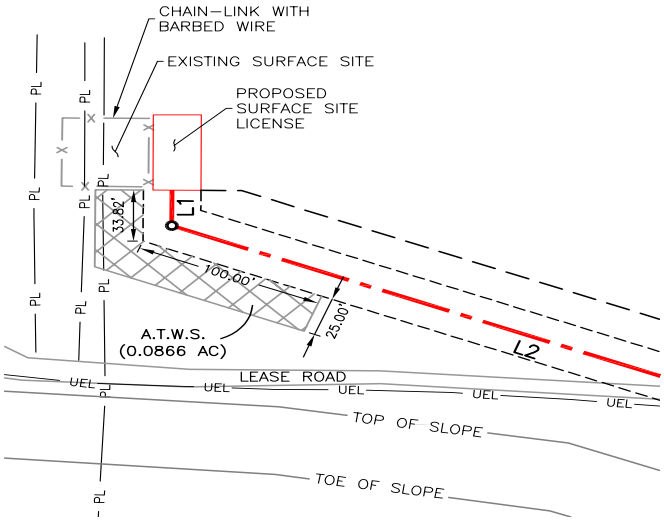
APPROVED BY: DATE:

PROJECT MANAGER / PROJECT ENGINEER

PLAT EXHIBIT 'A'

TEMPORARY AND ADDITIONAL TEMPORARY WORK SPACE
LYING WITHIN AND BEING PART OF
SECTION 5, BLOCK 38, TOWNSHIP 2 SOUTH
T.&P. RY. CO. SURVEY, ABSTRACT 156,
MIDLAND COUNTY, TEXAS

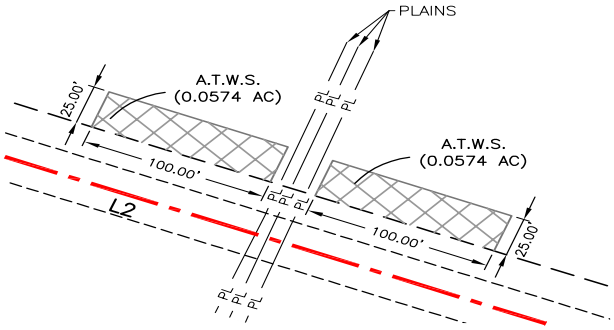




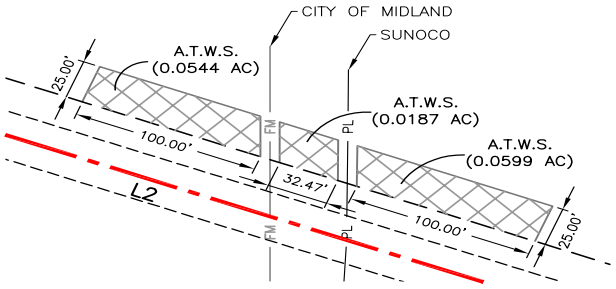
DETAIL "A"

LEGEND:

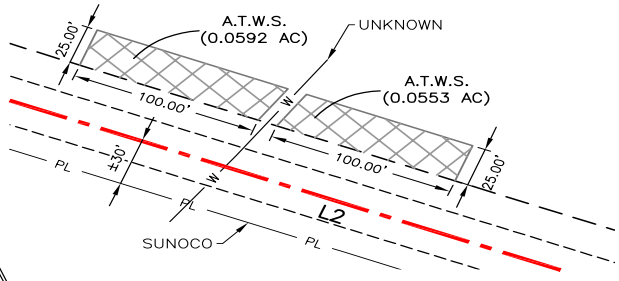
o	POINT FOR CORNER, N.M.F.S.
	℄ PIPELINE LICENSE
	EDGE OF LICENSE
	TEMPORARY WORK SPACE LIMITS
	SECTION LINE
	PROPERTY LINE
	A.T.W.S. (ADDITIONAL TEMPORARY WORK SPACE)
	PROPOSED SURFACE SITE
PL	FOREIGN PIPELINE
X	EXISTING FENCE (AS NOTED)
W	WATER LINE
FM	WASTE WATER FORCE MAIN
UEL	UNDERGROUND ELECTRIC
OE	OVERHEAD ELECTRIC
—o—	POWER POLE
(	GUY WIRE



DETAIL "B"



DETAIL "C"



DETAIL "D"

I, CLINTON E. MCADAMS, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS DRAWING WAS PREPARED FROM SURVEYS MADE ON THE GROUND UNDER MY SUPERVISION, AND THAT SAID SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE, THIS THE 16th DAY OF OCTOBER, 2020.

CLINTON E. MCADAMS, R.P.L.S.
TEXAS REGISTRATION NO. 6695

STATE OF TEXAS
REGISTERED
CLINTON E. MCADAMS
6695
PROFESSIONAL
LAND SURVEYOR

LJA Surveying, Inc.
6 Desta DriveSuite 1800
Midland, Texas 79705
TBPLS Firm Reg. No. 10194449
Phone 432.789.2280
cmcadams@ljasurvey.com
TBPE Firm Reg. No. F-19613

NO.	DATE	REVISION	DRWN	CHK'D	APP'D
E					
D					
C		18.201			
B	10/16/20	SIGNED & SEALED	JKB		CEM
A	10/15/20	ISSUES FOR REVIEW	JKB		CEM

ENDEAVOR GATHERING PROJECT
8" DIA. PIPELINE

LJA PROJECT NO.: LJAS001-B1138-1010.200

November 3, 2020

Centurion Pipeline L.P.

APPROVED BY: DATE:

PROJECT MANAGER / PROJECT ENGINEER

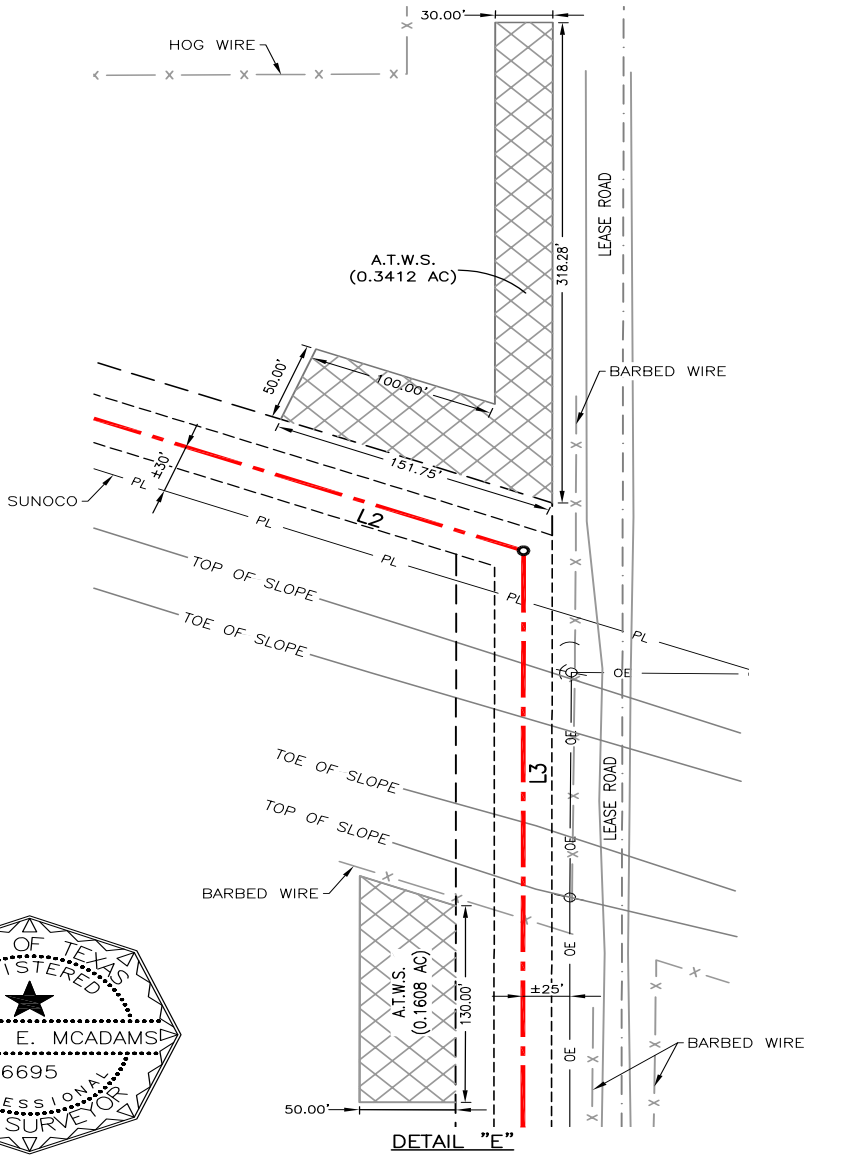
PLAT EXHIBIT 'A'

TEMPORARY AND ADDITIONAL TEMPORARY WORK SPACE
LYING WITHIN AND BEING PART OF
SECTION 5, BLOCK 38, TOWNSHIP 2 SOUTH
T.&P. RY. CO. SURVEY, ABSTRACT 156,
MIDLAND COUNTY, TEXAS

GRAPHIC SCALE
0 100' 200'

LEGEND:

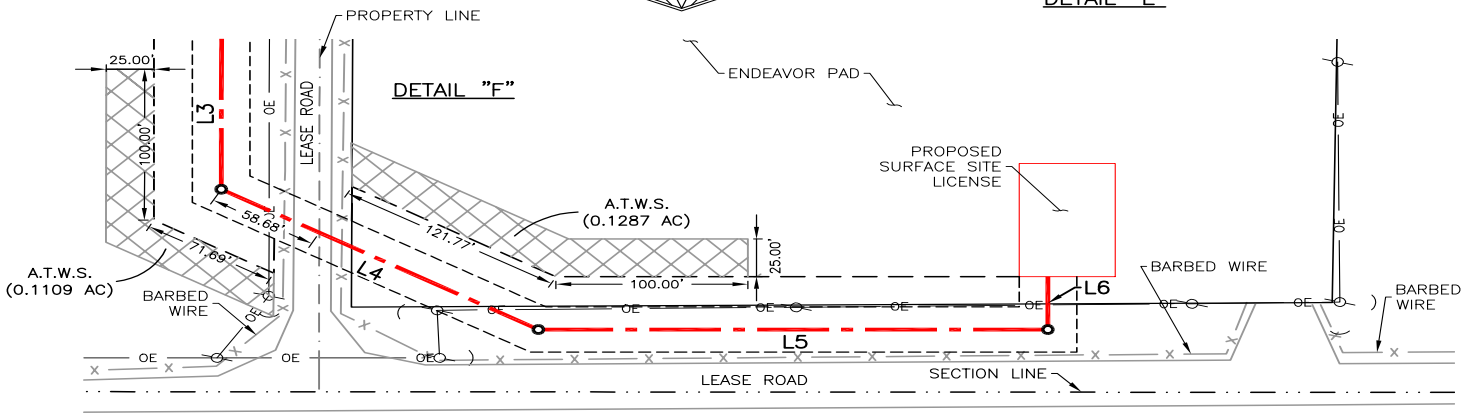
- POINT FOR CORNER, N.M.F.S.
- ℄ PIPELINE LICENSE
- EDGE OF LICENSE
- TEMPORARY WORK SPACE LIMITS
- SECTION LINE
- PROPERTY LINE
- A.T.W.S. (ADDITIONAL TEMPORARY WORK SPACE)
- PROPOSED SURFACE SITE
- PL — FOREIGN PIPELINE
- X — EXISTING FENCE (AS NOTED)
- UEL — UNDERGROUND ELECTRIC
- OE — OVERHEAD ELECTRIC
- POWER POLE
- (GUY WIRE



I, CLINTON E. MCADAMS, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS DRAWING WAS PREPARED FROM SURVEYS MADE ON THE GROUND UNDER MY SUPERVISION, AND THAT SAID SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE, THIS THE 16th DAY OF OCTOBER, 2020.

CLINTON E. MCADAMS, R.P.L.S.
TEXAS REGISTRATION NO. 6695

STATE OF TEXAS
REGISTERED
CLINTON E. MCADAMS
6695
PROFESSIONAL
LAND SURVEYOR



NO.	DATE	REVISION	DRWN	CHK'D	APP'D
E					
D					
C					
B	10/16/20	SIGNED & SEALED	JKB		CEM
A	10/15/20	ISSUES FOR REVIEW	JKB		CEM

18.202

ENDEAVOR GATHERING PROJECT
8" DIA. PIPELINE

LJA PROJECT NO.: LJAS001–B1138–1010.200

November 3, 2020

Centurion Pipeline L.P.

APPROVED BY: DATE:

PROJECT MANAGER / PROJECT ENGINEER

LJA Surveying, Inc.
6 Desta DriveSuite 1800
Midland, Texas 79705
TBPLS Firm Reg. No. 10194449
Phone 432.789.2280
cmcadams@ljasurvey.com
TBPE Firm Reg. No. F-19613

LJA SURVEYING

6 Desta Drive, Suite 1800, Midland, Texas 79705
t 432.789.2880 LJASURVEY.com TBPLS 10194449 TBPE F-19613

October 16, 2020
LJAS001-B1138-1010.200

EXHIBIT 'B'
Field Notes for a
Surface Site License
and Temporary Work Space

STATE OF TEXAS §

COUNTY OF MIDLAND §

Field notes for a Surface Site License, lying within and being part of the western tract of Section 5, Block 38, Township 2 South, Texas and Pacific Railway Company (T.&P. RY. CO.) Survey, Abstract 156, Midland County, Texas; as described by General Warranty Deed recorded in Volume 2308, Page 3, Official Public Records of Midland County, Texas; and owned by The City of Midland; described by metes and bounds as follows:

COMMENCING at a 1/2-inch Iron Rod with cap found on the west line of said Section 5, the south right-of-way line of Interstate 20 (300' width), and the northwest corner of the said western tract;

THENCE S 21°10'52" E, a distance of 1,338.21 feet, to the **POINT-OF-BEGINNING** (N:10,690,973.04, E:1,771,936.33), and the northwest corner of this Surface Site License;

THENCE N 76°02'35" E, a distance of 25.00 feet to a point for the northeast corner of this Surface Site License;

THENCE S 13°57'25" E, a distance of 50.00 feet to a point for the southeast corner of this Surface Site License;

THENCE S 76°02'35" W, a distance of 25.00 feet to a point for the southwest corner of this Surface Site License, WHENCE a steel fence corner post found at the southwest corner of the said western tract bears S 09°42'54" E, a distance 2,064.62 feet;

THENCE N 13°57'25" W, a distance of 50.00 feet to the **POINT-OF-BEGINNING,** containing 0.0287 acres, more or less.

Temporary Work Space

Description of a 25-Foot Wide Temporary Work Space being located along, parallel to, and adjoining the east and north side of the said Surface Site License described herein, containing 0.0732 acres, more or less.

All bearings are based upon the Texas Coordinate System of 1983, Central Zone '4203' (US Survey foot). All coordinates, distances, and acreages are represented in grid values. Surface values can be established by applying a scale adjustment factor of 1.000098.

This field notes description is accompanied by a survey drawing dated October 16, 2020, titled Plat Exhibit 'B'.

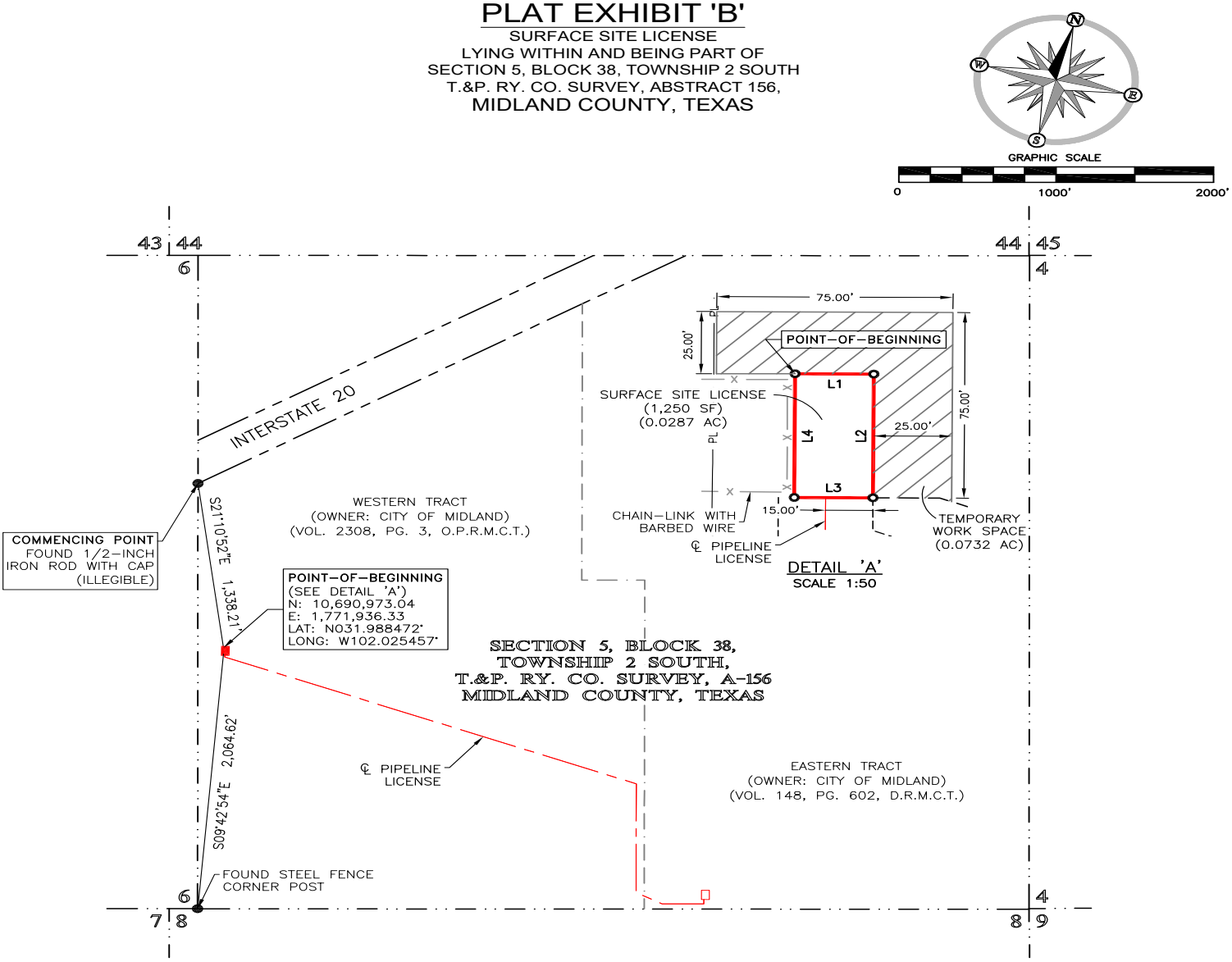
I, Clinton E. McAdams, Registered Professional Land Surveyor, do hereby certify that this survey was prepared from surveys made on the ground under my supervision, and that said survey is correct to the best of my knowledge, this 16th day of October, 2020.

C E McAdams

Professional Surveyor
Texas Registration No. 6695

PLAT EXHIBIT 'B'

SURFACE SITE LICENSE
LYING WITHIN AND BEING PART OF
SECTION 5, BLOCK 38, TOWNSHIP 2 SOUTH
T.&P. RY. CO. SURVEY, ABSTRACT 156,
MIDLAND COUNTY, TEXAS



LEGEND:

- SURFACE SITE LICENSE
- TEMPORARY WORK SPACE
- POINT FOR CORNER, N.M.F.S.
- SECTION LINE
- PROPERTY LINE
- PROPERTY CORNER FOUND, AS NOTED
- O.P.R.M.C.T. — OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS
- EXISTING FENCE (AS NOTED)
- PL — FOREIGN PIPELINE

SURFACE SITE LICENSE LINE TABLE		
LINE	BEARING	DISTANCE
L1	N76°02'35"E	25.00'
L2	S13°57'25"E	50.00'
L3	S76°02'35"W	25.00'
L4	N13°57'25"W	50.00'
SURFACE SITE IN ACRES		0.0287 ACRES
TOTAL T.W.S. IN ACRES		0.0732 ACRES

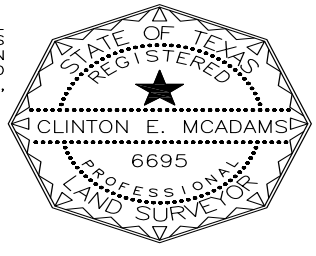
NOTES:

1. HORIZONTAL DATA IS BASED UPON THE TEXAS COORDINATE SYSTEM OF 1983 (2011), CENTRAL ZONE '4203' (US SURVEY FOOT). ALL COORDINATES, DISTANCES, AND ACREAGES ARE REPRESENTED IN GRID VALUES. SURFACE VALUES CAN BE ESTABLISHED BY APPLYING A SCALE ADJUSTMENT FACTOR OF 1.000098.
2. INFORMATION DEPICTED HERON IS BASED ON A SURVEY CONDUCTED FOR THE PURPOSE OF ESTABLISHING A BASELINE FOR MAPPING SELECTED TOPOGRAPHIC FEATURES AND LOCATING NECESSARY LINES FOR ENGINEERING DESIGN AND LICENSE ACQUISITION ON DEEDS SUPPLIED BY CLIENT.
3. THIS IS AN LICENSE DRAWING AND IS NOT INTENDED TO REPRESENT A BOUNDARY SURVEY.
4. TITLE RESEARCH PERFORMED BY OTHERS.
5. THIS SURVEY DRAWING IS ACCOMPANIED BY A FIELD NOTES DESCRIPTION TITLED EXHIBIT 'A', DATED OCTOBER 16, 2020.

I, CLINTON E. MCADAMS, REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THIS DRAWING WAS PREPARED FROM SURVEYS MADE ON THE GROUND UNDER MY SUPERVISION, AND THAT SAID SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE, THIS THE 16th DAY OF OCTOBER, 2020.

C E McAdams

CLINTON E. MCADAMS, R.P.L.S.
TEXAS REGISTRATION NO. 6695



LJA Surveying, Inc.
6 Desta DriveSuite 1800
Midland, Texas 79705
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TBPE Firm Reg. No. F-19613

NO.	DATE	REVISION	DRWN	CHK'D	APP'D
E					
D					
C					
B	10/16/20	SIGNED & SEALED	JKB		CEM
A	10/15/20	ISSUES FOR REVIEW	JKB		CEM

18.204

ENDEAVOR GAULT CONNECTOR

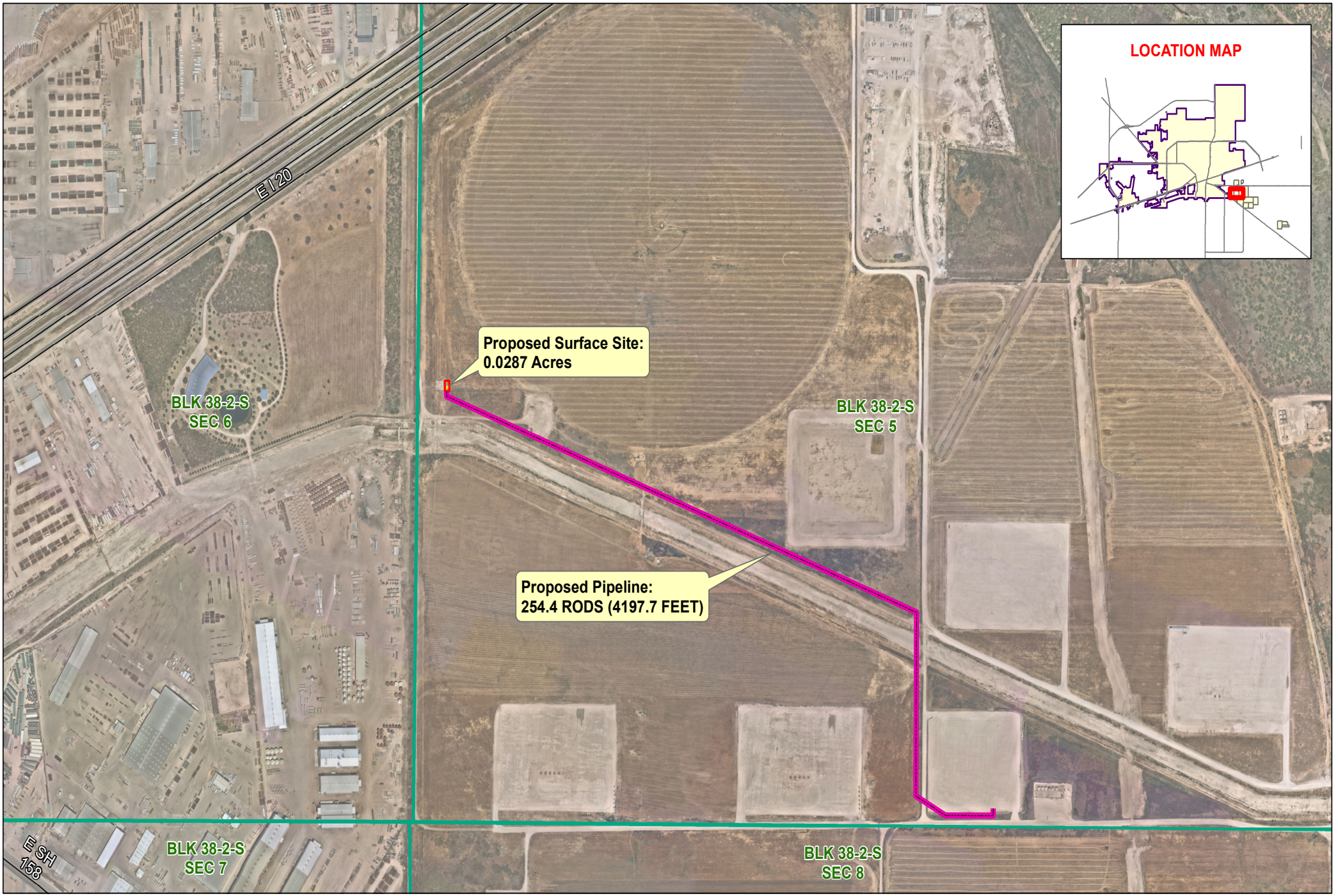
November 3, 2020

Centurion Pipeline L.P.

LJA PROJECT NO.: LJAS001-B1138-1010.200

APPROVED BY: DATE:

PROJECT MANAGER / PROJECT ENGINEER



Date: 10/19/2020

Legend

- Proposed Pipeline
- Proposed Surface Site
- Street
- Survey Section

PACKET

18.205

Endeavor Proposed Pipeline ROW & Surface Site

November 3, 2020

0 250 500 Feet

©THE CITY OF MIDLAND - 2020
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/28/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Bowen, Miclette & Britt Insurance Agency, LLC 1111 North Loop West, #400 Houston TX 77008	**CONTACT NAME:** Heather Cameron **PHONE (A/C, No, Ext):** 713-880-7100 **FAX (A/C, No):** 713-880-7166 **E-MAIL ADDRESS:** hcameron@bmbinc.com
INSURED LOTUSMIDST Centurion Pipeline L.P. 2200 East County Road 90 Suite 395 Midland TX 79706	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** National Fire & Marine Ins Co — 20079 **INSURER B :** Liberty Mutual Fire Ins Co — 23035 **INSURER C :** Liberty Insurance Corp — 42404 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 891179905 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X **COMMERCIAL GENERAL LIABILITY** [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [ ] PRO-JECT [X] LOC [ ] OTHER:	Y	Y	TB2641445690030	9/28/2020	9/28/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	**AUTOMOBILE LIABILITY** X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY	Y	Y	AS2641445690020	9/28/2020	9/28/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,000,000 $ $ $ $
A	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED X RETENTION $ 25,000	Y	Y	42UMO30620703	9/28/2020	9/28/2021	EACH OCCURRENCE AGGREGATE 	$ 10,000,000 $ 10,000,000 $
C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC7641445690010	9/28/2020	9/28/2021	[ ] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The following policy provisions and/or endorsements form part of the policies of insurance represented by this certificate of insurance. The terms contained in the policies and/or endorsements supersede the representations made herein. Electronic copies of the policy provisions and/or endorsements listed below are available by emailing: certificates@bmbinc.com

General Liability:
Blanket additional insured Ongoing Operations per form # CG 20 10 04 13
Blanket additional insured Completed Operations per form # CG 20 37 04 13
Blanket waiver of subrogation per form # LC04101 04 18
See Attached...

CERTIFICATE HOLDER

City of Midland
300 N. Loraine
Midland TX 78701

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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ACORD 25 (2016/03) **The ACORD name and logo are registered marks of ACORD**

AGENCY CUSTOMER ID: LOTUSMIDST

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY Bowen, Miclette & Britt	NAMED INSURED Centurion Pipeline L.P. 2200 East County Road 90 Suite 395 Midland TX 79706
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

Blanket primary/non-contributory per form # LC2420 11 18

Automobile:
Blanket additional insured per form # CA 20 48 10 13
Blanket waiver of subrogation per form # AC 84 07 11 17
Blanket primary/non-contributory per form # AC 84 23 08 11

Worker's Compensation:
Blanket waiver of subrogation per form # WC 00 03 13

Umbrella:
Blanket additional insured per form # ULP-UM-002-02/2014
Blanket waiver of subrogation per form # CL-UN-045-10/ 2016
Blanket primary/non-contributory per form # CLP-UN-065-10/2013

Certificate Holder Includes: City of Midland

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City Council Meeting

Item Number: 19

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Elizabeth Shaughnessy, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,363-SQUARE FOOT PORTION OF LOT 1A, BLOCK 1, PAVILION PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND MOCKINGBIRD LANE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant is requesting a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant at 5520 N Big Spring, Suite B, Midland, Texas 79705.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Discussion:

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property is located at 5520 N Big Spring, Suite B in the RR, Regional Retail District. The property to the north is zoned PD, Planned Development District for a Housing Development and the location of an apartment complex that is currently under construction. The property to the east and south is zoned RR, Regional Retail District and the location of vacant land. The property to the west is zoned MF-16, Multiple-Family Dwelling District and is the location of condominiums.

Analysis:

Quattro FS, LLC is requesting a Specific Use Designation for the property located at 5520 N Big Spring, Suite B, to be able to sell all alcoholic beverages for on premise consumption, within a restaurant. The property is zoned RR, Regional Retail District, which allows the consumption of alcoholic beverages with the approval of a Specific Use Designation.

Chuck & Patty's Restaurant is currently not in operation. The floor plan attached hereto a "Exhibit A" illustrates that the establishment, which will be attached to a Jack's Convenience store, will have a total square footage of 4,363 square feet, including a 1,005 square foot patio, with an alcohol serviceable area of 3,261 square feet.

The proposed site plan provides adequate access and internal circulation. A total of 76 shared parking spaces is provided for the convenience store/gas station and the restaurant, which more than exceeds the 36 required parking spaces for both uses.

The restaurant is proposing the following hours of operation:

Monday through Saturday: 10:30 a.m. to 10:00 p.m.
Sunday: 11:00 a.m. to 9:00 p.m.

In addition, the restaurant is requesting the following hours of alcohol service:

Monday through Saturday: 11:00 a.m. to 9:30 p.m.
Sunday: 11:00 a.m. to 8:30 p.m.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line

across intersections where they occur.

There are no schools or churches within 300 feet of the property.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Engineering: (Approved)

No objection to zone change.

Fire: (Approved)

No objections.

Transportation: (Approved)

No objection to zone change.

Code Administration: (Approved with Conditions)

The SUD for Chuck and Patty's is acceptable. The property must adhere to the current maximum occupant load of 93 as stated on the submitted plans. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

This request is in compliance with the Tall City Tomorrow Comprehensive plan, Chapter 6 Character Plan - Goal 4, “Encourage the development of places where Midland residents can gather and socialize to build connections” (Tall City tomorrow, page 137). Chuck & Patty’s Restaurant is proposing a local restaurant that will give the citizens of Midland a new location to socialize.

This request was recommended for approval at the September 21, 2020 Planning and Zoning Commission Meeting. The City Council approved this request at their October 20, 2020 meeting.

This request meets all requirements; therefore, staff recommends approval of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, subject to Conditions A through F.

Conditions:

A. That the serviceable area of the restaurant shall be limited to approximately 3,261 square feet as shown in Exhibit “A”, which is attached hereto and

incorporated herein for all purposes.

B. That the days and hours of alcoholic beverages sales and consumption shall be limited to:

Monday through Saturday: 11:00 a.m. to 9:30 p.m.
Sunday: 11:00 a.m. to 8:30 p.m.

C. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

D. That the establishment shall meet all requirements of the Fire Department and Code Administration.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

F. That in accordance with Section 9.07.E.3 of the City Code, the establishment shall receive a certificate of occupancy within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of October 14, 2020, staff has not received any letters of objections.

Attachments:

Floor Plan (Exhibit A)
Application
Maps

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,363-SQUARE FOOT PORTION OF LOT 1A, BLOCK 1, PAVILION PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND MOCKINGBIRD LANE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 4,363-square foot portion of Lot 1A, Block 1, Pavilion Park Addition, Section 11, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant (the "Establishment"), together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,261 contiguous square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Saturday from 11:00 a.m. to 9:30 p.m.; and
Sunday from 11:00 a.m. to 8:30 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

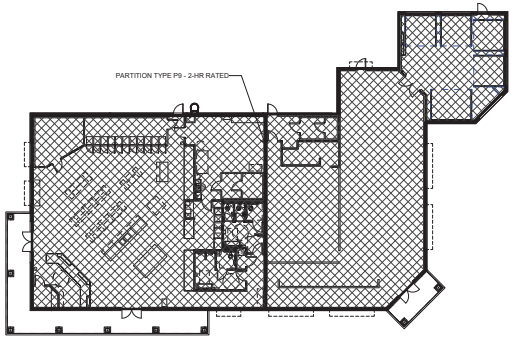
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

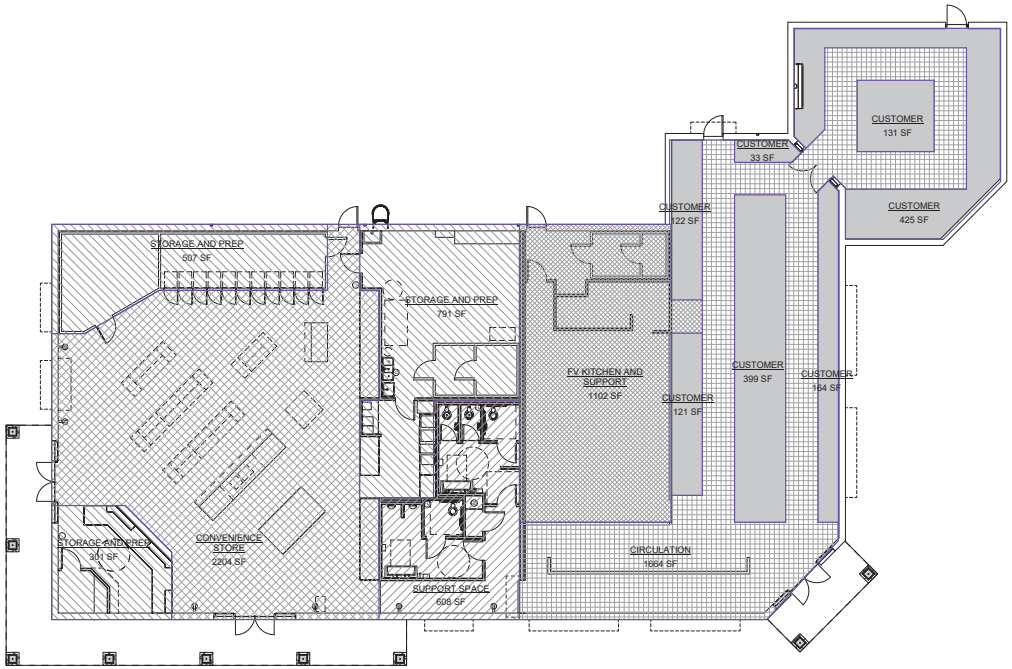
APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

2019 © PATE ARCHITECTS



B A01 FIRE SEPARATION PLAN
1/16" = 1'-0"



A A01 FLOOR PLAN - AREAS FOR OCCUPANT LOAD
1/8" = 1'-0"

JACK'S CONVENIENCE STORE #9
CODE ANALYSIS
APPLICABLE CODES:

2018 IBC - INTERNATIONAL BUILDING CODE
2015 IFC - INTERNATIONAL FIRE CODE
2018 IMC - INTERNATIONAL MECHANICAL CODE
2018 IPC - INTERNATIONAL PLUMBING CODE
2018 IFGC - INTERNATIONAL FUEL GAS CODE
2015 IECC - INTERNATIONAL ENERGY CONSERVATION CODE
2017 NEC - NATIONAL ELECTRICAL CODE
2012 TAS - TEXAS ACCESSIBILITY STANDARDS

BUILDING OCCUPANCY

CLASSIFICATION: JACK'S - GROUP M: MERCANTILE
CLASSIFICATION: FOOD VENDOR - ASSEMBLY GROUP: A-2

CONVENIENCE STORE:
CUSTOMER AREA: 2,204 SQ. FT.
STORAGE & PREP AREA: 1,599 SQ. FT.
SUPPORT SPACE: 608 SQ. FT.
CONVENIENCE STORE TOTAL: 4,411 SQ. FT.

FOOD VENDOR:
CUSTOMER AREA (GROSS): 2,256 SQ. FT.
CUSTOMER AREA (PATIO - GROSS): 1,005 SQ. FT.
KITCHEN & SUPPORT SPACE: 1,102 SQ. FT.
FOOD VENDOR TOTAL: 4,363 SQ. FT.

CAR WASH: 1,000 SQ. FT.

FUEL CANOPY: 9,971 SQ. FT.

TOTAL BUILDINGS: GROSS: 19,625 SQ. FT.

CONVENIENCE STORE CUSTOMER AREA: 2,204 SQ. FT. 1:60 = 37
CONVENIENCE STORE STORAGE & PREP AREA: 1,599 SQ. FT. 1:300 = 6
FOOD VENDOR CUSTOMER AREA (NET): 1,395 SQ. FT. 1:15 = 93
FOOD VENDOR KITCHEN AREA: 1,102 SQ. FT. 1:200 = 6

TOTAL OCCUPANCY: 142

ALLOWABLE BUILDING HEIGHT: CONSTRUCTION TYPE IIB - NON SPRINKLERED = 55'-0" MAX.
HEIGHT OF NEW CONSTRUCTION APPROXIMATELY 27'-6"

ALLOWABLE AREA: CONSTRUCTION TYPE IIB - NON SPRINKLERED = M: 12,500 SQ. FT.
AREA OF CONVENIENCE STORE: 4,411 SQ. FT.

ALLOWABLE AREA: CONSTRUCTION TYPE IIB - NON SPRINKLERED = A-2: 9,500 SQ. FT.
AREA OF FOOR VENDOR: 4,363 SQ. FT.

CONSTRUCTION TYPE: 11-B (NON-COMBUSTIBLE, UNPROTECTED)

MINIMUM REQUIRED PLUMBING FIXTURES:

CONVENIENCE STORE: CLASSIFICATION: MERCHANTILE GROUP M
TOTAL OCCUPANCY: 43
MEN: 22
LADIES: 22

FIXTURE COUNT MEN:		REQUIRED	PROVIDED
WATER CLOSETS:	@1:500	1	1
URINALS:			2
LAVATORIES:	@1:750	1	2

FIXTURE COUNT LADIES:			
WATER CLOSETS:	@ 1:500	1	3
LAVATORIES:	@ 1:750	1	2
SERVICE SINK:		1	1

MINIMUM REQUIRED PLUMBING FIXTURES:

FOOD VENDOR: CLASSIFICATION: ASSEMBLY GROUP A-2
TOTAL OCCUPANCY: 99
MEN: 50
LADIES: 50

FIXTURE COUNT MEN:		REQUIRED	PROVIDED
WATER CLOSETS:	@1:75	1	1
URINALS			2
LAVATORIES:	@1:200	1	2

FIXTURE COUNT LADIES:			
WATER CLOSETS:	@ 1:75	1	3
LAVATORIES:	@ 1:200	1	2
SERVICE SINK:		1	1

PARKING CALCULATIONS:

DESCRIPTION	BUILDING AREA	REQUIREMENT
CONVENIENCE STORE CUSTOMER AREA:	2,204 SQ. FT.	1:200 SQ. FT
FOOD VENDOR CUSTOMER AREA:	93 OCCUPANCY	1:4 SEATS FOR PATRON USE

PARKING REQUIRED CONVENIENCE STORE: 2,204/200 SQ. FT. = 12
PARKING REQUIRED FOOD VENDOR: 93/4 SEATS FOR PATRON USE = 24
TOTAL: 36 REQUIRED PARKING SPACES

TOTAL PARKING PROVIDED = 76 SPACES

PATE ARCHITECTS
4500 W. ILLINOIS, SUITE 302
MIDLAND, TEXAS 79703
432.697.0037
www.PateArchitects.com

NEW BUILDING FOR:
JACK'S CONVENIENCE STORE #9
MOCKINGBIRD & BIG SPRING
MIDLAND, TX

DATE ISSUED
09/16/2019

REVISIONS

SHEET NUMBER
A01

JOB NO. 18-25

PACKET
19.9
November 3, 2020

2019 © PATE ARCHITECTS

ARCHITECTURAL - NOTES

A1 FLOOR AND GROUND AREA WITHIN THE REQUIRED ADA & TAS CLEARANCES (5'-0" x 5'-0" MIN.) TO BE LEVEL AND CLEAR.
A6-1 WALL HUNG FIRE EXTINGUISHER
A16 LINE OF ROOF ABOVE
A18 EQUIPMENT BY OTHERS - SEE SHEET A402
A26 FIXED STEEL LADDER WITH 1" RUNGS ATTACHED TO FLOOR AND STRUCTURE ABOVE

A A101 CONVENIENCE STORE AND FOOD VENDOR FLOOR PLAN
1/8" = 1'-0"

PACKET
19.10
November 3, 2020

4500 W. ILLINOIS, SUITE 302
MIDLAND, TEXAS 79703
432.697.0037
www.PateArchitects.com
P&A PATE ARCHITECTS

9/16/2019
12/23/2020

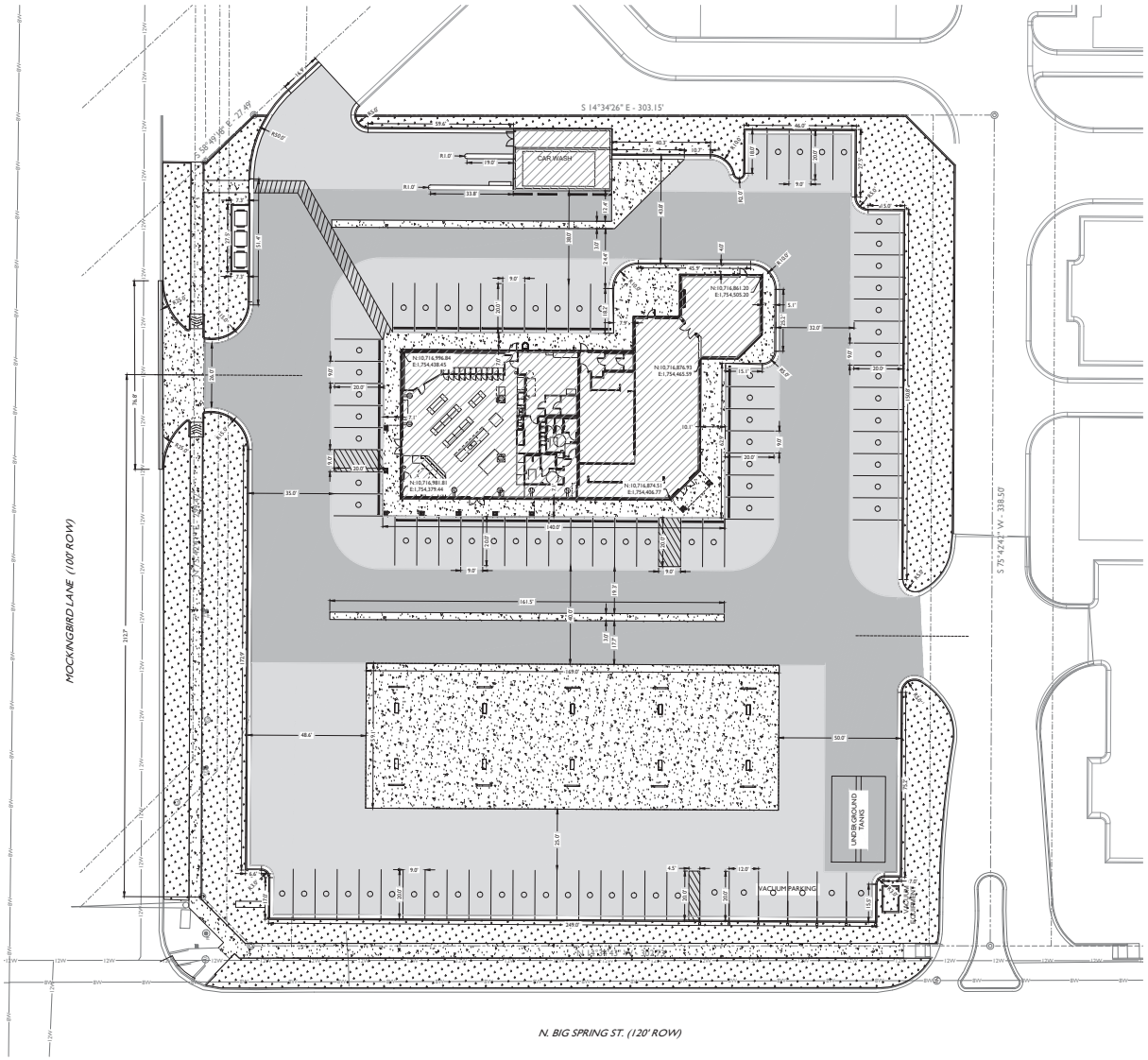
NEW BUILDING FOR:
JACK'S CONVENIENCE STORE #9
MOCKINGBIRD & BIG SPRING
MIDLAND, TX

DATE ISSUED
09/16/2019
REVISIONS

SHEET NUMBER
A101

JOB NO. 18-25

© 2019 PATE ARCHITECTS



MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-13089
SURVEY FIRM #: 100566-4
Tel: (432) 262-0999
Fax: (432) 262-0989
www.Maverick-Eng.com

0' 50' 100' 150'
SCALE 1" = 50'

LEGEND

- DENOTES FOUND MONUMENT AS NOTED
- DENOTES SET 1/2" IRON ROD
- DENOTES FOUND BENCHMARK AS NOTED
- DENOTES EXISTING MANHOLE
- DENOTES BOUNDARY LINE
- DENOTES EDGE OF ASPHALT
- DENOTES EXISTING LOTS
- 8W — DENOTES EXISTING 8" WATER LINE
- 12W — DENOTES EXISTING 12" WATER LINE
- 15SS — DENOTES EXISTING 15" SEWER LINE

DIMENSIONAL NOTE:

DIMENSIONS SHOWN ARE TYPICALLY TO BACK OF CURB UNLESS NOTED OTHERWISE.

CONCRETE JOINTING NOTE:

MAVERICK DOES NOT SUPPLY CONCRETE JOINTING PLANS, OR REVIEW THEM, UNLESS SPECIFICALLY CONTRACTED TO DO SO. THE CONTRACTOR IS RESPONSIBLE FOR CONCRETE JOINTING PLAN DEVELOPMENT AND IMPLEMENTATION. MAVERICK CAN PROVIDE THIS SERVICE TO THE CONTRACTOR AT AN ADDITIONAL EXPENSE. PLEASE CONTACT MAVERICK FOR MORE INFORMATION ON THIS ADDITIONAL DESIGN SERVICE.

811 Know what's below. Call before you dig.

500 W. ILLINOIS, SUITE 302
MIDLAND, TEXAS 79703
432.697.0037
www.PateArchitects.com
PATE ARCHITECTS

NEW BUILDING FOR:
JACK'S CONVENIENCE STORE #9
MOCKINGBIRD & BIG SPRING
MIDLAND, TX

ANDREW REAL
114086
LICENSED
PROFESSIONAL
ENGINEER
10/29/2019

SHEET NUMBER
DIMENSION PLAN
C200
OF SHEETS
PATE JOB NO. 1825
MAV JOB NO. 190137

PACKET
19.11
November 3, 2020

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUD-20-0085

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Randy Brooks		Phone (325) 227-8789 Email randy.brooks@bnbventures.com	
Address 502 S. Koenigheim St Ste 1A	City San Angelo	State TX	Zip 76903

Property Owner Printed Name: BBS Rental Properties, LLC - Randy Brooks		Phone (325) 227-8789 Email randy.brooks@bnbventures.com	
Address 502 S. Koenigheim St Ste 1A	City San Angelo	State TX	Zip 76903

Representative *(if different from Applicant or Property Owner)* Firm: Quattro FS, LLC Printed Name: Chris Tyler		Phone (325) 227-2422 Email chris.tyler@ggandc.com	
Address 502 S. Koenigheim St Ste 1A	City San Angelo	State TX	Zip 76903

Street Address: 5520 N Big Spring Suite B Midland, TX 79705

Business Name: Chuck & Patty's

Legal Description
Lot: 1 Block: 1 Subdivision: Pavilion Park Addition

Current Zoning: "RR" Regional Rental District

Reason for Request: Mixed Beverage Permit
Food and Beverage Certificate

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: Restaurant

Proposed/Current Days and Hours of Operation: Mon-Sat 10:30A - 10P
Sun 11A - 9P

Proposed Days and Hours of Alcohol Service: Mon-Sat 11A - 9:30P
Sun 11A - 8:30P

Total Square Footage of Business: 4363 sq ft

Square Footage of Alcohol Serviceable Area: 3261 sq ft

Restroom Fixtures:			
Men	**Toilets/Urinals:** 1 / 2	**Bathroom Sinks:** 2
Women	**Toilets:** 3	**Bathroom Sinks:** 2

RECEIVED
AUG 20 2020
BY: _____

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

RECEIVED
AUG 20 2020

Signatures

Applicant (signature):	Date: 8/19/2020
Applicant (printed): Randy Brooks	
Property Owner (signature):	Date: 8/19/2020
Property Owner (printed): Randy Brooks	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Chris Tyler who, being by me duly sworn, upon oath says: That (s)he is authorized by Randy Brooks, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (signature)

Subscribed and sworn to before me, this 19th day of August, 2020, to certify which witness my hand and seal of office.

ALLISON R. DANIELS
Notary Public, State of Texas
Comm. Expires 03-09-2022
Notary ID 131483535

Allison Daniels

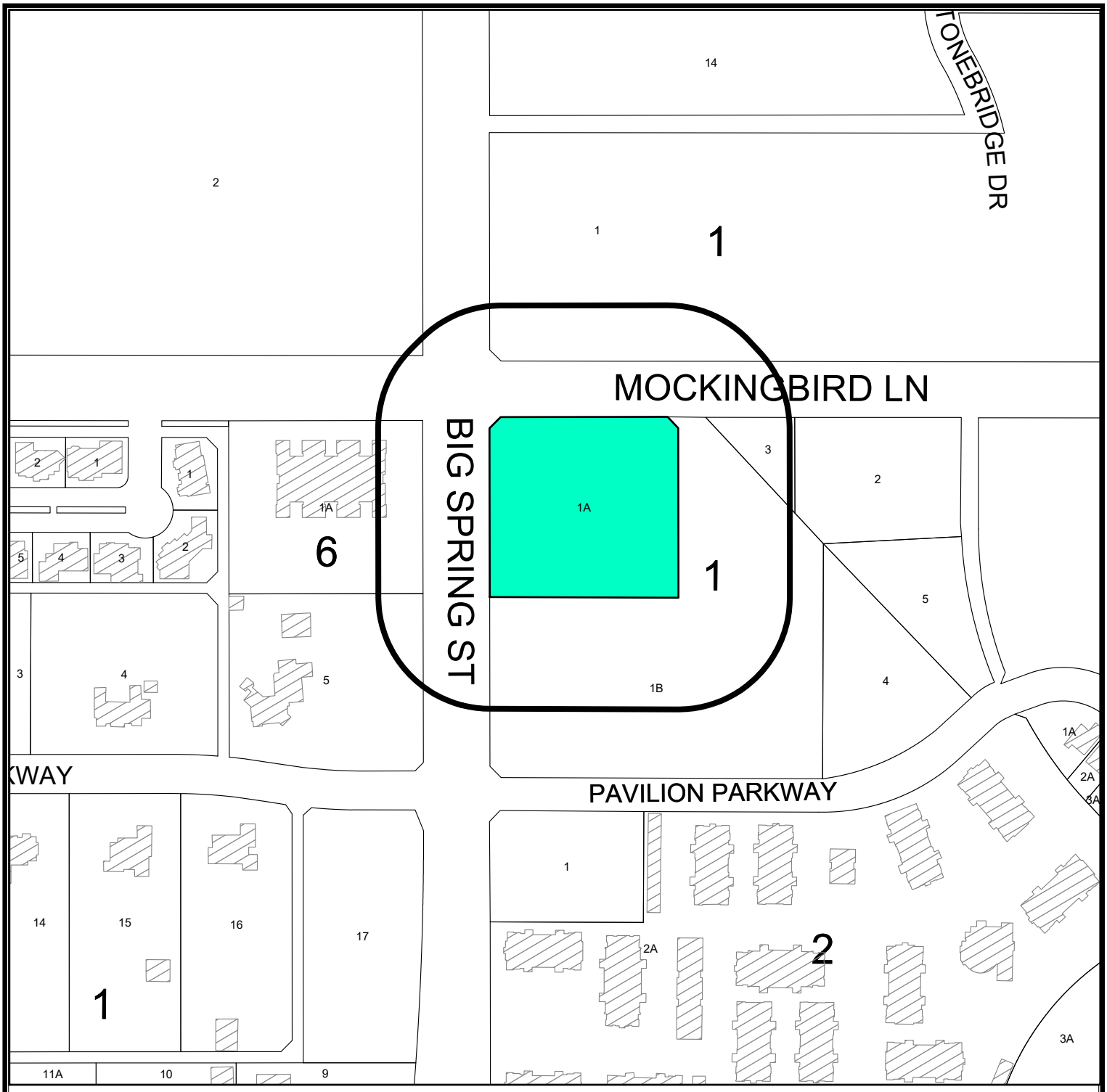
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY	
☐ Property Owner Authorization	☐ Dimensioned Floor Plan
☑ Application Fee	☐ Site Plan
Check # 11738	☑ Plans in Digital Format (PDF/JPEG)
Received By: gloria	Date:

RECEIVED
AUG 20 2020
BY: .....

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

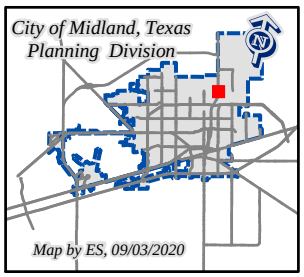
SUB-20-0083 **Scale: 1" = 250'**

Consider a request by Quattro FS, LLC. for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages, for on premises consumption in a restaurant, on a 4,363 square foot portion of Lot 1A, Block 1, Pavilion Park, Section 11, City and County of Midland, Texas.

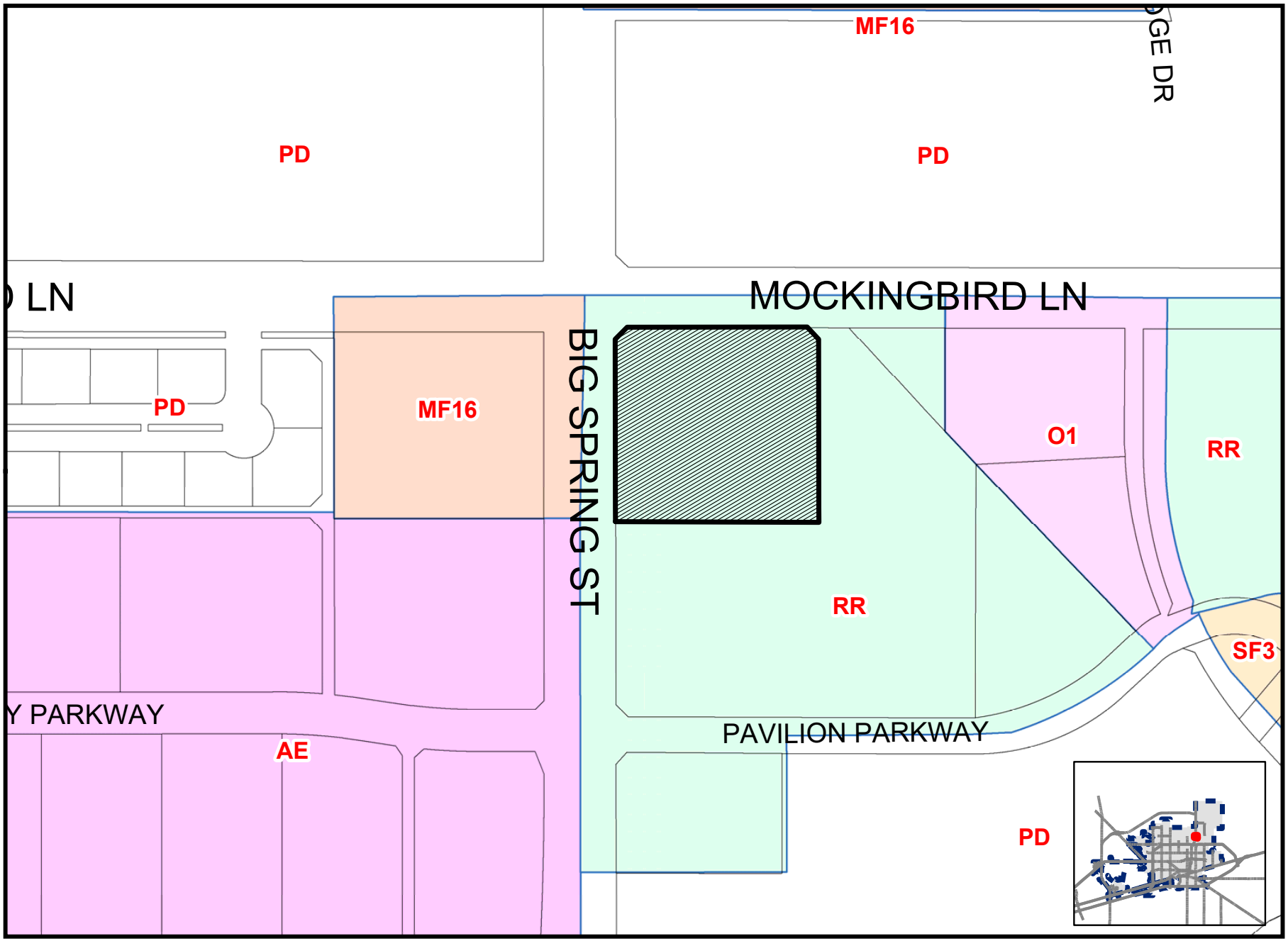
Generally located on the southeast corner of the intersection of North Big Spring Street and Mockingbird Lane. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



November 3, 2020



Map By ES, 9/03/2020

SUD-20-0083

Scale: 1" = 200'

ZONING MAP

PACKET
19.16
November 3, 2020

CAT

VTECH
CONSTRUCTION
STORMWATER

City Council Meeting

Item Number: 20

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Glenda Arroyo-Cruz, Planner

Subject: AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 50 FEET OF LOTS 19 THROUGH 24, BLOCK 145, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST PENNSYLVANIA AVENUE AND SOUTH WEATHERFORD STREET), BY PERMITTING A REDUCED MINIMUM LOT WIDTH; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant, Carrasco Homes, LLC., is requesting a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum lot width dimensions for a corner lot to be able to replat the described property.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located at 211 East Pennsylvania Avenue and currently vacant. This property is zoned SF-3, Single-Family Dwelling District.

Per our City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart:*

SF-3, Single-Family Dwelling District
Lot dimensions
Minimum Lot Width:
Corner Lot: 55 Feet

The applicant's property is a corner lot and would have to meet the minimum of 55-feet as listed in the zoning ordinance.

The applicant is requesting to reduce the required minimum lot width dimension for the proposed lot to be approximately 50-feet to be able to proceed with the replat process.

This request has been circulated to all pertinent City departments for review. Below are the departments' comments.

Engineering: (Approved)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Fire: (Approved)

No comments.

Code Compliance: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2017 NEC requirements, the 2015 International Fire Codes, local

city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Planning Analysis:

This request represents a deviation from the existing Zoning Ordinance, however, with the established residences adjacent to the property, the possibility of obtaining more land to meet the minimum requirement is not feasible. Therefore, staff would recommend approval of this application for a Special Exception to the City of Midland Zoning Ordinance, *Section 5.04 – Residential Zoning District Dimensional Regulations Chart.*

The City Council approved this request at their October 20, 2020 meeting.

Should the City Council approve this request, the property shall be subject to conditions A and B:

Conditions:

A. **That the property shall significantly conform to the site plan shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.**

B. **That the minimum lot width for this property shall be 49.96-feet.**

Letters of Objection:

As of October 14, 2020, staff has not received any letters of objection

Attachments:

Proposed Plat (Exhibit A)
Application
Maps

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 50 FEET OF LOTS 19 THROUGH 24, BLOCK 145, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF EAST PENNSYLVANIA AVENUE AND SOUTH WEATHERFORD STREET), BY PERMITTING A REDUCED MINIMUM LOT WIDTH; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

WHEREAS, the City Council modified the authority of the Board of Adjustment in Title XI, Chapter 1, Section 7 ("Section 11-1-7") of the Midland City Code; and

WHEREAS, Section 11-1-7 provides for the consideration of requests for special exceptions to the Midland Zoning Ordinance; and

WHEREAS, the Council finds that satisfactory evidence has been presented that the use to be authorized by the granting of the special exception will not be detrimental to the health, safety, comfort and welfare of the occupants of the land area near the tract on which the use to be allowed by special exception will be located; and

WHEREAS, the Council finds that it is clearly and specifically authorized by the terms of Section 11-1-7 to grant such a special exception, and said exception will be in harmony with the general purposes and intent of the zoning provisions of the Midland City Code; and

WHEREAS, after a full and fair public hearing at which all parties in interest were offered an opportunity to be heard, all pursuant to law, the Council finds it to be in the public interest to grant a special exception to the Zoning Code, pursuant to Section 11-1-7, for the purposes herein stated, subject to special conditions;

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

SECTION ONE. That a special exception is hereby granted for the property described as the east 50 feet of Lots 19 through 24, Block 145, Southern Addition, City and County of Midland, Texas. Said special exception shall allow a reduced minimum lot width.

SECTION TWO. Said special exception is subject to the following special conditions:

A. That the minimum lot width for this property shall be 49.96 feet.

B. That the dimensions of this property shall conform to the dimensions shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to file this ordinance with the Office of the County Clerk for purposes of recordation.

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

Preliminary Plat

SOUTHERN ADDITION
SECTION 21

Being a Replat of Lots 19 through 24, Block 145, Southern Addition, City of Midland Midland County, Texas

SOUTHERN ADDITION
SECTION 16
Cab. K, Pg. 108

NEW YORK AV (80' ROW)

BAIRD ST (80' ROW)

N89°35'47"E
50.25'

N=10692407.90
E=1757511.51

Lot 190 Lot 191

N00°36'37"W 150.02'

Lot 192A
Block 145

S00°29'56"E
149.76'

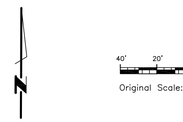
WEATHERFORD ST (80' ROW)

S89°18'01"W
49.96'

P.O.B.
N=10692258.50
E=1757563.06

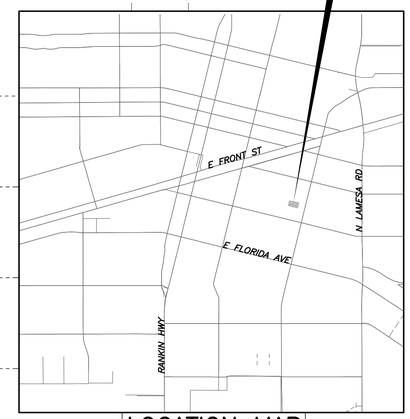
PENNSYLVANIA AV (80' ROW)

SOUTHERN ADDITION
Vol. 2, Pg. 2



LEGEND

- PLAT LIMITS
- EXISTING PLATTED LOTS & STREET R/W
- EXISTING EASEMENTS
- EXISTING WATER LINE
- EXISTING SEWER LINE



LOCATION MAP

NOTES

1. SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
2. APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
3. INITIAL IMPACT FEES WILL BE ASSESSED DURING THE FINAL PLATTING PROCESS. IMPLEMENTATION AND COLLECTION OF IMPACT FEES WILL TAKE PLACE DURING THE BUILDING PERMIT PROCESS. ADDITIONAL IMPACT FEES OR INCREASES IN FEES MAY NOT BE ASSESSED AGAINST THE TRACT UNLESS THE NUMBER OF SERVICE UNITS TO BE DEVELOPED ON THE TRACT INCREASES.
4. BASED ON THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, FEDERAL INSURANCE ADMINISTRATION FLOOD HAZARD BOUNDARY MAP, COMMUNITY NUMBER 480477, SHEET NUMBER 48329C0086F, REVISED SEPTEMBER 16, 2005, THE SURVEYED PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA ACCORDING TO THE MAP. THE CURRENT FLOOD ZONE CLASSIFICATION FOR THE SURVEYED PROPERTY IS ZONE X.

OWNER:

CARRASCO HOMES, LLC.
3417 CALDERA BLVD
MIDLAND, TEXAS 79707
Contact:
VICENTE CARRASCO
(432) 553-6344

ENGINEER:

PARKHILL, SMITH & COOPER, INC.
1700 W. WALL STREET
MIDLAND, TEXAS 79701
Contact:
(432) 697-1447

SOUTHERN ADDITION
SECTION 21

A:\20\20028\02.20\01_DSGN\01_DWG\05_CIVIL\06_ENTITLEMENTS\02_PRP\20028 PRP0_dwg, PRP0, 8/27/2020 8:54:21 AM, JRatterree

MIDLAND
Planning Division

Special Exception Application

Project Number: Z-20-0041

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Carrasco Homes LLC		Phone (432) 553-6344 Email carrascohomesllc@sbcglobal.net	
Address 3417 Caldera BLVD	City Midland	State Texas	Zip 79707

Property Owner Printed Name: Carrasco Homes LLC		Phone (432) 553-6344 Email carrascohomesllc@sbcglobal.net	
Address 3417 Caldera BLVD	City Midland	State Texas	Zip 79707

Representative *(if different from Applicant or Property Owner)* Firm: Parkhill (Job # 01.9537.20 - REIM) Printed Name: Josh Wallender		Phone (432) 697-1447 Email jwallender@parkhill.com	
Address 1700 West Wall, Suite 100	City Midland	State Texas	Zip 79701

Street Address:

Legal Description
Lot: Block: Subdivision:

Current Zoning: SF-3

This property qualifies as an exception to the City Code because:

- ☒ It is an expansion of a nonconforming use.
- ☐ There are existing nonconforming structures in the area.
- ☐ The addition of architectural or other projections of a minor extent.

Reason for Request: the lot falls in an existing area where surrounding lots are unable to be modified to meet the 55' lot width requirement

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan showing:
  - Parking
  - Building Footprint
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
SEP 17 2020
BY: .....

Signatures	
Applicant (signature):	Date:
Applicant (printed):	
Property Owner (signature): Vicente Carrasco	Date: 9-8-2020
Property Owner (printed): VICENTE CARRASCO	

The Special Exception shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Josh Wallender who, being by me duly sworn, upon oath says: That (s)he is authorized by Carrasco Homes LLC, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 16th day of September, 20 20, to certify which witness my hand and seal of office.

ILENA CARRASCO
Notary ID #132031433
My Commission Expires
May 30, 2023

Ilena Carrasco

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

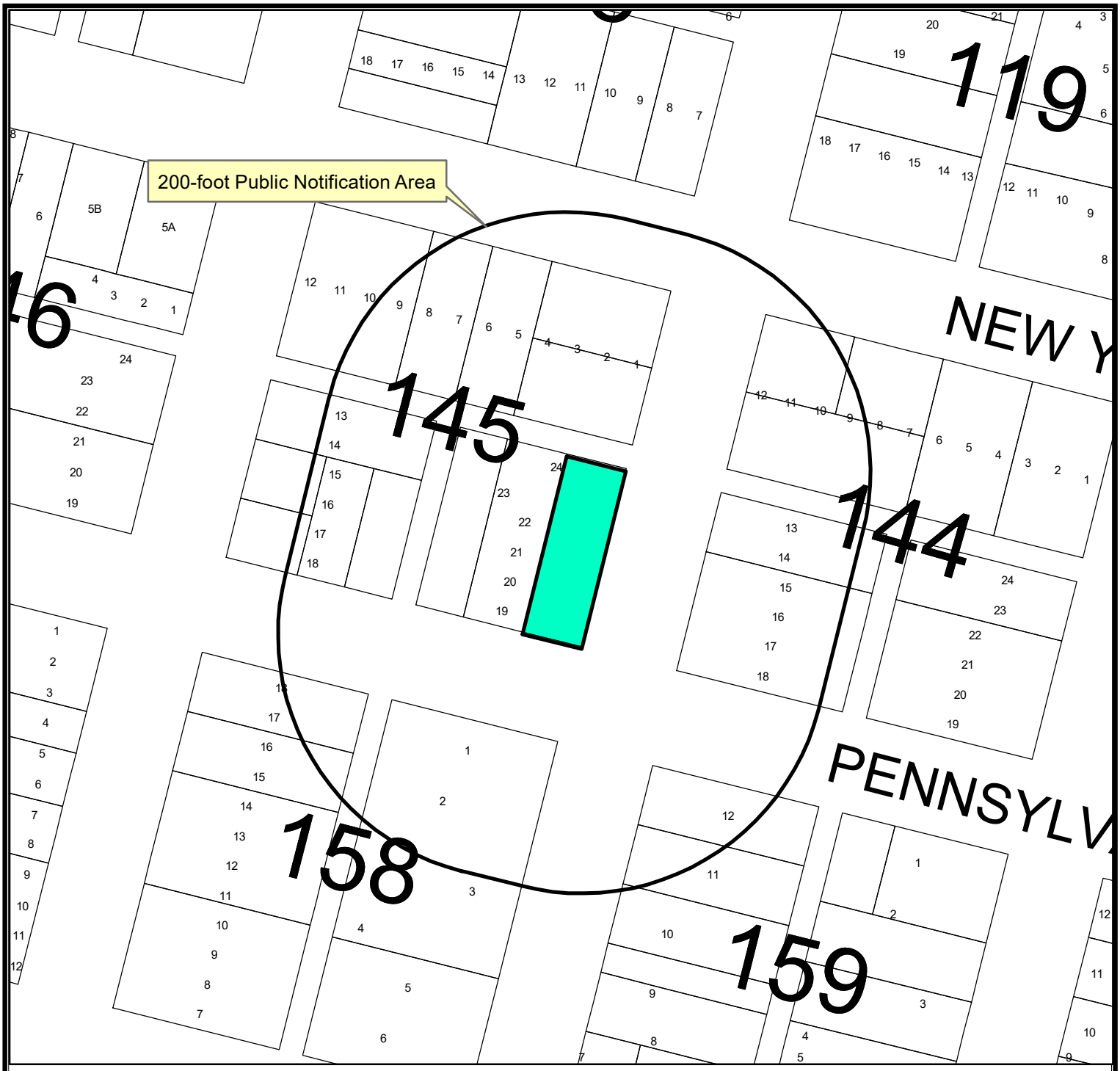
- ☑ Property Owner Authorization
- ☑ Application Fee
  Check # 1942
- ☑ Dimensioned Site Plan
- ☑ Plans in Digital Format (PDF/JPEG)

Received By: gac

Date: SEP 17 2020

BY: .....

Application will not be considered for scheduling until reviewed by a planner.



LOCATION MAP

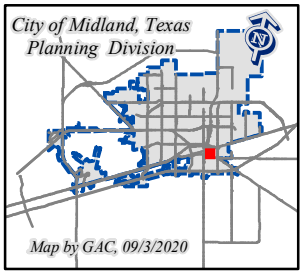
E-20-0041 **Scale: 1" = 400'**

Consider a request by Carrasco Homes, LLC for a Special Exception from the City of Midland Zoning Ordinance, Section 5.04 – Residential Zoning District Dimensional Regulations Chart, concerning the minimum lot width for a corner lot on the East 50-feet of Lots 19 through 24, Block 145, Southern Addition, City and County of Midland, Texas.

Generally located on the northwest corner of the intersection of East Pennsylvania Avenue and South Weatherford Street. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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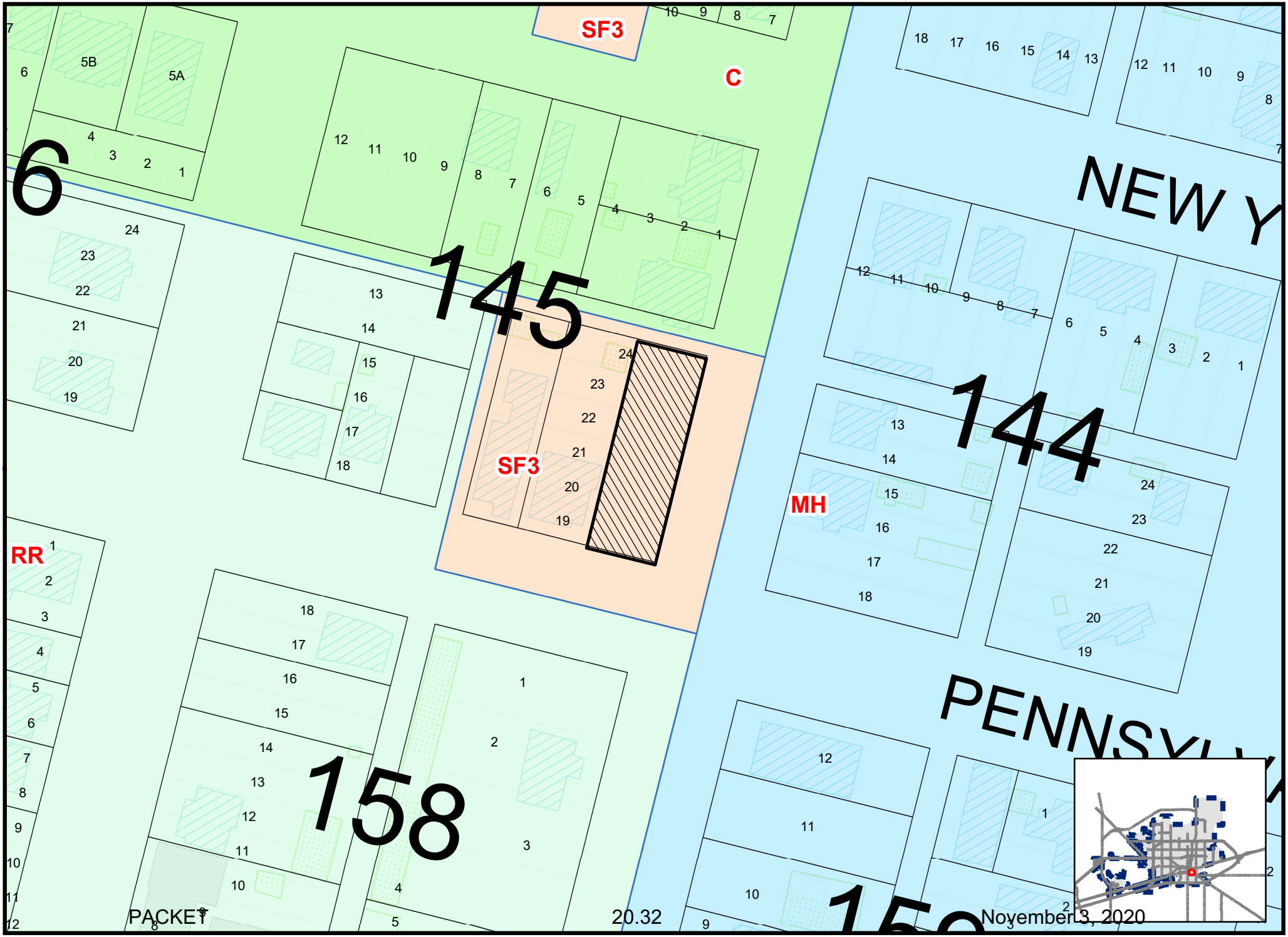


Map By GAC, 09/3/2020

E-20-0041

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2020: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

STOP

City Council Meeting

Item Number: 21

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Glenda Arroyo-Cruz, Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.482-ACRE PORTION OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A COMMUNITY SERVICE CENTER TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 180 FEET SOUTH OF EAST CUTHBERT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant, Chad Walters, is requesting approval of a zone change to amend the planned district and have one zoning designation on the existing property.

Recommended City Council Action:

Approve

Fiscal Impact:

This request has no significant impact on the City's Budget.

Discussion:

The properties to the north are zoned SF-2, Single-Family Dwelling District and the location of residential homes. The property to the east is zoned MH, Manufactured Housing District and the location of a church. The property to the south is zoned SF-2, Single-Family Dwelling District

and the location of a church. The property to the west is zoned SF-2, Single-Family Dwelling District and the location of a parking lot.

Analysis:

The property is located at 1301 Garden Lane and is the location of Our Lady of Guadalupe Catholic Church. The applicant is requesting a zone change on approximately a 0.48-acre portion of the property to SF-2, Single-Family Dwelling District, so that it is consistent with the existing zoning of the property and to develop an addition to the existing building.

The Planned District is located on the upper northeast corner of the existing lot. This property is regulated by Ordinance No. 6674, which was established in July 1986 to allow for a community service center and to adopt a site plan for that use. *Section 2 of Ordinance No. 6674 states:*

> 2. *That the development of the property shall conform to all regulations applicable to a "1F-2", One-Family Dwelling District in all respects, except as otherwise indicated by the site plan marked Exhibit "A", attached hereto and made a part hereof for all legal purposes.*

The applicant has provided a site plan showing the existing conditions of the property and approximate measurements of the Planned District zoning boundary. In addition to having a contiguous zoning classification, this request would allow for the addition to the existing building and any future construction without an amendment to the planned district.

This proposed zone change has been circulated to and reviewed by respective City departments and their comments, conditions, and requirements are as follows:

Engineering: (Approved)

No objection to zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Building codes are subject to change depending on the date of possible

construction.

Code Compliance: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Planning:

This request was recommended for approval at the September 21, 2020 Planning and Zoning meeting. The City Council approved this request at their October 20, 2020 meeting.

As the building in question is an accessory use to the church and as this zone change would clean up the zoning on the lot, staff recommends approval of this request for approval of a zone change subject to condition A.

Conditions:

A. **That the use and development of this property shall conform to the regulations of the SF-2, Single-Family Dwelling District.**

Letters of Objection:

As of October 14, 2020, staff has not received any letters of objection.

Attachments:

Metes and Bounds (Exhibit A)
Proposed Site Plan
Application
Maps
Ordinance No. 6674

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.482-ACRE PORTION OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A COMMUNITY SERVICE CENTER TO SF-2, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 180 FEET SOUTH OF EAST CUTHBERT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning a 0.482-acre portion of Lot 13A, Block 7, Glendale Addition, Section 2, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibits "A" and "B", which are attached hereto and incorporated herein (the "Property"), to SF-2, Single-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned District for a Community Service Center to SF-2, Single-Family Dwelling District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council

member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

T&P RR CO Survey, T-1-S, Block 39, Section 25
Midland County, Texas
0.482 Acre

EXHIBIT "A"

BEING A 0.482 ACRE TRACT OF LAND OUT OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET F, PAGE 17, PLAT RECORDS OF MIDLAND COUNTY, TEXAS, AND LYING IN THE T&P RR CO SURVEY, T-1-S, BLOCK 39, SECTION 25, MIDLAND COUNTY, TEXAS, SAID 0.482 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a PK Nail found for the northeast corner of the herein described tract, being also the northeast corner of said Lot 13A, and lying at the intersection of the South line of a 20 feet wide alley with the West right-of-way (ROW) line of North Carver Street (N Carver St) (based on a 60 feet wide ROW);

THENCE S 14°37'55" E with the West ROW line of N Carver St and the East boundary line of Lot 13A a distance of 180.00 feet to a PK Nail for the southeast corner of the herein described tract;

THENCE S 75°22'05" W severing said Lot 13A, a distance of 116.60 feet to a PK Nail for the southwest corner of the herein described tract;

THENCE N 14°37'55" W a distance of 180.00 feet to a 1/2 inch iron rod for the northwest corner of the herein described tract, and lying in the North boundary line of Lot 13A, and lying in the South line of said alley;

THENCE N 75°22'05" E with the North boundary line of Lot 13A, being also the South line of said alley, a distance of 116.60 feet to the **PLACE OF BEGINNING** and containing 0.482 acre of land.

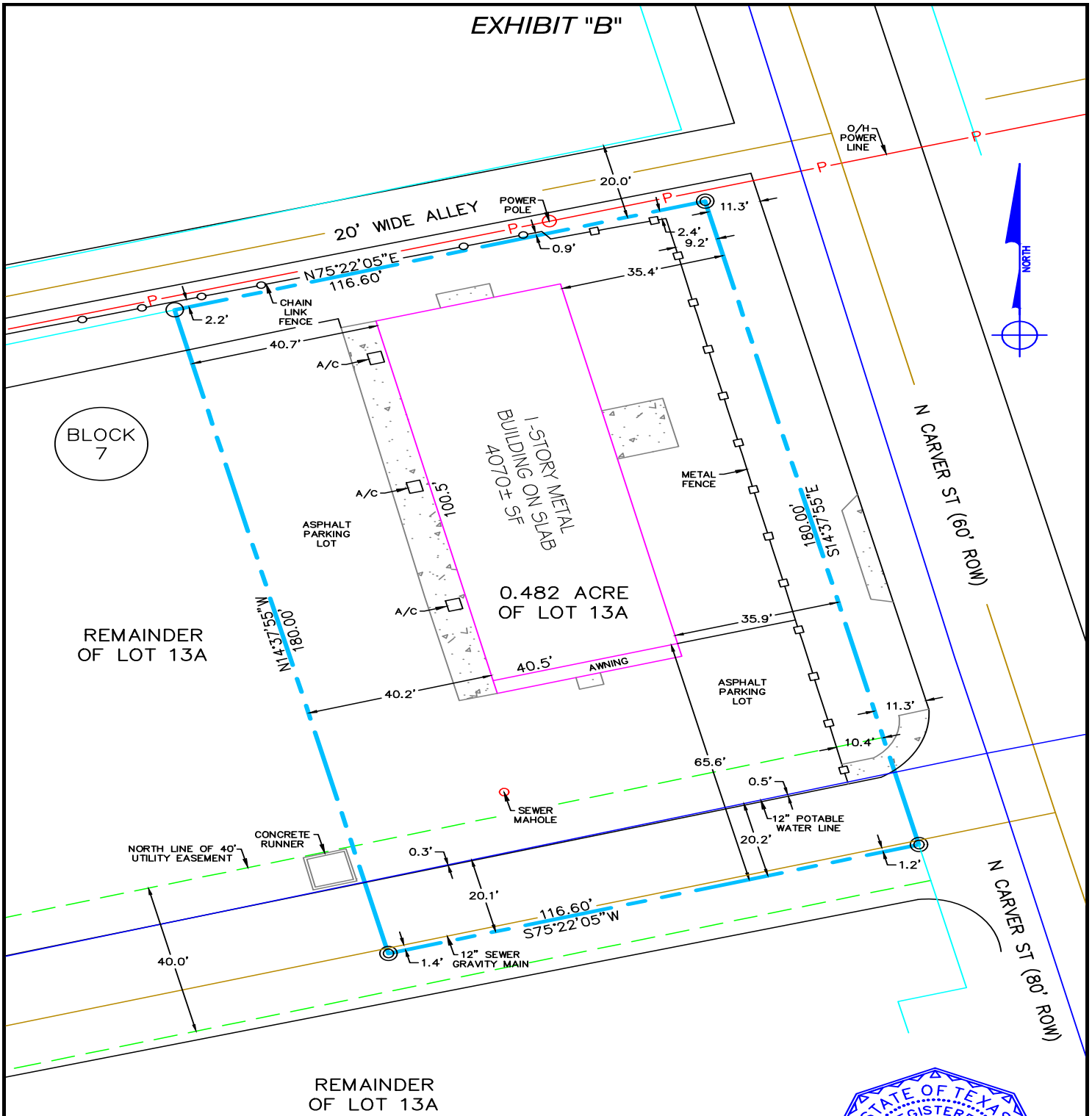
Bearing Basis: All bearings shown herein are referenced to the Texas Plane Coordinate System, North American Datum of 1983, Central Zone.

Wesley C. Hunter
Registered Professional Land Surveyor
No. 6268 – State of Texas

EXPLORER SURVEYING
37807 MAYO ST., HEMPSTEAD, TX 77445
(432) 425-4022 & (281) 305-4069 WWW.EXPSURVEY.COM
FIRM # 10194098 REGULATED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

DATE: September 21, 2020

EXHIBIT "B"



◎ = PK NAIL
○ = 1/2" IRON ROD

STATE OF TEXAS
REGISTERED
WESLEY C. HUNTER
6268
PROFESSIONAL
LAND SURVEYOR

WESLEY C. HUNTER
REGISTERED PROFESSIONAL LAND SURVEYOR
NO. 6268

I, Wesley C. Hunter, a Registered Professional Land Surveyor in the State of Texas, License Number 6268, do hereby certify this plat to represent a survey made on the ground in the Month of August, 2020 under my direction and supervision, and the corner monuments shown hereon were found in compliance with the minimum requirements of a Category 1A, Condition II Land Title Survey and in accordance with the rules and regulations of the State of Texas.

NOTES:

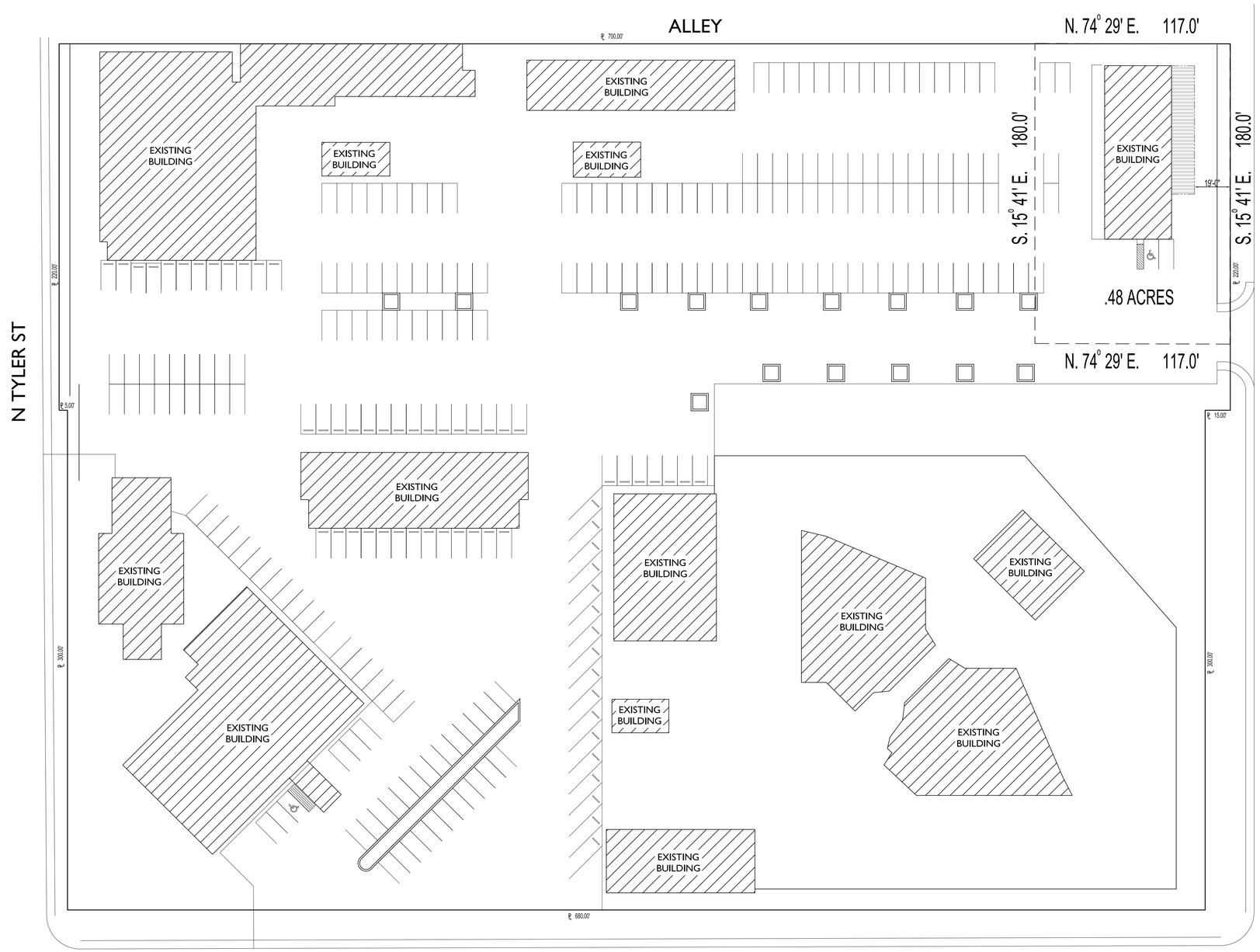
1. *ALL BEARINGS SHOWN HEREON ARE REFERENCED TO THE TEXAS PLANE COORDINATE SYSTEM, NORTH AMERICAN DATUM OF 1983, CENTRAL ZONE.*
2. *ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR MIDLAND COUNTY, TEXAS, MAP NUMBER 48329C0089F, REVISED SEPTEMBER 16, 2005, SHOWS THIS TRACT TO BE IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.*

SURVEY FOR
OUR LADY OF GUADALUPE CHURCH

BEING A 0.482 ACRE TRACT OF LAND OUT OF LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT OF RECORD IN CABINET F, PAGE 17, PLAT RECORDS, MIDLAND COUNTY, TEXAS.

EXPLORER SURVEYING
37807 MAYO ST., HEMPSTEAD, TX 77445
(432) 425-4022 & (281) 305-4069 WWW.EXPSURVEY.COM
FIRM # 10194098 REGULATED BY THE TEXAS BOARD OF PROFESSIONAL LAND SURVEYING

DRAWN BY: JE	DATE: 8/27/2020	DWG. NO.	REV.
CHECKED BY: WH	DATE: 8/31/2020	ES-GA-B7-L13A-0.482-001	2
SCALE: 1"=30'	APP.: 9/22/2020	GF#: –	



GARDEN LN

A / C-1.0 SITE PLAN
SCALE: 1/32" = 1'-0"

SEAL

PRELIMINARY - NOT FOR CONSTRUCTION

THESE DOCUMENTS ARE INTERIM REVIEW AND ARE NOT INTENDED FOR CONSTRUCTION AND/OR PERMIT PURPOSES.

OLG CHURCH
1301 GARDEN LANE
MIDLAND, TEXAS
LOT 13A, BLOCK 007
GLENDALE SEC 2

No.	Revision/Issue	Date
1	FINAL SITE PLAN	02/19/20

DESIGNERS - CONSULTANTS - INSPECTORS
DCI
DESIGNERS - CONSULTANTS - INSPECTORS
CHAD WALTERS
432-352-0788
CHAD@MIDLAND-DCI.COM
WWW.MIDLAND-DCI.COM

PROJECT NUMBER: 2020000	
DRAWN BY	CMJ
CHECKED BY	CCW

Sheet 1 OF 1

C-1.0

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MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-20-0173

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: CHAD WALTERS (MIDLAND DCI, LLC)		Phone (432) 352-0788 Email chad@midland-dci.com	
Address 407 N. BIGSPRING #204	City MIDLAND	State TX	Zip 79701

Property Owner Printed Name: BISHOP OF SAN ANGELO		Phone (432) 352-7545 Email DAVID@midlandcdc.org	
Address 1401 GARDEN LN	City MIDLAND	State TX	Zip

Representative *(if different from Applicant or Property Owner)* Firm: MIDLAND DCI, LLC Printed Name: CHAD WALTERS		Phone (432) 352-0788 Email chad@midland-dci.com	
Address 407 N. BIGSPRING #204	City MIDLAND	State TX	Zip 79701

Street Address: 1301 GARDEN LN

Legal Description
Lot: 13A Block: 7 Subdivision: GLENDALE SEC 2

Current Zoning: SF2/PD

Proposed Zone: SF2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: PROPERTY HAS 2 ZONES. WE WOULD LIKE TO DO AN ADDITION IN THE PD ZONE PART. WE ALSO WANT TO CORRECT ZONING FOR ANY FUTURE CONSTRUCTION.

Present Use of Property: CHURCH

Proposed Use of Property: CHURCH

How would this zone change affect the public health, safety and welfare? IT WILL NOT HAVE ANY ADVERSE AFFECTS

Describe how conditions affecting the property have changed since present zoning designation: STREET VACATION AND NEW PLAT, BUT CORNER BUILDING WAS LEFT PD WHILE ENTIRE REST OF PROPERTY BECAME SF2

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 1-31-2020
Applicant (printed): CHAD WALTERS	
Property Owner (signature):	Date:
Property Owner (printed) :	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear David Diaz who, being by me duly sworn, upon oath says: That (s)he is the owner of _____ or authorized by Buckley & Company, the Church owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

David Diaz
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 21st day of Jan., 2020, to certify which witness my hand and seal of office.

REBECCA MONTOUR NATIVIDAD
My Notary ID # 130165202
Expires March 24, 2023

Rebecca Montour Natividad
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

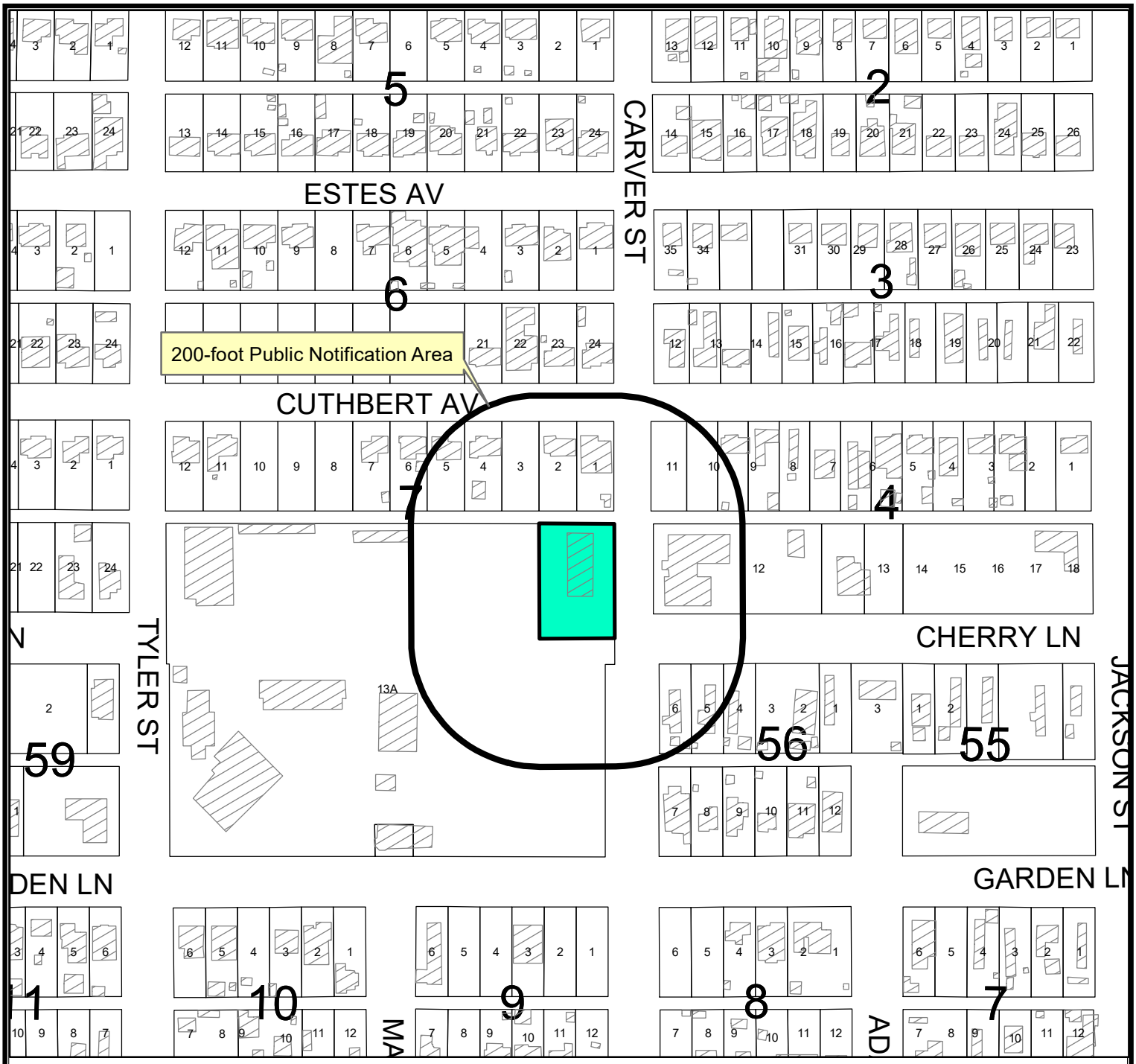
FOR OFFICE USE ONLY

- ☒ Property Owner Authorization
- ☒ Application Fee
- Check # 3811
- ☒ Dimensioned Site Plan
- ☒ Plans in Digital Format (PDF/JPEG)

RECEIVED
FEB 26 2020
BY: JM

Received By: _____ Date: _____

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

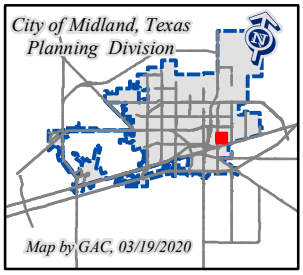
Z-20-0173 **Scale: 1" = 200'**

Consider a request by Chad Walters for a zone change from PD, Planned District for a Community Service Center to SF-2, Single-Family Dwelling District on a 0.48-acre portion out of Lot 13A, Block 7, Glendale, Section 2, City and County of Midland, Texas.

Generally located on the west side of North Carver Street, approximately 180-feet south of East Cuthbert Avenue. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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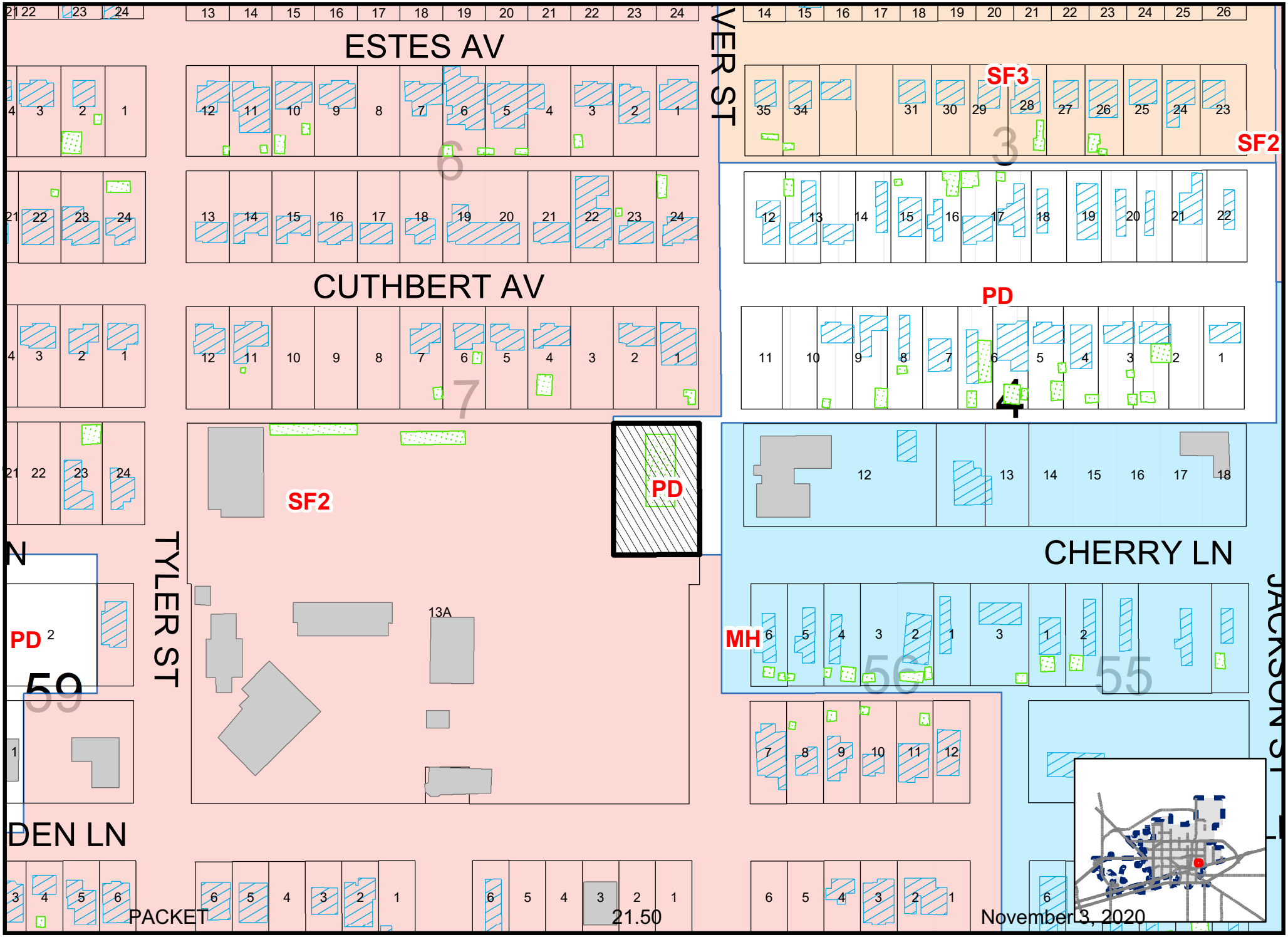

Map By GAC, 03/19/2020

Z-20-0173

Scale: 1" = 200'

ZONING MAP

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pr

ORDINANCE NO. 6674

AN ORDINANCE AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING THE PROPERTY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED "1F-2", ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A "PLANNED DISTRICT" FOR A COMMUNITY SERVICE CENTER; PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; PROVIDING THAT THE PROPERTY SHALL BE IMPROVED ACCORDING TO THE SITE PLAN, ORDINANCES AND OTHER SPECIFICATIONS SET OUT AND REFERRED TO HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF ONE THOUSAND DOLLARS ($1,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of "Planned Districts" under the zoning ordinance regulations and zoning map have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of the "Planned District" set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter One, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned "1F-2", One-Family Dwelling District, and it shall be used as a "Planned District" for a Community Service Center, subject to the special conditions and restrictions hereinafter set out.

Said property is described as follows:

Lots 23 and 24, Block 7, Glendale Addition to the City of Midland, Midland County, Texas.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

1. That development of the property shall conform to the regulations applicable to a "1F-2", One-Family Dwelling District, and alternatively it may be used as a Community Service Center, with such use limited to a preparation, sale and distribution center for used clothing and household goods and food, and associated office space operated by a philanthropic organization associated with a church.

2. That the development of the property shall conform to all regulations applicable to a "1F-2", One-Family Dwelling District in all respects, except as otherwise indicated by the site plan marked Exhibit "A", attached hereto and made a part hereof for all legal purposes.

3. That development of the property for a Community Service Center shall conform to said Exhibit "A" in all respects and to the following conditions.

a. Operation of the facility shall be contingent upon its continued operation in connection with a church on Lots 13-22, Block 7, and all of Blocks 57 and 58, Glenwood Addition.

b. That the applicant shall obtain a Certificate of Occupancy to assure compliance with these conditions prior to initiating this use.

SECTION THREE. That definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions on-

tained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding one thousand dollars ($1,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 24th day of June, A.D., 1986; and passed to second reading on motion of Council member Corrales, seconded by Council member Godfrey, by the following vote:

Council members voting "AYE": Corrales, Godfrey, Fish, Rendall, Heck and Marcum

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Corrales, seconded by Council member Marcum, on the 8th day of July, A.D., 1986, at a regular meeting of the City Council:

Council members voting "AYE": Corrales, Marcum, Fish, Heck, Godfrey and Rendall

Council members "ABSTAINING": Thomas

Council members voting "NAY": None

PASSED AND APPROVED THIS 8th day of July, A.D., 1986.

Katie Heck

Carroll M. Thomas, Mayor

ATTEST:

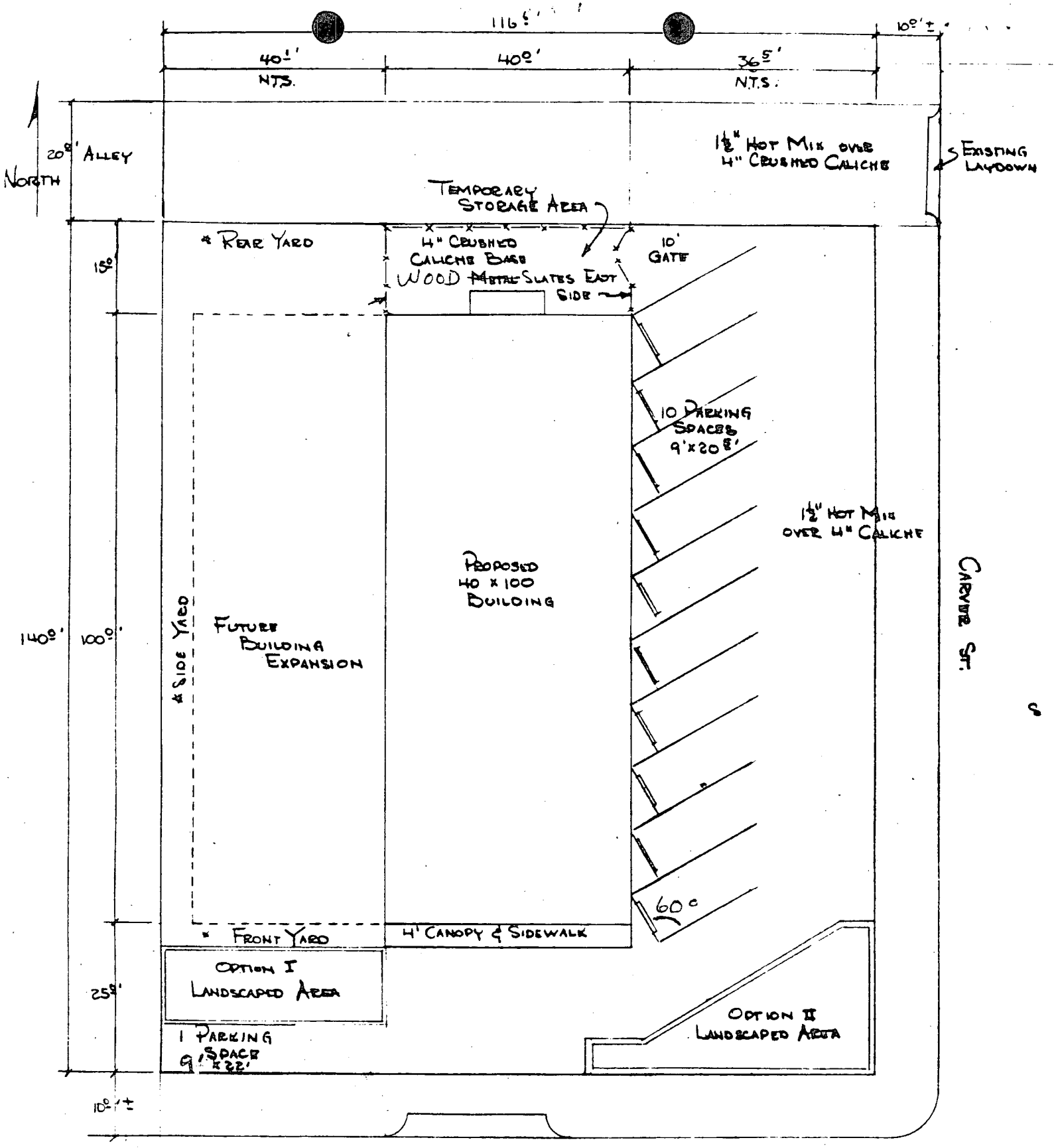
B. C. Clanton

B. C. Clanton, City Secretary

APPROVED AS TO FORM:

David W. Reagan

David W. Reagan, City Attorney



* SET BACK ACCORDING TO ZONING CODE REQUIRED BY IF-2

CHERRY LANE

- PLOT PLAN -

1" = 20'-0"

RECEIVED

JUN 17 1986

PLANNING & DEVELOPMENT
CITY OF MIDLAND

SITE PLAN

OPTION III LANDSCAPING —

COMBINATION OF OPTIONS I & II

Carver

2214
MIDLAND
FIRE LANE

City Council Meeting

Item Number: 22

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Glenda Arroyo-Cruz, Planner

Subject: **AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,241-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)**

Purpose:

The applicant, The Rig Tacos & Sliders, Inc, is requesting a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption, in a restaurant at 5701 Starboard Drive, Suite #1.

Recommended City Council Action:

Approve

Fiscal Impact:

This request has no significant impact on the City's Budget.

Discussion:

Surrounding Zoning and Land Use:

The property to the north is zoned PD, Planned Development District for a Housing Development and O-2, Office District and the location of an apartment complex and a hotel, respectively. The property to the east is zoned PD, Planned Development District for a Shopping Center, and the location of a movie theater. The property to the south and across Business Interstate-20 is located outside city limits and the location of industrial businesses. The property to the west is zoned PD, Planned Development District for a Shopping Center and the location of a motor sports store.

Analysis:

Marc Shipton, a representative for The Rig Tacos & Sliders, Inc., is requesting approval of a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption, in a restaurant at 5701 Starboard Drive, Suite #1. The property is zoned RR, Regional Retail District, which allows the sale of alcoholic beverages, for on premises consumption, in a restaurant with the approval of a Specific Use Designation.

The property previously functioned as Café Nitro, which was regulated by Ordinance No.9649. The location of the proposed restaurant is located within a retail center and there are currently two other Specific Use Designations for a bar, Woody's Hideaway, and for a restaurant, Toro's Cafe.

The floor plan attached here to as Exhibit A, illustrates a dining area of 1875 square feet. There is also an outside dining area of approximately 360 square feet. A total of 1,300 square feet is being dedicated for the sale and on premises consumption of alcoholic beverages.

The proposed hours of operations for the restaurant are as followed:

Sunday through Saturday from 11:00 a.m. to 11:00 p.m.

The applicant is requesting the following hours for alcohol service as the following:

Sunday through Saturday from 11:00 a.m. to 11:00 p.m.

Per Midland City Code 5.4.4. –Prohibited place of business

> *The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.*

There are no churches, private schools, public schools, public school grounds, athletic stadium, public hospital within 300 feet measurement along the property lines of the street fronts, and

from the front door in a direct line across intersection where they occur within this site.

This proposed project has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Building: (Approved)

The SUD for The Rig Tacos is acceptable provided that no major changes have taken place including increased sizing of the dining/seating area or increases to the building footprint. The property must adhere to the current maximum occupant load of 27 which was submitted in the documents provided. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Engineering: (Approved)

No objection.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Fire: (Approved)

No objection.

Planning:

This request was recommend for approval at the October 5, 2020 Planning and Zoning meeting. The City Council approved this request at their October 20, 2020 meeting.

This request meets all requirements; therefore, staff recommends approval of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, subject to Conditions A through F.

Conditions:

A. **That the serviceable area of the restaurant shall be limited to approximately 1,300 square feet as shown in Exhibits "A", which is attached hereto and incorporated herein for all purposes.**

B. That the days and hours of alcoholic beverages sales and consumption shall be limited to:

Sunday through Saturday, from 11:00 a.m. to 11:00 p.m.

C. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

D. That the establishment shall meet all requirements of the Fire Department and Code Administration.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

F. That in accordance with Section 9.07.E. 3 of the City Code, the establishment shall receive a certificate of occupancy within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of October 14, 2020, staff has not received any letters of objection.

Attachments:

Floor Plan (Exhibit A)
Site Plan
Application
Maps
Ordinance No. 9649

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,241-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1, GATEWAY PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 2,241-square foot portion of Lot 5A, Block 1, Gateway Plaza, Section 12, City and County of Midland, Texas (the "Property") as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant (the "Establishment"), together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and

restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 1,300 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Sunday through Saturday from 11:00 a.m. to 11:00 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the

descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

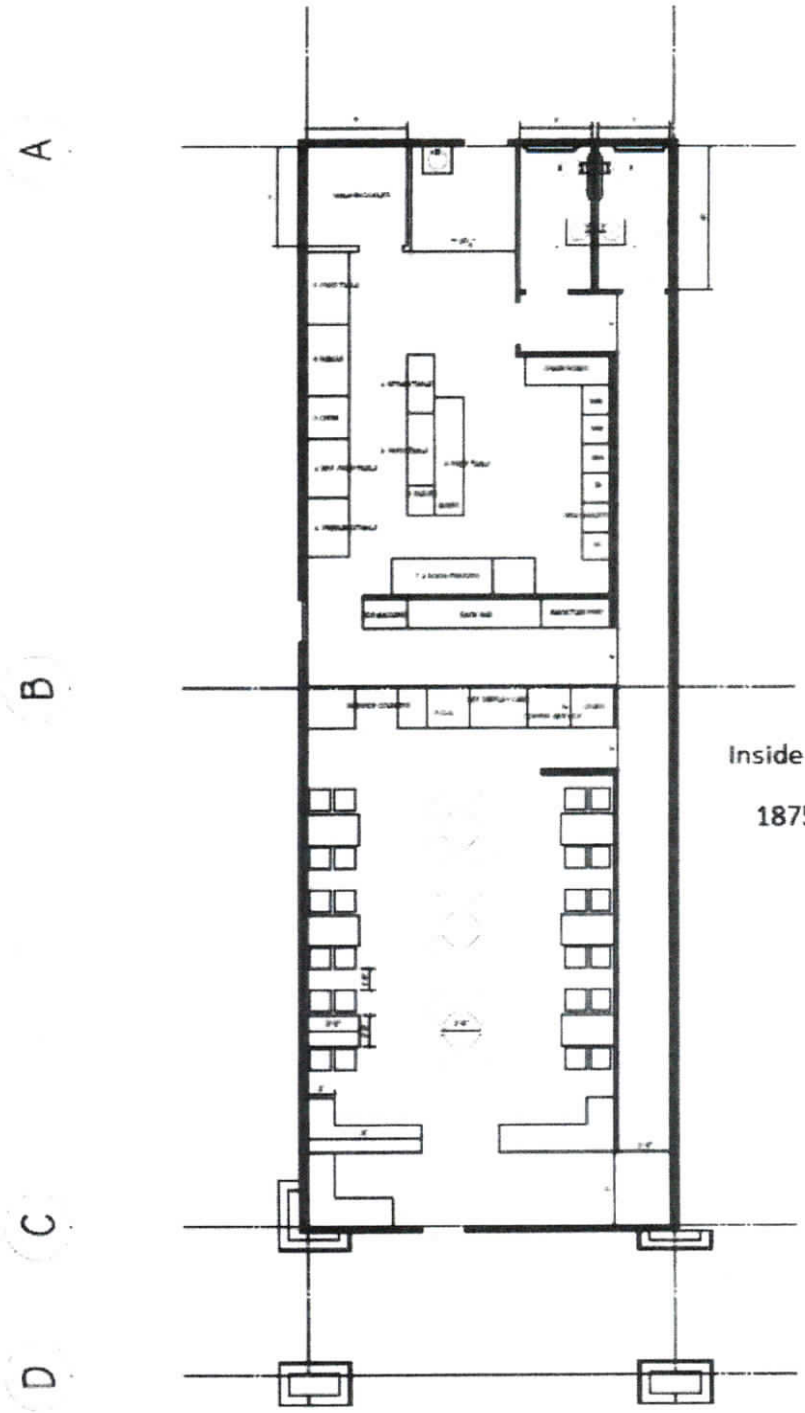
_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

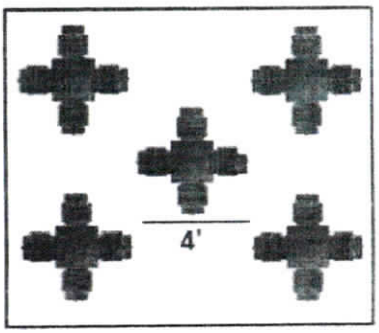
_____
John Ohnemiller, City Attorney



AUG 0 3 2020

Inside Capacity 27

1875 Sq Ft

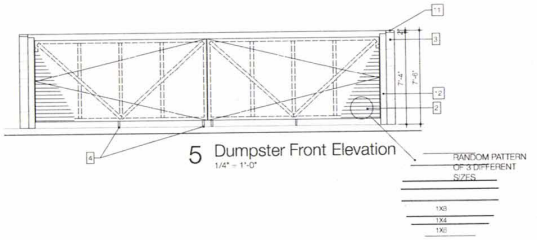


19'

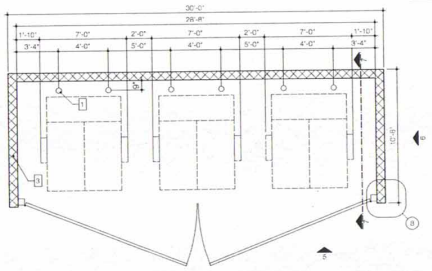
Seats 20

19'3

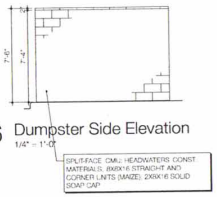
Cafe Nitro



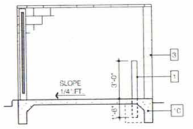
5 Dumpster Front Elevation
1/4" = 1'-0"



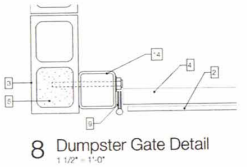
4 Dumpster Enclosure Plan
1/4" = 1'-0"



6 Dumpster Side Elevation
1/4" = 1'-0"



7 Dumpster Area Section
1/4" = 1'-0"



8 Dumpster Gate Detail
1 1/2" = 1'-0"

3 HC Parking Signage (Pole Mtd.)
No Scale

2 HC Parking Signage (Wall Mtd.)
No Scale

Key Notes

1. BOLLARD; 5" DIA. 1/4" STEEL PIPE
2. STAINED PT. PINE; PICKETS MOUNTED TO STEEL FRAME
3. 8" SPLIT-FACED CMU BLOCK WALL
4. STEEL FRAME
5. FILL CELL WITH CONC.
6. TRASH ENCLOSURE
7. LIGHT POLE; REF. MEP & CIVIL DRAWINGS
8. CONCRETE PAVING; SEE A04 AND CIVIL PLANS
9. HINGE
10. CONC. FNDN.; REF. STRUCT.
11. 2" CMU CAP
12. STEEL TUBE MOUNTED TO CMU WALL; REF. STRUCT.
13. 4" PAINTED STRIPES, TYP.
14. 6x6x0.375 STEEL TUBE, SECURE W/ 5 - 3/4" EXPANSION BOLTS

SEIDEL + ASSOCIATES, INC.
ARCHITECTURE INTERIORS PLANNING
427 Gerald Ave. San Antonio, Tx. 78212-2919
210.733.9000 seidel-inc.com

O'Haver CONTRACTORS
12631 Ch Donner Road San Antonio, TX 78233
(210) 590-2589 ph (210) 798-3187 fx

Don Seidel Jr. #12995
Jan 14, 2014

BID SET 2.14.14

Code Summary

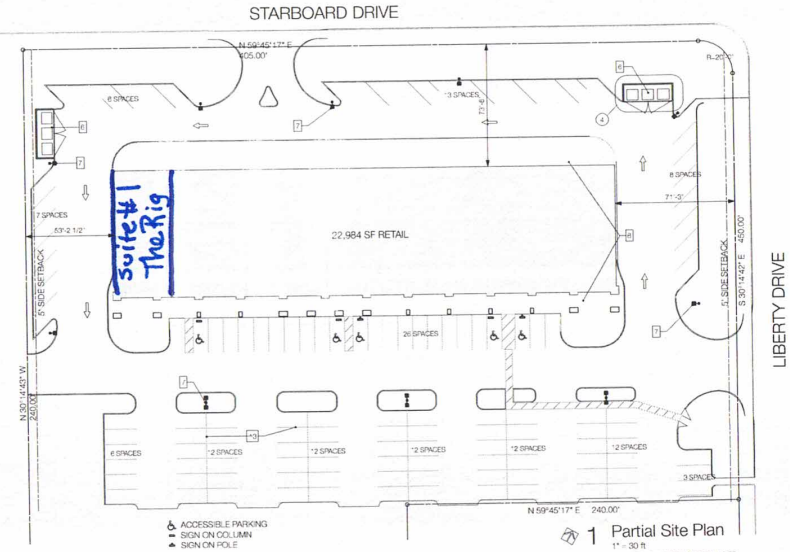
2009 IBC
2009 IECC
2009 IPC
2009 IMC
2011 NEC

ZONED: LR-3
BUILDING TYPE IIB, SPRINKLED

GROSS BLDG AREA (GROUND LEVEL): 22,984 SF
MIXED OCCUPANCY (A/B/M)
FIRE AREA: 27,600 SF

GROSS SERVICE AREA (ROOF LEVEL): 1312 SF
(UNOCCUPIED)

PARKING REQUIRED: 115 (1:200)
PARKING PROVIDED: 129



1 Partial Site Plan
1" = 30 ft
REFER TO CIVIL PLANS FOR FULL SITE BOUNDARY, SITE LAYOUT AND ADDITIONAL INFO.

GATEWAY PLAZA RETAIL CENTER

5701 Starboard Drive
Midland, TX 79706

ARCHITECTURAL SITE PLAN

The record copy of this drawing is on file at the offices of Seidel + Associates, Inc. 427 Gerald Blvd. San Antonio, Tx 78209-2919. ©2014 Seidel + Associates, Inc. The designs and concepts shown on this sheet property of Seidel + Associates, Inc. and may not be used or reproduced without permission.

Construction documents are not intended to be a complete set of instructions on how to construct the project. It is the responsibility of the General Contractor to coordinate the project documents. Notify the Architect in writing of any discrepancies, or proceed with the more economical, more expensive option without additional charge.

Project No. 2013.33
Date Feb. 14, 2014

A01

Fri, Feb 14, 2014
11:47:54 AM

emailed 7/24/2020

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUP-20-0082

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: The Rig Tacos & Sliders, Inc.		Phone (432) 704-5545 Email therigg@gmail.com	
Address 5701 Starboard Dr. Ste #1	City Midland	State TX	Zip 79706
Property Owner Printed Name: Crimson Sky Capital LLC TD		Phone (806) 794-1492 Email	
Address 6306 Iola Avenue	City Lubbock	State TX	Zip 79424
Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name: Marc Shipton,		Phone (806) 794-1492 Email pshipton@cmspropertiesinc.com	
Address 6306 Iola Avenue	City Lubbock	State TX	Zip 79424

Street Address: 5701 Starboard Dr. Ste #1 Midland, Tx 79706

Business Name: The Rig Tacos & Sliders, Inc.

Legal Description
Lot: Block: Subdivision: Gateway Plaza

Current Zoning: Commercial/Retail

Reason for Request: Opening new restaurant

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: Restaurant

Proposed/Current Days and Hours of Operation: Sun-Sat 11am-11pm

Proposed Days and Hours of Alcohol Service: Sun-Sat 11am-11pm

Total Square Footage of Business: 1933

Square Footage of Alcohol Serviceable Area: 1300

Restroom Fixtures:	Men	**Toilets/Urinals:** 1 1 0	**Bathroom Sinks:** 1
	Women	**Toilets:** 1	**Bathroom Sinks:** 1

RECEIVED
AUG 03 2020
BY: .....

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- √ Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- √ Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- √ Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature):	Date: 5/26/2020
Applicant (printed): Branson Sherman	
Property Owner (signature): Crimson Sky Capital, LTD by Marc Shipt General Partner	Date: 5/26/20
Property Owner (printed): Crimson Sky Capital, LTD by Marc Shipton, General Partner	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Branson Sherman who, being by me duly sworn, upon oath says: That (s)he is authorized by Crimson Sky Capital LTD, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 26th day of May, 2020, to certify which witness my hand and seal of office.

SHERRY COLLINS
ID #1490826
My Commission Expires
January 25, 2023

Sherry Collins

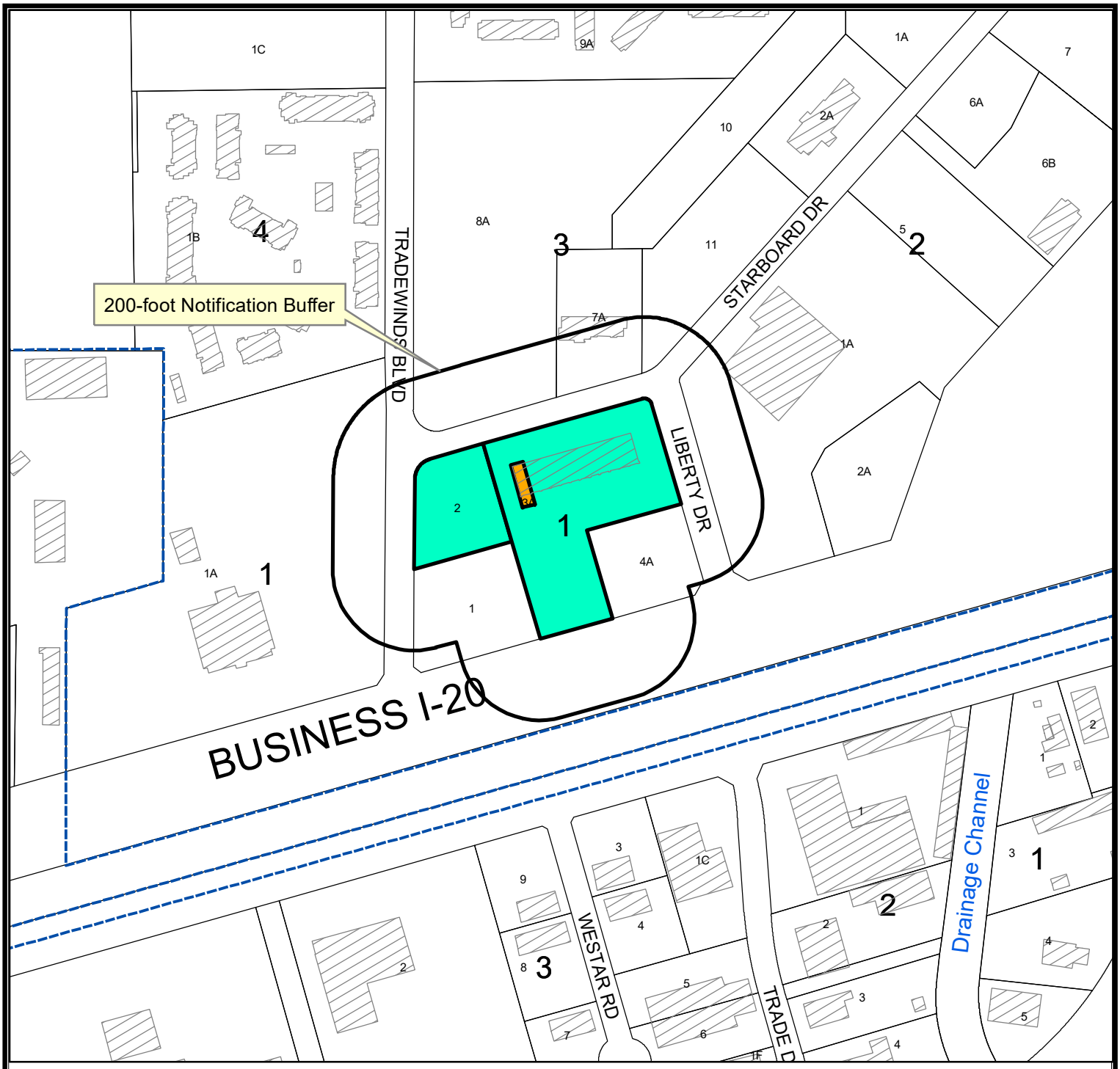
NOTARY PUBLIC, ~~MIDLAND~~ Lubbock COUNTY, TEXAS

RECEIVED
AUG 03 2020

****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY	
☑ Property Owner Authorization	☑ Dimensioned Floor Plan
☑ Application Fee	☑ Site Plan
Check # 1227	☐ Plans in Digital Format (PDF/JPEG)
Received By: gac	Date: AUG 0 3 2020

**Application will not be considered for scheduling until reviewed by staff.



LOCATION MAP

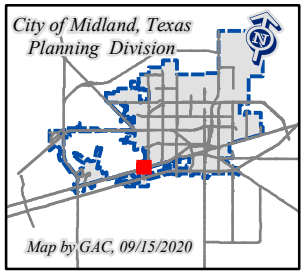
SUD-20-0082 **Scale: 1" = 250'**

Consider a request by The Rig Tacos & Sliders, Inc. for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption in a restaurant on a 2,241 square foot portion of Lot 5A, Block 1, Gateway Plaza, Section 12, City and County of Midland, Texas.

Generally located on the southwest corner of the intersection of Starboard Drive and Liberty Drive. (Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS
- SUD LOCATION



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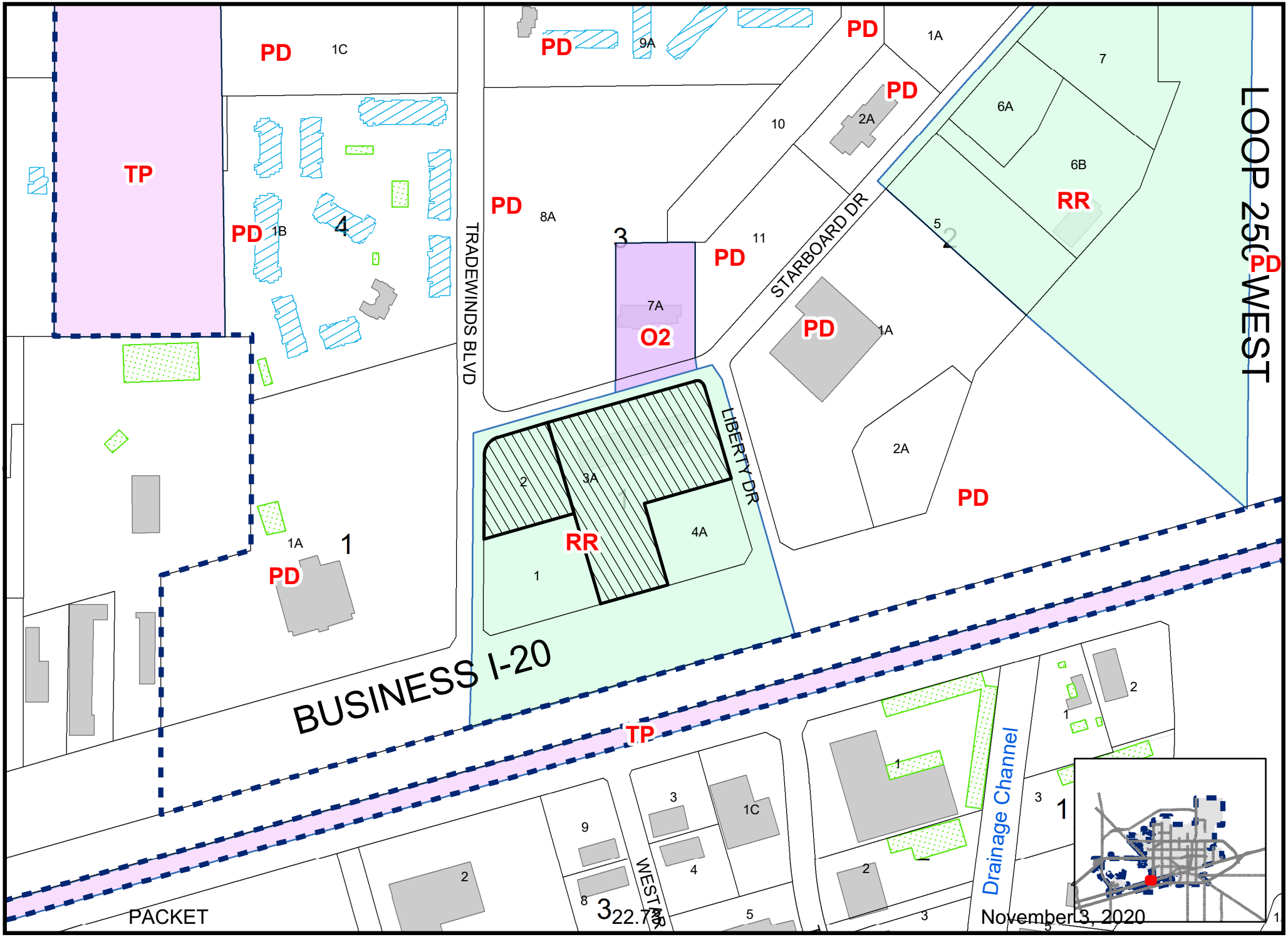
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



Map By GAC, 09/10/2020

SUD-20-0082

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2020: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

ORDINANCE NO. 9649

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,241-SQUARE FOOT PORTION OF LOT 3A, BLOCK 1, GATEWAY PLAZA, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by the granting of a Specific Use Permit With Term, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned LR-3, Local Retail District, to-wit:

> A 2,241-square foot portion of Lot 3A, Block 1, Gateway Plaza, Section 9, City and County of Midland, Texas;

is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant, together

Attachments:

Floor Plan (Exhibit A)
Application
Maps

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,241-SQUARE FOOT PORTION OF LOT 3A, BLOCK 1, GATEWAY PLAZA, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

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is hereby changed to permit said property to be used under a Specific Use Permit With Term for the sale of all alcoholic beverages for on-premises consumption in a restaurant, together

with the uses permitted in the present LR-3, Local Retail District.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

A. That the restaurant, including the patio area, shall not exceed 2,241 square feet in area as shown in Exhibit "A", which is attached hereto and incorporated herein.

B. That the enclosed patio shown in Exhibit "A" shall have an exit-only gate that swings out and is equipped with panic hardware.

C. That the occupancy of the restaurant shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

D. That the restaurant shall meet all requirements of the Fire Department and the Code Administration Division.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

F. That the days and hours of alcoholic beverage sales and consumption shall be limited to Sunday through Saturday from 10:00 a.m. to 10:00 p.m.

G. That not less than 60 percent of the monetary sales for any month for the restaurant shall be for food and nonalcoholic beverages.

H. That Ordinance No. 9615 is hereby repealed.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2017; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2017, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2017.

_____
Jerry F. Morales, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Frank Salvato, Assistant City Manager

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

MIDLAND
Planning Division

Specific Use Permit with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUP-17-0064

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Branson Sherman		Phone ( ) Email	
Address 2000 E 42nd St C314	City Odessa	State TX	Zip 79762

Property Owner Printed Name: Bobby Hill		Phone (432) 557-4063 Email	
Address 5701 Starboard dr ste 1	City Midland	State TX	Zip 79706

Representative *(if different from Applicant or Property Owner)* Firm: Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address: 5701 Starboard dr ste 1 Midland tx 79706

Business Name: Cafe Nitro Cold Brew and Eatery

Legal Description
Lot: Block: Subdivision: Gateway Plaza

Current Zoning: Commercial / Retail

Reason for Request: Extending alcohol to patio and changing serving time an hour earlier.

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: Coffee Shop and Cafe

Proposed/Current Days and Hours of Operation: Monday - Friday 6:30am-9pm
Saturday - Sunday 8am-9pm

Proposed Days and Hours of Alcohol Service: Monday - Sunday 10am - 10pm

Total Square Footage of Business: 1933

Square Footage of Alcohol Serviceable Area:

Restroom Fixtures:	*Men*	**Toilets/Urinals:**	10	**Bathroom Sinks:**	1
	Women	**Toilets:**	1	**Bathroom Sinks:**	1

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature):	Date: 1/27/17
Applicant (printed): Branson Sherman	
Property Owner (signature):	Date: 1/27/17
Property Owner (printed): Bobby Hill	

The Specific Use Permit with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Branson Sherman who, being by me duly sworn, upon oath says: That (s)he is authorized by Bobby Hill, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 27 day of January, 20 17, to certify which witness my hand and seal of office.

BELINDA TORRES
Notary ID 12690089-8
My Commission Expires
May 15, 2017

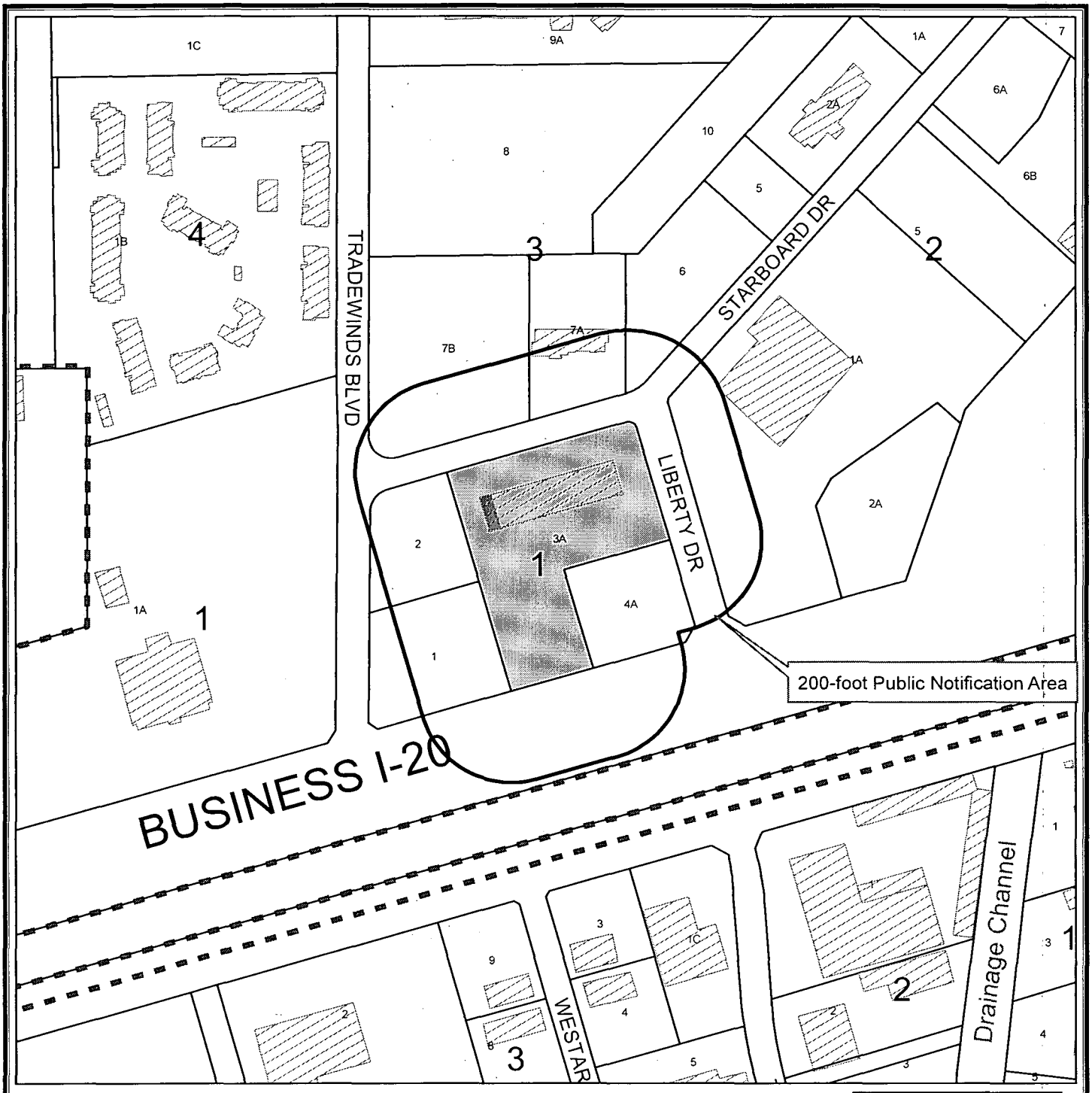
Belinda Torres

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY	
☐ Property Owner Authorization	☑ Dimensioned Floor Plan
☑ Application Fee	☑ Site Plan
Check # 1092	☑ Plans in Digital Format (PDF/JPEG)
Received By: Aida Ochoa	Date: Jan 27

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

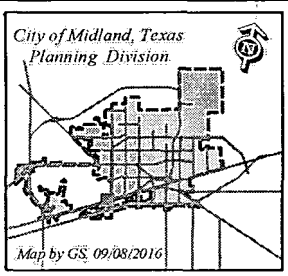
SUP-17-0064 **Scale: 1" = 300'**

Consider a request for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 3A, Block 1, Gateway Plaza, Section 9, City and County of Midland, Texas.

Generally located southwest of the intersection of Starboard Drive and Liberty Drive. (Council District 4)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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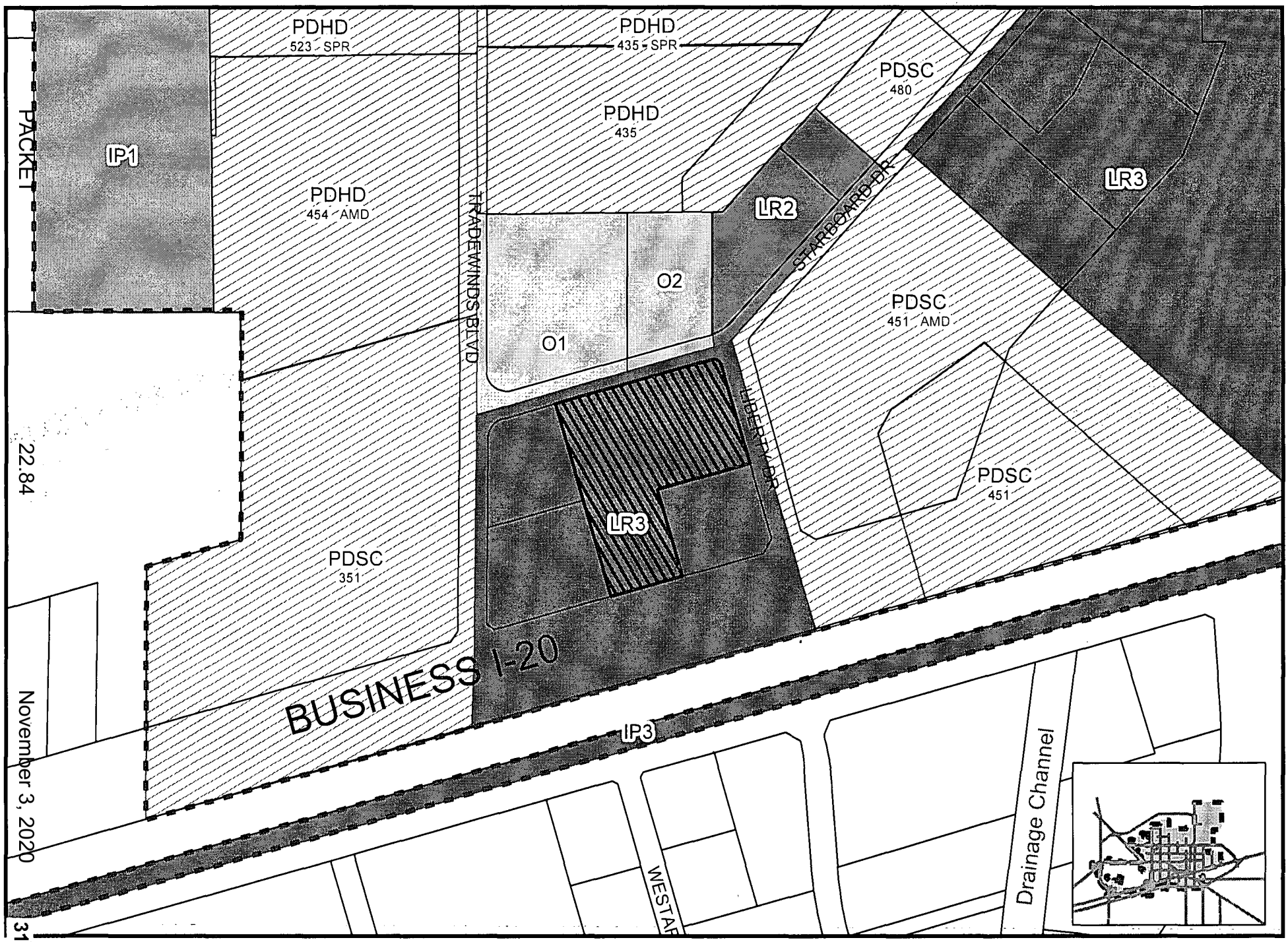

31.15

tp By GS, 09/08/2016

SUP-17-0064

Scale: 1" = 300'

ZONING MAP

© CITY OF MIDLAND - 2016: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLEY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

with the uses permitted in the present LR-3, Local Retail District.

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B. That the enclosed patio shown in Exhibit "A" shall have an exit-only gate that swings out and is equipped with panic hardware.

C. That the occupancy of the restaurant shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

D. That the restaurant shall meet all requirements of the Fire Department and the Code Administration Division.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

F. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Sunday from 11:00 a.m. to 10:00 p.m.; and
Monday through Saturday from 10:00 a.m. to 10:00 p.m.

G. That not less than 60 percent of the monetary sales for any month for the restaurant shall be for food and nonalcoholic beverages.

H. That Ordinance No. 9615 is hereby repealed.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

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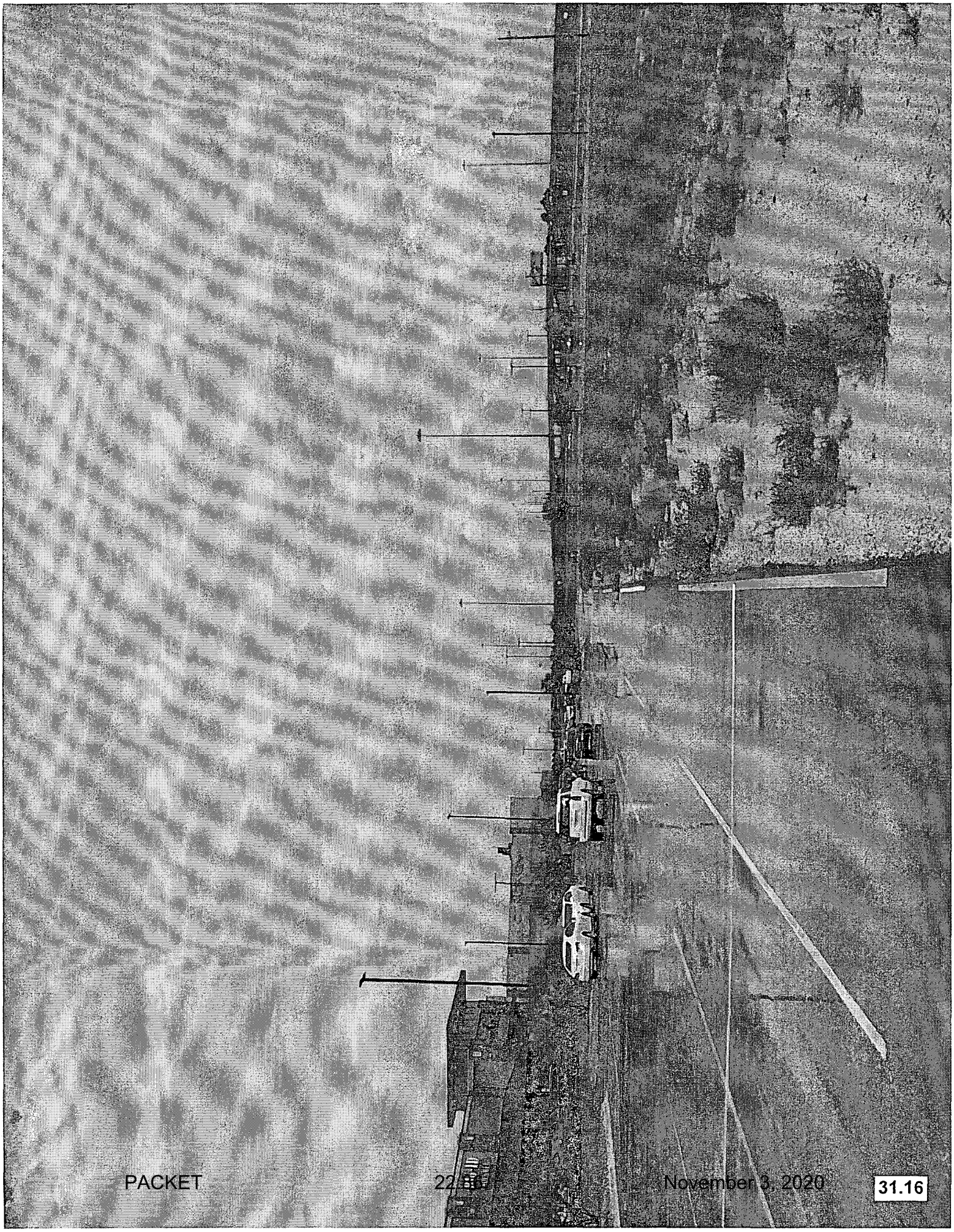

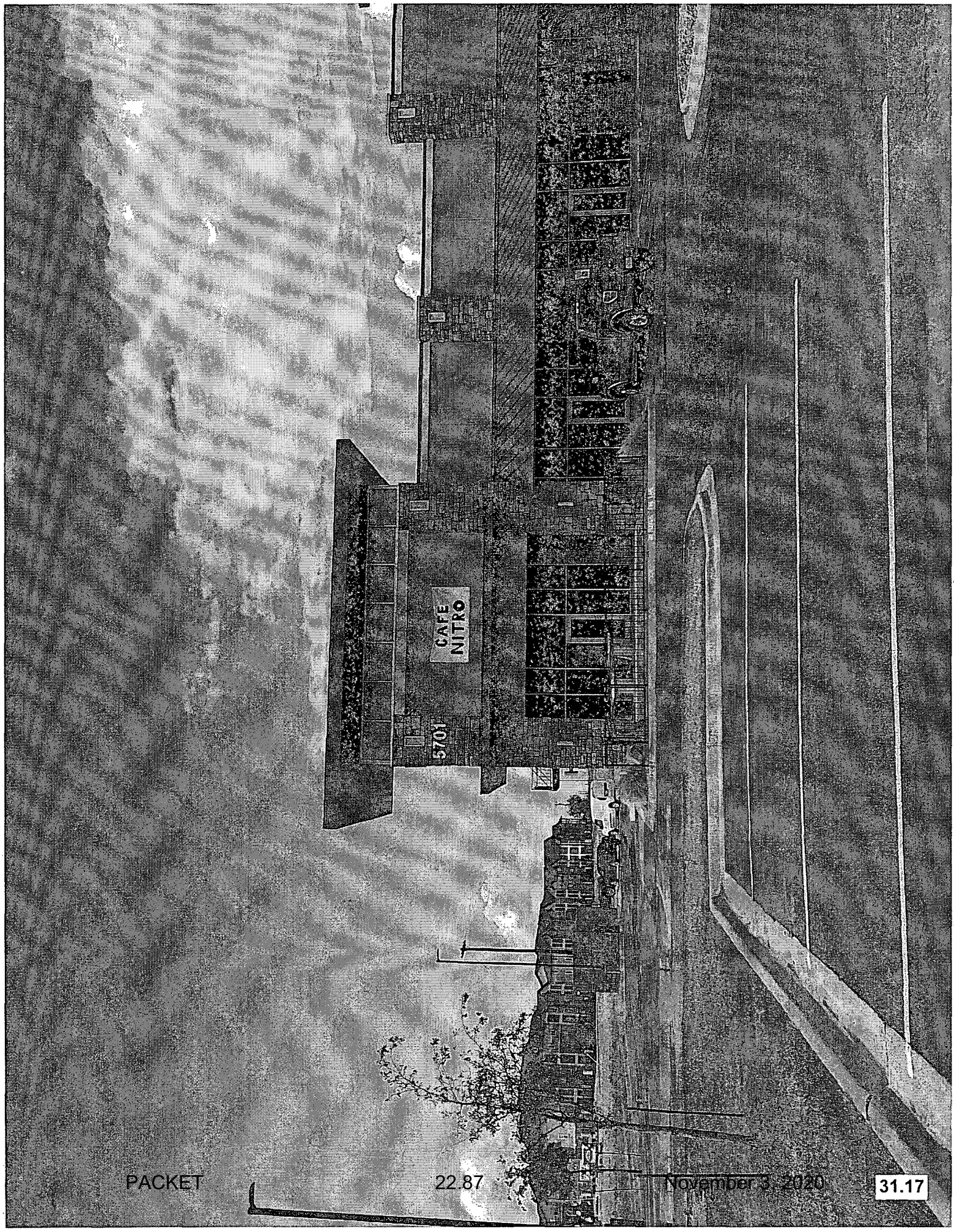
CAFE
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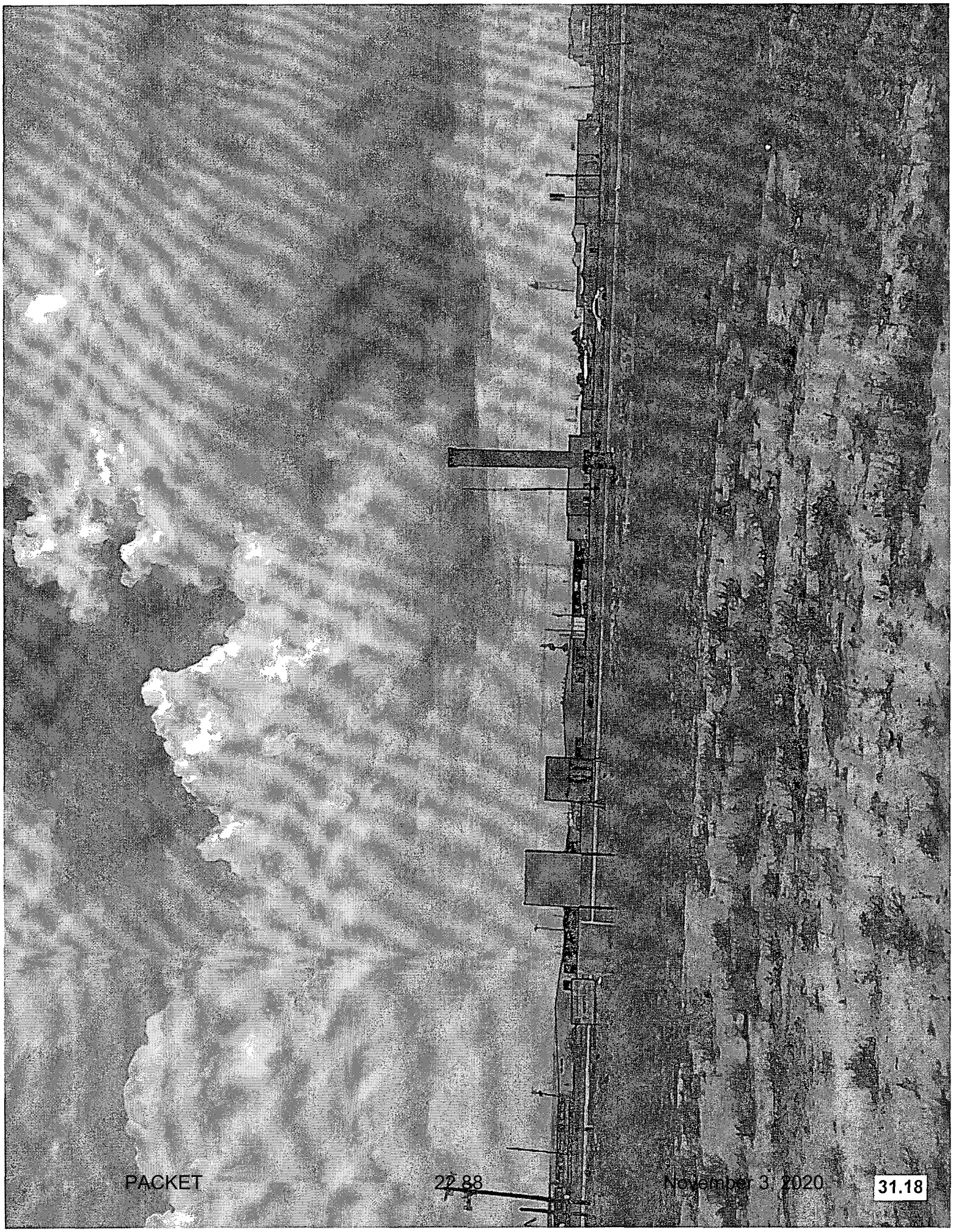
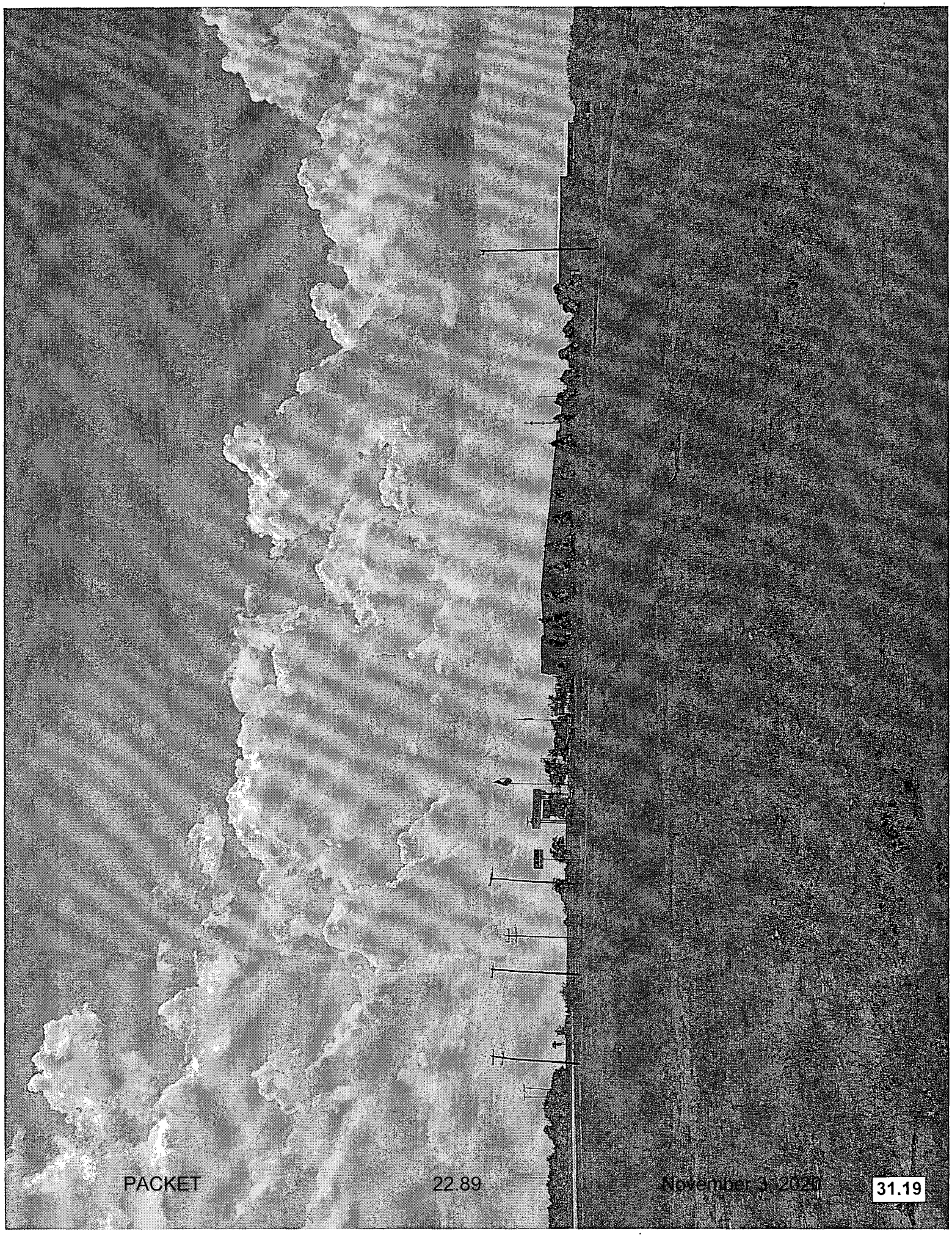
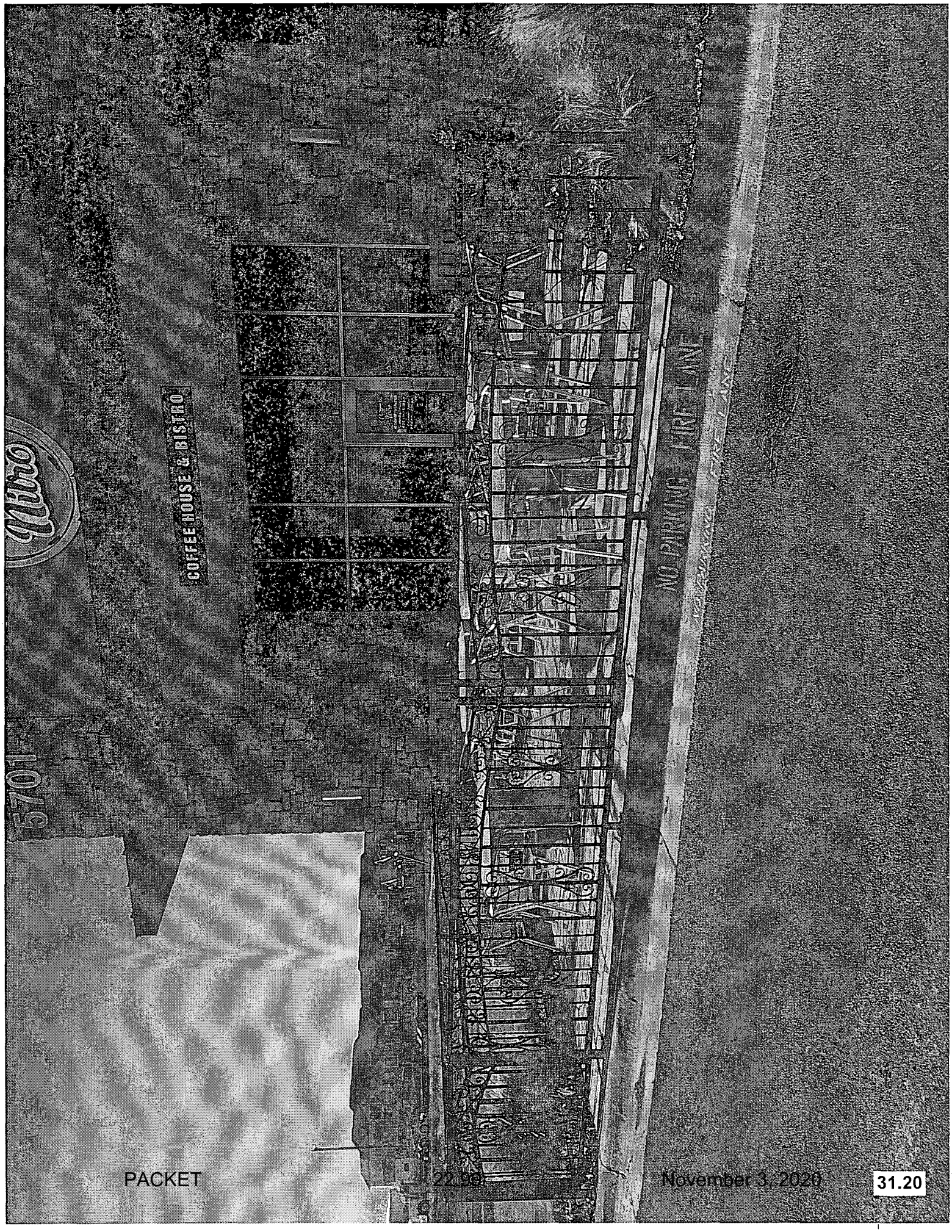
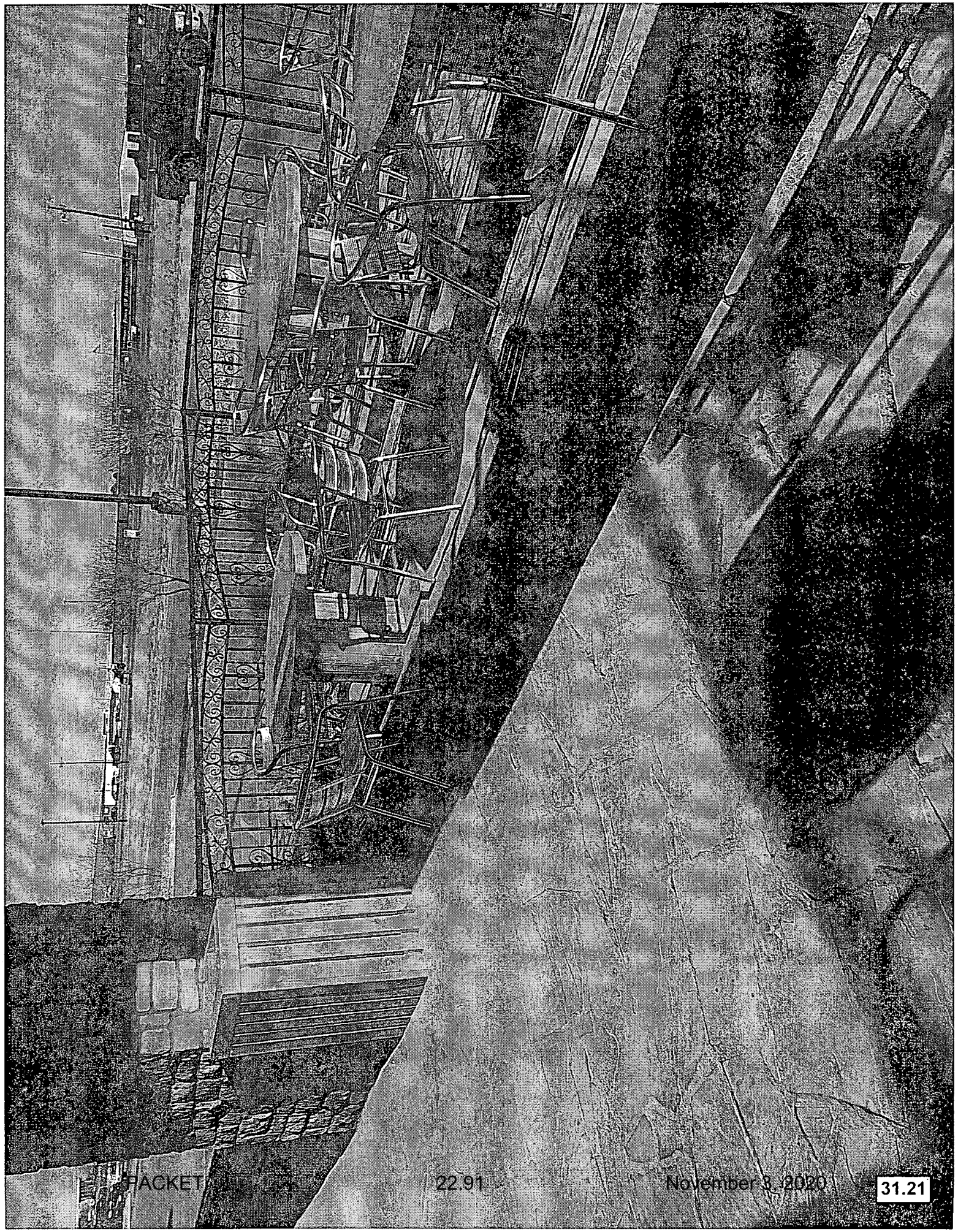
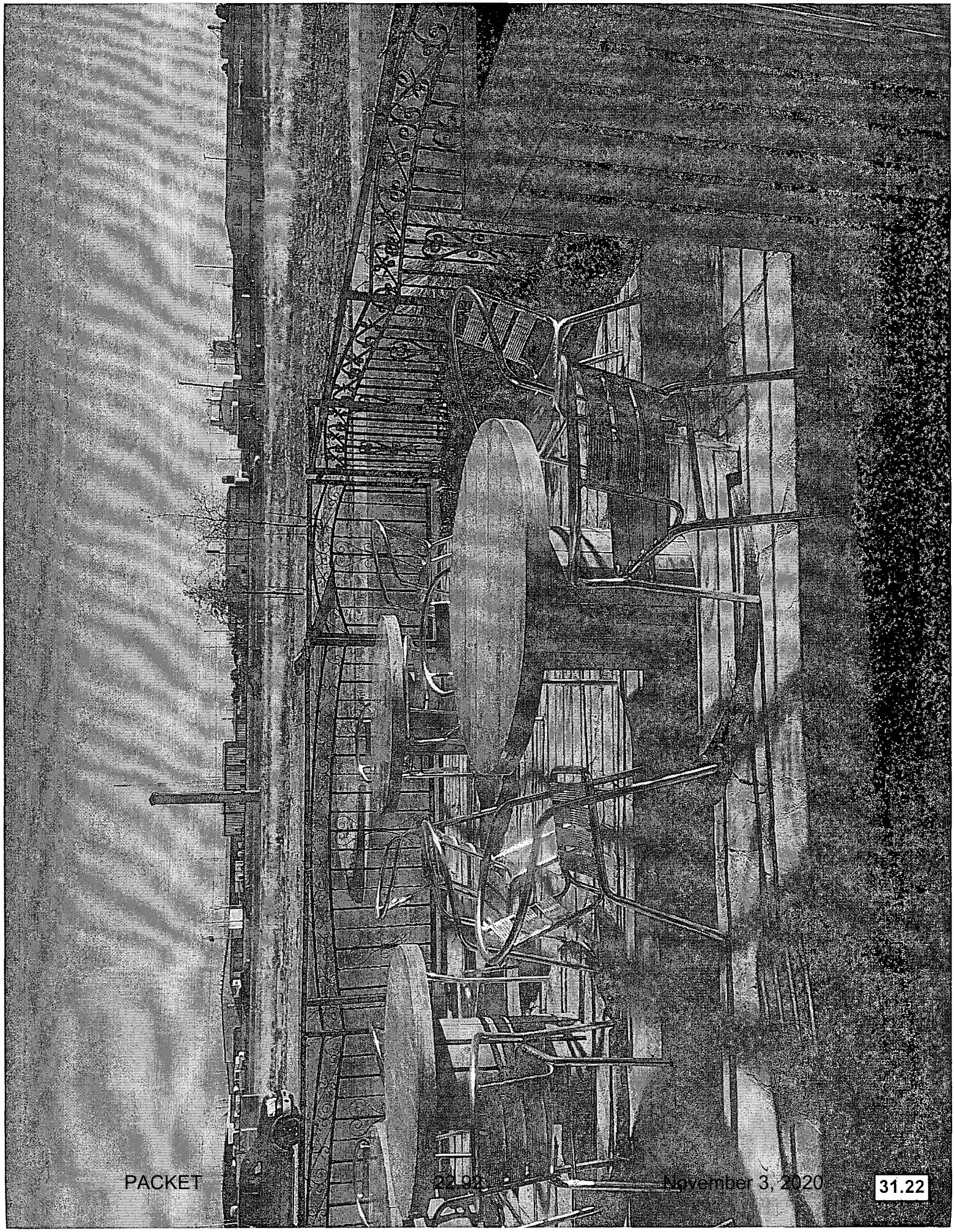
570






COFFEE HOUSE & BISTRO
NO PARKING FIRE LANE





sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 28th day of March, A.D., 2017; and passed to second reading on motion of Council member Love, seconded by Council member Dufford, by the following vote:

Council members voting "AYE": Hotchkiss, Love, Morales, Dufford, Robnett

Council members voting "NAY": Sparks, Lacy

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Love, seconded by Council member Hotchkiss, on the 11th day of April, A.D., 2017, at a regular meeting of the City Council:

Council members voting "AYE": Hotchkiss, Love, Sparks, Morales, Dufford, Lacy

Council members voting "NAY": Robnett

PASSED AND APPROVED THIS 11th day of April, A.D., 2017.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Frank Salvato, Assistant City Manager

Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohnemiller, City Attorney

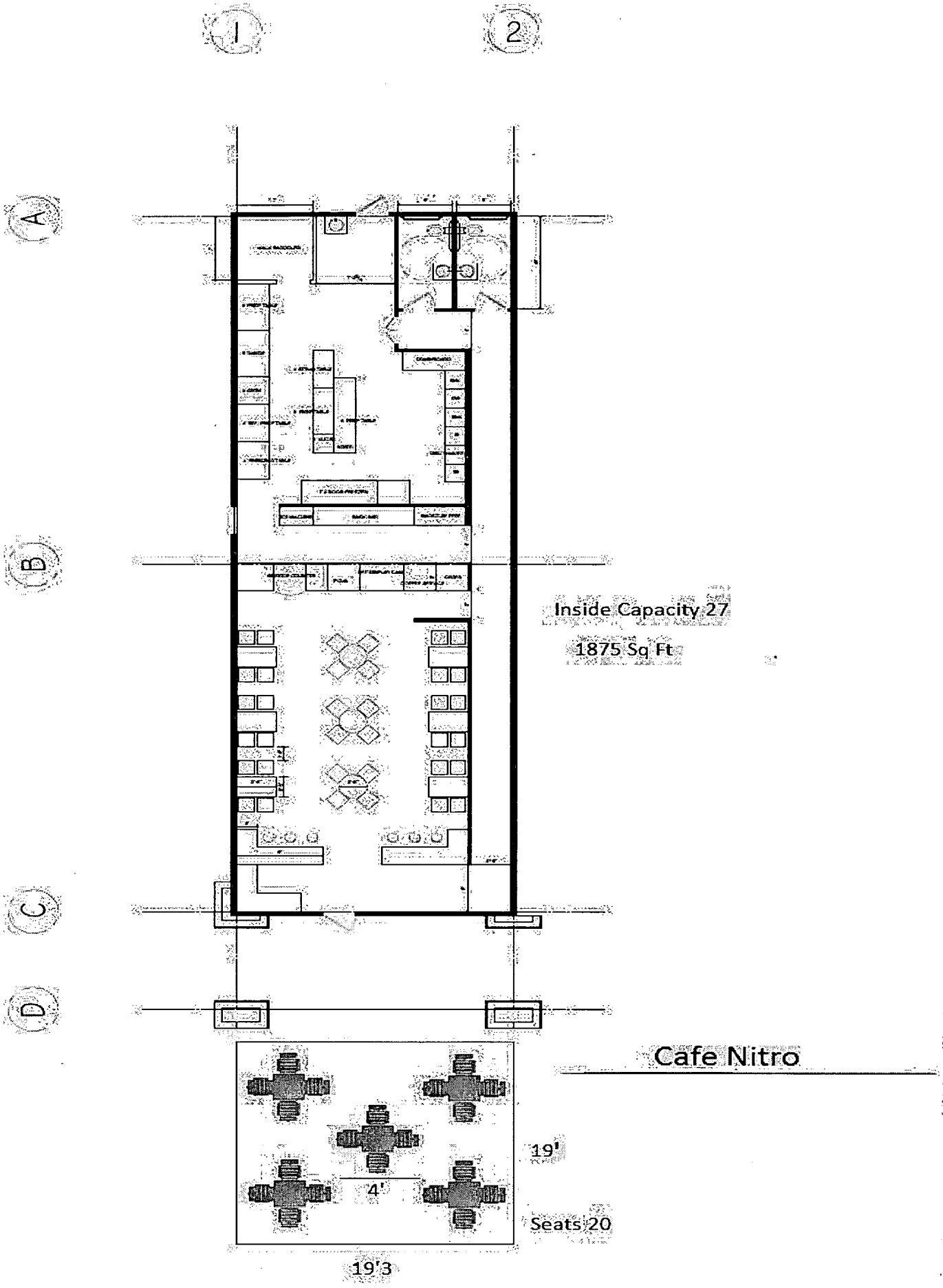

1
2
A
B
C
D
Inside Capacity 27
1875 Sq Ft
Cafe Nitro
19'
4'
Seats 20
19'3

EXHIBIT A

Key Notes

GATEWAY PLAZA/ RETAIL CENTER

5701 Stanbridge Dr
Mid and, TX 79706

FLOOR PLAN

BID SET 2.14.14

9649

City Council Agenda

AMENDED AND APPROVED

Approved for Agenda:
fsalvato
City Manager's Office

MEETING DATE: April 11, 2017

TO: City Council / City Manager

FROM: Alex Dixon, Planner

SUBJECT: **Consider an ordinance on second reading on a request by Café Nitro LLC for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 2,241 square foot portion on Lot 3A, Block 1, Gateway Plaza, Section 9, City and County of Midland, Texas. (Generally located southwest of the intersection of Starboard Drive and Liberty Drive - Council District 4)**

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Details of Request:

The applicant, Café Nitro LLC, is requesting a Specific Use Permit with term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 2,241 square foot portion on Lot 3A, Block 1, Gateway Plaza. Section 9, City and County of Midland, Texas.

Current Zoning:

LR-3, Local Retail District.

Surrounding Zoning and Land Use:

The property is located at 5701 Starboard Drive in a LR-3, Local Retail District. Zoning to the north is O-1, Office District and the location of an undeveloped lot. The property to the east is zoned PD, Planned District for a Shopping Center (Ordinance 9220), and the location of the Cinergy Movie Theater. Zoning to the south across West Business I-20 is IP-3, Industrial Park District and the location of an undeveloped lot. The property to the west is zoned LR-3, Local Retail District and the location of undeveloped property.

Analysis:

The property is zoned LR-3, Local Retail District, which permits the sale of alcoholic beverages in a restaurant, with the approval of an Specific Use Permit. The property currently has an active Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption, in a restaurant (Ordinance 9615). The current Specific Use Permit was approved on November 22, 2016. The approved seating capacity is twenty-seven (27) and alcoholic serviceable hours are as follows:

Sunday through Saturday from 11:00 a.m. to 10:00 p.m.

The applicant is now requesting a new Specific Use Permit to increase their seating capacity with twenty (20) patio seats. This additional seating will total forty-seven (47) internal and external seats. The applicant is also requesting to change their alcohol serviceable hours to an hour earlier.

The applicant is requesting alcohol serviceable hours as follows:

Sunday through Saturday from 10:00 a.m. to 10:00 p.m.

There are no schools or churches within 300 feet of this site, and the nearest residential structure is approximately 300 linear feet away from property line to property line to the northwest. Cinergy movie theater, to the east, has an active Specific Use Permit with Term for the sale of all alcoholic beverages in a theater/amusement center for on premises consumption (Ordinance No. 9083), with alcohol serviceable hours of 12:00 p.m. until 2:00 a.m. Sunday through Saturday.

The site has adequate parking and restroom facilities.

This request has been circulated to all city departments for internal review. Below are their comments.

Fire:

The Fire Department stated they had no objections regarding the request.

Engineering and Transportation:

The Engineering and Transportation Department stated they had no objections regarding the request.

Building Inspection:

The Building Inspection Department stated that the maximum occupant load is 77.

Planning:

This request is in compliance with the *Tall City Tomorrow Comprehensive Plan, Chapter 3-An Integrated Land Use Vision* (Tall City Tomorrow page 57). Café Nitro creates a positive atmosphere that benefits the community and promotes a sense of place in Midland.

Staff recommends approval of a Specific Use Permit with Term for sale of all alcoholic beverages, for on-premises consumption, in a restaurant, subject to conditions "A- H".

Conditions:

A. **That the restaurant shall not exceed 2,241 square feet in area, including the patio area as shown in exhibit "A", which is attached hereto and incorporated herein.**

B. **That the enclosed patio as shown in Exhibit "A", which is attached hereto and incorporated herein, shall have an exit only gate that swings out and is equipped with panic hardware.**

C. **That the occupancy of the restaurant shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**

D. **That the restaurant shall meet all requirements of the Fire Department and the Code Administration Division.**

E. **That the sale and on-premises consumption shall conform to all applicable state and local laws.**

F. **That the days and hours of alcoholic beverages for consumption shall be limited to:**

Sunday through Saturday from 10:00 a.m. to 10:00 p.m.

G. **That not less than 60 percent of the monetary sales for any month for such establishment shall be for food and nonalcoholic beverages.**

H. **That City of Midland Ordinance No. 9615 is hereby repealed.**

Letters of Objection:

As of February 28, 2017, staff has received no letter of objection.

Plaza
T-Mobile

5701
THE RIG
T··Mobile·
NO PARKING FIRE LANE
NO PARKING FIRE LANE
T··Mobile

City Council

Approved for Agenda:

MEETING DATE: **November 3, 2020**

TO: **City Council/City Mangers**

FROM: **Joseph Marynak, Planner**

SUBJECT: **An ordinance on a request by Summit Resources, LP for a zone change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District on Lots 3 and 4, Block 3, Mayfield Place Addition, Section 6, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of North Midkiff Road and Mockingbird Lane. Council District 1)**

Recommended Planning and Zoning Commission Action:

☒ **Approve** ☐ **Deny** ☐ **Direction/Informational**

Details of Request:

The applicant, Summit Resources, LP, is requesting a zone change from PD, Planned Development for a Shopping Center to RR, Regional Retail District, to develop a retail and office facility at 3201 and 3108 Mockingbird Lane.

Financial Impact:

Processing this request does not require any City funds.

Current Zoning:

PD, Planned Development District for a Shopping Center. (Ordinance No. 9035)

Surrounding Zoning and Land Use:

The property to the north is zoned PD, Planned Development District for a Housing Development (Ordinance No. 8590) and the location of an apartment complex. The properties to the east are zoned O-1, Office District and the

locations of a vacant lot and a nursing facility. The property to the south is zoned PD, Planned Development District for a Housing Development (Ordinance No. 8220) and the location of single-family residences. The properties to the west are zoned RR, Regional Retail District and the locations of vacant land.

Analysis:

The property located at 3201 and 3108 Mockingbird Lane and is currently zoned PD, Planned Development District for a Shopping Center. This allows for the construction of a mixed-use center for office and retail development according to Ordinance No. 9035, which regulates the planned district. The applicant is requesting to rezone the property for added flexibility in the development process and is still proposing an office and retail development. If approved, the development will need to conform to Section 5.05, Nonresidential Zoning District Dimensional Regulations; Sections 6.01 through 6.05, Zoning Development Regulations of the Zoning Ordinance; and the Landscape Ordinance of the City Code.

This proposed zone change has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2015 International Energy Code, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Engineering: (Approved)

No objections to zoning/zone change.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Code: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Planning:

This proposed development fits with Chapter 3, An Integrated Land Use Vision, Future Land Use Map of the Tall City Tomorrow comprehensive plan as this area calls for Urban Medium uses. This designation serves to connect commercial, office, and mixed-use areas with residential uses. Therefore, the construction of an office and retail center at this location is in conformance with the recommendations of the Tall City Tomorrow plan as it provides for the integration of uses.

This request for a zone change was recommended for approval at the September 21, 2020 Planning and Zoning Commission meeting. The City Council approved this request at the October 20, 2020 meeting.

Therefore, staff recommends approval of this zone change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District subject to conditions A.

Conditions:

A. **That the use and development of this property shall conform to the regulations of the RR, Regional Retail District.**

Letters of Objection:

Staff has not received any letters of objection as of October 14, 2020.

Attachments:

Application
Maps
Proposed Site Plan
Ordinance No. 9035

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 3 AND 4, BLOCK 3, MAYFIELD PLACE ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH MIDKIFF ROAD AND MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lots 3 and 4, Block 3, Mayfield Place Addition, Section 6, City and County of Midland, Texas (the "Property"), to RR, Regional Retail District, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for a Shopping Center to RR, Regional Retail District.

SECTION TWO. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as

that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

MIDLAND Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: Z-20-0192

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Summit West Resources LP		Phone (432) 682-9800 Email jlang@summitpetroleumllc.com	
Address 550 W. Texas Suite 700	City Midland	State Tx	Zip 79701

Property Owner Printed Name: Summit West Resources LP		Phone (432) 682-9800 Email jlang@summitpetroleumllc.com	
Address 550 W. Texas Suite 700	City Midland	State Tx	Zip 79701

Representative *(if different from Applicant or Property Owner)* Firm: Summit West Resources LP Printed Name: Jeff Lang		Phone (432) 682-9800 Email jlang@summitpetroleumllc.com	
Address 550 W. Texas Suite 700	City Midland	State Tx	Zip 79701

Street Address: 3201 Mockingbird (lot 4), 3108 Mockingbird (lot 3)

Legal Description
Lot: 3, 4 Block: 3 Subdivision: Mayfield Place

Current Zoning: PD

Proposed Zone: RR
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Previously, ordinance 9035 under PD allowed for 192,951 sqft of office, retail and storage units. We would like to construct closer to 100,000 sq ft of office, retail surrounding green space in a much different configuration and RR will allow that flexibility.

Present Use of Property: Vacant Land

Proposed Use of Property: Office / Retail / Green Space

How would this zone change affect the public health, safety and welfare? It will facilitate increased access to pedestrian-focused green space and retail.

Describe how conditions affecting the property have changed since present zoning designation: Unchanged

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature): Summit West Resources LP	Date: 8/19/2020
Applicant (printed): Summit West Resources LP - Jeff Lang	
Property Owner (signature): Summit West Resources LP -	Date: 8/19/2020
Property Owner (printed): Summit West Resources LP - Matt Johnson: President and COO	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appear_____who, being by me duly sworn, upon oath says: That (s)he is the owner of _____or authorized by_____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

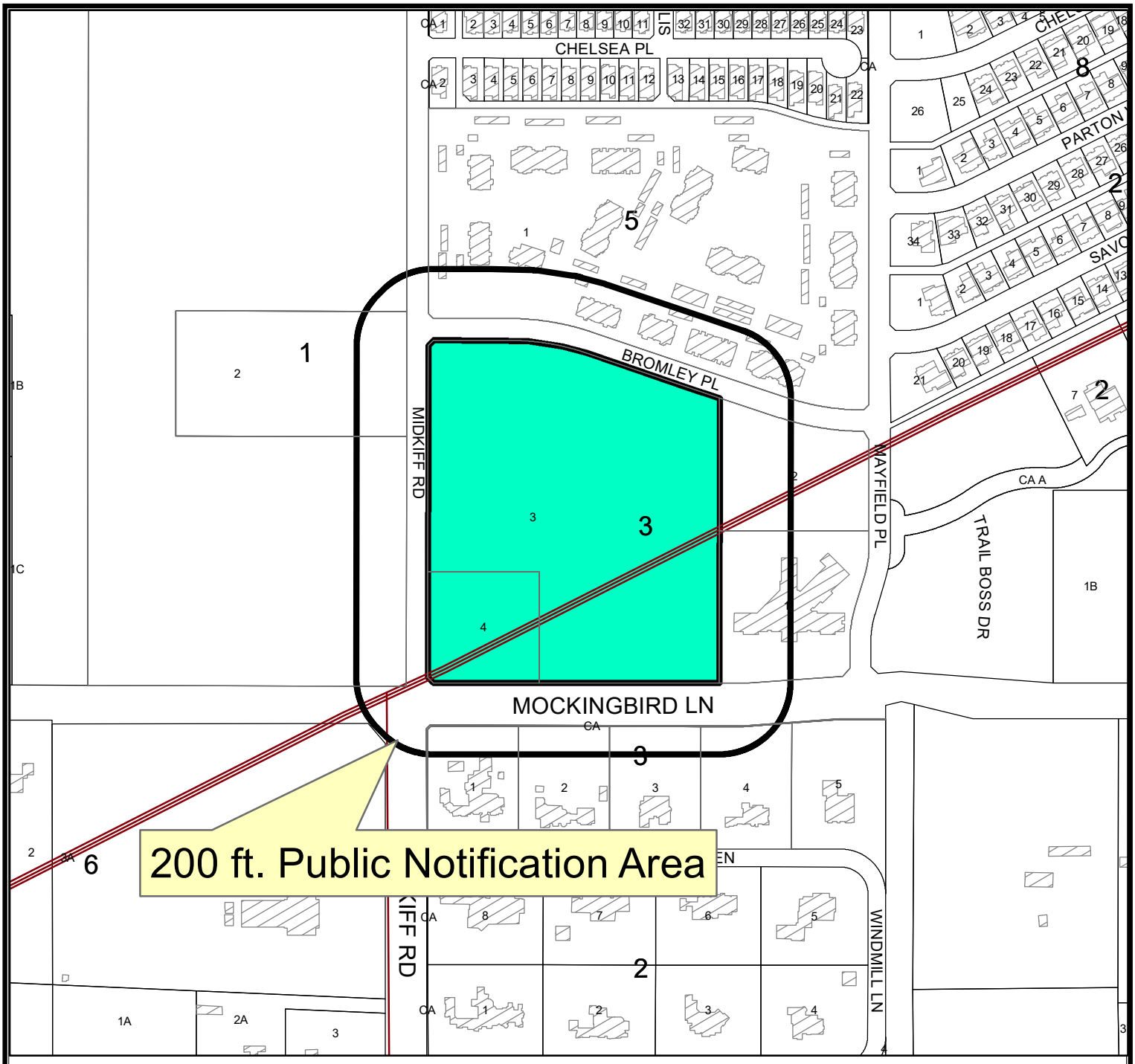
_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this_____day of_____, 20____, to certify which witness my hand and seal of office.

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
☐ Property Owner Authorization	☐ Dimensioned Site Plan
☐ Application Fee	☐ Plans in Digital Format (PDF/JPEG)
Check #_____	
Received By:	Date:

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

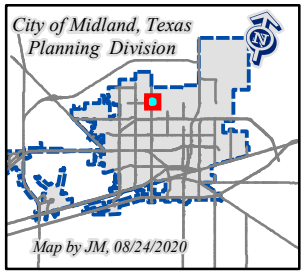
Z-20-0192 **Scale: 1" = 400'**

Consider a request by Summit Resources, LP for a Zone Change from PD, Planned Development District for a Shopping Center to RR, Regional Retail District on Lots 3 and 4, Block 3, Mayfield Place Addition, Section 6, City and County of Midland, Texas

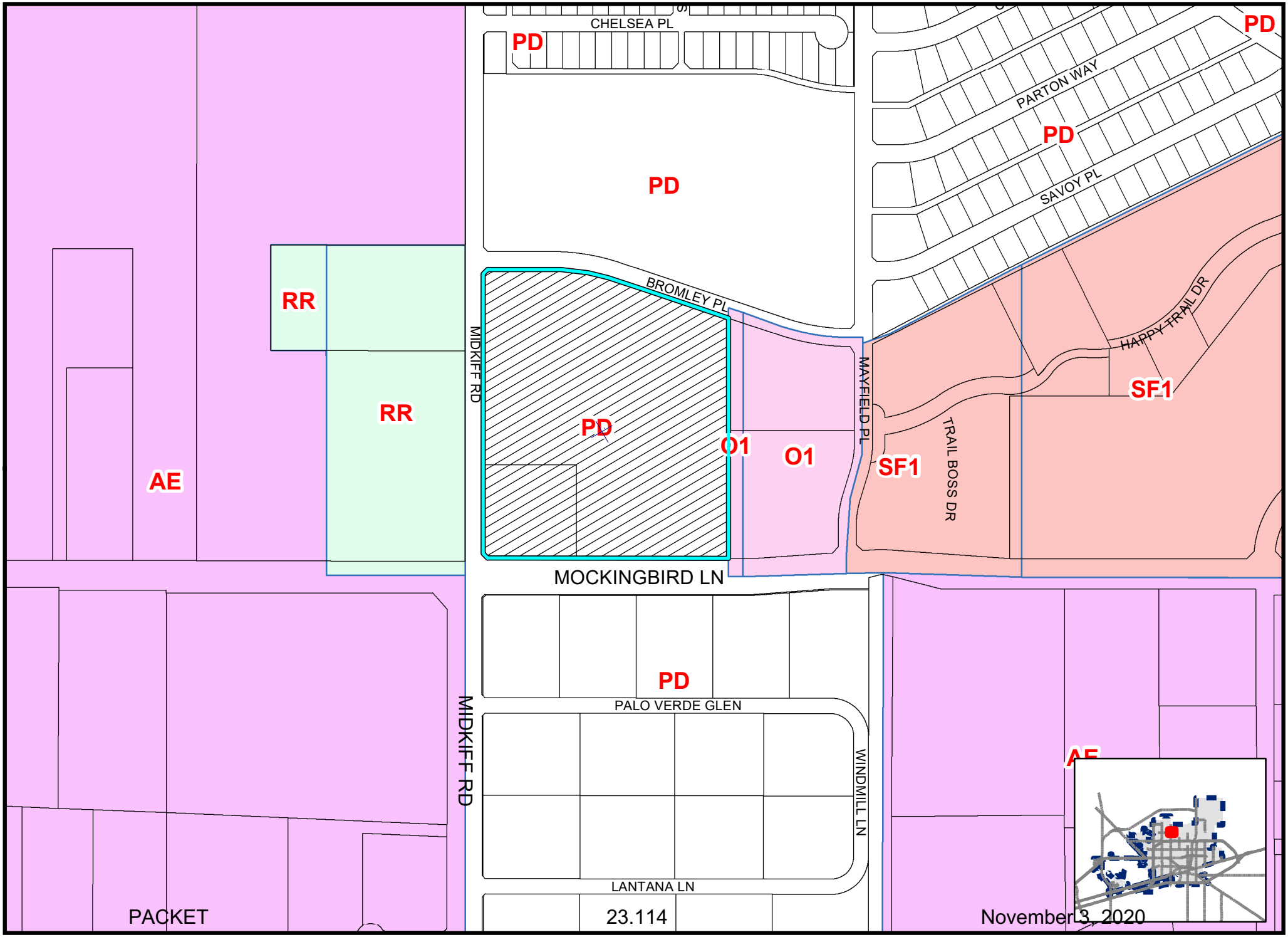
Generally located on the northeast corner of the intersection of Mockingbird Lane and North Midkiff Drive. (Council District 1)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2020
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



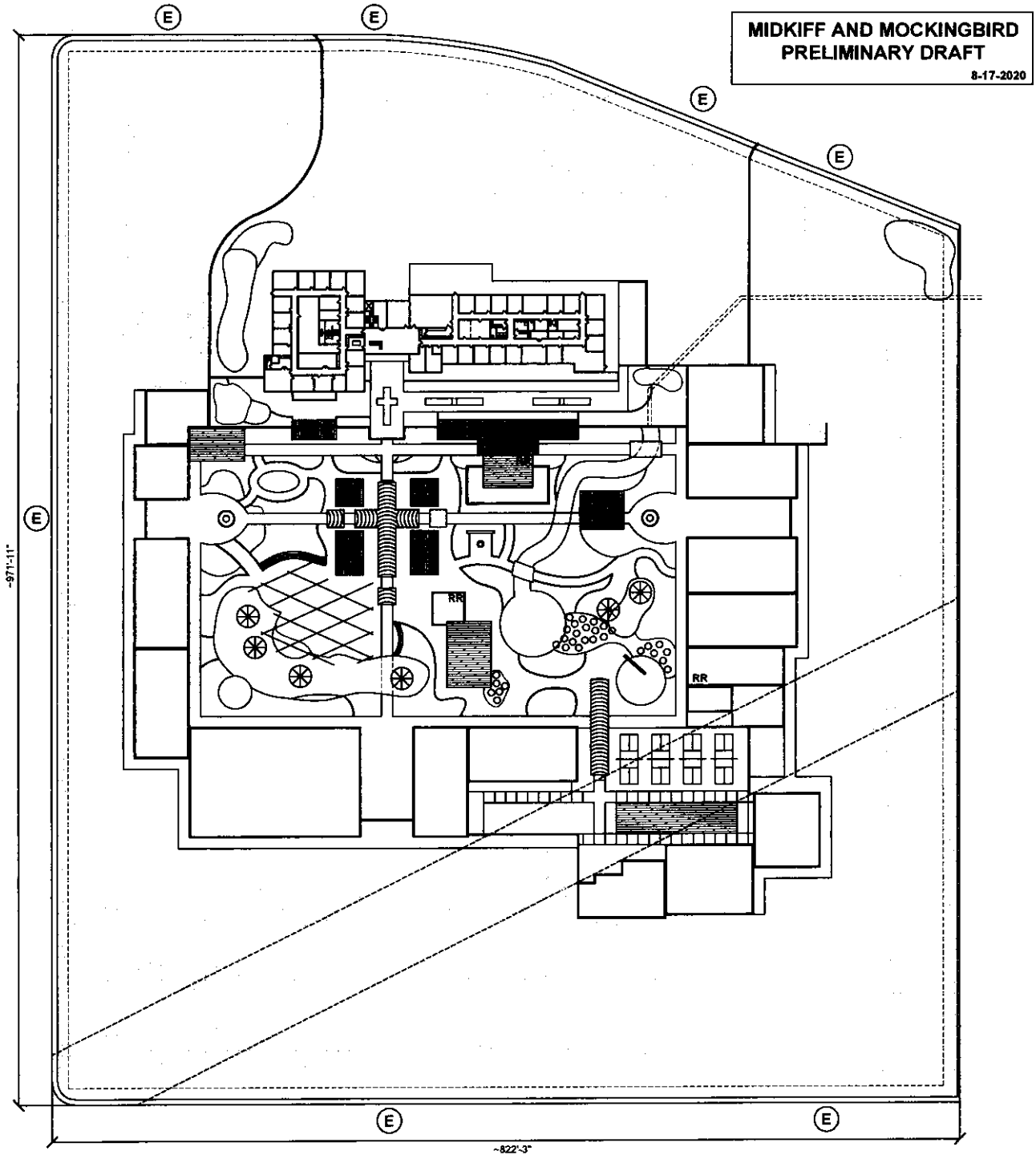
Map By JM, 08/24/2020

Z-20-0192

Scale: 1" = 200'

ZONING MAP

© THE CITY OF MIDLAND - 2020: THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY PRODUCT, NOR IS IT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.



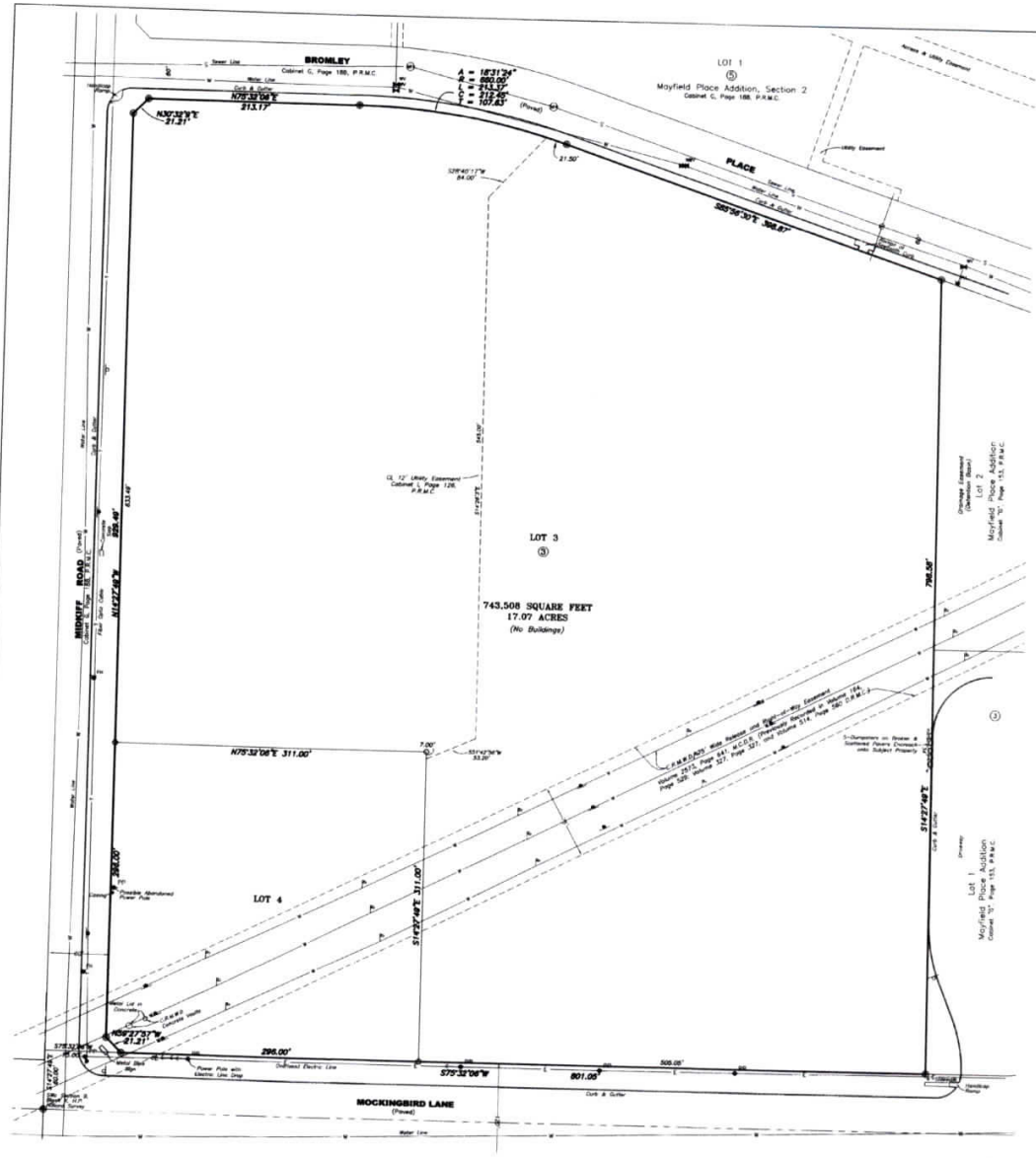
LEGEND			
	CONCRETE		RETAIL
	CRUSHED ROCK		SOLID SHADE STRUCTURE
	TURF		PARTIAL SHADE STRUCTURE
	MULCH/PLANTER	E	ENTRANCE
	SUMMIT OFFICE	RR	RESTROOMS

TOTAL SITE

17.07 ACRES = 743,569 SQ. FT.

SQUARE FOOTAGE ESTIMATES

~23,000 SQ. FT.	SUMMIT OFFICE
~76,000 SQ. FT.	RETAIL SQ FT
~131,000 SQ. FT.	MAIN COURTYARD
~24,000 SQ. FT.	GAME COURTYARD
~155,000 SQ. FT.	TOTAL COURTYARD



ALTA/NSPS LAND TITLE SURVEY

(5600 & 5706 N. MIDKIFF ROAD)

LOT 3 AND LOT 4, BLOCK 3, MAYFIELD PLACE ADDITION, SECTION 6, A SUBDIVISION OF MIDLAND COUNTY, TEXAS ACCORDING TO THE MAP OR PLAT THEREOF OF RECORD IN CABINET I, PAGE 126, PLAT RECORDS OF MIDLAND COUNTY, TEXAS BEING THE SAME 17.07 ACRE TRACT CONVEYED TO D.K. BOYD BY DEED OF RECORD UNDER DOCUMENT NO. 2011-23167, OFFICIAL PUBLIC RECORDS OF MIDLAND COUNTY, TEXAS

EXCEPTIONS LISTED IN SCHEDULE B OF TITLE COMMITMENT ISSUED BY STEWART TITLE GUARANTY COMPANY ON AUGUST 6, 2019 WITH COMMITMENT NO. 481437 WITH AN EFFECTIVE DATE OF JULY 26, 2019:

1. The Right-of-Way Easement to Colorado River Municipal Water District recorded in Volume 514, Page 560, Deed Public Records of Midland County, Texas does affect subject property and Volume 2573, Page 641, Official Public Records of Midland County, Texas does affect subject property as shown. (Item 10d in said Title Commitment.)
2. The Right-of-Way Easement to Texas Electric Service Company recorded in Volume 575, Page 844, Official Public Records of Midland County, Texas does not affect subject property. (Item 10e in said Title Commitment)
3. The 12' Foot Private Sewer Service Easement as shown on plat in Cabinet I, Page 126, Plat Records of Midland County, Texas does affect subject property as shown. (Item 10f in said Title Commitment.)

GENERAL NOTES:

1) Based on the U.S. Department of Housing and Urban Development, Federal Insurance Administration Flood Hazard Boundary Map, Community Number 480477, Sheet Number 48329C0087 F, with an effective date of December 6, 1999 and revised September 18, 2005, the surveyed property is not located in a special flood hazard area according to the map. The flood zone classification for the surveyed property is Zone X.
2) Except as shown, all visible utilities serving the subject property enter through adjoining public street and/or easements of record.
3) There is no observed evidence of current earth moving work, building construction or building additions on the subject property.
4) There is no observed evidence of recent street or sidewalk construction or repairs.
5) The Premises has access to Bromley Place, N. Midkiff Road and Mockingbird Lane, all public streets.
6) The Sewer and Water Lines shown are based on the City of Midland's GIS Data download website page, midlandtexas.gov/230/GIS-Data.
7) The Premises consists of 743,508 square feet or 17.07 acres.

VICINITY MAP
Not To Scale

N

GRAPHIC SCALE IN FEET
0 50' 100' 150'
SCALE: 1"=50'

STATE PLANE COORDINATE NOTE

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/93, Central Zone, with a combine grid factor of 0.99991092, and a theta angle equal to 0°06'07.5" at U.S.C. & G. station "MIMID" with published values of Y= 10,711,792.58 and X= 1,733,813.31 in U.S. Survey Feet.

LEGEND

- ● = Found 1/2" Iron Rod & Plastic Cap marked "PLS 1974" unless noted otherwise
- ○ = Reset 1/2" Iron Rod & Plastic Cap marked "PLS 1974" unless noted otherwise
- P = C.R.M.M.D. Pin Flag
- ⟵ = Guy Wire
- ⊕ = Power Pole
- ⊕ = Fire Hydrant
- ⊕ = Water Valve
- ⊕ = Sewer Manhole
- = Traffic Sign
- = Utility Sign

SURVEYOR'S CERTIFICATE

To Matt Johnson or assigns, D.K. Boyd, and Stewart Title Guaranty Company as follows:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the "2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 8, 11, 13, 14, 16 and 17 of Table A thereof. The field work was completed on August 16, 19, 23 & 28, 2019.

J. Stirr Piper
Registered Professional Land Surveyor #1974
Date of Plat: August 28, 2019

STATE OF TEXAS
J. STIRR PIPER
1974
REGISTERED PROFESSIONAL LAND SURVEYOR

Drawing File:
Summit\Parks-ALTA\3848\Mayfield6.Dwg
Ord File: N_Midkiff83.Ord
Drawn by: Dana M. Rodriguez
Scale: 1"=50'
Date: 8/25/19

PIPER SURVEYING
P.O. Box 60452, Midland, Texas 79711
(432)694-7816, Fax (432)694-4012
Firm No. 10193200

Prepared for:
Summit Petroleum, LLC
Attn.: Matt Johnson
550 W. Texas Ave. #704
Midland, Texas 79701

ORDINANCE NO. 9035

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 20.22-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF MOCKINGBIRD LANE AND MIDKIFF ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter and the State law with reference to the creation of "Planned Districts" under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by the creation of an Amended Planned District, set out hereinafter and subject to the conditions and restrictions set out hereinafter;

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

SECTION ONE. That Chapter 1, Title XI, of the City Code of Midland, Texas, and the official zoning map of the City of Midland, Texas, are hereby amended insofar as the hereinafter described property is concerned, which is presently zoned PD, Planned District for a Shopping Center, and it shall be used as an Amended Planned District,

subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 20.22-acre tract of land out of Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "D", which is attached hereto and incorporated herein.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the development of this property as a mixed-use center for office and retail development shall conform to the conditions shown on the site plans which are attached hereto and incorporated herein as Exhibits "A", "B" and "C", except as otherwise stated below.

2. That the combined floor area of all buildings shown on Exhibit "A" shall not exceed 193,000 square feet.

3. That the development of this property shall comply with all applicable regulations regarding business signs, landscaping, outdoor lighting and driveway design.

4. That the storage units shown in the northwest corner on Exhibit "A" shall only be used by tenants or owners within this development; these storage units shall not be used by the general public.

5. That prior to the development of this property, a subdivision plat must be approved in accordance with City of Midland regulations.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of

Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 26th day of June, A.D., 2012; and passed to second reading on motion of Council member Sparks, seconded by Council member James, by the following vote:

Council members voting "AYE": Morales, Trost, Hailey, Perry, Dufford, James and Sparks

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Hailey, seconded by Council member Sparks, on the 10th day of July, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE": Morales, Trost, Hailey, Perry, Dufford, James and Sparks

Council members voting "NAY": None

PASSED AND APPROVED THIS 10th day of July, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Jim Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 6/26/2012

TO: City Council / City Manager

FROM: Jim Compton, Senior Planner

SUBJECT: Z-12-014, Zone Change for D. K. Boyd.

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by D. K. Boyd for a zone change from PD, Planned District for a Shopping Center to Amended Planned District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

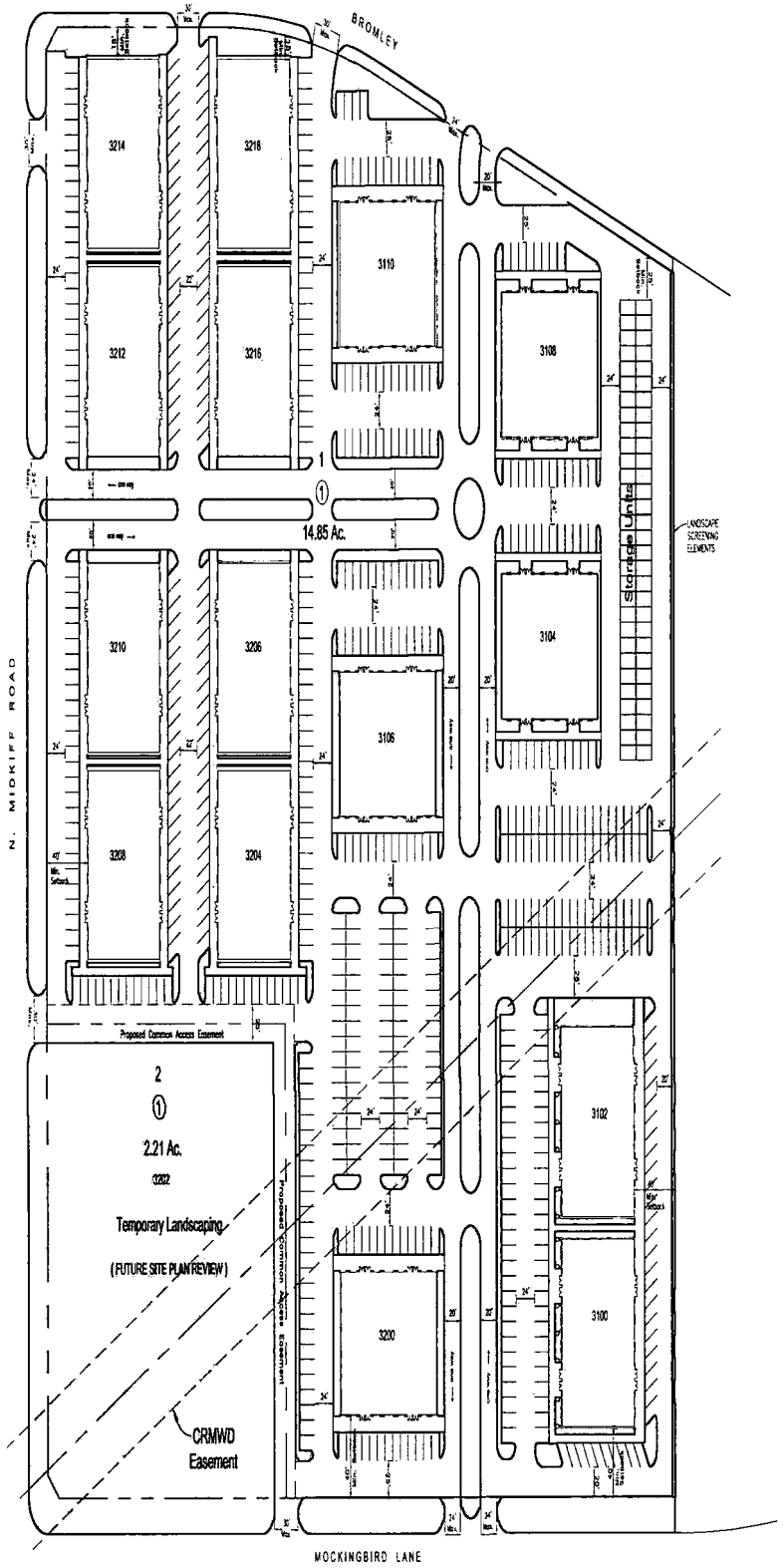
This property was zoned Planned District for a Shopping Center in June of 2000, subject to LR-2 District regulations and site plan approval. The applicant is proposing a mixed use development with retail and office uses, which are allowed in the LR-2 District. Exhibits A, B and C are submitted to comply with the site plan review requirement. Exhibit A shows 15 freestanding buildings and one storage building. The storage is not available to the public, but only to owners within this development. Exhibits B and C illustrate the elevation views of the buildings and storage units. The one-story buildings will have a maximum ridge height of 33 feet, which the staff feels is reasonable, considering the additional building setbacks shown. Landscaping will be planted along the east side of the storage units for visual screening. The Planning and Zoning Commission recommended approval of this request. One letter of opposition has been received as of this writing.

Attachments:
June 4, 2012 P&Z Staff Report
Proposed Ordinance and Exhibits A, B and C

PLANNED DISTRICT SITE PLAN

MADERA VISTA

A DEVELOPMENT
IN THE
MAYFIELD PLACE ADDITION



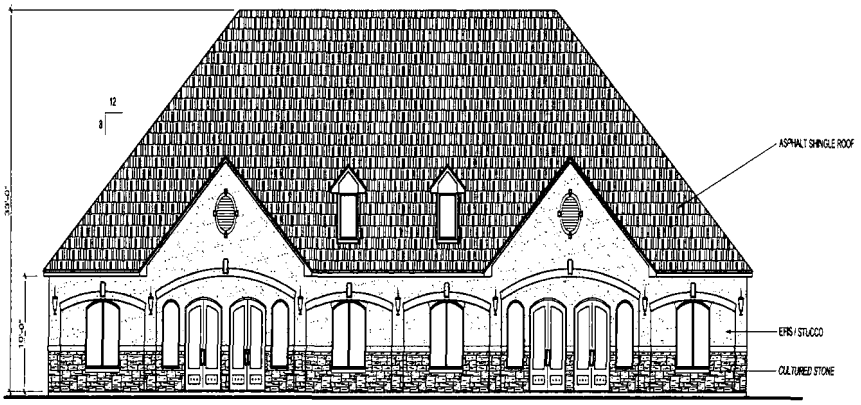
Original Scale: 1"=60'

NOTES:

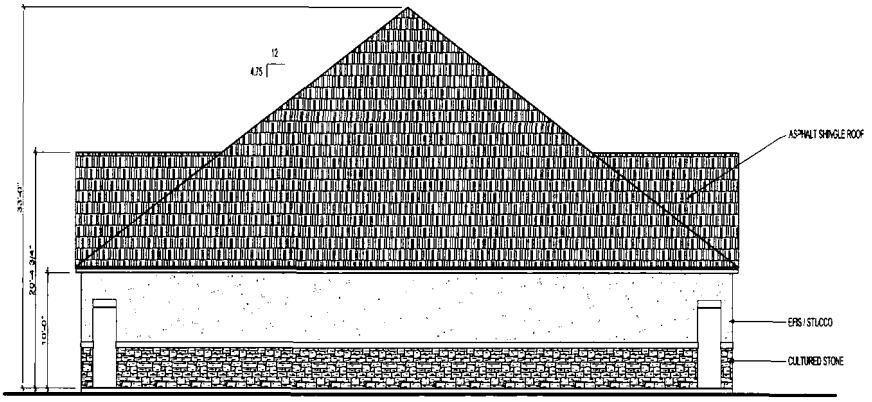
- A NEW OFFICE/RETAIL DEVELOPMENT CONSISTING OF FIFTEEN (15) NEW SINGLE STORY, FREESTANDING BUILDINGS AND ONE (1) NEW, SINGLE STORY, FREESTANDING SELF STORAGE UNIT BUILDING. EACH OFFICE/RETAIL BUILDING IS 12,000 SQ. FT. TOTAL AND STORAGE UNIT IS APPROXIMATELY 12,430 SQ. FT. TOTAL NEW BUILDING FOR THE PROJECT IS 192,951 SQ. FT.
- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY ▭ ARE BUILDINGS.
- SHADED AREAS DENOTED BY ▭ TO BE CONCRETE.
- SHADED AREAS DENOTED BY ▭ TO BE PAVED OR OTHER DRIVING SURFACE.
- SHADED AREAS DENOTED BY ▭ TO BE IRRIGATED & LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- SHADED AREAS DENOTED BY ▭ TO BE IRRIGATED & LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS (TEMPORARY UNTIL FURTHER DEVELOPMENT).
- LANDSCAPED AREA (NOT INCLUDING R.O.W.S) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA, LESS THE BUILDING AREA.
- EXTERIOR BUILDING MATERIALS SHALL BE AS INDICATED ON EXHIBITS "B" & "C"
- ROOF MATERIALS SHALL BE AS INDICATED ON EXHIBITS "B" & "C"
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7a OF THE MIDLAND CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MIDLAND CITY CODE.
- HVAC UNITS WILL HAVE GROUND PLACEMENT AND SURROUNDED BY A SCREEN WALL.
- ALL DRIVEWAYS SHALL BE IN CONFORMANCE WITH CITY OF MIDLAND STANDARDS

SITE DATA (not including 3202)	
SITE AREA	646920 SF±
BUILDING AREA (Foot Print)	192,951 SF ±
LANDSCAPE AREA REQUIRED	45,397 SF ±
LANDSCAPED AREA SHOWN	70,350 SF ±
PARKING SPACES REQUIRED (45% Retail / 55% Office)	653
PARKING SPACES PLANNED	653

MADERA VISTA



C2 FRONT AND REAR ELEVATIONS
1/8" = 1'-0"



A2 SIDE ELEVATIONS
1/8" = 1'-0"

PSC PARKHILL SMITH & COOPER

THIS DOCUMENT IS RELEASED ON 3/20/12 FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF DAVID ROLAND GERMAN R.A. LICENSE #17347. IT IS NOT TO BE USED FOR REGULATORY APPROVAL, CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

Madera Vista Development

(Mayfield Place Addition)

A New Office/ Retail Development

Midland, Texas

KEY PLAN

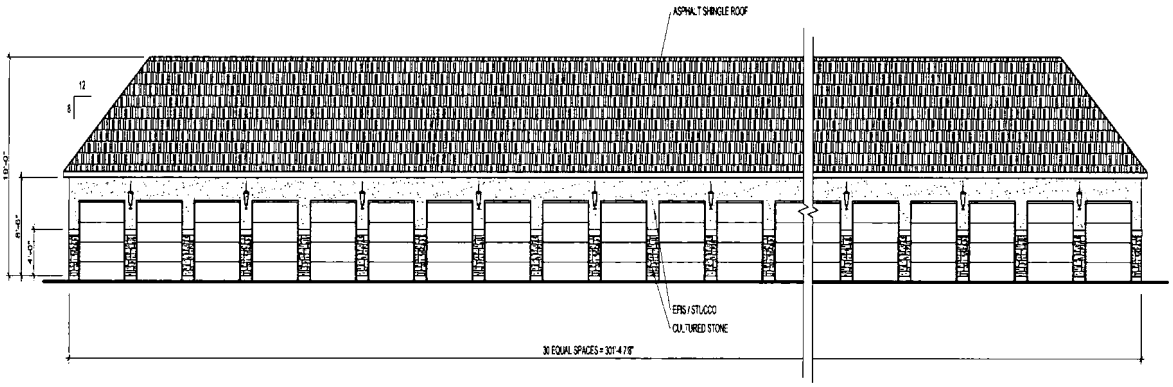
NO. DATE DESCRIPTION

ISSUING OFFICE: Lubbock PROJECT NO: 3916.11

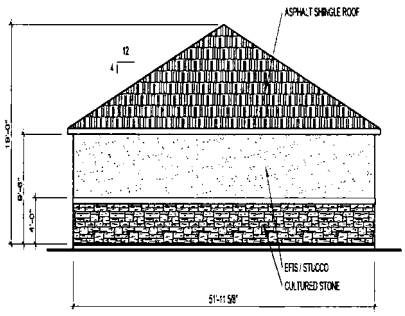
Planned District Submittal:

Exterior Elevations

A-16.7



C2 FRONT AND REAR ELEVATIONS
1/8" = 1'-0"



A1 SIDE ELEVATIONS
1/8" = 1'-0"

PARKHILL SMITH & COOPER

THIS DOCUMENT IS RELEASED ON 3/20/12 FOR THE PURPOSE OF INTERIM REVIEW UNDER THE AUTHORITY OF DAVID ROLAND GERMAN R.A. LICENSE #17347. IT IS NOT TO BE USED FOR REGULATORY APPROVAL, CONSTRUCTION, BIDDING OR PERMIT PURPOSES.

Madera Vista Development

(Mayfield Place Addition)

A New Office/ Retail Development

Midland, Texas

KEY PLAN

NO	DATE	DESCRIPTION

ISSUING OFFICE: Lubbock PROJECT NO: 5818.11

Planned District Submittal:

Exterior Elevations
Storage Units

A-16.8

PD-SC Zoning

RECEIVED
MAY 10 2012
CITY OF MIDLAND
PLANNING DIVISION OFFICE

LEGAL DESCRIPTION OF A 20.22 ACRE TRACT LOCATED IN THE SOUTH HALF OF SECTION 9, BLOCK X, H. P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,713,064.26' and E= 1,738,652.10') the Southwest corner of said Section 9 and this tract;

QTHENCE N14°27'49"W with the West line of said Section 9, at 60.00 feet pass the most Southwesterly corner of Mayfield Place Addition, Section 2, as recorded in Cabinet "G", Page 188, Plat Records of Midland County, Texas continuing with a West line of said Mayfield Place Addition, Section 2, a distance of 1049.50 feet to the Northwest corner of this tract;

THENCE N75°32'06"E with the centerline of Bromley Place, a distance of 288.17 feet to a point of curvature of said Bromley Place and this tract;

THENCE around a curve to the right in an Easterly direction with the centerline of Bromley Place, with a radius of 690.00 feet, delta angle of 18°31'24", arc length of 223.07 feet and a chord distance of 222.10 feet which bears N84°47'48"E to a point of tangency of said Bromley Place and of this tract;

THENCE S85°56'30"E with the centerline of Bromley Place, a distance of 388.82 feet to the Northeast corner of this tract;

THENCE S14°27'49"E with a West line of Lot 2, Block 3, Mayfield Place Addition as recorded in Cabinet "G", Page 153, Plat Records of Midland County, Texas, a distance of 890.24 feet to the Southeast corner of this tract;

THENCE S75°32'06"W with the South line of said Section 9, a distance of 876.11 feet to the Place of Beginning. Tract contains 880,917 square feet or 20.22 acres.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86, Central Zone, with a combined grid factor of 0.9999202, and a theta angle equal to-0°54'48.39" at U.S.C. & G. station "MIDLAND" with published values of Y= 10,690,154.70 and X= 1,746,696.78 in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on October 11, 2011.

J. Stan Piper
Registered Professional Land Surveyor
April 4, 2012

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 W. Wall Street, Suite 100
Midland, TX 79703

PLANNING AND ZONING COMMISSION

June 4, 2012

16.10

November 3, 2020

CASE:	Z-12-014.
REQUEST:	Hold a public hearing and consider a request for a zone change from PD, Planned District for a Shopping Center to Amended Planned District.
APPLICANT/OWNER:	D. K. Boyd.
REPRESENTATIVE:	Parkhill, Smith and Cooper.
LEGAL DESCRIPTION:	A 20.22-acre tract out of Section 9, Block "X", H. P. Hilliard Survey, Midland County, Texas.
LOCATION:	Northeast corner of N. Midkiff Road and Mockingbird Lane.

DETAILS OF REQUEST:

1. This property is currently zoned PD, Planned District for a Shopping Center, which is subject to the LR-2 District regulations and a requirement for a site plan to be approved in the same manner as a zone change before a building permit can be issued. The applicant is proposing a mixed use office and retail center, which is allowed uses under the LR-2 District. The applicant has submitted the attached Exhibits A, B and C to satisfy the site plan requirement.

23.126

SURROUNDING ZONING AND LAND USE:

2. This land was zoned for retail use in June of 2000, but has remained vacant. A retirement facility is located due east of this site. The land to the south is zoned Planned District for a Housing Development, and is developed with residences located on lots that are two acres or larger. The land across Midkiff Road to the west is zoned Planned District for a Shopping Center and AE District; the land in both districts is vacant. The area to the north is developed with the Vantage apartments.

ANALYSIS:

3. Please refer to the attached Exhibit A. There is a 2.25 acre tract at the corner of Mockingbird Lane and Midkiff Road that is labeled "Temporary Landscaping" and is not a part of this site plan. We recommend that this tract be labeled "Future Site Plan Review". Two driveways are shown along Mockingbird Lane, three on Midkiff Road, and three on Bromley Place. Driveways on arterial streets must be located at least 170 feet apart. However, the minimum spacing is not labeled on the site plan. The only driveway dimension shown on Exhibit A is the 30-foot width of the driveways, which is labeled as a minimum width. According to City regulations, 30 feet is the maximum opening width. We recommend that a note be added to the site plan stating that all driveways shall be constructed in accordance to City of Midland standards, and that the driveway width be labeled as a maximum dimension. The applicant has agreed to these conditions.

PACKET

16.11
November 3, 2020
23.127
PACKET

A note on Exhibit A describes this development as a retail/office condominium. It further indicates that 15 freestanding buildings and one storage unit building will be constructed. The office and retail uses are allowed in the LR-2 District, but self storage units are not. However, we are advised that the storage units will not be available to the general public, but will only be used by tenants/owners in this development. With this condition, the staff has no objection.

The Zoning Code states that the minimum parking requirement for a standard office use is one parking space for each 400 square feet of floor area. A medical office must provide one space for each 300 square feet, and a retailer must provide one space for each 200 square feet of floor area. A table at the bottom of Exhibit A states that the maximum combined floor area will be 192,951 square feet. Based on this floor area, and assuming 100 percent retail occupancy, 965 parking spaces would be required. However, only 653 are provided. The basis for this reduction is obtained by limiting the maximum amount of retail use to 45 percent of the total area, leaving 55 percent for office use. A concern we have is that should the market demand for retail uses exceed that for office space, there could be a parking shortage. Conceivably, some buildings could not be occupied because the available parking is taken up with uses with a higher parking demand. The staff studied this matter in detail. It is clearly the owner's responsibility to manage the mix of uses to ensure a parking shortage would not occur; this is not a staff responsibility. Further, we are advised that this business center will be constructed in phases. Should the owner fail to maintain a proper mix of uses, the staff would withhold further building permits until additional parking is provided. Finally, certificates of Occupancy can be withheld should the mix of uses changes in the future. For these reasons, the staff is satisfied with the parking plan.

EXHIBITS B AND C:

4. The attached Exhibits B illustrates typical building elevations, including front, rear and side views. The front and rear elevations would have a 10-foot plate height, and a ridge height of 33 feet. An 8:12 roof pitch is proposed, with both hip and gable designs. The maximum building height in the LR-2 District is 28.75 feet. Typically, where greater building heights are requested, an increase in building setback is required to avoid a sense of overcrowding. The LR-2 District requires

a minimum 15-foot front yard setback, and this site has three front yards. Using a standard 18-foot depth for a parking space, the building setbacks along Mockingbird Lane, Midkiff Road and Bromley Court are 43 feet, 42 feet and 42 feet, respectively, with one exception. The building setbacks for Buildings 3214 and 3318 are not labeled, but they must observe at least a 15-foot setback. However, based on the roof design shown on Exhibit A, the maximum ridge height is setback 34 feet from the face of the building, plus the 15-foot setback provides a 49-foot setback for the roof peak. This setback, combined with the fact that the apartments north across Bromley Court are three stories tall, adequately addresses our concern for a slightly taller ridge height.

16.12
November 3, 2020
23.128
PACKET

Notes on Exhibits A and B further describe the proposed buildings. The exterior building materials include glazing, decorative or painted CMU, face brick, pre-cast concrete, tilt wall, Stucco or similar material. Roof materials listed on Exhibit A include composite, built-up or standing seam metal. However, Exhibit B identifies the roof material as asphalt shingles. We recommend that the exhibits be amended to list consistent materials. We recommend that the option of built-up roof be removed, since this type is only used on flat roofs.

Exhibit C illustrates the proposed storage units for clients on this site. The building has a gable roof with asphalt shingles, and overhead doors along the east and west sides. Besides the overhead doors, the balance of the facades is proposed to have a wainscot of cultured stone, with EFIS/Stucco above that. The view from Bromley will be that of the narrow end of the building, and the units would not be visible from Midkiff Road. However, there is no screening of any type shown along the east side of the storage building. Further, the land east of the storage units will not be developed, as it is a detention basin. Thus, the storage units would be visible from Mayfield Place as one enters this neighborhood. We discussed this matter with the applicant's representative, who indicated that his client preferred to use landscaping for screening purposes. They hope to work with City staff and provide a final landscaping plan to the City Council. This satisfies our concern for storage unit screening.

The Landscaping Code requires that 10 percent of the site area, less the building footprint, be landscaped. Additionally, one tree is needed for each 15 parking spaces, and one tree is needed for every 30 feet of street frontage. Exhibit A indicates that 64,569 square feet of the site must be landscaped, and that 76,100 square feet will be provided. A detailed landscaping plan will be reviewed through the building permit process.

CONDOMINIUM ARRANGEMENT:

5. The application indicates that this facility will operate under a condominium arrangement. Under such a plan, the "owners" do not purchase the land or buildings, only the space inside the buildings. The land that is not occupied by a

building becomes a "common area" with each occupant owning a specified interest in it. Therefore, the owner must establish the common area, and create a property owners association that will be responsible for the ownership and maintenance responsibilities of the common areas. Since this property is currently unplatted, there is a requirement that this review opportunity must occur prior to final plat approval.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from PD, Planned District for a Shopping Center to Amended Planned District, subject to the following conditions:

A. That the development of this property as a mixed use center for office and retail uses shall conform to the conditions shown on Exhibits A, B and C in all respects.

16.13
November 3, 2020
23.129
PACKET

B. The maximum floor area of the retail buildings, office buildings and storage units shall not exceed 192,951 square feet.

C. Exhibit A should be amended to conform to Exhibits B and C regarding roof materials.

D. The development of this property will conform to the applicable City Codes regarding business signs, landscaping, outdoor lighting and driveway design. The label for the maximum driveway width should be removed or changed to a maximum width.

E. The area on Exhibit A that is labeled "Temporary Landscaping" must include the label "Future Site Plan Review".

F. The storage units shown in the northwest corner of Exhibit A shall only be used by tenants/owners of this business center. These storage units may not be leased to the general public. Further, a landscaping screening shall be planted along the east side of the storage units.

G. The two drive aisles for center driveway on Midkiff Road must have a minimum width of 20 feet each.

H. Since this is to be a "condominium" development, the developer must establish common areas, consisting of all private land not occupied by buildings. The City Staff review, and the Planning Commission must approve, a declaration of restrictive covenants before a final plat can be approved.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B and C

Case Number: Z-10-014

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

D. K. Boyd — 432-685-1022
Applicant Name — (Phone/e-mail)

P.O. Box 11351 — Midland, Texas 79702
Address — Zip Code

D. K. Boyd — 432-685-1022
Property Owner Name — (Phone/e-mail)

P.O. Box 11351 — Midland, Texas 79702
Address — Zip Code

Parkhill, Smith & Cooper, Inc. — 432-697-1447
Representative Name — (Phone/e-mail)

1700 W. Wall, Suite 100 — Midland, Texas 79701
Address — Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. Per Ordinance 7947, case number Z-10-012, and pd number 334, this property was zoned PDSC. Metes and bounds were attached to the original documents submitted to the city.

PRESENT ZONE: PDSC **REQUESTED ZONE:** Amdended PD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To better facilitate the development of this property for retail and office use.

Present Use of Property: None

Proposed Use of Property: Retail and office space

How will zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation: None

Is a Specific Use Permit with Term for alcoholic beverages sales needed? ____ Yes __x__ No

16.14 November 3, 2020 23.130 PACKET

APPLICATION FEES:

- Single, standard zone change: **$400.** Multiple, standard zone change: add **$100** per additional district.
- Single PD, Planned District zone change: **$550.** Multiple PD proposal: add **$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to $500.00 will be assessed.

SITE PLAN SUBMITTALS *(if applicable)*:

16 copies (FOLDED) of the PD site plan: x

Site Plan in digital format .pdf and .jpg: x

SIGNATURE *(by property owner only - authorized agent must sign affidavit below)*

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Eric L. West, P.E. who, being by me duly sworn, upon oath says: That (s)he is authorized by D. K. Boyd, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Eric L. West

Authorized Agent (signature)

Subscribed and sworn to before me, this 23rd day of March, 2012, to certify which witness my hand and seal of office.

Darcy Y. Knight

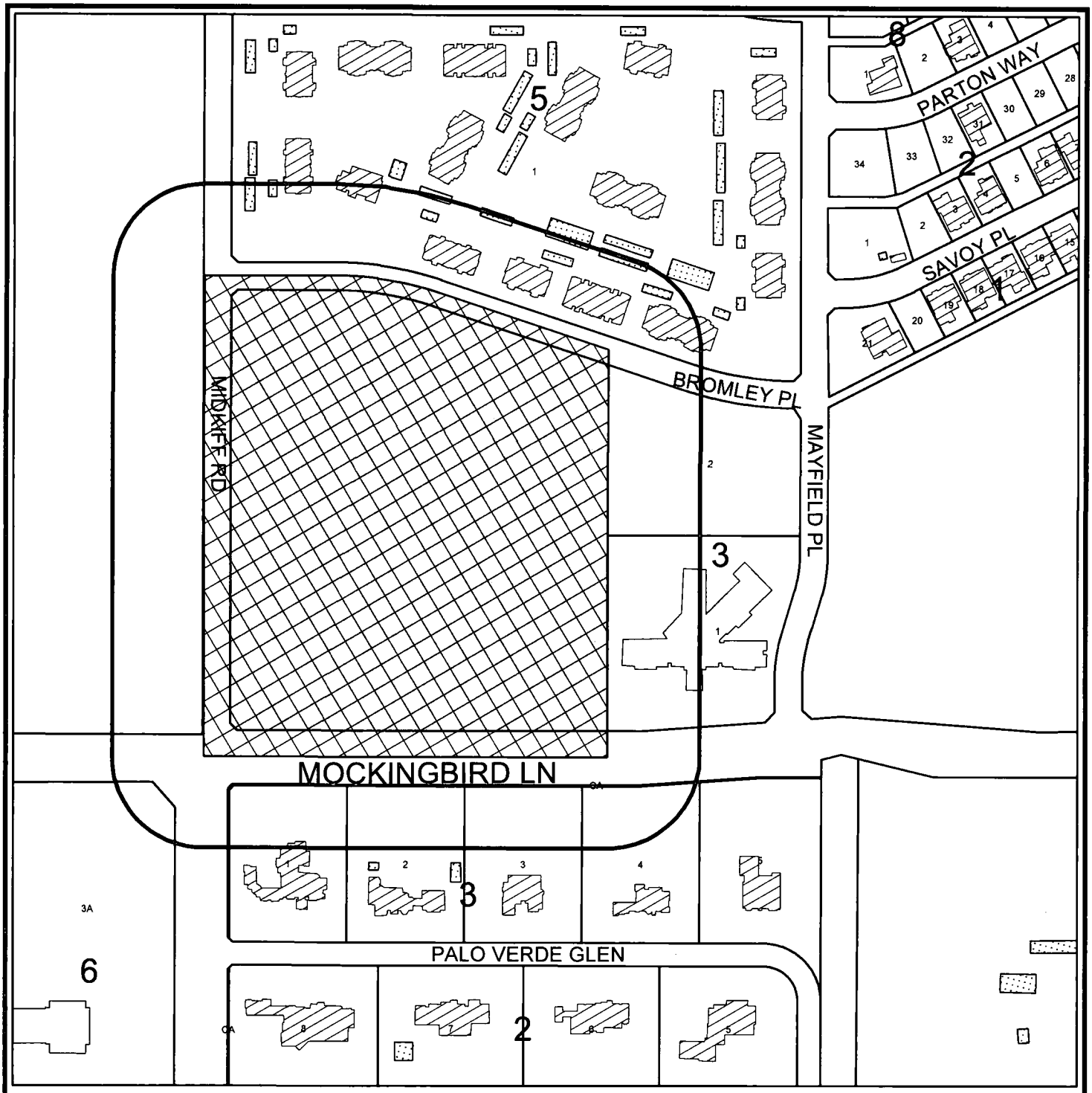
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

DARCY Y. KNIGHT
Notary Public, State of Texas
My Commission Expires
JUNE 14, 2015

FOR OFFICE USE ONLY
Rec'd By: CW Date: 3/28/12
Assigned: JRC
For: P+Z On: 4-30-12

****Application will not be considered for scheduling until reviewed by a planner.****

16.15 November 3, 2020 23.131 PACKET



PROPERTY OWNER NOTIFICATION MAP

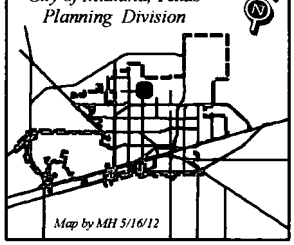
Z - 12 - 014 **Scale: 1" = 200'**

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on 20.22-acres out of Section 9, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS

City of Midland, Texas
Planning Division



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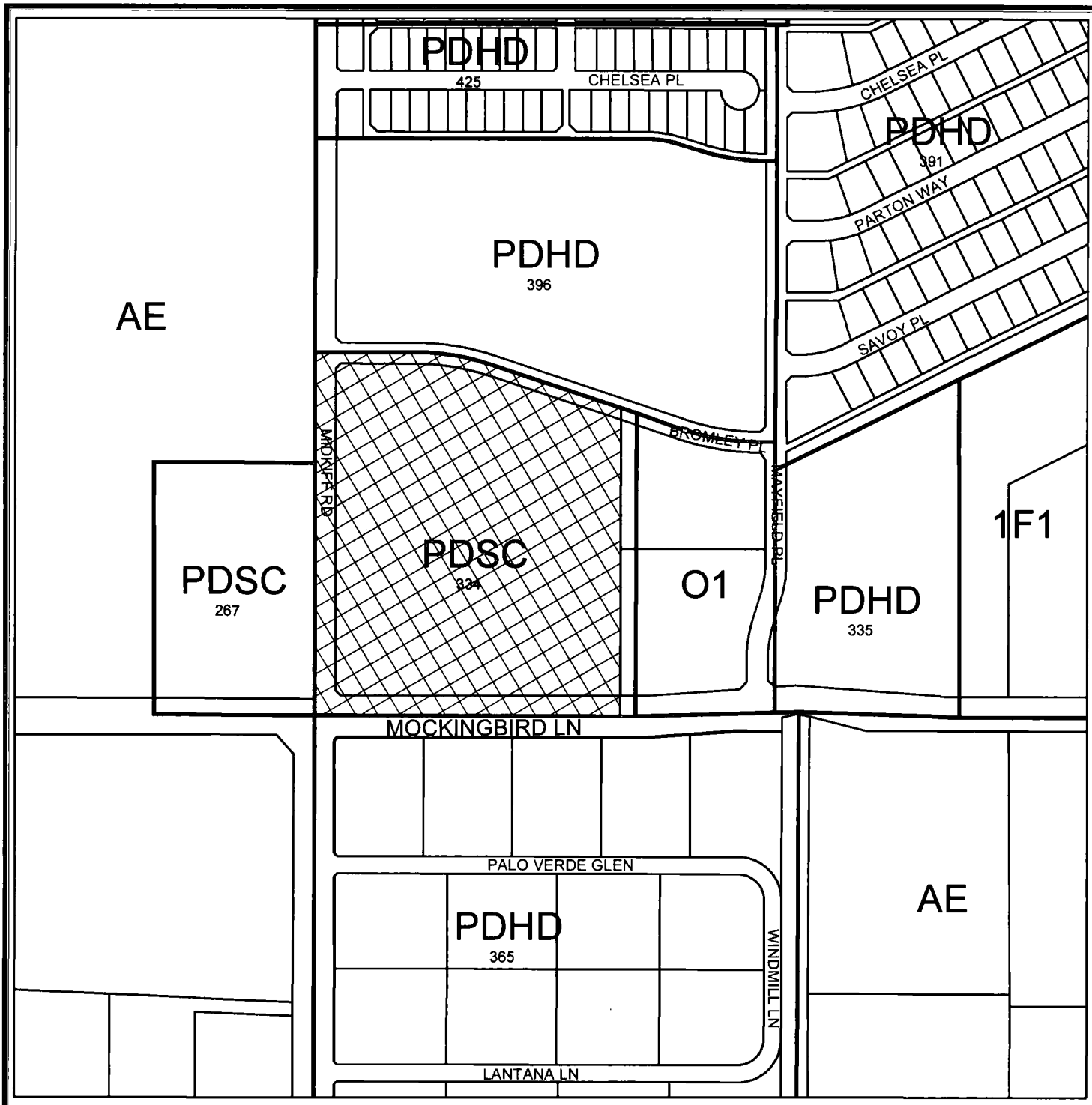

ZONING MAP

Z - 12 - 014 Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on 20.22-acres out of Section 9, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

PACKET

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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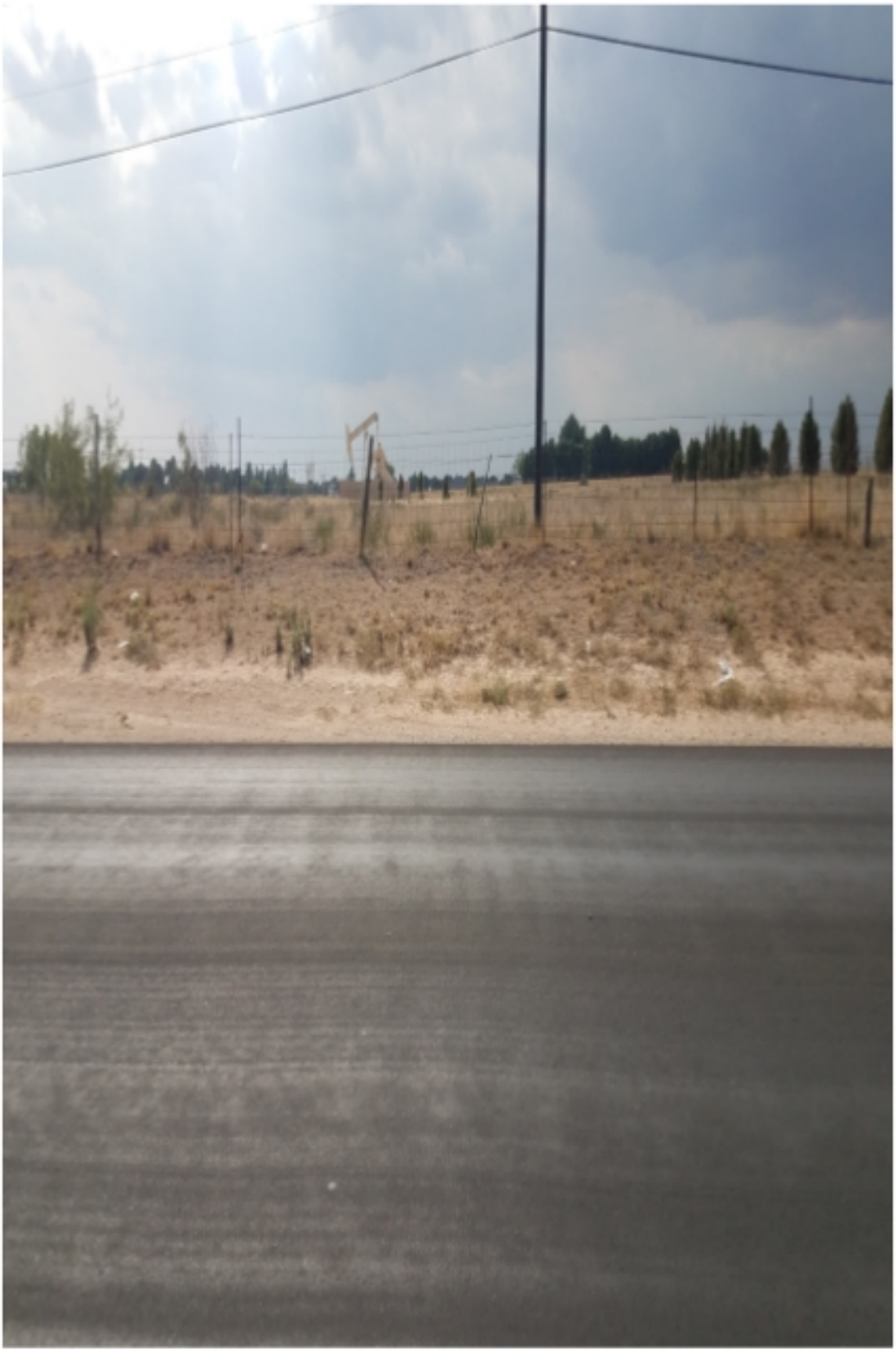


City Council Meeting

Item Number: 24

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Valerie Sherman, Senior Planner

Subject: AN ORDINANCE VACATING AND ABANDONING A 0.04-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1, 2, 7 AND 8, BLOCK 88, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH GARFIELD STREET, APPROXIMATELY 140 FEET SOUTH OF WEST WALL STREET); ADOPTING THE APPRAISAL BY THE INTERIM CITY MANAGER OF $6,996.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES)

Purpose:

The applicant, White Knight Properties, Ltd., is requesting to vacate a 0.04-acre portion of alley right-of-way located adjacent to Lots 1 and 2 and Lots 7 and 8, Block 88, West End Addition, City and County of Midland, Texas, to redevelop the existing site

Recommended City Council Action:

Approve

Fiscal Impact:

The 2020 appraised value of the right-of-way is $4.00 per square foot, for a total value of $6,996.00.

Discussion:

The vacation of this alley right-of-way will facilitate with the redevelopment of this site at 2201 W. Wall Street. The approximate area that will be vacated is 1,749 square feet (0.04-acres).

All the appropriate adjacent owners are aware of the proposed vacation and have signed the application.

The Midland Central's Appraisal District's appraisal of the land is $4.00 per square foot or $6,996.00.

This request has been circulated and reviewed by all pertinent City departments and franchise utility companies. Their comments, conditions, and requests are as follows:

Code Compliance: (Approved)

No Oil and Gas issues.

Building Code: (Approved)

No objections.

Engineering: (Approved with Conditions)

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

If an easement is to be provided for the Water main, structures cannot be placed within Public Utility Easements.

Fire: (Approved)

No objections.

Transportation: (Approved with Conditions)

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

AT&T:

I don't show that we have any cable in that easement. Looking in the field, I believe a cable goes down the pole into what was once the building but since that has been torn down, it is now dead.

Atmos:

Atmos Energy currently has facilities located within the above described Right of Way in the alley between Wall and Missouri and east of S. Garfield. We currently have a 3in. steel gas main that extends the length of this alley. Atmos would have no objection to vacating the referenced portion as long as the proposed utility easement were to be maintained in order for Atmos to continue serving customers north & south of this location.

Grande:

Grande Communications has an aerial coax cable crossing “O” Street on the east side, and it terminates on the pole in the right-of-way. We also have an anchor and down guy into the V-20-0030, West End Vacation easement along with Oncor and AT&T.

Oncor:

We have facilities located in the alley way and will not vacate this easement.

Suddenlink:

We are clear on this vacation request, Suddenlink doesn’t have any plant in that alley way.

Midland Central Appraisal District:

The land is valued at $4.00 per square foot or $ 6,996.00.

Planning:

Pertinent City departments and franchise utility companies have reviewed this vacation request and have approved it with the condition that a non-exclusive utility easement be retained.

The City Council approved this request at their October 20, 2020 meeting.

Therefore, staff recommends approval for the vacation of a 0.04-acre portion of alley right-of-way, located adjacent to Lots 1 and 2 and Lots 7 and 8, Block 88, West End Vacation, City and County of Midland, Texas, subject to conditions A through C.

Conditions:

A. **That the City of Midland has received from the property owner the sum of $6,996.00.**

B. **That the City retains a non-exclusive utility easement.**

C. **That a replat of the subject property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County.**

Letters of Objection:

As of October 14, 2020, staff has not received any letters of objection to this request.

Attachments:

Metes and Bounds (Exhibit A)

Application
Maps
Responses from Franchise Utility Companies and Midland Central Appraisal District

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE VACATING AND ABANDONING A 0.04-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1, 2, 7 AND 8, BLOCK 88, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH GARFIELD STREET, APPROXIMATELY 140 FEET SOUTH OF WEST WALL STREET); ADOPTING THE APPRAISAL BY THE INTERIM CITY MANAGER OF $6,996.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.04-acre portion of alley right-of-way located adjacent to Lots 1, 2, 7 and 8, Block 88, West End Addition, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made a part hereof for all legal purposes (the "Property"), is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the Property has been received by the City from the abutting property owner; and

WHEREAS, the Interim City Manager has appraised the value of the City's property interest in the Property at $6,996.00, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the Property;

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

SECTION ONE. That the Property is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby abandoning only the public interest in

the Property, and this ordinance in no way affects any private easement or access easement which abutting property owners may have in the Property.

SECTION TWO. That this ordinance shall not be effective until:

A. the City of Midland has received from the abutting property owner(s) the sum of $6,996.00; and

B. a replat of the Property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County, Texas.

SECTION THREE. That the City herein retains a nonexclusive utility easement across, through, over, under, on and along the Property until all entities that were using the Property for utility purposes as of the date of approval of this ordinance have abandoned their uses of the Property.

SECTION FOUR. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

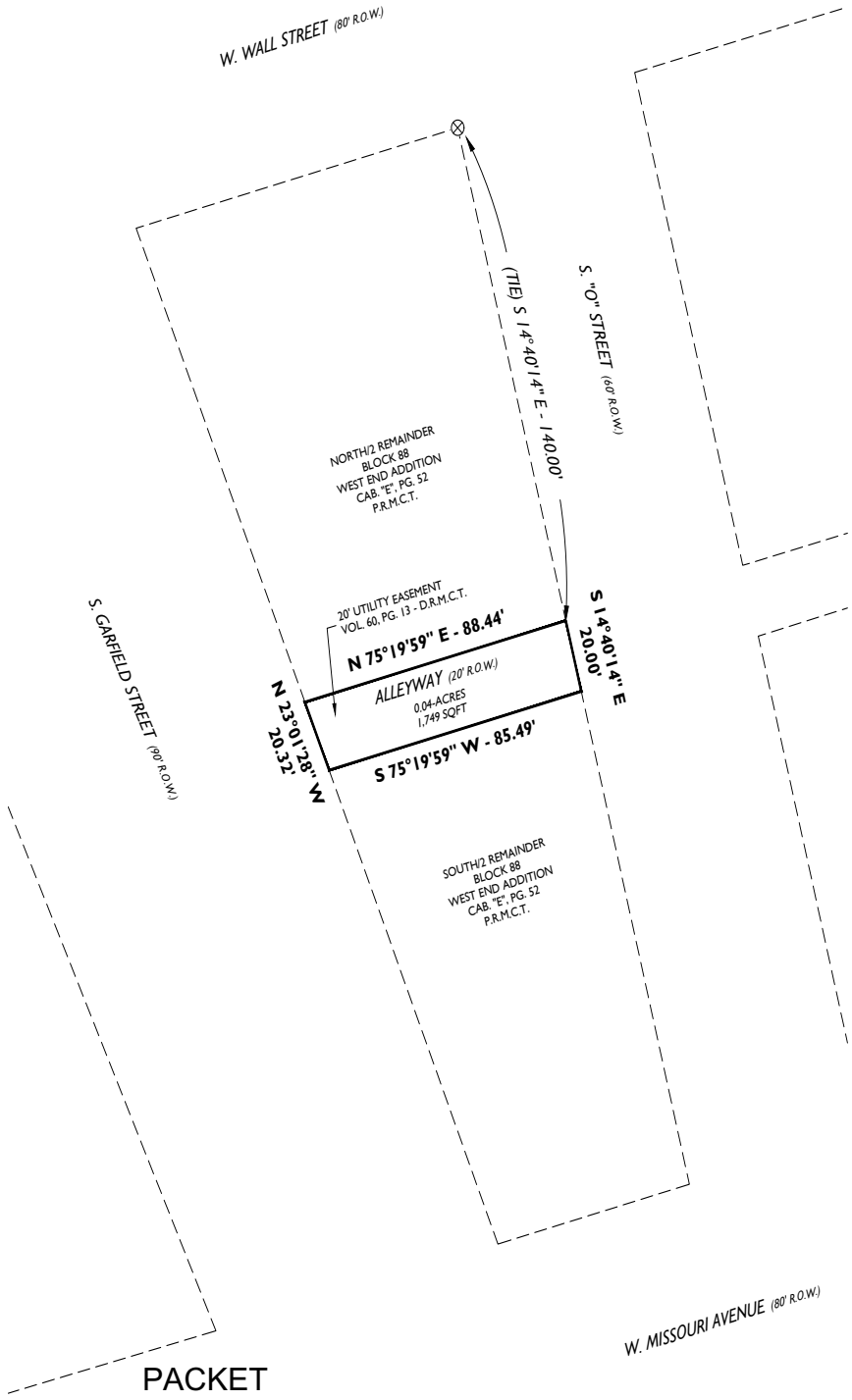
_____
Charles Harrington, Director of Development Services

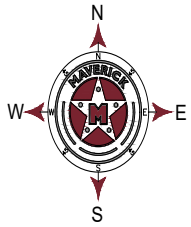
APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

"EXHIBIT A"

OF 0.04 ACRES, BEING AN EXISTING 20 FOOT WIDE ALLEY SITUATED IN BLOCK 88, EAST OF GARFIELD RIGHT-OF-WAY AS SHOWN IN A SKETCH PLAT IN CABINET "D", PAGE 170, AND ORIGINALLY RECORDED ON THE SUBDIVISION PLAT OF WEST END ADDITION, FILED IN CABINET "E", PAGE, 52, P.R.M.C.T., CITY AND COUNTY OF MIDLAND, TEXAS





0' 40' 80'

ORIGINAL SCALE : 1"-40'

LEGEND

⊗	"X" CUT IN CONCRETE
D.R.M.C.T.	DEED RECORDS MIDLAND CO. TX
P.R.M.C.T.	PLAT RECORDS MIDLAND CO. TX
———	PARCEL BOUNDARY
– – – –	EXISTING LOTS

BEING A DESCRIPTION OF AN EXISTING 20 FOOT WIDE ALLEY SITUATED IN BLOCK 88, EAST OF GARFIELD AS RECORDED ON A SKETCH PLAT RECORDED IN PLAT RECORD D, ON PAGE 170, AS SHOWN ON THE PLAT OF THE WEST END ADDITION TO THE CITY AND COUNTY OF MIDLAND, TEXAS, RECORDED IN PLAT RECORD E ON PAGE 52 OF THE PLAT RECORDS OF SAID MIDLAND COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

***COMMENCING** AT N.(Y):10693140.11, E.(X):1749468.10, THE NORTHEAST CORNER OF SAID BLOCK 88, THENCE S.14°40'14"E., 140.00 FEET TO THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND THE **POINT OF BEGINNING**;*

***THENCE** S.14°40'14"E., 20.00 FEET TO THE SOUTHEAST CORNER HEREOF;*

***THENCE** S.75°19'59"W., 85.49 FEET TO THE SOUTHWEST CORNER HEREOF;*

***THENCE** N.23°01'28"W., 20.32 FEET TO THE NORTHWEST CORNER HEREOF;*

***THENCE** N.75°19'59"E., 88.44 FEET TO THE **POINT OF BEGINNING**, CONTAINING 1,749 SQUARE FEET OR 0.04 ACRES.*

BEARING BASIS

BEARINGS, COORDINATES AND DISTANCES ARE A LAMBERT CONICAL PROJECTION OF THE TEXAS COORDINATE SYSTEM, STATE PLANE GRID, NAD 83, TEXAS CENTRAL ZONE

I GREGORY W. SHOULTS DO HEREBY CERTIFY THAT THIS PLAT IS BASED UPON FIELD NOTES OR ELECTRONIC DATA OF AN ACTUAL ON THE GROUND SURVEY AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

MAVERICK
ENGINEERING / SURVEY / WATER RESOURCES
1909 West Wall Street, Suite "K"
Midland, Texas 79701
ENGINEER FIRM #: F-15089
SURVEY FIRM #: 10194514
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

17 SEPTEMBER 2020

GREGORY W. SHOULTS, REGISTERED PROFESSIONAL LAND SURVEYOR DATE

STATE OF TEXAS
REGISTERED
GREGORY W. SHOULTS
5356
PROFESSIONAL
LAND SURVEYOR

PACKET 24.145 November 3, 2020

Drawing : F:\2020\200122-DOS CHURROS-WALL ST SHIPLEY'S\DRAWINGS\EXHIBITS\200122 - WEST END ALLEY VACATION.DWG Last Saved By: Paladin on 9/17/20

MIDLAND
Feel the Energy!

Office of the City Manager

October 8, 2020

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.04-acre portion of alley right-of-way located adjacent to Lots 1, 2, 7 and 8, Block 88, West End Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is $6,996.00. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

Robert Patrick

Robert Patrick
Interim City Manager

EXHIBIT "B"

MIDLAND
Planning Division

Vacate Right-of-Way/Public Utility Easement/Land/Street Application

Project Number: V-20-0030

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: White Knight Properties, Ltd		Phone ( ) Email	
Address PO Box 50820	City Midland	State TX	Zip 79710

Application is hereby made to the City Council to vacate the following:

- ☒ Right-of-Way
- ☐ Public Utility Easement
- ☐ Land
- ☐ Street

Description of Address: Both halves of the remainder of Block 88, West End Addition east of Garfield Street between Wall & Missouri. Common shared address of 2201 W. Wall St.

Reason for Request: Combine both remaining north and south halves of Block 88 for common redevelopment of this existing vacant site. Easement estate in existing alley to remain.

Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way: Advancement of this vacation will facilitate the redevelopment of this site with new construction improvements onsite and adjacent rights of way.

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Sealed metes and bounds description of the property to be vacated (included on the map) and total square feet of vacation. Include ownership, legal and deed information for adjacent property owners
- Digital Copies of Survey (PDF/JPEG)

Utility Company Approval

Clearance is needed from the following utility companies:

- City of Midland
- AT&T
- Atmos Energy
- Suddenlink Cable TV Co.
- Oncor Electric
- Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained to resolve any issues that may arise.

Policies

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.

2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:

   a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.

   b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 400 feet of the affected right-of-way.

   c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signatures

Applicant (signature):	Michael Black	Date: 9/18/20

Affected Property Owners: None other than applicant

Signature:	Print:	Date:
Signature:	Print:	Date
Signature:	Print:	Date
Signature:	Print:	Date

The Vacation of right-of-way/public utility easement/land/street shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

FOR OFFICE USE ONLY

☑ 1 FOLDED Copy of Survey

☑ Survey in Digital Format (PDF/JPEG)

☑ Application Fee

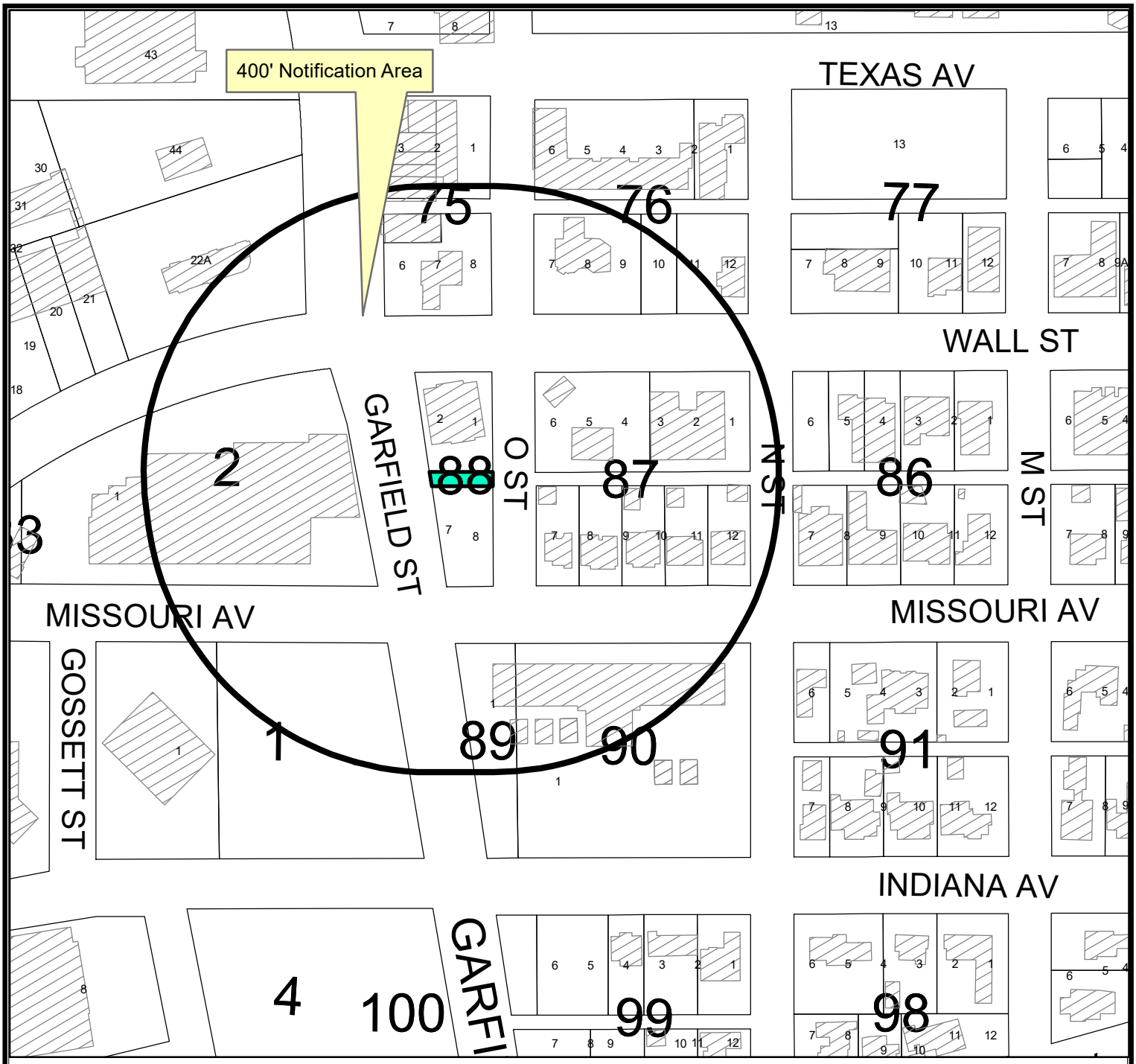
Check # 3240

RECEIVED
SEP 22 2020
BY:

Received By: Joseph Marynek

Date:

***Application will not be considered for scheduling until reviewed by Planning**



LOCATION MAP

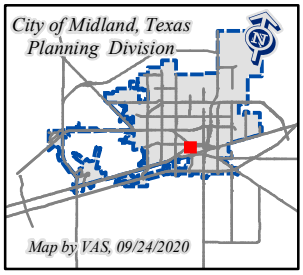
V-20-0030 **Scale: 1" = 200'**

Consider a request by White Knight Properties, Ltd., for a vacation of a 0.04-acre portion of alley right-of-way, located adjacent to Lots 1 and 2, and Lots 7 and 8, Block 88, West End Addition, City and County of Midland, Texas.

Generally located on the east of S. Garfield Street, approximately 140 feet south of W. Wall Street. (Council District 3)

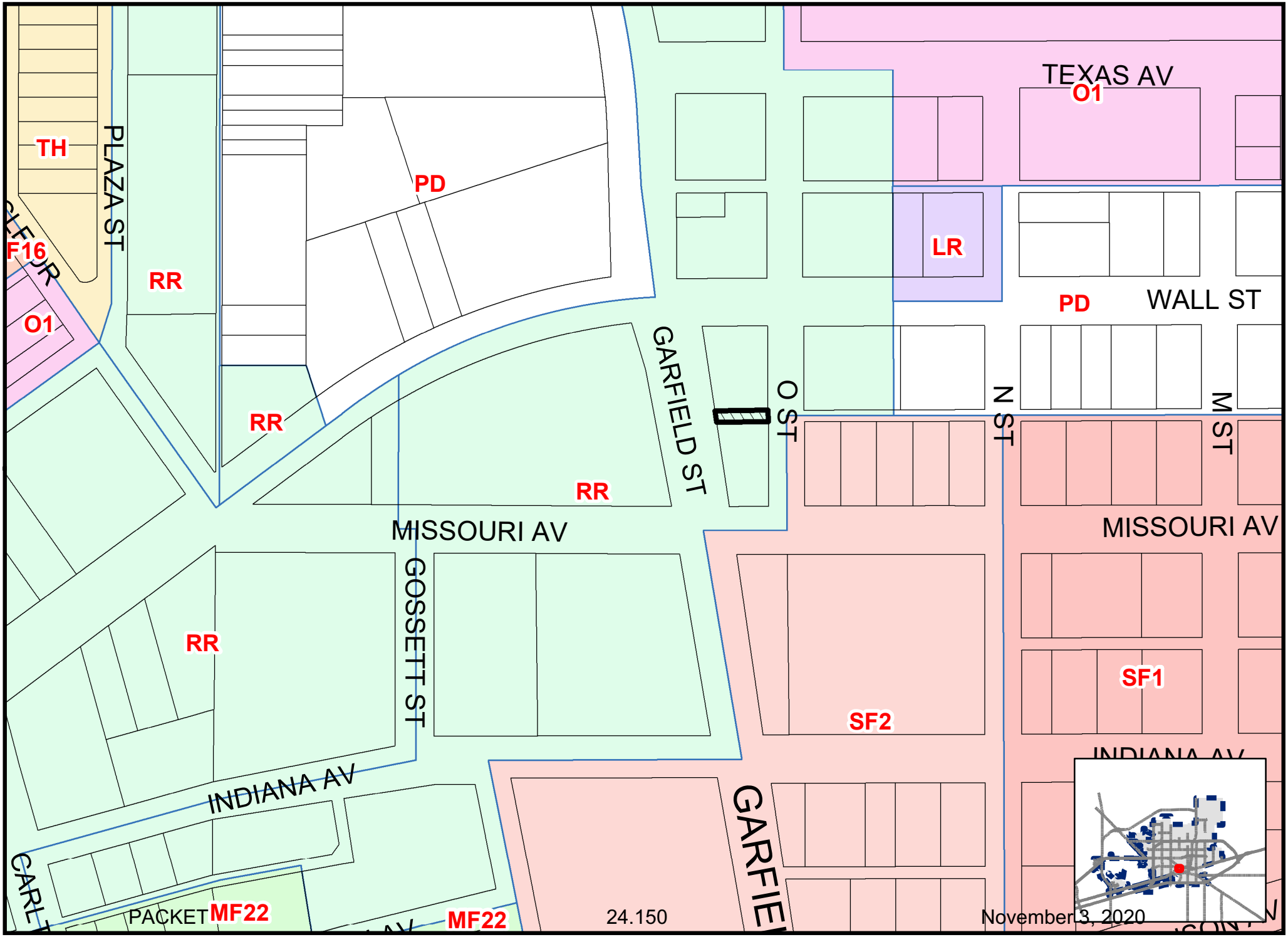
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



©THE CITY OF MIDLAND - 2020
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY NOR IS IT DESIGNED TO BE USED AS THE ONLY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

November 3, 2020



Map By VAS, 9/30/2020

V-20-0030

Scale: 1" = 200'

ZONING MAP

Valerie Sherman

From: drambo@midcad.org
Sent: Monday, October 5, 2020 2:45 PM
To: Valerie Sherman
Subject: Re: Appraisal Request: Proposed Right-of-Way Vacation

VALERIE...THE VACATION REQUESTED SHOULD BE VALUED AT $4.00 PER SQ FT OR $ 6996.00.

Dennis Rambo
Assistant Chief Appraiser
Midland Central Appraisal District
432 699 4991 ext 3030
432 689 7185 fax

From: Valerie Sherman <vsherman@midlandtexas.gov>
To: Dennis Rambo <drambo@midcad.org>
Date: 10/05/2020 10:09 AM
Subject: Appraisal Request: Proposed Right-of-Way Vacation

October 5, 2020

TO: Midland Central Appraisal District

ATTENTION: Dennis Rambo

SUBJECT: Proposed right-of-way vacation

We have recently received a request from White Knight Properties to vacate and abandon the following:

CASE NUMBER	GENERAL LOCATION	AREA SQ. FT.	CURRENT ZONING
V-20-0030	On the east side of S. Garfield Street, approximately 140 feet south of W. Wall Street. (Council District 3)	The 0.04-acre portion of alley right-of-way, located adjacent to Lots 1-2, Block 88, and Lots 7-8, Block 88, West End Addition, City and County of Midland, Texas.	RR, Regional Retail

Please prepare the estimated market value of this parcel so that the City Council may have this information during its consideration of this request.

Thank you for your assistance.

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

[attachment "V-20-0030, West End Vacation Plat-Exhibit A.pdf" deleted by Dennis Rambo/MCAD]

CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

Valerie Sherman

From: UNDERWOOD, JERRY D <ju1659@att.com>
Sent: Monday, September 28, 2020 7:18 AM
To: Valerie Sherman
Subject: RE: West End Vacation-Request for Comments

I don't show that we have any cable in that easement. Looking in the field I believe a cable goes down the pole into what was once the building but since that has been torn down it is now dead.

Thanks,
Jerry

From: Valerie Sherman <vsherman@midlandtexas.gov>
Sent: Thursday, September 24, 2020 3:09 PM
To: UNDERWOOD, JERRY D <ju1659@att.com>
Subject: West End Vacation-Request for Comments

Mr. Jerry Underwood
AT&T Manager Outside Plant Planning & Engineering Design
410 W. Missouri Avenue, Second Floor
Midland, Texas 79701

RIGHT-OF-WAY SEGMENT: Please see attached Exhibit A.

CASE NO.: V-20-0030
CASE NAME: West End Vacation

Dear Mr. Underwood:

Maverick Engineering has submitted a request to vacate the above described Right of Way (see attached exhibit). Please advise if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7915 if you have any questions. You can send your response via email to vsherman@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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ATMOS energy

ATMOS ENERGY

West Texas Division
P.O. Box 1111,
Midland, Texas 79702

City of Midland
Valerie A. Sherman
300 N. Loraine
Midland, Texas 79701

October 5, 2020

Re: Case Name: West End Vacation
Case Number: V-20-0030

Valerie,

Atmos Energy currently has facilities located within the above described Right of Way in the alley between Wall and Missouri and east of S. Garfield. We currently have a 3in. steel gas main that extends the length of this alley. Atmos would have no objection to vacating the referenced portion as long as the proposed utility easement were to be maintained in order for Atmos to continue serving customers north & south of this location.
Please let me know if you have any further questions.

Sincerely,

Mark Lieb

Mark Lieb
Project Specialist
Atmos Energy/Permian Basin
432-617-3447 office
432-967-0370 cell
mark.lieb@atmosenergy.com

Valerie Sherman

From: William Bentley <william.bentley@mygrande.com>
Sent: Friday, September 25, 2020 8:14 AM
To: Valerie Sherman
Subject: Re: Proposed ROW Vacation-Comments Requested

Valerie,

Grande Communications has an aerial coax cable crossing "O" street on the east side and it terminates on the pole in the right-of-way. We also have an anchor and down guy into the V-20-0030, West End Vacation easement along with Oncor and AT&T.

Thanks,
Bill

On Thu, Sep 24, 2020 at 3:40 PM Valerie Sherman <vsherman@midlandtexas.gov> wrote:

Mr. William Bentley

Grande Communication

2401 E. I-20

Odessa, Texas 79766

RIGHT-OF-WAY SEGMENT: Please see attached Exhibit A.

CASE NO.: V-20-0030

CASE NAME: West End Vacation

Dear Mr. Bentley:

Maverick Engineering has submitted a request to vacate the above described Right of Way (see attached exhibit). Please advise if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7915 if you have any questions. You can send your response via email to vsherman@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Valerie A. Sherman

Senior Planner|Development Services

O. 432-685-7915

E. vsherman@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

Attachments:

Metes and Bounds Exhibit A

Vacation Exhibit

--

William (Bill) Bentley

Construction Coordinator

Midland/Odessa

432.272.3086 Office

432.653.9369 Cell

william.bentley@mygrande.com

2401 E IH 20 Odessa Tx 79766

CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

Valerie Sherman

From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Tuesday, October 6, 2020 2:59 PM
To: Valerie Sherman
Subject: RE: Proposed ROW Vacation-Comments Requested

Valerie,
I had one of our designers look at this today. We have facilities located in the alley way and will not vacate this easement. Please let me know if you have any questions.
Jeff

Jeffrey R. Henderson
Supervisor
Oncor | PMDS
2401 W. Industrial Ave.
Midland, TX 79701
Office: 432-756-4113
Cell: 432-894-8413
Jeffrey.henderson@oncor.com

oncor.com

My Manager: Chad Blankenship
Cell: 325-456-2674 Email: Chad.Blankenship@oncor.com

From: Valerie Sherman [mailto:vsherman@midlandtexas.gov]
Sent: Tuesday, October 6, 2020 2:10 PM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Subject: FW: Proposed ROW Vacation-Comments Requested

Hi Again Jeff,

I'm following up one more time on the comments request (see emails below). I must have all comments in the system by the end of day today. Please let me know. Thank you .

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

MIDLAND
Feel the Energy!

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Monday, October 5, 2020 11:57 AM
To: Valerie Sherman <vsherman@midlandtexas.gov>
Subject: RE: Proposed ROW Vacation-Comments Requested

Hello,
I will have one of my people check this today.
Thanks.
Jeff

From: Valerie Sherman [mailto:vsherman@midlandtexas.gov]
Sent: Monday, October 5, 2020 10:45 AM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Subject: FW: Proposed ROW Vacation-Comments Requested

Good Morning Mr. Henderson,

I am following up on a request for comments for a ROW vacation (please see email below). If possible, would you please provide any comments by end of day today. Thank you.

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

MIDLAND
Feel the Energy!

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

From: Valerie Sherman
Sent: Thursday, September 24, 2020 3:32 PM
To: Jeffrey.Henderson@oncor.com
Subject: Proposed ROW Vacation-Comments Requested

Mr. Jeffrey Henderson
Oncor Electric Delivery Company
2401 W. Industrial Ave.
Midland, Texas 79701

RIGHT-OF-WAY SEGMENT: Please see attached Exhibit A.

CASE NO.: V-20-0030
CASE NAME: West End Vacation

Dear Mr. Henderson:

Maverick Engineering submitted a request to vacate the above described Right of Way (see attached exhibit). Please advise if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7915 if you have any questions. You can send your response via email to vsherman@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

MIDLAND
Feel the Energy!

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

Attachments:
Metes and Bounds Exhibit A
Vacation Exhibit

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CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

Valerie Sherman

From: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Sent: Thursday, September 24, 2020 4:02 PM
To: Valerie Sherman
Subject: RE: External E-mail - Proposed ROW Vacation-Comments Requested

We are clear on this vacation request, Suddenlink doesn't have any plant in that alley way

From: Valerie Sherman <vsherman@midlandtexas.gov>
Sent: Thursday, September 24, 2020 3:36 PM
To: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Subject: External E-mail - Proposed ROW Vacation-Comments Requested

[External Email]

Caution: This email originated outside of Altice USA. Please do not click links or attachments unless you recognize the sender and know the content is safe.

Mr. Luis Montez
Suddenlink Communications
2530 S. Midkiff
Midland, Texas 79701

RIGHT-OF-WAY SEGMENT: Please see attached Exhibit A.

CASE NO.: V-20-0030
CASE NAME: West End Vacation

Dear Mr. Montez:

Maverick Engineering has submitted a request to vacate the above described Right of Way (see attached exhibit). Please advise if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7915 if you have any questions. You can send your response via email to vsherman@midlandtexas.gov.

Thank you for your assistance.

Sincerely,

Valerie A. Sherman
Senior Planner|Development Services
O. 432-685-7915
E. vsherman@midlandtexas.gov

MIDLAND
Feel the Energy!

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

Attachments:
Metes and Bounds Exhibit A
Vacation Exhibit

PRE-OWNED
OPENING SOON

STOP

City Council Meeting

Item Number: 25

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC for the drilling of the oil and gas well Charger #H120WB; said well being generally located 2,410 feet west of Rankin Highway and 515 feet south of West Interstate 20. District 2. (DEVELOPMENT SERVICES)

Purpose:

Permian Deep Rock Oil Co., LLC for the drilling of the oil and gas well Charger #H120WB; said well being generally located 2,410 feet west of Rankin Highway and 515 feet south of West Interstate 20. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed the well site in detail and recommends approval with the addition of one exhibit. This application is for a previously approved permit that has expired. A 16 ft. sound wall will be used during drilling and fracing operations being located on the south side of location. This well application was approved under a previous permit but has expired. The operator has a surface agreement with the surface owner. Receiving support of the Oil & Gas Advisory Committee, Permian Deep Rock Oil is requesting the following variances:

(1) Permian Deep Rock Oil Company requests variance to residence or commercial structure within 265 feet.
(2) Permian Deep Rock Oil Company requests a variance to the requirement of landscaping and irrigation since city water is not available.
(3) Permian Deep Rock Oil Company requests variance for fence of the drill pad instead of individual well.
(4) Permian Deep Rock Oil Company requests variance to the Road Repair Agreement due to no city streets will be used.
(5) Permian Deep Rock Oil Company requests to allow for twenty-four-hour fracing operations.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Flow Line Location;

Robert Patrick

City Manager's Office

MIDLAND Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
09/01/2020	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702
Representative Name	**Representative Address (within Midland City Limits)**	**Rep. Tele.** 432-682-6685
Keith E. Bucy	500 W. Wall St. Ste 300 Midland, TX 79701	**Rep. Fax** 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ **No** ___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions within Charger Unit

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Surface use: Undeveloped Rangeland, service company yards and apartment complex
Surface ownership: Two residences, apartment complex and service company yards:

See Exhibit "D"

ATTACHED AS EXHIBIT D **is**

Current Tax Roll from Midland Central Appraisal District), **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

ATTACHED AS EXHIBIT E **is a** ***(map/p lat/satellite/aerial photo)*** **depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The** ***(map/p lat/satellite/aerial photo)*** **includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Charger #H120WB Original city permit expires 09/26/2020

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 240' FNL & 2410' FEL, Section 10
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Location Site Plan [See § J(9)].**

ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

ATTACHED AS EXHIBIT I **is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments** ***(also file copy of W-1 with City Secretary before commencement of drilling operations).*** **[See § J(16) and (20)].**

ATTACHED AS EXHIBIT J **is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

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(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P **is the** *Letter of Credit/Certificate of Deposit* **in accordance with Subsection (K)(2). [See § J(18)].**

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ATTACHED AS EXHIBIT R **is the required Insurance Certificate. [See § J(19) and § K(3)].**

ATTACHED AS EXHIBIT S (if applicable) **is the Drainage Plan relating to Applicant's proposed operations. [See § J(21)].**

ATTACHED AS EXHIBIT T **is Applicant's Emergency Action Response Plan. [See § J(22)].**

ATTACHED AS EXHIBIT U **is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

Attached as Exhibit V: Applicants variances

Permian Deep Rock Oil Company LLC
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

Keith E Bury, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

_____
Notary Public, State of Texas

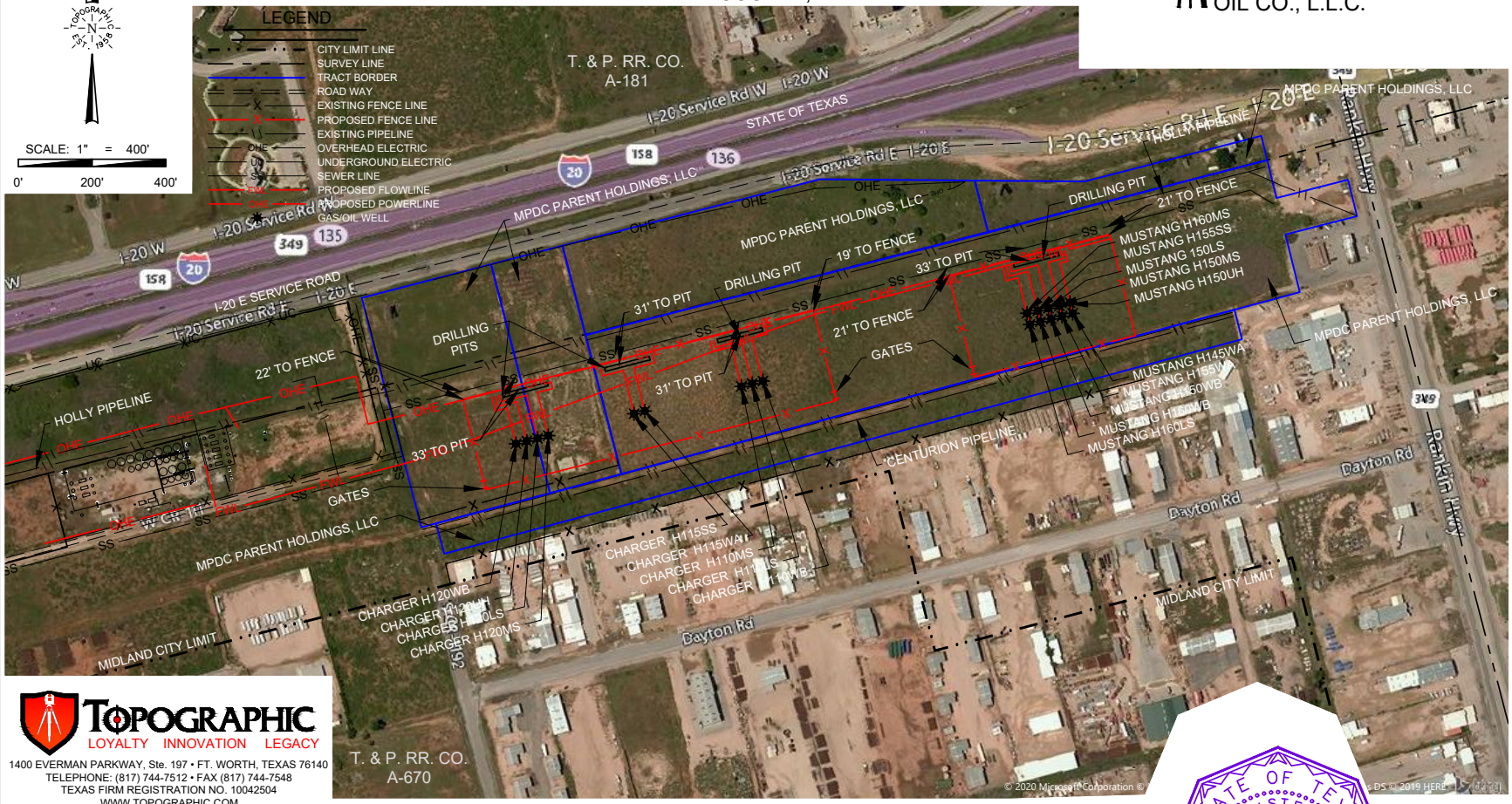
CHRISTOPHER HALL
Notary Public, State of Texas
Comm. Expires 08-11-2019
Notary ID 128701314

[S E A L]

EXHIBIT "G"

SECTION 3, BLOCK 39, T2S, T. & P. RR. CO. SURVEY, A-181 &
SECTION 10, BLOCK 39, T2S, H. MCCLINTIC SURVEY, A-670
MIDLAND COUNTY, TEXAS

PERMIAN DEEP ROCK OIL CO., L.L.C.



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LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 197 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7548
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

CHARGER UNIT CITY PERMIT		REVISION:	
		MJM	11/26/18
		JRH	11/07/19
		DRH	11/13/19
DATE:	03/28/2018	DRH	11/14/19
FILE:	SK_MUSTANG_UNIT_A_CHARGER_UNIT_A_PERMIT_REV10	DRH	12/13/19
DRAWN BY:	GJU	DRH	08/12/20
SHEET :	3 OF 12	DRH	08/26/20

NOTES:
1. ORIGINAL DOCUMENT SIZE: 11" X 8.5"
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3. CERTIFICATION IS MADE ONLY FOR PROPOSED UTILITIES AND SITES, IN RELATION TO THE EVIDENCE FOUND DURING A FIELD SURVEY, MADE ON THE GROUND, UNDER MY SUPERVISION, AND USING DOCUMENTATION PROVIDED BY PERMIAN DEEP ROCK OIL CO., L.L.C. ONLY UTILITIES/EASEMENTS THAT WERE VISIBLE ON THE DATE OF THIS SURVEY, WITHIN/ADJOINING THIS EASEMENT, HAVE BEEN LOCATED AS SHOWN HEREON OF WHICH I HAVE KNOWLEDGE. THIS CERTIFICATION IS LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE, AND MADE FOR THIS TRANSACTION ONLY.
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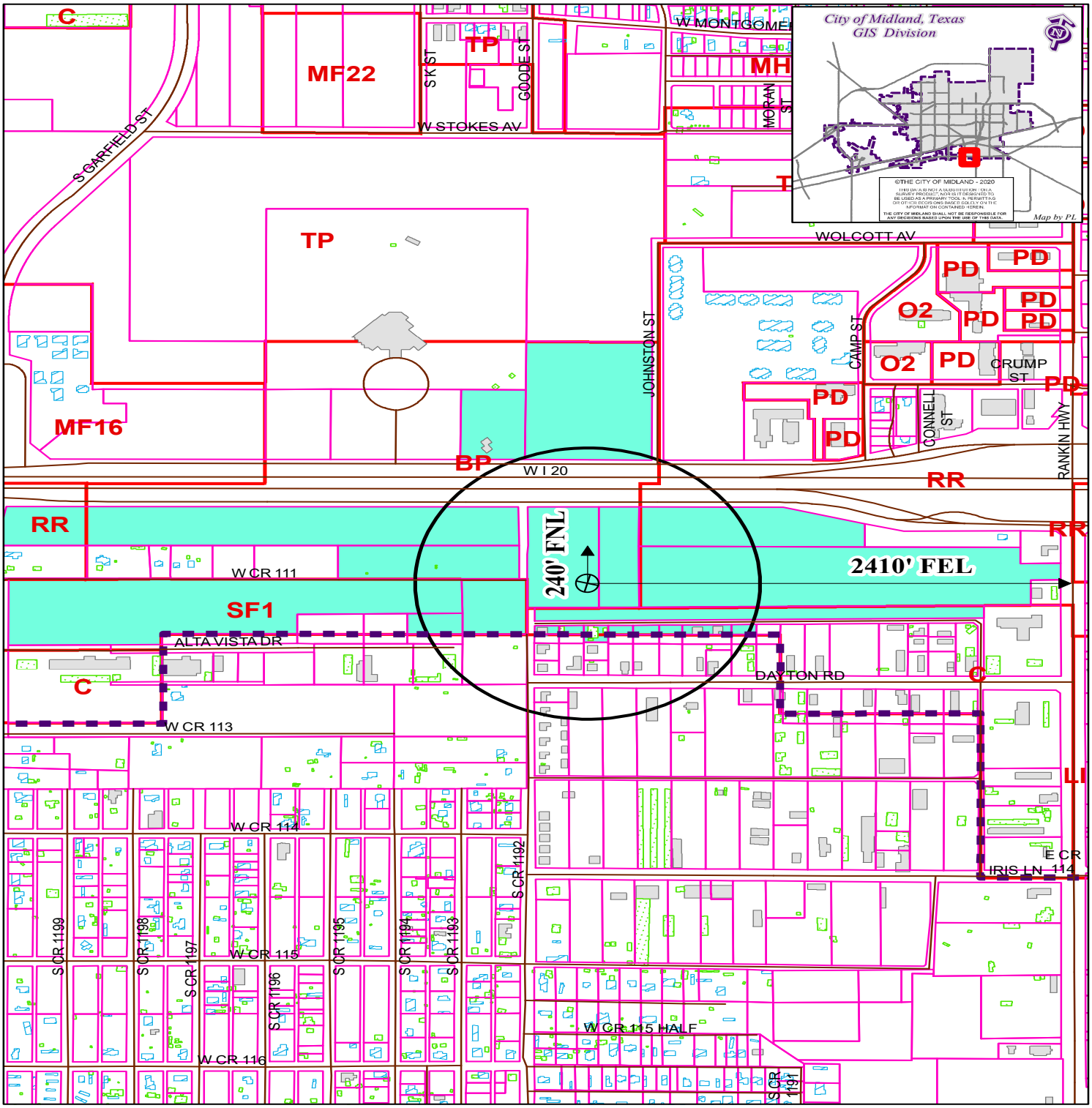
7. C.C.O.R.M.C.T. = C. C. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS

STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL LAND SURVEYOR

JEFFREY N LUEDERS, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: OCTOBER 7, 2016

S:\SURVEY\ARRINGTON\MUSTANG_UNIT\FINAL_PRODUCTS\SKETCH\SK_MUSTANG_UNIT_A_CHARGER_UNIT_A_PERMIT_REV10.DWG 8/26/2020 8:30:11 AM dharris



LOCATION AND ZONING MAP

Oil - 028208 - 2020 **Scale: 1" = 700'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 240' FNL and 2,410' FEL, Section 10, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 2,410 feet west of Rankin Highway and 515 feet south of West Interstate 20.

Charger #H120WB

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
SF1, 1F3	ONE-FAMILY DWELLING	C1, C2, C3	COMMERCIAL
MH	MOBILE HOME DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
TH	TOWNHOUSE DWELLING	LI	LIGHT INDUSTRY
2F	TWO-FAMILY DWELLING	HI	HEAVY INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING		

SCALE: 1" = 300'

0' 150' 300'

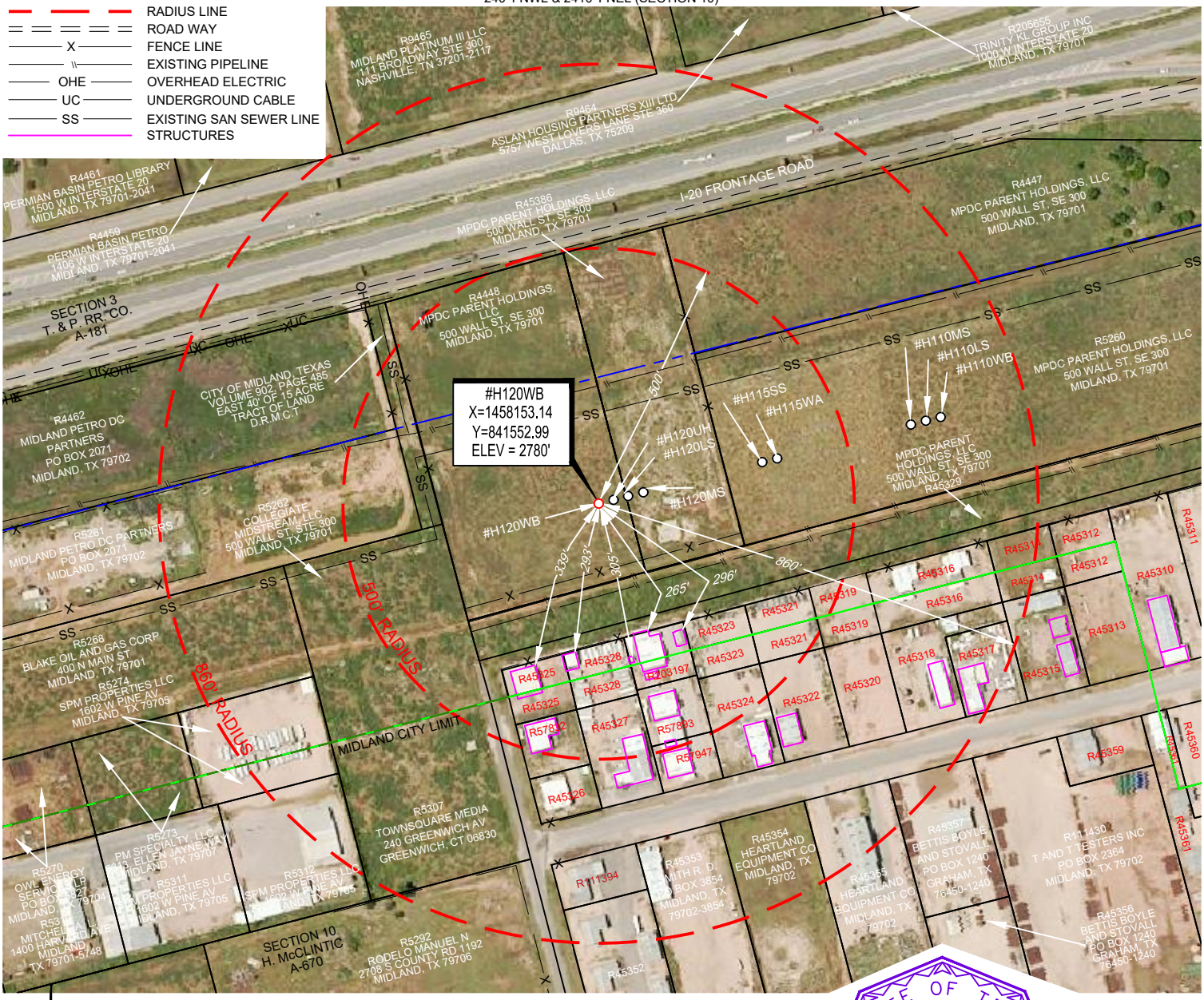
SECTION 10, T. & P. RR. CO. SURVEY, A-670
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **CHARGER #H120WB**
240' FNWL & 2410' FNEL (SECTION 10)

PERMIAN DEEP ROCK OIL CO., L.L.C.

LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- X — FENCE LINE
- EXISTING PIPELINE
- OHE — OVERHEAD ELECTRIC
- UC — UNDERGROUND CABLE
- SS — EXISTING SAN SEWER LINE
- STRUCTURES



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Jeffrey N. Lueders, R.P.L.S. No. 6512
MARCH 29, 2018

CHARGER #H120WB	REVISION:	
	DRH	08/12/2020
	DRH	08/28/2020
DATE: 11/09/2018		
FILE: CD_CHARGER_A_H120WB_REV2		
DRAWN BY: PAC		
SHEET : 1 OF 4		

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S:\SURVEY\ARRINGTON\CHARGER_UNIT\FINAL_PRODUCTS\CITY_PERMITS\NAD_27\CD_CHARGER_A_H120WB_REV2.DWG 8/28/2020 4:57:50 PM mmiller

City Council Meeting

Item Number: 26

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Ron Jenkins, Oil and Gas Coordinator

Subject: The proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC for the drilling of the following oil and gas wells: Charger #H130WB and Charger #H135WA; said wells being generally located between 2,043 and 2,343 feet west of South Garfield Street and 320 feet north of West County Road 111. District 2 (DEVELOPMENT SERVICES)

Purpose:

Permian Deep Rock Oil Co., LLC for the drilling of oil gas wells, as listed prior. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No notices of objection received.

Recommended City Council Action:

Directional / Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The Oil and Gas Advisory Committee has reviewed the well sites in detail and recommends approval with the addition of one exhibit. This application is for a previously approved permit that has expired. A 16 ft. sound wall will be used during drilling and fracing operations being located on the north side of location. These well locations were approved under previous permits but have expired. The operator has a surface agreement with the surface owner. Receiving support of the Oil & Gas Advisory Committee, Permian Deep Rock Oil is requesting the following variances:

(1) Permian Deep Rock Oil Company requests a variance to the requirement of landscaping and irrigation since city water is not available.
(2) Permian Deep Rock Oil Company requests variance for fence of the drill pad instead of individual well.
(3) Permian Deep Rock Oil Company requests variance to the Road Repair Agreement due to no city streets will be used.
(4) Permian Deep Rock Oil Company requests to allow for twenty-four-hour fracing operations.

Attachments: Applications; Location maps; Exhibit - Drill site maps, Exhibit – Flow Line Location;

Robert Patrick

City Manager's Office

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
09/01/2020	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702
Representative Name	**Representative Address (within Midland City Limits)**	**Rep. Tele.** 432-682-6685
Keith E. Bucy	500 W. Wall St. Ste 300 Midland, TX 79701	**Rep. Fax** 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ **No** ___	**NOTE: All attachments need to bound and put in a binder before submitting.**	**Pages 1-4**

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions within Charger Unit

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Surface use: Undeveloped Rangeland, service company yards and apartment complex
Surface ownership: Two residences, apartment complex and service company yards:

See Exhibit "D"

ATTACHED AS EXHIBIT D **is**

Current Tax Roll from Midland Central Appraisal District), **which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].**

ATTACHED AS EXHIBIT E **is a** ***(map/p lat/satellite/aerial photo)*** **depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The** ***(map/p lat/satellite/aerial photo)*** **includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Charger #H135WA Original City permit (Charger A H135WA) expired 05/20/2020

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 108' FSL & 1980' FWL, Section 3
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Location Site Plan [See § J(9)].**

ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

ATTACHED AS EXHIBIT I **is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments** ***(also file copy of W-1 with City Secretary before commencement of drilling operations).*** **[See § J(16) and (20)].**

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Permian Deep Rock Oil Company LLC
[NAME OF COMPANY]

By Keith E. Bury
Its General Manager

State of Texas)

County of Midland)

Keith E Bury, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

Notary Public, State of Texas

CHRISTOPHER HALL
Notary Public, State of Texas
Comm. Expires 08-11-2019
Notary ID 128701314

[SEAL]

SCALE: 1" = 300'

0' 150' 300'

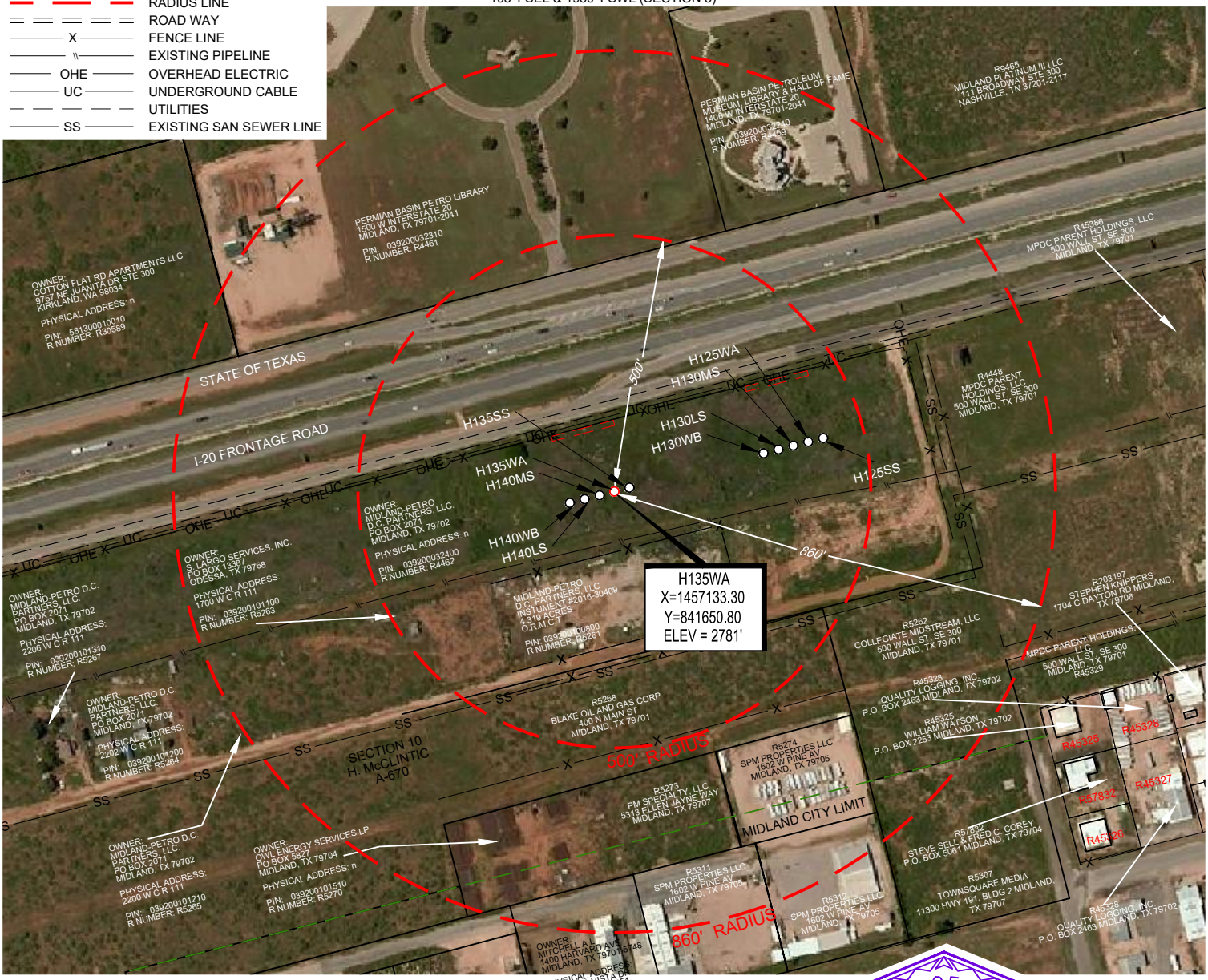
LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- X — FENCE LINE
- EXISTING PIPELINE
- OHE — OVERHEAD ELECTRIC
- UC — UNDERGROUND CABLE
- UTILITIES
- SS — EXISTING SAN SEWER LINE

SECTION 3, T. & P. RR. CO. SURVEY, A-181
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **CHARGER H135WA**
108' FSEL & 1980' FSWL (SECTION 3)

PERMIAN DEEP ROCK OIL CO., L.L.C.



N

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STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL
LAND SURVEYOR

Jeffrey N. Lueders, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: MAY 24, 2018

CHARGER H135WA	REVISION:	
	DRH	08/12/2020
	DRH	08/20/2020
DATE: 07/03/2018		
FILE: CD_CHARGER_A_H135WA_REV2		
DRAWN BY: PAC		
SHEET : 1 OF 2		

NOTES:
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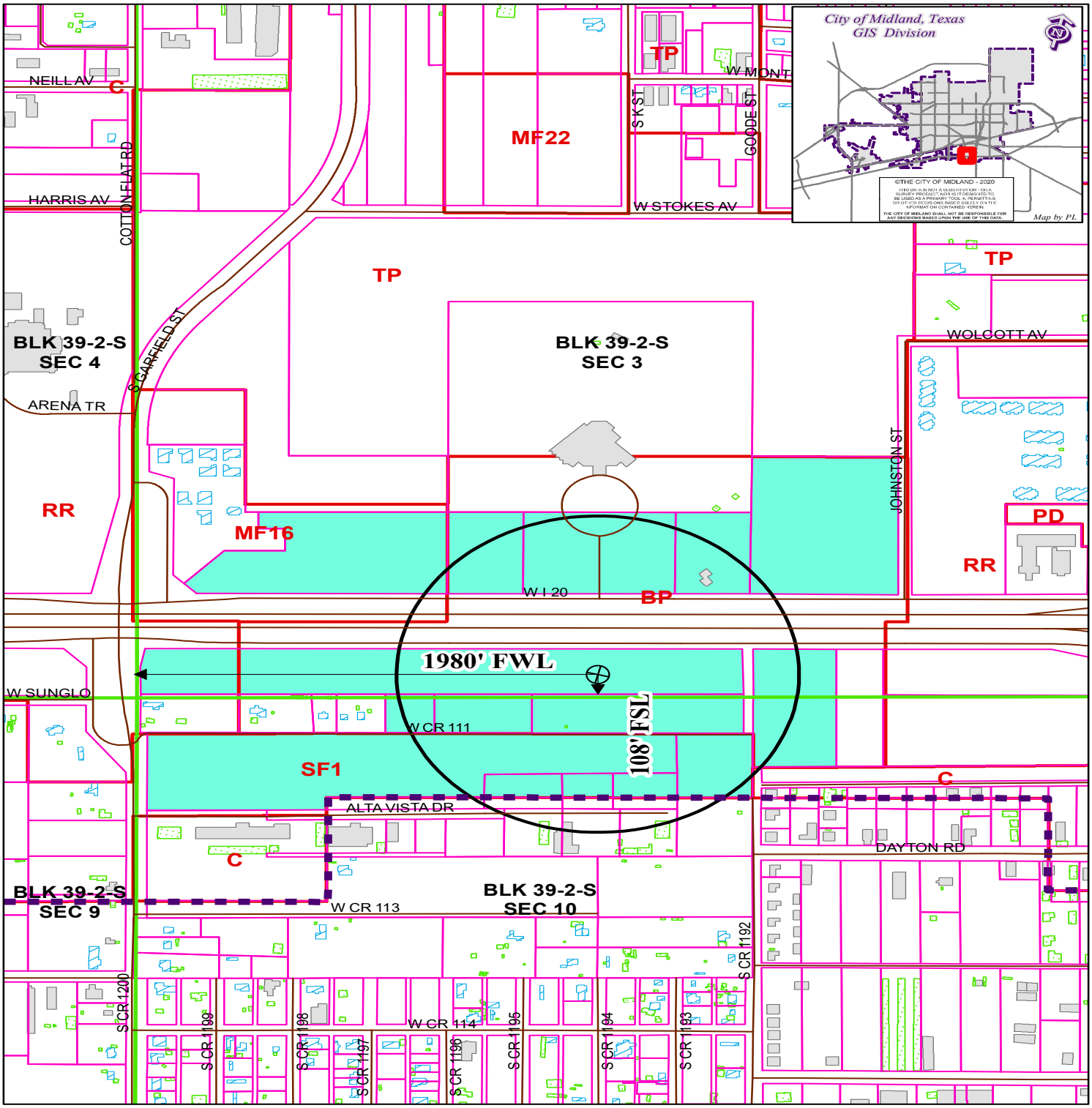
PACKET 26 16 November 3, 2020



LOCATION AND ZONING MAP

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Charger #H135WA

LEGEND

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COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

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AE	AGRICULTURE ESTATE	01, 02	OFFICE
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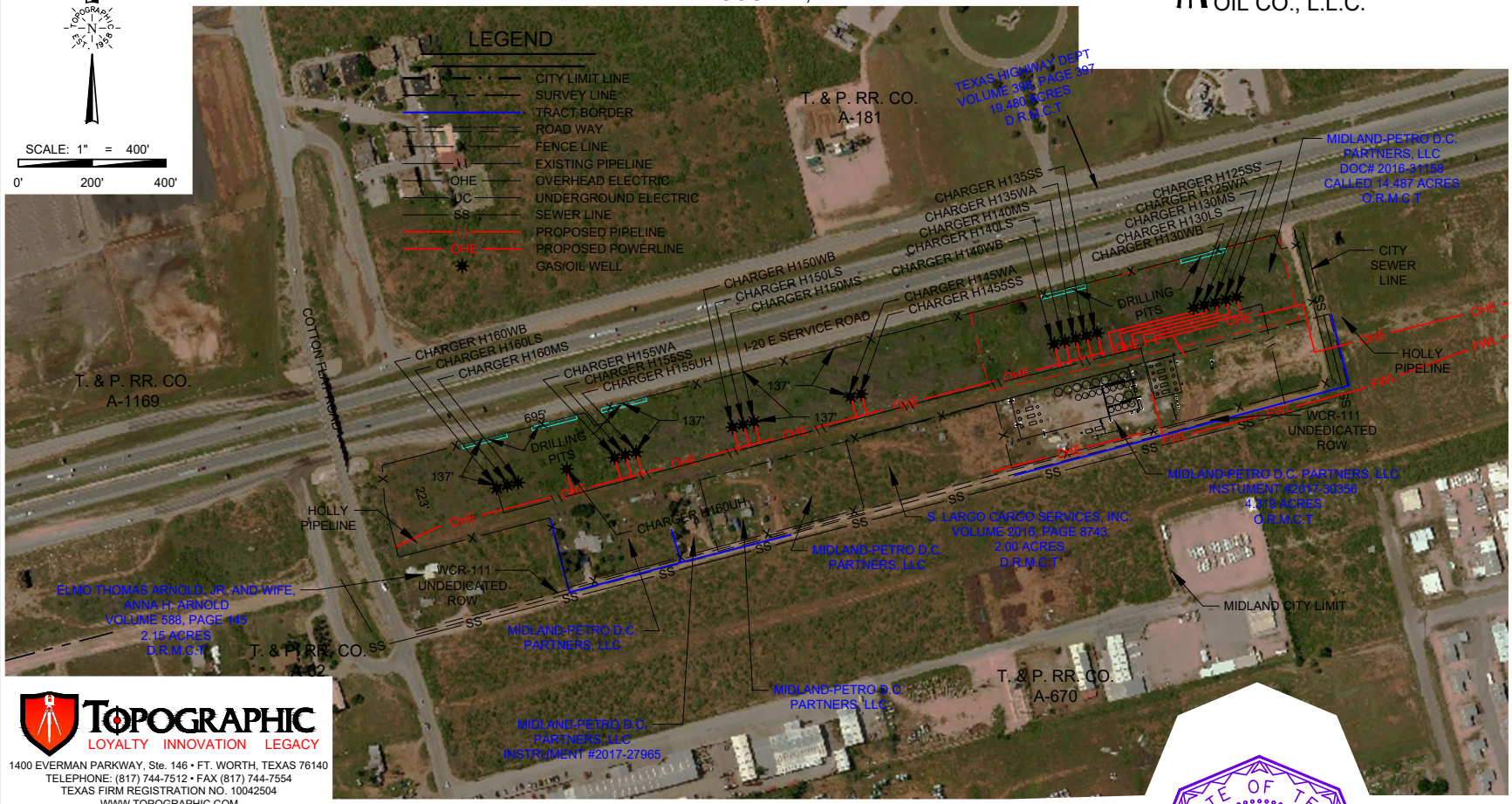
MIDLAND COUNTY, TEXAS

PERMIAN DEEP ROCK OIL CO., L.L.C.



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CHARGER UNIT CITY PERMIT	REVISION:	
	MBB	09/19/17
	AMD	06/22/18
	JRH	07/18/18
DATE: 07/05/2017	JRH	05/24/19
FILE: SK_CHARGER_UNIT_CL_PERMIT_REV22	JRH	11/07/19
DRAWN BY: CAR	DRH	08/12/20
SHEET : 3 OF 12	DRH	08/26/20

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7. C.C.O.R.M.C.T. = C. C. OFFICIAL RECORDS MIDLAND COUNTY, TEXAS

STATE OF TEXAS REGISTERED JEFFREY N. LUEDERS 6512 PROFESSIONAL LAND SURVEYOR

JEFFREY N. LUEDERS, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: OCTOBER 7, 2016

S:\SURVEY\ARRINGTON\CHARGER_UNIT\FINAL_PRODUCTS\SKETCH\SK_CHARGER_UNIT_CL_PERMIT_REV22.DWG 8/26/2020 8:28:18 AM dharris

MIDLAND
Planning Division

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date	Operator Name (must match W-1)	Operator Address
09/01/2020	Permian Deep Rock Oil Co., LLC	P.O. Box 11405 Midland, TX 79702

Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. / Rep. Fax
Keith E. Bucy	500 W. Wall St. Ste 300 Midland, TX 79701	Rep. Tele. 432-682-6685 Rep. Fax 432-684-4519
Fee: $4,000.00 Rec'd Yes ✓ No___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (Tele.): **No. 2 (Tele.):**

Option B:

Company Compliance Representative (Name, Address, Local Telephone) ***(ATTACH STATEMENT AS EXHIBIT A):*** See Exhibit "A"

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

See Exhibit "A"

Other Permitted Wells in City ***(ATTACH EXHIBIT B*** **[see § J(26)]).** See Exhibit "B"

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1.

2.

3.

ATTACHED AS EXHIBIT C **is** List of subdivisions within Charger Unit

See Exhibit "C"

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Surface use: Undeveloped Rangeland, service company yards and apartment complex
Surface ownership: Two residences, apartment complex and service company yards:

See Exhibit "D"

ATTACHED AS EXHIBIT D **is**
Current Tax Roll from Midland Central Appraisal District), **which lists**
the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT E **is a** ***(map/p lat/satellite/aerial photo)*** **depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The** ***(map/p lat/satellite/aerial photo)*** **includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].**

ATTACHED AS EXHIBIT F **is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].**

IV. Well & Operations Information

Proposed Well Name: Charger #H130WB Original City permit (Charger A H130WB) expired 05/20/2020

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See Exhibit "G"

Legal Description of Proposed Well Site: SHL: 108' FSL & 2280' FWL, Section 3
Block 39, T-2-S, T&PRR Co. Survey, Midland County, Texas

ATTACHED AS EXHIBIT G **is the Location Site Plan [See § J(9)].**

ATTACHED AS EXHIBIT H **is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].**

ATTACHED AS EXHIBIT I **is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments** ***(also file copy of W-1 with City Secretary before commencement of drilling operations).*** **[See § J(16) and (20)].**

ATTACHED AS EXHIBIT J **is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].**

ATTACHED AS EXHIBIT K (if applicable) **is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].**

ATTACHED AS EXHIBIT L **is the Fencing and Irrigation Plan. [See § J(30)].**

ATTACHED AS EXHIBIT M: **No city roads will be used**

ATTACHED AS EXHIBIT N **is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].**

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Oncor

Description of water source to be used during Drilling: Water is to be piped in from our water wells, drill additional water wells or truck fresh water in. All brine water will be trucked in.

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

See Exhibit "N"

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Trench and encapsulate per TXRRC Rule 27(c)(10)(v)

See Exhibit "O"

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P **is the** ***Letter of Credit/Certificate of Deposit*** **in accordance with Subsection (K)(2). [See § J(18)].**

ATTACHED AS EXHIBIT Q **: Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by applicant are current. (See § J(29)**

ATTACHED AS EXHIBIT R **is the required Insurance Certificate. [See § J(19) and § K(3)].**

ATTACHED AS EXHIBIT S (if applicable) **is the Drainage Plan relating to Applicant's proposed operations. [See § J(21)].**

ATTACHED AS EXHIBIT T **is Applicant's Emergency Action Response Plan. [See § J(22)].**

ATTACHED AS EXHIBIT U **is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].**

Attached as Exhibit V: Applicants variances

Permian Deep Rock Oil Company LLC
[NAME OF COMPANY]

By _____
Its General Manager

State of Texas)

County of Midland)

Keith E Bucy, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

_____
Notary Public, State of Texas

CHRISTOPHER HALL
Notary Public, State of Texas
Comm. Expires 08-11-2019
Notary ID 128701314

[SEAL]

SCALE: 1" = 300'

0' 150' 300'

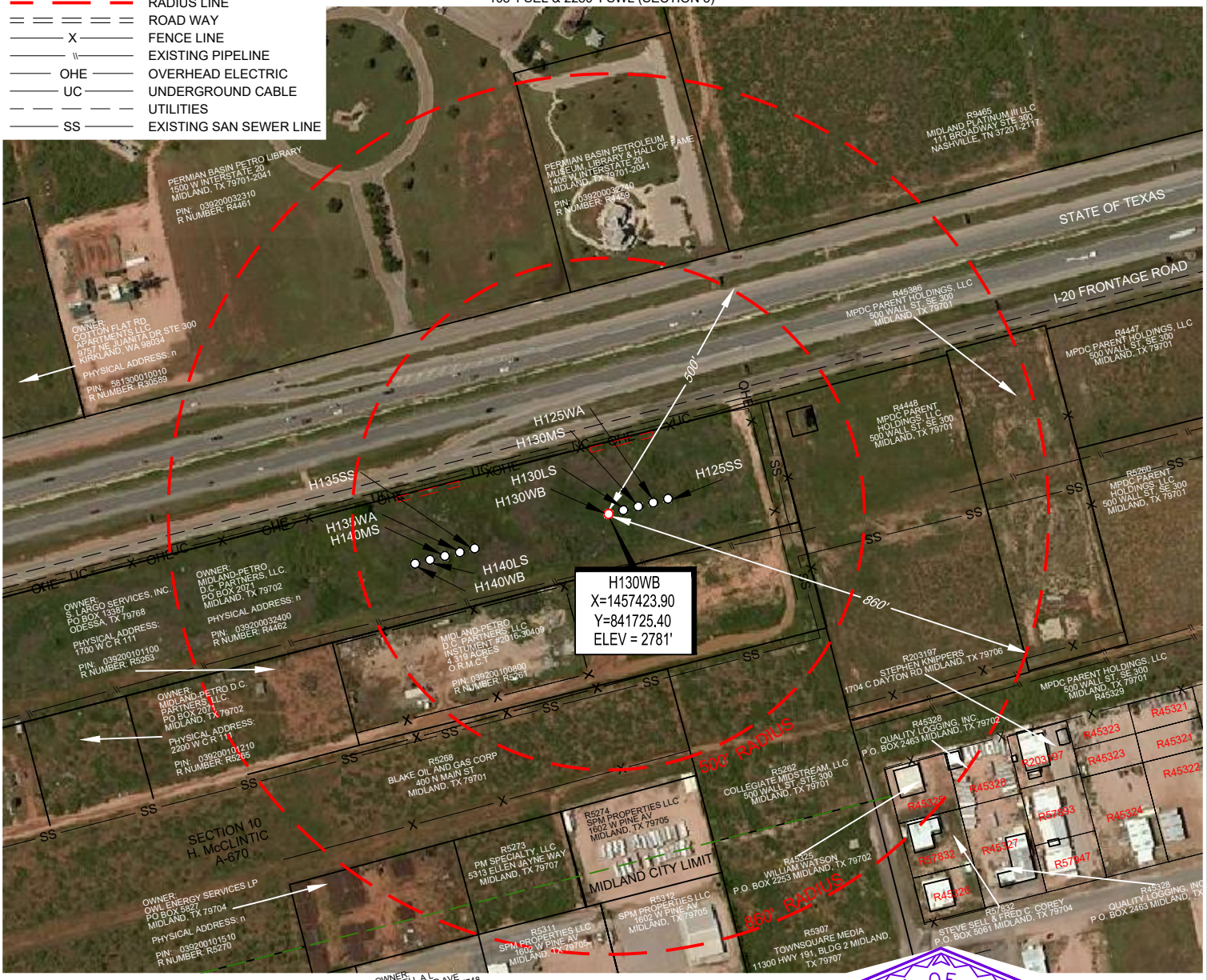
LEGEND

- SURVEY/SECTION LINE
- RADIUS LINE
- ROAD WAY
- X — FENCE LINE
- EXISTING PIPELINE
- OHE — OVERHEAD ELECTRIC
- UC — UNDERGROUND CABLE
- UTILITIES
- SS — EXISTING SAN SEWER LINE

SECTION 3, T. & P. RR. CO. SURVEY, A-181
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

SHOWING STRUCTURES WITHIN 500' RADIUS
AND PROPERTY OWNERS WITHIN 860' RADIUS
FOR PROPOSED **CHARGER H130WB**
108' FSEL & 2280' FSWL (SECTION 3)

PERMIAN DEEP ROCK OIL CO., L.L.C.



N

TOPOGRAPHIC
LOYALTY INNOVATION LEGACY
1400 EVERMAN PARKWAY, Ste. 146 • FT. WORTH, TEXAS 76140
TELEPHONE: (817) 744-7512 • FAX (817) 744-7548
TEXAS FIRM REGISTRATION NO. 10042504
WWW.TOPOGRAPHIC.COM

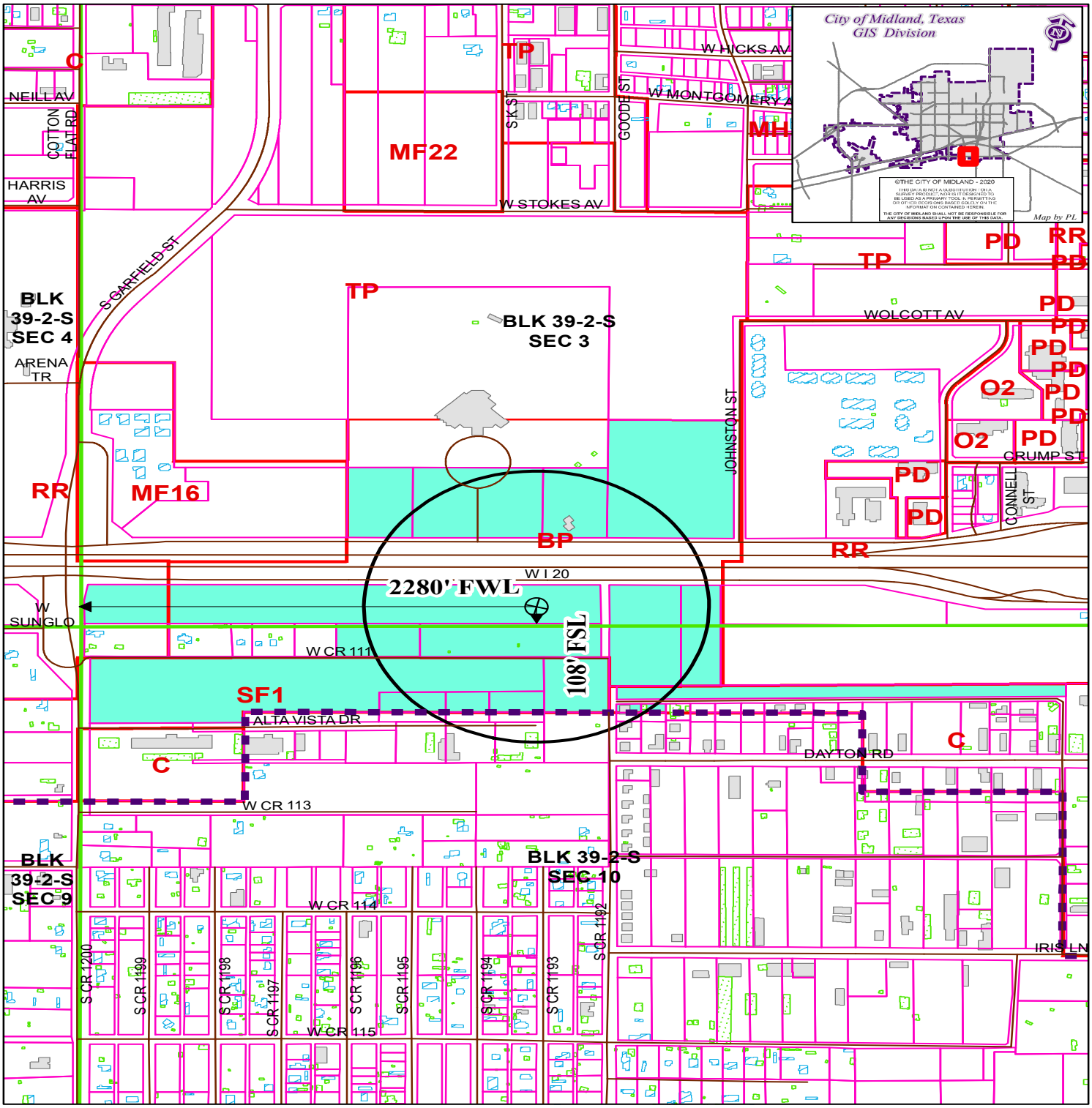
STATE OF TEXAS
REGISTERED
JEFFREY N. LUEDERS
6512
PROFESSIONAL
LAND SURVEYOR

Jeffrey N. Lueders, R.P.L.S. No. 6512
SURVEYED ON THE GROUND: MAY 24, 2018

CHARGER H130WB	REVISION:	
	DRH	08/12/2020
DATE: 07/03/2018		
FILE: CD_CHARGER_A_H130WB_REV1		
DRAWN BY: PAC		
SHEET : 1 OF 2		

NOTES:
1. ORIGINAL DOCUMENT SIZE: 8.5" X 11"
2. ALL BEARINGS, DISTANCES, AND COORDINATE VALUES CONTAINED HEREIN ARE GRID BASED UPON THE TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, U.S. SURVEY FEET, NORTH AMERICAN DATUM 1927.
3. THIS PROPOSED LOCATION HAS BEEN CAREFULLY SURVEYED ON THE GROUND UNDER MY SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE ACCORDING TO THE EVIDENCE, OFFICIAL SURVEY RECORDS, MAPS, AND OTHER DATA PROVIDED PERMIAN DEEP ROCK OIL CO., LLC. THIS PLAT WAS CREATED FOR THE SOLE PURPOSE OF FILING A PERMIT WITH THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS AND SHOULD NOT BE CONSTRUED AS A "BOUNDARY SURVEY" IN COMPLIANCE WITH T.B.P.L.S. MINIMUM STANDARDS OF PROCEDURES FOR BOUNDARY SURVEYS. THIS CERTIFICATION IS MADE AND LIMITED TO THOSE PERSONS OR ENTITIES SHOWN ON THE FACE OF THIS PLAT AND IS NON-TRANSFERABLE.
4. OWNERSHIP INFORMATION SHOWN HEREON WAS TAKEN FROM THE CITY OF MIDLAND, TEXAS GIS SITE.
5. DISTANCES SHOWN HEREON TO EXISTING STRUCTURES ARE SCALED PER AERIAL MAP.

S:\SURVEY\ARRINGTON\CHARGER_UNIT\FINAL_PRODUCTS\CITY_PERMITS\NAD_27\CD_CHARGER_A_H130WB_REV1.DWG 8/14/2020 8:59:48 AM jlueders



LOCATION AND ZONING MAP

Oil - 028207 - 2020 **Scale: 1" = 700'**

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 108' FSL and 2,280' FWL, Section 3, Block 39, T-2-S, T&P RR CO Survey, Midland County, Texas.

Generally located 2,343 feet west of South Garfield Street and 320 feet north of West County Road 111.

Charger #H130WB

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
RE, 1F, 1F2, 1F3	ONE-FAMILY DWELLING	GR	GENERAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP ,IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

City Council Meeting

Item Number: 27

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Elizabeth Shaughnessy, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,800-SQUARE FOOT PORTION OF BLOCK 1, LESS THE 250-FOOT BY 150-FOOT NORTHWEST CORNER AND LESS THE 224-FOOT BY 150-FOOT SOUTHWEST CORNER, REPLAT OF BLOCKS 1 AND 2, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 277 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant, Curly Fry Holdings, LLC d/b/a Murray's Deli, is requesting to amend the current Specific Use Designation with Term (SUD) for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant for Murray's Deli, located at 3211 West Wadley, Suite #24.

Recommended City Council Action:

Approve

Fiscal Impact:

No City funds are required to process this request.

Discussion:

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property is located at 3211 West Wadley, Suite #24 in the, Regional Retail District. The zoning to the north is PD, Planned District for a Shopping Center (Ordinance No. 8287), with an underlying zoning of RR, Regional Retail District, and SF-2, Single Family Dwelling District, and the locations of an undeveloped lot and single-family homes, respectively. The zoning to the east is PD, Planned District for a Housing Development and the location of residences. The zoning to the south is SF-2, Single Family Dwelling District and the location of single-family homes. The zoning to the west is RR, Regional Retail District, and the location of the Imperial Shopping Center, which includes Walgreens.

Analysis:

The property is located in the RR, Regional Retail District, which allows for the sale of all alcoholic beverages for on-premises consumption with a Specific Use Designation with Term.

Murray's Deli, has an active Specific Use Designation with Term for the sale of beer and wine for on-premises consumption in a restaurant (Ordinance No. 7215). This Specific Use Designation with Term was approved on January 12, 1993, allowing for the following alcoholic serviceable hours of:

Monday through Saturday from 10:30 a.m. to 12:00 a.m. (midnight)
Sunday from 12:00 p.m. (noon) to 12:00 a.m. (midnight)

Murray's Deli is currently in operation. The floor plan attached hereto a "Exhibit A" illustrates that the establishment has a total square footage of 4,800 square feet, with an alcohol serviceable area of 3,120 square feet.

The applicant is now requesting an amendment to the current Specific Use Designation with Term for a restaurant due to a change of ownership. The new proposed days and hours of operation for the restaurant are the following:

Monday through Friday from 11:00 a.m. to 8:00 p.m.
Saturday from 11:00 a.m. to 3:00 p.m.

The applicant is requesting the same days and hours for alcohol service.

Per Midland City Code, Section 5-4-4 Prohibited Places of Business.

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of this site. The nearest residential structures are approximately 160 linear feet northeast of the establishment.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Engineering: (Approved)

No objection.

Transportation: (Approved)

No objection to zone change.

Fire: (Approved)

No objection.

Code Administration: (Approved)

No objection.

Planning:

This request is in compliance with the Tall City Tomorrow Comprehensive Plan, Chapter 7-Central District Plan, Goal 1, “Establish Downtown Midland as a regional destination.” (Tall City Tomorrow page 137) Murray’s Deli is a destination where Midland residents can gather and socialize.

This request was recommend for approval at the November 2, 2020 Planning and Zoning Commission meeting.

Staff recommends approval of this Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, subject to the following conditions A through E.

Conditions:

A. That the serviceable area of the establishment shall be limited to approximately 3,120-square feet, as shown in Exhibit A.

B. That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

C. That the permitted hours of the sale of all alcoholic beverages shall be limited to:

Monday through Friday from 11:00 a.m. to 8:00 p.m.
Saturday from 11:00 a.m. to 3:00 p.m.

D. That the sale and on-premises consumption of all alcoholic beverages shall conform to all applicable state and local laws.

E. That the establishment shall meet the requirements of the Fire Department and the Code Administration Division.

Letters of Objection:

As of October 28, 2020, staff has not received any letters of objection.

Attachments:

Application
Floor Plan (Exhibit A)
Maps
Ordinances No. 7215

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,800-SQUARE FOOT PORTION OF BLOCK 1, LESS THE 250-FOOT BY 150-FOOT NORTHWEST CORNER AND LESS THE 224-FOOT BY 150-FOOT SOUTHWEST CORNER, REPLAT OF BLOCKS 1 AND 2, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 277 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for a 4,800-square foot portion of Block 1, less the 250-foot by 150-foot northwest corner and less the 224-foot by 150-foot southwest corner, Replat of Blocks 1 and 2, Imperial Heights Addition, City and County of Midland, Texas (the "Property"), as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of

all alcoholic beverages in a restaurant (the "Establishment") for on-premises consumption, together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 3,120 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to the following:

Monday through Friday from 11:00 a.m. to 8:00 p.m.; and
Saturday from 11:00 a.m. to 3:00 p.m.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland,

Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

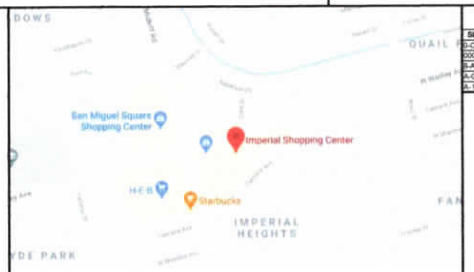
PACKET 27.33 November 3, 2020

IMPERIAL SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

IMPERIAL SHOPPING CENTER MIDLAND, TEXAS

Landlord:
IMPERIAL SHOPPING CENTER, INC.
3211 W Wadley Ave # 9A, Midland, TX 79705
Landlord Contact:
Cassidy Remley
Phone: (432) 697-6401
Email:cassidy@imperialshoppingcenter.com

Tenant:
MURRAY'S DELI
3211 W Wadley Ave #24, Midland, TX 79705
Tenant Contact:
Betsy Wells
Phone: (432) 234-4049
Email:betsywells@vastenergypartners.com



PROJECT LOCATION

Sheet List

Sheet Number	Sheet Name
G-Cover	
000	COVER SHEET
EA-Architectural	
A-000	CODE INFORMATION
A-101	FLOOR PLAN AREA "A"

H3 DIGITAL DESIGN

H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS, 79701
432.559.4669
@h3ddwtx.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

COVER SHEET

Project no. H3C20020
scale:
date: 10.5.2020

Revisions

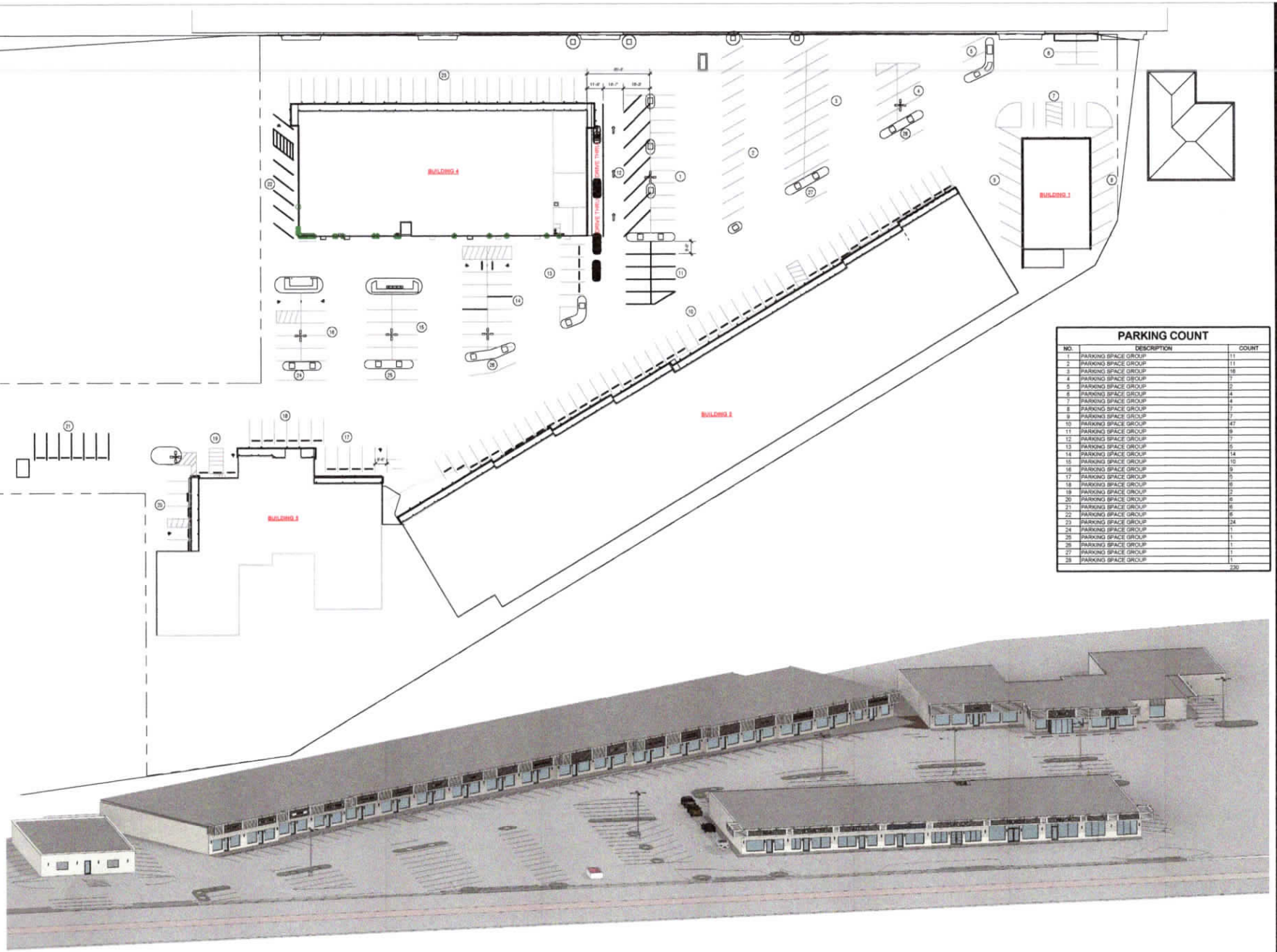
NO	DATE	DESCRIPTION

PERMIT/PRICING

000

EXHIBIT "A"

PACKET
27.34
November 3, 2020



1 SITE PLAN
1" = 30'-0"

2 3D BIRDS EYE

PARKING COUNT

NO.	DESCRIPTION	COUNT
1	PARKING SPACE GROUP	11
2	PARKING SPACE GROUP	11
3	PARKING SPACE GROUP	16
4	PARKING SPACE GROUP	7
5	PARKING SPACE GROUP	2
6	PARKING SPACE GROUP	4
7	PARKING SPACE GROUP	4
8	PARKING SPACE GROUP	7
9	PARKING SPACE GROUP	7
10	PARKING SPACE GROUP	47
11	PARKING SPACE GROUP	9
12	PARKING SPACE GROUP	7
13	PARKING SPACE GROUP	5
14	PARKING SPACE GROUP	14
15	PARKING SPACE GROUP	10
16	PARKING SPACE GROUP	9
17	PARKING SPACE GROUP	5
18	PARKING SPACE GROUP	6
19	PARKING SPACE GROUP	7
20	PARKING SPACE GROUP	6
21	PARKING SPACE GROUP	6
22	PARKING SPACE GROUP	6
23	PARKING SPACE GROUP	24
24	PARKING SPACE GROUP	1
25	PARKING SPACE GROUP	1
26	PARKING SPACE GROUP	1
27	PARKING SPACE GROUP	1
28	PARKING SPACE GROUP	1
		230

H3 DIGITAL DESIGN
H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS. 79701
432.556.4858
@h3dwfs.com

CLIENT

MURRAYS DELI
EXISTING FLOOR
PLAN
IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave #
24, Midland, TX 79705

SITE PLAN

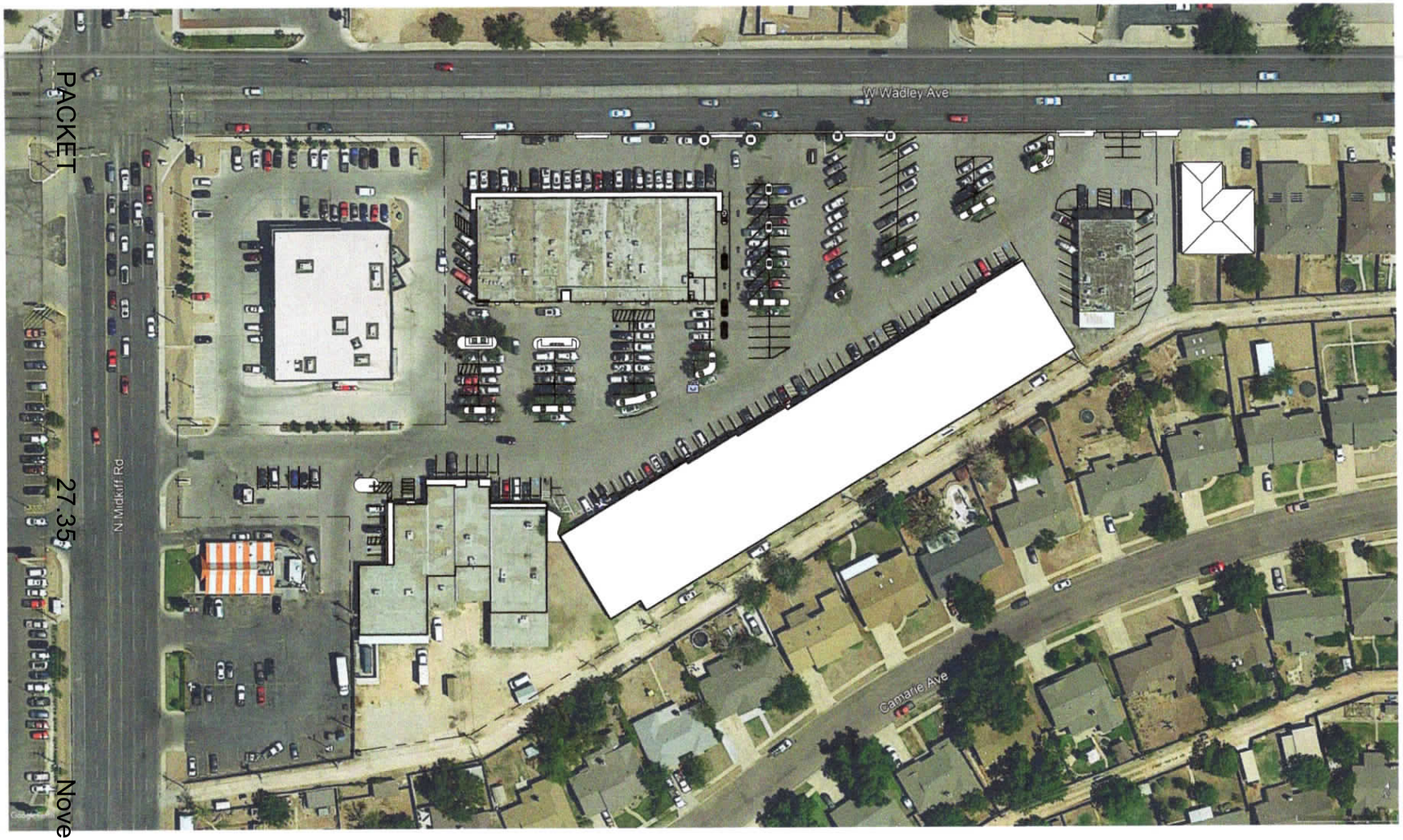
Project no.
scale: 1" = 30'-0" 0001
date: Issue Date

Revisions

NO	DATE	DESCRIPTION

Project Status

C-101



1 SITE PLAN
1" = 40'-0"

H3 DIGITAL DESIGN
H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS, 79701
432.559.4888
h@h3dwtx.com

CLIENT

MURRAYS DELI
EXISTING FLOOR
PLAN
IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave #
24, Midland, TX 79705

SATELLITE VIEW

Project no.
scale: 1" = 40'-0" 0001
date: Issue Date

Revisions

NO.	DATE	DESCRIPTION

Project Status

C-102

PACKET 27.36 November 3, 2020

OCCUPANT AND FIXTURE LOAD SCHEDULE

Level	Number	Name	Room Calcs: Area	Room Calcs: SF Per Person	Room Capacity	Male Water Closet Load	Plumbing Loads: Required WC (Male)	Female Water Closet Load	Plumbing Loads: Required WC (Female)	Female Lav Load	Required Female Lavs	Male Lav Load	Plumbing Loads: Required Male Lavs	Drinking Fountain Load	Plumbing Loads: Required Drinking Fountains
LEVEL 1	101	DINING	362	15	26	75	0.17	75	0.17	200	0.06	200	0.06	500	0.005
LEVEL 1	102	WAITING	138	7	20	100	0.06	50	0.15	200	0.05	200	0.05	500	0.040
LEVEL 1	103	SERVING	68	200	1	75	0.01	75	0.01	200	0.00	200	0.00	500	0.000
LEVEL 1	104	SERVING	40	200	1	75	0.00	75	0.00	200	0.00	200	0.00	500	0.000
LEVEL 1	105	CHECKOUT/SERVING	84	15	3	500	0.00	500	0.00	750	0.00	750	0.00	1000	0.000
LEVEL 1	106	COORDOR	414	0		0		0		0		0		0	
LEVEL 1	107	STORAGE	10	300	1	100	0.00	100	0.00	100	0.00	100	0.00	1000	0.000
LEVEL 1	108	DINING	98	15	7	75	0.05	75	0.05	200	0.02	200	0.02	500	0.014
LEVEL 1	109	KITCHEN	223	200	2	75	0.01	75	0.01	100	0.00	200	0.00	500	0.000
LEVEL 1	110	WOMENS	24												
LEVEL 1	111	MENS	26												
LEVEL 1	112	DINING	149	15	10	75	0.07	75	0.07	200	0.03	200	0.03	500	0.021
LEVEL 1	113	OFFICE	175												
LEVEL 1	114	STORAGE	139												
LEVEL 1	115	KITCHEN	1066	200	5	75	0.04	75	0.04	200	0.01	200	0.01	500	0.012
LEVEL 1	116	COORDOR	81	0		0		0		0		0		0	
LEVEL 1	117	MENS	63												
LEVEL 1	118	WOMENS	62												
LEVEL 1	119	WALK IN	56	200	1	75	0.01	75	0.01	200	0.00	200	0.00	500	0.000
LEVEL 1	120	DINING	332	15	23	75	0.15	75	0.15	200	0.06	200	0.06	500	0.046
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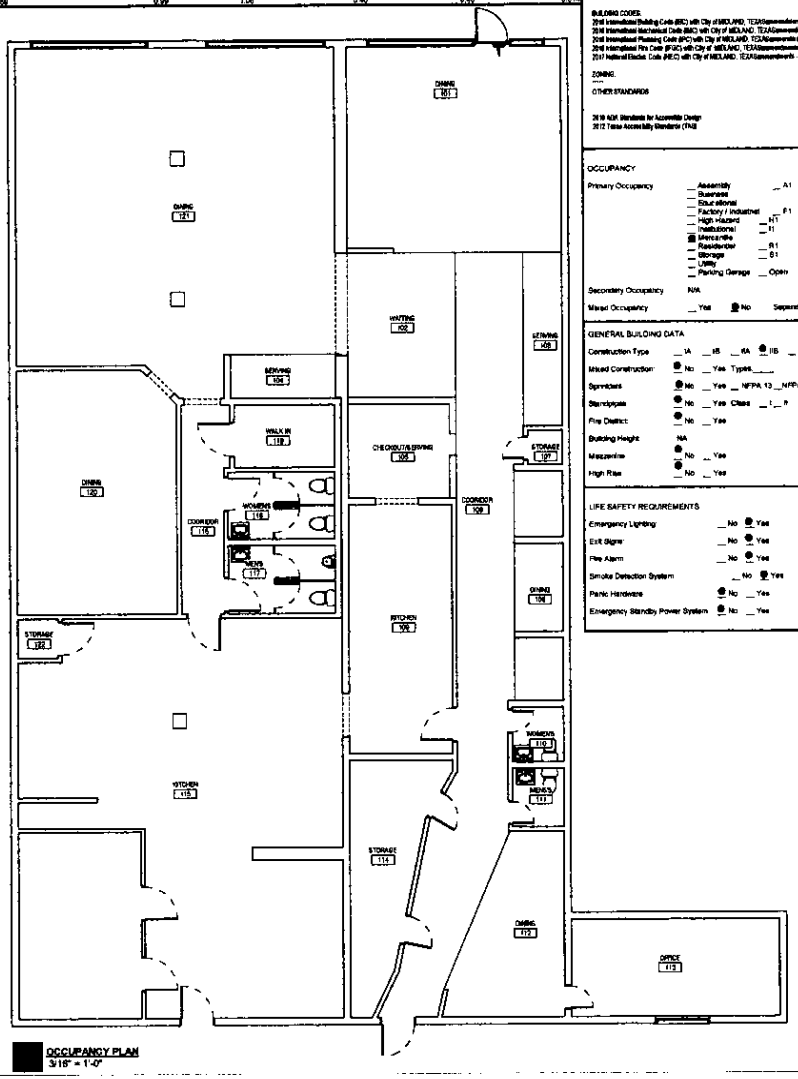
LEVEL 1	122	STORAGE	14	200	1	100	0.00	100	0.00	100	0.00	100	0.00	1000	0.001
			4646		169		0.99		1.06		0.40		0.40		0.314



OCCUPANCY PLAN
3/16" = 1'-0"

BUILDING CODE SUMMARY

Name of Project: TEA 2 GO
Address: 3211 W WADLEY AVE SUITE 19 MIDLAND, TEXAS
Proposed Use
Owner or Authorized Agent: Phone:
Owned By: City / County ● Private TX State
Code Enforcement Jurisdiction: CITY OF MIDLAND County: MIDLAND

Zoning: ----
Land Use: ----
Lot Acres: **** acres (MIDLAND, TEXAS #)
Building Footprint Area
Lot Coverage: 0.00%
Floor Area Ratio: 0.00 : 0

SCOPE OF WORK: MIDLAND, TEXAS

Construction shall apply to accepted mechanical, electrical, plumbing, as required for occupancy.

APPLICABLE CODES / ORDINANCES

BUILDING CODES:
2018 International Building Code (IBC) with City of MIDLAND, TEXASamendments - Ordinance
2018 International Mechanical Code (IMC) with City of MIDLAND, TEXASamendments - Ordinance
2018 International Plumbing Code (IPC) with City of MIDLAND, TEXASamendments - Ordinance
2018 International Fire Code (IFC) with City of MIDLAND, TEXASamendments - Ordinance
2017 National Electric Code (NEC) with City of MIDLAND, TEXASamendments - Ordinance

ZONING

OTHER STANDARDS

2010 ADA Standards for Accessible Design
2012 Texas Accessibility Standards (TAS)

OCCUPANCY

Primary Occupancy: __ Assembly __ A1 __ A2 __ A3 __ A4 __ A5; __ Business; __ Educational; __ Factory / Industrial __ F1 __ F2; __ High Hazard __ H1 __ H2 __ H3 __ H4; __ Institutional __ I1 __ I2 __ I3 __ I4; ● Mercantile; __ Residential __ R1 __ R2 __ R3 __ R4; __ Storage __ S1 __ S2 __ High-Piled; __ Utility; __ Parking Garage __ Open __ Enclosed __ Repair

Secondary Occupancy: N/A

Mixed Occupancy: __ Yes ● No Separation ● Exception __

GENERAL BUILDING DATA

Construction Type: __ 1A __ 1B __ IIA ● IIB __ IIIA __ IIIB __ IV __ VA __ VB

Mixed Construction: ● No __ Yes Types____

Sprinklers: ● No __ Yes __ NFPA 13 __ NFPA 13R __ NFPA 13D

Standpipes: ● No __ Yes Class __ I __ II __ III __ Wet

Fire District: ● No __ Yes

Building Height: NA

Mezzanine: ● No __ Yes

High Rise: ● No __ Yes

LIFE SAFETY REQUIREMENTS

Emergency Lighting: __ No ● Yes
Exit Signs: __ No ● Yes
Fire Alarm: __ No ● Yes
Smoke Detection System: __ No ● Yes
Panic Hardware: ● No __ Yes
Emergency Standby Power System: ● No __ Yes

H3 DIGITAL DESIGN
H3 DIGITAL DESIGN
203 WEST ILLINOIS
SUITE 130 MIDLAND
TEXAS, 79701
432 599 4883
@h3dtxcc.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79706

CODE INFORMATION

Project no. H3C20020
scale: As indicated
date: 10.5.2020

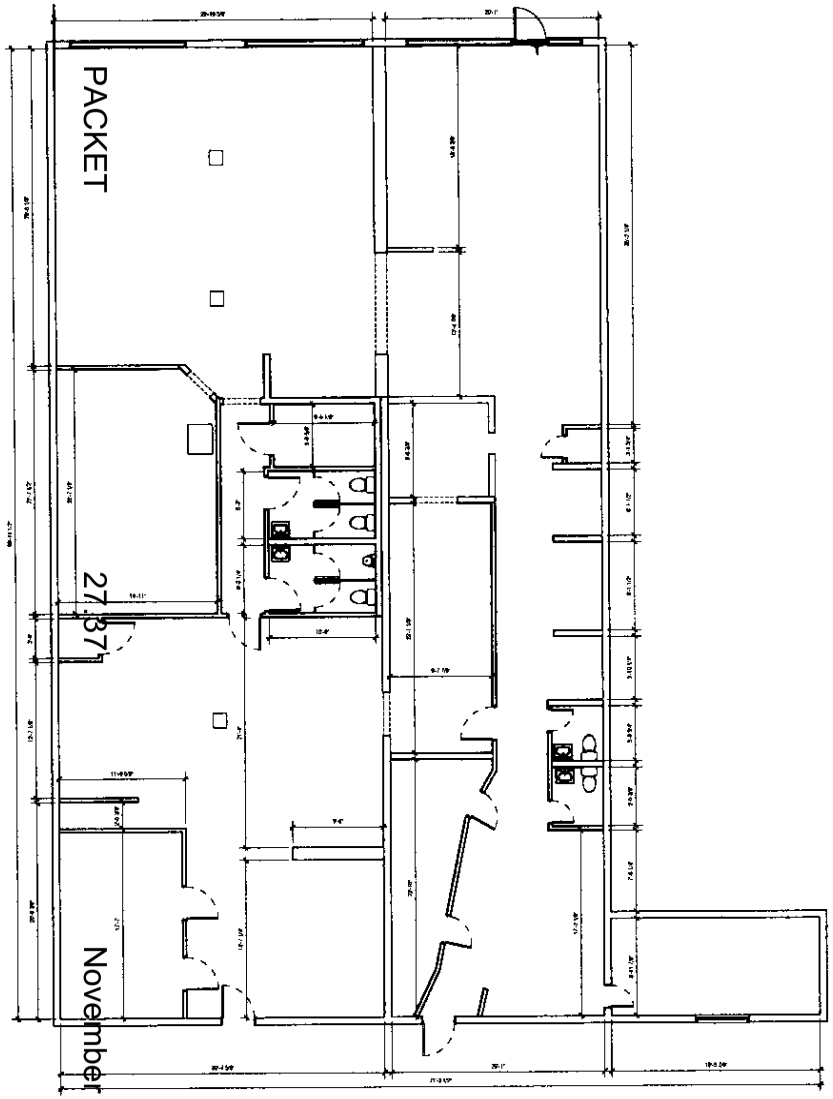
Revisions

NO	DATE	DESCRIPTION

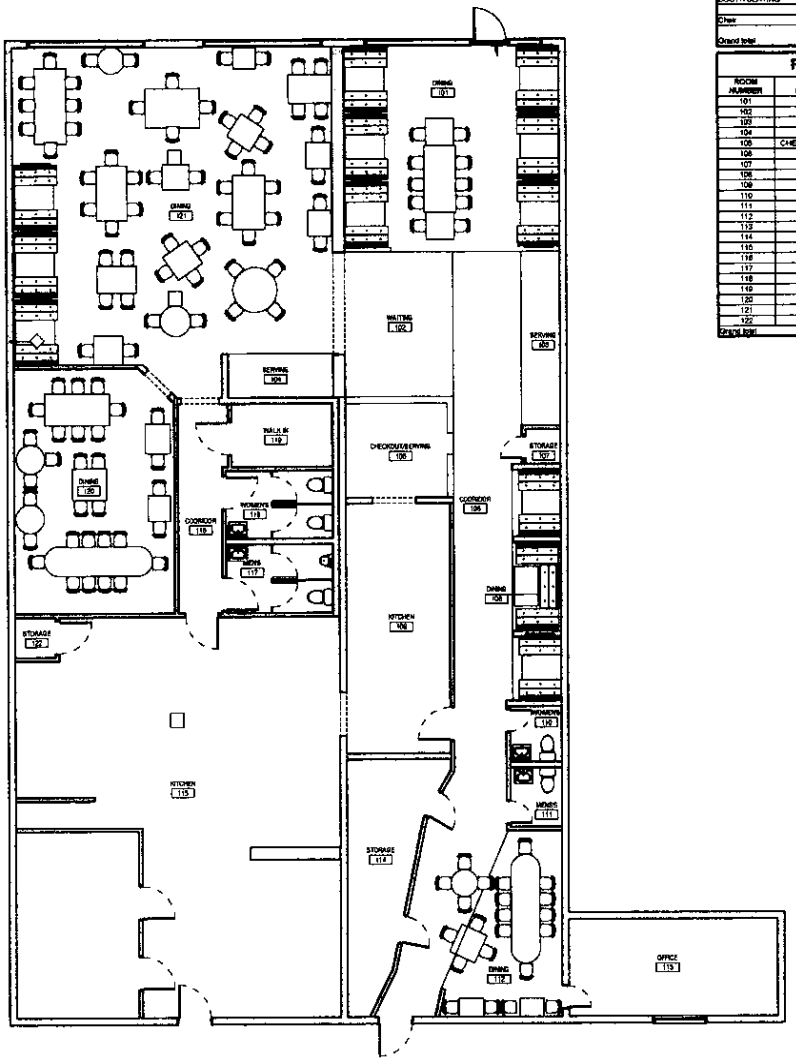
PERMIT/PRICING

A-000

PACKET
27.37
November 3, 2020



LEVEL 1 EXISTING DIMENSIONAL PLAN
3/16" = 1'-0"



LEVEL 1 EXISTING FLOOR PLAN
3/16" = 1'-0"

Seating Schedule

Description	Seating Count
BOOTH SEATING	50
	50
Chair	121
	121
Grand total	171

ROOM SCHEDULE

ROOM NUMBER	ROOM NAME	Area	COMMENTS
101	DINING	382 SF	
102	WAITING	136 SF	
103	SERVING	56 SF	
104	SERVING	40 SF	
105	CHECKOUT/SERVING	84 SF	
106	CORRIDOR	414 SF	
107	STORAGE	10 SF	
108	DINING	96 SF	
109	KITCHEN	223 SF	
110	WOMEN'S	84 SF	
111	MEN'S	26 SF	
112	DINING	149 SF	
113	OFFICE	175 SF	
114	STORAGE	139 SF	
115	KITCHEN	1086 SF	
116	CORRIDOR	81 SF	
117	MEN'S	83 SF	
118	WOMEN'S	82 SF	
119	WALK IN	56 SF	
120	DINING	332 SF	
121	DINING	564 SF	
122	STORAGE	14 SF	
Grand total		4045 SF	

H3 DIGITAL DESIGN

H3 DIGITAL DESIGN
200 W.B.T. KEARNS
SUITE 120 MIDLAND
TEXAS, 79701
432 599 4806
h3@h3dd.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

FLOOR PLAN AREA "A"

Project no. H3C20020
scale: 3/16" = 1'-0"
date: 10.5.2020

Revisions

NO.	DATE	DESCRIPTION

PERMIT/PRICING

A-101

MIDLAND Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUD-20-0087

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Curly Fry Holdings, LLC d/b/a Murray's Deli		Phone (432) 556-9818 Email neildufford@vastenergypartners.com	
Address 3211 W. Wadley #24	City Midland	State Texas	Zip 79705

Property Owner Printed Name: Imperial Shopping Center		Phone (432) 556-9818 Email neildufford@vastenergypartners.com	
Address 3211 W. Wadley	City Midland	State Texas	Zip 79705

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name: Curly Fry Holdings, LLC d/b/a Murray's Deli		Phone (432) 556-9818 Email neildufford@vastenergypartners.com	
Address	City	State	Zip

Street Address: 3211 W. Wadley #24

Business Name: Curly Fry Holdings, LLC d/b/a Murray's Deli

Legal Description
Lot: Block: 1 Subdivision: Imperial Heights

Current Zoning: Commercial / Retail

Reason for Request: Change of ownership, new TABC beer and wine permit

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*: restaurant

Proposed/Current Days and Hours of Operation: 11am - 8pm Monday to Friday, 11am - 3pm Saturday, closed Sunday

Proposed Days and Hours of Alcohol Service: 11am - 8pm Monday to Friday, 11am - 3pm Saturday, closed Sunday

Total Square Footage of Business: 4800

Square Footage of Alcohol Serviceable Area: 3120

Restroom Fixtures:	*Men*	**Toilets/Urinals:** 2 / 3	**Bathroom Sinks:** 2
	Women	**Toilets:** 3	**Bathroom Sinks:** 2

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating
  - Exits
  - Restrooms
  - Kitchen (if applicable)
  - Total Square Footage
  - Serviceable Square Footage
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature):	Date: 10/9/20
Applicant (printed): Neil Dufford	
Property Owner (signature):	Date: 10/9/20
Property Owner (printed): Cassidy Remley	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared _____ who, being by me duly sworn, upon oath says: That (s)he is authorized by _____, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

_____
Authorized Agent (*signature*)

Subscribed and sworn to before me, this _____ day of _____, 20 ___, to certify which witness my hand and seal of office.

_____
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

****Application will not be considered for scheduling until reviewed by a planner.****

MIDLAND
Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number:_____

Case Number:_____

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Property Owner Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)* Firm: _____ Printed Name:		Phone ( ) Email	
Address	City	State	Zip

Street Address:
Business Name:
Legal Description Lot: Block: Subdivision:
Current Zoning:
Reason for Request:_____

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*:			
Proposed/Current Days and Hours of Operation: _____			
Proposed Days and Hours of Alcohol Service: _____			
Total Square Footage of Business:			
Square Footage of Alcohol Serviceable Area:			
Restroom Fixtures:	*Men*	**Toilets/Urinals:** /	**Bathroom Sinks:**
	Women	**Toilets:**	**Bathroom Sinks:**

FOR OFFICE USE ONLY	
☑ Property Owner Authorization	☑ Dimensioned Floor Plan
☑ Application Fee	☑ Site Plan
Check # 1009	☐ Plans in Digital Format (PDF/JPEG)
Received By: Crystal Burns	Date: OCT 0 9 2020

RECEIVED

BY: .....

****Application will not be considered for scheduling until reviewed by a planner.****

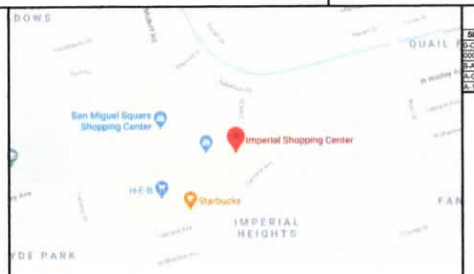
PROJECT LOCATION
3211 W Wadley Ave # 24,
Midland, TX 79705

IMPERIAL SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

IMPERIAL SHOPPING CENTER MIDLAND, TEXAS

Landlord:
IMPERIAL SHOPPING CENTER, INC.
3211 W Wadley Ave # 9A, Midland, TX 79705
Landlord Contact:
Cassidy Remley
Phone: (432) 697-6401
Email:cassidy@imperialshoppingcenter.com

Tenant:
MURRAY'S DELI
3211 W Wadley Ave #24, Midland, TX 79705
Tenant Contact:
Betsy Wells
Phone: (432) 234-4049
Email:betsywells@vastenergypartners.com



PROJECT LOCATION

Sheet List

Sheet Number	Sheet Name
G-Cover	
000	COVER SHEET
A-Architecture	
A-000	CODE INFORMATION
A-101	FLOOR PLAN AREA "A"

H3 DIGITAL DESIGN

H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS, 79701
432.559.4669
@h3ddwtx.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

COVER SHEET

Project no. H3C20020
scale:
date: 10.5.2020

Revisions

NO	DATE	DESCRIPTION

PERMIT/PRICING

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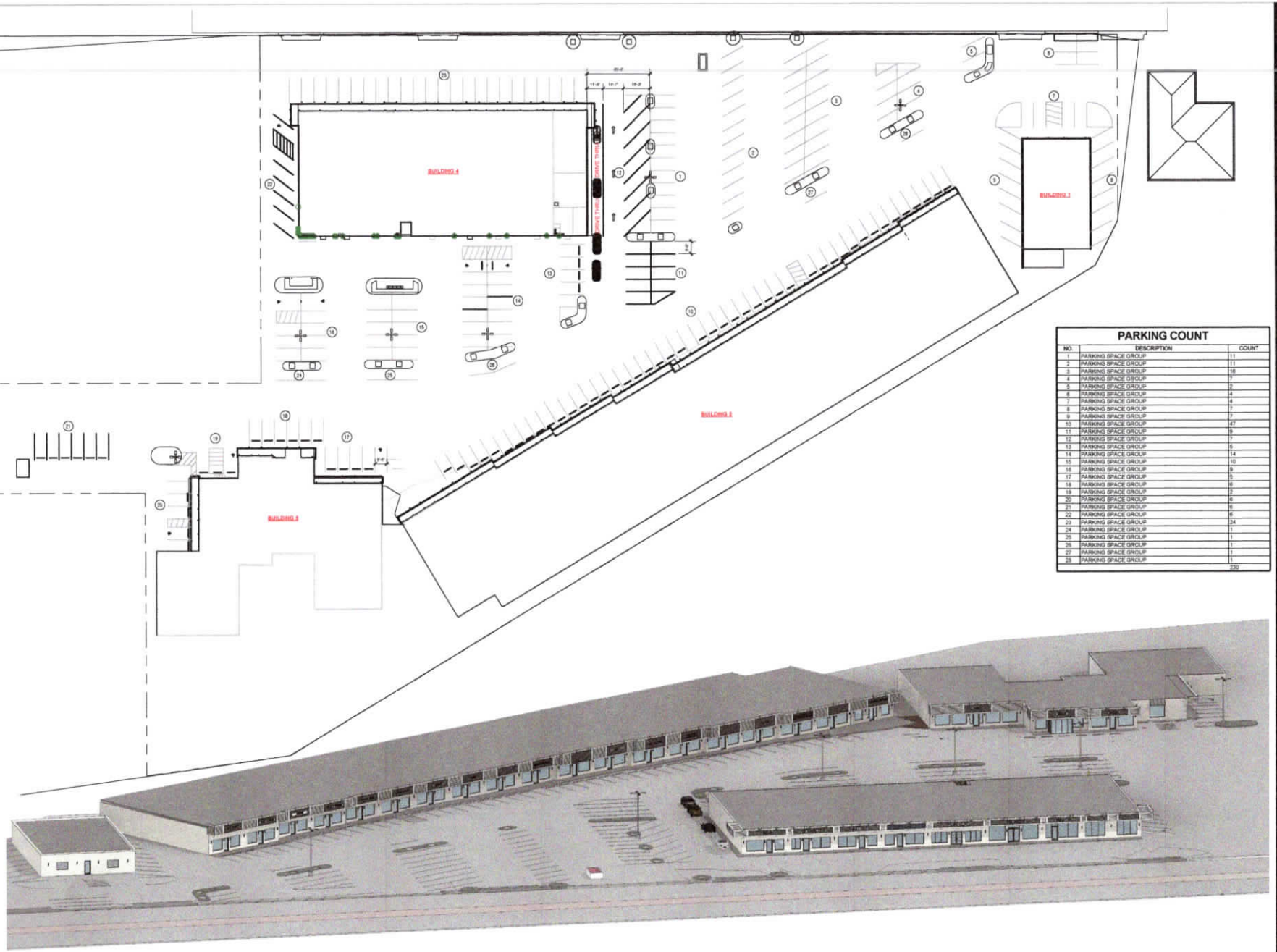


1 SITE PLAN
1" = 30'-0"

2 3D BIRDS EYE

PARKING COUNT

NO.	DESCRIPTION	COUNT
1	PARKING SPACE GROUP	11
2	PARKING SPACE GROUP	11
3	PARKING SPACE GROUP	16
4	PARKING SPACE GROUP	7
5	PARKING SPACE GROUP	2
6	PARKING SPACE GROUP	4
7	PARKING SPACE GROUP	4
8	PARKING SPACE GROUP	7
9	PARKING SPACE GROUP	7
10	PARKING SPACE GROUP	47
11	PARKING SPACE GROUP	9
12	PARKING SPACE GROUP	7
13	PARKING SPACE GROUP	5
14	PARKING SPACE GROUP	14
15	PARKING SPACE GROUP	10
16	PARKING SPACE GROUP	9
17	PARKING SPACE GROUP	5
18	PARKING SPACE GROUP	6
19	PARKING SPACE GROUP	7
20	PARKING SPACE GROUP	6
21	PARKING SPACE GROUP	6
22	PARKING SPACE GROUP	6
23	PARKING SPACE GROUP	24
24	PARKING SPACE GROUP	1
25	PARKING SPACE GROUP	1
26	PARKING SPACE GROUP	1
27	PARKING SPACE GROUP	1
28	PARKING SPACE GROUP	1
		230

H3 DIGITAL DESIGN
H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS. 79701
432.556.4664
@h3dwfs.com

CLIENT

MURRAYS DELI
EXISTING FLOOR
PLAN
IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave #
24, Midland, TX 79705

SITE PLAN

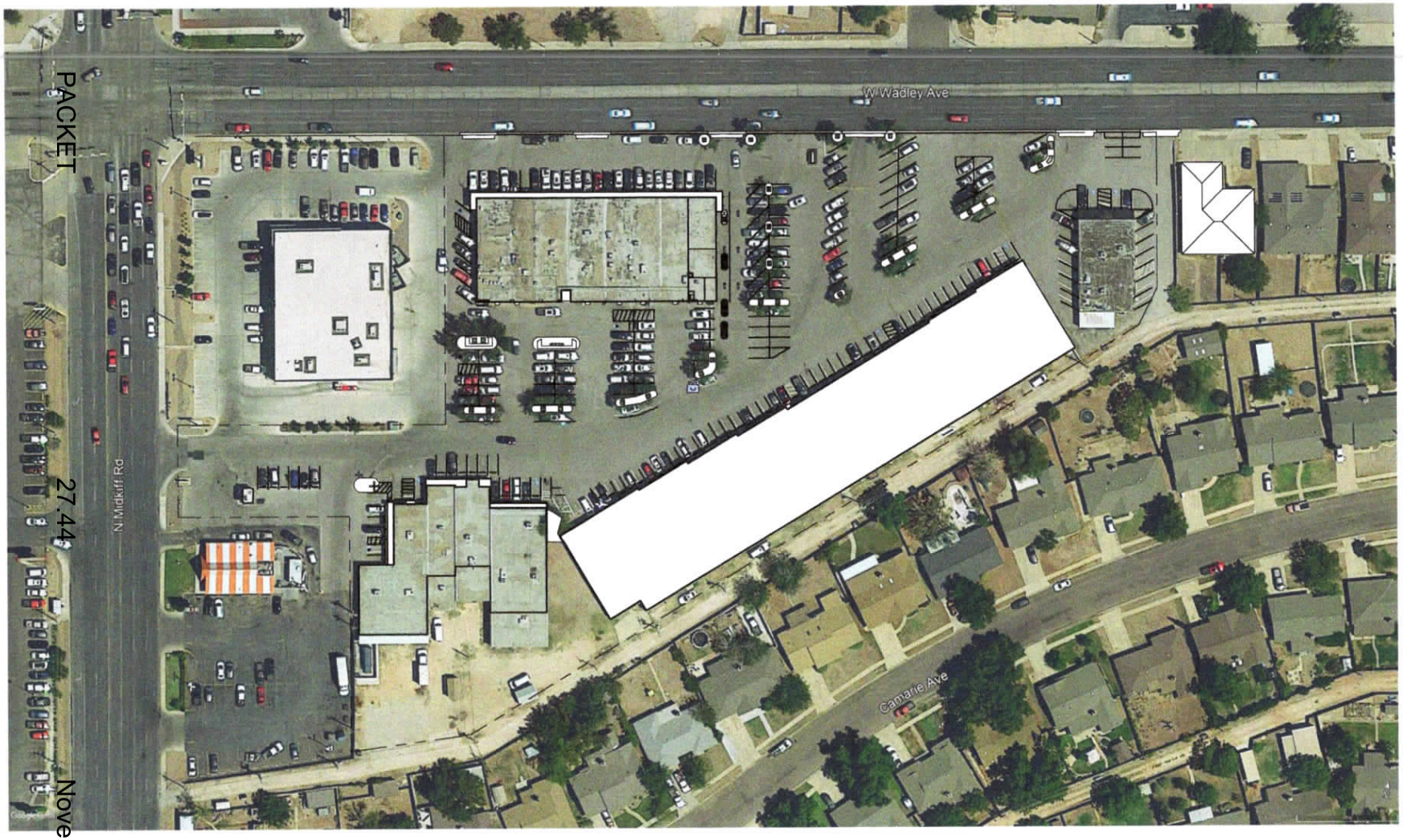
Project no.
scale: 1" = 30'-0" 0001
date: Issue Date

Revisions

NO	DATE	DESCRIPTION

Project Status

C-101



1 SITE PLAN
1" = 40'-0"

H3 DIGITAL DESIGN

H3 DIGITAL DESIGN
200 WEST ILLINOIS
SUITE 120 MIDLAND
TEXAS, 79701
432.559.4888
h@h3dwtx.com

CLIENT

MURRAYS DELI
EXISTING FLOOR PLAN
IMPERIAL SHOPPING CENTER
3211 W Wadley Ave # 24, Midland, TX 79705

SATELLITE VIEW

Project no.
scale: 1" = 40'-0" 0001
date: Issue Date

Revisions

NO.	DATE	DESCRIPTION

Project Status

C-102

OCCUPANT AND FIXTURE LOAD SCHEDULE

Level	Number	Name	Room Calcs: Area	Room Calcs: SF Per Person	Room Capacity	Male Water Closet Load	Plumbing Loads: Required WC (Male)	Female Water Closet Load	Plumbing Loads: Required WC (Female)	Female Lav Load	Required Female Lavs	Male Lav Load	Plumbing Loads: Required Male Lavs	Drinking Fountain Load	Plumbing Loads: Required Drinking Fountains
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LEVEL 1	106	COORIDOR	414	0		0		0		0		0		0	
LEVEL 1	107	STORAGE	10	300	1	100	0.00	100	0.00	100	0.00	100	0.00	1000	0.001
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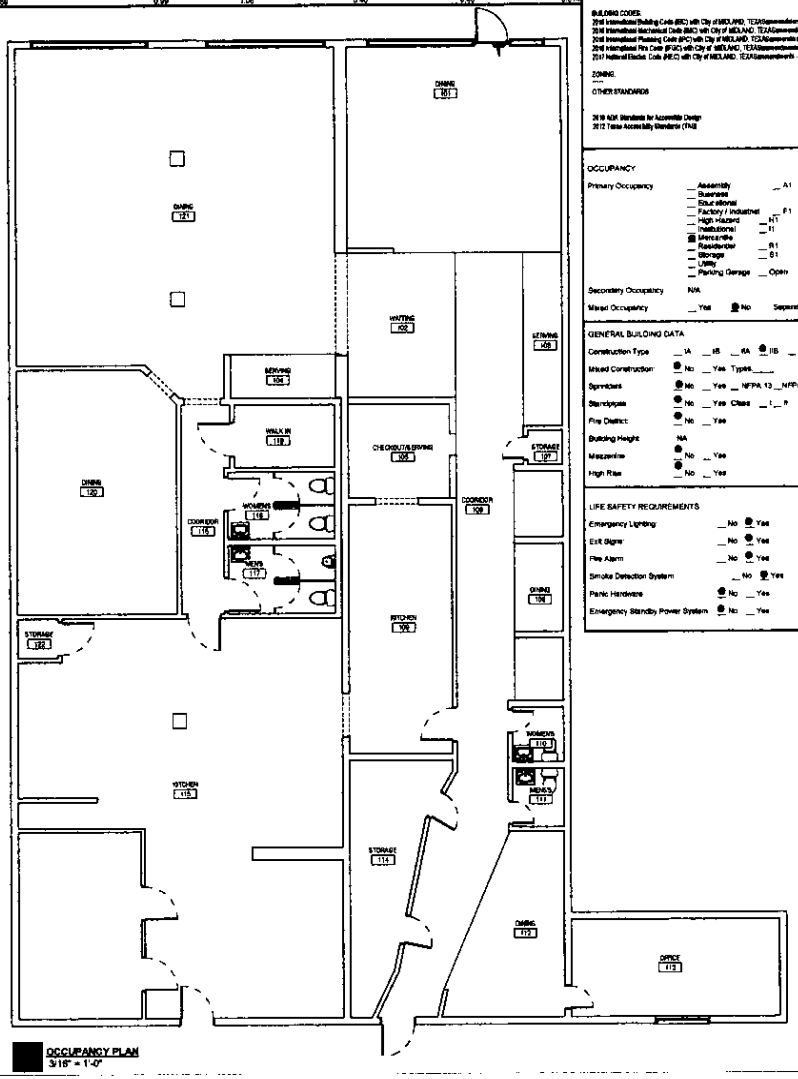
			4646		169		0.99		1.06		0.40		0.40		0.314



OCCUPANCY PLAN
3/16" = 1'-0"

BUILDING CODE SUMMARY

Name of Project: TEA 2 GO
Address: 3211 W WADLEY AVE SUITE 19 MIDLAND, TEXAS
Proposed Use
Owner or Authorized Agent: Phone
Owned By: City / County Private TX State
Code Enforcement Jurisdiction: CITY OF MIDLAND County: MIDLAND

Zoning: ----
Land Use: ----
Lot Acres: **** acres (MIDLAND, TEXAS #)
Building Footprint Area
Lot Coverage: 0.00%
Floor Area Ratio: 0.00 : 0

SCOPE OF WORK: MIDLAND, TEXAS

Construction shall apply to accepted mechanical, electrical plumbing as required by occupancy

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ZONING

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2012 Texas Accessibility Standards (TAS)

OCCUPANCY

Primary Occupancy: __ Assembly __ A1 __ A2 __ A3 __ A4 __ A5; __ Business; __ Educational; __ Factory / Industrial __ F1 __ F2; __ High Hazard __ H1 __ H2 __ H3 __ H4; __ Institutional __ I1 __ I2 __ I3 __ I4; ● Mercantile; __ Residential __ R1 __ R2 __ R3 __ R4; __ Storage __ S1 __ S2 __ High-Piled; __ Utility; __ Parking Garage __ Open __ Enclosed __ Repair

Secondary Occupancy: N/A

Mixed Occupancy: __ Yes ● No Separation ● Exception __

GENERAL BUILDING DATA

Construction Type: __ 1A __ 1B __ 2A ● 2B __ 3A __ 3B __ 4 __ 5A __ 5B
Mixed Construction: ● No __ Yes Types____
Sprinklers: ● No __ Yes __ NFPA 13 __ NFPA 13R __ NFPA 13D
Standpipes: ● No __ Yes Class __ I __ II __ III __ Wet
Fire District: ● No __ Yes
Building Height: NA
Mezzanine: ● No __ Yes
High Rise: ● No __ Yes

LIFE SAFETY REQUIREMENTS

Emergency Lighting: __ No ● Yes
Exit Signs: __ No ● Yes
Fire Alarm: __ No ● Yes
Smoke Detection System: __ No ● Yes
Panic Hardware: ● No __ Yes
Emergency Standby Power System: ● No __ Yes

H3 DIGITAL DESIGN
H3 DIGITAL DESIGN
203 WEST ILLINOIS
SUITE 130 MIDLAND
TEXAS, 79701
432 599 4883
@h3dtxcc.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79706

CODE INFORMATION

Project no. H3C20020
scale: As indicated
date: 10.5.2020

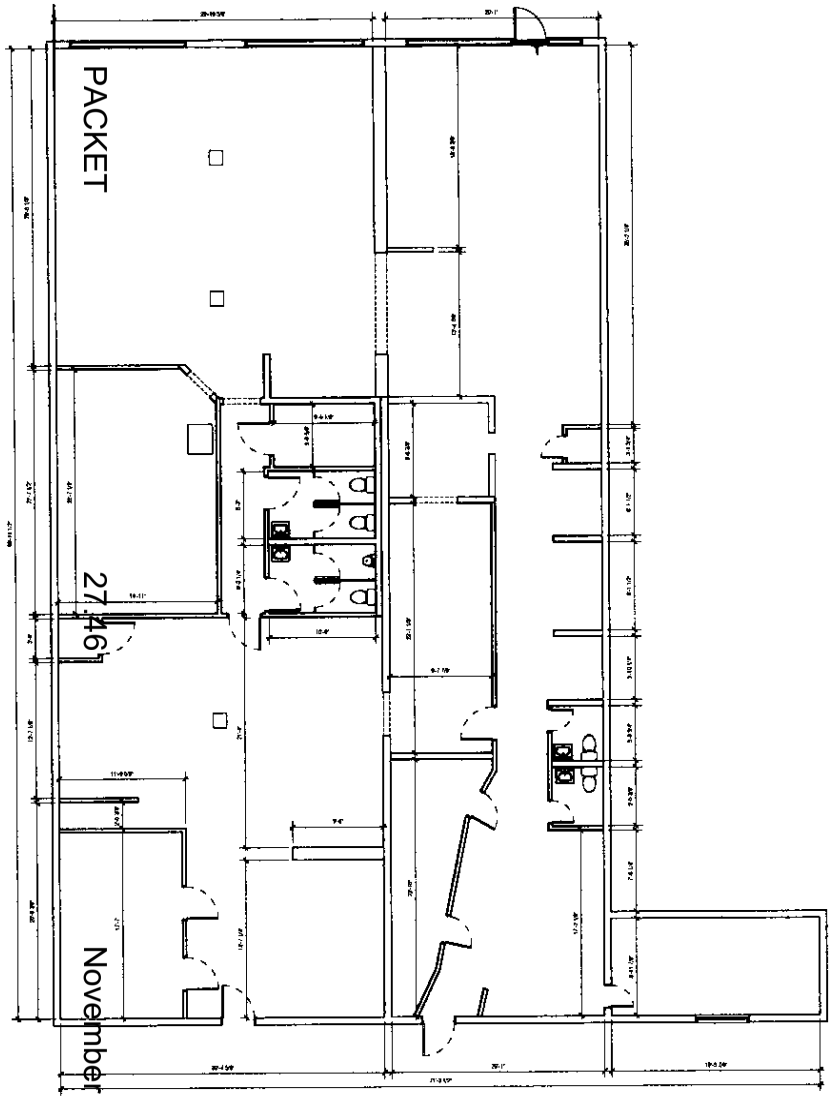
Revisions

NO	DATE	DESCRIPTION

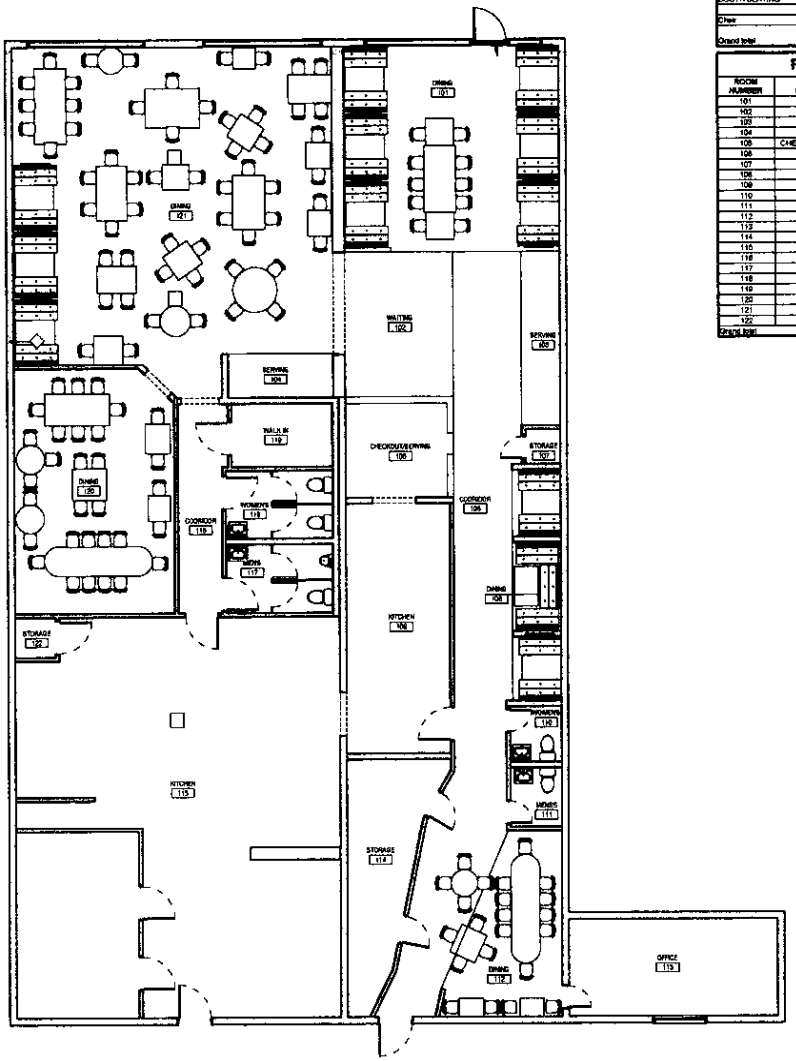
PERMIT/PRICING

A-000

PACKET
27.16
November 3, 2020



LEVEL 1 EXISTING DIMENSIONAL PLAN
3/16" = 1'-0"



LEVEL 1 EXISTING FLOOR PLAN
3/16" = 1'-0"

Seating Schedule

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	50
Chair	121
	121
Grand total	171

ROOM SCHEDULE

ROOM NUMBER	ROOM NAME	Area	COMMENTS
101	DINING	382 SF	
102	WAITING	136 SF	
103	SERVING	56 SF	
104	SERVING	40 SF	
105	CHECKOUT/SERVING	84 SF	
106	CORRIDOR	414 SF	
107	STORAGE	10 SF	
108	DINING	96 SF	
109	KITCHEN	223 SF	
110	WOMENS	24 SF	
111	MENS	26 SF	
112	DINING	149 SF	
113	OFFICE	175 SF	
114	STORAGE	139 SF	
115	KITCHEN	1086 SF	
116	CORRIDOR	81 SF	
117	MENS	63 SF	
118	WOMENS	62 SF	
119	WALK IN	56 SF	
120	DINING	332 SF	
121	DINING	564 SF	
122	STORAGE	14 SF	
Grand total		4045 SF	

H3 DIGITAL DESIGN

H3 DIGITAL DESIGN
200 WEST WALL
SUITE 120 MIDLAND
TEXAS, 79701
432 599 4906
h3@h3dd.com

CLIENT
MURRAYS DELI

EXISTING FLOOR PLAN

IMPERIAL
SHOPPING CENTER
3211 W Wadley Ave # 24,
Midland, TX 79705

FLOOR PLAN AREA "A"

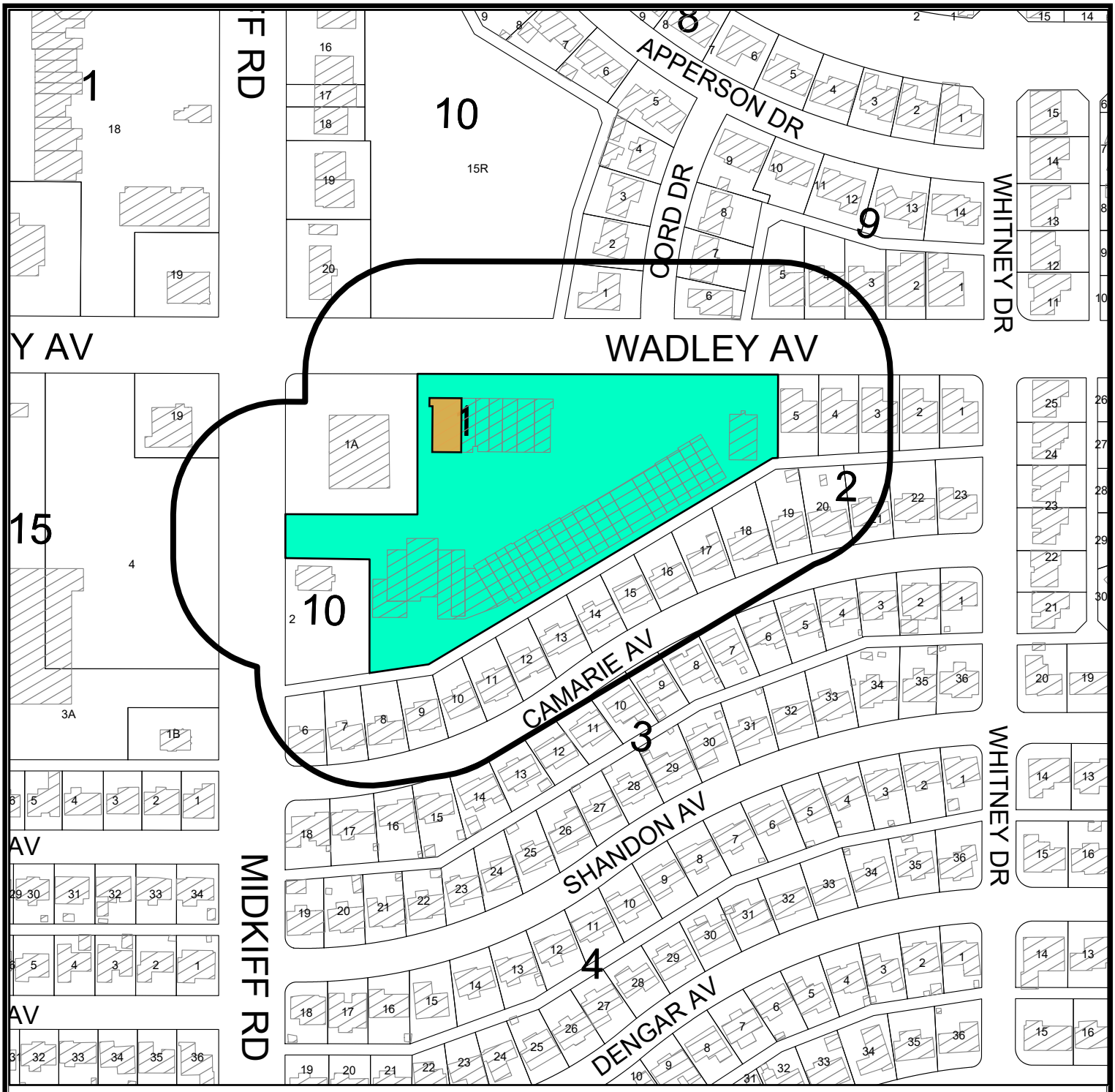
Project no. H3C20020
scale: 3/16" = 1'-0"
date: 10.5.2020

Revisions

NO.	DATE	DESCRIPTION

PERMIT/PRICING

A-101



LOCATION MAP

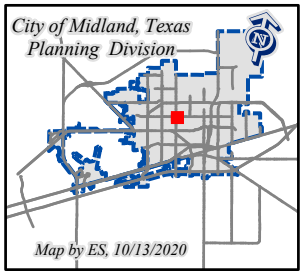
SUD-20-0087 **Scale: 1" = 250'**

Consider a request by Curly Fry Holdings, LLC d/b/a Murray's Deli for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 4,800-square foot portion of Block 1, less the 250-foot by 150-foot northwest corner and less the 224-foot by 150-footsouthwest corner, Re-plat of Block 1 and 2, Imperial Heights Addition, City and County of Midland, Texas.

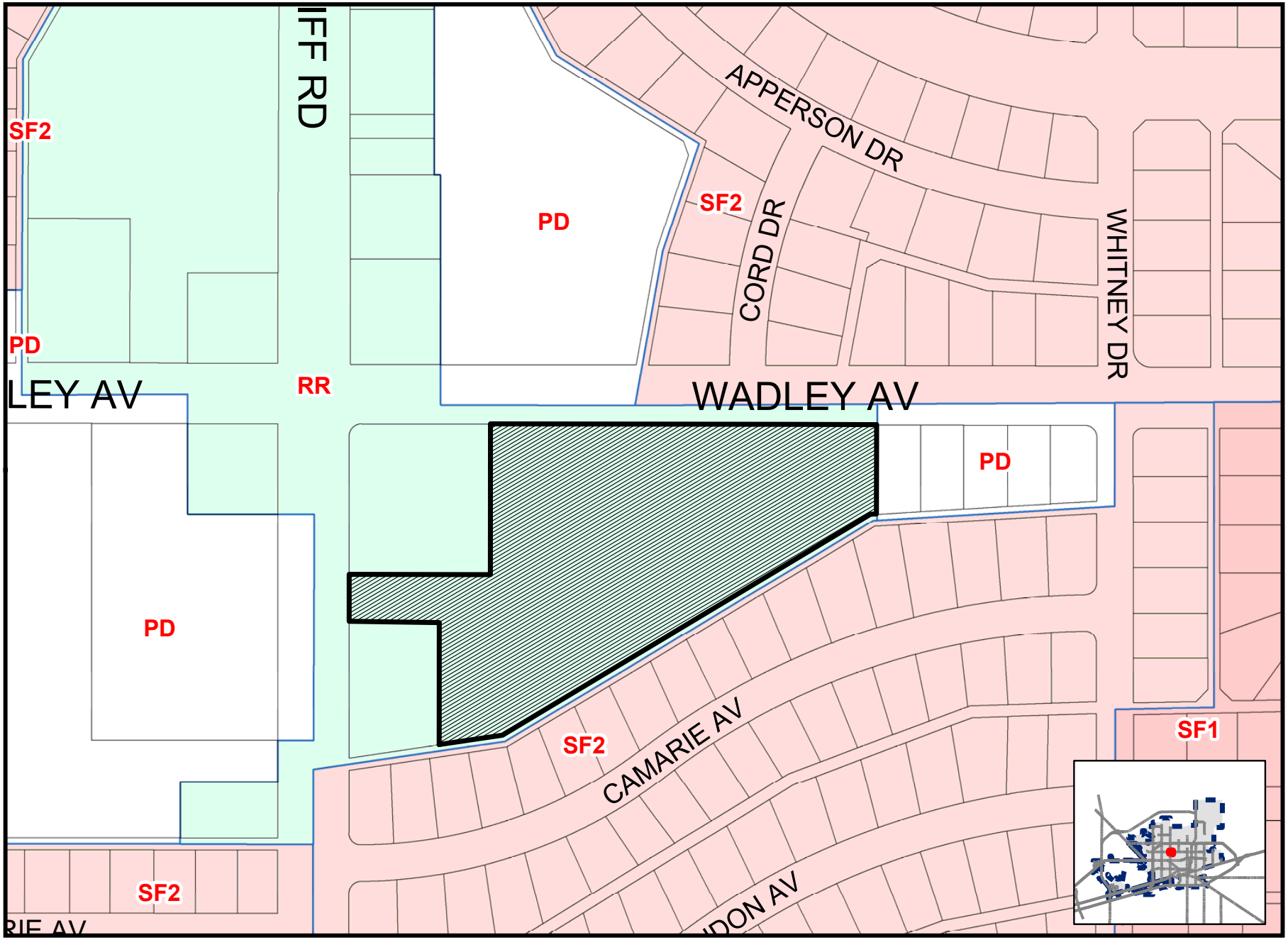
Generally located on the south side of West Wadley Avenue, approximately 277 feet east of North Midkiff Road. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



November 3, 2020



Map By ES, 10/21/2020

SUD-20-0087

Scale: 1" = 200'

ZONING MAP

PACKET
27.48
November 3, 2020

pr

ORDINANCE NO. 7215

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF CERTAIN PROPERTIES DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED "LR-2", LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT FOR THE SALE OF BEER AND WINE FOR ON-PREMISES CONSUMPTION IN A RESTAURANT; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; REPEALING ORDINANCE NO. 6357; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter and the State law with reference to the granting of specific use permits under the zoning ordinance regulations and zoning map, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Permit for the sale of all alcoholic beverages for on-premises consumption in a restaurant, set out hereinafter, on the property described in Section One hereof;

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

SECTION ONE. That the zoning use classification of the following described property, which is presently zoned "LR-2", Local Retail District, to wit:

Block 1, Imperial Heights Addition to the City of Midland, Midland County, Texas;

is hereby changed to permit same to be used under a Specific Use Permit for the sale of beer and wine for on-premises consumption in a restaurant, together with the uses permitted in an "LR-2", Local Retail District, subject to the following conditions:

1. That the use and development of this tract as a restaurant with the sale and on-premises consumption of beer and wine shall conform in all respects to the site plan attached hereto as Exhibit "A" and made a part hereof for all legal purposes.

2. That the sale and on-premises consumption of beer and wine shall occur only within the interior of the

building.

3. That the maximum floor area of this restaurant shall not exceed 4,850 square feet, and that the maximum seating capacity shall not exceed 141 persons.

4. That the days and hours of beer and wine sales shall be from 10:30 a.m. to 12:00 midnight on Monday through Saturday, and from 12:00 noon to 12:00 midnight on Sunday, on each day that such sales are otherwise permitted by law.

5. That the use and operation of this restaurant shall comply with all of the applicable laws of the State of Texas and the regulations pertaining to the sale and consumption of beer and wine specified in the Midland City Code.

6. That the applicant shall obtain a Certificate of Occupancy prior to the commencement of sale of beer and wine to ensure that the conditions of this permit are satisfied.

SECTION TWO. That Ordinance No. 6357 is hereby expressly repealed.

SECTION THREE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION FOUR. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 15th day of December, A.D., 1992; and passed to second reading on motion of Council member Sipes, seconded by Council member Morrow, by the following vote:

Council members voting "AYE":	Sipes, Morrow, Cuevas, Devenport, Faircloth and Egan
Council members "ABSTAINING":	Brooks
Council members voting "NAY":	None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Morrow, seconded by Council member Cuevas, on the 12th day of January, A.D., 1993, at a regular meeting of the City Council:

Council members voting "AYE": Morrow, Cuevas, Devenport, Faircloth, Sipes and Egan

Council members "ABSTAINING": Brooks

Council members voting "NAY": None

PASSED AND APPROVED THIS 12th day of January, A.D., 1993.

J. D. Faircloth

J. D. Faircloth, Mayor

ATTEST:

B. C. Clanton, City Secretary

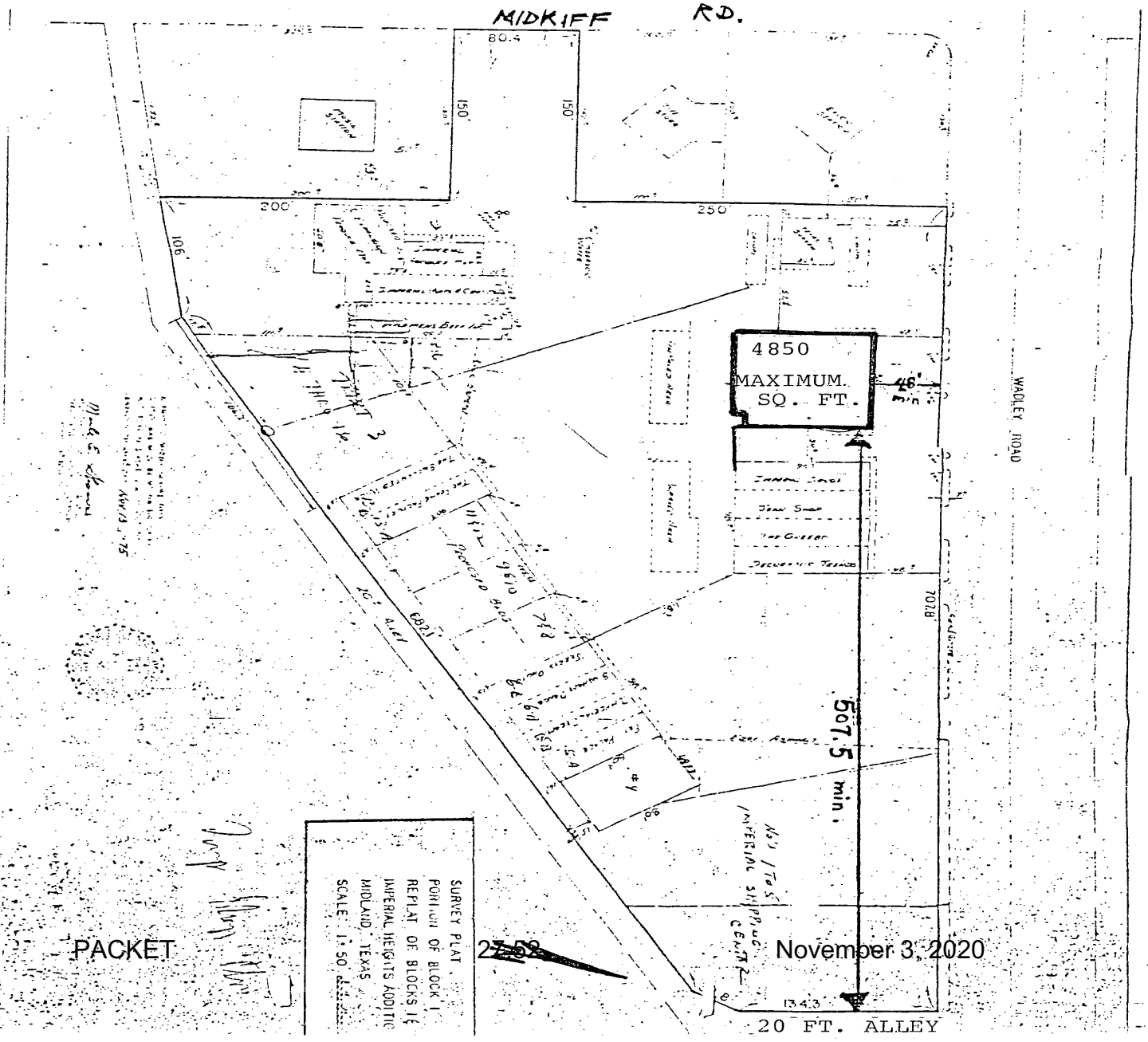
APPROVED AS TO FORM:

Keith Stretcher

Keith Stretcher, City Attorney

ORD\Murrays.SUP

EXHIBIT "A"


MIDKIFF RD.
60.4
150'
150'
200
250
106'
4850
MAXIMUM
SQ. FT.
WADLEY ROAD
507.5' min.
20 FT. ALLEY
SURVEY PLAT
REPLAT OF BLOCKS 1
IMPERIAL HEIGHTS ADDITIO
MIDLAND, TEXAS
SCALE: 1" = 50'

KATIE WALLACE
JOYNER

MURRAY'S DELI
MURRAY'S
CATERING
689-2433

City Council Meeting

Item Number: 28

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Elizabeth Shaughnessy, Senior Planner

Subject: AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, "A" STREET COMMUNITY CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH "A" STREET AND VENTURA DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Purpose:

The applicant, MARC Inc., is requesting a zone change from PD, Planned Development District for an Office Center, to an amended PD, Planned Development District for an Office Center to adopt an updated site plan.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the city.

Discussion:

Current Zoning:

PD, Planned Development District for an Office Center (Ordinance No. 10,049).

Surrounding Zoning and Land Use:

The property to the north is zoned SF-1, Single Family Dwelling District, and the location of a church. The properties to the east are zoned MF-22, Multiple-Family Dwelling District; SF-1, Single Family Dwelling District; and SF-2, Single Family Dwelling Distance and the location of Hillcrest School and residences, respectivly. The properties to the south are zoned PD, Planned District for a Housing Development, and the location of an apartment complex and residences. The property to the west is zoned PD, Planned District for a Office Center, and the location of Midland Children's Rehabilitation Center.

Analysis:

The applicant, MARC, Inc., is requesting a zone change from PD, Planned Development District for an Office Center, to an amended PD, Planned Development District for an Office Center to update the site plan.

The applicant is changing the location of the 2,520 square foot Day Use building and increasing it by 160 square feet. The applicant is also reducing the parking in the northwest corner of the property from 17 to 8 parking spaces of which two will be accessible spaces. The parking in the southeast corner of the property has also been adjusted from 38 to 35 parking spaces. The elevations will remain the same as previously adopted.

This proposed project has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary.

Engineering: (Approve)

No objection to zone change.

Code: (Approved)

No Oil or Gas issues

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Planning:

This request was recommended for approval at the October 5, 2020 Planning and Zoning Commission meeting.

Staff recommends approval of this zone change, subject to conditions A through C.

Conditions:

A. That the use and development of the property shall conform to the regulations of the O-1, Office District.

B. That this property shall conform to the site plan and elevations, which are attached hereto and incorporated herein as Exhibits "A".

C. That the landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.

Letters of Objection:

Staff has not received any letters of objection as of October 28, 2020.

Attachments:

Site Plan and Elevations (Exhibit A)
Application
Maps
Ordinance No. 10,049

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, "A" STREET COMMUNITY CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH "A" STREET AND VENTURA DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 1, Block 4, "A" Street Community Center, Section 4, City and County of Midland, Texas (the "Property") to an amended PD, Planned Development District for an Office Center and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from PD, Planned Development District for an Office Center to an amended PD, Planned Development District for an Office Center.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the O-1, Office District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit "A" and

incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

A. That the Property shall significantly conform to the site plan and elevation drawings shown in Exhibit "A".

B. That the landscaping shown in Exhibit "A" shall be considered illustrative. The landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIX. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SEVEN. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

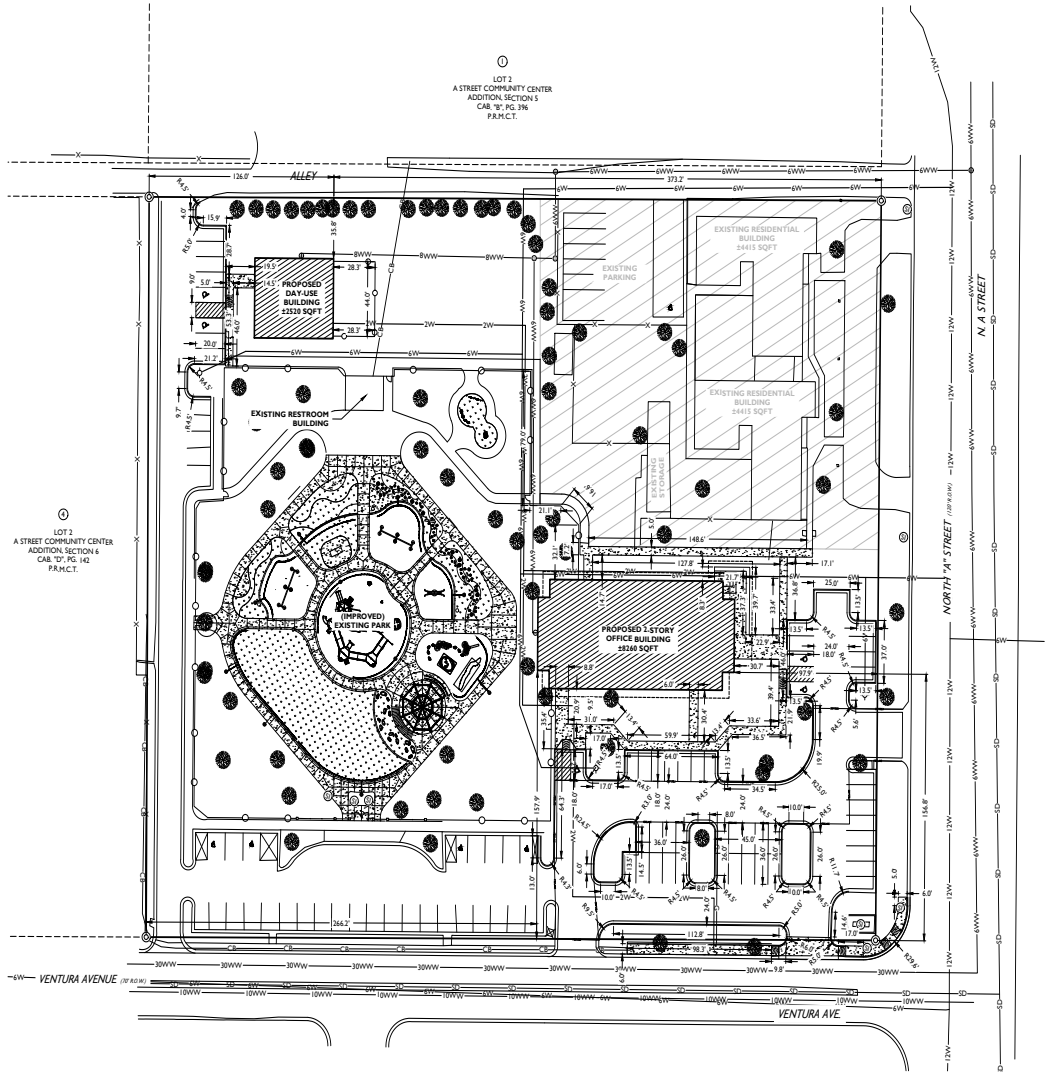
_____
Amy M. Turner, City Secretary

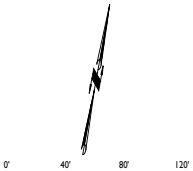
APPROVED AS TO CONTENT
AND COMPLETENESS:

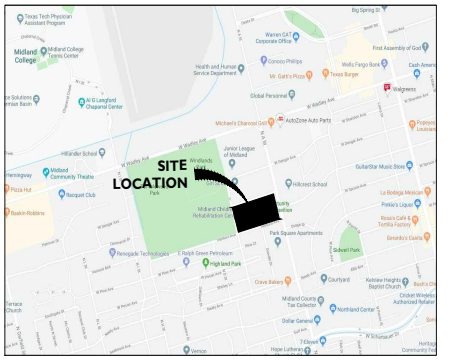
_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney







VICINITY MAP

N.T.S.

LEGEND

- DENOTES FOUND LOT CORNER
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING WATER VALVE
- DENOTES EXISTING MANHOLE
- DENOTES EXISTING CLEAN OUT
- DENOTES EXISTING GUY ANCHOR
- DENOTES EXISTING POWER POLE
- DENOTES EXISTING SIGN
- DENOTES EXISTING ELECTRIC METER
- DENOTES EXISTING GAS METER
- DENOTES EXISTING IRRIGATION VALVE
- DENOTES EXISTING LIGHT POLE
- DENOTES PROPOSED DOUBLE CLEANOUT
- DENOTES PROPOSED CLEANOUT
- DENOTES PROPOSED FIRE HYDRANT
- 6WW — DENOTES PROPOSED 6" WASTEWATER
- 8WW — DENOTES PROPOSED 8" WASTEWATER
- 2W — DENOTES PROPOSED 2" WATER LINE
- 6W — DENOTES PROPOSED 6" WATER LINE
- DENOTES PROPOSED FENCE
- DENOTES BOUNDARY LINE
- DENOTES SURROUNDING PROPERTY
- OH — DENOTES EXISTING OVERHEAD ELECTRIC LINE
- X — X — DENOTES EXISTING FENCE
- G — DENOTES EXISTING GAS LINE
- CB — DENOTES EXISTING UNDERGROUND CABLE LINE
- W — DENOTES EXISTING WATER LINE
- 6W — DENOTES EXISTING 6" WATER LINE
- 12W — DENOTES EXISTING 12" WATER MAIN
- 6WW — DENOTES EXISTING 6" WASTEWATER
- 10WW — DENOTES EXISTING 10" WASTEWATER
- SD — DENOTES EXISTING STORMDRAIN
- INDICATES AREA OUTSIDE OF PROPOSED IMPROVEMENTS
- DENOTES EXISTING TREE

DEVELOPMENT NOTES:

- GENERAL: SITE PLAN IS FOR A PROPOSED ±8,260 SQUARE FOOT BUILDING AND A ±2520 SQUARE FOOT BUILDING LOCATED ON LOT 01, BLOCK 04, OF A STREET COMMUNITY, SECTION 4, CITY & COUNTY OF MIDLAND, TEXAS. THE SITE IS LOCATED NEAR THE INTERSECTION OF A STREET & VENTURA DR. THE DEVELOPMENT IS CURRENTLY ZONED AS A PLANNED DISTRICT.
- DEVELOPMENT: THE RE-DEVELOPMENT WILL CONSIST OF;
  A SINGLE STRUCTURE INTENDED FOR OFFICE USE.
  A SINGLE STRUCTURE INTENDED FOR DAY-USE.
  TWO EXISTING LEGACY BUILDINGS USED FOR RESIDENTIAL UNITS SUPPORTING THE MARC MISSION. TOTAL OCCUPANCY IS 14, OR 7 PER UNIT.
- BUILDING HEIGHT: THE STRUCTURE IS PLANNED TO BE A TWO STORY OFFICE AND A SINGLE STORY DAY USE OUT-BUILDING, WITH A MAXIMUM BUILDING HEIGHT OF 24'-0" AND A PARAPET HEIGHT OF 29'-10".
- ACCESS: THE SITE WILL USE EXISTING ACCESS POINTS, ONE TO THE SOUTH ACCESSING VENTURA AVE. AND ONE TO THE EAST ACCESSING A STREET. ALL ACCESS POINTS ARE PLANNED FOR BOTH INGRESS AND EGRESS.
- FIRE ACCESS: ACCESS FOR FIRE TRUCKS WILL BE ALONG THE PROVIDED 26 FT. WIDE CORRIDOR WITH MINIMUM 28 FT. RADII THROUGHOUT.
- PARKING: ON-SITE PARKING WILL BE PROVIDED WITH 51 STANDARD PARKING SPACES, AND AN ADDITIONAL 4 ACCESSIBLE PARKING SPACES. RESIDENTIAL BUILDING CONTAINS 14 UNITS, OR 3.64 PARKING SPOTS PER UNIT.
- TRASH: TRASH ENCLOSURES WILL BE IN COMPLIANCE WITH THE CITY OF MIDLAND REQUIREMENTS. ON-SITE TRASH COLLECTION WILL BE THE SAME AS EXISTING CONDITIONS, NO CHANGES PROPOSED.
- UTILITIES: PUBLIC UTILITIES ARE NOT PRESENT. EXISTING WATER & SEWER SERVICE TAPS WILL BE UTILIZED. NEW WATER & SEWER SERVICE TAPS WILL BE REQUIRED AT LOCATIONS SHOWN
- DRAINAGE: STORM WATER RUNOFF WILL BE IN COMPLIANCE WITH THE CURRENT APPROVED DRAINAGE PLAN ON FILE.

FEMA FIRM NOTES:

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	DATE OF FIRM	ZONE	BASE FLOOD ELEVATION
48329	89	F	09/16/2005	AH	2784

DIMENSIONAL NOTE:

- DIMENSIONS SHOWN ARE TYPICALLY TO BACK OF CURB UNLESS NOTED OTHERWISE.
- SIDEWALKS WILL BE 5 FT. IN WIDTH UNLESS NOTED OTHERWISE.

LANDSCAPE NOTES:

- LANDSCAPING ELEMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATIVE PURPOSES ONLY, AND DOES NOT NECESSARILY REFLECT THE FINAL DESIGN LANDSCAPING.
- THE LANDSCAPE PLAN THAT WILL BE SUBMITTED FOR CITY APPROVAL WILL BE IN COMPLIANCE WITH CITY STANDARDS.

Know what's below. Call before you dig.

PACKET 28.64 November 3, 2020

EXHIBIT "A"

MAVERICK ENGINEERING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
Tel: (432) 262-0999 Fax: (432) 262-0989
www.MaverickEngr.com
FIRM#: F-15089

BY:	APPR.	DATE
CLB	AJH	04-15-20
CLB	AJH	09-03-20

REVISIONS
1 UPDATED PER CITY COMMENTS
2 CCR #2

DRAWN BY: CLB
CHECKED BY: AJH
APPROVED BY: AJH
DATE: 02/13/2020
JOB: 1901.53

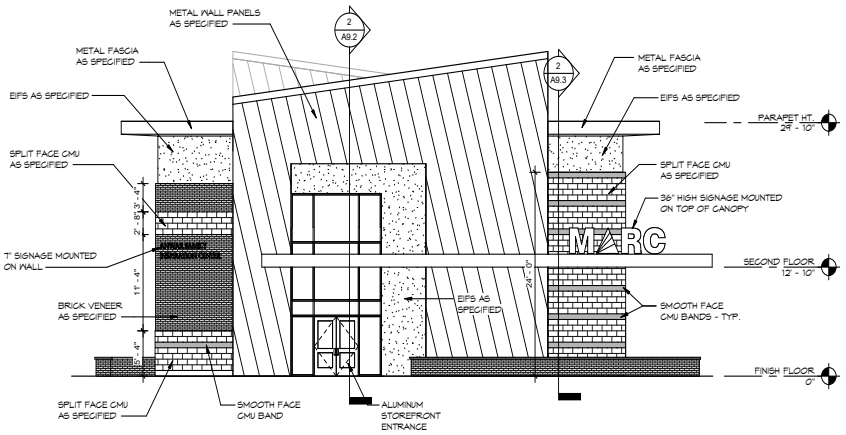
SITE PLAN

MARC OFFICE BUILDINGS
LOT 01, BLOCK 04, A STREET COMMUNITY ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS.

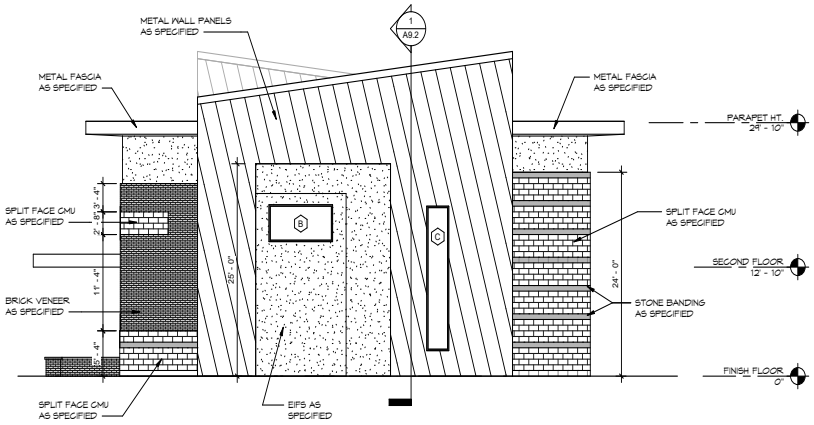
SHEET **PD-01** OF 19

© COPYRIGHT 2018 ALL RIGHTS RESERVED

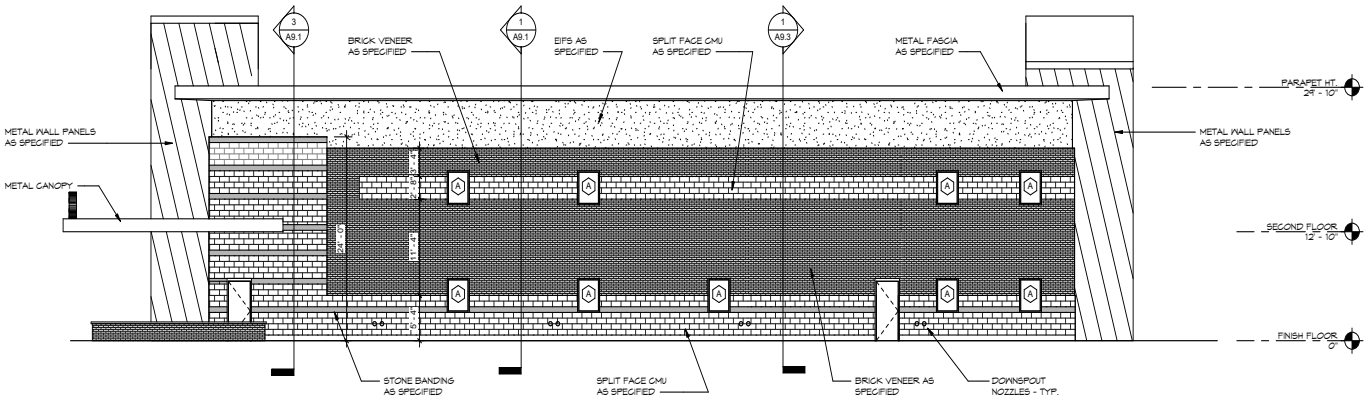
F:\2019\1901.53-MARC-MARC OFFICES MIDLAND ENGINEERING (REF #1800341)\DRAWINGS\PD SITE PLAN (1901.53) PD SITE PLAN V20.DWG



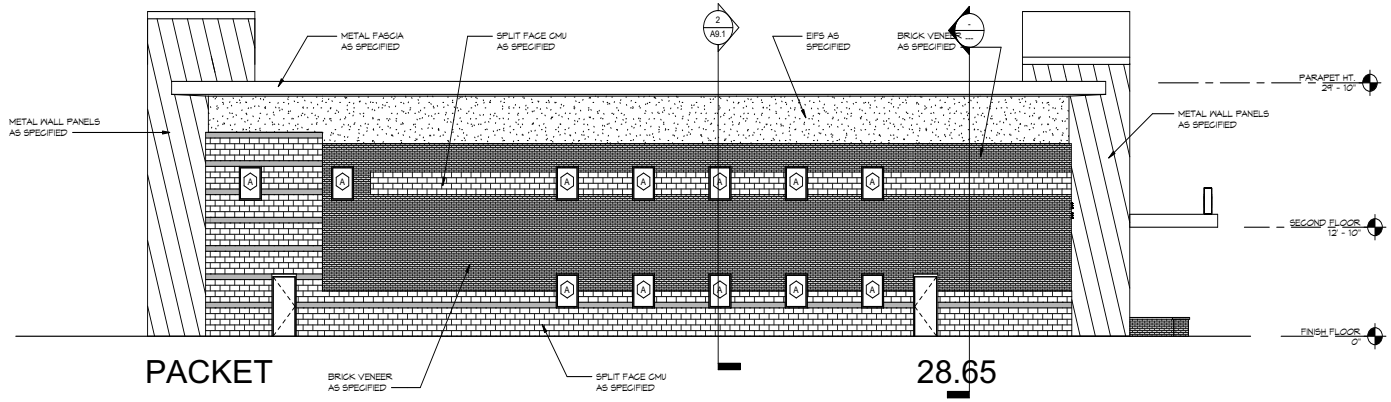
1 A5.1 EAST ELEVATION
1/8" = 1'-0"



4 A5.1 WEST ELEVATION
1/8" = 1'-0"



2 A5.1 NORTH ELEVATION
1/8" = 1'-0"



3 A5.1 SOUTH ELEVATION
1/8" = 1'-0"

MWM Architects, Inc.
2022 Broadway
Lubbock, TX 79401
Ph 806.745.7707
Fax 806.745.7620

PRELIMINARY NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION
DATE: 11/6/19
Stephen Faulk No. 5576
Jason Moore No. 19265
Melanie Meixner No. 19192

Structural Engineers
MWM Architects, Inc.
2022 Broadway
Lubbock, Texas 79401
Phone: 806.745.7707
Fax: 806.745.7620

Agnew Associates, Inc.
MEP Engineers
13033 Quaker Ave. Suite A
Lubbock, Texas 79423
Phone: 806.799.0753

Maverick Engineering
Civil Engineers
1909 W. Wall Street, Suite K
Midland, Texas 798701
Phone: 432.262.0999

MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A STREET - MIDLAND, TEXAS

No.	Revision	Date
PROJECT No.:		18005-A
DATE:		11/6/19

A5.1

EXTERIOR ELEVATIONS

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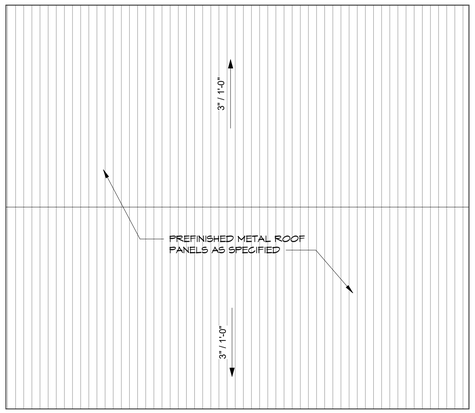


N

2 DA3.1 ROOF PLAN
1/8" = 1'-0"

CEILING PLAN NOTES

1. REFR TO MECHANICAL AND ELECTRICAL PLANS FOR ADDITIONAL INFORMATION.

2. ALL EXPOSED WIRE, CONDUIT, DUCT WORK, ETC., SHALL BE PAINTED COLOR AS SELECTED BY ARCHITECT.

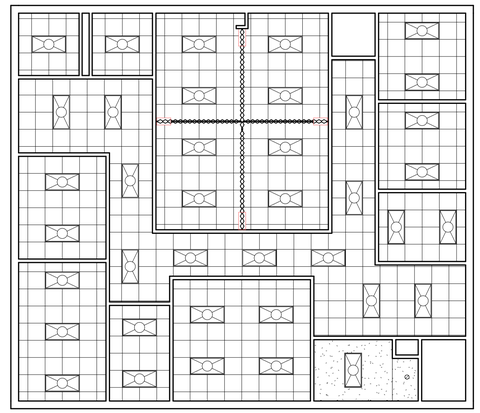
CEILING PLAN LEGEND

RECESSED LIGHT AS SPECIFIED, RE. ELECTRICAL

2x4 LED LIGHT AS SPECIFIED, RE. ELECTRICAL

2x2 LAY-IN ACOUSTICAL CEILING TILE AS SPECIFIED

PAINTED 5/8" GYP. BD. CEILING AS SPECIFIED



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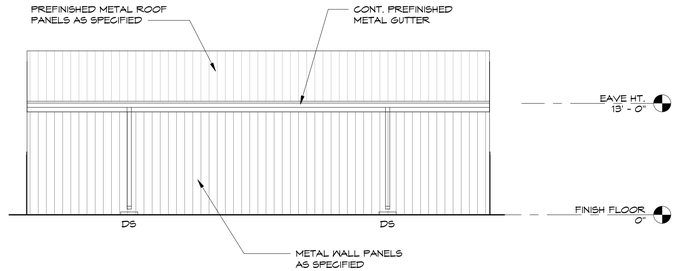
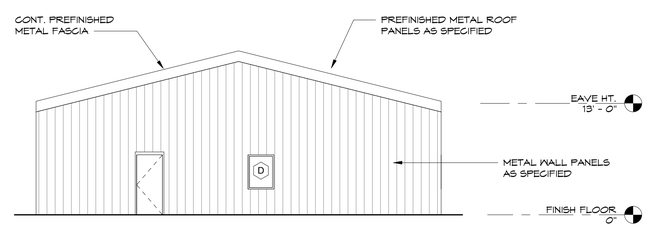
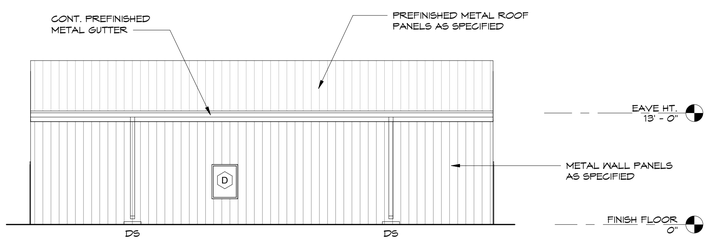
1 DA3.1 REFLECTED CEILING PLAN
1/8" = 1'-0"



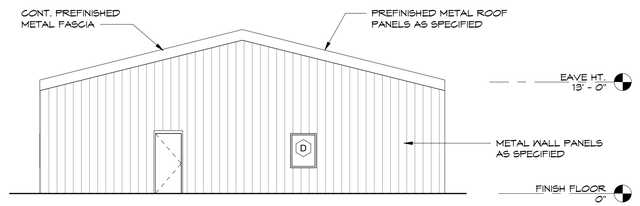
3 DA3.1 NORTH ELEVATION
1/8" = 1'-0"



4 DA3.1 WEST ELEVATION
1/8" = 1'-0"



5 DA3.1 SOUTH ELEVATION
1/8" = 1'-0"



6 DA3.1 EAST ELEVATION
1/8" = 1'-0"

MWM Architects, Inc.
2022 Broadway
Lubbock, TX 79401
Ph 806.745.7707
Fax 806.745.7620

PRELIMINARY NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION
DATE: Issue Date
Stephen Faulk No. 5576
Jason Moore No. 19265
Melanie Meixner No. 19192

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Phone: 806.799.0753

Maverick Engineering
Civil Engineers
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Midland, Texas 798701
Phone: 432.262.0999

MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A ST. - MIDLAND, TEXAS

No.	Revision	Date
PROJECT No.:		18005
DATE:		Issue Date

DA3.1

RCP, ROOF PLAN, EXT. ELEVS.

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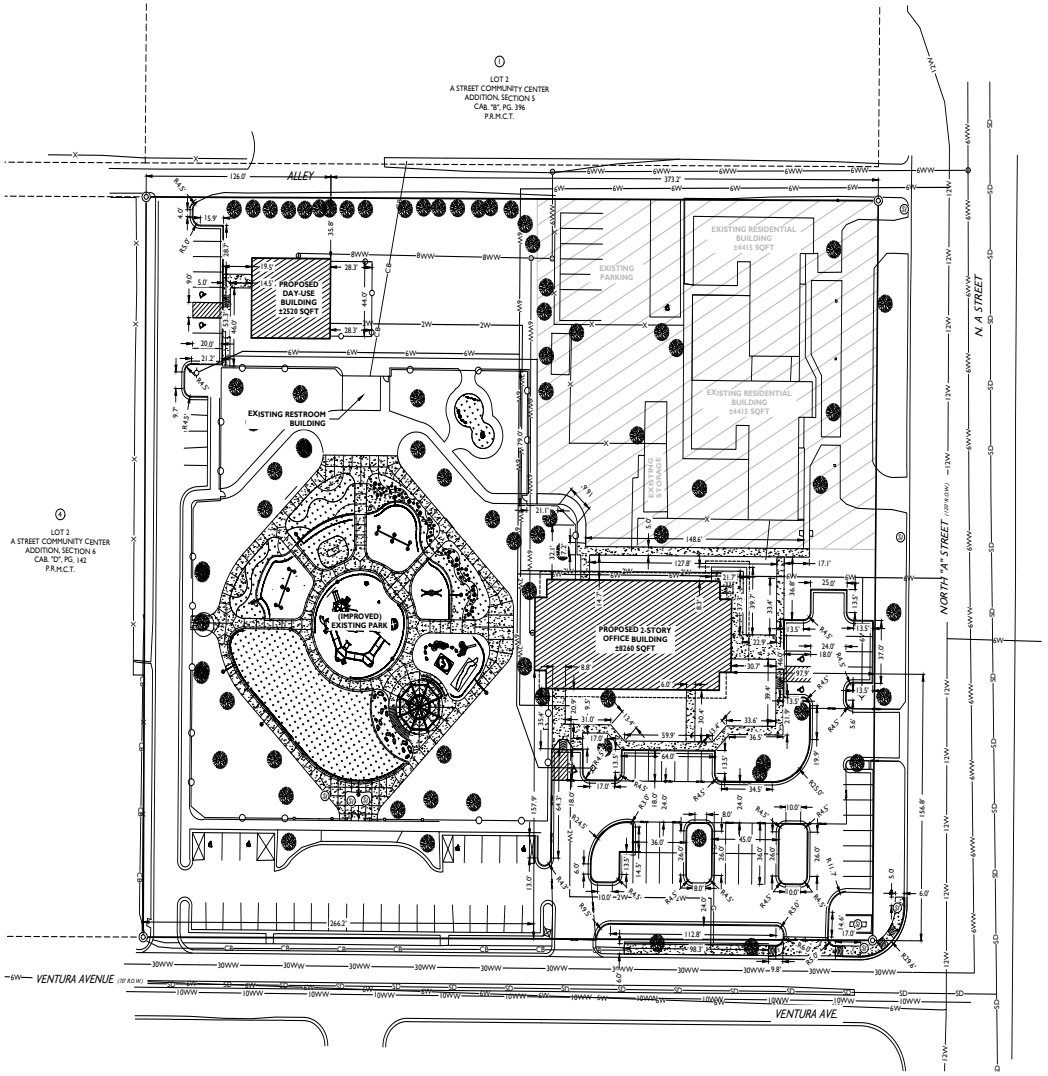
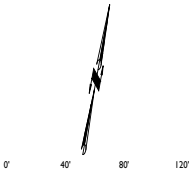
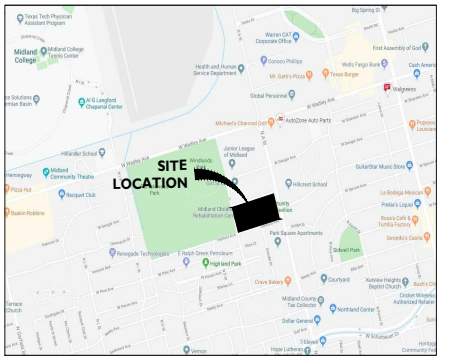






VICINITY MAP

N.T.S.

LEGEND

- DENOTES FOUND LOT CORNER
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING WATER VALVE
- DENOTES EXISTING MANHOLE
- DENOTES EXISTING CLEAN OUT
- DENOTES EXISTING GUY ANCHOR
- DENOTES EXISTING POWER POLE
- DENOTES EXISTING SIGN
- DENOTES EXISTING ELECTRIC METER
- DENOTES EXISTING GAS METER
- DENOTES EXISTING IRRIGATION VALVE
- DENOTES EXISTING LIGHT POLE
- DENOTES PROPOSED DOUBLE CLEANOUT
- DENOTES PROPOSED CLEANOUT
- DENOTES PROPOSED FIRE HYDRANT
- 6WW — DENOTES PROPOSED 6" WASTEWATER
- 8WW — DENOTES PROPOSED 8" WASTEWATER
- 2W — DENOTES PROPOSED 2" WATER LINE
- 6W — DENOTES PROPOSED 6" WATER LINE
- DENOTES PROPOSED FENCE
- DENOTES BOUNDARY LINE
- DENOTES SURROUNDING PROPERTY
- OH — DENOTES EXISTING OVERHEAD ELECTRIC LINE
- X — X — DENOTES EXISTING FENCE
- G — DENOTES EXISTING GAS LINE
- CB — DENOTES EXISTING UNDERGROUND CABLE LINE
- W — DENOTES EXISTING WATER LINE
- 6W — DENOTES EXISTING 6" WATER LINE
- 12W — DENOTES EXISTING 12" WATER MAIN
- 6WW — DENOTES EXISTING 6" WASTEWATER
- 10WW — DENOTES EXISTING 10" WASTEWATER
- SD — DENOTES EXISTING STORMDRAIN
- INDICATES AREA OUTSIDE OF PROPOSED IMPROVEMENTS
- DENOTES EXISTING TREE

DEVELOPMENT NOTES:

- GENERAL: SITE PLAN IS FOR A PROPOSED ±8,260 SQUARE FOOT BUILDING AND A ±2520 SQUARE FOOT BUILDING LOCATED ON LOT 01, BLOCK 04, OF A STREET COMMUNITY, SECTION 4, CITY & COUNTY OF MIDLAND, TEXAS. THE SITE IS LOCATED NEAR THE INTERSECTION OF A STREET & VENTURA DR. THE DEVELOPMENT IS CURRENTLY ZONED AS A PLANNED DISTRICT.
- DEVELOPMENT: THE RE-DEVELOPMENT WILL CONSIST OF;
  A SINGLE STRUCTURE INTENDED FOR OFFICE USE.
  A SINGLE STRUCTURE INTENDED FOR DAY-USE.
  TWO EXISTING LEGACY BUILDINGS USED FOR RESIDENTIAL UNITS SUPPORTING THE MARC MISSION. TOTAL OCCUPANCY IS 14, OR 7 PER UNIT.
- BUILDING HEIGHT: THE STRUCTURE IS PLANNED TO BE A TWO STORY OFFICE AND A SINGLE STORY DAY USE OUT-BUILDING, WITH A MAXIMUM BUILDING HEIGHT OF 24'-0" AND A PARAPET HEIGHT OF 29'-10".
- ACCESS: THE SITE WILL USE EXISTING ACCESS POINTS, ONE TO THE SOUTH ACCESSING VENTURA AVE. AND ONE TO THE EAST ACCESSING A STREET. ALL ACCESS POINTS ARE PLANNED FOR BOTH INGRESS AND EGRESS.
- FIRE ACCESS: ACCESS FOR FIRE TRUCKS WILL BE ALONG THE PROVIDED 26 FT. WIDE CORRIDOR WITH MINIMUM 28 FT. RADII THROUGHOUT.
- PARKING: ON-SITE PARKING WILL BE PROVIDED WITH 51 STANDARD PARKING SPACES, AND AN ADDITIONAL 4 ACCESSIBLE PARKING SPACES. RESIDENTIAL BUILDING CONTAINS 14 UNITS, OR 3.64 PARKING SPOTS PER UNIT.
- TRASH: TRASH ENCLOSURES WILL BE IN COMPLIANCE WITH THE CITY OF MIDLAND REQUIREMENTS. ON-SITE TRASH COLLECTION WILL BE THE SAME AS EXISTING CONDITIONS, NO CHANGES PROPOSED.
- UTILITIES: PUBLIC UTILITIES ARE NOT PRESENT. EXISTING WATER & SEWER SERVICE TAPS WILL BE UTILIZED. NEW WATER & SEWER SERVICE TAPS WILL BE REQUIRED AT LOCATIONS SHOWN
- DRAINAGE: STORM WATER RUNOFF WILL BE IN COMPLIANCE WITH THE CURRENT APPROVED DRAINAGE PLAN ON FILE.

FEMA FIRM NOTES:

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	DATE OF FIRM	ZONE	BASE FLOOD ELEVATION
48329	89	F	09/16/2005	AH	2784

DIMENSIONAL NOTE:

- DIMENSIONS SHOWN ARE TYPICALLY TO BACK OF CURB UNLESS NOTED OTHERWISE.
- SIDEWALKS WILL BE 5 FT. IN WIDTH UNLESS NOTED OTHERWISE.

LANDSCAPE NOTES:

- LANDSCAPING ELEMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATIVE PURPOSES ONLY, AND DOES NOT NECESSARILY REFLECT THE FINAL DESIGN LANDSCAPING.
- THE LANDSCAPE PLAN THAT WILL BE SUBMITTED FOR CITY APPROVAL WILL BE IN COMPLIANCE WITH CITY STANDARDS.

Know what's below. Call before you dig.

MAVERICK ENGINEERING
1909 West Wall Street, Suite "K"
Midland, Texas 79701
Tel: (432) 262-0999 Fax: (432) 262-0989
FIRM#: F-15089
www.MaverickEngr.com

NO.	REVISIONS	BY:	APPR.	DATE
1	UPDATED PER CITY COMMENTS	CLB	AJH	04-15-20
2	CCR #2	CLB	AJH	09-03-20

DRAWN BY: CLB
CHECKED BY: AJH
APPROVED BY: AJH
DATE: 02/13/2020
JOB: 1901.53

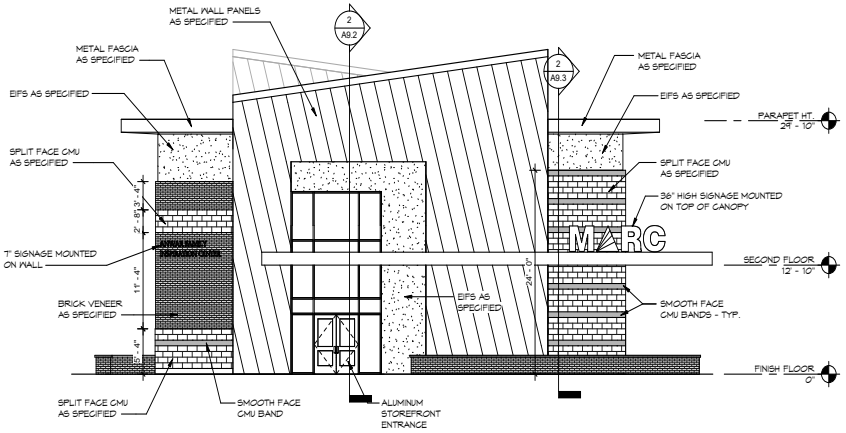
SITE PLAN

MARC OFFICE BUILDINGS

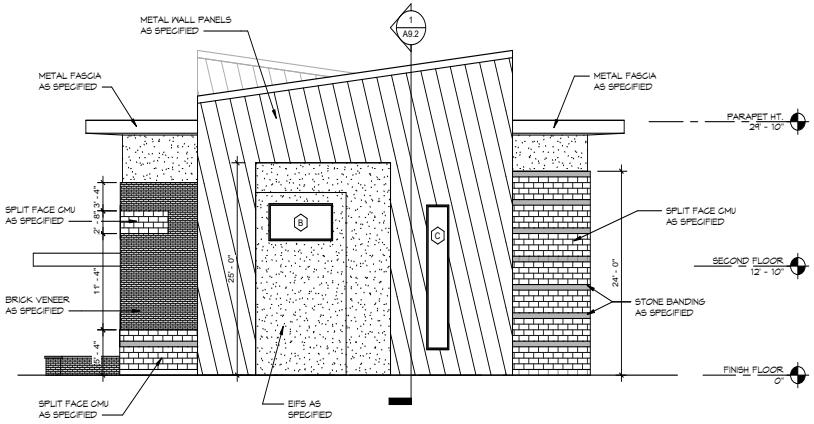
LOT 01, BLOCK 04, A STREET COMMUNITY ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS.

SHEET PD-01 OF 19

F:\2019\19015\3-MARC-MARC OFFICES MIDLAND ENGINEERING (REF #18003419)\DRAWINGS\PD SITE PLAN (19015) PD SITE PLAN V20.DWG
© COPYRIGHT 2018 ALL RIGHTS RESERVED



1 A5.1 EAST ELEVATION
1/8" = 1'-0"



4 A5.1 WEST ELEVATION
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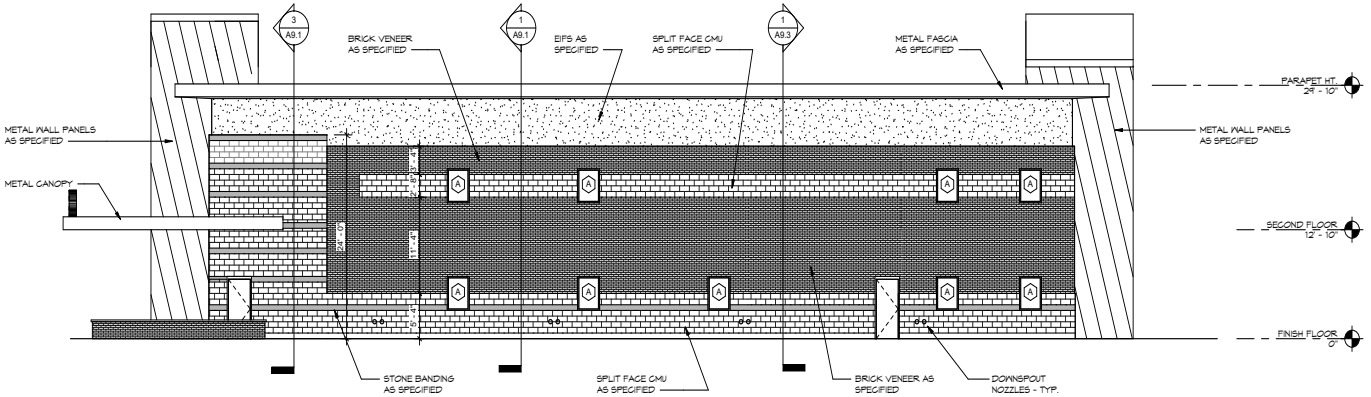

2 A5.1 NORTH ELEVATION
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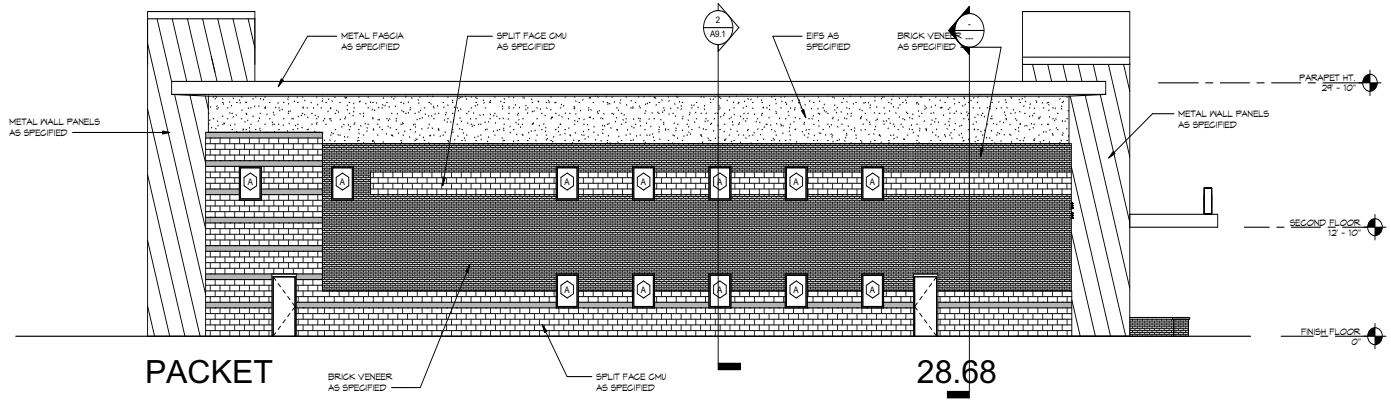

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DATE: 11/6/19
Stephen Faulk No. 5576
Jason Moore No. 19265
Melanie Meixner No. 19192

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MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A STREET - MIDLAND, TEXAS

No.	Revision	Date

PROJECT No.: 18005-A
DATE: 11/6/19

A5.1
EXTERIOR ELEVATIONS

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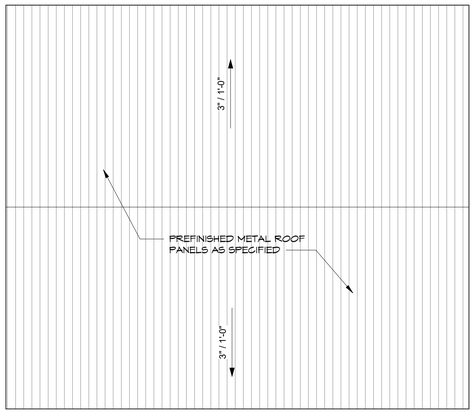

N

2 DA3.1 ROOF PLAN
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2. ALL EXPOSED WIRE, CONDUIT, DUCT WORK, ETC., SHALL BE PAINTED COLOR AS SELECTED BY ARCHITECT.

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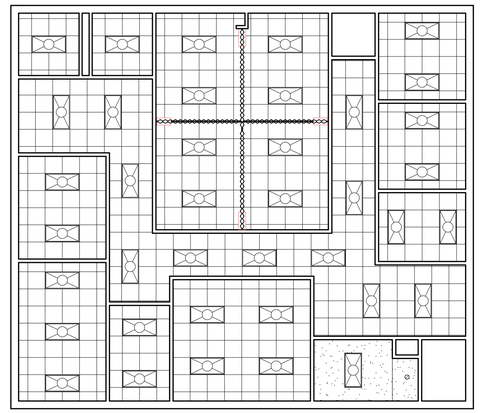
2x4 LED LIGHT AS SPECIFIED, RE. ELECTRICAL

2x2 LAY-IN ACOUSTICAL CEILING TILE AS SPECIFIED

PAINTED 5/8" GYP. BD. CEILING AS SPECIFIED



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1 DA3.1 REFLECTED CEILING PLAN
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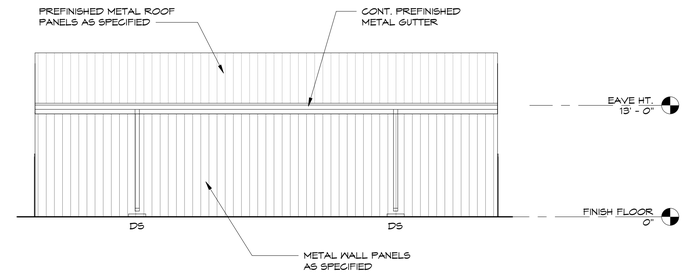

3 DA3.1 NORTH ELEVATION
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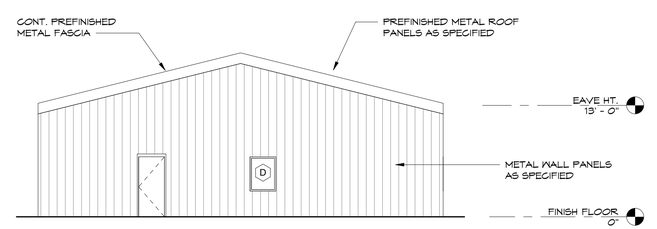

4 DA3.1 WEST ELEVATION
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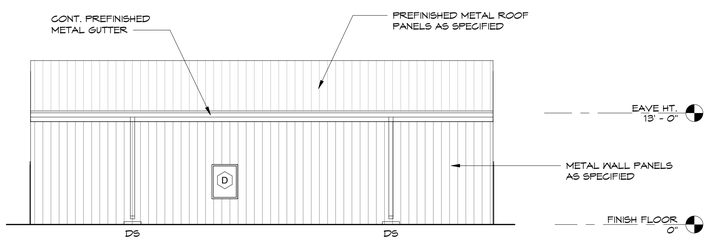

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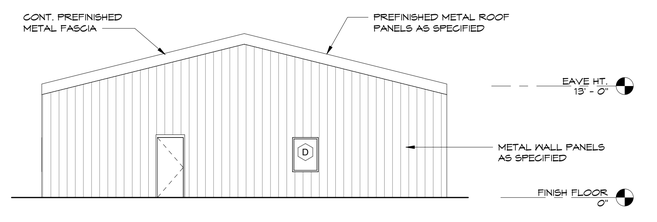

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MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A ST. - MIDLAND, TEXAS

No.	Revision	Date
PROJECT No.:		18005
DATE:		Issue Date

DA3.1

RCP, ROOF PLAN, EXT. ELEVS.

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MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-20-093

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)*		Phone ( ) Email	
Printed Name: MARC, Inc.			
Address 2701 N. "A" Street	City Midland	State TX	Zip 79705

Property Owner		Phone ( ) Email	
Printed Name: " "			
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)*		Phone (432-) 266-8289 Email	
Firm: Maverick Engineering			
Printed Name: Paladin Huckaba		phuckaba@maverick-eng.com	
Address 1909 W. Wall St. Suite K	City Midland	State TX	Zip 79701

Street Address: 2701 N. "A" Street

Legal Description
Lot: 4 Block: 10 Subdivision: A Street Community Center, Section 4

Current Zoning: SF1

Proposed Zone: PDOC
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Advance the improvements to site as proposed, with consideration to the existing use.

Present Use of Property: Mixed-use, office/admin, and low density dormitories on site.

Proposed Use of Property: Same

How would this zone change affect the public health, safety and welfare?
This change proposes no changes to the residential component and will retain the same office/admin uses

Describe how conditions affecting the property have changed since present zoning designation: Site is proposed for building construction & improvements.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
SEP 0 8 2020
BY: .....

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 9/3/20
Applicant (printed): Paladin Huckaba	
Property Owner (signature): Charlotte Bosecker	Date: 9/4/20
Property Owner (printed) : Charlotte Bosecker	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Andrew L. Mellen, PE who, being by me duly sworn, upon oath says: That (s)he is authorized by MARC, Inc., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact

Andrew L. Mellen

Authorized Agent (*signature*)

Subscribed and sworn to before me, this 4th day of September, 2020, to certify which witness my hand and seal of office.

Kelsey Ann Stine
My Commission Expires
02/19/2022
ID No. 131456388

Kelsey Ann Stine

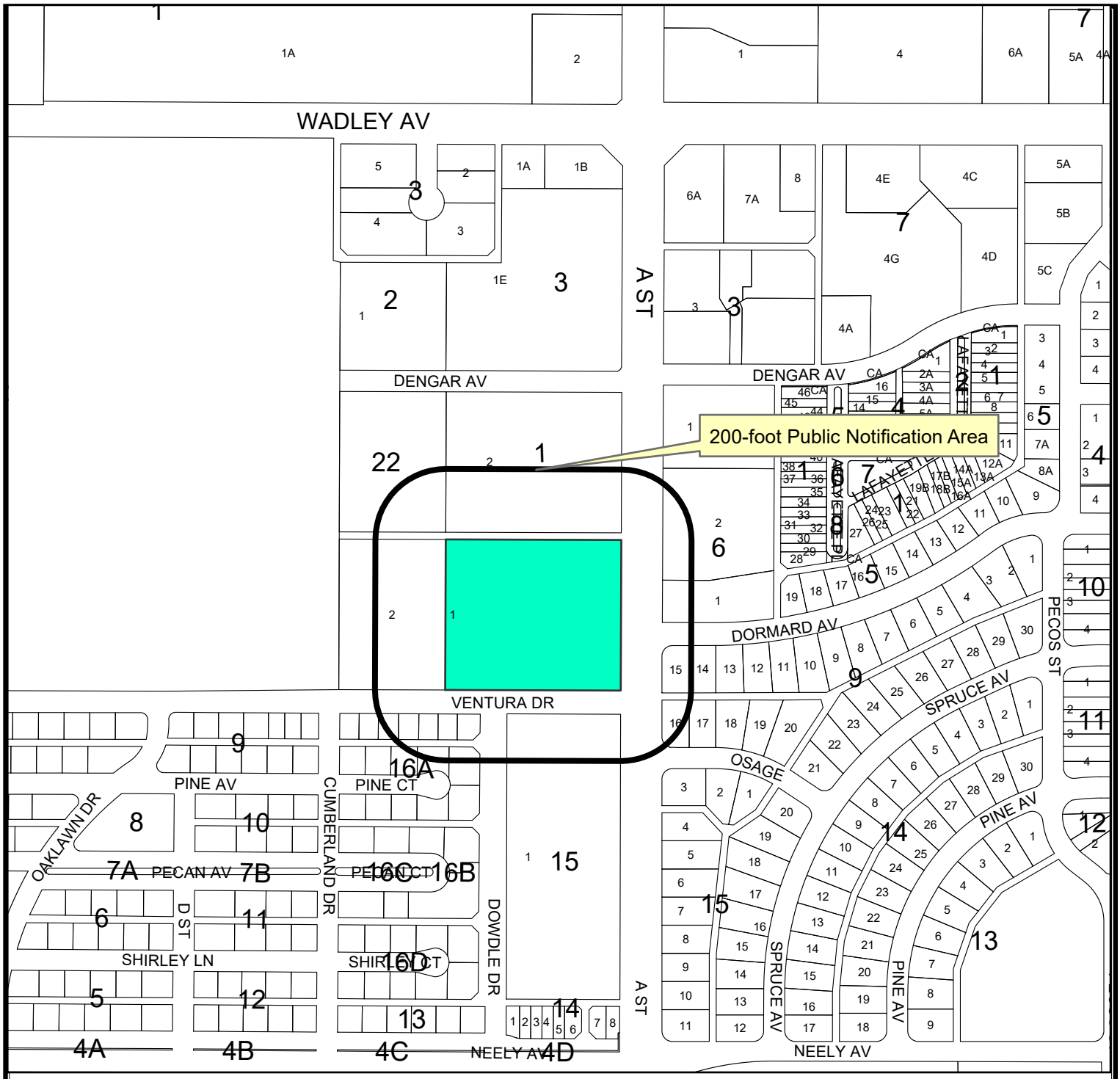
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☐ Plans in Digital Format (PDF/JPEG)
Check # 3236	
Received By:	Date:

RECEIVED
SEP 08 2020
BY: .....

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

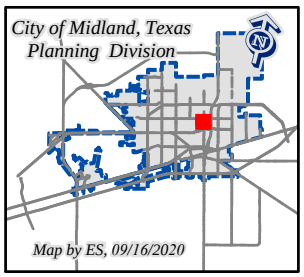
Z-20-0193 **Scale: 1" = 400'**

Consider a request by MARC, INC. for a zone change amendment from PD, Planned Development District for an Office Center to an amended PD, Planned Development District for an Office Center, on Lot 1, Block 4, "A" Street Community Center, Section 4, City and County of Midland, Texas.

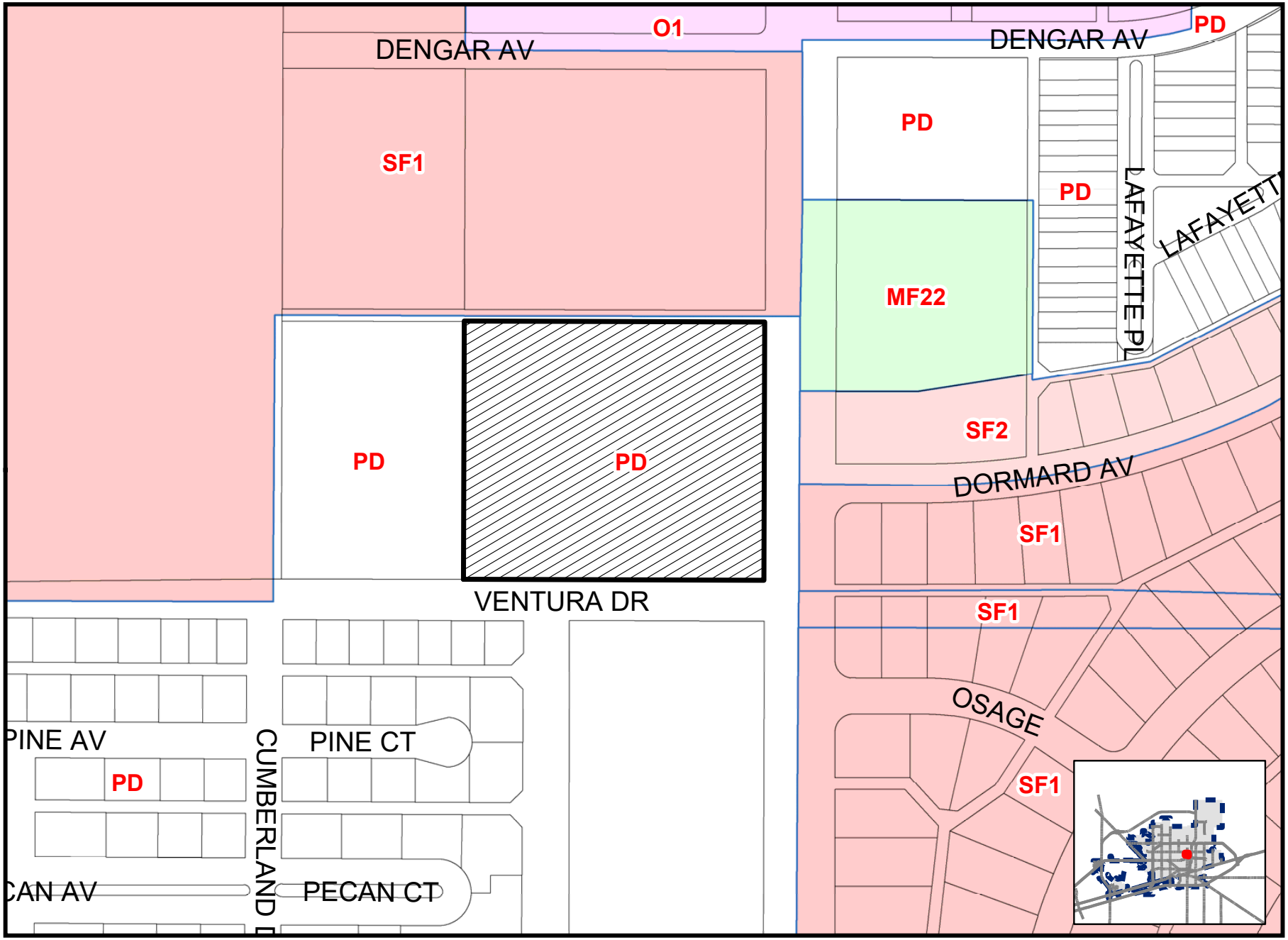
Generally located on the northwest corner of the intersection of N. A Street and Ventura Drive. (Council District 3).

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



November 3, 2020



Map By ES, 9/25/2020

Z-20-0193

Scale: 1" = 200'

ZONING MAP

PACKET
28.73
November 3, 2020

ORDINANCE NO. 10049

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, "A" STREET COMMUNITY CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, FROM SF-1, SINGLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH "A" STREET AND VENTURA DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after a full and fair hearing to all of the property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body finds that the public health, safety and general welfare will be best served by rezoning Lot 1, Block 4, "A" Street Community Center, Section 4, City and County of Midland, Texas (the "Property") to PD, Planned Development District for an Office Center and adopting a site plan therefor, as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to rezone the Property from SF-1, Single-Family Dwelling District to PD, Planned Development District for an Office Center.

SECTION TWO. That the base zoning district to which the use and development of the Property shall conform, except as modified by Section Three of this ordinance, is the O-1, Office District.

SECTION THREE. That a site plan, which is attached hereto as Exhibit "A" and

incorporated herein for all purposes, is hereby adopted, and the use and development of the Property shall be subject to the following conditions and restrictions:

A. That the Property shall significantly conform to the site plan and elevation drawings shown in Exhibit "A".

B. That the landscaping shown in Exhibit "A" shall be considered illustrative. The landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIX. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SEVEN. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed

by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 28th day of January, A.D., 2020; and passed to second reading on motion of Council member Love, seconded by Council member Robnett, by the following vote:

Council members voting "AYE": Blong, Trost, Love, Payton, Dufford, Robnett, Ladd

Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Robnett, seconded by Council member Blong, on the 11th day of February, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE": Blong, Trost, Love, Payton, Robnett, Ladd

Council members voting "NAY": None

PASSED AND APPROVED THIS 11th day of February, A.D., 2020.

Patrick N. Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary

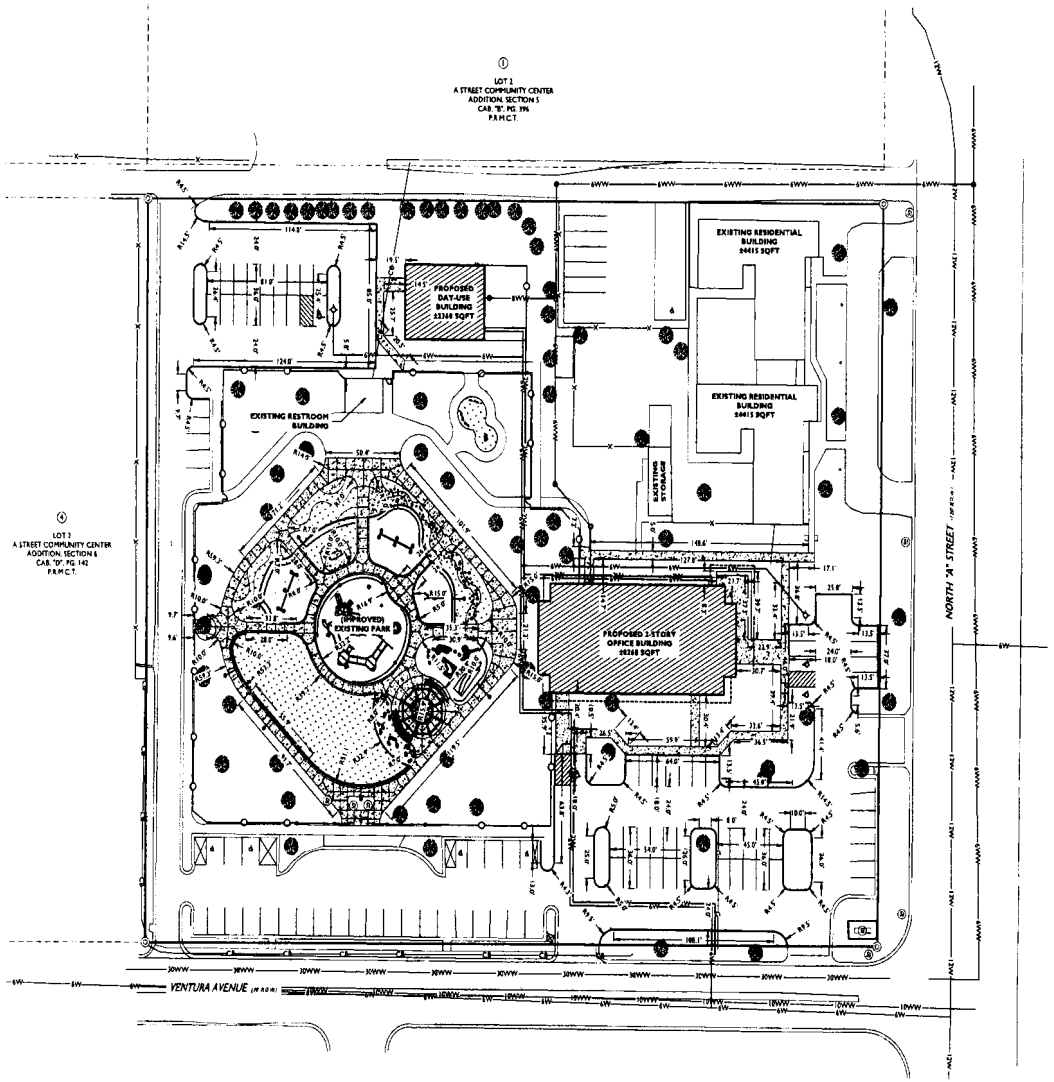
APPROVED AS TO CONTENT
AND COMPLETENESS:

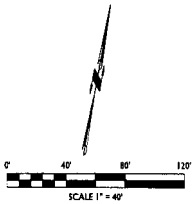
Robert Patrick, Assistant City Manager

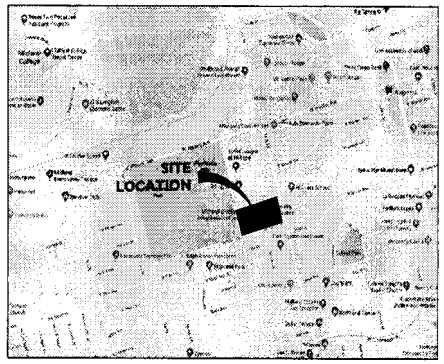
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

John Ohmemiller, City Attorney







VICINITY MAP

N.T.S.

LEGEND

- DENOTES FOUND MONUMENT AS NOTED
- DENOTES SET 1/2" IRON ROD W/PLASTIC CAP MARKED "CTLS"
- DENOTES TEMPORARY BENCHMARK
- DENOTES EXISTING FIRE HYDRANT
- DENOTES EXISTING WATER VALVE
- DENOTES EXISTING MANHOLE
- DENOTES EXISTING CLEAN OUT
- DENOTES EXISTING GUY ANCHOR
- DENOTES EXISTING POWER POLE
- DENOTES EXISTING SIGN
- DENOTES EXISTING ELECTRIC METER
- DENOTES EXISTING GAS METER
- DENOTES EXISTING IRRIGATION VALVE
- DENOTES EXISTING LIGHT POLE
- 2850 DENOTES EXISTING CONTOUR
- DENOTES BOUNDARY LINE
- DENOTES SURROUNDING PROPERTY
- DENOTES EXISTING FLOODWAY
- DENOTES EDGE OF ASPHALT
- OH DENOTES EXISTING OVERHEAD ELECTRIC LINE
- X DENOTES EXISTING FENCE
- G DENOTES EXISTING GAS LINE
- CB DENOTES EXISTING UNDERGROUND CABLE LINE
- W DENOTES EXISTING WATER LINE
- 6W DENOTES EXISTING 6" WATER LINE
- 12W DENOTES EXISTING 12" WATER MAIN
- 6WW DENOTES EXISTING 6" WASTEWATER
- 10WW DENOTES EXISTING 10" WASTEWATER
- 30WW DENOTES EXISTING 30" WASTEWATER
- DENOTES EXISTING DRIP LINE
- DENOTES EXISTING TREE

DEVELOPMENT NOTES:

- GENERAL: SITE PLAN IS FOR A PROPOSED 8,368 SQUARE FOOT BUILDING AND A 2,368 SQUARE FOOT BUILDING LOCATED ON LOT 01, BLOCK 04, OF A STREET COMMUNITY, SECTION 4, CITY & COUNTY OF MIDLAND, TEXAS. THE SITE IS LOCATED NEAR THE INTERSECTION OF A STREET & VENTURA DR. THE DEVELOPMENT IS CURRENTLY ZONED AS A PLANNED DISTRICT.
- DEVELOPMENT: THE RE-DEVELOPMENT WILL CONSIST OF:
  A SINGLE STRUCTURE INTENDED FOR OFFICE USE.
  A SINGLE STRUCTURE INTENDED FOR DAY-USE
  TWO EXISTING LEGACY BUILDINGS USED FOR RESIDENTIAL UNITS
  SUPPORTING THE MARC MISSION. TOTAL OCCUPANCY IS 14, OR 7 PER UNIT.
- BUILDING HEIGHT: THE STRUCTURE IS PLANNED TO BE A TWO STORY OFFICE AND A SINGLE STORY DAY USE OUT-BUILDING, WITH A MAXIMUM BUILDING HEIGHT OF 24'-0" AND A PARAPET HEIGHT OF 29'-10".
- ACCESS: THE SITE WILL USE EXISTING ACCESS POINTS, ONE TO THE SOUTH ACCESSING VENTURA AVE. AND ONE TO THE EAST ACCESSING A STREET. ALL ACCESS POINTS ARE PLANNED FOR BOTH INGRESS AND EGRESS. THE FOLLOWING EASEMENTS ARE PLANNED TO GRANT ACCESS.
- FIRE ACCESS: ACCESS FOR FIRE TRUCKS WILL BE ALONG THE PROVIDED 26 FT. WIDE CORRIDOR WITH MINIMUM 28 FT. RADII THROUGHOUT.
- PARKING: ON-SITE PARKING WILL BE PROVIDED WITH 52 STANDARD PARKING SPACES, AND AN ADDITIONAL 4 ACCESSIBLE PARKING SPACES. RESIDENTIAL BUILDING CONTAINS 14 UNITS, OR 3.71 PARKING SPOTS PER UNIT. THIS INCLUDES 9 PROPOSED COVERED SPACES AND 8 GARAGE SPACES.
- TRASH: TRASH ENCLOSURES WILL BE IN COMPLIANCE WITH THE CITY OF MIDLAND REQUIREMENTS. ON-SITE TRASH COLLECTION WILL BE THE SAME AS EXISTING CONDITIONS. NO CHANGES PROPOSED.
- UTILITIES: PUBLIC UTILITIES ARE NOT PRESENT. EXISTING WATER & SEWER SERVICE TAPS WILL BE UTILIZED. NEW WATER & SEWER SERVICE TAPS WILL BE REQUIRED.
- DRAINAGE: STORM WATER RUNOFF WILL BE IN COMPLIANCE WITH THE CURRENT APPROVED DRAINAGE PLAN ON FILE.

FEMA FIRM NOTES:

COMMUNITY NUMBER	PANEL NUMBER	SUFFIX	DATE OF FIRM	ZONE	BASE FLOOD ELEVATION
48329	89	F	09/16/2005	AH	2784

DIMENSIONAL NOTE:

- DIMENSIONS SHOWN ARE TYPICALLY TO BACK OF CURB UNLESS NOTED OTHERWISE.
- SIDEWALKS WILL BE 5 FT. IN WIDTH UNLESS NOTED OTHERWISE.

LANDSCAPE NOTES:

- LANDSCAPING ELEMENTS SHOWN ON THIS EXHIBIT ARE FOR ILLUSTRATIVE PURPOSES ONLY, AND DOES NOT NECESSARILY REFLECT THE FINAL DESIGN LANDSCAPING.
- THE LANDSCAPE PLAN THAT WILL BE SUBMITTED FOR CITY APPROVAL WILL BE IN COMPLIANCE WITH CITY STANDARDS.

Know what's below. Call before you dig. 811

MAVERICK ENGINEERING
1909 West Wall Street, Suite "K"
Midland, Texas 79701 FIRM: F-15089
Tel: (432) 262-0999 Fax: (432) 262-0989
www.Maverick-Eng.com

NO.	REVISIONS	BY	APPR.	DATE
1				

DRAWN BY: CLB
CHECKED BY: ALM
APPROVED BY: ALM
DATE: 12/05/2019
JOB NO.: 190113

SITE PLAN

MARC OFFICE BUILDINGS

LOT 01, BLOCK 04, A STREET COMMUNITY ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS.

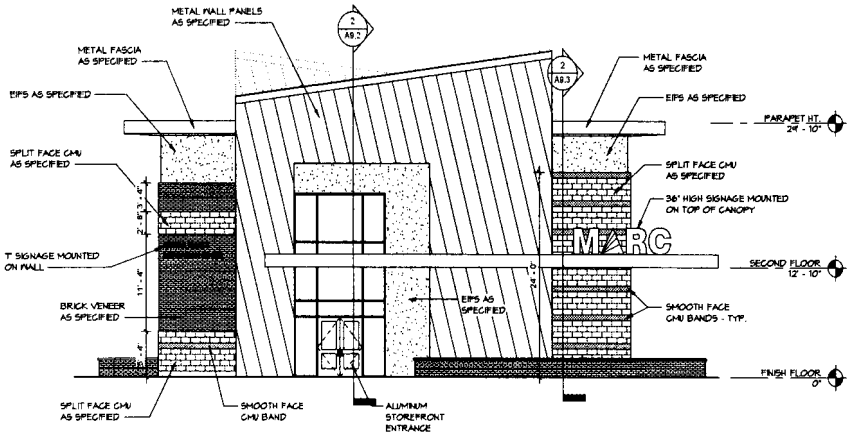
PRELIMINARY REVIEW:

THESE PLANS ARE RELEASED UNDER THE SEAL OF ANDREW L. MERLIN, P.E. #116172 AND MAVERICK ENGINEERING #F-15089, ON THIS DAY 11/15/2019, FOR THE PURPOSES OF INTERIM/PRELIMINARY REVIEW. THEY SHALL NOT BE USED FOR THE PURPOSES OF CONSTRUCTION.

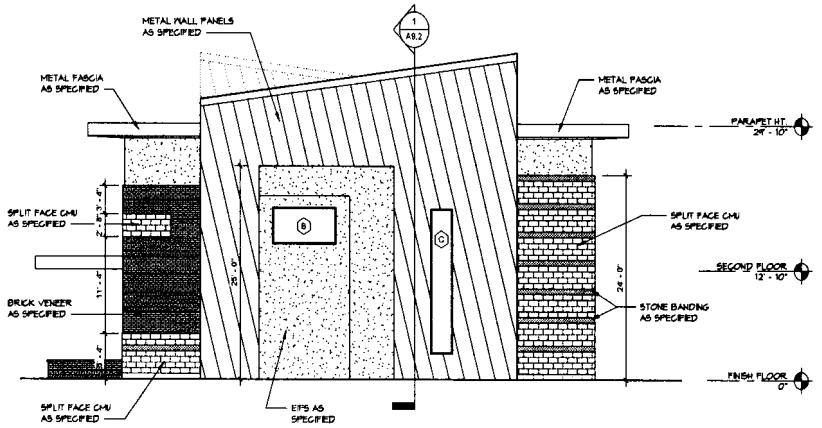
SHEET **PD-01** OF 19

EXHIBIT A

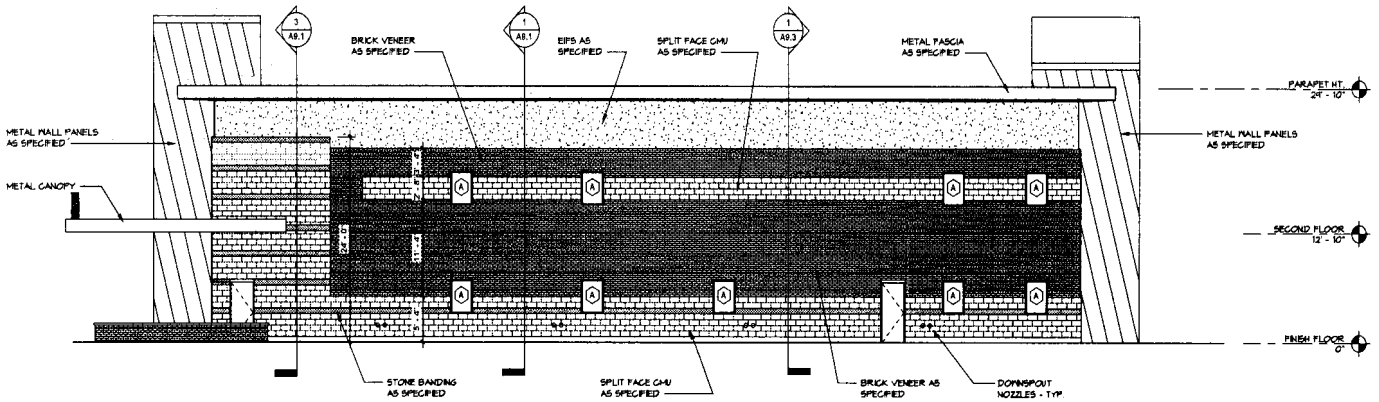
F:\2019\190113-MARC-MARC OFFICES-MIDLAND ENGINEERING_FILES\190113MVK-PD-SITE PLAN.DWG PD SITE PLAN.DWG
© COPYRIGHT 2018 ALL RIGHTS RESERVED



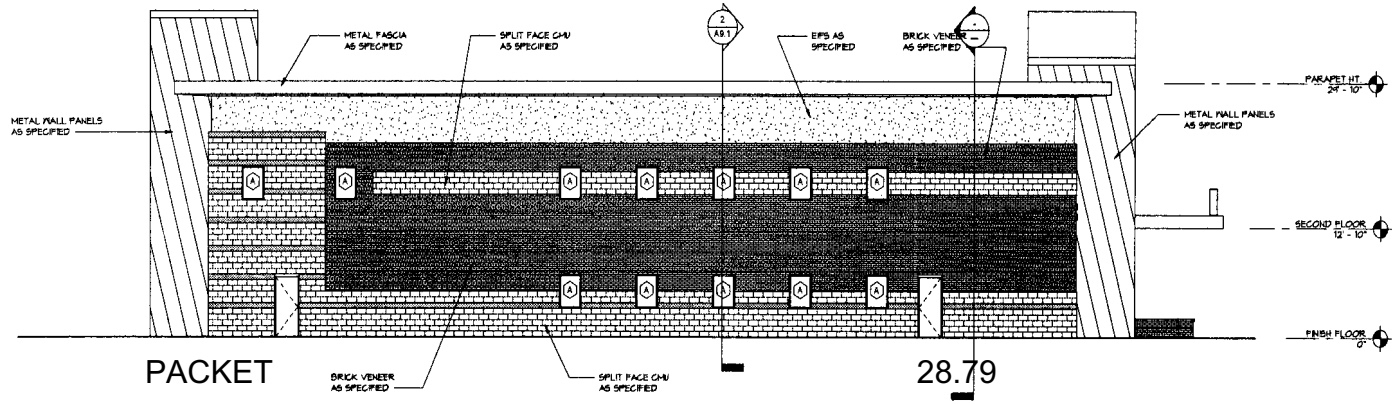
1 A5.1 EAST ELEVATION
1/8" = 1'-0"



4 A5.1 WEST ELEVATION
1/8" = 1'-0"



2 A5.1 NORTH ELEVATION
1/8" = 1'-0"



3 A5.1 SOUTH ELEVATION
1/8" = 1'-0"

MWM architects
MWM Architects, Inc.
2022 Broadway
Lubbock, TX 79401
Ph 806.745.7707
Fax 806.745.7620

PRELIMINARY NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION
DATE: 11/6/19
Stephen Faulk No. 5576
Jason Moore No. 19265
Melanie Meixner No. 19192

Structural Engineers
MWM Architects, Inc.
2022 Broadway
Lubbock, Texas 79401
Phone: 806.745.7707
Fax: 806.745.7620

Agnew Associates, Inc.
MEP Engineers
13033 Quaker Ave. Suite A
Lubbock, Texas 79423
Phone: 806.799.0753

Maverick Engineering
Civil Engineers
1909 W. Wall Street, Suite K
Midland, Texas 798701
Phone: 432.262.0999

MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A STREET - MIDLAND, TEXAS

No.	Revision	Date
PROJECT No.:		18005-A
DATE:		11/6/19

A5.1
EXTERIOR ELEVATIONS

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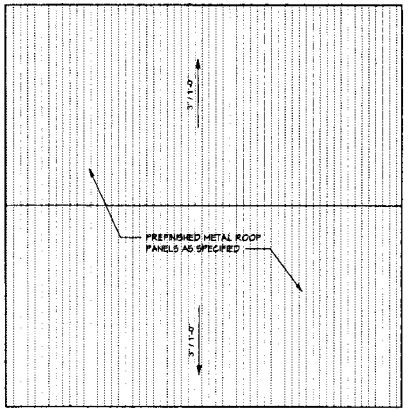


N

2 DA3.1 ROOF PLAN
1/8" = 1'-0"

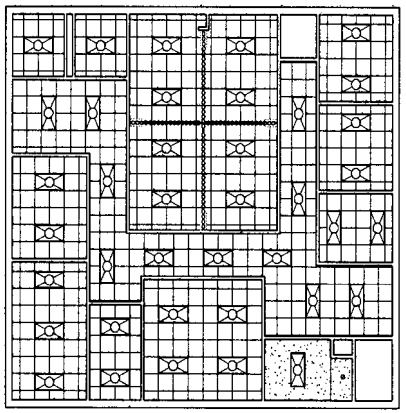
CEILING PLAN NOTES

1. REFR. TO MECHANICAL AND ELECTRICAL PLANS FOR ADDITIONAL INFORMATION.

2. ALL EXPOSED WIRE, CONDUIT, DUCT WORK, ETC., SHALL BE PAINTED COLOR AS SELECTED BY ARCHITECT.

CEILING PLAN LEGEND

- ⌀ — RECESSED LIGHT AS SPECIFIED, REF. ELECTRICAL
- 2x4 LED LIGHT AS SPECIFIED, REF. ELECTRICAL
- 2x2 LAY-IN ACOUSTICAL CEILING TILE AS SPECIFIED
- PAINTED 5/8" GYP. BD. CEILING AS SPECIFIED



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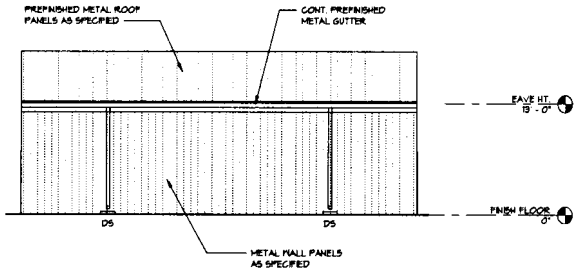
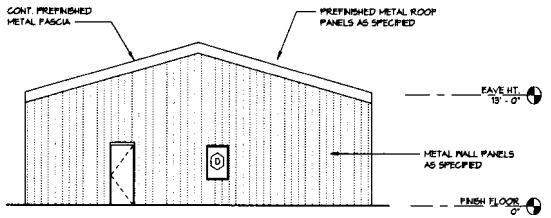
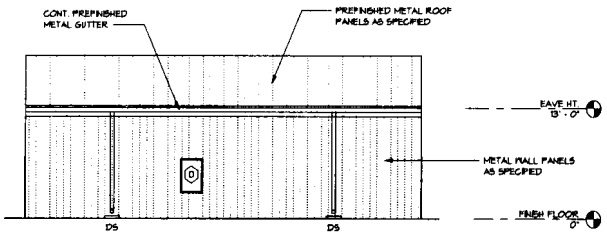
1 DA3.1 REFLECTED CEILING PLAN
1/8" = 1'-0"



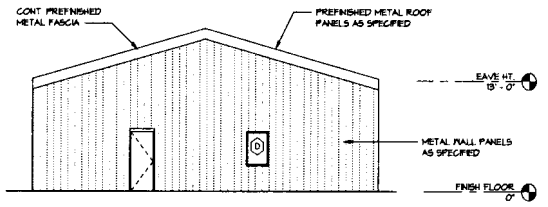
3 DA3.1 NORTH ELEVATION
1/8" = 1'-0"



4 DA3.1 WEST ELEVATION
1/8" = 1'-0"



5 DA3.1 SOUTH ELEVATION
1/8" = 1'-0"



6 DA3.1 EAST ELEVATION
1/8" = 1'-0"

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Lubbock, TX 79401
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PRELIMINARY NOT FOR REGULATORY APPROVAL, PERMITTING OR CONSTRUCTION
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MIDLAND AUTISM RESOURCE CENTER
ADMINISTRATION BUILDING - DAY USE BUILDING
MARC PARK - RESTROOM FACILITY
2701 N. A ST. - MIDLAND, TEXAS

No.	Revision	Date
PROJECT No.:		18005
DATE:		Issue Date

DA3.1

RCP, ROOF PLAN, EXT. ELEVS.

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City Council Agenda

#10049
Approved for Agenda:
rwpatrick
City Manager's Office

MEETING DATE: **February 11, 2020**

TO: **CITY COUNCIL**

FROM: **Elizabeth Shaughnessy, Senior Planner**

SUBJECT: **Consider an ordinance on second reading on a request by MARC INC., for a zone change from SF-1, Single Family Dwelling District, to PD, Planned Development District for an Office Center, on Lots 1, Block 4, "A" Street Community Center, Section 4, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of N. A Street and Ventura Drive. Council District 3).**

Purpose:

The applicant, MARC Inc., is requesting a zone change from SF-1, Single Family Dwelling District to PD, Planned Development District for an Office Center to advance the improvements to the site as proposed, with consideration to the existing use of a mixed-use office/administration building and low-density dormitories on the property located at 2701 N. "A" Street.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

This proposal does not have a significant financial impact to the city.

Discussion:

The property to the north is zoned SF-1, Single Family Dwelling District, and the location of True-Lite Christian Fellowship Inc. The properties located east are zoned MF-22, Multiple-Family Dwelling District SF-1; Single Family Dwelling District; and SF-2, Single Family

Dwelling Distance and the location of Hillcrest School and residences, respectively. The properties to the south are zoned PD, Planned District for a Housing Development, and the location of Thornwood Apartments and residences. The property to the west is zoned PD, Planned District for an Office Center, and the location of Midland Children's Rehab Center.

Analysis:

The applicant, MARC, Inc., is requesting a zone change from SF-1, Single Family Dwelling District to PD, Planned Development District for an Office Center to advance the improvements to the site as proposed, with consideration to the existing use of a mixed-use office/administration building and low-density dormitories on the property located at 2701 N. "A" Street.

The property currently has a specific use permit (Ordinance No. 5626), which allows the property to be used as philanthropic offices as well as residences for persons with disabilities. Since the current zoning ordinance does not allow this use through a specific use designation, a planned development district provides some flexibility to allow for these uses.

The site plan, attached hereto as Exhibit A, shows a proposed Day-Use Building of 2,360 sq. ft., a two story Office Building of 8,260 sq. ft., and improvements to the existing park. The two existing office buildings will be demolished. The existing residential buildings will remain.

The applicant will be required to adhere to the site plan review standards outline within the City of Midland Zoning Ordinance Section 5.05: - Nonresidential Zoning District Dimensional Regulations Chart as well as Chapter 9, Landscape Regulations for future landscaping.

This proposed project has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Fire: (Approved)

No objections.

Building: (Approved)

No issues. All future structures must adhere to the 2018 International Building Codes, the 2017 NEC requirements, the 2015 International Fire Codes, local city ordinances, zoning requirements, established setbacks, and floodplain requirements if necessary. Would like to see a completed application for these submittals please.

Engineering: (Approve)

No objection to zone change.

It appears that this property lies partially within Zone AH, which is a Special Flood Hazard Area subject to inundation by the 1% annual chance flood. The finish floor of any structure needs to be 1 foot above the base flood elevation and an elevation certificate will be required during the building permit process.

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

Code: (Approved)

No Oil or Gas wells identified within 500 ft. permitted well radius or in the 135 ft. non-permitted well radius of location on plat.

Transportation: (Approved)

Site drainage, utilities, driveway access, and traffic circulation may be adjusted during construction drawing review as necessary to receive building permit approval from Engineering and Traffic Operations.

No objection to zone change.

Planning:

This request has been recommended for approval by a unanimous vote at the January 6, 2020 Planning and Zoning Commission meeting.

This request was approved at the January 28th City Council meeting.

Staff recommends approval of this zone change, subject to conditions A through C.

Conditions:

A. **That the use and development of the property shall conform to the regulations of the O-1, Office District.**

B. **That this property shall conform to the site plan and elevations, which are attached hereto and incorporated herein as Exhibits "A".**

C. **That the landscaping shall conform to the regulations set forth in Title XI, Chapter 9 of the City Code.**

Letters of Objection:

Staff has not received any objections as of January 22, 2020.

Attachments:

Site Plan and Elevations (Exhibit A)
Application
Maps
Ordinance No. 5626

MIDLAND
Planning Division

Zone Change/Planned District Amendment/Site Plan Approval

Project Number: 2-19-0160

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)*		Phone ( ) Email	
Printed Name: MARC, Inc.			
Address: 2701 N. "A" Street	City: Midland	State: TX	Zip: 79705

Property Owner		Phone ( ) Email	
Printed Name: " "			
Address	City	State	Zip

Representative *(if different from Applicant or Property Owner)*		Phone (432-) 266-8289 Email	
Firm: Maverick Engineering			
Printed Name: Paladin Huckaba		phuckaba@maverick-eng.com	
Address: 1909 W. Wall St. Suite K	City: Midland	State: TX	Zip: 79701

Street Address: 2701 N. "A" Street

Legal Description
Lot: 4 Block: 10 Subdivision: A Street Community Center, Section 4

Current Zoning: SF1

Proposed Zone: PDOC
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Advance the improvements to site as proposed, with consideration to the existing use.

Present Use of Property: Mixed-use, office/admin, and low density dormitories on site.

Proposed Use of Property: Same

How would this zone change affect the public health, safety and welfare?
This change proposes no changes to the residential component and will retain the same office/admin uses

Describe how conditions affecting the property have changed since present zoning designation: Site is proposed for building construction & improvements.

Submittal and Fees
Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Site Plan
- Digital Copies of Site Plan (PDF/JPEG)

RECEIVED
DEC 13 2019
CITY OF MIDLAND
PLANNING DIVISION OFFICE

Signature *(by property owner only – authorized agent must sign affidavit below)*	
Applicant (signature):	Date: 12/4/19
Applicant (printed): Paladin Huckaba	
Property Owner (signature): Charlotte Boseckr	Date: 12/5/19
Property Owner (printed): Charlotte Boseckr	

The Zone Change/Planned District Amendment/Site Plan Approval shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Andrew L. Mellen, PE who, being by me duly sworn, upon oath says: That (s)he is authorized by MARC, Inc., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Andrew L. Mellen
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 12 day of December, 2019, to certify which witness my hand and seal of office.

Kelsey Ann Stine

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

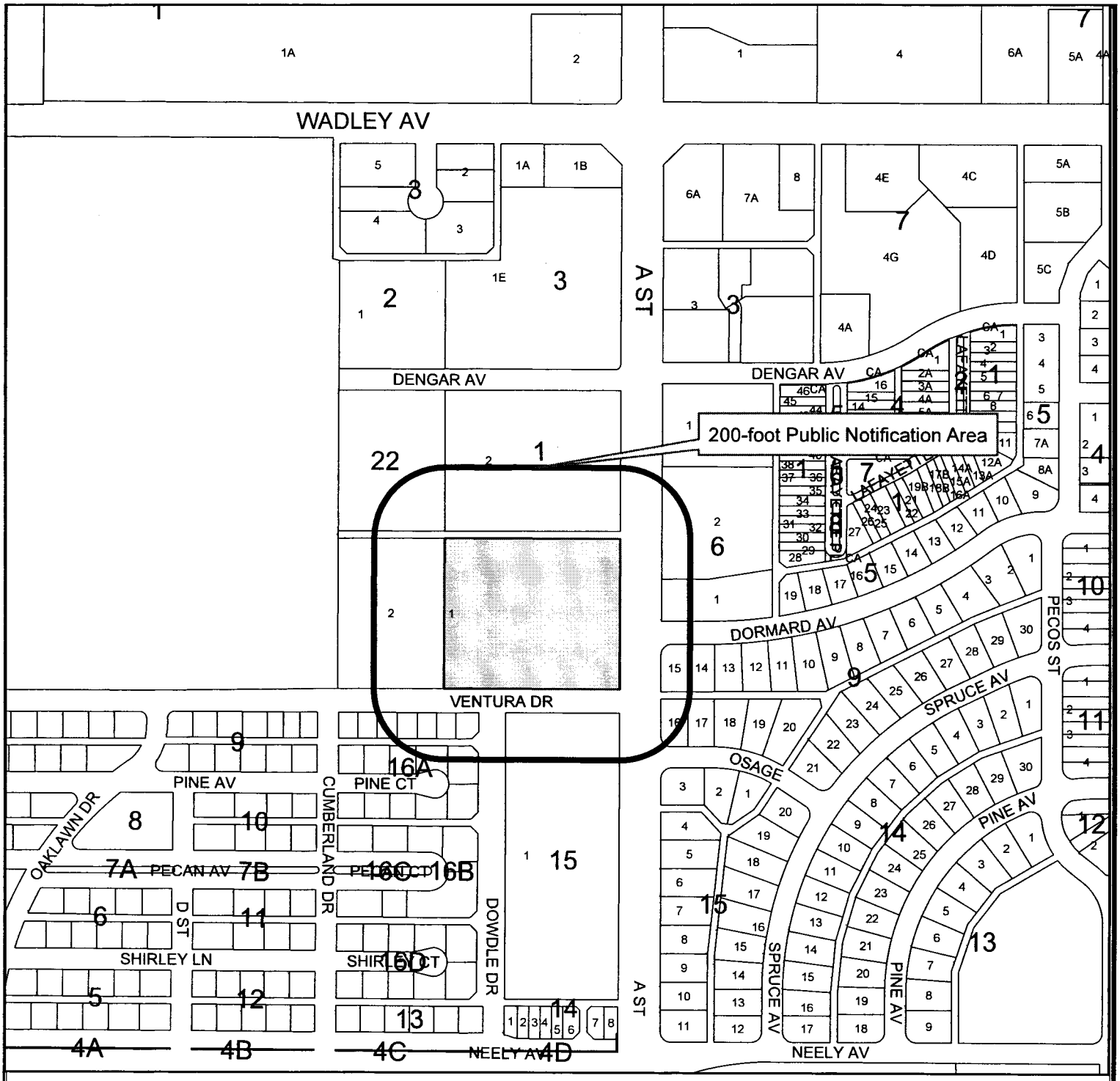
NOTARY PUBLIC STATE OF TEXAS
Kelsey Ann Stine
My Commission Expires
02/19/2022
ID No. 131456366

FOR OFFICE USE ONLY

☑ Property Owner Authorization	☑ Dimensioned Site Plan
☑ Application Fee	☑ Plans in Digital Format (PDF/JPEG)
Check # 3025	
Received By: g.a.c	Date: DEC 13 2019

RECEIVED
CITY OF MIDLAND
PLANNING DIVISION OFFICE

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

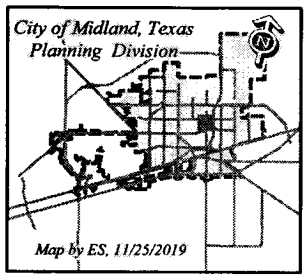
SUDwo-19-0016 **Scale: 1" = 400'**

Consider a request by MARC INC., for a zone change from SF-1, Single Family Dwelling District, to PD, Planned Development District for an Office Center, on Lot 1, Block 4, "A" Street Community Center, Section 4, City and County of Midland, Texas.

Generally located on the northwest corner of the intersection of A Street and Ventura Drive. (Council District 3).

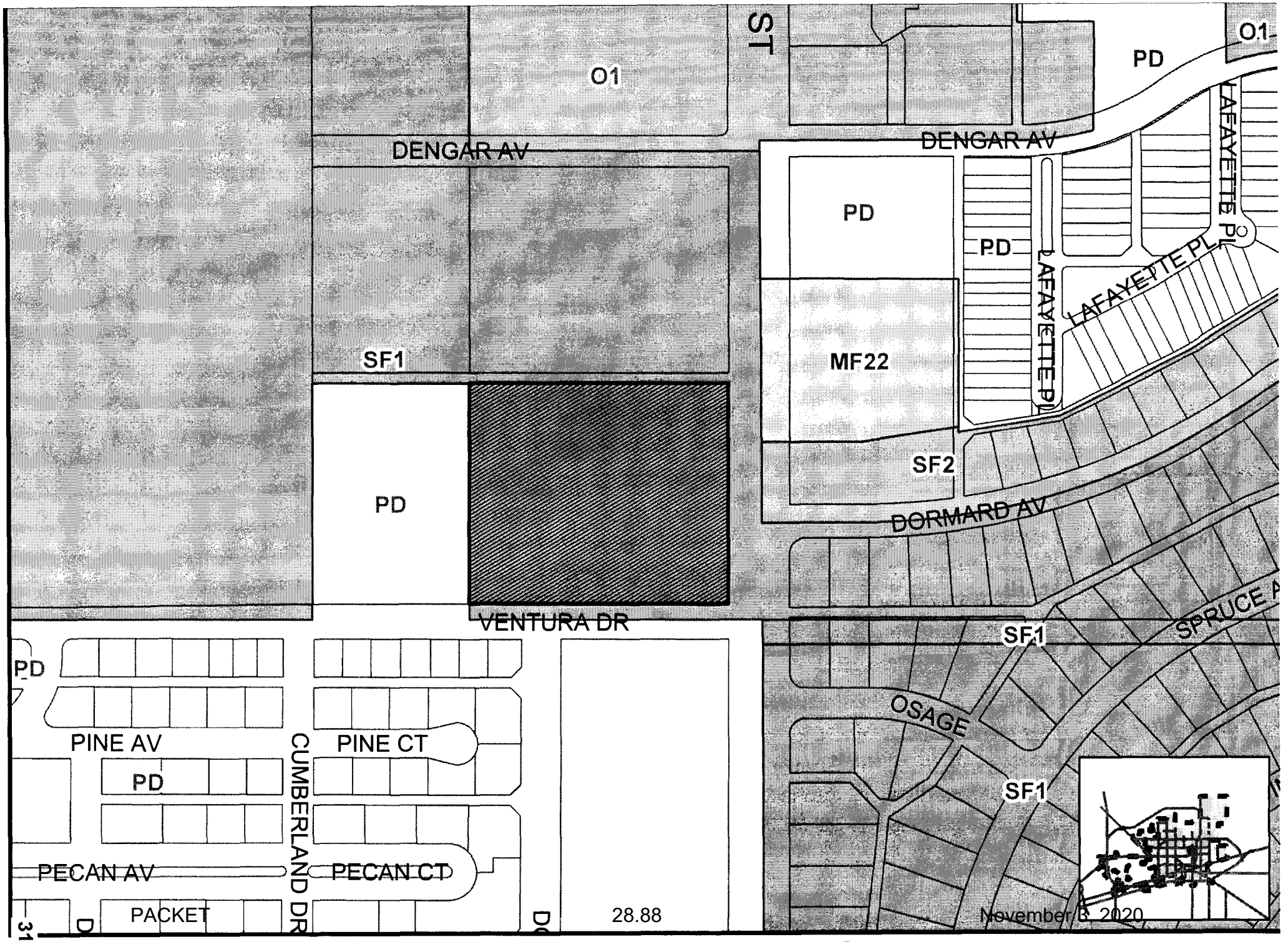
LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



PACKET 28.87

November 3, 2020



31.15

By ES, 12/31/2019

Z-19-0160

Scale: 1" = 200'

ZONING MAP

LOT; NOR IS IT DESIGNED
INFORMATION CONTAINED

31.19

STOP

City Council Meeting

Item Number: 29

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Elizabeth Shaughnessy, Senior Planner

Subject: AN ORDINANCE VACATING AND ABANDONING A 0.075-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO BLOCK 1, SHILOH SUBDIVISION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN WEST SCHARBAUER DRIVE AND NORTH C STREET, APPROXIMATELY 220 FEET NORTH OF SHELL AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $8,167.50; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES)

Purpose:

The applicants, John Cole Maxey, Jason and Judith Tarlton, Andrew and Yafei Belvins, and Jake Sanchez Jr. (Oncor) are requesting to vacate the 0.075-acre portion of alley right-of-way, located adjacent to Block 1, Shiloh Subdivision, so they can have a larger backyard and additional parking.

Recommended City Council Action:

Approve

Fiscal Impact:

The 2020 appraised value of the alley right-of-way for the 3,267 square feet is $8,167.50.

Discussion:

The applicants, John Cole Maxey, Jason and Judith Tarlton, Andrew and Yafei, and Jake Sanchez Jr. (Oncor) are requesting to vacate the 0.075-acre portion of alley right-of-way, located adjacent to Block 1, Shiloh Subdivision, so they can have a larger backyard and additional parking.

The Midland Central's Appraisal District's appraisal for the 3,267 square feet is $8,167.50 .

The applicants will need to retain an accessible easement for all affected utilities until each existing easement user abandons its use of the easement and replat the property prior to the alley being vacated.

This request has been circulated to and reviewed by all pertinent City departments and franchise utility companies. Their comments, conditions, and requests are as follows:

Code Compliance: (Approved)

No Oil and Gas issues.

Code Administration: (Approved)

No objections.

Engineering: (Approved)

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

Fire: (Approved)

No Objection.

Transportation: (Approved with Conditions)

Has Oncor approved of vacation? In past discussions, Legal indicated that had to sign off.

No objections to vacation. Applicant shall be responsible for relocating any utilities, if existing, or providing easements as needed.

Midland Central Appraisal District:

The current market value of the 3,267 square feet is $8,167.50.

AT&T: (Approved)

2020 - Yes, I believe we are still good. We have stuff on the other side of the alley but it looks like that isn't where the vacate is for.

2019 - AT&T has cables going down that alley feeding multiple customers there. there is not another way to feed these customers we cannot vacate this alley.

Atmos: (Approved with Conditions)

2020 - We are not unless a utility easement is referenced. Is the entire 10' alley portion (referenced in green-along all 3 lots) still being requested to be vacated or just the part along his property? We have no objection to the portion adjacent to his property, or the others, as long as a utility easement is referenced in the plats, beginning 15' inside his E. property line and extending E. to 'C' Street. I saw no utility easement referenced.

2019 - Atmos Energy currently has facilities located within the above described Right of Way south of Scharbauer and west of C Street. We currently have a 2in. Pe Gas main that extends west from C Street approximately 145ft. Atmos would have no objections to the proposed vacate however since customers are currently being served off this line a 10ft. utility easement would need to be maintained the extent of our gas line or to 15 ft west of Lot 2 (W. property line). Atmos would still need to have periodic access to this line for future survey and maintenance purpose.

Grande: (Approved)

2020 - Grande is still okay with it.

2019 - Grande Communications does not have any facilities in the Right-of-Way Segment known as Vacate V-19-0016.

Oncor: (Approved with Conditions)

2020 - I am good with it as long as the fence is built as it was staked and is not within Oncor's ROW.

2019 – I looked at this request in the field last week. Sorry it took a while to get back with you. I am not going to be able to vacate this easement per the customer's request. We have a transmission right of way in that corridor and also have distribution facilities located in that area to serve both of those homes. Please let me know if you have any questions.

Suddenlink: (Approved)

2020 - As long as we are not relocating our facilities in the alley, we should be fine.

2019 - We have no issue with the owners enclosing the highlighted area that is their property, I would ask them to have that area located to ensure there are no underground utilities in question.

Planning:

Pertinent City departments and franchise utility companies have reviewed this vacation request and have approved it with the condition that a utility easement is retained or the utilities are relocated.

Therefore, staff recommends approval for the vacation of the 0.075-acre portion of alley right-of-way, located adjacent to Block 1, Shiloh Subdivision, City and County of Midland, Texas, subject to conditions A through C.

Conditions:

A. **That an accessible nonexclusive utility easement is retained.**

B. **That the City of Midland receives from the property owner a sum of $8,167.50.**

C. **That a replat of the subject property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County.**

Letters of Objection:

As of October 28, 2020, staff has not received any letters of objection to this request.

Attachments:

Application
Maps
Vacation Survey (Exhibit A)
Responses from Franchise Utility Companies and Midland Central Appraisal District

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE VACATING AND ABANDONING A 0.075-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO BLOCK 1, SHILOH SUBDIVISION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN WEST SCHARBAUER DRIVE AND NORTH C STREET, APPROXIMATELY 220 FEET NORTH OF SHELL AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $8,167.50; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.075-acre portion of alley right-of-way located adjacent to Block 1, Shiloh Subdivision, City and County of Midland, Texas, as described in Exhibit "A" attached hereto and made a part hereof for all legal purposes (the "Property"), is no longer needed for public use; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision may not convey, sell, or exchange its interest in land without observing notice and bid requirements, unless the conveyance is to one or more abutting property owners; and

WHEREAS, an application for vacating the Property has been received by the City from the abutting property owner; and

WHEREAS, the City Manager has appraised the value of the City's property interest in the Property at $8,167.50, as shown in Exhibit "B" attached hereto and incorporated herein by reference; and

WHEREAS, the Council finds it to be in the public interest to abandon and vacate the Property;

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

SECTION ONE. That the Property is hereby vacated and abandoned for all public purposes. Provided, however, that the City is hereby abandoning only the public interest in the Property, and this ordinance in no way affects any private easement or access easement

which abutting property owners may have in the Property.

SECTION TWO. That this ordinance shall not be effective until:

A. the City of Midland has received from the abutting property owner(s) the sum of $8,167.50; and

B. a replat of the Property is approved by the City of Midland and filed and recorded with the County Clerk of Midland County, Texas.

SECTION THREE. That the City herein retains a nonexclusive utility easement across, through, over, under, on and along the Property until all entities that were using the Property for utility purposes as of the date of approval of this ordinance have abandoned their uses of the Property.

SECTION FOUR. That upon the City's receipt of the sum set forth in Section Two hereof, the City Secretary is hereby authorized and directed to file a certified copy of this ordinance with the County Clerk of Midland County, Texas, for purposes of recording in the Official Records of Midland County, Texas.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

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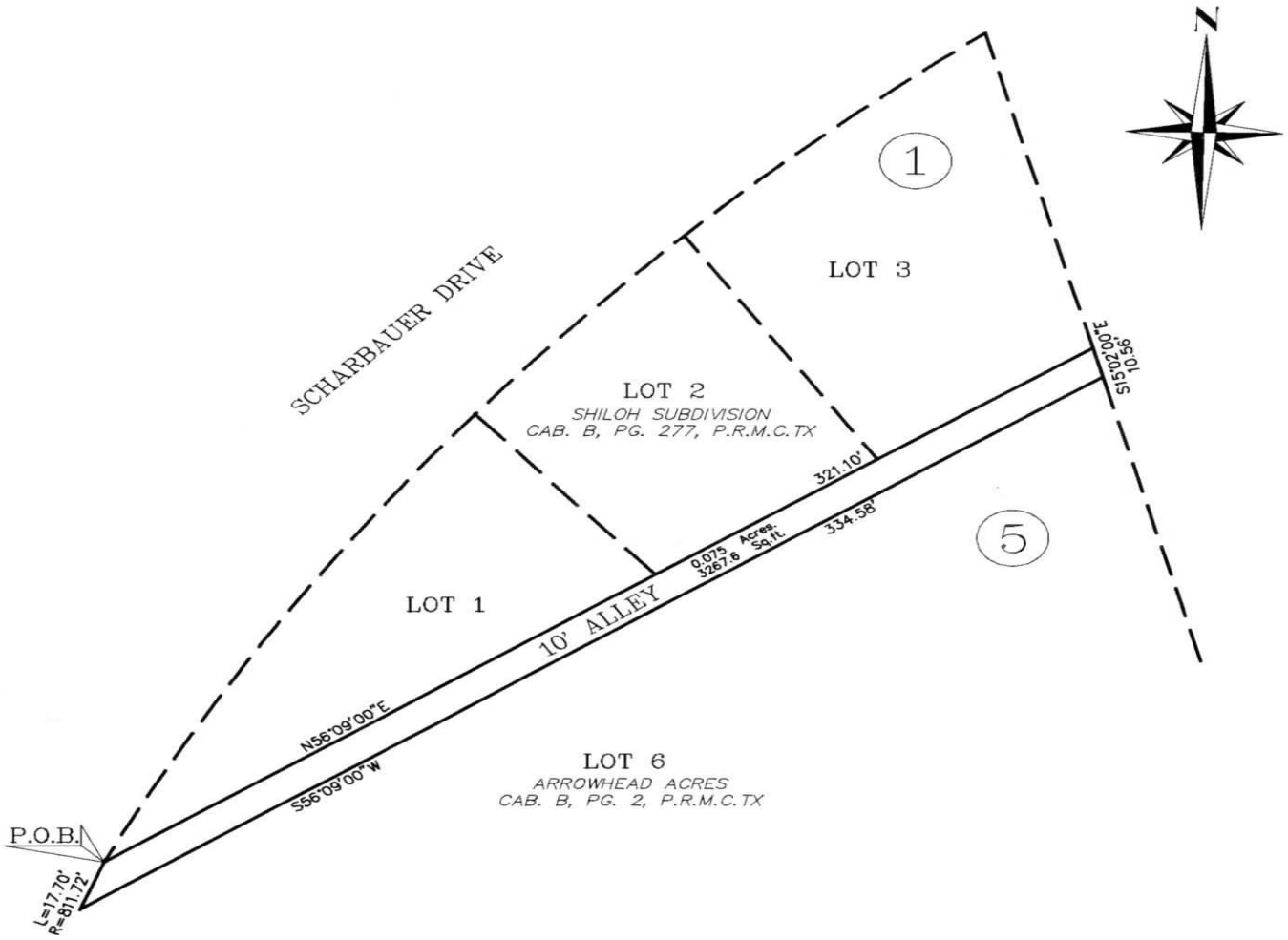


BEING a description only of a 0.075 acre tract of land out of Arrowhead Acres, filed of record in Cabinet B, Page 2, Plat Records, Midland County, Texas, known as a 10 foot alley adjacent to the North line of Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone), and adjacent to the South line of Block 1, Shiloh Subdivision, filed of record in Cabinet B, Page 277, Plat Records, Midland County, Texas, and being more particularly described by metes and bounds as follows:

BEGINING at a point at the Southwest corner of said Shiloh Subdivision in the curved South line of Scharbauer Drive for the Northwest corner of this tract;

THENCE N 56°09'00" E along the North line of said 10 foot alley and the South line of said Shiloh Subdivision a distance of 321.10 feet to a point at the Southeast corner of said Shiloh Subdivision in the West line of North "C" street for the Northeast corner of this tract;

THENCE S 15°02'00" E along the west line of said North "C" Street a distance of 10.56 feet to a point at the Northeast corner of said Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) for the Southeast corner of this tract;

THENCE S 56°09'00" W along the North line of said Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) a distance of 332.30 feet to a point at the Northwest corner of Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) in the curved South line of Scharbauer Drive for the Southwest corner of this tract;

THENCE along a curve to the Right having a radius of 811.72 feet and a curve length of 17.70 feet to the POINT OF BEGINNING.

JUL - 2 2019
CITY OF MIDLAND
PLANNING DIVISION OFFICE

50 25 0 50

SCALE: 1" = 50'

Dated this the 25th day of June 2019.

Bruce R. Pennell

Registered Professional Land Surveyor No. 4170
Date: 06/25/19

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: BRP21142	DATA FILE: N/A	DRAWN BY: MARCY N.	BOOK/PAGE: 1/

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

EXHIBIT "A"

MIDLAND
Feel the Energy!

Office of the City Manager

October 23, 2020

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.075-acre portion of alley right-of-way located adjacent to Block 1, Shiloh Subdivision, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is $8,167.50. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

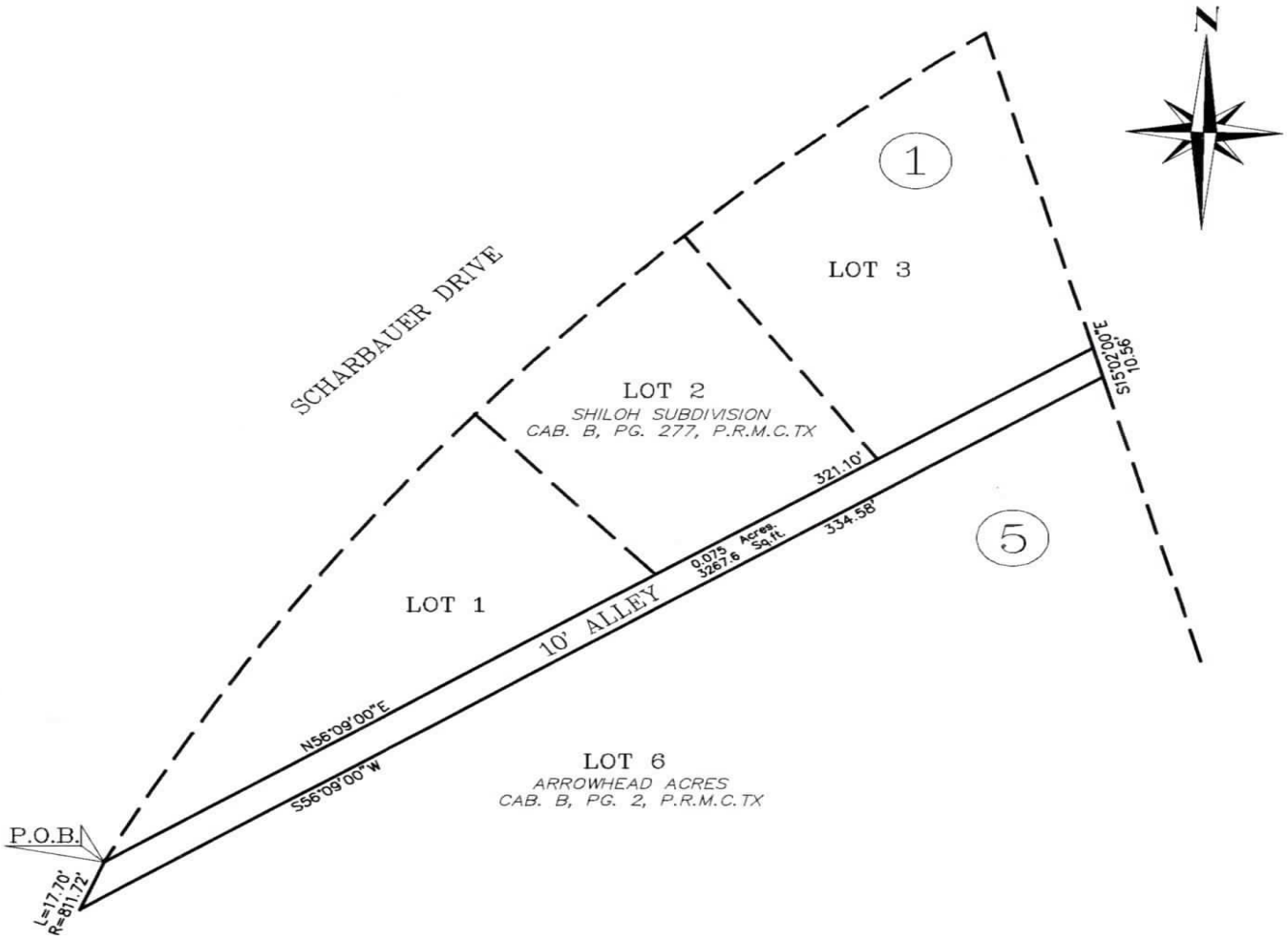
Very truly yours,

Robert Patrick
Interim City Manager

EXHIBIT "B"

300 N Loraine, Midland TX 79701 • 432-685-7202 • Fax 432-686-1600

COPYRIGHT 2019



BEING a description only of a 0.075 acre tract of land out of Arrowhead Acres, filed of record in Cabinet B, Page 2, Plat Records, Midland County, Texas, known as a 10 foot alley adjacent to the North line of Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone), and adjacent to the South line of Block 1, Shiloh Subdivision, filed of record in Cabinet B, Page 277, Plat Records, Midland County, Texas, and being more particularly described by metes and bounds as follows:

BEGINING at a point at the Southwest corner of said Shiloh Subdivision in the curved South line of Scharbauer Drive for the Northwest corner of this tract;

THENCE N 56°09'00" E along the North line of said 10 foot alley and the South line of said Shiloh Subdivision a distance of 321.10 feet to a point at the Southeast corner of said Shiloh Subdivision in the West line of North "C" street for the Northeast corner of this tract;

THENCE S 15°02'00" E along the west line of said North "C" Street a distance of 10.56 feet to a point at the Northeast corner of said Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) for the Southeast corner of this tract;

THENCE S 56°09'00" W along the North line of said Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) a distance of 332.30 feet to a point at the Northwest corner of Lot 6, Block 5 (known as Texas Electric Service Co. Safety Zone) in the curved South line of Scharbauer Drive for the Southwest corner of this tract;

THENCE along a curve to the Right having a radius of 811.72 feet and a curve length of 17.70 feet to the POINT OF BEGINNING.

JUL - 2 2019
CITY OF MIDLAND
PLANNING DIVISION OFFICE

50 25 0 50

SCALE: 1" = 50'

Dated this the 25th day of June 2019.

Bruce R. Pennell

Registered Professional Land Surveyor No. 4170
Date: 06/25/19

(IF SURVEYORS SIGNATURE IS NOT SIGNED IN RED INK, THIS IS NOT AN ORIGINAL DOCUMENT)

PENNELL LAND SURVEYING
PROFESSIONAL LAND SURVEYING
P.O. BOX 51622, MIDLAND, TEXAS 79710
VOICE:(432)570-6256 FAX: (432)682-3262 MOBILE: (432)528-1027

ABSTRACT OFFICE: N/A	G.F. #: N/A	COMMITMENT EFFECTIVE DATE: N/A	
CAD FILE: BRP21142	DATA FILE: N/A	DRAWN BY: MARCY N.	BOOK/PAGE: 1/

STATE OF TEXAS
REGISTERED
BRUCE R. PENNELL
4170
PROFESSIONAL
LAND SURVEYOR

MIDLAND
Planning Department

Vacate Right-of-Way/Public Utility Easement/Land/Street Application

Project Number: _____

Case Number: _____

Applicant *(if acting as Agent, see affidavit on page 2)*		Phone (575) 626-6502
Printed Name: Cole Maxey		Email cole1930@hotmail.com
Address 1005 W Scharbauer	City Midland	State TX / Zip 79705

Application is hereby made to the City Council to vacate the following:

- ☐ Right-of-Way
- ☒ Public Utility Easement
- ☐ Land
- ☐ Street

Description of Address: 1005 W Scharbauer and the two houses North on Scharbauer request vacating the 10 ft easement that extends along the southern border of our 3 properties and extends from Scharbauer to C Street

Reason for Request: ability to have parking and backyard, barrier between house and alley

Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way: there are no utilities within the easement and the easement is not necessary for utility access

Submittal and Fees

Items to be submitted with this application form:

- Application Fee – Payable to the 'City of Midland'
- Sealed metes and bounds description of the property to be vacated (included on the map) and total square feet of vacation. Include ownership, legal and deed information for adjacent property owners
- Digital Copies of Survey (PDF/JPEG)

Utility Company Approval

Clearance is needed from the following utility companies:

- City of Midland
- Atmos Energy
- Oncor Electric
- AT&T
- Suddenlink Cable TV Co
- Grande Communications

The City will route the request to these companies, but it is the applicant's responsibility to ensure clearance has been obtained to resolve any issues that may arise

Policies

1. If the vacation request involves only a portion of a section right-of-way, such that approval would not affect the public's ability to travel along said right-of-way, then the request will be scheduled for consideration by the City Council. No public hearing will be needed.

2. If the vacation request involves an entire section of right-of-way, such that approval would cause the public to lose all rights to use it, then the following procedures apply:

   a. Nearby land owners who have a reasonable expectation to use said right-of-way, as determined by the Transportation Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected landowners.

   b. If all letters are received indicating that the affected landowners agree to the request, then a public hearing before the City Council will be scheduled. The Transportation Division will mail public notice of the hearing to landowners within 400 feet of the affected right-of-way.

   c. If a request is approved, the right-of-way shall be divided into two equal parts, with each half becoming the property of the respective abutting owner. If the applicant desires to own the entire width, he or she must negotiate with the opposite landowner.

Signatures

Applicant (signature):		Date: 7/01/2020
Affected Property Owners:		
Signature: Judith Dellington Tarlton	Print: JUDITH DELLINGTON TARLTON	Date: 7-3-20
Signature: Yafei Blevins	Print: Yafei Blevins	Date 7-6-20
Signature:	Print: Jake Sandler Jr.	Date 10-5-20
Signature:	Print:	Date

The Vacation of right-of-way/public utility easement/land/street shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

FOR OFFICE USE ONLY

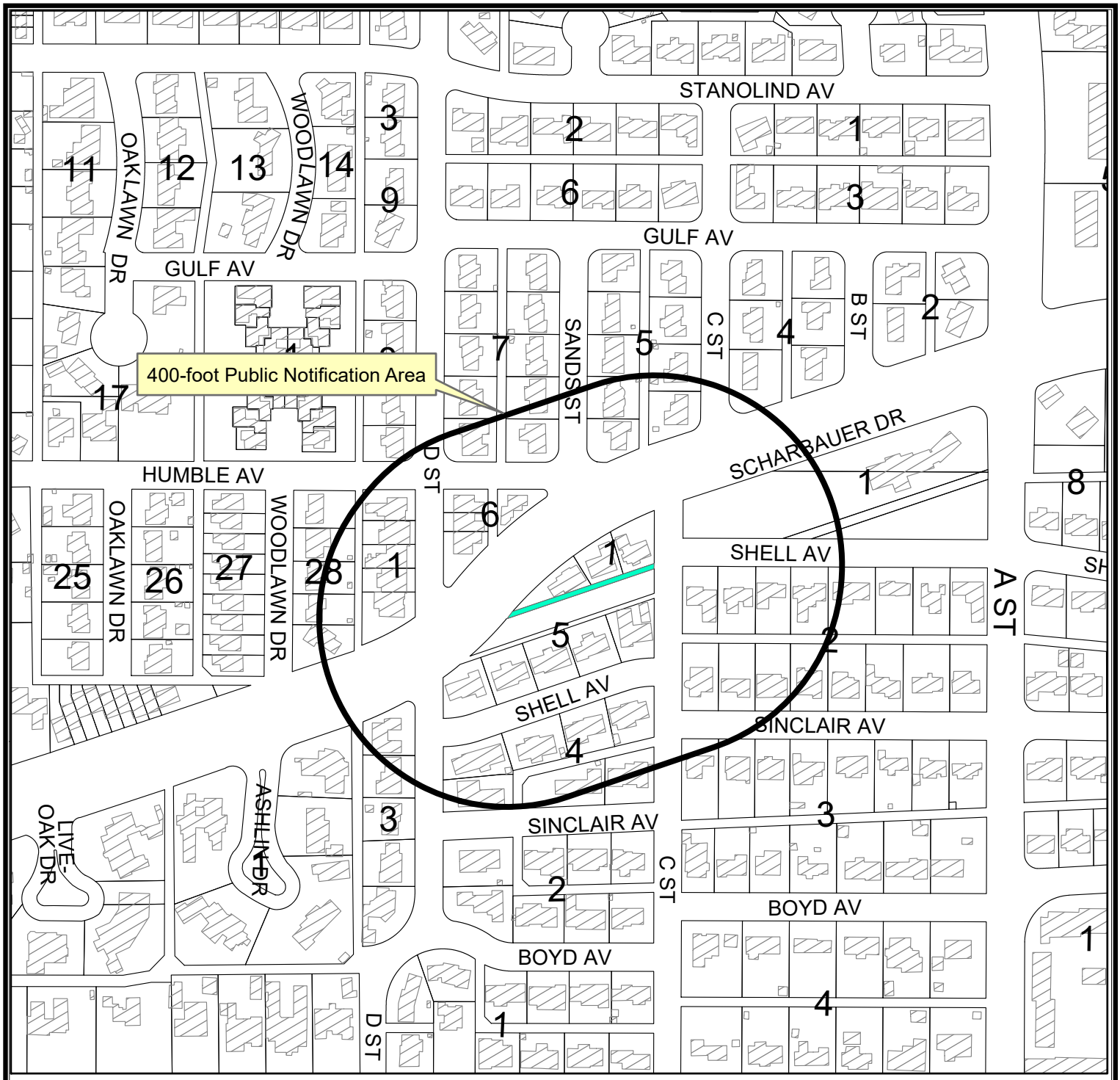
☐ 1 FOLDED Copy of Survey ☐ Survey in Digital Format (PDF/JPEG)

☐ Application Fee

Check # _____

Received By:	Date:

Application will not be considered for scheduling until reviewed by a planner.



LOCATION MAP

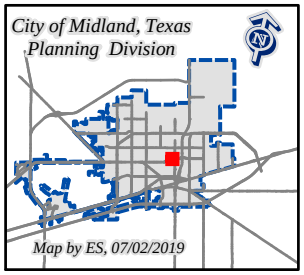
V-20-0029 **Scale: 1" = 300'**

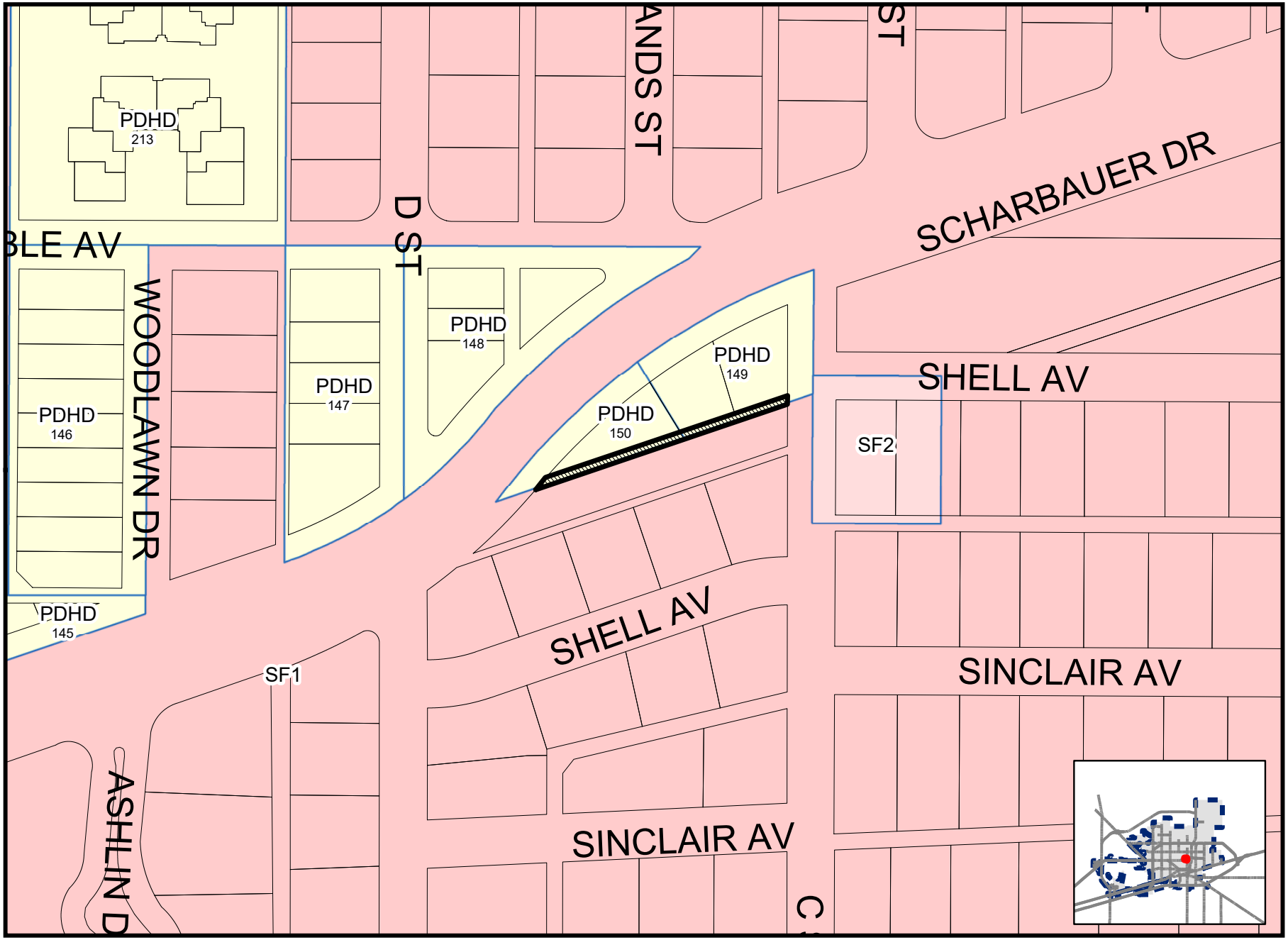
Consider a request for a vacation of the 0.075-acre portion of alley right-of-way, located adjacent to Block 1, Shiloh Subdivision, City and County of Midland, Texas.

Generally located between W. Scharbauer Drive and N. C Street, approximately 220–feet north of Shell Avenue. (Council District 3)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS





Map By ES, 07/02/2019

V-19-0016

Scale: 1" = 150'

ZONING MAP

MI
PRI
OF
LOT, NOR IS IT DESIGNED
INFORMATION CONTAINED
THE USE OF THIS DATA.

Elizabeth Shaughnessy

From: UNDERWOOD, JERRY D <ju1659@att.com>
Sent: Thursday, July 9, 2020 1:35 PM
To: Elizabeth Shaughnessy
Subject: RE: Vacation Request- John Cole Maxey

Yes, I believe we are still good. We have stuff on the other side of the alley but it looks like that isn't where the vacate is for.

Thanks,
Jerry

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Thursday, July 9, 2020 1:24 PM
To: UNDERWOOD, JERRY D <ju1659@att.com>
Subject: RE: Vacation Request- John Cole Maxey

Hi Jerry,

This vacation came back and I Just wanted to confirm you are still ok with the vacation.

Please see new attachments.

Thank you!

Elizabeth Shaughnessy

From: UNDERWOOD, JERRY D <ju1659@att.com>
Sent: Wednesday, July 10, 2019 10:21 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

Sorry about that, I thought you meant that whole area. We don't have anything in the pink area so I am good with vacating that.

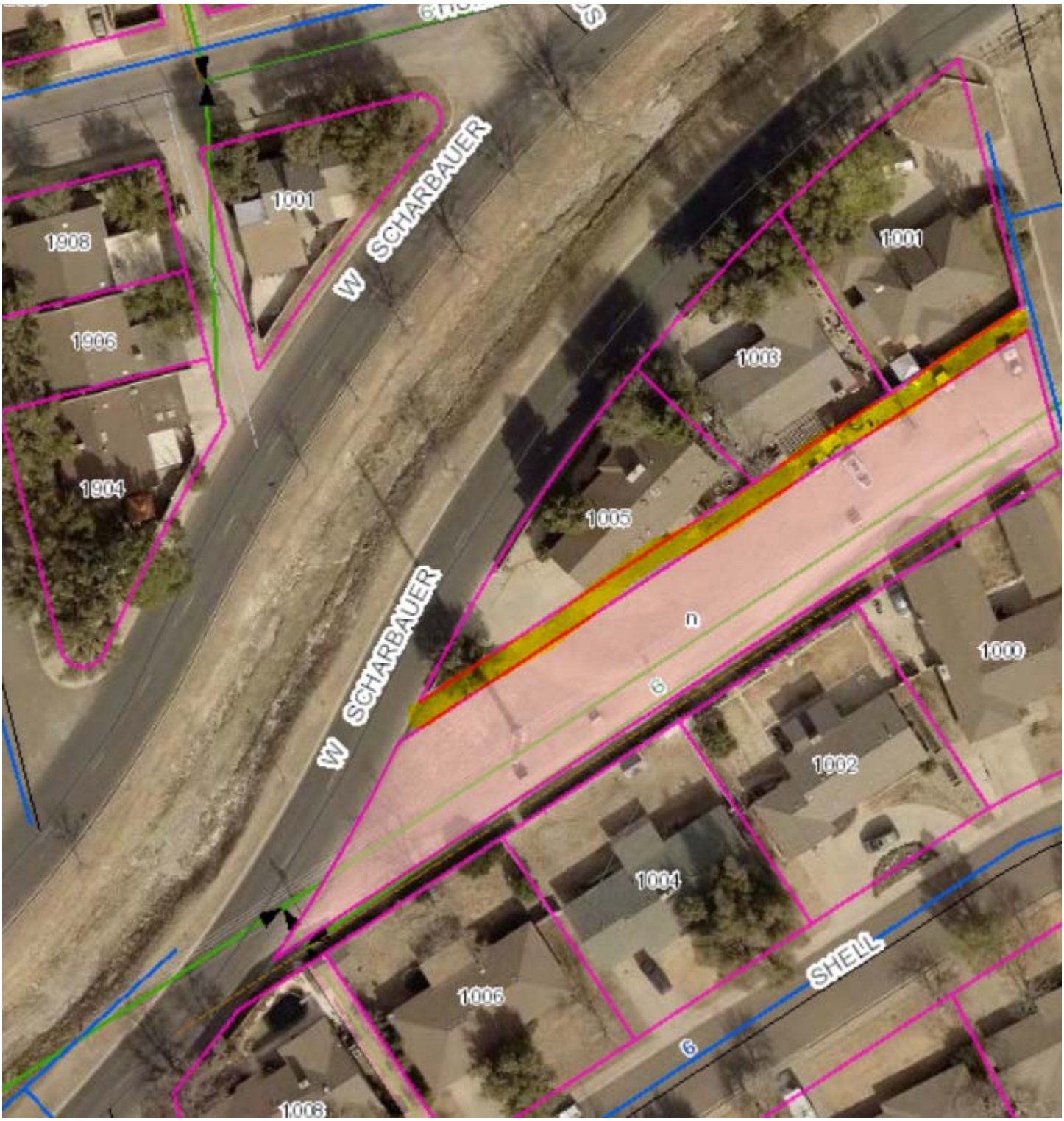
Thanks,
Jerry

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Monday, July 08, 2019 8:06 AM
To: UNDERWOOD, JERRY D <ju1659@att.com>
Subject: RE: Vacation Request- John Cole Maxey

Good Morning Jerry,

Hope you had a wonderful 4th of July.

Just wanted to double check that we are talking about the same right-of-way. They want to vacate the yellow section shown on the image below. There is an existing utility easement located adjacent to the section that they would like to vacate, this easement is the one in Pink in the image below. However that easement (pink one) will not be vacated.



These 3 property owners are trying to vacate the right-of way (in yellow), with the end goal to fence the vacated area as part of their property. They will be fencing up to the easement but not the easement. Would you be oppose to them inclosing that area vacated?

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

ATTENTION ELECTED OFFICIALS:
A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

From: UNDERWOOD, JERRY D [mailto:ju1659@att.com]
Sent: Friday, July 5, 2019 3:05 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

We do have cable going down that alley feeding multiple customers there. Since there is not another way to feed these customers we cannot vacate this alley.

Thanks,
Jerry

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Tuesday, July 02, 2019 4:34 PM
To: UNDERWOOD, JERRY D <ju1659@att.com>
Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>
Subject: Vacation Request- John Cole Maxey

Mr. Underwood,

John Cole Maxey, Jason and Judith Tarlton, and Andrew and Yafei have requested to vacate the above described Right of Way (see attachments: Exhibit A, V-19-0016 Location Map and V-19-0016 Zoning Map). Please advise this office if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7407 if you have any questions.

Please let me know if you have any questions regarding vacations!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

ATTENTION ELECTED OFFICIALS:
A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

CAUTION: This email originated from outside your organization — exercise caution when opening attachments or clicking links, especially from unknown senders.

ATMOS energy

ATMOS ENERGY

West Texas Division
P.O. Box 1111,
Midland, Texas 79702

City of Midland
Elizabeth Shaughnessy
300 N. Loraine
Midland, Texas 79701

August 5, 2019

Re: Case Name: John Cole Maxey
Case Number: V-19-0016

Mrs. Shaughnessy,

Atmos Energy currently has facilities located within the above described Right of Way south of Scharbauer and west of C Street. We currently have a 2in. Pe gas main that extends west from C Street approximately 145ft. Atmos would have no objections to the proposed vacate however since customers are currently being served off this line a 10ft. utility easement would need to be maintained the extent of our gas line or to 15ft. west of Lot 2 (W. property line). Atmos would still need to have periodic access to this line for future survey and maintenance purposes.
Please let me know if you have any further questions.

Sincerely,

Mark Lieb

Mark Lieb
Project Specialist
Atmos Energy/Permian Basin
432-617-3447 office
432-617-3450 fax
mark.lieb@atmosenergy.com

From: Lieb, Mark D
To: Elizabeth Shaughnessy
Subject: RE: Vacation Request- John Cole Maxey
Date: Friday, July 10, 2020 9:57:08 AM
Attachments: image001.png
image002.png
image003.png
image004.png
V-19-0016, Location Map.pdf
V-19-0016, Plat.pdf
Rev Request to Vacate Scharbauer and C St alley.pdf

Elizabeth,

we are not unless a utility easement is referenced. Is the entire 10' alley portion (referenced in green-along all 3 lots) still being requested to be vacated or just the part along his property? We have no objection to the portion adjacent to his property, or the others, as long as a utility easement is referenced in the plats, beginning 15' inside his E. property line and extending E. to 'C' Street. I saw no utility easement referenced.
Thanks.

Mark Lieb
Project Specialist
Atmos Energy/Permian Basin
432-617-3447 office
Mark.Lieb@atmosenergy.com

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Thursday, July 9, 2020 1:19 PM
To: Lieb, Mark D <Mark.Lieb@atmosenergy.com>
Subject: [EXT] RE: Vacation Request- John Cole Maxey

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Hi Mark,

This vacation came back. Just wanted to confirm you are still ok with the vacation.

Thank you!

Elizabeth Shaughnessy

From: Lieb, Mark D <Mark.Lieb@atmosenergy.com>
Sent: Monday, August 5, 2019 1:41 PM

To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

Elizabeth,

attached is the revised vacate request previously discussed concerning the 10' alley vacate near C Street & Scharbauer. After visiting with Mr. Maxey I advised that, if all property owners were in agreement, we could vacate this 10' right of way on the condition it is included & referenced as a utility easement when the properties are replatted. Our gas line ends within 15' of his E. property line so the easements west boundary would end at that location.
Thanks again.

Mark Lieb
Project Specialist
Atmos Energy/Permian Basin
432-617-3447 office
Mark.Lieb@atmosenergy.com

From: Elizabeth Shaughnessy [mailto:eshaughnessy@midlandtexas.gov]
Sent: Tuesday, July 2, 2019 4:36 PM
To: Lieb, Mark D <Mark.Lieb@atmosenergy.com>
Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>
Subject: [EXT] Vacation Request- John Cole Maxey

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Mr. Lieb,

John Cole Maxey, Jason and Judith Tarlton, and Andrew and Yafei have requested to vacate the above described Right of Way (see attachments: Exhibit A, V-19-0016 Location Map and V-19-0016 Zoning Map). Please advise this office if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7407 if you have any questions.

Please let me know if you have any questions regarding vacations!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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Grande Construction Office
Midland-Odessa
2401 East Interstate Highway 20
Odessa Texas 79766

July 3, 2019

Elizabeth Shaughnessy,

Senior Planner/Department of Development Services

City of Midland

Re: John Cole Maxey V-19-0016
Dear Glenda,

Grande Communications does not have any facilities in the Right-of-Way Segment known as Vacate V-19-0016. Please let me know if I can be of further assistance.

Sincerely

Bill Bentley

William (Bill) Bentley
Construction Coordinator
Midland/Odessa
432.272.3086 Office
432.653.9369 Cell
william.bentley@mygrande.com

Elizabeth Shaughnessy

From: William Bentley <william.bentley@mygrande.com>
Sent: Thursday, July 9, 2020 1:45 PM
To: Elizabeth Shaughnessy
Cc: Vicki Byler; Kelley Carson
Subject: Re: Vacation Request- John Cole Maxey
Attachments: Grande Response V19-0016.pdf

Elizabeth,
Grande is still okay with it.
Thanks,
Bill

On Thu, Jul 9, 2020 at 1:31 PM Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov> wrote:

> Hi William,
>
> This vacation came back and I Just wanted to confirm, you are still ok with the vacation.
>
> Please see new attachments.
>
> Thank you!
>
> Respectfully,
>
> Elizabeth Shaughnessy
>
> Senior Planner|Development Services
>
> O. 432-685-7400
>
> E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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From: William Bentley <william.bentley@mygrande.com>
Sent: Wednesday, July 3, 2019 7:56 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>; Vicki Byler <vicki.byler@mygrande.com>; Kelley Carson <kelley.carson@mygrande.com>
Subject: Re: Vacation Request- John Cole Maxey

On Tue, Jul 2, 2019 at 4:36 PM Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov> wrote:

> Mr. Bentley,

John Cole Maxey, Jason and Judith Tarlton, and Andrew and Yafei have requested to vacate the above described Right of Way (see attachments: Exhibit A, V-19-0016 Location Map and V-19-0016 Zoning Map). Please advise this office if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7407 if you have any questions.

Please let me know if you have any questions regarding vacations!

Respectfully,

Elizabeth Shaughnessy

Senior Planner|Development Services

O. 432-685-7400

E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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--

William (Bill) Bentley

Construction Coordinator

Midland/Odessa

432.272.3086 Office

432.653.9369 Cell

william.bentley@mygrande.com

--

William (Bill) Bentley

Construction Coordinator

Midland/Odessa

432.272.3086 Office

432.653.9369 Cell

william.bentley@mygrande.com

2401 E IH 20 Odessa Tx 79766

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Elizabeth Shaughnessy

From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Wednesday, August 26, 2020 4:42 PM
To: Hilario, Melody; Cole Maxey; Elizabeth Shaughnessy
Subject: RE: RE Vacation Request- John Cole Maxey

I have no objections on the distribution side. I will need someone in legal to sign off on the plat due to the proximity to the transmission even if there is no objection.

From: Hilario, Melody
Sent: Wednesday, August 26, 2020 4:28 PM
To: Cole Maxey <cole1930@hotmail.com>; Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Cole,

Oncor transmission verified that the fence was not staked within the transmission ROW, Oncor's fee property. However because we are not granting any permission we don't feel like Oncor Transmission ROW needs to sign off on application. I don't recall how the fence was going to impact Oncor distribution, I will let Jeff answer for the Oncor Distribution group.

Thank you,
Melody Hilario
Right Of Way Agent
Oncor | Transmission Engineering - ROW
115 W. 7th Street, Suite 505
Fort Worth, Texas 76102
Office: 817.215.5100
melody.hilario@oncor.com

From: Cole Maxey [mailto:cole1930@hotmail.com]
Sent: Wednesday, August 26, 2020 9:04 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>; Hilario, Melody <Melody.Hilario@oncor.com>
Subject: Re: RE Vacation Request- John Cole Maxey

Good morning Melody and Jeff,

Just wanted to check in on this. I believe all we need at this point is a signature on the application. Would it be possible to sign the application that Elizabeth needs this week?

Thanks!

Cole

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Tuesday, August 18, 2020 9:14 AM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Cc: Cole <cole1930@hotmail.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Hi Jeffrey,

I was just following up again to check on the status of the previous email. We are wondering if you have heard or know where Oncor is with the application signature to the vacation request?

Thank you!

Elizabeth Shaughnessy

From: Elizabeth Shaughnessy
Sent: Tuesday, July 28, 2020 1:46 PM
To: 'Henderson, Jeffrey' <Jeffrey.Henderson@oncor.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Hi Jeffrey,

I was just following up to check on the status of the previous email.

Thank you!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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From: Elizabeth Shaughnessy
Sent: Wednesday, July 15, 2020 10:55 AM

To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Hi Jeffrey,

Per our legal department they are requesting for Oncor's signature on the application, attach. Since Oncor would own ½ of the vacation. It would be up to the residents from the north and Oncor to settle ownership.

Please let me know if you have any questions.

Thanks!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

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From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Friday, July 10, 2020 5:49 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Hilario, Melody <Melody.Hilario@oncor.com>; cole1930@hotmail.com
Subject: RE: RE Vacation Request- John Cole Maxey

Yes, I am good with this.
Thanks.
Jeff

Jeffrey R. Henderson
Supervisor
Oncor | PMDS
2401 W. Industrial Ave.
Midland, TX 79701

Office: 432-756-4113
Cell: 432-894-8413
Jeffrey.henderson@oncor.com

oncor.com

From: Elizabeth Shaughnessy [mailto:eshaughnessy@midlandtexas.gov]
Sent: Thursday, July 9, 2020 1:34 PM
To: Hilario, Melody <Melody.Hilario@oncor.com>; Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>; cole1930@hotmail.com
Subject: RE: RE Vacation Request- John Cole Maxey

Dear All,

As you are aware this vacation came back and I Just wanted to confirm you are still ok with the vacation.

Please see new attachments.

Thank you!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

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From: Hilario, Melody <Melody.Hilario@oncor.com>
Sent: Tuesday, July 7, 2020 1:24 PM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>; cole1930@hotmail.com
Cc: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: RE Vacation Request- John Cole Maxey

Oncor Transmission has no issues with the proposed fence as it has been staked.

Thank you,
Melody Hilario
Right Of Way Agent
Oncor | Transmission Engineering - ROW
115 W. 7th Street, Suite 505
Fort Worth, Texas 76102
Office: 817.215.5100
melody.hilario@oncor.com

From: Henderson, Jeffrey
Sent: Monday, June 29, 2020 8:49 PM
To: cole1930@hotmail.com
Cc: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Hilario, Melody <Melody.Hilario@oncor.com>
Subject: RE: RE Vacation Request- John Cole Maxey

HI Cole,
I did check this Friday. It is ok as long as Melody concurs.
Thanks.
Jeff

From: cole1930@hotmail.com [mailto:cole1930@hotmail.com]
Sent: Monday, June 29, 2020 6:12 PM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Cc: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Hilario, Melody <Melody.Hilario@oncor.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Hi Jeff, I've the back yard was staked with some blue spray paint. Would you be able to come check it out this week before it fades?

Cole

On Jun 18, 2020 10:27 PM, cole1930@hotmail.com wrote:

> Yessir, I will do that. I will be gone this weekend but will reach out to you next week.
>
> Thanks
>
> Cole
>
> On Jun 18, 2020 10:00 PM, "Henderson, Jeffrey" <Jeffrey.Henderson@oncor.com> wrote:
>
> > Yes, that would be great Cole. Just stake or paint the line & I will come back out & check it.
> > Thanks.
> > Jeff
> >
> > ---
> >
> > **From:** Cole Maxey [mailto:cole1930@hotmail.com]
> > **Sent:** Thursday, June 18, 2020 9:54 PM
> > **To:** Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>; Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
> > **Cc:** Hilario, Melody <Melody.Hilario@oncor.com>
> > **Subject:** Re: RE Vacation Request- John Cole Maxey
> >
> > Sorry for my delayed response.

Jeff, so in order for you to inspect and sign off, you need me to stake the boundary line? Please confirm that's all you need and I'll have it ready to go for you and we'll setup a time.

thanks,
Cole

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Wednesday, June 10, 2020 5:53 PM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Cc: Hilario, Melody <Melody.Hilario@oncor.com>; , Cole Maxey <cole1930@hotmail.com>
Subject: RE: RE Vacation Request- John Cole Maxey

Great! Thank you for all your help.

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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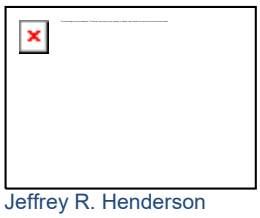
From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Wednesday, June 10, 2020 5:30 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Cc: Hilario, Melody <Melody.Hilario@oncor.com>; , Cole Maxey <cole1930@hotmail.com>
Subject: RE: RE Vacation Request- John Cole Maxey

If Melody researched this for Oncor's Transmission side and has no issues or conflicts, I will sign off on this. I would like the fence line staked or marked though to look at it again in the field.
Thanks.
Jeff



Jeffrey R. Henderson
Supervisor-PMDS
Oncor/WTX Major Design
Midland Service Center
2401 W. Industrial Ave.
Midland, TX 79701
Ofc: 432-756-4113
Cell: 432-894-8413

jeffrey.henderson@oncor.com

From: Elizabeth Shaughnessy [mailto:eshaughnessy@midlandtexas.gov]
Sent: Wednesday, June 10, 2020 5:19 PM
To: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Cc: Hilario, Melody <Melody.Hilario@oncor.com>; , Cole Maxey <cole1930@hotmail.com>
Subject: RE Vacation Request- John Cole Maxey

Hi Jeffrey,

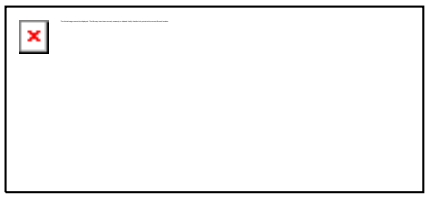
I am reaching out to you because Mr. Maxey is still trying to vacate this easement. Please review attachments.

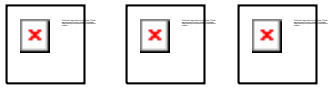
Mr. Maxey has been in communication with Melody Hilario and their conversation is below. If I am understanding correctly the section that he is trying to vacate is not part of Oncor.
If that is correct, do you approve of this vacation?

Thank you,

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov





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From: Hilario, Melody <Melody.Hilario@oncor.com>
Sent: Tuesday, June 9, 2020 2:03 PM
To: Cole Maxey <cole1930@hotmail.com>
Subject: RE: Fence Encroachment

Cole,

The .07 acres does not appear to be on Oncor's property and so Oncor would not have any say in that area. From what I can tell that is a City alley way and the City would have to grant permission to use that space. It may help to have someone come out and stake where Oncor property line is just so you can be sure your fence and yard do not encroach into Oncor's ROW.

On the survey you provided there are 2 notes of right of way. Restrictive Covenants and Right of way for the City of Midland. I don't have those documents but there may be some language in those documents that cover the use of the alleyway.

Thank you for reaching out to us about this matter. If you have any more questions or need any more information, please let me know.

Thank you,
Melody Hilario
Right Of Way Agent
Oncor | Transmission Engineering - ROW
115 W. 7th Street, Suite 505
Fort Worth, Texas 76102
Office: 817.215.5100
melody.hilario@oncor.com

From: Henderson, Jeffrey <Jeffrey.Henderson@oncor.com>
Sent: Friday, July 26, 2019 1:13 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

Hello Elizabeth,
I looked at this request in the field last week. Sorry it took a while to get back with you. I am not going to be able to vacate this easement per the customer's request. We have a transmission right of way in that corridor and also have distribution facilities located in that area to serve both of those homes. Please let me know if you have any questions.
Thanks.
Jeff

Jeffrey R. Henderson
PMDS Supervisor-NCM
Oncor/West Texas Engineering
Midland Service Center
2401 W. Industrial Ave.
Midland, TX 79701

Ofc: 432-756-4113
Cell: 432-894-8413
jeffrey.henderson@oncor.com

Oncor.com

From: Elizabeth Shaughnessy [mailto:eshaughnessy@midlandtexas.gov]
Sent: Monday, July 15, 2019 9:30 AM
To: Henderson, Jeffrey
Subject: RE: Vacation Request- John Cole Maxey

Thank you!

From: Henderson, Jeffrey [mailto:Jeffrey.Henderson@oncor.com]
Sent: Friday, July 12, 2019 1:46 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

Hi Elizabeth,
I will look at this Monday morning.
Have a great weekend.
Jeff

Jeffrey R. Henderson
PMDS Supervisor-NCM
Oncor/West Texas Engineering
Midland Service Center
2401 W. Industrial Ave.
Midland, TX 79701

Tel: 432-756-4113-OFC
jeffrey.henderson@oncor.com

Oncor.com

From: Elizabeth Shaughnessy [mailto:eshaughnessy@midlandtexas.gov]
Sent: Tuesday, July 02, 2019 4:42 PM
To: Henderson, Jeffrey
Cc: Cristina Odenborg Burns
Subject: Vacation Request- John Cole Maxey

Mr. Henderson,

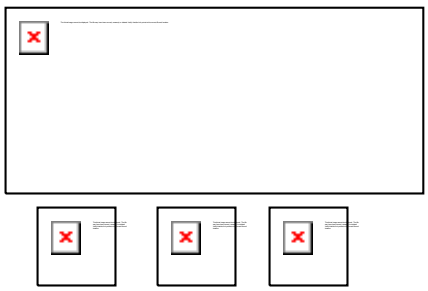
John Cole Maxey, Jason and Judith Tarlton, and Andrew and Yafei have requested to vacate the above described Right of Way (see attachments: Exhibit A, V-19-0016 Location Map and V-19-0016 Zoning Map). Please advise this office if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7407 if you have any questions.

I also wanted to mention that property located south of the requested vacation is Oncor's property. Please let us know if you would like to keep the right to your portion of the proposed vacation.

Please let me know if you have any questions regarding vacations!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov



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Elizabeth Shaughnessy

From: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Sent: Tuesday, July 21, 2020 9:13 AM
To: Elizabeth Shaughnessy
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

There are 3 homes on Scharbauer north of the alley that have or had our services, are they taking out the sub poles? We have aerial drops that feed those 3 homes, if the poles are removed our cables will be hanging to low & not to specs.

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Wednesday, July 15, 2020 11:54 AM
To: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

[External Email]

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So does that mean you are ok with the vacation?

From: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Sent: Wednesday, July 15, 2020 10:55 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

Yes ma'am I see it, the only thing we have is aerial drops feeding our services to those homes. From across the alley, our cable plant is on the poles on the south of the alley.

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Wednesday, July 15, 2020 10:42 AM
To: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

[External Email]

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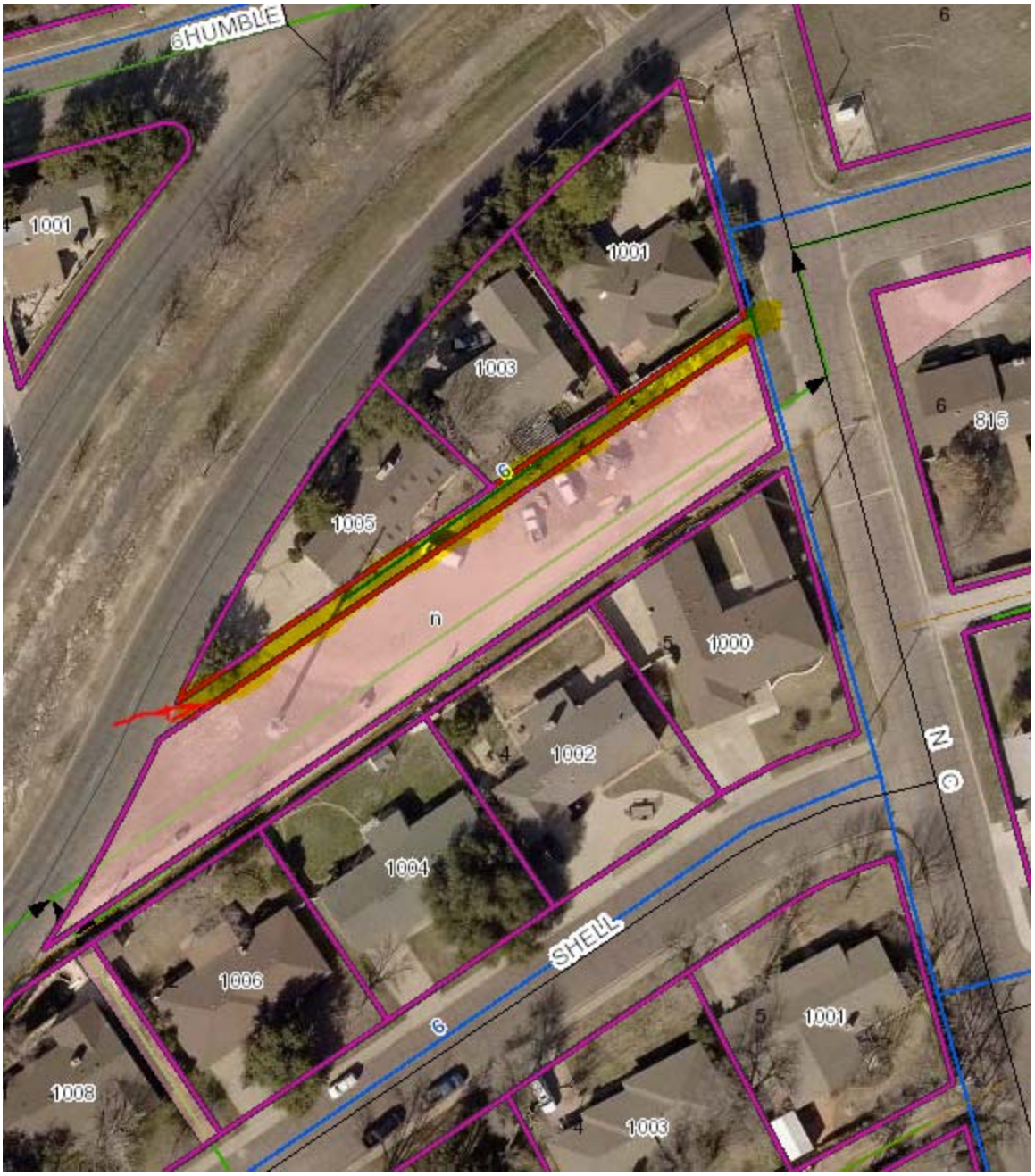
Hi Luis,

Here is another image of the location. What is in yellow is what they want to vacate. We can zoom if needed.

Let me know.



From: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Sent: Wednesday, July 15, 2020 10:30 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

I tried to overlay the plat on Google earth & it just does not work.

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Tuesday, July 14, 2020 4:33 PM
To: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

[External Email]

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It's the same as before. Nothing has changed. Maybe my last map was not clear.

From: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Sent: Monday, July 13, 2020 12:05 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: External E-mail - RE: Vacation Request- John Cole Maxey

As long as we are not relocating our facilities in the alley, we should be fine. This map looks a little different from the previous one. What new changes are on here?

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Thursday, July 9, 2020 1:26 PM
To: Luis Montez <luis.montez@AlticeTechServicesUSA.com>
Subject: External E-mail - RE: Vacation Request- John Cole Maxey

[External Email]

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Hi Luis,

This vacation came back and I Just wanted to confirm you are still ok with the vacation.

Please see new attachments.

Thank you!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

ATTENTION ELECTED OFFICIALS:
A "Reply to All" of this e-mail could lead to violations of the Texas Open Meetings Act. Please reply only to the sender.

From: Montez, Luis <luis.montez@AlticeTechServicesUSA.com>
Sent: Monday, July 8, 2019 5:43 PM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

I have no issue with the owners enclosing the highlighted area that is their property, I would ask them to have that area located to ensure there are no underground utilities in question.

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Wednesday, July 3, 2019 11:39 AM
To: Montez, Luis <luis.montez@AlticeTechServicesUSA.com>
Subject: RE: Vacation Request- John Cole Maxey

[External Email]
Ok, So my next question would be. These 3 property owners are trying to vacate the right-of way, with the end goal to fence the vacated area as part of their property. They will be fencing up to the easement but not the easement. Would you be oppose to them inclosing that area vacated?

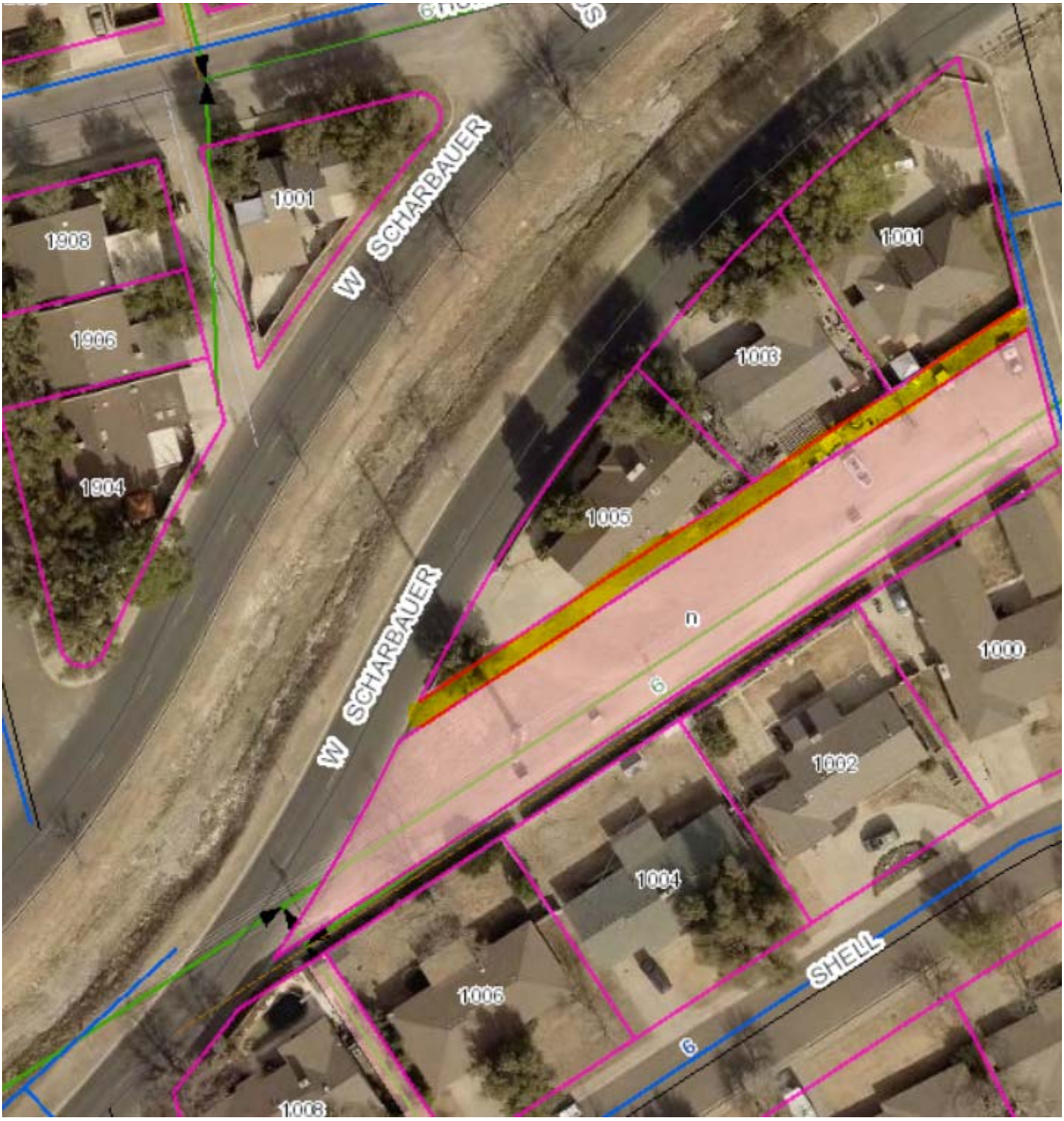
Thank you!

Elizabeth

From: Montez, Luis [mailto:luis.montez@AlticeTechServicesUSA.com]
Sent: Wednesday, July 3, 2019 11:29 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Wednesday, July 3, 2019 11:12 AM
To: Montez, Luis <luis.montez@AlticeTechServicesUSA.com>
Subject: RE: Vacation Request- John Cole Maxey

[External Email]
Mr. Montez,
OK, we do have aerial house drops that feed those 3 homes, are we going to have to go underground to those homes? If so there may be some costs involved to bury those lines.
They are only trying to vacate the 10 feet (that is highlighted in yellow) that is shown in the image below:



The easement in pink will stay as an easement. Will it still affect your service?

Thank you!

Elizabeth Shaughnessy

From: Montez, Luis [mailto:luis.montez@AlticeTechServicesUSA.com]
Sent: Wednesday, July 3, 2019 11:00 AM
To: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>

Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>
Subject: RE: Vacation Request- John Cole Maxey

Ms. Shaughnessy,
Suddenlink, has coax aerial plant that furnishes video, data & phone to 8 homes. If we need to relocate our services there will be significant costs involved

---

From: Elizabeth Shaughnessy <eshaughnessy@midlandtexas.gov>
Sent: Tuesday, July 2, 2019 4:36 PM
To: Montez, Luis <luis.montez@AlticeTechServicesUSA.com>
Cc: Cristina Odenborg Burns <coburns@midlandtexas.gov>
Subject: Vacation Request- John Cole Maxey

[External Email]
Mr. Montez,

John Cole Maxey, Jason and Judith Tarlton, and Andrew and Yafei have requested to vacate the above described Right of Way (see attachments: Exhibit A, V-19-0016 Location Map and V-19-0016 Zoning Map). Please advise this office if your company has utilities within this right-of-way. We would appreciate any comments you may have concerning this requested vacation returned to us within 5-7 days. You may reach me at (432) 685-7407 if you have any questions.

Please let me know if you have any questions regarding vacations!

Respectfully,

Elizabeth Shaughnessy
Senior Planner|Development Services
O. 432-685-7400
E. eshaughnessy@midlandtexas.gov

300 N. Loraine | P.O. Box 1152 | Midland, TX 79702

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Elizabeth Shaughnessy

From: jbundick@midcad.org
Sent: Friday, October 23, 2020 9:37 AM
To: Elizabeth Shaughnessy
Subject: Land Valuation Request

Elizabeth,

I have reviewed the value of the proposed vacation of the 10" ally way in Arrowhead Acres as submitted in your recent email to me.
I concur with the valuation Mr. Dennis Rambo had presented to the City of Midland earlier as evidenced in your emails.

Dennis Rambo is a registered appraiser with the TDLR and acts as the district's Assistant Chief Appraiser.
I have delegated the duty of submitting and responding to City of Midland land value requests, to him.

There is no need whatsoever to have me confirm his prior submission to the City of Midland.

In summary, I concur with Mr. Rambo's analysis of $2.50 per foot on the proposed vacation of the alley way.
3,267sf x $2.50 = $8,167.50

Sincerely,
Jerry Bundick
Chief Appraiser

Midland Central Appraisal District
Jerry M. Bundick, RPA, RTA - Chief Appraiser
Voice: (432) 699-4991 Fax: (432) 689-7185

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City Council Meeting

Item Number: 30

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Valerie Sherman, Senior Planner

Subject: **AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE WEST 0.45 ACRES OF LOT 27, BLOCK 10, PERMIAN ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 303 FEET WEST OF SOUTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)**

Purpose:

The applicant is requesting a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption in a lounge at 3704 W. Wall Street, Midland, Texas 79703.

Recommended City Council Action:

Approve

Fiscal Impact:

This proposal does not have a significant financial impact to the City.

Discussion:

Current Zoning:

RR, Regional Retail District.

Surrounding Zoning and Land Use:

The property is located at 3704 W. Wall Street, in the RR, Regional Retail District. The property to the north is zoned PD, Planned Development District for a Shopping Center, and is the location of a mini storage unit facility. The property to the east is zoned RR, Regional Retail District and is the location of a Dairy Queen restaurant. The property to the south is zoned C, Commercial District, and is the location of a Denny's Restaurant. The property to the west is zoned RR, Regional Retail District and is the location of a Metro Inn Motel.

Discussion:

Bar Two, LLC is requesting a Specific Use Designation for the property located at 3704 W. Wall Street, to be able to sell all alcoholic beverages for on premise consumption, within a lounge. The property is zoned RR, Regional Retail District, which allows the consumption of alcoholic beverages with the approval of a Specific Use Designation.

The lounge is currently not in operation. The floor plan attached hereto a "Exhibit A" illustrates that the establishment will have a total square footage of 3,200 square feet, with an alcohol serviceable area of 2,700 square feet.

The proposed site plan provides adequate access and internal circulation. A total of 36 parking spaces are provided for the lounge.

The lounge is proposing the following hours of operation and alcohol service:

Monday through Sunday: 12:00 p.m. (noon) to 02:00 a.m., of the following day.

Per Midland City Code, Section 5-4-4, Prohibited Places of Business:

The sale of any alcoholic beverage is hereby prohibited by any person, where the place of business of any such dealer is within 300 feet of any church, public school, public school ground, athletic stadium used by any public school or public hospital, the measurements to be along the property lines of the street fronts and from front door to front door and in a direct line across intersections where they occur.

There are no schools or churches within 300 feet of the property.

This request has been circulated to and reviewed by respective City departments for internal review and their comments, conditions, and requirements are as follows:

Engineering: (Approved)

No objections

Fire: (Approved)

No objections

Transportation: (Approved)

No objection to zone change.

Code Administration: (Approved with Conditions)

The SUD for Bar Two, LLC is acceptable. The property must adhere to the maximum occupant load of 180 per 2018 IBC Occupancy Chart Calculations. Occupancy loads must be posted in accordance with section 1004.3 of the 2015 International Fire Code.

Planning:

This request is in compliance with the Tall City Tomorrow Comprehensive plan, Chapter 6 Character Plan - Goal 4, "Encourage the development of places where Midland residents can gather and socialize to build connections" (Tall City tomorrow, page 137). Bar Two, LLC, is proposing a local lounge that will give the citizens of Midland a new location to socialize within.

This request was recommended for approval at the October 5, 2020 Planning and Zoning Commission Meeting.

This request meets all requirements; therefore, staff recommends approval of the Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, subject to Conditions A through F.

Conditions:

A. **That the serviceable area of the lounge shall be limited to approximately 2,700 square feet as shown in Exhibit "A", which is attached hereto and incorporated herein for all purposes.**

B. **That the days and hours of alcoholic beverages sales and consumption shall be limited to:**

    Monday through Sunday: 12:00 p.m. (noon) to 02:00 a.m., of the following day.

C. **That the occupancy of the establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.**

D. **That the establishment shall meet all requirements of the Fire Department and**

Code Administration.

E. That the sale and on-premises consumption of alcoholic beverages shall conform to applicable state and local laws.

F. That in accordance with Section 9.07.E.3 of the City Code, the establishment shall receive a certificate of occupancy within 120 days from the final adoption date of this ordinance.

Letters of Objection:

As of October 28, 2020, staff has not received any letters of objections.

Attachments:

Floor Plan (Exhibit A)
Application
Maps

Robert Patrick

City Manager's Office

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE WEST 0.45 ACRES OF LOT 27, BLOCK 10, PERMIAN ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 303 FEET WEST OF SOUTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, Texas, in compliance with the City Charter, the City Code, and State law, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Midland finds that the public convenience will be best served by granting a Specific Use Designation With Term for the west 0.45 acres of Lot 27, Block 10, Permian Estates, City and County of Midland, Texas, said tract being more specifically described in Exhibit "A", which is attached hereto and incorporated herein (the "Property") as set out hereinafter;

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

SECTION ONE. That the Zoning District Map of the City of Midland, Texas, is hereby amended to grant the Property a Specific Use Designation With Term for the sale of all alcoholic beverages for on-premises consumption in a lounge (the "Establishment"), together with the uses permitted in the present RR, Regional Retail District.

SECTION TWO. That the Property shall be subject to the following conditions and restrictions:

A. That the serviceable area of the Establishment shall be limited to approximately 2,700 square feet as shown in Exhibit "A".

B. That the sale and on-premises consumption of alcoholic beverages shall conform to all applicable state and local laws.

C. That the days and hours of alcoholic beverage sales and consumption shall be limited to Monday through Sunday from 12:00 p.m. (noon) to 2:00 a.m. of the following day.

D. That the occupancy of the Establishment shall not exceed the maximum occupancy determined by the Building Code and Fire Code.

E. That the Establishment shall meet the requirements of the Fire Department and the Code Administration Division.

F. That in accordance with Section 11-1-9.07.E.3 of the City Code, the Establishment shall be in operation within 120 days from the final adoption date of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances, inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars ($2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

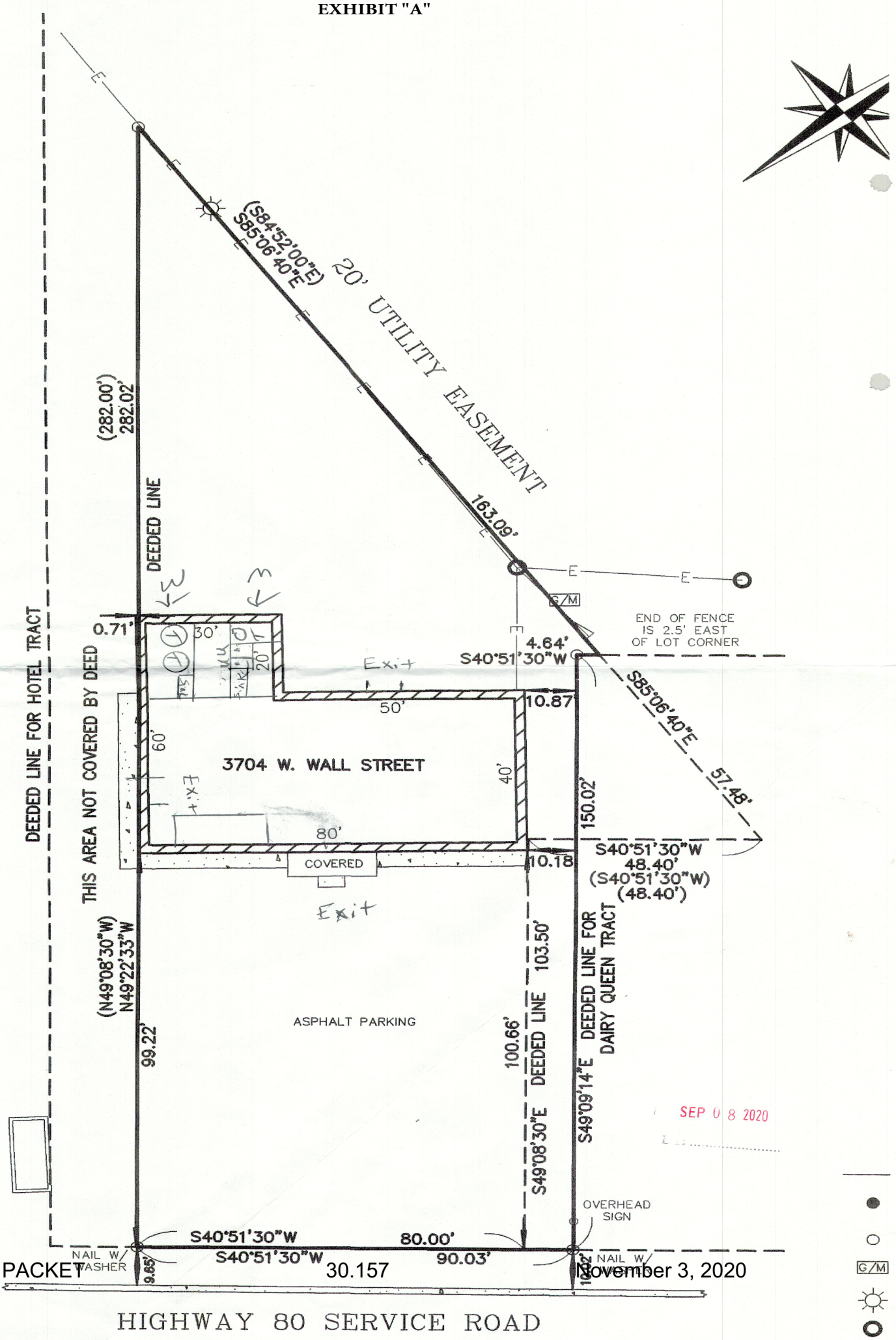
APPROVED AS TO CONTENT
AND COMPLETENESS:

_____
Charles Harrington, Director of Development Services

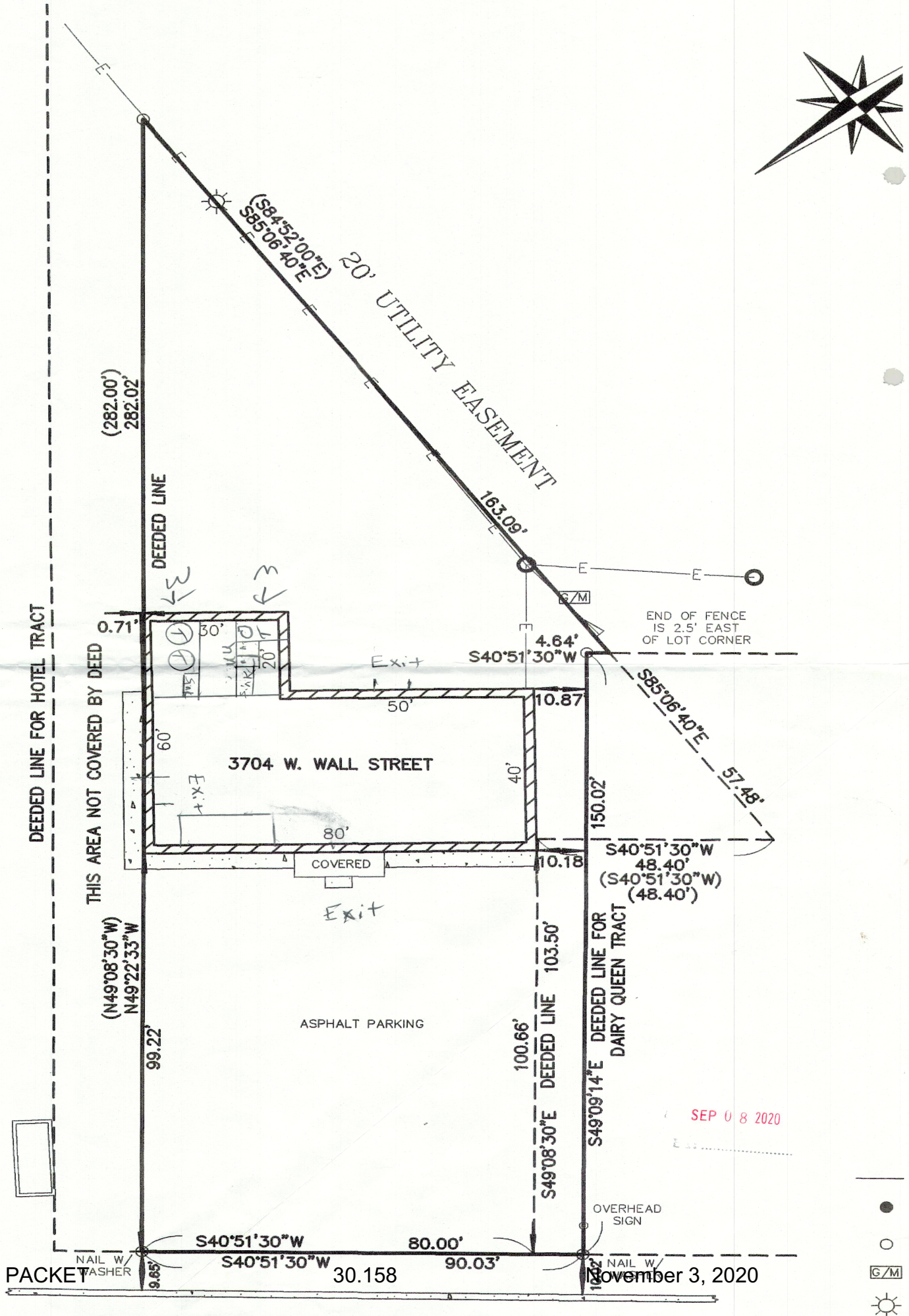
APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

EXHIBIT "A"



SEP 08 2020


(S84°52'00"E)
S85°06'40"E
20' UTILITY EASEMENT
163.09'
(282.00')
282.02'
DEEDED LINE
DEEDED LINE FOR HOTEL TRACT
THIS AREA NOT COVERED BY DEED
0.71'
30'
20'
Exit
50'
10.87
60'
3704 W. WALL STREET
40'
Exit
80'
COVERED
10.18
Exit
4.64'
S40°51'30"W
END OF FENCE
IS 2.5' EAST
OF LOT CORNER
S85°06'40"E
57.48'
150.02'
S40°51'30"W
48.40'
(S40°51'30"W)
(48.40')
(N49°08'30"W)
N49°22'33"W
99.22'
ASPHALT PARKING
100.66'
S49°08'30"E
DEEDED LINE
103.50'
S49°09'14"E
DEEDED LINE FOR
DAIRY QUEEN TRACT
OVERHEAD
SIGN
S40°51'30"W
80.00'
S40°51'30"W
90.03'
NAIL W/
WASHER
9.85'
NAIL W/
WASHER
HIGHWAY 80 SERVICE ROAD
SEP 08 2020

MIDLAND
Planning Division

Specific Use Designation with Term for the Sale of Alcoholic Beverages for On-Premises Consumption

Project Number: SUD-20-0084

Case Number:

Applicant *(if acting as Agent, see affidavit on page 2)* Printed Name: Bruce A. Riley		Phone (432) 631-1331 Email rbgmidland@yahoo.com	
Address 3704 W. Front	City Midland	State TX	Zip 79703
Property Owner Printed Name: Kay Purse - Admiral Realty		Phone (214) 694-6007 Email	
Address PO Box 12499	City Dallas	State TX	Zip 75225
Representative *(if different from Applicant or Property Owner)* Firm: Jordan Amusement Printed Name: Eva		Phone (432) 563-0163 Email	
Address 10100 W. Hwy 80	City Midland	State TX	Zip 79706

Street Address: 3704 W. Front 3704 W. Wall St.

Business Name: Bar Two, LLC

Legal Description
Lot: 027W045 Block: 010 Subdivision: Permian Est.

Current Zoning:

Reason for Request: Alcoholic Beverage Permit

Type of Business *(restaurant, bar, lounge, nightclub, etc.)*:

Proposed/Current Days and Hours of Operation: 7 Day Week 12:00 Noon - 2 A.M.

Proposed Days and Hours of Alcohol Service: 7 Days - 12:00 Noon - 2 A.M.

Total Square Footage of Business: 3200 sq. ft.

Square Footage of Alcohol Serviceable Area: 2700 sq. ft.

Restroom Fixtures:	*Men*	**Toilets/Urinals:**	1 / 2	**Bathroom Sinks:**	2
	Women	**Toilets:**	2	**Bathroom Sinks:**	2

RECEIVED
SEP 08 2020
BY: .....

Submittal and Fees

Items to be submitted with this application form:

RECEIVED
SEP 08 2020
BY: .....

- Application Fee – Payable to the 'City of Midland'
- Dimensioned Floor Plan showing:
  - Seating 80
  - Exits 3
  - Restrooms 2
- Kitchen (if applicable)
- Total Square Footage 3200
- Serviceable Square Footage 2700
- Dimensioned Site Plan showing:
  - Parking
  - Business Footprint
- Digital Copies of Floor Plan & Site Plan (PDF/JPEG)

Signatures

Applicant (signature): Bruce A. Riley	Date: 9/8/2020
Applicant (printed): Bruce A. Riley	
Property Owner (signature): Kay Purse	Date: 9-8-20
Property Owner (printed): KAY PURSE	

The Specific Use Designation with Term for the sale of all alcoholic beverages shall be considered officially received in the Planning office only when it has been submitted in full compliance with the provisions of Section 212 of the Texas Local Government Code and the Zoning Code of Ordinances of the City of Midland and when such required items for the application are also received.

All materials, including exhibits, submitted in support of an application, or displayed during a public hearing, shall remain the property of the City of Midland.

If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.

STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared Eva Braun who, being by me duly sworn, upon oath says: That (s)he is authorized by Admiral Realty, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Eva Braun
Authorized Agent (*signature*)

Subscribed and sworn to before me, this 8th day of September, 2020, to certify which witness my hand and seal of office.

C.J. Benham
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

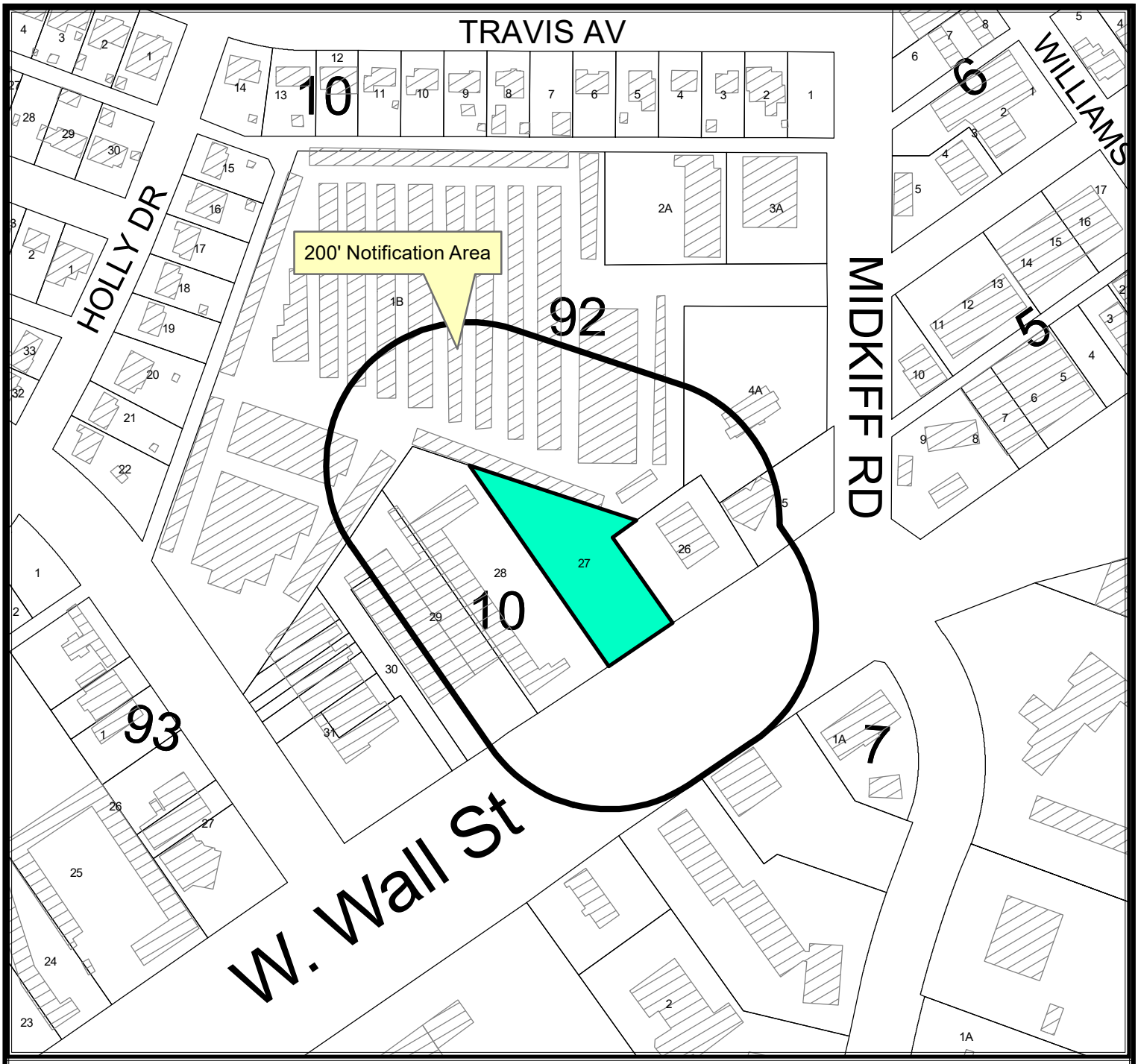
CJ BENHAM NOTARY PUBLIC STATE OF TEXAS ID# 129576092 EXPIRES 9-30-2021

****Application will not be considered for scheduling until reviewed by staff.**

FOR OFFICE USE ONLY	
☑ Property Owner Authorization	☑ Dimensioned Floor Plan
☑ Application Fee	☑ Site Plan
Check # 1001	☑ Plans in Digital Format (PDF/JPEG)
Received By: gac	Date: SEP 08 2020

RECEIVED

****Application will not be considered for scheduling until reviewed by a planner.****



LOCATION MAP

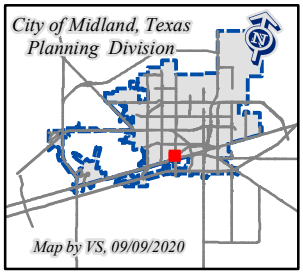
SUD-20-0084 **Scale: 1" = 200'**

Consider a request by Bar Two, LLC for a Specific Use Designation with Term for the Sale of all Alcoholic Beverages, for on premises consumption in a lounge, on the west 0.45 acres of Lot 27, Block 10, Permian Estates, City and County of Midland, Texas.

Generally located on the north side of West Wall Street, approximately 303 feet west of South Midkiff Road. (Council District 2)

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS



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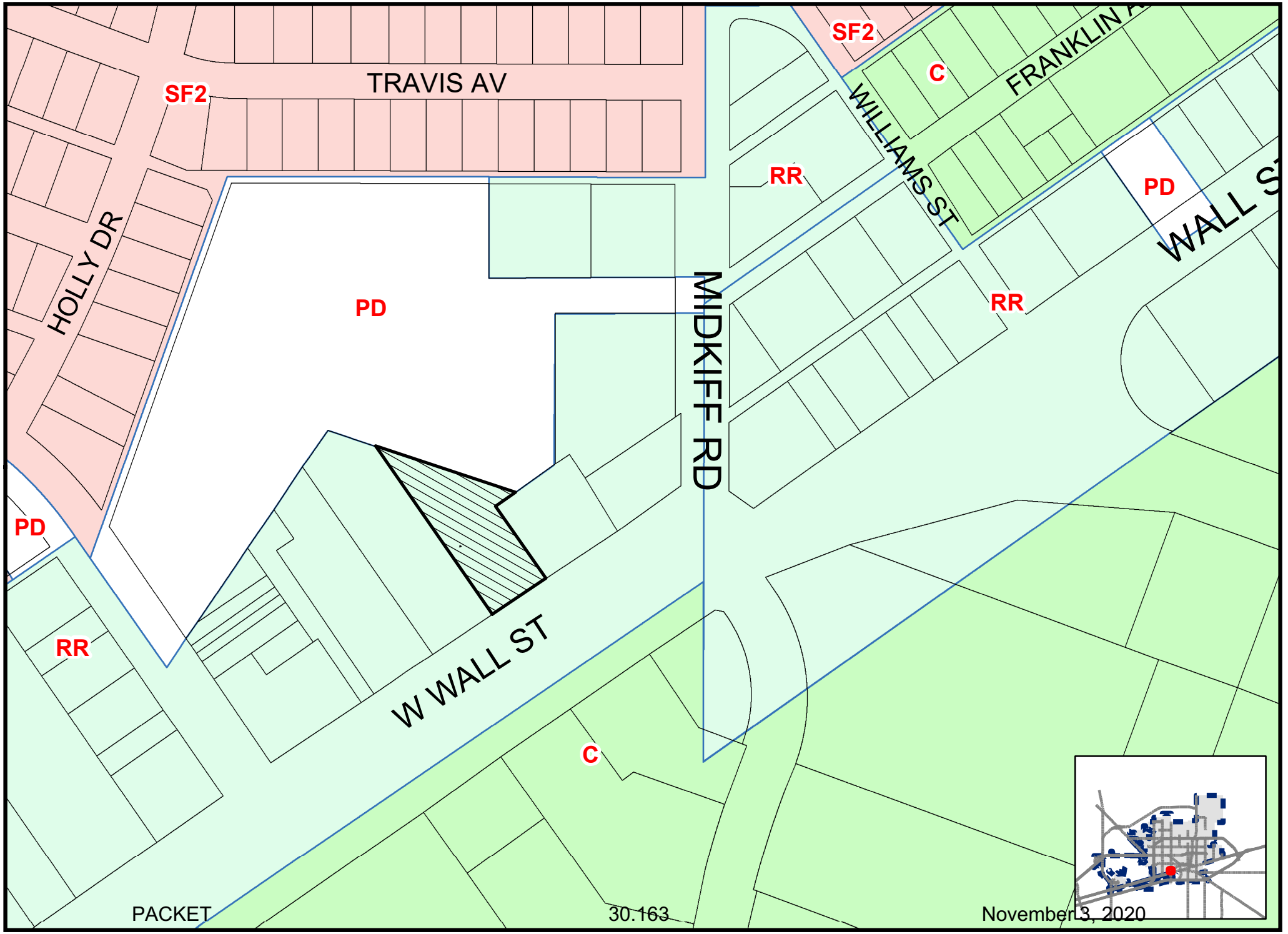
THIS DATA IS NOT A SUBSTITUTION FOR A SURVEY AND IS NOT IT IS DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA.

November 3, 2020



Map By VS, 09/11/2020

SUD-20-0084

Scale: 1" = 200'

ZONING MAP

OPEN

DQ
CHICKEN STRIP
Dairy Queen
Dairy Queen

EXXON
Denny's

METRO
INN
WALL ST.
ANTIQUES
Thomason Dr
NEXT RIGHT

City Council Meeting

Item Number: 31

Meeting Date: November 3, 2020

To: City Council / City Manager

From: Mark Mason, Director

Subject: AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2019-2020 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS (FINANCE)

Purpose:

To adopt budget amendments to four Special Revenue Funds for Fiscal Year 2020 due to unforeseen circumstances.

Recommended City Council Action:

Approve

Fiscal Impact:

This ordinance will ratify expenditures made by certain governmental fund above their originally adopted budget. Staff was not aware of the unforeseen acquisitions during the adoption of the Fiscal Year 2019-2020 budget. The total amount of the proposed amendments is $673,239.

Discussion:

Please see the attached memo from the Finance Department for a further explanation of the funds affected and the financial details.

TO: **The Honorable Mayor and Members of the City Council**

FROM: **Mark Mason, Director of Finance**

SUBJECT: **Year End Budget Amendments**

DATE: **October 14, 2020**

Appropriations are needed for the following funds:

Fund Number	Fund Name	FY 2020 Adopted Budget	FY 2020 Expenses	FY 2020 Budget Amendment	Cash Balance
070	Police Special Purpose Fed	$ 100,000.00	$ 410,062.12	$ 310,062	$ 534,833.00
075	Police Tech and Equip	$ 70,000.00	$ 329,122.63	$ 259,123	$ 114,678.13
076	Fire Tech and Equip	$ 20,000.00	$ 14,748.20	$ 48,333	$ 403,285.57
077	Park Donation and Special Purpose	$ 100,000.00	$ 155,720.37	$ 55,721	$ 2,229,385.59
				$ 673,239	

Federal Police Drug Seizure Fund is used to account for funds received from forfeited property under federal jurisdiction. Such funds are used solely for law enforcement purposes such as salaries, training, equipment, supplies, and items used by officers in direct law enforcement duties.

Police Technology & Equipment is used to account for funds received from private organizations or individuals specifically for law enforcement related technology and equipment. Such funds are used solely for law enforcement purposes.

Fire Technology and Equipment Fund is used to account for funds received from private organizations or individuals specifically for fire related technology and equipment. Such funds are used solely for fire department purposes.

Park Donation & Special Purpose Fund is used to account for funds received from private organizations, individuals, and oil lease money generated from park land. Such funds are used solely for park related development.

ORDINANCE NO. _____

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2019-2020 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS

WHEREAS, expenditures in certain governmental funds exceeded the original estimates in the budget for the 2019-2020 fiscal year; and

WHEREAS, the Council finds it to be in the public interest to amend the 2019-2020 budget as necessary to meet unforeseen conditions which could not by reasonably diligent thought and attention have been included in the original budget for 2019-2020 fiscal year;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS;

THAT in accordance with Texas Local Government Code section 102.009, the official municipal budget for the fiscal year 2019-2020 is hereby amended by increasing amounts appropriated to certain funds from the Unappropriated Fund Balance for the fiscal year ending September 30, 2020, as follows:

Increasing Budget Authority

Federal Police Drug Seizure Fund (070). $310,062.00;

Police Technology & Equipment Fund (075).. . . . . $259,123.00;

Fire Technology & Equipment Fund (076). . . . . $ 48,333.00;

Parks Donation and Special Purpose Fund (077). . . . . $ 55,721.00.

Said budget schedule is on file with the office of the City Secretary referenced by the date and number of this Ordinance.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT AND COMPLETENESS:

_____
Mark C. Mason, Director of Finance

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney

City of Midland

Office Memorandum

DATE: November 3, 2020

TO: The Honorable Mayor and City Council Members

FROM: John Ohnemiller, City Attorney

SUBJECT: A proposed ordinance amending Title VI, "Police Regulations", Chapter 1, "General Offenses", of the City Code of Midland, Texas, by establishing Section 25, "Residential Picketing and Targeted Marches"

This proposed ordinance amends Title VI, "Police Regulations", Chapter 1, "General Offenses", of the City Code of Midland, Texas, by establishing Section 25, "Residential Picketing and Targeted Marches". In accordance with the United States Constitution, the Texas Constitution, and applicable case law, the ordinance is narrowly-tailored to protect the quiet enjoyment of one's home while also protecting the freedoms of speech and assembly.

Specifically, the ordinance prohibits picketing and targeted marches on public right-of-way in front of the residence of an individual. The ordinance does not distinguish between prohibited and permitted speech on the basis of content. The ordinance also does not prohibit picketing at locations other than residences and dwellings, nor does it prohibit a march that does not constitute "picketing" or a "targeted march."

Please do not hesitate to contact me should you have any questions.

S:\Steve\Memos\Council\2020\Memo - Add 6-1-25 - Residential Picketing and Targeted Marches.docx

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE VI, "POLICE REGULATIONS", CHAPTER 1, "GENERAL OFFENSES", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING SECTION 25, "RESIDENTIAL PICKETING AND TARGETED MARCHES", SO AS TO PROHIBIT RESIDENTIAL PICKETING AND TARGETED MARCHES ADJACENT TO A RESIDENCE OR DWELLING OF AN INDIVIDUAL; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, the City Council finds that picketing and targeted marches obstruct and interfere with the free use of public sidewalks and public ways of travel; and

WHEREAS, the City Council finds that the practices of picketing and engaging in targeted marches before or about residences and dwellings cause emotional disturbances and distress to the occupants, and the purpose of these practices is to harass the occupants; and

WHEREAS, the City Council finds that the practices of picketing and engaging in targeted marches before or about residences and dwellings can result in the occupants having to leave their residences and dwellings in order to escape harassment, and continued picketing and targeted marches before or about their unoccupied residences and dwellings discourage the occupants from returning; and

WHEREAS, the City Council finds that it is in the public interest to enact the following content-neutral, narrowly-tailored ordinance that protects the quiet enjoyment of one's home while at the same time protecting the freedoms of speech and assembly;

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

SECTION ONE. That the Midland City Code Title VI, "Police Regulations", Chapter 1, "General Offenses", shall be amended by adding Section 25, "Residential Picketing and Targeted Marches", which shall read as follows:

6-1-25. RESIDENTIAL PICKETING AND TARGETED MARCHES.

(A) *Purpose.* The purpose of this Section is to protect the freedoms of speech and assembly while also protecting and preserving homes and assuring that residents of the City of Midland enjoy in their homes and dwellings a feeling of well-being, tranquility, and privacy.

(B) *Definitions.* As used in this Section:

1. *March* means the movement of a person from place to place, which may also involve a public display or demonstration of sentiment for or against a person, cause, or idea, including protesting, the distribution of leaflets or handbills, displaying signs, or engaging in other communication, including all expressive and symbolic conduct, whether active or passive.

2. *Picketing* means the posting of a person before or about a certain location while engaging in a public display or demonstration of sentiment for or against a person, cause, or idea, including protesting, the distribution of leaflets or handbills, displaying signs, or engaging in other communication, including all expressive and symbolic conduct, whether active or passive.

3. *Targeted march* means the movement of a person that passes along a sidewalk, roadway, or right-of-way before or about the residence or dwelling of an individual more than twice during a 24-hour period while engaging in a public display or demonstration of sentiment for or against a person, cause, or idea, including protesting, the distribution of leaflets or handbills, displaying signs, or engaging in other communication, including all expressive and symbolic conduct, whether active or passive.

(C) *Prohibited conduct.*

1. A person shall not engage in conduct that constitutes picketing on a sidewalk, roadway, or right-of-way before or about the residence or dwelling of an individual.

2. A person shall not engage in conduct that constitutes a targeted march.

3. It is not an exception or a defense to prosecution under this Section that a residence or dwelling before or about which the conduct occurred was unoccupied.

(D) *Marches not prohibited.* A person is not prohibited from engaging in a march that does not constitute picketing or a targeted march; provided, however, that the person shall comply with all applicable laws, rules, and ordinances.

(E) *Offense and penalty; culpable mental state not required.*

1. A person who violates a provision of this Section shall be guilty of a misdemeanor and fined in a sum not to exceed $500.00.

2. A person commits a separate and distinct offense for each separate violation of a provision of this Section.

3. Evidence of a culpable mental state is not required to prove a criminal offense under this Section. It is hereby declared that, for all offenses under this Section, the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

4. The criminal penalty in this Section shall be in addition to any other remedies that the City may have under City ordinance and/or state law.

SECTION TWO. The provisions of any ordinance which are inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding five hundred dollars ($500.00) pursuant to State law. The definition of all offenses under this ordinance does not require a culpable mental state. The definition of all offenses under this ordinance plainly dispenses with any mental element as authorized by Section 6.02 of the Texas Penal Code. It is hereby declared, that for all offenses under this ordinance, that the culpable mental state required by Section 6.02 of the Texas Penal Code is specifically negated and clearly dispensed with.

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2020; and passed to second reading on motion of Council member _____, seconded by Council member _____, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member _____, seconded by Council member _____, on the _____ day of _____, A.D., 2020, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2020.

_____
Patrick N. Payton, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary

APPROVED ONLY AS TO FORM:

_____
John Ohnemiller, City Attorney