

**CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA**

May 08, 2012 - 9:00 a.m.

Council Chamber - City Hall
300 North Loraine
Midland, Texas

These items, as well as any other items on the regular posted agenda for the City Council Meeting on this date, may be discussed:

1. Discuss the proposed process for developers to request the deferral of required public improvements.
2. Discuss the process by which the proposed Floyd Acres housing development may use a portion of Beal Park as a retention basin pursuant to Chapter 26 of the Texas Parks and Wildlife Code.
3. Receive an update from Alonda Massey of EZ-Rider regarding the status of their projects and operations.

AGENDA FOR CITY COUNCIL MEETING

May 08, 2012 – 10:00 AM
Council Chamber - City Hall

The Midland City Council agenda is posted for public notice at least 72 hours prior to the Tuesday meetings. All requests to be placed on the Council agenda by the public must be submitted to the City Manager, in writing, at least one week before the Council meetings. Such written requests must be in sufficient detail to identify the subject matter as well as the contact person who will represent the matter before the Council. The City Council reserves the right to not consider matters over which the City has no jurisdiction.

OPENING ITEMS

1. Invocation - Reverend Dr. Michael Philliber, Providence Presbyterian Church (PCA)
2. Pledge of Allegiance

PRESENTATIONS

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

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

CONSENT AGENDA

5. Consider a motion approving the following minutes:
 - a. Regular meeting of April 24, 2012
6. Consider a resolution authorizing the purchase and installation of a water tank on one of the City Landfill's Caterpillar 615 Auger Scrapers from the sole bidder, Warren Power and Machinery, Incorporated, DBA Warren Cat, of Odessa, Texas, at a total cost of \$118,750.00 (GENERAL SERVICES) (2012 - 130)
7. Consider a resolution authorizing the execution of an agreement for the

purchase of twenty eight thousand (28,000) gallons of emulsified asphalt for use by the Transportation Division from Cleveland Asphalt Products, Incorporated, of Shepherd, Texas, at an estimated total cost of \$77,187.60 (GENERAL SERVICES) (2012 - 131)

8. Consider a resolution authorizing the execution of a Professional Services Agreement with Parkhill, Smith & Cooper, Inc. for engineering services in connection with the Highway 191 Sewer Line Project; and appropriating funds therefor (Engineering) (2012 - 132)
9. Consider a resolution authorizing the City Manager to advertise a request for qualifications for professional services for the construction of a water main to serve property located on the west side of Farm-to-Market Road 1788 and south of State Highway 191; authorizing the City Manager to negotiate a Professional Services Agreement for said services; and providing that said agreement shall not become effective until approved by the City Council (Engineering) (2012 - 133)
10. Consider a resolution awarding the Membrane Biological Reactor Satellite Reclaimed Water Production Facility Project to Red River Construction Company, at a total cost of \$6,540,000.00; and appropriating funds; and the project will include the construction of a water reclamation facility to provide irrigation water to Midland College (Utilities) (2012 - 134)
11. Consider a resolution approving the amended Bylaws of the Midland Development Corporation (City Attorney) (2012 - 135)
12. Consider a resolution approving an Economic Development Agreement between the Midland Development Corporation and the City of Midland for the South Midkiff Road Water Main Extension Project, as authorized by Chapter 501 of the Texas Local Government Code; and appropriating funds therefor (City Attorney) (2012 - 136)
13. Consider a resolution authorizing the City Attorney and City Manager to employ experts and professionals to assist in evaluating issues involving payment to Cajun Constructors, Incorporated, regarding the City of Midland's Water Purification Plant Improvements Project; and authorizing payment (City Attorney) (2012 - 137)

SECOND READINGS

14. Consider an ordinance on second reading adopting a site plan for Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas (generally located on the north side of Briarwood Avenue, approximately 520 feet east of Oriole Drive); subject to the following conditions and restrictions; 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) (9005)
15. Consider an ordinance on second reading changing the zoning use classification of Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas (generally located on the southeast corner of the intersection of Alysheba Lane and Sir Barton Parkway), which is presently zoned CE, Country Estate District, by permitting said property to be used under a Specific Use Permit without term for an accessory building to be used for living or sleeping quarters; 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 (Development Services) (9008)
16. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an IP-3, Industrial Park District; said tract is generally located north of Midland International Airport; 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) (9009)
17. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 96.28-acre tract of land out of Sections 43 and 44, Block 40, T-1-S, and Sections 5 and 6, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an IP-3, Industrial Park District; said tract is generally located northwest of Midland International Airport; 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 (Planning) (9010)

18. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 55.08-acre tract of land out of Sections 8, 9, 16 and 17, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an IP-3, Industrial Park District; said tract is generally located south of Midland International Airport; 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) (9011)
19. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 2.25-acre tract of land out of Section 10, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an IP-3, Industrial Park District; said tract is generally located northeast of Midland International Airport; 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) (9012)
20. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an IP-3, Industrial Park District; said tract is generally located southeast of Midland International Airport; 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) (9013)
21. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof, as an FD, Future Development District; said tract is generally located at the future extension of Mockingbird Lane, east of Avalon 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) (9014)

22. Consider an ordinance on second reading amending the official municipal budget for fiscal year 2011-2012 in order to provide additional funds to the Sports and Entertainment Association of Midland; the additional funding provided to the Sports and Entertainment Association of Midland will be used for upcoming events; the additional funds will allow for the promotion of tourism in the City of Midland; and ordering recordation; and appropriating funds (City Secretary) (9015)

PUBLIC HEARINGS

23. At approximately 10:30 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Housing Development, in part, and PD, Planned District for a Transition District, in part, to be used as a PD, Planned District for a Housing Development (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of business Interstate 20); 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 (Development Services) (9016)
24. At approximately 10:33 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 6.61-acre tract of land out of Section 4, 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 north side of West Loop 250 North, approximately 435 feet east of Billingsley Boulevard); 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 (Development Services) (9017)
25. At approximately 10:36 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lots 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas, which is presently zoned AE, Agriculture Estate District, to be used as a PD, Planned District for a Shopping Center (Generally located on the south side of East Loop 250 North, between Cynthia Drive and Kniffen Drive); 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 (Development Services) (9018)

26. At approximately 10:39 a.m. hold a public hearing and consider an ordinance vacating and abandoning a 0.16-acre portion of the east/west 20-foot alley located within Block 3, "A" Street Community Center, Section 3, City and County of Midland, Texas (Generally located near the southwest corner of the intersection of West Wadley Avenue and North "A" Street); adopting the appraisal by the City Manager of \$17,400.00; and ordering recordation by the City Secretary (Development Services) (9019)
27. At approximately 10:42 a.m. hold a public hearing and consider a resolution authorizing the temporary use of land for a manufactured home on a 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the southeast corner of Fairgrounds Road and Loop 250); and making said permit subject to certain special conditions and restrictions contained herein (Development Services) (2012 - 138)
28. At approximately 10:45 a.m. hold a public hearing and consider an ordinance changing the zoning use classification of the property described as Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas (Generally located on the northwest corner of the intersection of North Loop 250 West and Deauville Boulevard), which is presently zoned PD, Planned District for a Shopping Center, by permitting said property to be used under a Specific Use Permit with term for the sale of all alcoholic beverages in a bar 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 (Development Services) (9020)
29. At approximately 10:48 a.m. hold a public hearing and consider an ordinance approving a Municipal Setting Designation Site for Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas (Commonly known as CVS Pharmacy, 301 Andrews Highway, Midland, Texas 79701); providing for the prohibition of the use of groundwater for potable and irrigation purposes; 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 (Engineering) (9021)

30. At approximately 7:00 p.m. hold a public hearing on the 2012/2013 Community Development Block Grant Program. (Development Services)

MISCELLANEOUS

31. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 1) inside the City Limits on 467' FEL and 1,958' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue) (Development Services)
32. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 2) inside the City Limits on 467' FEL and 1,983' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue) (Development Services)
33. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 3) inside the City Limits on 467' FEL and 2,008' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue) (Development Services)
34. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 3) inside the City Limits on 704' FNL and 2,007' FWL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue) (Development Services)
35. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 6) inside the City Limits on 651' FSL and 2,040' FWL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately 650' north of Briarwood Avenue) (Development Services)
36. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 12) inside the City Limits on 1911' FEL and 2,009' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on

the west side of Golden Gate Drive, approximately ½ mile north of Briarwood Avenue) (Development Services)

37. Consider a motion interpreting City of Midland Ordinance No. 8980 determining that the proposed hotel building to be located on a 4.18-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, is in compliance with Ordinance No. 8980 which governs said property. Said property is generally located on the northeast corner of the intersection of Deauville Boulevard and Loop 250. (Engineering)
38. Discuss the proposed Wholesale Water Delivery Agreement between the City of Midland and the Midland County Fresh Water Supply District No. 1. This proposed Agreement involves the delivery of water from the T-Bar Ranch in Winkler County and Loving County, Texas.
39. Consider making appointments to various Boards and Commissions.

EXECUTIVE SESSION

40. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
 - a. Section 551.071, Consultation with the City Attorney
 - a.1. Discuss with the City Attorney, a matter in which the duty of the attorney of the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.
 - a.2. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled in Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.
 - a.3. Discuss Section 255.003 of the Texas Election Code.
 - a.4. Discuss legal issues involving the proposed Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1. This proposed agreement involves the delivery of water from the T-Bar Ranch in Winkler County and Loving County, Texas.
 - b. Section 551.087, Deliberation Regarding Economic Development

Negotiations.

- b.1. Discuss business prospects that the Midland Development Corporation seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Respectfully Submitted,

Courtney B. Sharp
City Manager

**MIDLAND CITY COUNCIL
MINUTES
April 24, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:45 a.m. on April 24, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, City Secretary Amy Turner, Development Services Director Rick Crownover, Utilities Director Stuart Purvis, Solid Waste Director Morris Williams, Building Official Steve Thorpe, City Engineer David Beard, Oil & Gas Compliance Officer Ron Jenkins, Multimedia Developer Ryan Stout, and Customer Service Manager Tony Goyang.

1. Receive an update regarding CVS Pharmacy's request for a Municipal Setting Designation within the City of Midland at 301 Andrews Highway.

City Engineer David Beard provided an update on the Municipal Setting Designation (MSD) for the CVS Store explaining that an MSD provides a means to address groundwater contamination. He reported the next step was to pass an ordinance in support of the MSD which would prohibit groundwater access at the location. He clarified that CVS did not cause the contamination.

2. Receive update on Council Retreat.

City Manager Sharp provided a printed status update of Council Retreat items. He noted he would be providing a status update once a quarter and asked the Council to review the spreadsheet and notify him with any changes.

3. Receive an update from the Midland County Freshwater Supply District No. 1 regarding the delivery of water from T-Bar Ranch located in Winkler County and Loving County, Texas.

City Manager Sharp reported that the remainder of the briefing session would be dedicated to bringing the Council an update on the T-Bar Project and that future updates would be brought once each month.

Jose Cuevas of Midland County Freshwater Supply District noted this was the largest and fastest public works project ever done in Midland.

Jay Edwards reviewed the schematic of the overall project and spoke about each aspect of the project including the potential for future expansions and answered questions about security, potential problems and contingency plans. The right-of-way acquisition map was reviewed and a brief discussion was held about construction of each phase happening simultaneously.

City Attorney Keith Stretcher noted that the draft contract would be brought to Council on May 8 and the final would be considered on May 22.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:50 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., April 24, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, and Deputy City Manager Tommy Hudson.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 37, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 42, 43, 38, 39, 40, 41, 44, 46, 45.

OPENING ITEMS

1. Invocation - Terry Rothermich, Memorial Christian Church-Disciples of Christ
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Perry presented a Proclamation for Municipal Clerks Week to City Secretary Amy Turner.
 - b. Mayor Perry presented a Proclamation to City Secretary Turner in recognition of completing the Texas Municipal Clerk Certification Program.

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding

the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

There were no requests by citizens to speak.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 17; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of April 10, 2012
6. Approved a resolution approving a master agreement for an estimated annual supply of fertilizer for the Spraberry Farm for the Utilities Department. (General Services)

RESOLUTION NO. 2012 - 113

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF FERTILIZER OF ASSORTED TYPES AND IN ASSORTED VOLUMES FOR OPERATIONS AT THE SPRABERRY FARM, FROM HELENA CHEMICAL COMPANY OF STANTON, TEXAS, AT AN ESTIMATED TOTAL COST OF \$115,000.00

7. Approved a resolution approving the purchase of 35,750 pounds of seed for the Spraberry Farm for the Utilities Department. (General Services)

RESOLUTION NO. 2012 - 114

RESOLUTION APPROVING THE PURCHASE OF VARIOUS TYPES OF SEED, IN VARIOUS QUANTITIES, FOR USE AT THE SPRABERRY FARM, FROM HELENA CHEMICAL COMPANY, OF STANTON, TEXAS, AND CURTIS & CURTIS SEED, INCORPORATED, OF CLOVIS, NEW MEXICO, AT A TOTAL COST OF \$73,967.40

8. Approved a resolution approving the purchase of 16 police cameras from Visual Pro360 in accordance with State of Texas DIR contract #DIR-SDD-1365. (General Services)

RESOLUTION NO. 2012 - 115

RESOLUTION APPROVING THE PURCHASE OF SIXTEEN (16) VIDEO CAMERAS FOR USE IN POLICE CARS THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$78,848.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM

9. Approved a resolution approving plans and specifications and authorizing advertisement for bids for labor, material, equipment and supervision necessary to clean and paint all blue and silver surfaces including structures supporting the video boards at both Grande Stadium and Citibank Ballpark for the Community Services Department. (General Services)

RESOLUTION NO. 2012 - 116

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS TO CLEAN AND RE-PAINT ALL BLUE AND SILVER SURFACES AT GRANDE COMMUNICATIONS STADIUM AND CITIBANK BALLPARK

10. Approved a resolution approving the purchase of an ambulance manufactured by Frazer, Ltd. through HGAC from Sterling McCall Ford, their licensed dealer, for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 117

RESOLUTION APPROVING THE PURCHASE OF A CAB, CHASSIS AND AMBULANCE BODY THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$173,200.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COOPERATIVE PURCHASING AGENCY

11. Approved a resolution approving the issuance of a request for proposal for mass communications services for the Communication and Information Systems Department and authorizing advertisement for proposals. (General Services)

RESOLUTION NO. 2012 - 118

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR HOSTED MASS COMMUNICATION SERVICES WHICH WILL ALLOW EMERGENCY AND NON-EMERGENCY NOTIFICATION OF CITIZENS IN THE CITY OF MIDLAND AND IN MIDLAND COUNTY

12. Approved a resolution authorizing the execution of a land lease agreement for Airport Hangar Facility between OGM Aviation, LLC and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract #10) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (Airport)

RESOLUTION NO. 2012 - 119

RESOLUTION AUTHORIZING THE EXECUTION OF A LAND LEASE AGREEMENT WITH OGM AVIATION LLC FOR HANGAR DEVELOPMENT LOCATED ON A 0.24 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT, INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

13. Approved a resolution authorizing the advertising of bids for the project described as Executive Apron Reconstruction - Area B (7081) at Midland International Airport. (Airport)

RESOLUTION NO. 2012 - 120

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY PARKHILL, SMITH AND COOPER, INCORPORATED, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CITY OF MIDLAND PROJECT DESCRIBED AS EXECUTIVE APRON RECONSTRUCTION AREA B PROJECT (7081) AT THE MIDLAND INTERNATIONAL AIRPORT

14. Approved a resolution authorizing the Mayor, City Manager and City Attorney to attest and execute Federal Aviation Administration Grant #53 funding the Executive Apron Reconstruction - Area B (7081) at Midland International Airport upon receipt from the Federal Aviation Administration. (Airport)

RESOLUTION NO. 2012 - 121

RESOLUTION AUTHORIZING THE MAYOR, CITY MANAGER, AND THE CITY ATTORNEY TO ATTEST AND EXECUTE FEDERAL AVIATION ADMINISTRATION GRANT NUMBER 53 IN THE ESTIMATED AMOUNT OF \$3,094,224.00 UPON RECEIPT FROM THE FEDERAL AVIATION ADMINISTRATION; SAID GRANT WILL FUND NINETY PERCENT (90%) OF THE PROJECT DESCRIBED AS EXECUTIVE APRON RECONSTRUCTION AREA B AT THE MIDLAND INTERNATIONAL AIRPORT; SAID GRANT FUNDS ARE TO BE DEPOSITED IN THE AIRPORT FUND UPON RECEIPT

15. Approved a resolution approving a cost-sharing agreement between the Midland Development Corporation and Schlumberger Technology Corporation for construction of a water line that will serve a 78.22-acre tract of land out of Section 11, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas, that is owned by the Midland Development Corporation. (City Attorney)

RESOLUTION NO. 2012 - 122

RESOLUTION APPROVING A COST-SHARING AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND SCHLUMBERGER TECHNOLOGY CORPORATION FOR CONSTRUCTION OF A WATER LINE THAT WILL SERVE A 78.22-ACRE TRACT OF LAND OUT OF SECTION 11, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND COUNTY, TEXAS, THAT IS OWNED BY THE MIDLAND DEVELOPMENT CORPORATION

16. Approved a resolution approving plans and specifications and authorizing advertisement for bids for the FY 2012 Mill and Overlay Project at an estimated cost of \$1,500,000. (Transportation)

RESOLUTION NO. 2012 - 123

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE FISCAL YEAR 2012 MILL AND STREET PAVING OVERLAY PROJECT; SAID PROJECT WILL BE FOR THE REPAVING OF CERTAIN STREETS WITHIN THE CITY OF MIDLAND

17. Approved a motion approving a proposed preliminary plat of Legends Park, Section 4, being a 108.038-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive.) (Planning)

SECOND READINGS

18. Consider an ordinance on second reading annexing a 40.46-acre tract of land (Tract 1) out of Section 45, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport.) (Planning)

ORDINANCE NO. 8998

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 40.46-ACRE TRACT OF LAND OUT OF SECTION 45, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTH OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 8998.

Council Member Morales moved to approve the second and final reading of Ordinance No. 8998 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an ordinance on second reading annexing a 96.28-acre tract of land (Tract 2) out of Sections 43 & 44, Block 40, T-1-S, and Sections 5 & 6, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport.) (Planning)

ORDINANCE NO. 8999

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 96.28-ACRE TRACT OF LAND OUT OF SECTIONS 43 AND 44, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND SECTIONS 5 AND 6, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTHWEST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 8999.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8999 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading annexing a 55.08-acre tract of land (Tract 3) out of Sections 8, 9, 16, & 17, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport District.) (Planning)

ORDINANCE NO. 9000

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 55.08-ACRE TRACT OF LAND OUT OF SECTION 8, 9, 16 AND 17, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED SOUTH OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 9000.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9000 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading annexing a 2.25-acre tract of land (Tract 4) out of Section 10, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport.) (Planning)

ORDINANCE NO. 9001

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.25-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED NORTHEAST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 9001.

Council Member James moved to approve the second and final reading of Ordinance No. 9001 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading annexing a 3.88-acre tract of land (Tract 5) out of Section 4, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport.) (Planning)

ORDINANCE NO. 9002

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 3.88-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED SOUTHEAST OF MIDLAND INTERNATIONAL AIRPORT); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 9002.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9002 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading annexing a 3.57-acre tract of land (Tract 6) out of Section 13, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located on the north side of the Mockingbird Lane extension, east of Avalon Drive.) (Planning)

ORDINANCE NO. 9003

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 3.57-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTH SIDE OF THE MOCKINGBIRD LANE EXTENSION, EAST OF AVALON DRIVE); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Garcia read the caption of Ordinance No. 9003.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9003 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading on a request by Mike Gilbert for a zone change from AE, Agriculture Estate District to C-3, Commercial District on a 10.00-acre tract of land out of the NW/4 of Section 40, Block 38, T-1-S, T&P RR Co. Survey and Midland County of midland, Texas. (Generally located on the northeast corner of the intersection of East Highway 80 and Elkins Road.) (Planning)

ORDINANCE NO. 9004

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.00-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 40, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A C-3, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF ELKINS ROAD AND EAST BUSINESS INTERSTATE 20); 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

Deputy City Secretary Garcia read the caption of Ordinance No. 9004.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9004 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

25. At approximately 10:30 a.m. hold a public hearing and consider a resolution on a request by Our Lady of Guadalupe Catholic Church for a Temporary Land Use Permit

for a Church Fair on Lots 8 and 13A, Block 7, Glendale Addition, Section 2, City and County of Midland, Texas. (Generally located near the northeast corner of the intersection of Garden Lane and N. Tyler Street.) (Planning)

RESOLUTION NO. 2012 - 124

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOTS 8 AND 13A, BLOCK 7, GLENDALE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF GARDEN LANE AND NORTH TYLER STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Cameron Walker gave an overview of the item noting no letters of objection had been received.

Mayor Perry opened the public hearing at 10:46 a.m.

Pastor Thompson with Abundant Faith Ministries noted they were at the corner of Garden Lane and Tyler. He wanted to ensure they would be able to have their services and would not be interrupted by the event. He needed to know if they would be taking physical possession of their property.

David Diaz, 5101 Sherwood, noted they were not closing any public streets or alleyways and had no intention of closing anyone down. He noted their event would not start any day before 12 noon. Mayor Perry asked Mr. Diaz to meet with Pastor Thompson.

There being no one else present wishing to speak, the public hearing was closed at 10:48 a.m.

Council Member Sparks moved to adopt Resolution No. 2012 - 124; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

26. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Second Baptist Church for a Planned District Site Plan on Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas. (Generally located on the north side of Briarwood Avenue, approximately 520 feet east of Oriole Drive.) (Planning)

ORDINANCE NO. 9005

ORDINANCE ADOPTING A SITE PLAN FOR LOT 18D, BLOCK 14, BRIARWOOD ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 520 FEET EAST OF ORIOLE DRIVE); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; 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

Planning Division Manager gave an overview of the item noting that Planning & Zoning

recommended approval and that no letters of objection had been received.

Mayor Perry opened the public hearing at 10:51 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9005.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9005 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

27. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Rick Shirley for a zone change from PD, Planned District for a Shopping Center, to a Planned District for a Housing Development on a 12.63-acre tract of land out of the NW/4 of Section 6, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Planning)

ORDINANCE NO. 9006

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 12.63-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED AS TWO SEPARATE PLANNED DISTRICTS FOR SHOPPING CENTERS, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF LOOP 250, APPROXIMATELY 1/4 OF A MILE NORTH OF WALL STREET); 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

Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received.

Mayor Pro Tem Morales opened the public hearing at 10:54 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9006.

Council Member Dufford moved to defer the item briefly; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

Council Member James moved approval of the first of two readings of Ordinance No. 9006 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

City Attorney Stretcher reported that when a park is used for development purposes

there is a requirement to go through a specific statute. He suggested that the Council move forward with the first reading and then before the second reading a notice will be posted in the newspaper for three consecutive weeks. A public hearing will be held and the developer will be given an opportunity to show their only option is to use the park. He noted this was similar to when the Planetarium wanted to expand into a park.

City Attorney Sharp clarified that they will be using the park for drainage of their development. Discussion ensued about use of the park.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

28. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a request by Tim Ernst for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center on Lot 1A, Block 5, S.W. Estes Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of West Cuthbert Avenue and Whitaker Street.) (Planning)

ORDINANCE NO. 9007

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, S.W. ESTES ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST CUTHBERT AVENUE AND WHITAKER STREET); 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

Planning Division Manager Cameron Walker gave an overview of the item noting no letters of objection had been received. He proposed adding Exhibit C and stated that Planning & Zoning unanimously recommended approval.

Discussion ensued regarding the building materials and it was clarified that this building was to be used as an office and office storage.

Mayor Perry opened the public hearing at 11:17 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9007.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9007 in accordance with the Charter of the City of Midland with the addition of Exhibit C; seconded by Council Member Morales.

Discussion ensued about sending this back to the applicant for redesign without a metal roof or garage door and showing more integrity in keeping with the residential neighborhood. The motion to approve was withdrawn.

Council Member Hailey moved to amend the motion by deferring the item and allowing the applicant to come back with a different design; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. At approximately 10:42 a.m. hold a public hearing and consider an ordinance on a request by Louie Caraveo for a Specific Use Permit without Term for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Alysheba Lane and Sir Barton Parkway.) (Planning)

ORDINANCE NO. 9008

ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 20, BLOCK 4, SOLOMON ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF ALYSHEBA LANE AND SIR BARTON PARKWAY), WHICH IS PRESENTLY ZONED CE, COUNTRY ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; 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

Planning Division Manager Cameron Walker gave an overview of the item noting this was for the development of a second home. He noted staff and the Planning & Zoning Commission recommended approval and that no letters of objection had been received. He clarified that access to the second home would only be accessible through the main house.

Mayor Perry opened the public hearing at 11:25 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9008.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9008 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

30. At approximately 10:45 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 1) on a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport.) (Planning)

ORDINANCE NO. 9009

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.46-ACRE TRACT OF LAND OUT OF SECTION 45, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY

LOCATED NORTH OF MIDLAND INTERNATIONAL AIRPORT; 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

Planning Division Manager Walker gave an overview of the item noting that staff recommended IP-3 zoning.

Mayor Perry opened the public hearing at 11:27 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9009.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9009 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

31. At approximately 10:48 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 2) on a 96.28-acre tract of land out of Section 43 and 44, Block 40, T-1-S and Sections 5 and 6, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport.) (Planning)

ORDINANCE NO. 9010

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 96.28-ACRE TRACT OF LAND OUT OF SECTIONS 43 AND 44, BLOCK 40, T-1-S, AND SECTIONS 5 AND 6, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF MIDLAND INTERNATIONAL AIRPORT; 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

Planning Division Manager Walker gave an overview of the item noting that staff recommended IP-3 zoning.

Mayor Perry opened the public hearing at 11:29 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9010.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9010 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. At approximately 10:51 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 3) on a 55.08-acre tract of land out of Sections 8, 9, 16 and 17, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located south

of Midland International Airport.) (Planning)

ORDINANCE NO. 9011

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 55.08-ACRE TRACT OF LAND OUT OF SECTIONS 8, 9, 16 AND 17, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTH OF MIDLAND INTERNATIONAL AIRPORT; 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

Planning Division Manager Walker gave an overview of the item noting the property was adjacent to the same IP-3 District that they just looked at and noted staff recommended zoning the property IP-3.

Mayor Perry opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9011.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9011 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

33. At approximately 10:54 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 4) on a 2.25-acre tract of land out of Section 10, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport.) (Planning)

ORDINANCE NO. 9012

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.25-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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

Planning Division Manager Walker gave an overview of the item noting the property was adjacent to previous item and staff recommended IP-3 zoning.

Mayor Perry opened the public hearing at 11:32 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9012.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9012 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

34. At approximately 10:57 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 5) on a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport.) (Planning)

ORDINANCE NO. 9013

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.88-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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

Planning Division Manager Walker gave an overview of the item noting this property is adjacent to IP-3 district and staff recommends IP-3 zoning.

Mayor Perry opened the public hearing at 11:33 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9013.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9013 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

35. At approximately 11:00 a.m. hold a public hearing and consider an ordinance to zone annexed land (Tract 6) on a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the future extension of Mockingbird Lane east of Avalon Drive.) (Planning)

ORDINANCE NO. 9014

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.57-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED AT THE FUTURE EXTENSION OF MOCKINGBIRD LANE, EAST OF AVALON 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

Planning Division Manager Walker gave an overview of the item noting the City owned the land and that staff is proposing a Future District zoning be placed on the land.

Mayor Perry opened the public hearing at 11:35 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9014.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9014 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

36. At approximately 11:03 a.m. hold a public hearing and consider a resolution on a request by Robert Ahola for a Temporary Land Use Permit for Tent Sale on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of West Loop 250 North and North Midkiff Road.) (Planning)

RESOLUTION NO. 2012 - 125

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR TENT SALE ON LOT 1, BLOCK 17, SKYLINE TERRACE, UNIT 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting it was for a temporary land use permit requesting a tent sale April 27 through May 9 with operating hours of 10 a.m. to 9 p.m. No letters of objection had been received.

Mayor Perry opened the public hearing at 11: 37 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012 - 125; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: Dufford. ABSTAIN: None. ABSENT: None.

DEVELOPMENT SERVICES

37. Approved a resolution on a request from RSP Permian, LLC (Bus Barn #2603) for a permit to drill an oil and gas well within the City Limits located 690' from north line and 1080' from east line, Section 26, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of Briarwood Avenue, approximately 600 feet west of Roadrunner Trail.) (Planning)

RESOLUTION NO. 2012 - 126

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITYLIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF

MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 600 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins gave an overview of the item noting this item was previously deferred. Staff received 35 letters and two signed petitions of objection citing health, safety and environmental concerns and property values as reasons for the objection. The Oil & Gas Advisory Committee reviewed the application and considered it complete. The committee recommended that the landscaping be installed. He noted the application changed since it was last on the agenda noting the flow line had been rerouted down Briarwood instead of going through the neighborhood.

Discussion ensued about the widening of Briarwood and how it related to the right-of-way for the flow line. Mr. Jenkins noted that variances were granted to several houses to be built within the 500 foot radius of the well site. All existing homes previous to that were outside of the 500 foot range.

Council Member Morales clarified that there were homes being built that were within the 500 feet of the site. City Attorney Stretcher recalled the previous discussion by the City Council where they approved those homes being built and clarified that it did not affect the approval or denial of the well site. He clarified that safety factors of those homes within 500 feet do not need to be considered because they came to Council at their own risk with the knowledge that a well could potentially be built in that area.

Steve Gray, 4516 Bent Tree Trail, representing RSP Permian, answered how many wells they anticipated being drilled in the area noting two wells were drilled previously and this application was the third well. He discussed other wells that were drilled in the County. Discussion ensued about directional drilling and the future potential for deviated wells.

Council Member Sparks moved to adopt Resolution No. 2012 - 126; seconded by Council Member Dufford.

Some members of the audience expressed desire to speak. Mayor Perry noted that the public hearing was previously held but noted he would allow two people to speak.

Steven Rae, 4214 Coyote Trail, reported that when this item was previously tabled they were instructed to meet with RSP. They did meet with RSP and nothing was accomplished. Two ladies from their subdivision called RSP and invited them to come to the community and were told they had it handled and they didn't need to talk to them. He raised an issue of the distance to the Carrasco house noting it states on the map the distance is 512 feet. The map indicates that the measurement went to the far corner of the house and not the near corner and he expressed concern that the house is closer than 500 feet. He also raised concern about the caliche pit that would be built right behind two homes creating a dust nuisance due to prevailing winds.

Robert Schlagal, 4304 Coyote Trail, noted that Ordinance 8769 approved by the City Council had 9 of 16 items that would not allow for this location. He reported that there were an additional five potential wells sites outside of the City that could be drilled without destroying this community. He expressed concern for fire danger noting a well in New Mexico that burned to the ground. He didn't think this group should take a chance on killing someone because they do not need this location to accomplish their

drainage.

Cathy Jones, 4104 Coyote Trail, reported that recently on the front page of the Midland Reporter Telegram an article stated that it takes 1,183 trucks to put one well into production. She reported that with 7 wells there would be over 8,000 trucks on the road. She asked the City Council to consider their neighborhood and what they want. She expressed concern for the roads and the potential danger to their neighborhood.

Discussion ensued regarding Dr. Rae's comments regarding the distance to the home not being measured to the closest corner. Mr. Jenkins clarified that the survey shows squares for houses that are not to scale and not the actual shape of the home and that the corner may not be the exact corner they measured to, but the closest corner to the site was what was measured. In response to if the survey was incorrect, it was noted that the surveyor uses his professional stamp to ensure the accuracy of his report. Mr. Gray reported that they called the surveyor and were ensured that the closest corner of the house was measured. He noted if necessary, they would survey again.

Council Member Morales asked if this ordinance was denied, would the company have the opportunity to come back and reapply. City Attorney Stretcher reported they had the right to reapply and could do so immediately. This would allow them the opportunity to modify their application to meet the concerns expressed by the City Council and the neighborhood.

The motion to approve failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

38. Approved a resolution authorizing the execution of a road repair agreement with RSP Permian, LLC related to the Bus Barn #2603 well. The road repair agreement will cover Briarwood Avenue and be in the amount of \$75,000.00. (Planning)

RESOLUTION NO. 2012 - 127

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member James moved to deny Resolution 2012-127; seconded by Council Member Hailey. The motion to deny carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

39. Consider an ordinance amending the Fiscal Year 2011-2012 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$95,000. (City Secretary)

ORDINANCE NO. 9015

ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2011-2012 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL BE USED FOR UPCOMING EVENTS; THE ADDITIONAL FUNDS WILL ALLOW FOR THE PROMOTION OF TOURISM IN THE CITY OF MIDLAND; AND ORDERING RECORDATION; AND APPROPRIATING FUNDS

Deputy City Secretary Garcia read the caption of Ordinance No. 9015.

Council Member James moved approval of the first of two readings of Ordinance No. 9015 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

40. Approved a resolution authorizing the execution of a right of way license agreement between the City of Midland and Callon Petroleum Company, for placement, operation and maintenance of a 24" casing and flow line within City of Midland right of way abutting Section 23, Block 40, T-1-S, T&P RR Co. Survey, Abstract No. 252, Midland County, Texas. (Transportation)

RESOLUTION NO. 2012 - 128

RESOLUTION AUTHORIZING A RIGHT-OF-WAY CROSSING LICENSE WITH THE CITY OF MIDLAND, TEXAS AND CALLON PETROLEUM COMPANY; SAID RIGHT-OF-WAY LICENSE IS FOR THE PURPOSE OF INSTALLING ONE (1) UNDERGROUND 24 INCH CASING WHICH WILL ALLOW FOR ONE PRODUCTION FLOW LINE AND ONE TEMPORARY WATER LINE TO MOVE FRESH WATER UNDER GOLDEN GATE DRIVE TO WELL PADS ; THE CASING IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT- OF-WAY, SECTION 23, BLOCK 40, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

Transportation Manager Gary Saunders gave a brief overview of the item.

Council Member Hailey moved to adopt Resolution No. 2012 - 128; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

41. Approved a resolution authorizing the execution of a right of way license agreement between the City of Midland and RSP Permian, LLC for placement, operation and maintenance of two (2) pipelines within the City of Midland right of way abutting Country Sky Addition, Section 11, Midland County, Texas. (Transportation)

RESOLUTION NO. 2012 - 129

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE WITH THE CITY OF MIDLAND, TEXAS AND RSP PERMIAN, L.L.C.; SAID RIGHT-OF-WAY LICENSE IS

FOR THE PURPOSE OF ENTERING CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACEMENT, OPERATION AND MAINTENANCE OF A THREE (3) INCH POLY PIPELINE AND A FOUR (4) INCH FLEX-STEEL PIPELINE WITHIN A PORTION OF BRIARWOOD AVENUE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

Council Member James moved to deny Resolution No.; 2012-129; seconded by Council Member Trost. The motion to deny carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Approved a resolution to allow temporary water and wastewater service agreement for 1310 South Fairgrounds Road for Pecos Marketing and Gathering (City View Acres). (Engineering)

RESOLUTION NO. 2012 - 106

RESOLUTION AUTHORIZING THE EXECUTION OF A TEMPORARY WATER AND SEWER SERVICE AGREEMENT BETWEEN THE CITY OF MIDLAND AND PECOS GATHERING AND MARKETING, LLC FOR SERVICES TO 1310 SOUTH FAIRGROUNDS ROAD, MIDLAND, TEXAS, 79701; SAID PROPERTY IS OUTSIDE THE CITY LIMITS; PECOS GATHERING AND MARKETING, LLC HAS EXECUTED A LETTER AGREEING TO ANNEXATION IF AND WHEN THE PROPERTY IS ANNEXED; PECOS GATHERING AND MARKETING, LLC SHALL BE CHARGED A RATE FOR SERVICE WHICH IS ONE AND ONE-HALF TIMES THE RATE CHARGED CUSTOMERS IN THE CITY LIMITS; AND ORDERING RECORDATION BY THE CITY SECRETARY

City Engineer David Beard reported that this item and the next item were connected. He reported the applicant was requesting temporary water service to serve a property that is outside of the City limits. There is a 12" waterline in Fairgrounds Road that they could tap onto and the applicant agreed to pay 150% for service and agreed to voluntary annexation at the time it was adjacent to the City limits. Staff recommended approval.

Council Member Dufford noted the compelling reason to provide water was that City policy had always allowed for this if they would voluntarily annex.

Discussion ensued about how the property could be annexed by using one foot along Fairgrounds Road. The distance was approximately one quarter of a mile.

Jerry Jensen, 1001 Almont Place, reported they had finished constructing the building. They would use very little water to supply shop sinks and some toilets. He noted they would be supporting 50 trucks and would employ 4-5 staff to support the trucks. They would have about \$325,000 in improvements when they were finished.

Chris Jensen, 1001 Almont Place, reported they would be using approximately 3,000-4,000 gallons per month and there would be no truck wash.

Mayor Perry directed staff to move forward with the annexation when the next annexation was ready to move forward.

Council Member Morales moved to adopt Resolution No. 2012 - 106; seconded by Council Member Dufford. The motion to approve carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

43. Approved a resolution to assign a project number and allocate money (\$25,147-collected from a development agreement) from the General Fund for the design and construction of paving and drainage improvements for Fairgrounds Rd. from Cloverdale Rd. (FM 307) to Garden City Hwy (SH 158). (Engineering)

RESOLUTION NO. 2012 - 105

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PECOS GATHERING AND MARKETING, LLC FOR THE EXPANSION OF FAIRGROUNDS ROAD; AND APPROPRIATING FUNDS THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

City Engineer David Beard reported that at the January 24 Council Meeting the Council approved the deferral of public improvements for this property which included waste water improvements, sidewalk improvements, and paving, curb and gutter improvements. Mr. Jensen had already written a check for the paving improvements. There was a development agreement in place for the future development of Fairgrounds Road that would be signed upon City Council approval.

Council Member James moved to adopt Resolution No. 2012 - 105; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

44. Consider making appointments to various Boards and Commissions.
45. At approximately 12:00 noon recess to Centennial Plaza, 105 North Main, for the Parks & Recreation Endowment Committee lunch.

EXECUTIVE SESSION

46. Mayor Perry announced that pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
 - a. Section 551.071, Consultation with the City Attorney
 - a.1. Discuss with the City Attorney and Attorney(s) with the Law Firm of Cotton, Bledsoe, Tighe & Dawson, P.C., contemplated litigation involving a 45.99-acre tract of land located in Section 15, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas and more specifically described in Volume 2311, Page 306 of the Deed Records of Midland County, Texas.

Mayor Perry recessed the meeting to Executive Session at 11:58 a.m. The entire Council met in executive session until 12:10 p.m.

All of the business at hand having been completed, the meeting adjourned at 12:10 p.m.

PASSED AND APPROVED the 8th day of May, 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4792-12 Water Tank

Purpose:

Approval of a resolution authorizing the purchase and installation of a water tank on our existing Caterpillar 615 Auger Scraper.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$118,750 Garage Fund

Discussion:

We received a single bid from Warren Power and Machinery Inc. dba Warren Cat. The bid is less than the estimated cost of \$150,000 by \$31,250.

Therefore, please consider approval of a resolution authorizing the purchase and installation of a water tank from Warren Power and Machinery Inc. dba Warren Cat located in Odessa, Texas in the amount of \$118,750.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE PURCHASE AND
INSTALLATION OF A WATER TANK ON ONE OF THE
CITY LANDFILL'S CATERPILLAR 615 AUGER
SCRAPERS FROM THE SOLE BIDDER, WARREN
POWER AND MACHINERY, INCORPORATED, DBA
WARREN CAT, OF ODESSA, TEXAS, AT A TOTAL
COST OF \$118,750.00**

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for the purchase and installation of a water tank on one of the City Landfill's Caterpillar 615 Auger Scrapers; and

WHEREAS, Bid No. 4792-12 was opened on April 18, 2012, with the lowest and most responsible bid, which was also the only bid, being submitted by Warren Power and Machinery, Inc., dba Warren Cat, of Odessa, Texas, at a total cost of \$118,750.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

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 a water tank for one of the City Landfill's Caterpillar 615 Auger Scrapers, with installation, as specified in the bid tabulation, from Warren Power and Machinery, Inc., dba Warren Cat, of Odessa, Texas, at an estimated total price not to exceed \$118,750.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Warren Power and Machinery, Inc., dba Warren Cat, from funds available in the Fiscal Year 2011 – 2012 Garage Fund (750) General Services (040) Garage (0752) budget account 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., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 4792-12 Purchase & Installation of 5,500 gallon Water Tank OPENED April 18, 2012 Est. Cost: \$150,000.00			Warren Cat 2301 Production Odessa, TX 79761 Adam Allgood (432) 331-0030	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
1	1	5500 Gallon Water Tank	\$118,750.00	\$118,750.00
		Brand Name/Model #	Niece Equipment/Custom	
2	1	Installation		Included
		Delivery	Approx. 90 Days ARO	
TOTALS:				\$118,750.00
TOTAL OF LOW BID ITEMS BY VENDOR:				\$118,750.00

Bidding Summary:

5 Bid requests were issued.

1 Bids listed above

0 NO BIDS were received.

4 Bidders did not respond.

Yellowhouse Machinery, Klein Products of Texas, Holt Cat Sonora, Pro Water Inc.

City of Midland - Bid Tabulation

BID # 4792-12 Purchase & Installation of 5,500 gallon Water Tank OPENED April 18, 2012 Est. Cost: \$150,000.00			Warren Cat 2301 Production Odessa, TX 79761 Adam Allgood (432) 331-0030	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
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		Brand Name/Model #	Niece Equipment/Custom	
2	1	Installation		Included
		Delivery	Approx. 90 Days ARO	
TOTALS:				\$118,750.00
TOTAL OF LOW BID ITEMS BY VENDOR:				\$118,750.00

Bidding Summary:

5 Bid requests were issued.

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0 NO BIDS were received.

4 Bidders did not respond.

Yellowhouse Machinery, Klein Products of Texas, Holt Cat Sonora, Pro Water Inc.



Office of the Purchasing Agent
BID RECOMMENDATION

DATE: April 18, 2012

BID #4792-12

TO: Robert Patrick
FROM: Regina Stephenson

OPENING DATE: April 18, 2012

BID REQUEST FOR THE PURCHASE OF:

Water Tank

RECOMMENDATIONS FROM DIVISION OR DEPARTMENT MEETING CITY OF MIDLAND
SPECIFICATIONS:

Item 1: Warren Cat was the low bidder for the purchase of the equipment and installation on our existing 1987 Scraper. The Bid is for \$118,750.00. Our estimated cost was \$150,000. I recommend awarding the Bid to Warren Cat in the amount of \$118,750.00.

IF RECOMMENDATION IS NOT LOW BID, GIVE A BRIEF SUMMARY WHY LOW BID DOES NOT MEET SPECIFICATIONS:

SIGNED (User Dep't or Div.)

COUNCIL ITEMS: In order for any item to be placed on a particular Council Agenda, Purchasing MUST have this recommendation form or memo with appropriate justification(s) returned, completed and signed, by no later than 5:00 PM, twelve days prior to the scheduled Council Meeting. Otherwise it will go on the first subsequent meeting agenda. In addition a memo explaining why the expenditure(s) is necessary, how it is relative to Council goals and etc., is required as back-up.

PURCHASING RECOMMENDATION / COMMENTS:

Concur

SIGNED (Purchasing Agent)

PLEASE RETURN THIS RECOMMENDATION - ATTACHED COPIES ARE FOR YOUR FILES



City Council Agenda

Approved For Agenda:
THudson
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL, CITY MANAGER

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: 4840-12 for Emulsified Asphalt

Purpose:

Approval of a resolution authorizing the purchase of emulsified asphalt for use by the Transportation Division.

Recommended City Council Action:

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

\$77,187.60 General Fund

Discussion:

This is for a one year master agreement for an estimated 28,000 gallons of emulsified asphalt at \$2.7567 per gallon. We are recommending the low bidder, Cleveland Asphalt Products, Inc.

Therefore, please consider approval of a resolution authorizing an annual master agreement for emulsified asphalt with Cleveland Asphalt Products, Inc. of Stanton, Texas for an estimated annual cost of \$77,187.60.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
AN AGREEMENT FOR THE PURCHASE OF TWENTY
EIGHT THOUSAND (28,000) GALLONS OF
EMULSIFIED ASPHALT FOR USE BY THE
TRANSPORTATION DIVISION FROM CLEVELAND
ASPHALT PRODUCTS, INCORPORATED, OF
SHEPHERD, TEXAS, AT AN ESTIMATED TOTAL COST
OF \$77,187.60**

WHEREAS, the City Manager approved plans and specifications and authorized advertisement for bids for 28,000 gallons of emulsified asphalt for use by the Transportation Division; and

WHEREAS, Bid No. 4840-12 was opened on April 25, 2012, with the lowest and most advantageous bid being submitted from Cleveland Asphalt Products, Inc., of Shepherd, Texas, at an estimated total cost of \$77,187.60, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes;

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 execute an agreement for the purchase of the above listed emulsified asphalt from Cleveland Asphalt Products, Inc., of Shepherd, Texas, at an estimated total cost of \$77,187.60, said agreement being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Cleveland Asphalt Products, Inc., the sum indicated above from funds available in Fiscal Year 2011 - 2012 General Fund (001) Engineering (080) Transportation (0085) budget account 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., 2012, by

the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

Robert Patrick, General Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

City of Midland - Bid Tabulation

BID # 4840-12 Emulsified Asphalt OPENED April 25, 2012 Est. Cost: \$64,960.00			Martin Asphalt Company Three Riverway, Suite 400 Houston, TX 77056 Jack Nimmo (713) 350-6849		Cleveland Asphalt Pro. PO Box 1449 Shepherd, TX 77371 Clayton Moore (800) 334-0177	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL
1	28000	Gallons - Asphalt, Emulsified	\$2.60	\$72,800.00	\$2.25	\$63,000.00
2	28000	Freight	\$0.55	\$15,400.00	\$0.5067	\$14,187.60
		Delivery	48 hours		2-3 Days	
					*all prices are based on 5000 gallon minimum delivery. Call for smaller quantity prices; DEMURRAGE CHARGE: \$80.0 per hr after 2 free hours *	
TOTALS:				\$88,200.00		\$77,187.60
TOTAL OF LOW BID ITEMS BY VENDOR:				\$0.00		\$77,187.60

Bidding Summary:

5 Bid requests were issued.

2 Bids listed above

0 NO BIDS were received.

3 Bidders did not respond.

Alamo Asphalt, Heartland Asphalt, Alon USA



Master Agreement

4840-12

For

Emulsified Asphalt

THIS AGREEMENT, made this 9th day of May 2012, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and Cleveland Asphalt Products, Inc., hereinafter referred to as "Company".

1. Company agrees to sell Emulsified Asphalt listed in the attached detail sheet, as submitted by Company, which shall conform to the City's specifications set forth in that request, being incorporated herein and made a part of this agreement for all purposes.

Total Projected Cost: \$77,187.60

The above stated prices shall remain in effect for the full term of this agreement.

2. Said Emulsified Asphalt is to be delivered in such quantities and at such time as designated by the Purchasing Agent of the City. The total quantity of products which the City is obliged to purchase shall be the total of the quantities from time to time ordered by the Purchasing Agent of the City, and which are delivered and accepted.

3. Payment by the City shall be made within 30 days after receipt of invoices from the Company which shall be subject to verification as to quantities and quality delivered as herein provided.

4. Such Emulsified Asphalt shall be delivered to the City's 1602 Orchard Lane, Midland, Texas. Freight and delivery charges are included in the purchase prices stated above.

5. The term of this agreement shall be for a period of 1 year(s) commencing on May 9, 2012, and terminating on May 8, 2013 unless sooner terminated as provided in this agreement. The City may at its option, renew this agreement for a period of one additional year. In order to exercise this option, the City must give Company notice of its intent to renew not less than 30 days prior to the expiration of this agreement.

In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for master agreement payments due under the master agreement, then this master agreement shall terminate on the last day of the fiscal period for which full appropriations were made, without penalty or expense to the City of any kind whatsoever.

6. If Company fails in any manner to fully perform and carry out each and all of the terms, covenants and conditions of this agreement, Company shall be in default and notice in writing shall be given it of such default by the Purchasing Agent of the City. If Company fails to cure such default within 30 days of such notice, City, acting by and through the Purchasing Agent, may at its option terminate and cancel this agreement, and, at the expense of the Company, complete the agreement or cause the same to be completed.

In the event of such termination, all monies due Company under the terms of this agreement shall be retained by the City, but such retention shall not release Company from liability for its default. In such event, however, Company will be credited with the amount of money so retained toward any amount by which the cost of completion of the agreement, as above provided, exceeds the agreement price.

Such termination shall not effect or terminate any of the rights of the City as against Company then existing, or which may thereafter accrue because of such default, and the foregoing provision shall be in addition to all other rights and remedies available to the City under the law.

The waiver of a breach of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

7. **Assignment:** Company 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.

8. **Governing Law & Venue:** 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.

9. **WAIVER OF ATTORNEY FEES:** BY EXECUTING THIS AGREEMENT, COMPANY 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 OR ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE COMPANY SPECIFICALLY AGREES THAT IF THE COMPANY 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, THE COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

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

10. **RELEASE:** NOTWITHSTANDING ANY OTHER PROVISION, COMPANY 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.

11. **Independent Contractor:** It is expressly understood and agreed that Company 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 Company shall have exclusive control of, and the exclusive right to control the details of the services and work to be 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 City and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Company. No person performing any of the work and services described hereunder by Company 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 construed as creating a "Community of Pecuniary Interest" or an "Equal Right of Control" which would give rise to vicarious liability.

Company 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. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

12. **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, Company or his 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-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 the Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Company 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 Company that Company's notice is insufficient. City reserves the right to request 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, Company's failure to comply with the requirements herein shall perpetually bar Company'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. Company agrees that the requirements of this entire agreement are reasonable.

13. **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.

14. **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.

15. **Consideration:** The terms of this master agreement are supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties named herein.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the date first above written.

Cleveland Asphalt Products, Inc.

By _____

Please Print Name

Please Print Title

CITY OF MIDLAND, TEXAS

By _____
Courtney B. Sharp, City Manager

ATTEST:

APPROVED AS TO FORM:

Amy M. Turner, City Secretary

Keith Stretcher, City Attorney

Corporate Acknowledgment: Master Agreement No. 4840-12

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of Cleveland Asphalt Products, 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 an 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 _____, 2012.

Notary Public, State of Texas

Exhibit A

BID # 4840-12 Emulsified Asphalt OPENED April 25, 2012			Cleveland Asphalt Pro. PO Box 1449 Shepherd, TX 77371 Clayton Moore (800) 334-0177	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL
1	28000	Gallons - Asphalt, Emulsified	\$2.25	\$63,000.00
2	28000	Freight	\$0.5067	\$14,187.60
		Delivery	2-3 Days	
			*all prices are based on 5000 gal minimum delivery. Call for smaller quantity prices; DEMURRAGE CHARGE: \$80.00 per hr after 2 free hours *	
TOTALS:				\$77,187.60



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: David D. Beard, P.E. – City Engineer

SUBJECT: Consider a resolution authorizing the execution of a Professional Service Agreement with Parkhill Smith & Cooper for providing professional engineering services in connection with development and construction of the wastewater collection system along the SH 191 corridor; and appropriating funds.

Purpose:

Authorize execution of a Professional Service Agreement with Parkhill, Smith & Cooper to provide professional engineering services including assistance with right-of-way acquisition for the development and construction of the wastewater collection system along the SH 191 corridor; and appropriate funds.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

That the sum of \$502,500 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Highway 191 Sewerline Project (8965)

Discussion:

The intention of this project is to construct a wastewater collection systems along the SH 191 corridor. These improvements are intended to provide City services and encourage development along the SH 191 Corridor.

Attached is a location map.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF A
PROFESSIONAL SERVICES AGREEMENT WITH
PARKHILL, SMITH & COOPER, INC. FOR
ENGINEERING SERVICES IN CONNECTION WITH
THE HIGHWAY 191 SEWER LINE PROJECT; AND
APPROPRIATING FUNDS THEREFOR**

WHEREAS, the City of Midland advertised a Request for Qualifications for professional services for engineering services in connection with the Highway 191 Sewer Line Project; and

WHEREAS, Parkhill, Smith & Cooper, Inc. has agreed to perform said professional services for an estimated \$502,500.00; and

WHEREAS, the City Council finds that Parkhill, Smith & Cooper, Inc. is qualified to perform said professional services; and

WHEREAS, the City Council finds that the professional fees proposed by Parkhill, Smith & Cooper, Inc. are consistent with and not higher than the recommended practices and fees published by the applicable professional associations and do not exceed any maximum provided by law; and

WHEREAS, the City Council finds that Parkhill, Smith & Cooper, Inc. provides professional services for a fair and reasonable price; and

WHEREAS, the City Council finds it to be in the public interest to execute a professional services agreement with Parkhill, Smith & Cooper, Inc. as the most highly qualified provider of said professional services based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, a professional services agreement with Parkhill, Smith & Cooper, Inc. for said professional services. A copy said agreement is attached hereto as Exhibit "A" and incorporated herein

for all legal purposes.

SECTION TWO. That the sum of \$502,500.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Highway 191 Sewer Line Project (8965).

SECTION THREE. That the City Treasurer is hereby authorized and directed to make payment to Parkhill, Smith & Cooper, Inc., pursuant to the terms of said agreement, in an amount not to exceed \$502,500.00, from funds appropriated herein 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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and effective the 9th day of April, 2012, by and between the CITY OF MIDLAND, TEXAS, a municipal corporation, hereinafter called “City,” and PARKHILL SMITH & COOPER, INC., hereinafter referred to as “Company.”

ARTICLE I. PURPOSE

The purpose of this Agreement is to state the terms and conditions under which Company shall provide engineering services (also referred to as the “services”) in connection with the Highway 191 Sewer Line Project.

ARTICLE II. SERVICES TO BE PERFORMED

1. Company shall provide those services described in Exhibit “A”, which is attached hereto and incorporated herein for all legal purposes.
2. Company shall perform all the services under this Agreement consistent with the same level of skill and care as other professionals in approximately the same location at approximately the same point in time and for the same types of projects. Company represents that any employee who performs services under this Agreement shall be fully qualified and competent to perform the services described in Exhibit “A.”

ARTICLE III. FINANCIAL CONSIDERATIONS

City agrees to pay Company in an amount not to exceed **\$502,500.00** for the professional services described in Exhibit “A.” City agrees to pay Company in accordance with the Hourly Rate Schedule set forth in Exhibit “B”, which is attached hereto and incorporated herein for all legal purposes, upon presentation of a monthly invoice. The monthly invoice shall set forth all fees and costs. The City Manager must approve all additional expenses and reimbursable expenses in advance. Within 30 days of receipt of the monthly invoice, City shall pay the full amount of such invoice; provided, however, that if City objects to any portion of an invoice, City shall notify Company of City’s objection and the grounds therefor within 30 days of the date of receipt of the invoice, and the parties immediately shall make every effort to settle the disputed portion of the invoice. The City in any event shall pay every portion of the invoice that is not in dispute within the 30-day period for payment.

ARTICLE IV. TERM

The term of this Agreement shall be from April 9, 2012, until the project is completed, unless the Agreement is terminated earlier as provided in Article V below.

ARTICLE V. TERMINATION

Either party may terminate this Agreement at will, for no or any reason, upon giving the other party sixty (60) days written notice. The parties to this Agreement understand and agree that it is in either party's sole discretion to cancel the Agreement during the term of the Agreement without penalty to the other party. All work and services under this Agreement shall be suspended immediately upon termination of the Agreement becoming effective. The parties have bargained for the flexibility to terminate the Agreement upon giving the requisite notice. In the event of termination of the Agreement under this Article, the Company shall be paid for all services performed up to the termination date.

ARTICLE VI. CONTRACT PERSONAL

This Agreement provides for personal or professional services, and the Company shall not assign this Agreement, in whole or in part, without the prior written consent of City. It is understood that any necessary engineering services shall be either self-performed or subcontracted by the Company.

ARTICLE VII. OWNERSHIP AND CONFIDENTIALITY OF DOCUMENTS AND OTHER WORK PRODUCT

All reports, information and other data ("instruments of service"), given to, prepared or assembled by Company under this Agreement, and any other related documents or items shall become the sole property of City and shall be delivered to City, without restriction, except that Company may make copies of any and all instruments of service for its files. The City shall not make any modification to the plans and specifications or make them available for use by third parties without the prior written authorization of Company, which consent shall not be unreasonably withheld.

ARTICLE VIII.

INDEPENDENT CONTRACTOR

It is expressly understood and agreed that Company 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 Company 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 City and Company, its officers, agents, employees, contractors and subcontractors; and that nothing herein shall be construed as creating a partnership or joint enterprise between City and Company. No person performing any of the work and services described hereunder by Company 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. Company 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. The City does not have the power to direct the order in which the work is done. The City shall not have the right to control the means, methods or details of the Company's work. Company shall assume exclusive responsibility for the work. Company is entirely free to do the work in its own way.

ARTICLE IX. INSURANCE

Company shall at all times during the term of this Agreement 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:

Comprehensive 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: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Worker's Compensation: Statutory limits

Employers' Liability: \$500,000.00 per accident or occurrence

The Workers' Compensation coverage provided by Company shall inure to the benefit of employees injured during the course and scope of their employment by Company pursuant to this Agreement.

The Business Automobile Liability insurance provided by Company 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 \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Agreement.

All insurance required pursuant to this Agreement, except for Worker's Compensation Insurance, shall name the City as an additional insured. All insurance required pursuant to this Agreement, including Worker's Compensation Insurance, shall provide for a waiver of subrogation as to the City.

The parties agree that, prior to the execution of the Agreement, Company shall provide one or more certificates of insurance showing that the requirements of this article have been met, and specifically containing, without limitations, the following endorsement:

"The City of Midland is included as an additional insured on all policies except for Worker's Compensation. The Company and Insurer hereby waive all rights of subrogation with respect to claims against the City of Midland, its agents, employees and officers, on all policies of insurance."

City shall be provided the notice by Company's insurance provider not later than thirty (30) days prior to any reduction or termination of such coverage. City shall not be required to provide any insurance whatsoever pursuant to this Agreement.

Company shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Agreement to obtain insurance coverage that meets or exceeds the 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 (except workers compensation).

ARTICLE X. ATTORNEY FEES

BY EXECUTING THIS AGREEMENT, COMPANY 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. THE COMPANY SPECIFICALLY AGREES THAT IF THE COMPANY 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, THE COMPANY AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH COMPANY MIGHT OTHERWISE BE ENTITLED.

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

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

ARTICLE XI. SOVEREIGN IMMUNITY

By executing this Agreement the City is not waiving its sovereign immunity and retains all immunity from suit. The City is not granting consent to be sued by legislative resolution or action. **THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.**

ARTICLE XII. NO THIRD PARTY BENEFICIARIES

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.

ARTICLE XIII.
RELEASE

NOTWITHSTANDING ANY OTHER PROVISIONS, COMPANY 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.

ARTICLE XIV.
GENERAL PROVISIONS

A. Waiver. No waiver by City of a breach of any covenant, condition, or restriction of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction contained in this Agreement.

B. Governing Law and Venue. 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.

C. Notice. Any notice or demand that shall be made regarding this Agreement, shall be made in writing and delivered either in person or by certified or registered mail. Notice by mail shall be complete upon deposit of the paper, postage prepaid, in a post office or official depository under the care and custody of the United States Postal Service addressed as follows:

If to City:	City Manager's Office
	P.O. Box 1152
	Midland, Texas 79702

If to Company: Parkhill Smith & Cooper, Inc.
1700 W. Wall Street, Ste. 100
Midland, Texas 79701

The parties hereto may change the above designated addresses by giving notice pursuant to the terms of this Section.

D. Severability. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, this invalidity, illegality, or unenforceability shall not affect any other provision of the Agreement, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein.

E. Use of Language. Words in the singular shall be held to include the plural, unless the context otherwise requires.

F. Amendments, Modifications, Alterations. No amendment, modification, or alteration of the terms of this Agreement shall be binding unless it is in writing, dated subsequent to the date of this Agreement, and duly executed by the parties to this Agreement.

G. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed as original, and all of which shall constitute one and the same instrument.

ARTICLE XV.
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, Company or his 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 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 the Company will settle, the physical and mailing addresses of Company at the time and date the claim was presented and the physical and mailing addresses of Company for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Company 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 Company that Company's 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, Company's failure to comply with the requirements herein shall perpetually bar Company'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. Company agrees that the requirements of this entire Agreement are reasonable.

ARTICLE XVI. ASSIGNMENT

Company 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.

EXECUTED IN DUPLICATE the day and year first above mentioned.

THE CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Company :
PARKHILL SMITH & COOPER, INC.

By: _____

Title: _____

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____
_____ known to me to be the person whose name is subscribed to the foregoing
instrument and acknowledged to me that he executed the same for the purposes and
consideration therein expressed on behalf of PARKHILL SMITH & COOPER, INC.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of
_____, A.D., 2012.

Notary Public, State of Texas

Printed Name

My Commission Expires:_____

Exhibit A

SCOPE OF SERVICES

CITY OF MIDLAND – SH 191 GRAVITY SEWER, LIFT STATION, AND FORCE MAIN PROJECT

TASK ORDER NO. 2

DESIGN, BID PHASE, AND CONSTRUCTION PHASE SERVICES

PROJECT DESCRIPTION

The project consists of providing engineering services for the design phase, bid phase, and construction phase for the SH 191 LIFT STATION, FORCE MAIN, & GRAVITY LINES PROJECT as described in the SH 191 Water and Sewer Lines – Route and Feasibility Study, Preferred Option, except as modified herein. The Lift Station is to be located on new city property near the intersection of FM 1788 and SH 191. This Task Order includes design of the lift station; approximately 23,000 ft. of 8 to 12-inch gravity sewer; approximately 10,000 ft. of 8-inch gravity sewer draining to the lift station; and approximately 4,250 ft. of 4-inch force main needed to connect the Lift Station to the new sewer collection system.

Services include coordination with Owner's Engineering Department, Utilities Department, and others as necessary; coordination with TCEQ; coordination with utility companies; coordination with TxDOT; right-of-way acquisition services; completion of sealed bid construction documents; and providing assistance to Owner during the bid phase and construction phase. The Owner as referred to in this task order is the City of Midland (CoM). The following is a list of tasks required for completion of this project:

TASK	
100	Project Management & Administration
200	Right-of-Way Acquisition
300	Survey and Geotechnical Investigation
400	Preliminary Design
500	95% Design
600	Final Design
700	Bid Phase Services
800	Construction Phase Services

100.00 PROJECT MANAGEMENT & ADMINISTRATION

100.01 Develop/Establish Project Management Systems, including:

- A. Work breakdown, resources, and scope
- B. Project budget and project schedule
- C. Project account and set-up project files

100.02 Provide ongoing project management and administration, including:

- A. Monthly project schedule and budget review/update
- B. Monthly progress reports. Progress report shall include a spreadsheet showing estimated percent completion of each task, the percent of the contract for which compensation is requested, and the % time elapsed. The progress report will be in simplified format, generally limited to one or two pages, and will include:
 - 1. Overview of Project Activity
 - 2. Updated Progress Schedule showing planned progress vs. actual progress
 - 3. Next Month Activity Highlights
 - 4. Issues/Coordination items
- C. Ongoing project management and internal coordination. This subtask includes internal project management activities including – weekly design team and sub-team coordination meetings; on-going action item identification, scheduling and tracking; and activity look ahead and early problem identification and mitigation.

TASK 100 COST = \$14,000

200.00 RIGHT-OF-WAY ACQUISITION

The purpose of Task 200 is to provide and prepare Right-of-Way Maps and Right of Way Acquisition for the extension of wastewater lines along SH191. Said work shall be developed in compliance with applicable **City** of Midland codes.

Some surveying required for completion of this project may be provided by the **City** of Midland. Some legal services required for completion of this project may be provided by the **City** of Midland.

200.01 Right-of-Way Data Collection

- A. Records Research/Right-of-Way Base Map
 - 1. The **ENGINEER**, with assistance from the **City** of Midland, will summarize deed research, ownership information (preliminary title date) and describe the current deed book and page number.
 - 2. The **ENGINEER**, will prepare a ROW base map to include survey reference information, existing ROW lines, property lines, and easements.
- B. Parcel Plats, Appraisal Sketches, and Right-of-way Maps

The **ENGINEER** will assemble parcel plats, appraisal sketches, and ROW maps (English Units) in accordance with requirements of the **City** of Midland's legal department. All right-of-way documents must be signed and sealed by the Texas Registered Professional Land Surveyor (RPLS), and comply with the Professional Land Surveying Practices Act, the General Rules of Procedures and Practices, and Minimum Standards of Practice promulgated by the Texas Board of Professional Land Surveying. All survey documents will be signed and sealed by the **ENGINEER's** surveyor.

 - 1. A title sheet, ROW map, and ownership sheet(s) shall be prepared and furnished by the **ENGINEER**.

The **ENGINEER** shall provide the **City** with one set of 11" x 17" Mylar originals of the right-of-way maps with registered professional land surveyor's seal and signature on each sheet, and three sets of prints of the right-of-way maps.

2. The **ENGINEER**, with the assistance of the **City** of Midland surveyor, shall prepare parcel plats, appraisal sketches, area calculation sheets, and metes and bounds descriptions for all areas identified as necessary for roadway purposes. The appraisal sketch shall show additional information regarding deed area of the whole, and the remainder.

200.02 ROW Acquisition and Miscellaneous Work

A. ROW Appraisals and Acquisition

For the purposes of this Scope of Services it is assumed that all right-of-way will not be donated to the **City** of Midland and landowners will exercise their right to an appraisal.

For the estimated twenty-two (22) parcels involved in this project, the **ENGINEER** shall prepare all correspondences, forms, appraisals, offer forms and other documentation as required by the **City** to acquire ROW and coordinate recordation of donation deeds in the official property records.

For the purpose of this project, it is assumed that the title to all property acquired will be the **City** of Midland and information collected on the Base Map.

B. Utility Adjustments

1. The **ENGINEER** shall provide the locations (in plan view only) of existing utilities within the proposed right-of-way on the ROW Map, based on information furnished by the **City** of Midland, Texas.
 2. The **ENGINEER** shall incorporate existing utilities into the preliminary and final plans.
 3. The **ENGINEER** shall furnish 50% plans to each utility company for coordination of adjustments. The actual design and relocation of existing utilities will be by a separate contract.
 4. The **ENGINEER** shall conduct utility coordination meetings, as necessary, including field visits, to establish locations of all existing and future utilities. The **ENGINEER** shall work with the individual utility owners and the **City** to determine the extent to which the pipeline design can accommodate utilities or to which the utilities must be relocated or adjusted.
- C. The **ENGINEER** shall notate the results from any hazardous material survey as provided by the **City** as notations and/or depictions on the ROW maps.
- D. Based on information furnished by the **City** of Midland, the **ENGINEER** shall note on the ROW map the locations and size of any necessary drainage and/or construction easements.
- E. The **ENGINEER** will obtain right-of-entry for properties within the areas of proposed right-of-way for undertaking environmental, geotechnical, and survey investigations. The plan will also be summarized as a list and cross-referenced to the Mailing/Contact list. The **ENGINEER** will maintain and update the right-of-entry plan and list.

TASK 200 COST = \$100,000

300.00 SURVEY AND GEOTECHNICAL INVESTIGATION

The purpose of Task 300 is to obtain the survey and geotechnical information needed for design of the lift station and associated pipelines. Surveying activities to be completed include establishing vertical and horizontal control, locating/verifying existing surface utility features, determining sewer and storm sewer invert elevations, locating/verifying existing roadway features, completing topographic maps for proposed new pipelines, completing topographic map for proposed lift station site, and completing metes and bounds descriptions for additional proposed easements.

300.01 Kick-off meeting with surveyor to review schedule and deliverables.

300.02 Perform initial survey work to establish horizontal and vertical control, determine invert elevation of existing culverts or storm drains, and determine invert elevation of existing sewer lines. (three site visits)

300.03 Review survey deliverables and meet with surveyor to discuss comments (two meetings).

- 300.04 Kick-off meeting with geotechnical consultant to review schedule and deliverables.
- 300.05 Perform geotechnical investigation at the site of the lift station and at locations along the pipeline routes (two site visits).
- 300.06 Review DRAFT Geotechnical Report and meet with Geotechnical Consultant to discuss comments (one meeting).

TASK 300 COST = \$60,000

400.00 PRELIMINARY DESIGN

The purpose of the preliminary design is to develop and refine the preliminary lift station plan layout using updated survey and right-of-way information, define alignments for proposed sewer pipelines, define required permanent ROW widths and typical ROW cross-sections, verify there are no conflicts between proposed sewer lines and existing pipelines, verify minimum inverts required to serve CoM ultimate planning area, and identify FEMA 100 year flood plain elevation. ROW will only be defined and described for the lift station and pipelines defined by the "Preferred Option". The aforementioned items will be developed only in plan view on drawings and then submitted to CoM for review and approval. Once approved, a formal metes and bounds description for the required ROW will be performed under Task 200.

- 400.01 Conduct kick-off meeting with CoM to review design approach, schedule, coordination issues, and obtain CoM as-built record drawings of existing 12-inch dry main stubbed across SH 158.
- 400.02 Develop refined layout for proposed lift station located west of FM 1788 and north of SH 191.
- 400.03 Call Texas 1-Call number and request utility locates along entire route. (three site visits).
- 400.04 Locate existing utilities on right-of-way map provided by surveyor and define alignments for proposed sewer lines.
- 400.05 Verify required invert elevations to meet CoM service area requirements and reconcile any potential conflicts with existing storm sewers or culverts.
- 400.06 Define/update easement requirements and develop/update easement cross-sections.
- 400.07 Prepare and submit plan drawing depicting lift station layout, pipeline alignment, and easement requirements to CoM for review and approval.
 - A. Four (4) Plan Drawings to CoM
- 400.08 Conduct meeting with CoM to review and obtain approval for lift station layout/location and review and obtain approval of required easements.
- 400.09 Prepare meeting minutes from review meeting and distribute to all attendees.
- 400.10 Finalize lift station location, pipeline alignments, and easements. Authorize surveyor to complete formal metes and bounds description under Task 200.

TASK 400 COST = \$55,000

500.00 95% DESIGN

In this Task the selected alternative from the Route and Capacity Study and the preliminary design will be developed into construction Contract Documents to the 95% completion level by the Engineer. Coordination and documentation of design with CoM and various utilities and agencies affected by the design will also be conducted during this phase of design. The specific subtasks associated with this phase are as follows:

- 500.01 Develop plan and profile drawings at 1"=40' for the gravity sewer lines as well as the sewer force main.
- 500.02 Identify and assemble standard detail drawings for lift stations and pipeline.
- 500.03 Develop detailed lift station site layouts and design incorporating final approved lift station location from Task 400 and develop force main and gravity line tie-in details.
 - A. Detailed lift station site/equipment layout and site piping design.

- B. Electrical/SCADA design and power service extension coordination with Oncor Electric (two meetings).
- C. Complete drainage and grading plan in conformance to City of Midland so drainage criteria and design driveway access as well as access road to the approved lift station location.
- D. Design pipeline tie-in details (4-inch force main discharge and 8-inch gravity inlets.)
- E. Structural and/or foundation design for wet wells and valve vault.
- 500.04 Develop sequence of construction notes sheet (startup plan) for putting the CoM Lift Station into service.
- 500.05 Develop basis for liquidated damages or construction incentives.
- 500.06 Prepare 95% Plans
- 500.07 Prepare 95% Technical Specifications
- 500.08 Prepare 95% Cost Opinion.
- 500.09 Prepare 95% front-end documents and incorporate project specific minimum criteria and basis for liquidated damages.
- 500.10 Prepare itemized bid proposal
- 500.11 Determine bid and award schedule, review status of permits, and review status of TxDOT and CoM approvals.
- 500.12 Conduct In-House QA/QC review
- 500.13 Submit full-size plans and specifications as indicated below with cover letter (specified return date) to the following for review and comment:
 - A. Four (4) sets of Plans & Specifications to CoM (with 95% cost opinion).
 - B. Two (2) sets of Plans & Specifications to TxDOT
 - C. Three (3) sets of Plans and Specifications to TCEQ
 - 1. Two (2) sets to Austin
 - 2. One (1) set to local CoM office
 - D. One (1) set of Plans to Oncor Electric Company
 - E. One (1) set of Plans to AT&T
 - F. One (1) set of Plans to Atmos Energy
- 500.14 A review meeting between CoM, Utility companies, and Engineer will be scheduled and conducted to obtain and discuss 95% review comments.
- 500.15 Prepare meeting minutes from review meeting and distribute to all attendees.

TASK 500 COST = \$105,000

600.00 FINAL DESIGN

This phase of design will consist of incorporating 95% review comments from the CoM, TCEQ, and the various utility companies into the sealed plans and specifications as well as completing a final cost opinion.

- 600.01 Review comments from 95% review meeting and QC will be incorporated or addressed.
- 600.02 Prepare final front-end, technical specifications and liquidated damages rate justification.
- 600.03 Prepare final drawings.
- 600.04 Prepare final cost opinion.
- 600.05 Update project bid and award dates.
- 600.06 Conduct final QA/QC review
- 600.07 One (1) PDF full size (34" x 22") set of final plans and one (1) PDF final specifications will be submitted to Owner along with a final cost opinion, liquidated damages rate justification, and an updated bid schedule.
- 600.08 Submit full size (34" x 22") sealed final plans and specifications as indicated below with cover letter, indicating anticipated construction, to the following:
 - A. Two (2) sets of Plans and Specifications to TCEQ as follows:
 - i. One (1) set to Austin Office

- ii. One (1) set to Midland Office
- B. Four (4) sets of Plans and Specifications to City of Midland Departments as follows:
 - i. Three (3) sets to the Engineering Department.
 - ii. One (1) set to the Utilities Department
- C. One (1) set of Plans to Oncor Electric Company
- D. One (1) set of Plans to AT&T
- E. One (1) set of Plans to Atoms Energy

TASK 600 COST = \$45,000

700.00 BID PHASE SERVICES

- 700.01 Contact prospective bidders, generate interest for project, review/update cost opinion – *assess current bidding environment and potential impact to project.*
- 700.02 Prepare and conduct the pre-bid conference.
- 700.03 Prepare pre-bid conference meeting minutes and distribute to attendees.
- 700.04 Prepare addenda.
- 700.05 Prepare technical clarification to bidders and respond to bidders questions.
- 700.06 Evaluate apparent low bidder and complete evaluation matrix.
- 700.07 Prepare draft recommendation of award and deliver copies of the evaluation package to the City of Midland for review and comment.
- 700.08 Incorporate CoM review comments into final recommendation and transmit along with final supporting documentation.

TASK 700 COST = \$10,000

800.00 CONSTRUCTION PHASE SERVICES

In this task, PSC will provide services as needed and requested by the City of Midland during the construction of the improvements included in previous parts of this scope. Potential sub-tasks are as follows:

- 800.01 Office Engineering and Construction Administration Services
 - A. Supervise field staff and operations.
 - B. Conduct pre-construction meeting, develop agenda, list of invitees and provide meeting minutes.
 - C. Make necessary interpretations and clarifications of Contract Documents.
 - D. Review shop drawings and submittals from Contractor for compliance with the design.
 - E. Collate Shop Drawings and Maintain Documents
 - F. Review Contractor's construction schedules.
 - G. Make periodic visits to project site at intervals appropriate to various stages of construction to observe the quality of the executed work and report to Owner.
 - H. Provide monthly activities report to Owner whether invoice is sent or not.
 - I. Attend project progress meetings at jobsite.
 - J. Field Engineering Support
 - a. Work with the Contractor and Owner to resolve project issues.
 - b. Issue instructions from PM to Contractor, through the RPR.
 - c. Review and provide decisions as to suitability.
 - K. Coordinate with Texas Highway Department (TXDOT), Oncor Electric, and the City of Midland.
 - L. Maintain construction project records for turnover to Owner

- M. Approve amounts for progress payments due to Contractor based on completion of work and recommend issuance of such payments by the Owner. Transmit with Contractor's and Subcontractor's payrolls to Owner.
- N. Prepare work directive changes (WDC) within 2 working days of change occurrence. Issue approved WDC within 5 working days. WDC's shall include PSC's Estimate of Probable Cost, the probable impact to time (or lack thereof), and requires the signature of the Owner's Project Construction Manager.
 - 1. PSC will subsequently negotiate the cost of each Work Directive Change and incorporate such changes into a proposed Change Order, with appropriate documentation attached, for Owner's written acceptance.
 - 2. PSC is not authorized to commit to a final price or time extension without the written acceptance of the Owner in the form of a Change Order. A cost-price analysis shall be submitted with the proposed Change Order. When outside funding agencies are involved, they review and approve change orders for the following: Eligibility of funding; cost-price analysis; compliance with state design criteria; and environmental determination.
 - 3. *Additionally, cumulative changes exceeding 2% of original bid price, or which constitute a departure from the original scope of work, require Council approval.*
- N. Witness testing of equipment and facilities, including station control panel check-out and I&C loop checks.
- O. Provide substantial completion inspection walk-through of each project.
- P. Issue Engineer's Certificate of Substantial Completion, including punch list items and all other closeout requirements, to Owner for signature. Contractor's Retainage shall not be reduced below 5% without the written consent of the Owner. When outside funding agencies are involved, their approval of this reduction is required.
- Q. Perform final inspection of project, recommend acceptance; and provide Engineer's Certificate of Final Completion, along with a complete closeout package to Owner.
- R. Prepare and submit to the Owner an evaluation of Contractor's performance on the project.
- S. Prepare/deliver documents for final close-out
- T. Conduct a warranty inspection of the project within 30 days before end of one year from the date of Substantial Completion and submit a written report to Owner. Outside funding agencies may require a Certification of Project Performance.

800.02 RECORD DRAWINGS

- A. Use contractor redline drawings to compile record drawings. Cross check against RPR daily logs. Provide the Owner a PDF set of record drawings.

800.03 FIELD ENGINEERING & INSPECTION SERVICES

Resident Project Representatives (RPR) shall perform services in accordance with Suggested Listing of Duties, Responsibilities, and Limitations of Authority of Resident Project Representative prepared by Engineer's Joint Contract Documents Committee, and superseded in amended form below:

- A. Review and approve the progress schedule updates and the schedule of Shop Drawing submittals prepared by Contractor.
- B. Attend meetings with Owner and Contractor, such as progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.
- C. Serve as the liaison with Contractor, working principally through Contractor's superintendent. Report to Engineer when clarifications and interpretations of the Contract Documents are needed and transmit to the Contractor, clarifications and interpretations as issued by PSC Office Engineer.

- D. Serve as liaison with Contractor when Contractor's operation affects Owner's and Airport's on-site operations. Obtain from Owner additional details or information when required for proper execution of the work.
- E. Record date of receipt of Shop Drawing and samples of materials. Submit to Office Engineer.
- F. Accompany the Contractor during videotaping the project corridor before start of construction and after completion to document pre- and post-project conditions.
- G. Advise Contractor he may not commence any Work requiring a Shop Drawing or sample if the submittal has not been approved.
- H. Conduct on-site observations of the Work in progress. Advise the Engineer if the Work is, in general, proceeding in accordance with the Contract Documents.
- I. Notify the Engineer whenever Work is believed to be unsatisfactory, faulty, defective, not in conformance with the Contract Documents, damaged, or not meeting the requirements of any inspection, test or approval required to be made; and advise the Contractor of Work that Engineer believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection, or approval.
- J. Verify that test, equipment and systems start-ups and operating and maintenance training are conducted in the presence of appropriate personnel, and the Contractor maintains adequate records thereof; and observe, record and report to the Engineer appropriate details relative to the test procedures and start-ups.
- K. Schedule field compliance tests and retests, confirm that these tests are conducted in the presence of the appropriate personnel; observe record and report the appropriate test results. Maintain records of failed tests.
- L. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, and record the results of these inspections and report to Engineer.
- M. Ensure Wage Rates are posted on site. Ensure all payrolls from prime and subcontractors are submitted with each monthly pay request as a condition precedent to approval and perform quality assurance reviews, as well as periodic interviews of various contractor employees on site. QA consists of performance of a representative number of checks of each prime and subcontractor payroll against the wage scale. Highlight the employee rates checked before turning over reports with payrolls each month. Ensure NPDES Permit and SW3P is posted at site and followed by Contractor. Ensure Notice of Termination is included with the close-out package.
- N. Consider and evaluate Contractor's suggestions for modifications to drawings or specifications and transmit recommendations to Engineer. Notify Contractor of the decision.
- O. Maintain for use at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and Samples, Contract Documents including all Addenda, Work Directive Changes, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Contract, clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
- P. Keep a daily log recording Contractor's hours on the job site, weather conditions, equipment on site where applicable, data relative to questions about Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general, and specific observations in more detail, as in the case of the observing test procedures. Send copies to Engineer.
- Q. Record names, addresses and telephone numbers of all Contractor, subcontractors and major suppliers of materials and equipment.

- R. Prepare monthly reports of progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawings and sample submittals. Submit reports with invoices and payrolls on a monthly basis.
- S. Notify Owner in advance of scheduled major tests, inspections, or start of important phases of the Work. Coordinate with Owner's operations staff.
- T. Obtain backup material from Contractor and prepare proposed Work Directive Changes, Change Orders, and Field Orders and forward to Office Engineer for negotiation.
- U. Notify Owner immediately upon the observation or notification of any accident.
- V. Review and recommend approval of payment requests by:
 - 1. Reviewing and approving the Contractor's estimate of the amount of work completed to date.
 - 2. Reviewing the Contractor's estimate of stored materials delivered to the job site but not incorporated in the Work completed to date. Be sure invoice for materials is attached.
 - 3. Confirm receipt in next month's pay application of paid invoice for stored materials approved in previous month's application for payment.
 - 4. Attach the Contractor and Subcontractor payrolls to each request. Check for compliance with Wage Rate Schedule; perform periodic Employee Site Interviews using attached *Record of Employee Interview* form, Exhibit D.
 - 5. *Employee interviews conducted by the RPR will be forwarded to the PSC Engineer to be included with the Contractor's monthly payment application.*
- W. During the course of the Work, review certificates, maintenance and operation manuals and other data required to be assembled and furnished by the Contractor that are applicable to the items actually installed and are in accordance with the Contract Documents. Forward this material to the Engineer prior to issuance of Certificate of Substantial Completion to the Contractor.
- X. Recommend issuance of Certificate of Substantial Completion by Engineer. Attach a list of observed items (punch list) requiring completion or correction.
- Y. Attend final inspection in the company of Engineer, Owner, Airport, and Contractor and prepare a final list of items to be completed or corrected.
- Z. Confirm that all items on final list have been completed or corrected and make recommendations to the Engineer to issue the Certificate of Final Completion for Owner's signature.

Limitations of Authority – Resident Project Representative:

- 1. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by Engineer.
- 2. Shall not exceed limitations of Engineer's authority as set forth in the Agreement or the Contract Documents.
- 3. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
- 4. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.
- 5. Shall not advise on, issue directions regarding, or assume control over safety precautions and programs in connection with the Work.
- 6. Shall not accept Shop Drawing or sample submittals from anyone other than Contractor.
- 7. Shall not authorize Owner to occupy the Project in whole or in part.

8. Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Engineer.

800.04 INSTRUMENTATION AND CONTROLS PROGRAMMING AND CONFIGURATION

- A. Provide engineering services for the development, programming, configuration, and implementation of the lift station automatic control as well as station pre-configuration for connection to Owner's SCADA system. (Detailed scope to be determined after design).

TASK 800 COST = \$113,500

TOTAL COST = \$502,500

\\Data1\Projects\2010\9711.10\ADMIN\CONTRACTS\FINAL\Task 2\Exhibit A - Scope of Services-Task Order No. 2 - CoM SH 191 Gravity Sewer.doc

EXHIBIT B – APPENDIX 1
Parkhill, Smith & Cooper, Inc.
Hourly Rate Schedule
Current through December 31, 2012

<u>Classification</u>	<u>Hourly Rate</u>	<u>Classification</u>	<u>Hourly Rate</u>
PROFESSIONAL LEVEL VII	\$178.00	PROFESSIONAL LEVEL I	\$79.00
Engineer VII		Intern (Architect) I	
Architect VII		Intern (Interiors) I	
Landscape Architect VII		Intern (Landscape Architect) I	
Interior Designer VII		Technologist I	
		Resident Project Representative I	
PROFESSIONAL LEVEL VI	\$151.00	Clerical Supervisor I	
Engineer VI			
Architect VI		SUPPORT STAFF III	\$76.00
Landscape Architect VI		Engineering Technician III, IV	
Interior Designer VI		CADD III, IV	
		Administrative Secretary III	
PROFESSIONAL LEVEL V	\$134.00	Architect Technician III, IV	
Engineer V		Project Assistant I/II	
Architect V			
Landscape Architect V		SUPPORT STAFF II	\$70.00
Interior Designer V		Architect Technician I, II	
		Engineering Technician I, II	
PROFESSIONAL LEVEL IV	\$116.00	CADD I, II	
Engineer III, IV		Accounting Clerk I, II	
Architect IV, Intern (Architect) IV		Administrative Secretary I, II	
Landscape Architect IV		Project Assistant EL	
Interior Designer IV		Word Processor I, II	
Technologist IV		Receptionist I, II	
Resident Project Representative IV		File Clerk I	
PROFESSIONAL LEVEL III	\$98.00	SUPPORT STAFF I	\$40.00
Engineer I/II		Architectural Student EL	
Architect III, Intern (Architect) III		Engineering Student EL	
Landscape Architect III		Landscape Architecture Student EL	
Intern (Landscape Architect) III		Interiors Student EL	
Interior Designer III		CADD EL	
Technologist III		Accounting Clerk EL	
Resident Project Representative III		Word Processor EL	
		Receptionist EL	
PROFESSIONAL LEVEL II	\$87.00	File Clerk EL	
Intern (Architect) II			
Interior Designer II, Intern (Interiors) II			
Landscape Architect II			
Technologist II			
Resident Project Representative II			
Clerical Supervisor II			

Expenses

Reimbursement for expenses, as listed below, but not limited to, incurred in connection with the services, will be at cost plus fifteen percent for items such as:

1. Maps, photographs, postage, telephone, reproductions, printing, equipment rental, and special supplies related to the services.
2. Consultants, soils engineers, surveyors, contractors, and other outside services.
3. Rented vehicles, local public transportation and taxis, road toll fees, travel, and subsistence.
4. Special or job specific fees, insurance, permits, and licenses applicable to the work services.
5. Mileage at IRS approved rate.

Rate for professional staff for legal proceedings or as expert witnesses will be a rate one and one-half times the Hourly Rates specified above.

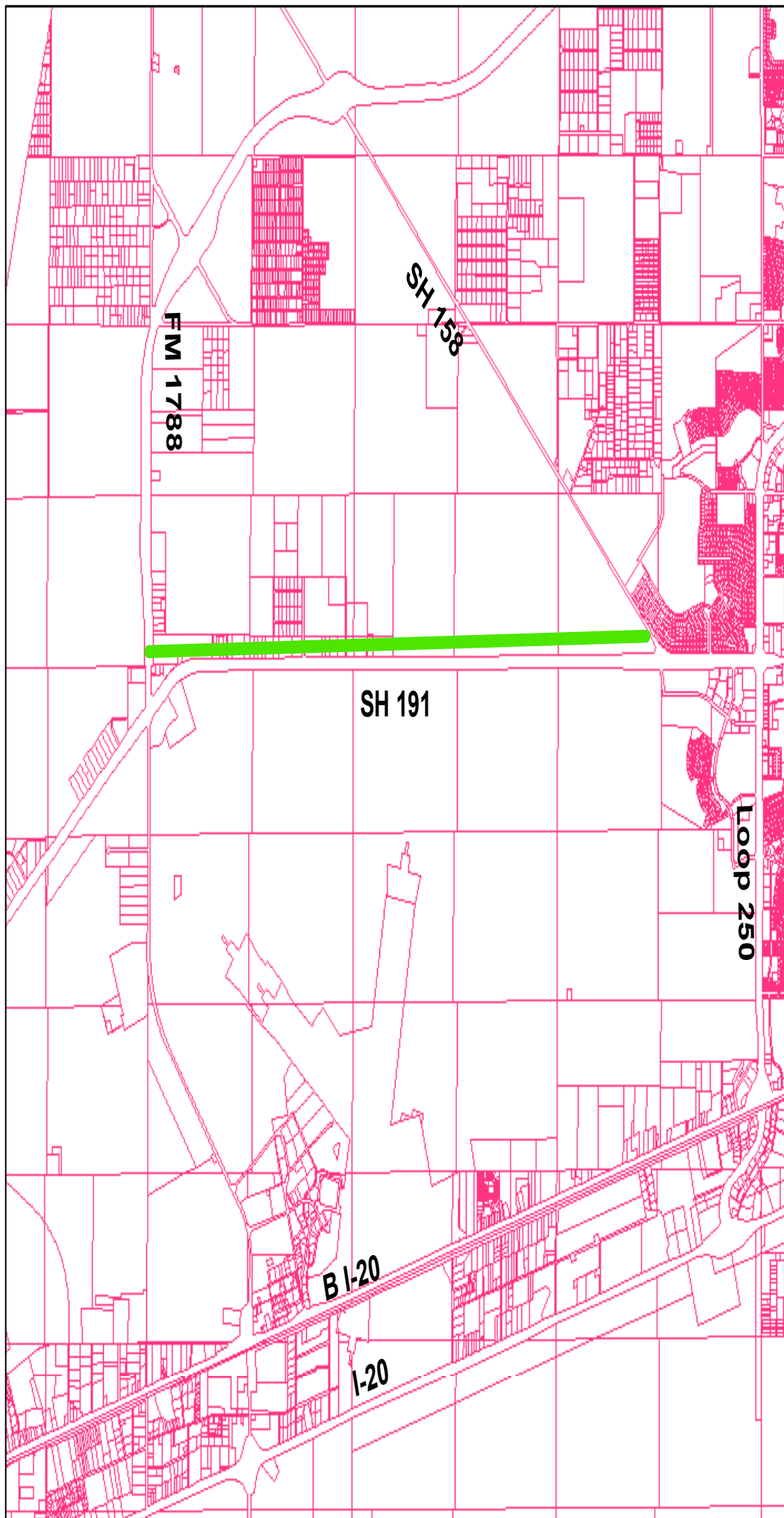
Excise and gross receipts taxes, if any, will be added as an expense.

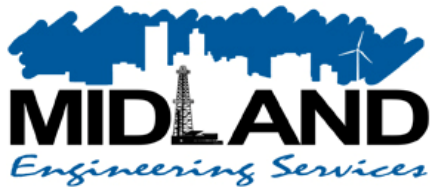
The foregoing Schedule of Charges is incorporated into the agreement for the services provided, effective January 1, 2012 through December 31, 2012. After December 31, 2012, invoices will reflect the Schedule of Charges currently in effect.

ENGINEERING DIVISION

SH 191 Corridor Wastewater Main Extension

Professional Service Agreement





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: David D. Beard, P.E. – City Engineer

SUBJECT: Consider a resolution authorizing the City Manager to advertise a Request for Qualifications (RFQ) for firms to provide professional services (engineering and surveying) for the construction of a water main to serve property on the west side of FM 1788 south of SH 191. (District #4 – Trost)

Purpose:

To advertise a Request for Qualifications to provide professional services (engineering and surveying) for the construction of a water main to serve the property on the west side of FM 1788 south of SH 191.

Recommended City Council Action:

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

No financial impact at this time. Once an engineer is selected, staff will return to Council to request money to be allocated for the Professional Services Agreement and Construction. It is anticipated that the project will be funded through active development and cost sharing agreements with the affected property owners in the project area.

Discussion:

Recently, the City annexed property along FM 1788 south of SH 191. Several of the properties have applied for a building permit to expand their facilities. The process has been cumbersome and in some cases cost prohibitive due to the requirement of fire protection. As a result, a number of the property owners have expressed an interest in participating with the City to construct water distribution facilities to provide domestic service and fire protection. In addition, the construction of the proposed water distribution mains is consistent with the future improvements noted in the SH 191 Route and Capacity Study prepared by Parkhill, Smith, & Cooper.

Attached is a location map, and the RFQ.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR THE CONSTRUCTION OF A WATER MAIN TO SERVE PROPERTY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 1788 AND SOUTH OF STATE HIGHWAY 191; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to advertise a request for qualifications for professional services for construction of a water main to serve property located on the west side of Farm-to-Market Road 1788 and south of State Highway 191; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager, or his designee, to negotiate a professional services agreement with the most qualified provider of said professional services;

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

SECTION ONE. That the request for qualifications for said professional services, which is attached hereto as Exhibit "A" and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That the City Manager, or his designee, is hereby authorized and directed to advertise said request for qualifications and to negotiate a professional services agreement for said professional services with the most qualified provider. Provided, however, that no such agreement shall become effective until approved by the City Council.

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., 2012, by the following vote:

Council members voting “AYE”:

Council members voting “NAY”:

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO CONTENT
AND COMPLETENESS:

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

May 8, 2012

XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXX

Attn: XXXXXXXXXXXXX

Re: Request for Qualifications (RFQ)

The City of Midland, (hereinafter "City") is seeking concise letters of interest and a Statement of Qualifications (SOQ) from parties interested in assisting the City's Engineering Division by providing Professional Services (engineering, surveying, and administration) for the design of water distribution improvements for the Onyx Water Main Improvements (see attached map).

SERVICES

The selected submitter will perform the following services under this agreement:

1. Provide engineering, surveying and administrative services in connection with the design and construction of water distribution improvements for the City of Midland to serve a recently annexed area on the west side of FM 1788 south of SH 191.
 - a. Preparing preliminary engineering estimates, including project alternatives and associated opinions of probable cost;
 - b. Perform essential surveying work and prepare field notes to assist in acquiring necessary rights-of-way;
 - c. Accomplish required topographic surveying and engineering work to develop a detailed set of construction drawings and technical specifications;
 - d. Provide technical assistance in the bid and award process;
 - e. Work with City staff to administer the project (project meetings, periodic on-site observation, construction meetings, preparation of change orders, review pay requests).

QUALIFICATIONS

Exhibit "A"

The Statement of Qualifications should include:

1. Resumes of the proposed project team including at least one professional with a minimum of five (5) years experience in the development, management and oversight of public works construction projects;
2. Demonstrated familiarity with City of Midland standards pertaining to water distribution improvements;
3. References including project descriptions and client contact information for recent similar projects in which the proposed project team was directly involved;
4. Estimated time for completion of the project;
5. Availability of key personnel and ability to commit their time throughout the life of the project;

SELECTION

The City will make its selection from those responding to this RFQ. If deemed necessary by the City, interviews with the firms deemed most qualified, may be conducted. Once a selection is made, the chosen firm will be requested to submit a detailed scope of work and cost estimate to perform the services. If a mutually satisfactory agreement cannot be reached with the selected professional, negotiations will be terminated with that firm and the negotiation process may be initiated with the next most qualified firm. The process may be repeated until a mutually satisfactory agreement is reached. The City maintains the right to terminate the selection process at any time if they feel it is in the best interest of the project. At such time as an agreement is reached, City staff will make a recommendation to the City Council to execute a contract pursuant to the agreement and subject to the availability of funding. The City reserves the right to accept or reject any or all proposals and to accept what in the judgment of the Mayor and City Council is the most advantageous proposal.

SUBMITTAL

Three (3) copies of the Statement of Qualifications should be submitted. The submittal should not include fees or any other cost estimates. The entire qualification package can be no more than 20, one-sided pages. Text is to be presented in Times 12 format with minimum margins of one-inch on all sides. The total page number shall include all corporate brochures and materials that may be submitted with the Statement of Qualifications. Failure to include all requested information in the qualifications package or follow the format guidelines included herein shall be grounds for disqualification from consideration.

Statements of Qualifications are to be submitted no later than 5:00 p.m., on May 31, 2012, to the following:

City of Midland
Engineering Division
PO Box 1152

Street Address:
300 North Loraine

Midland, Texas 79702
Attn: David D. Beard, P.E.

Midland, Texas 79701

Only timely submittals received from invited firms will be considered.

WAIVER

A. WAIVER OF CLAIMS ARISING FROM THE COMPETITIVE REQUEST FOR QUALIFICATION PROCESS OF AWARD OF CONTRACT

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR THE CITY'S EMPLOYEES, AGENTS AND OFFICERS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE FOLLOWING:

1. THE ADMINISTRATION, EVALUATION OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS.
2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE STATEMENT OF QUALIFICATIONS OR THE CONTRACT DOCUMENTS.
3. ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATION.
4. AWARD OF CONTRACT.

By submitting a Statement of Qualifications, the submitter acknowledges that he or she understands all terms of the proposal documents and consents to the competitive selection process and the possibility of a negative assessment. By submitting a Statement of Qualifications, the submitter acknowledges and agrees that there was and is no disparity of bargaining power between the submitter and the City.

The submitter agrees that this is the intentional relinquishment of the above listed presently existing known rights.

B. WAIVER OF ATTORNEY FEES

BY SUBMITTING A STATEMENT OF QUALIFICATIONS, EACH SUBMITTER AGREES TO WAIVE AND DOES HEREBY WAIVE ANY CLAIM THE SUBMITTER HAS OR MAY HAVE AGAINST THE CITY AND/OR ITS RESPECTIVE EMPLOYEES AND REPRESENTATIVES, FOR THE AWARD OF ATTORNEY FEES, ARISING OUT OF OR IN CONNECTION WITH THE ADMINISTRATION, EVALUATION, OR RECOMMENDATION OF ANY STATEMENT OF QUALIFICATIONS, WAIVER OF ANY REQUIREMENTS UNDER THIS RFP, ACCEPTANCE OR REJECTION OF ANY STATEMENT OF QUALIFICATIONS, AND AWARD OF THE CONTRACT. BY SUBMITTING A STATEMENT OF QUALIFICATIONS, THE SUBMITTER SPECIFICALLY WAIVES ANY RIGHT TO RECOVER OR BE PAID

ATTORNEY'S FEES FROM THE CITY OR ANY OF THE CITY'S EMPLOYEES AND REPRESENTATIVES UNDER ANY OF THE PROVISIONS OF THE TEXAS UNIFORM DECLARATORY JUDGMENTS ACT (TEXAS CIVIL PRACTICE AND REMEDIES CODE, SECTION 37.001, ET. SEQ., AS AMENDED).

The submitter agrees that this is the intentional relinquishment of a presently existing known right.

By execution and submission of a Statement of Qualifications under this RFQ, the submitter hereby represents and warrants to the City that the submitter has read and understands the RFQ and the Statement of Qualifications is submitted in accordance with this RFQ. The submitter acknowledges that it understands all terms within the proposal documents, which include the waiver provisions, and that it had the right to consult with counsel regarding all of the above documents.

This section shall not be construed as a Waiver of Sovereign Immunity.

SOVEREIGN IMMUNITY

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.

QUESTIONS REGARDING THIS REQUEST

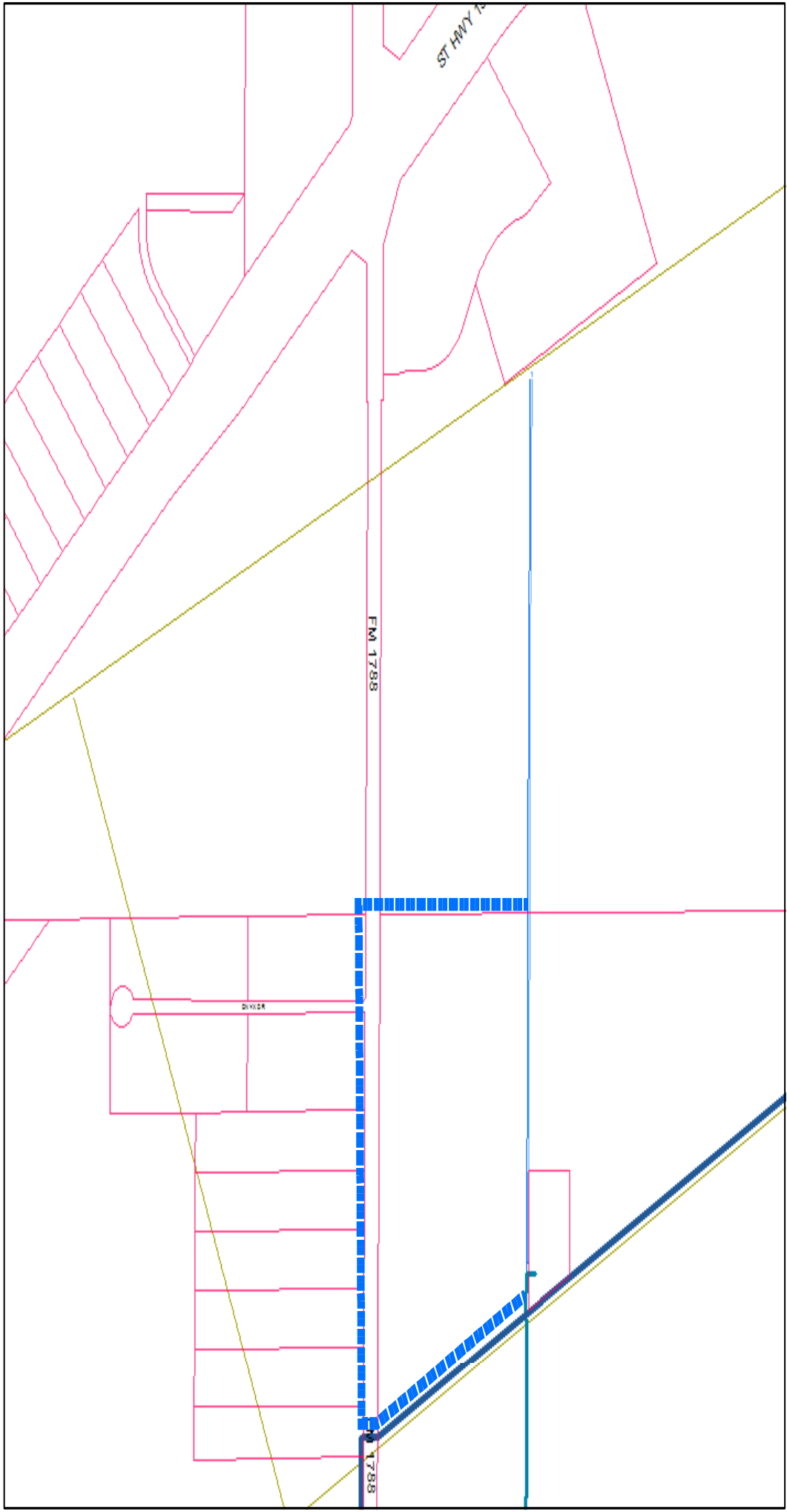
Questions should be directed to:

David D. Beard, P.E.
Phone No. (432) 685-7286
Fax No. (432) 685-1786

Very truly yours,

A handwritten signature in black ink that reads "David D. Beard". The signature is written in a cursive, flowing style.

David D. Beard, P.E.
City Engineer



**ENGINEERING SERVICES
DEPARTMENT**

**ONYX Water Main Improvements
(RFQ)**

Ordinance





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Stuart T. Purvis, Director of Utilities

SUBJECT: Award of the MBR Satellite Reclaimed Water Production Facility Project to Red River Construction Company and Appropriating Funds

Purpose:

Consider a resolution awarding the MBR Satellite Reclaimed Water Production Facility Project to Red River Construction Company and appropriating funds.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Award amount is \$6,540,000 from the 2012 Bond Sales.

Discussion:

This project will be to construct a 200,000 gallon per day water reclamation facility to provide irrigation water to Midland College. This water will meet all TCEQ standards for water to come into human contact. It should provide all the irrigation demands for Midland College and could have additional water available for Windlands Park. Midland College's irrigation demands are approximately equal to the indoor use of 125 homes.

There were two bidders on this project, Red River Construction was the lowest at \$6,540,000 with the second bid being \$7,098,500. The construction estimate was \$6.6 million so the project came in almost exactly at the estimate.

Red River has been working with the City of Midland for many years on multiple projects and has always done an outstanding job. It is the staff recommendation to award this project to them.

RESOLUTION NO.

RESOLUTION AWARDING THE MEMBRANE BIOLOGICAL REACTOR SATELLITE RECLAIMED WATER PRODUCTION FACILITY PROJECT TO RED RIVER CONSTRUCTION COMPANY, AT A TOTAL COST OF \$6,540,000.00; AND APPROPRIATING FUNDS; AND THE PROJECT WILL INCLUDE THE CONSTRUCTION OF A WATER RECLAMATION FACILITY TO PROVIDE IRRIGATION WATER TO MIDLAND COLLEGE

WHEREAS, the Utilities Department advertised the Membrane Biological Reactor Satellite Reclaimed Water Production Facility Project for competitive bids; and

WHEREAS, Red River Construction Co. has submitted the lowest and most responsible bid for the performance of said project in the total amount of \$6,540,000.00, as shown on the bid tabulation attached hereto as Exhibit “A” and incorporated herein for all legal purposes; and

WHEREAS, the City Council finds it to be in the public interest to execute a contract with Red River Construction Co. for said project, and to appropriate the necessary 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, a contract with Red River Construction Co. for said project at a cost not to exceed \$6,540,000.00, said contract being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$6,540,000.00 is hereby appropriated from the Water and Sewer Improvements 2012 CO Bond Fund (381) Unappropriated Fund Balance (5650) to the MBR Satellite Reclaimed Water Production Facility (8984).

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay Red River Construction Co. pursuant to the terms of said contract from funds appropriated herein upon receipt of proper 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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



One Glen Lakes
8140 Walnut Hill Lane, Suite 1000
Dallas, Texas 75231
tel: +1 214 346-2800
fax: +1 214 987-2017
cdmsmith.com

April 18, 2012

Mr. Stuart T. Purvis, PE
Director of Utilities
City of Midland
300 N. Lorraine
Midland, TX 79702

Subject: MBR Satellite Reclaimed Water Production Facility Project Bid Award Recommendation
Project No. WPCP12-100/8984

Dear Mr. Stuart:

We have completed our review of the bids for the MBR Satellite Reclaimed Water Production Facility. The bids received from Red River Construction Co. and Archer Western Contractor, LLC are tabulated in the attached Bid Tabulation. The apparent low bidder is Red River Construction Co., with a total base bid of \$6,540,000.00.

Red River Construction Co. is a prominent municipal works contractor and is currently the general contractor on several City of Midland projects including the Midland Airport and Paul Davis Sites, and Midland Headworks Improvements.

Based on above, CDM Smith recommends that the MBR Satellite Reclaimed Water Production Facility Project be awarded to Red River Construction Co., in the total bid amount of \$6,540,000.00.

Please contact us at (214) 346-2800 if we can be of further assistance.

Very truly yours,

Sincerely,

A handwritten signature in black ink, appearing to read "Samir S Mathur".

Samir S Mathur, P.E., BCEE
Associate
CDM Smith Inc.

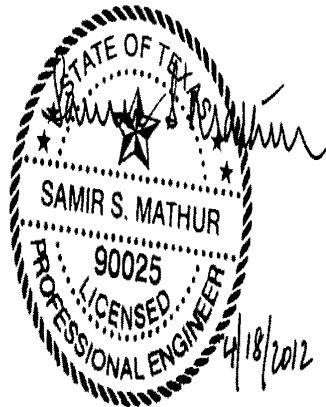
Attachment: Bid Tabulation

Exhibit "A"

City of Midland, Texas
MBR Satellite Reclaimed Water Production Facility
Project No. WPCP12-100/8984

Bid Tabulation
Bids Received 3.00 P.M. April 17, 2012

Bid Item No.	Description	Red River Construction co.				Archer Western Construction, LLC			
		Quantity	Unit	Unit Bid Price	Total Bid Price	Quantity	Unit	Unit Bid Price	Total Bid Price
1	Construction of MBR Satellite Reclaimed Water Production Facility Excluding Items 2 and Items 3.	1	L.S.	5990000	\$5,990,000.00	1	L.S.	6547000	\$6,547,000.00
2	Design, Installation and Removal of Trench Safety System.	1500	L.F.	2	\$3,000.00	1500	L.F.	3	\$4,500.00
3	ALLOWANCE for Owner selected Membrane Filtration System including furnishing equipment and start-up, testing and training services.	1	L.S.	547000	\$547,000.00	1	L.S.	547000	\$547,000.00
Total Bid Price					\$6,540,000.00				\$7,098,500.00



City of Midland
CITY ATTORNEY'S OFFICE
Office Memorandum

DATE: April 30, 2012

TO: The Honorable Mayor and City Council Members

FROM: John Ohnemiller, First Assistant City Attorney

SUBJECT: APPROVAL OF THE AMENDED BYLAWS OF THE MIDLAND DEVELOPMENT CORPORATION ("MDC")

At their April 27 meeting, the MDC Board of Directors approved amended bylaws governing the corporation. The amended bylaws contain only one change from the prior version: The title of the chief operating officer has been changed from "President" to "Executive Director."

The proposed resolution approves the MDC's amended bylaws.

If you have any questions about this matter, please do not hesitate to contact me or Keith Stretcher at 685-7253.

JO/lo

RESOLUTION NO.

**RESOLUTION APPROVING THE AMENDED BYLAWS
OF THE MIDLAND DEVELOPMENT CORPORATION**

WHEREAS, on April 27, 2012, the Board of Directors of the Midland Development Corporation approved and adopted Amended Bylaws for the Midland Development Corporation and recommended to the City Council that the Amended Bylaws be approved; and

WHEREAS, the City Council finds it to be in the public interest to approve the Amended Bylaws of the Midland Development Corporation which have been adopted by the Board of Directors of the Midland Development Corporation;

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

THAT the Amended Bylaws of the Midland Development Corporation which are attached hereto, marked as Exhibit "A", and incorporated herein for all legal purposes, are hereby approved.

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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**AMENDED AND RESTATED
BYLAWS OF
THE MIDLAND DEVELOPMENT CORPORATION**

ARTICLE I

PURPOSE AND DUTIES

Section 1. **Purpose.** The Corporation is incorporated for the purposes set forth in Article Four of its Articles of Incorporation, and in accordance with the Development Corporation Act of 1979, as amended; Tex. Loc. Gov't Code Ann. Chapter 501, (the "Act"), and other applicable laws.

Section 2. **Duties and Powers.** In the fulfillment of its corporate purpose, the Corporation shall be governed by the Act, and shall have all of the powers set forth and conferred in its Articles of Incorporation, in the Act, and in other applicable law, subject to the limitations prescribed therein and in these Bylaws and Articles of Incorporation.

ARTICLE II

BOARD OF DIRECTORS

Section 1. **Powers, Number and Term of Office.**

(a) The affairs of the Corporation shall be managed and controlled by a Board of Directors (the "Board") and, subject to the restrictions imposed by law, by the Articles of Incorporation, and by these Bylaws. The Board shall exercise all of the powers of the Corporation.

(b) The Board shall consist of five (5) directors, each of whom shall be appointed by the City Council (the "Council") of the City of Midland, Texas ("City").

(c) The directors shall be appointed and shall serve for three (3) years or until

his or her successor is appointed as hereinafter provided.

(d) No member of the Board shall serve more than two (2) consecutive full terms.

(e) Any director may be removed from office by the Council at will, by the affirmative vote of four (4) Council Members.

(f) The Mayor or his designee, the City Manager or his designee and the City Attorney or his designee may attend all meetings of the Board of Directors or Committees, including executive or public. These representatives shall not have the power to vote in the meetings they attend. Their attendance shall be for the purpose of ensuring that information about the meetings is accurately communicated to the City Council and to satisfy the City Council obligation to control the powers of the Corporation.

The Board of Directors and Council may appoint ex-officio members to serve on the Board of Directors until the next annual meeting. All ex-officio members must be approved by the City Council. The ex-officio members may attend all public meetings of the Board of Directors or Committees. The representatives shall not have the power to vote in the meetings they attend.

(g) Regular attendance of the Board meetings is required of all members. The following number of absences may constitute the need for replacement of a member: three (3) consecutive absences, or attendance reflecting absences constituting 50% of the meetings over a twelve (12) month period. In the event replacement is indicated, the member will be counseled by the Chairman and, subsequently, the Chairman shall submit in writing to the City Manager the fact that there may be a need to replace the Board

member in question.

(h) Any vacancy occurring among Directors on the Board shall be filled by appointment by the Mayor with approval by the City Council.

Section 2. **Notice of Meetings.** The Board shall meet at least quarterly in the Midland City Hall Basement Conference Room or at such other places within the City as the Board may from time to time designate. All meetings of the Board shall provide notice thereof as provided and set forth in the Texas Open Meetings Act. Any member of the Board may request that an item be placed on the agenda by delivering the same in writing to the secretary of the Board no later than ten (10) days prior to the date of the Board meeting. The Chairman of the Board shall set regular meeting dates and times at the beginning of his/her term. The annual meeting of the Board of Directors shall be in January of each year.

Notice of any meeting of the Board shall be given to the public in accordance with the requirements of the Texas Open Meetings Act. The notice shall contain information regarding the particular time, date, and location of the meeting and the agenda to be considered. All meetings of the Board shall be conducted in accordance with the Texas Open Meetings Act.

All meetings of the Board shall be held in the City of Midland, Texas.

Section 3. **Quorum.** Directors must be present in order to vote at any meeting. A majority of the directors shall constitute a quorum for the conduct of the official business of the Corporation. The act of a majority of the directors present at a meeting at which a quorum is in attendance shall constitute the act of the Board and of the Corporation, unless the act of a greater number is required by law.

Section 4. **Conduct of Business.**

(a) At the meetings of the Board, matters pertaining to the business of the Corporation shall be considered in accordance with rules of procedure as from time to time prescribed by the Board.

(b) At all meetings of the Board, the Chairman shall preside, and in the absence of the Chairman, the First Vice Chairman shall exercise the powers of the Chairman. In the absence of the Chairman and First Vice Chairman, the Second Vice Chairman shall exercise the powers of the Chairman.

(c) The Secretary or Assistant Secretary of the Corporation shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as Secretary of the meeting.

Section 5. **Committees of the Board.** The Board may appoint advisory committees to provide advice and counsel to the Board. Such committees may not exercise any authority of the Board. Such committees may include ex officio members of the Board, individuals who are not members of the Board, and no more than two (2) current members of the Board.

Each member of a committee shall continue as such until his or her successor on the committee is appointed, unless the committee shall be sooner terminated or unless such member has ceased to serve on the Board of Directors or such member has been removed from such committee. Any committee member may be removed from committee membership by the Chairman, with Board approval, whenever in their judgment the best interests of the Corporation would be served by such removal.

Section 6. **Board's Relationship With Administrative Departments of the**

City. Any request for services made to the administrative department of the City shall be made by the Board or its designee in writing to the City Manager. The City Manager may approve such request for assistance from the Board when he finds such requested services are within the budget parameters previously approved by the City Council. The City Manager must also find that the requested services are available within the administrative departments of the City and that the Board has agreed to reimburse the administrative department's budget for the costs of such services so provided. Any requests for legal assistance shall be made by the Board or its designee to the City Attorney. The City Attorney may provide such assistance when he finds such requested services are within the budget parameters previously approved by the City Council. The City Attorney must also find that the requested services are available within the Legal Department and the Board has agreed to reimburse the City for the cost of providing the legal services.

Section 7. **Compensation of Directors.** Directors shall not receive any salary or compensation for their services as Directors. However, they shall be reimbursed for their actual and reasonable expenses incurred in the performance of their duties hereunder.

Section 8. **Bonds.** The Board of Directors shall give an official bond in the sum of not less than One Hundred Thousand Dollars (\$100,000.00). The bonds referred to in this section shall be considered for the faithful accounting of all monies and things of value coming into the hands of such directors. The bonds shall be paid by the Corporation. A copy of each bond shall be filed with the City Secretary.

ARTICLE III

OFFICERS

Section 1. **Titles and Term of Office.**

(a) The officers of the Corporation shall be a Chairman, a First Vice Chairman, a Second Vice Chairman, a Secretary and a Treasurer and an Executive Director, and such other officers as the Board shall elect or appoint at each annual meeting of the corporation. One person may hold more than one office, except that the Chairman shall not hold the office of Secretary. Terms of office for each officer other than the Executive Director shall be for one (1) year with the right of an officer to be re-appointed or re-elected.

(b) All officers shall be subject to removal from office at any time by a vote of a majority of the entire Board.

(c) A vacancy in the office of any officer other than Chairman shall be filled by a vote of a majority of the Board of Directors. A vacancy in the office of Chairman shall be filled by election by a majority vote of the Board of Directors with the advice and counsel of the Mayor and the Midland City Council.

Section 2. **Powers and Duties of the Chairman.** The Chairman shall be the chief executive officer of the Corporation, and, subject to the paramount authority of the Board. The Chairman shall be in general charge of the properties and affairs of the Corporation, shall preside at all meetings of the Board, and may sign and execute all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments in the name of the Corporation.

Section 3. **First Vice Chairman.** The First Vice Chairman shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the Chairman during that officer's absence or inability to act. Any action taken by the First Vice Chairman in the performance of the duties of the Chairman shall be conclusive evidence of the absence or inability to act of the Chairman at the time such action was taken.

Section 4. **Second Vice Chairman.** The Second Vice Chairman shall have such powers and duties as may be prescribed by the Board and shall exercise the powers of the First Vice Chairman during that officer's absence or inability to act. Any action taken by the Second Vice Chairman in the performance of the duties of the Chairman or First Vice President shall be conclusive evidence of the absence or inability to act of the Chairman or First Vice President at the time such action was taken.

Section 5. **Treasurer.** The Treasurer and Assistant Treasurer shall have the responsibility to see to the handling, custody, and security of all funds and securities of the Corporation in accordance with these Bylaws. When necessary or proper, the Treasurer may endorse and sign, on behalf of the Corporation, for collection or issuance, checks, notes and other obligations in or drawn upon such bank or banks or depositories as shall be designated by the Board consistent with these Bylaws.

The Board may appoint the City Treasurer as an Assistant Treasurer, who shall have all the powers and duties as may be prescribed by the Board and shall be able to exercise all of the powers of the Treasurer. The City Treasurer acting as Assistant Treasurer shall see to the entry in the books of the Corporation full and accurate accounts of all monies received and paid out on account of the Corporation. The Assistant

Treasurer shall, at the expense of the Corporation, give such bond for the faithful discharge of his duties in such form and amount as the Board or the Council may require.

Section 6. **Secretary**. The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose, shall give and serve all notices, may sign with the Chairman in the name of the Corporation, and/or attest the signature thereto, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation, shall have charge of the corporate books, records, documents and instruments, except the books of account and financial records and securities, and such other books and papers as the Board may direct, all of which shall at all reasonable times be open to public inspection upon application at the office of the Corporation during business hours, and shall in general perform all duties incident to the office of Secretary subject to the control of the Board.

The Board may appoint an Assistant Secretary, who shall have all the powers and duties as may be prescribed by the Board and shall be able to exercise all of the powers of the secretary.

Section 7. **Executive Director**. The Executive Director shall be a compensated employee of the Corporation. The Executive Director shall be the Chief Operating Officer of the Corporation, responsible for the daily operations and the implementation of Board policies. The Executive Director shall perform the duties and functions prescribed by the Board. The Executive Director shall have the responsibility for the employment and termination of the employees of the Corporation, except for the Executive Director.

Section 8. **Compensation**. Officers who are members of the Board shall not receive any salary or compensation for their services, except that they shall be reimbursed

for their actual expenses incurred in the performance of their duties hereunder. Other officers may be compensated as directed by the Corporation.

Section 9. **Other Employees.** Subject to Council approval, the Corporation may employ full or part-time employees to carry out the programs of the Corporation. These employees shall perform those duties as are assigned to them by the Board. The employees may have titles such as Executive Director or other titles as might be appropriate to their job descriptions. The employees shall receive salaries and benefits as budgeted by the Board.

Section 10. **Contracts for Service.** The Corporation may contract for services whenever possible in lieu of employing individuals on a full-time basis. The Corporation may contract with any qualified and appropriate person, association, corporation or governmental entity to perform and discharge designated tasks which will aid or assist the Board in the performance of its duties. However, no such contract shall ever be approved or entered into which seeks or attempts to divest the Board of Directors of its discretion and policymaking functions in discharging the duties herein above set forth. Any contract for services which obligates the Corporation to expend more than fifty thousand dollars (\$50,000.00) in any fiscal year shall be approved by the Council.

ARTICLE IV

FUNCTIONAL CORPORATE DUTIES AND REQUIREMENTS

Section 1. **General Development Plan.**

(a) The Board shall research, develop, prepare, and submit to the Council for its approval, an economic development plan for the City. The plan shall include both short-term and long-term goals for the economic development of the City.

(b) The Board shall review and update the plan each year following the annual meeting of the Corporation.

Section 2. **Annual Corporate Budget.** At least 120 days prior to the commencement of each fiscal year of the Corporation, the Board shall recommend to the Council a proposed budget of expected revenues and proposed expenditures for the ensuing fiscal year. The budget shall contain such classifications and shall be in such form as may be prescribed from time to time by the Council. The budget shall not be effective until the same has been approved by resolution of the Council.

The Board may make expenditures within the total budget amount approved by the Council so long as such expenditures 1) do not increase the total budget amount previously approved by the Council, and 2) do not increase any single fund or budget classification by more than 10 percent.

Section 3. **Books, Records, Audits.**

(a) The Corporation shall keep and properly maintain, in accordance with generally accepted accounting principles, corporate funds, activities, and affairs.

(b) At the direction of the Council, the books, records, accounts, and financial statements of the Corporation may be maintained for the Corporation by the accountant, staff and personnel of the City. In such event, the Corporation shall pay to the City reasonable compensation for such services only.

(c) The Corporation, or the City if the option described in subsection (b) is selected, shall cause its books, records, accounts, and financial statements to be audited at least once each fiscal year by an outside, independent, auditing and accounting firm selected by the Corporation and approved by the City Manager. Such audit shall be at the

expense of the Corporation. The Corporation may, at its own expense, arrange for the independent, periodic audit of the appropriate books, records, accounts and financial statements of any consultant(s) or contractor(s) doing business with the Corporation.

Section 4. **Deposit and Investment of Corporate Funds.**

(a) All proceeds from the issuance of bonds, notes, or other debt instruments ("Obligations") issued by the Corporation shall be deposited and invested as provided in the resolution, order, indenture, or other documents authorizing or relating to their issuance.

(b) All other monies of the Corporation shall be deposited, secured, and/or invested in the manner provided for the deposit, security, and/or investment of the public funds of the City. The Board shall designate the accounts and depositories to be created and designated for such purposes, and the methods of withdrawal of funds therefrom for use by and for the purposes of the Corporation upon the signature of its treasurer and such other persons as the Board shall designate. The investment of such funds and accounts shall be performed by the Department of Finance of the City. The Corporation shall pay reasonable compensation for such services to the City.

Section 5. **Expenditures of Corporate Money.**

(a) The monies of the Corporation, including sales and use taxes collected pursuant to the Act, monies derived from the repayment of loans, rents received from the lease or use of property, the proceeds from the investment of funds of the Corporation, the proceeds from the sale of property, and the proceeds derived from the sale of obligations, may be expended by the Corporation for any of the purposes authorized by the Act, subject to the following limitations:

- (i) Expenditures from the proceeds of obligations shall be identified and described in the orders, resolutions, indentures, or other agreements submitted to and approved by the City Council prior to the sale and delivery of the Obligations to the purchasers thereof required by Section 6 of this Article;
- (ii) Expenditures that may be made from a fund created with the proceeds of Obligations, and expenditures of monies derived from sources other than the proceeds of obligations may be used for the purposes of financing or otherwise providing one or more "Projects," as defined in the Act. The specific expenditures shall be described in a resolution or order of the Board and shall be made only after the approval thereof by the City Council;
- (iii) No bonds may be issued by the Corporation and no project may be financed with bond proceeds or other revenues of the Corporation unless such bonds or projects are first approved by the Council; and
- (iv) All other proposed expenditures shall be made in accordance with and shall be set forth in the annual budget required by Section 2 of this Article.

Section 6. **Issuance of Obligations.** No Obligations, including refunding Obligations, shall be sold and delivered by the Corporation unless the Council shall approve such Obligations by action taken no more than sixty (60) days prior to the date of sale of the obligations.

Section 7. **Uncommitted and Unexpended Funds.** Any uncommitted or unexpended funds remaining at the end of a fiscal year shall be retained by the Corporation and considered a part of the corporation's fund balance. Such funds may be expended by the Corporation in the future for any purpose allowed under these Bylaws and the laws governing the Corporation.

ARTICLE V

MISCELLANEOUS PROVISIONS

Section 1. **Principal Office.**

(a) The principal office and the registered office of the Corporation shall be the registered office of the Corporation specified in the Articles of Incorporation.

(b) The Corporation shall have and shall continually designate a registered agent at its registered office, as required by the Act.

Section 2. **Fiscal Year.** The fiscal year of the Corporation shall be the same as the fiscal year of the City.

Section 3. **Seal.** The Corporation shall not have a seal.

Section 4. **Resignations.** Any Director or Officer may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Chairman or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. **Approval or Advice and Consent of the Council.** To the extent that these Bylaws refer to any approval by the City or refer to advice and consent by the Council, such advice and consent shall be evidenced by a certified copy of a resolution,

order or motion duly adopted by the Council.

Section 6. **Services of City Staff and Officers.** Subject to the paramount authority of the City Council under the Charter of the City, the Corporation shall have the right to utilize the services of the City Manager, City Attorney, the City Secretary, and the staff and employees of the Finance Department of the City, provided (i) that the Corporation shall pay reasonable compensation to the City for such services, and (ii) the performance of such services does not materially interfere with the other duties of such personnel of the City.

Section 7. **Indemnification of Directors, Officers and Employees.**

(a) As provided in the Act and in the Articles of Incorporation, the Corporation is, for the purposes of the Texas Tort Claims Act (Subchapter A, Chapter 101, Texas Civil Practices and Remedies Code), a governmental unit and its actions are governmental functions.

(b) The Corporation shall indemnify each and every member of the Board, its officers, and its employees, and each member of the Council and each employee of the City, to the fullest extent permitted by law, against any and all liability or expense, including attorneys fees, incurred by any of such persons by reason of any actions or omissions that may arise out of the functions and activities of the Corporation.

ARTICLE VI

EFFECTIVE DATE, AMENDMENTS

Section 1. **Effective Date.** These Bylaws shall become effective upon the occurrence of the following events:

- (1) the approval of these Bylaws by the City Council; and

(2) the adoption of these Bylaws by the Board.

Section 2. **Amendments to Articles of Incorporation and Bylaws**. The Articles of Incorporation of the Corporation and these Bylaws maybe amended only in the manner provided in the Articles of Incorporation and the Act.

ARTICLE VII

DISSOLUTION

On petition of ten (10) percent or more of the registered voters of the City of Midland requesting an election on the dissolution of the Corporation, the City Council shall order an election on the issue. The election must be conducted according to the applicable provisions of the Election Code. The ballot for the election shall be printed to provide for voting for or against the proposition:

"Dissolution of the Midland Development Corporation." If a majority of voters voting on the issue approve the dissolution, the Corporation shall continue operations only as necessary to pay the principal of and interest on its bonds and to meet obligations incurred before the date of the election and, to the extent practicable, dispose of its assets and apply the proceeds to satisfy these obligations. When the last of the obligations is satisfied, any remaining assets of the Corporation shall be transferred to the City, and the Corporation will be dissolved.

The City Council may call an election at any time to allow the citizens to decide whether to dissolve the Corporation and stop the collection of the sales and use tax.

ARTICLE VIII

RECAPTURE OF INCENTIVES PROVIDED

Each entity which is financially assisted in any manner by the Corporation shall

provide to the Corporation such information as the number of jobs to be created or retained, the capital investment to be made in the City and Midland County, Texas (“the County”) and the time period in which the entity agrees to maintain that number of jobs and the capital investment in the City and County. The Corporation, before agreeing to provide any financial assistance to an entity, shall require the entity to execute a contract or agreement whereby the entity shall pay back to the Corporation all or part of the financial assistance expended by the Corporation if the contract or agreement terms are not met.

ARTICLE IX

SPECIFIC TERMS OF AGREEMENTS

An agreement made under these Bylaws between the Corporation and another entity must:

- a. describe all proposed improvements on the property in question;
- b. list the number of jobs to be created or retained by the entity, if required;
- c. provide access to and authorize inspection of the property by municipal employees, employees of the Corporation and the Board of Directors to ensure compliance with the terms of the agreement;
- d. limit the uses of the property consistent with the general purpose of encouraging development or redevelopment;
- e. provide for recapturing all or part of any financial incentives as a result of the agreement if the recipient of the funds fails to comply with the terms of the agreement;
- f. contain each term agreed to by the recipient of the funds and the

Corporation;

- g. require the recipient of the funds to certify annually to the Board of Directors that the recipient of the funds is in compliance with each applicable term of the agreement; and
- h. provide that the Corporation may cancel or modify the agreement if the recipient of the funds fails to comply with the agreement.

City of Midland
CITY ATTORNEY'S OFFICE
Office Memorandum

DATE: May 2, 2012

TO: The Honorable Mayor and City Council Members

FROM: John Ohnemiller, First Assistant City Attorney

SUBJECT: ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION (MDC) AND THE CITY OF MIDLAND FOR THE SOUTH MIDKIFF ROAD WATER MAIN EXTENSION PROJECT

At the April 27 meeting of the MDC, the Board of Directors authorized the execution of an economic development agreement with the City of Midland for the extension of a water main south along Midkiff Road, from Industrial Avenue to the Otis Road right-of-way, and then east to the Midland County Horseshoe Arena. Under the agreement, the MDC will provide the City \$800,000 in exchange for the City's completion of the project.

If you have any questions, please do not hesitate to contact me or City Attorney Keith Stretcher.

JO/lo

RESOLUTION NO.

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE CITY OF MIDLAND FOR THE SOUTH MIDKIFF ROAD WATER MAIN EXTENSION PROJECT, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND APPROPRIATING FUNDS THEREFOR

WHEREAS, on April 27, 2012, the Midland Development Corporation authorized the execution of an economic development agreement with the City of Midland for the extension of a water main south along Midkiff Road, from Industrial Avenue to the Otis Road right-of-way, and then east to the Midland County Horseshoe Arena; and

WHEREAS, the City Council must consider and approve all economic development agreements approved by the Midland Development Corporation before the agreements can become effective; and

WHEREAS, the City Council finds it to be in the public interest to approve an economic development agreement between the Midland Development Corporation and the City of Midland for said improvements;

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

SECTION ONE. That the economic development agreement between the Midland Development Corporation and the City of Midland, which is attached hereto, marked as Exhibit "A", and incorporated herein for all purposes, is hereby approved.

SECTION TWO. That upon the City of Midland's receipt of \$800,000.00 from the Midland Development Corporation pursuant to the terms of said agreement, \$800,000.00 shall be deposited into the Water and Sewer Fund (300) of the City of Midland; and that upon said deposit, the sum of \$800,000.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the South Midkiff Road Water Main Extension Project (8993).

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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

Robert McNaughton, Director of Finance

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ECONOMIC DEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the MIDLAND DEVELOPMENT CORPORATION (“MDC”), an Economic Development Corporation existing under the authority of Chapter 504 of the Texas Local Government Code, and the CITY OF MIDLAND, TEXAS (“City”), a home-rule municipal corporation.

I.

Recitals

- A. The MDC and the City desire to set forth the terms and conditions upon which \$800,000 in incentive funds will be provided to the City as consideration for the City extending a water main south along Midkiff Road, from Industrial Avenue to the Otis Road right-of-way, and then east to the Midland County Horseshoe Arena (the “Project”).
- B. The Project is expected to facilitate commercial and industrial development in the City of Midland.
- C. The MDC Board of Directors (the “Board”) and the City Council of the City of Midland, Texas (the “Council”) find that the purpose of this Agreement qualifies as an infrastructure improvement project under Section 501.103 of the Texas Local Government Code, and is therefore eligible for MDC funding.
- D. The Board and the Council find that the Project and expenditures therefor are required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises within the City of Midland.
- E. The Board and the Council find that this Agreement does not constitute a direct incentive to or expenditure on behalf of a business enterprise as described in Section 501.158 of the Texas Local Government Code.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MDC and the City hereby agree as follows:

II.

Obligations of the MDC

- A. On or before May 31, 2012, MDC shall provide to the City an interest-free forgivable loan in the amount of \$800,000.00 which shall be disbursed in one lump sum and repaid as provided in Section III of this Agreement (the “Loan”). MDC agrees to

forgive repayment of the Loan if the conditions contained in Section III of this Agreement are met.

III. Obligations of the City

- A. **The Project.** The City agrees to use the Loan for costs associated with the 12" diameter water main extension from the end of the existing water main at the intersection of Industrial Avenue and Midkiff Road, south along Midkiff Road to the Otis Road right-of-way, and then east to the existing 12" diameter water main at the Midland County Horseshoe Arena. The installation shall include all necessary excavation, embedment, backfill and pavement repair to construct approximately 7,600 linear feet of said 12" diameter water main, 10 fire hydrants, and necessary appurtenances. Associated costs shall include but not be limited to engineering costs, surveying costs, right-of-way acquisition costs, bidding costs, construction costs, testing costs, and inspection costs for the Project.
- B. **Completion.** Upon completion of the Project, the City shall certify such to the MDC in accordance with Section VII(B)(1) hereof. Within thirty (30) days of the City's certification that the Project has been completed, the City agrees to repay to the MDC any remaining Loan funds in the possession of the City that were not expended for the Project.
- C. **Repayment.** If the City fails to complete the above-describe Project by December 31, 2013, then the City agrees to repay the Loan to the MDC. The amount repayable from the Loan provided herein, shall be repaid, without interest, to the MDC on or before thirty (30) days after the MDC gives written notice to the City. Notwithstanding anything to the contrary contained anywhere in this Agreement, under no circumstances shall the City be obligated to repay the MDC an amount in excess of the total dollar amount of the Loan actually received by the City from the MDC under this Agreement.

IV. Term

Upon execution by all of the parties, this Agreement becomes effective on May 9, 2012 (the "effective date"), and shall terminate when the requirements set forth in Sections II and III of this Agreement are completed, or when terminated by mutual agreement of the parties, or when terminated as hereinafter provided.

**V.
Law**

The parties are aware of statutory limitations on the Loan and the use of funds under Chapters 501 and 504 of the Texas Local Government Code, and the parties acknowledge that the funds herein granted or guaranteed shall be utilized solely for purposes authorized under that law and by the terms of this Agreement.

**VI.
Documents**

Prior to any payment by MDC, the City shall deliver to MDC an executed copy of this Agreement.

**VII.
Special Conditions**

- A. **Financial Commitment.** The following provisions shall apply:
1. Notwithstanding any provision hereof which might be interpreted otherwise, the MDC's total financial commitment during a fiscal year of the MDC, October 1 to September 30, shall not exceed the Loan amount it is obligated to pay to the City during that fiscal year.
 2. Notwithstanding any provision hereof which might be interpreted otherwise, the MDC's total financial commitment during the term of this Agreement shall not exceed \$800,000.00 in the aggregate.
- B. **Certification.** As to any certification required under this Agreement, the City shall provide a letter from the City Manager. E-mail shall not be an acceptable form of certification under this Agreement.
- C. **Payments.** Payments to be made to the City under Section II hereof shall be made upon a written request from the City and completion of all necessary supporting documentation. The payment request and documentation should be directed to MDC Chairman, c/o City Secretary, City of Midland, P.O. Box 1152, Midland, Texas 79702.

VIII. General Terms

- A. **Entire Agreement.** This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written, previous and contemporary agreements between the parties relating to matters in this Agreement; and except as otherwise provided herein, this Agreement cannot be modified or amended without a written agreement of the parties.
- B. **No Third-Party Beneficiary.** The parties approval of the 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.
- C. **Legal Relationship.** The parties are not, and shall not be considered as, joint venturers, partners, or agents of each other; and neither shall have the power to bind nor obligate the other, except as set forth in this Agreement. The parties agree not to represent to anyone that they are agents of one another or have any authority to act on behalf of one another. It is mutually understood and agreed that nothing in this Agreement is intended or shall be construed as in any way creating or establishing any partnership, joint venture, or agency between the MDC and 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.
- D. **Terminations.** This Agreement may be terminated by mutual agreement of the parties or by either party, upon the failure of the other party to fulfill an obligation as set forth herein if the default is not cured within thirty (30) days after written notice from the other party.
- E. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- F. **Venue.** The obligations of the parties to this Agreement are deemed to have been performed in Midland County, Texas, and if legal action is necessary to enforce same, exclusive venue shall be in Midland County, Texas. All payments under this Agreement are deemed to have taken place in Midland County, Texas. The obligations and undertakings of each of the parties to this Agreement shall be deemed to have been performed in Midland County, Texas.

- G. **Legal Construction.** In case one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- H. **Law.** This Agreement is subject to all applicable state and federal laws, and the Company agrees that it will comply in all material respects with all such applicable laws, regulations, orders and rules of the State of Texas and other such governmental agencies. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.
- I. **Assignment.** This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by the City without the prior written consent of the MDC.
- J. **Notices.** All notices to either party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such party at the addresses shown below. All notices shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either party hereto may change the address below by sending written notice of such change to the other in the manner provided herein.

If to MDC:

MDC Chairman
c/o City Secretary
City of Midland
P. O. Box 1152
Midland, Texas 79702

with copy to:

MDC Executive Director
109 N. Main
Midland, Texas 79701

If to City:

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

- K. **Amendment.** This Agreement may be amended by written instrument executed by both parties expressly stating the intention to amend this Agreement.

- L. **Payments.** All payments to either party required under this Agreement shall be sent by certified U.S. mail, postage prepaid, addressed to such party at the addresses shown below. All payments shall be deemed given on the date so deposited in the mail, unless otherwise provided herein. Either party hereto may change the address below by sending written notice of such change to the other in the manner provided herein.

If to MDC:

MDC Chairman
c/o City Secretary
City of Midland
P. O. Box 1152
Midland, Texas 79702

If to City:

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

- M. MDC and the City hereby agree and acknowledge that this Agreement is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties.
- N. This Agreement shall not be effective until approved by the Midland City Council.

IN WITNESS WHEREOF, the MDC and the Company have executed this Agreement on the _____ day of _____, 2012.

**MIDLAND DEVELOPMENT
CORPORATION**

Laura Roman, Chairman

ATTEST:

Robert Rendall, Secretary

CITY OF MIDLAND, TEXAS

By: _____
W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



DATE: April 30, 2012

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: Cajun Constructors, Incorporated regarding the City's Water Purification Plant Improvements Project

Cajun Constructors, Incorporated was the prime contractor on the City's Water Purification Plant Improvements Project. They have raised issues regarding potential payments owed to them on the Project. The City Manager, Director of Utilities and I have met with representatives of Cajun. The proposed resolution authorizes the City Manager and the City Attorney to employ necessary experts and professionals needed to evaluate the situation.

If you have any questions or if I may be of any assistance, do not hesitate to contact me.

Keith Stretcher

KS/lo

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY ATTORNEY AND CITY MANAGER TO EMPLOY EXPERTS AND PROFESSIONALS TO ASSIST IN EVALUATING ISSUES INVOLVING PAYMENT TO CAJUN CONSTRUCTORS, INCORPORATED, REGARDING THE CITY OF MIDLAND'S WATER PURIFICATION PLANT IMPROVEMENTS PROJECT; AND AUTHORIZING PAYMENT

WHEREAS, the City Council finds it to be in the public interest to authorize the City Attorney and the City Manager to employ experts and professionals to assist in evaluating issues involving Cajun Constructors, Incorporated;

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

SECTION ONE. That the City Attorney and the City Manager are hereby authorized to employ all necessary experts and professionals to assist in evaluating issues involving Cajun Constructors, Incorporated, regarding the City's Water Purification Plant Improvements Project.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay experts and professionals and related expenditures related to the issues involving Cajun Constructors, Incorporated upon receipt of proper invoices or statements approved by the City Manager and the City Attorney from the Water and Sewer Fund Unappropriated Fund Balance.

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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-12-001, Second Baptist Church

Purpose:

Consider an ordinance on second reading on a request by Second Baptist Church for approval of a Planned District Site Plan.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Second Baptist Church wishes to construct a church facility on the north side of Briarwood Avenue, east of Oriole Drive. While churches are permitted in all zoning districts, this tract is zoned Planned District for a Shopping Center, which requires site plan approval. The City Council considered the site plans, Exhibits A and B, during a public hearing on April 24, 2012. This ordinance is now ready for consideration on second and final reading.

Attachments:
Location Map



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-12-001, Second Baptist Church.

Purpose:

Hold a public hearing at approximately 10:33 a.m. and consider a request by Second Baptist Church for approval of a Planned District Site Plan.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

Second Baptist Church wishes to construct a new church on this property. While churches are a permitted use in any district, this land is zoned Planned District for a Shopping Center, and site plan approval is a requirement. The applicant has submitted Exhibits A and B to satisfy this requirement. Access to the church will be from two driveways at the far eastern and western ends of the property. The floor area is listed as 23,203 square feet, but a slightly larger building envelope would allow some expansion near the southeast corner. Exhibit A lists the parking space count at 107, which would accommodate a sanctuary with 428 seats. Exhibit B illustrates the elevation views of the church. The maximum building height is listed at 28.75 feet, which is the maximum allowed by this planned district. While all buildings will only have one floor, or level, the minimum rear yard setback is 10 feet for any portion of the building that is one story in height, and 20 feet for any portions exceeding one story in height. The parameters shown on Exhibits A and B meet all required setback requirements.

Exhibit A lists an extensive number of exterior building materials, including decorative or painted CME, face brick, precast concrete, tilt-wall, Stucco, glazing, architectural metal panels or similar. The metal panels are listed as having a non-reflective finish, which is intended to mitigate impacts to the single-family area to the north.

The Planning and Zoning Commission recommended unanimous approval of this request, and no opposition was voiced at its meeting. The Staff Concurs in this recommendation.

Attachments:

April 2, 2012 P&Z Staff Report
Proposed Ordinance and Exhibits A and B

ORDINANCE NO.

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 18D, BLOCK 14, BRIARWOOD ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 520 FEET EAST OF ORIOLE DRIVE); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; 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, by Ordinance No. 8831, adopted August 24, 2010, the City Council granted a “Planned District” for a Shopping Center, subject to future site plan review; 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 adopt a site plan pursuant to Ordinance No. 8831, subject to special conditions and restrictions;

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

SECTION ONE. That a site plan, which is attached hereto as Exhibits “A” and “B” and incorporated herein for all purposes, is hereby adopted for the following property:

Lots 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas.

SECTION TWO. That the use and development of the property shall be subject to the following conditions and restrictions:

1. That the development of a church on this property shall conform in all respects to the conditions shown on Exhibits “A” and “B”, except as otherwise stated below. This includes but is not limited to driveway locations, building location and maximum building height, exterior building materials, landscaping, signage and screening fence.
2. That the parking and landscaping plans shown on Exhibit “A” shall be considered illustrative. The minimum parking and landscaping requirements shall be determined through the building permit process.
3. That all buildings constructed on this lot shall be located within the Maximum Building Envelope identified on Exhibit “A” by a blue line.

4. That a solid screening fence at least six feet tall shall be constructed along the north property line. Said fence shall be constructed of wood with brick pilasters spaced as shown on Exhibit "A". Access from this lot to the alley on the north side shall be limited to a gate sufficient for pedestrian access only.

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

Planning and Zoning Commission
Minutes
April 02, 2012

Z-12-001 - Hold a public hearing and consider a request by **Second Baptist Church** for a *Planned District Site Plan* on Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas. (Generally located on the north side of Briarwood Avenue, approximately 520 feet east of Oriole Drive.)

Dan Hart, Parkhill, Smith and Cooper, representing Second Baptist Church stated they are not asking for any special conditions and are in compliance with zoning provisions and gave examples of zoning compliance.

Senior Planner Jim Compton gave an overview of the request for approval of a Planned district Site. Staff recommended approval subject to conditions A through D.

Chairman Ferguson opened the public hearing.

There being no one wishing to speak in favor or in opposition to the item, Chairman Ferguson closed the public hearing.

After further discussion a motion for approval of the request for a Planned District Site Plan subject to conditions A through D was made by Commissioner Watkins; seconded by Commissioner Lanning. The motion carried by the following vote:
AYE: Ferguson, Gatten, Norris, Wilton, York, Watkins, Lanning and Carrillo.
NAY: None. ABSTAIN: None. ABSENT: Wolf and Woodruff

PLANNING AND ZONING COMMISSION

April 2, 2012

CASE: Z-12-001.

REQUEST: Consider a request for approval of a Planned District Site Plan.

APPLICANT/OWNER: Second Baptist Church

REPRESENTATIVE: Parkhill, Smith and Cooper.

LEGAL DESCRIPTION: Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas.

LOCATION: North side of Briarwood Avenue, approximately 520 feet east of Oriole Drive.

CURRENT ZONING: PD, Planned District for a Shopping Center.

DETAILS OF REQUEST:

1. Second Baptist Church wishes to construct a church on this site. The land is zoned Planned District for a Shopping Center, subject to the regulations of the LR-2 District. Further, a site plan must be approved before a building permit can be issued. Churches are a permitted use in any zoning district. The applicant has submitted this application in order to comply with the zoning requirements.

SURROUNDING ZONING AND LAND USE:

2. The land to the west is developed with a medical facility, while the land to the east is vacant. Both tracts are also zoned under the same Planned District for a Shopping Center ordinance. The land to the north is developed with single-family residences. The land to the south, across Briarwood Avenue, is zoned for retail uses and is developed with a convenience store, a car wash and a small strip center.

ANALYSIS:

3. The applicant has submitted the attached Exhibits A and B to comply with the site plan approval requirement. Exhibit A indicates that access to this property will be at the east and west ends of the property via private reciprocal access easements that were dedicated on the approved subdivision plat. No additional driveway access would be allowed under the driveway spacing standards. The site plan lists a maximum building floor area of 23,203 square feet. However, it also includes a maximum building envelope that exceeds the building footprint. This building envelope, depicted by a blue line on Exhibit A, delineates the location where all buildings may be located. This allows limited flexibility in the placement of the building, and allows for future expansion. Exhibit A indicates that 107 parking spaces are shown. Since the minimum off-street parking requirement for churches is one space for each four seats in the main sanctuary, a maximum of 428 seats would be allowed. The staff recommends that the indicated parking plan be treated as illustrative, and the minimum number of required parking spaces will be determined through the building permit process.

There is a comprehensive list of notes on Exhibit A which describe many of the construction details. The maximum building height is listed as 28.75 feet, which is the maximum allowed in the LR-2 District. The brown area depicts the building footprint, the gray indicates asphalt paving, the yellow indicates concrete paving, and the green represents landscaping. One note on Exhibit A states that the exterior of the building is proposed to be constructed of decorative or painted CMU, face brick, precast concrete, tilt-wall, stucco, glazing, architectural metal panels or similar materials. The note describes the architectural panels as being non-reflective, which will moderate any impacts for the homeowners to the north. There is no location designated for solid waste containers within this site. In checking with Solid Waste, we learned that the church cannot use the residential containers with the residences to the north. However, we were advised that a separate, larger container can be placed in the alley for the exclusive use by the church. Exhibit A includes a calculation of the minimum landscaping required, which is 6,211 square feet. The landscaped area to be provided is 11,600 square feet. Finally, there is a six-foot tall fence proposed along the north lot line, to be constructed of wood with brick pilasters located on 20-foot centers.

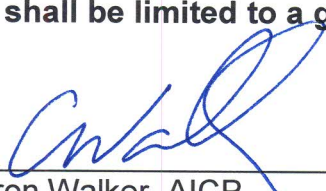
BUILDING SETBACKS:

4. North, across the alley is a single-family zoning district. Because the church is a non-residential building, it must observe a 10-foot rear yard setback for the portion of the building that is one story in height, and a 20 foot setback for portions exceeding one story. Exhibit B indicates that the taller sanctuary will be located 20 feet from the north property line, while the remainder of the building will observe a 10-foot setback. We find that these setbacks comply with the applicable setback requirements.

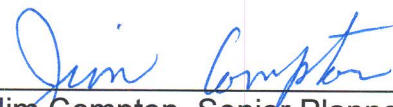
STAFF RECOMMENDATION:

Provided that the Planning Commission finds the exterior building material adjacent to the north property line to be satisfactory, we would recommend approval of this Planned District Site Plan, subject to the satisfaction of the following conditions:

- A. That the development of this property shall conform to the conditions listed on the attached Exhibits A and B in all respects, except as otherwise stated below. This includes but is not limited to driveway locations, building location and maximum height, exterior building materials, landscaping, signage and screening fence.
- B. The parking and landscaping plans shown on Exhibit A shall be considered illustrative. The minimum amount of parking and landscaping shall be determined through the building permit process.
- C. All buildings constructed on this lot shall be located within the Maximum Building Envelope as illustrated on Exhibit A.
- D. A solid screening fence at least six feet tall shall be constructed along the north property line. Said fence shall be constructed of wood with brick pilasters spaced as shown on Exhibit A. Access from this lot to the alley shall be limited to a gate sufficient for pedestrian access only.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A and B

Case Number: Z-12-001

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Second Baptist Church 432-694-9856
Applicant Name (Phone/e-mail)
3125 Travis Avenue Midland, Texas 79703
Address Zip Code

Second Baptist Church 432-694-9856
Property Owner Name (Phone/e-mail)
3125 Travis Avenue Midland, Texas 79703
Address Zip Code

Parkhill, Smith & Cooper, Inc. 432-697-1447 EOliver@team-psc.com
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. 4712 Briarwood Ave., Lot 18D, Block 14, Briarwood Addition, Section 20, City of Midland, Midland County, Texas.

PRESENT ZONE: PDSC with underlying LR 2 REQUESTED ZONE: Amended PD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To better facilitate the development of a new church

Present Use of Property: Vacant Lot

Proposed Use of Property: Church

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

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

Larry G. Bell, P.E. who, being by me duly sworn, upon oath says: That (s)he is authorized by Second Baptist Church, 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.

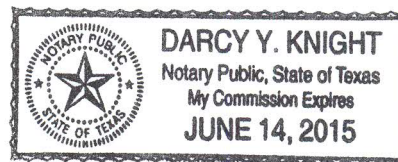
Larry G. Bell, P.E.

Authorized Agent (signature)

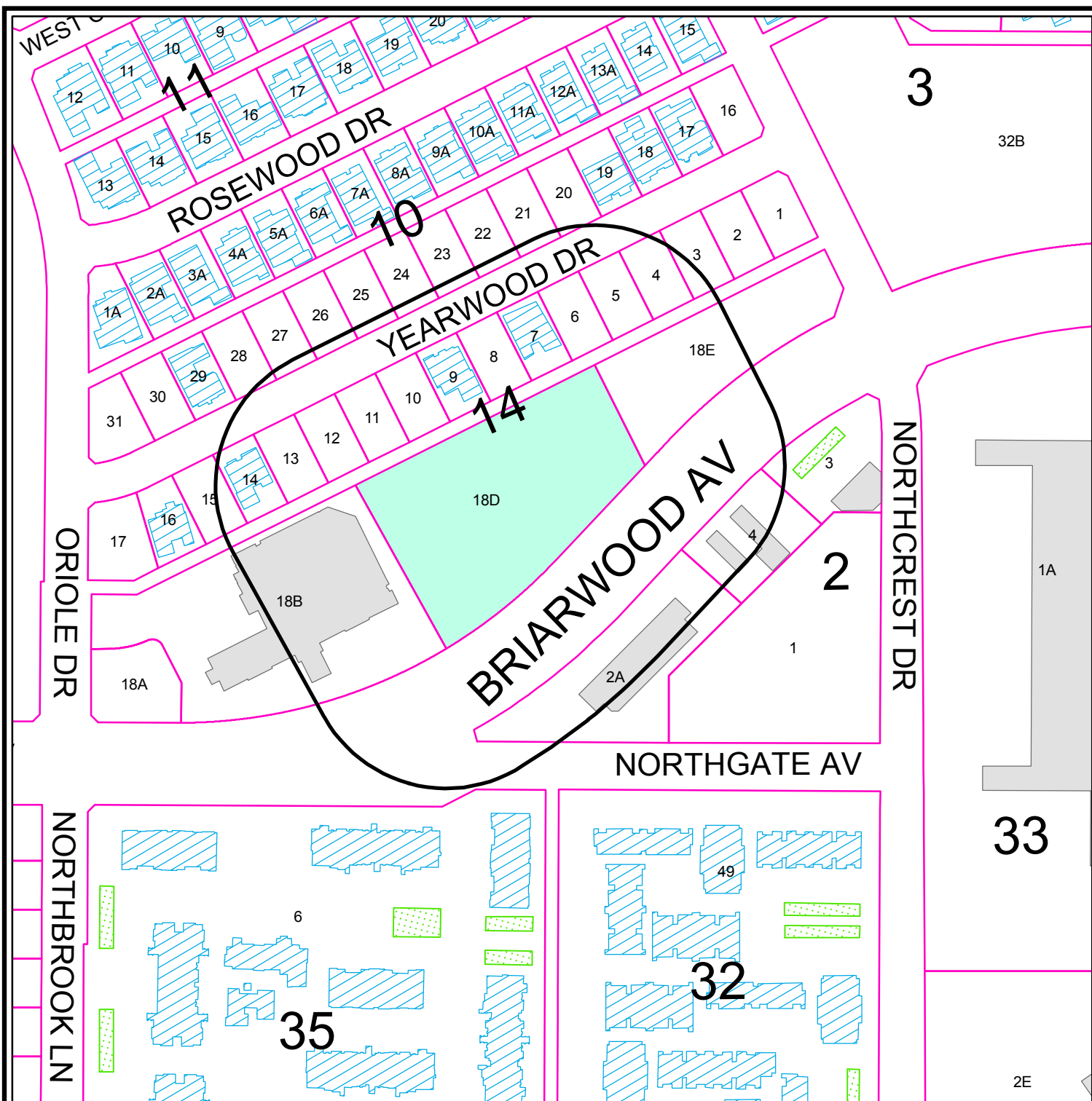
Subscribed and sworn to before me, this 10th day of January, 20 12, to certify which witness my hand and seal of office.

Darcy Y. Knight
 NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JL</u>	Date: <u>1-13-12</u>
Assigned: <u>JL</u>	
For: <u>P&Z</u>	On: <u>3-5-12</u>



****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 001

Scale: 1" = 200'

Consider a request for a Planned District Site Plan Review on Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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BRIARWOOD ADDITION

SECTION 20

LOT 18D, BLOCK 14



30' 15' 0' 30'
Original Scale: 1"=30'

PD Site Plan submitted
January 13, 2012

PD Site Plan Re-submitted
February 24, 2012

PD Site Plan Revised
February 28, 2012

NOTES:

- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MOJAVE PRIOR TO ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY TO BE PAVED.
- SHADED AREAS DENOTED BY TO BE CONCRETE.
- SHADED AREAS DENOTED BY ARE BUILDINGS.
- 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 GRASS AND GROUND COVER.
- SHADED AREAS DENOTED BY ARE SCREEN WALLS.
- 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 DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, STUCCO, GLAZING METAL TILE, ARCHITECTURAL METAL PANEL OR SIMILAR CONSTRUCTION. EXTERIOR BUILDING MATERIALS SHALL COMPLY WITH 11-10-2.8.2 MATERIALS FACING RESIDENTS TO THE NORTH SHALL NOT BE REFLECTIVE, "DARK" OR "NEON".
- ROOF MATERIALS MAY INCLUDE FLAT ROOF WITH PARAPETS, COMPOSITE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7a OF THE MOJAVE CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MOJAVE CITY CODE.
- REFUSE COLLECTION WILL BE IN THE NORTH ALLEY.
- MAXIMUM BUILDING HEIGHT SHALL BE 28'-0" PER LR-2 STANDARDS.
- REAR SETBACKS TO VARY DEPENDING ON APPLICABLE CODE CRITERIA.

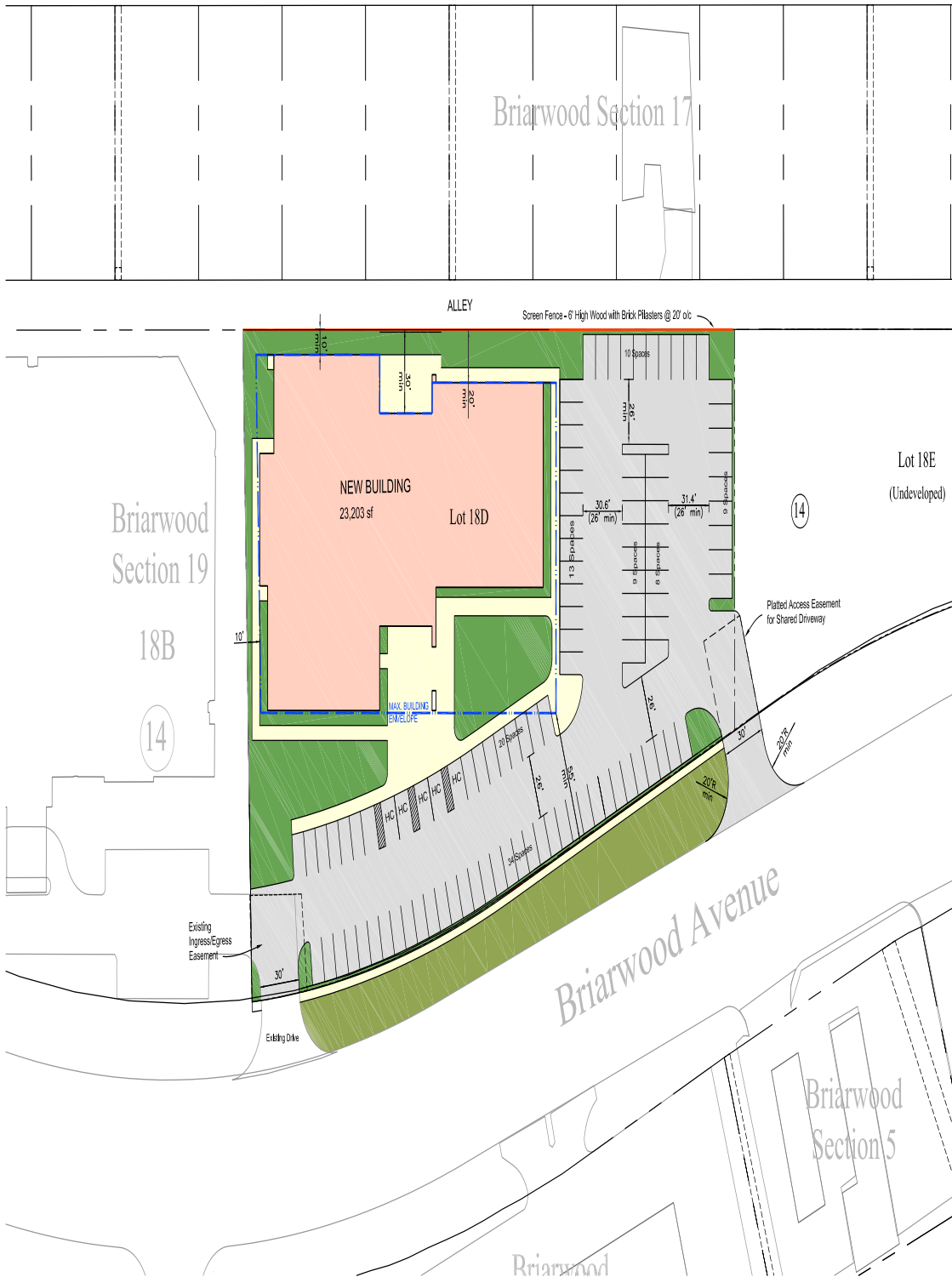
SITE DATA	
SITE AREA	85,319 SF ±
BUILDING AREA (Foot Print)	23,203 SF ±
LANDSCAPE AREA REQUIRED	6,211 SF ±
LANDSCAPED AREA SHOWN (NOT INCLUDING ROW)	15,250 SF ±
TREES REQUIRED-(1" Cal. Min.)	20
PARKING SPACES REQUIRED	75
PARKING SPACES SHOWN	103
H.C. PARKING SPACES REQUIRED	5
H.C. PARKING SPACES SHOWN	5

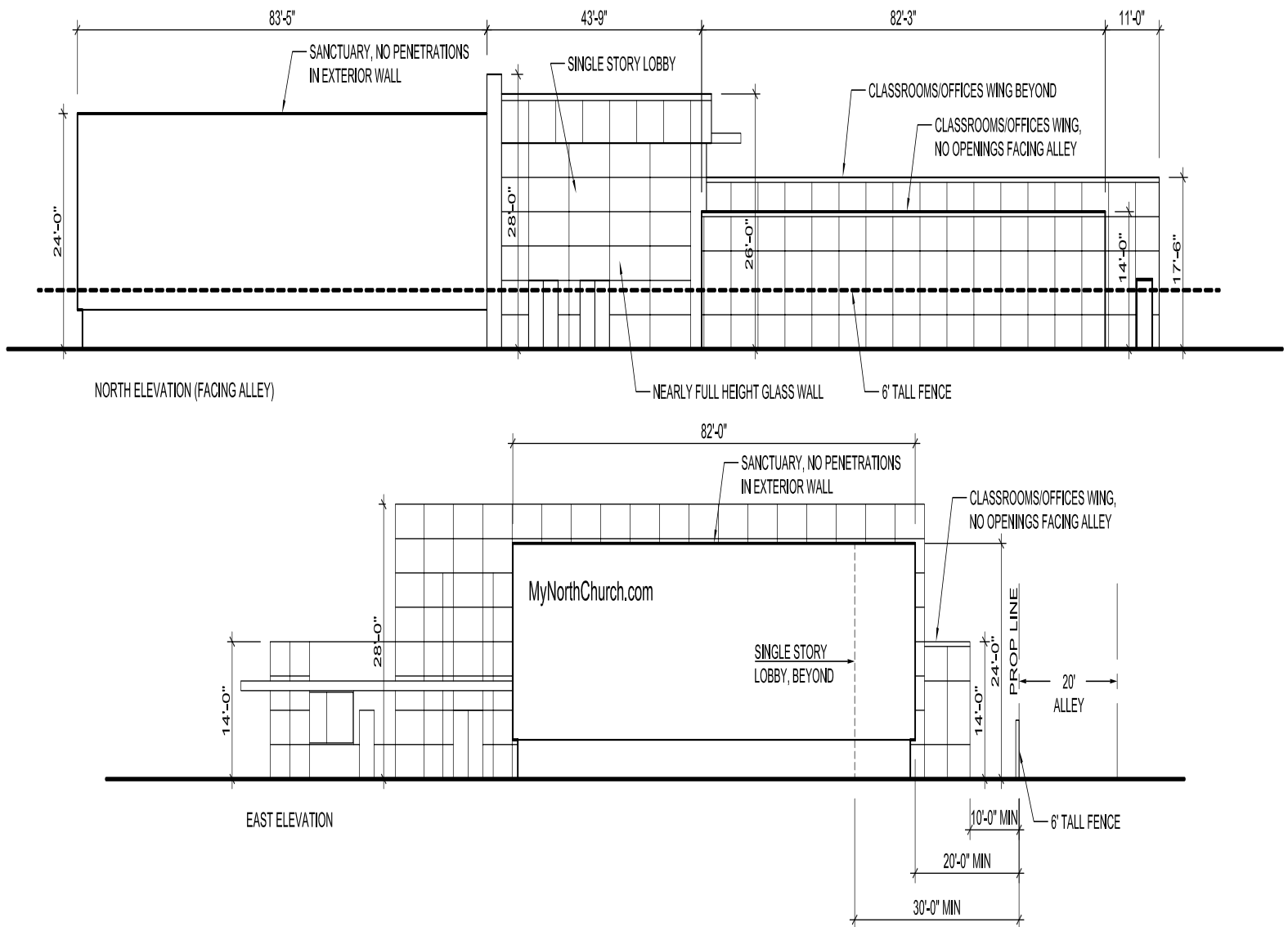
BRIARWOOD ADDITION

SECTION 20

PARKHILLBETHCOOPER

14.15





BRIARWOOD ADDITION SECTION 20

MASSING ELEVATIONS - FOR PD SITE PLANS



City Council Agenda

Approved for Agenda: JNichols City Manager's Office
--

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-12-005, Louie Caraveo.

Purpose:

This is the second reading to consider an ordinance on a request by Louie Caraveo for a Specific Use Permit without Term for an accessory building for living or sleeping quarters. No changes have been made to this item since its first reading on April 24, 2012.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approval of this request.

Discussion:

Mr. Caraveo included plans for Dr. Ron Backer's new home that also features a multipurpose building that will be used for entertaining and occasionally as a living and sleeping quarters for visiting family members. Dr. Backer's new home is in the CE, Country Estate District, allows only one residence per lot unless approved by a Specific Use Permit. The Zoning Code prohibits such accessory dwellings from being rented as a separate dwelling. Adequate off-street parking is available on this property adjacent to the primary residence or by means of an automatic gate off of Alysheba Lane (Exhibit – A). Direct access to the lot is to be avoided to discourage rental usage. After explaining the standing policy's intent to mitigate the possibility of a rental unit, the applicant did not object to Planning Staff's recommendation to removing the back entry door to the accessory dwelling. Direct access now requires entry through the rear yard, on the pool side, of the principle residence. The secure gate also addresses the potential issue for free access to the lot without the owner being aware. Additionally, the applicant has also identified the primary users of this accessory dwelling (per P&Z policy guideline item C cited above) as personal guests to entertain in what he plans to design in the style of a 1950's diner. Serving as an entertainment area with showpieces from his car collection, the applicant identified occasional overnight guests as grandchildren visiting from out of town. Satisfactorily addressing policy concerns to avoid guest homes from becoming potential rental units, staff recommends approval of this request.

Attachments:

April 2, 2012 P&Z Staff Report, Proposed Resolution, Exhibits A & B, Application, Maps



City Council Agenda

Approved for Agenda: JNichols City Manager's Office
--

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-12-005, Louie Caraveo.

Purpose:

Hold a public hearing at approximately 10:42 a.m. to consider an ordinance for a Specific Use Permit without Term for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approval of this request.

Discussion:

Mr. Caraveo included plans for Dr. Ron Backer's new home that also features a multipurpose building that will be used for entertaining and occasionally as a living and sleeping quarters for visiting family members. Dr. Backer's new home is in the CE, Country Estate District, allows only one residence per lot unless approved by a Specific Use Permit. The Zoning Code prohibits such accessory dwellings from being rented as a separate dwelling. Adequate off-street parking is available on this property adjacent to the primary residence or by means of an automatic gate off of Alysheba Lane (Exhibit – A). Direct access to the lot is to be avoided to discourage rental usage. After explaining the standing policy's intent to mitigate the possibility of a rental unit, the applicant did not object to Planning Staff's recommendation to removing the back entry door to the accessory dwelling. Direct access now requires entry through the rear yard, on the pool side, of the principle residence. The secure gate also addresses the potential issue for free access to the lot without the owner being aware. Additionally, the applicant has also identified the primary users of this accessory dwelling (per P&Z policy guideline item C cited above) as personal guests to entertain in what he plans to design in the style of a 1950's diner. Serving as an entertainment area with showpieces from his car collection, the applicant identified occasional overnight guests as grandchildren visiting from out of town. Satisfactorily addressing policy concerns to avoid guest homes from becoming potential rental units, staff recommends approval of this request.

Attachments:

April 2, 2012 P&Z Staff Report, Proposed Resolution, Exhibits A & B, Application, Maps

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 20, BLOCK 4, SOLOMON ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF ALYSHEBA LANE AND SIR BARTON PARKWAY), WHICH IS PRESENTLY ZONED CE, COUNTRY ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; 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 and 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 health, safety and general welfare will be best served by the granting of a Specific Use Permit Without Term, set out hereinafter, subject to the special conditions and restrictions 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 CE, Country Estate District, to wit:

Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas;

is hereby changed to permit same to be used under a Specific Use Permit Without Term for an accessory building to be used for living or sleeping quarters, together with the uses

permitted in a CE, Country Estate District, subject to the following conditions:

1. That the east wall shall be built to fire rating standards approved by the Building Official.
2. That the use of the accessory building for living or sleeping quarters shall be limited to family members or guests of the occupant of the primary residence; the accessory building shall not be rented out as a separate residence or used for any commercial purpose.
3. That no entry into this accessory building shall be allowed from the south side of the building.
4. That all building permits shall be obtained from the Building Official and City inspections shall be completed prior to the issuance of a Certificate of Occupancy.
5. That 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, as notice to any subsequent purchaser of this property that said accessory structure shall not be rented out as a separate residence or used for any commercial purpose.

SECTION TWO. 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 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 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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**Planning and Zoning Commission
Minutes
April 02, 2012**

S-12-005 - Hold a public hearing and consider a request by **Louie Caraveo** for a *Specific Use Permit without Term* for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Alysheba Lane and Sir Barton Parkway.)

Applicant yielded to staff and Commissioner Jay Norris excused himself for the item. Senior Planner Ken VanDyne gave an overview of the request. He stated there is a driveway accessing the separate building, which does not comply with city policy, but staff spoke with applicant who removed the rear-facing door and provided a secure auto-gate on the rear drive, thus removing staff's concern.

Louie Caraveo stated it was a very attractive building, which will be used as an occasional sleeping quarters for his grandkids and guests. He stated the space was not intended for primary living.

Chairman Ferguson opened the public hearing.

There being no one wishing to speak in favor or in opposition to the item, Chairman Ferguson closed the public hearing.

After further discussion a motion for approval of request subject to conditions A through E was made by Commissioner Gatten; seconded by Commissioner Wilton. The motion carried by the following vote: AYE: Ferguson, Gatten, Carrillo, Wilton, York, Watkins, and Lanning. NAY: None. ABSTAIN: Norris. ABSENT: Wolf and Woodruff

PLANNING AND ZONING COMMISSION

April 2, 2012

CASE: S-12-005.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit, Without Term, for an accessory building for living and sleeping quarters.

APPLICANT/OWNER: Mr. Louie Caraveo / Dr. Ron Backer

LEGAL DESCRIPTION: On Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of Alysheba Lane and Sir Barton Parkway.

CURRENT ZONING: CE, Country Estate District.

DETAILS OF REQUEST:

1. The applicant plans to construct a multipurpose building that will be used for entertaining and occasionally as a living and sleeping quarters for visiting family members. The home at 531 Sir Barton Parkway is a new single family construction with the proposed accessory living and sleeping quarters located at the back of the lot (Labeled as Future Pool House on Exhibit – A). The CE, Country Estate District, allows only one residence per lot unless approved by a Specific Use Permit. The Zoning Code prohibits such accessory dwellings from being rented as a separate dwelling.

ANALYSIS:

2. The Planning and Zoning Commission has adopted policy guidelines to assist in evaluating this type of application. These guidelines are as follows.
 - A. The maximum floor area of an accessory dwelling should generally not exceed 35 percent of the floor area of the main residence, or 600 square feet, whichever is larger.*
 - B. In order to mitigate conditions whereby the accessory dwelling could be rented as a separate dwelling, the site plan should:*
 - 1. Avoid vehicular access between the lot and any adjacent street or alley.*
 - 2. Avoid a door in the accessory dwelling that can be accessed via an adjacent street or alley. Access should be provided through the rear yard of the principal residence.*
 - C. The Specific Use Permit should specify who may occupy the accessory dwelling, or for what purposes the accessory dwelling may be occupied.*

The attached floor plan (Exhibit B) indicates a proposed accessory dwelling of approximately 2,000 square feet in area. While the building is sizable, it does fall within the policy guidelines. It is less than 35% of the 6,200SF floor area of the primary structure, and the height of the building at 22' does not exceed the 25' maximum height permitted for an accessory structure in this zoning district.

Adequate off-street parking is available on this property adjacent to the primary residence or by means of an automatic gate off of Alysheba Lane (Exhibit – A). This rear drive entry provides direct vehicle access to the lot which did raise some concerns. After explaining the intent to mitigate the possibility of a rental unit, the applicant did not object to Planning Staff's recommendation to removing the back entry door to the accessory dwelling. Direct access now requires entry through the rear yard, on the pool side, of the principle residence. The secure gate also addresses the potential issue for free access to the lot without the owner being aware.

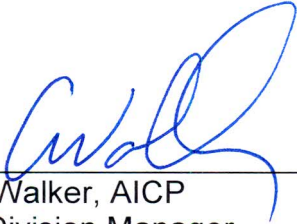
Additionally, the applicant has also identified the primary users of this accessory dwelling (per P&Z policy guideline item C cited above) as personal guests to entertain in what he plans to design in the style of a 1950's diner (example photos on Exhibit – C). Serving as an entertainment area with showpieces from his car collection, the applicant identified occasional overnight guests as grandchildren visiting from out of town. Satisfactorily addressing policy concerns to avoid guest homes from becoming potential rental units, staff recommends approval of this request. Furthermore, this new construction is positioned on over 1.2 acres of land, and screened with a decorative wall; the lot size negates the potential for overcrowding and the screening wall provides an agreeable street façade to break up the height of the building as one enters this neighborhood.

STAFF RECOMMENDATION:

We recommend approval of this request for a Specific Use Permit for an accessory building for living and sleeping quarters. Subject to the following conditions:

- A. That the east wall is built to fire rating standards per the City Building Official;**
- B. That the accessory building may be occupied only by family members or guests of the occupant of the primary residence. It shall not be rented as a separate dwelling at any time;**
- C. No entry into this accessory building shall be allowed from the south side of the building;**
- D. That this SUP represents a zoning of the property only. All building permits must be obtained and city inspections will need to be completed prior to obtaining a Certificate of Occupancy;**

- E. That a copy of this ordinance is to be filed of record identifying the terms of this Specific Use Permit and that the non-income nature of the accessory dwelling is carried to subsequent owners.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibit A – Site Plan
Exhibit B – Floor Plan
Exhibit C – Design Renderings (*for illustrative purposes only*)

Case Number: S-12-005

CITY OF MIDLAND
Planning Division

SPECIFIC USE PERMIT APPLICATION

LOUIE CARAVIRO - MASTER BUILDERS CONST (432) 559-0710
Applicant Name Contact Phone #s

PO Box 50653 MIDLAND, TX 79710
Address Zip Code
E-Mail address: MAC 0936 @ AOL.COM 79710

DR. RON BACKER (432) 352-9696
Property Owner Name Contact Phone #s

531 SIR BARTON MIDLAND, TX 79701
Address Zip Code
E-Mail address: TOXMANTX @ AOL.COM

Operator (if different from Applicant or Property Owner) Contact Phone #s

Address Zip Code

Type of Permit: SUP

SUP with Term: Yes No
(For Office Use)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)

LOT 20, BLOCK 4 SOLOMON ESTATES MIDLAND, TX

Current Zoning: SGL FAMILY

Maximum Floor Area: _____ Max. Occupancy: _____

Proposed hours and days of use or operation: _____

Reason for request: THIS IS INTENDED FOR GUEST USE ONLY -
NOT PERMANENT RESIDENCE

Applicant's opinion as to why the request will not adversely affect the public safety, health, morals, general welfare, and convenience: GUEST HOUSE / OCCASIONAL USE

ONLY

REQUIRED SUBMITTALS

1. Application fee: **\$300.** (80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.)
2. Site plan – 16 copies (FOLDED)
3. On a CD in .pdf and .jpg format.

SIGNATURES:

Applicant: *Louie Caraweo* Date: 2-10-2012

Property Owner: _____ 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

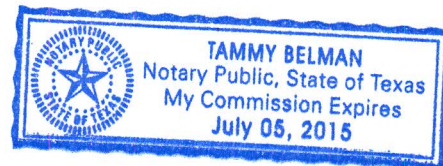
Before me, the undersigned authority, on this day personally appeared *Louie Caraweo* who, being by me duly sworn, upon oath says: That (s)he is authorized by *DR. RON BACKER*, the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Subscribed and sworn to before me, this 10 day of February, 20 12, to certify which witness my hand and seal of office.

Tammy Belman
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

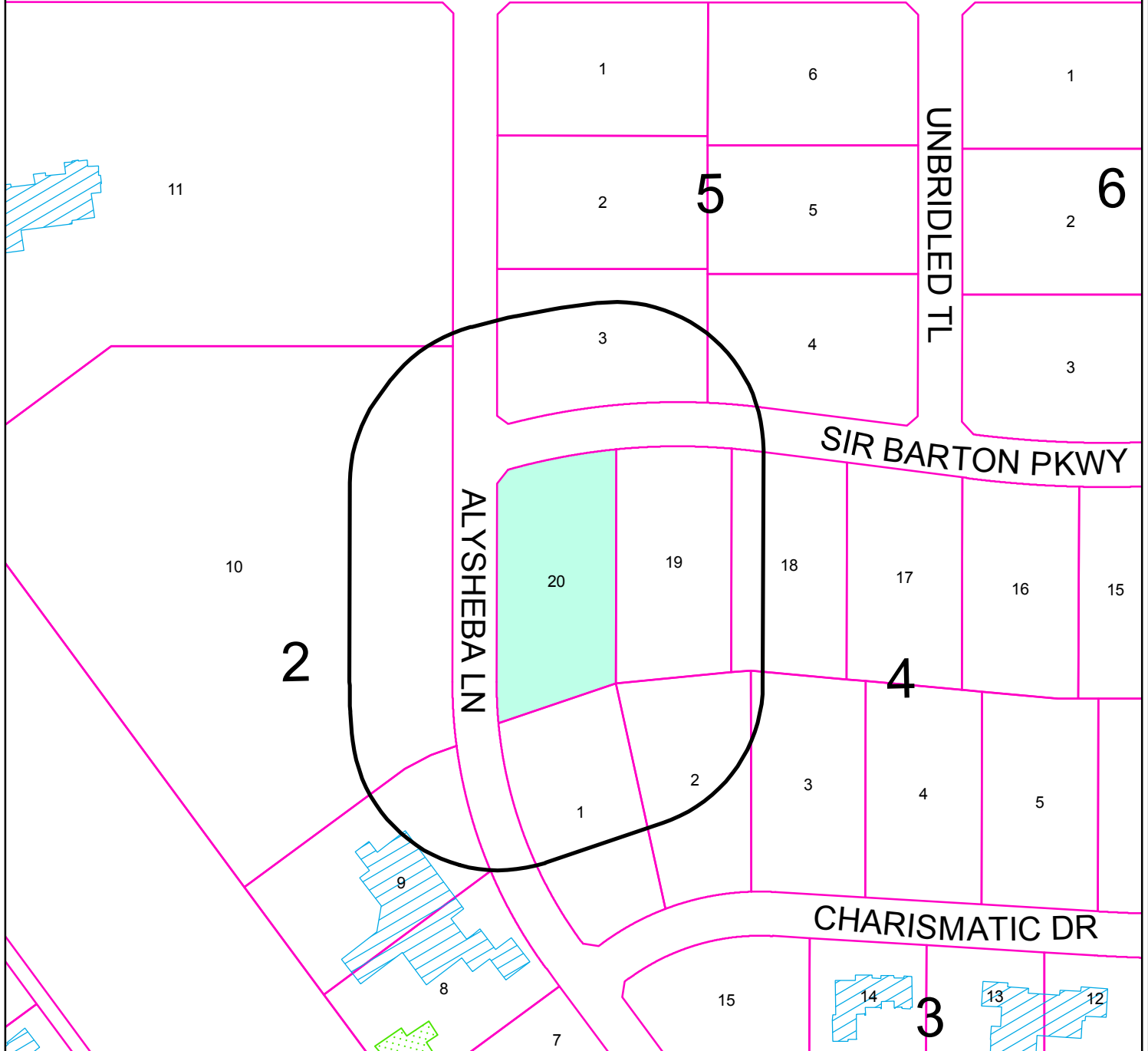
FOR OFFICE USE ONLY	
Rec'd By: <u><i>BD</i></u>	Date: <u>2/10/12</u>
Assigned: <u><i>CW</i></u>	
For: <u><i>P&Z</i></u>	On: <u><i>3/5/12</i></u>

4/2/12



****Application will not be considered for scheduling until reviewed by a planner.****

MOCKINGBIRD LN



PROPERTY OWNER NOTIFICATION MAP

S - 12 - 005

Scale: 1" = 200'

Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



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PDRC

206

MOCKINGBIRD LN

AST

UNBRIDLED TL

SECRETARIAT ST

SIR BARTON PKWY

RIVIERA CT

AE

CE

AUGUSTA DR

CHARISMATIC DR

DORAL CT

1F1

PINEHURST DR

ALYSHEBA LN

AFFIRMED AV

SECRETARIAT ST

ZONING MAP

S - 12 - 005

Scale: 1" = 400'

Consider a request for a Specific Use Permit Without Term for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas.

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

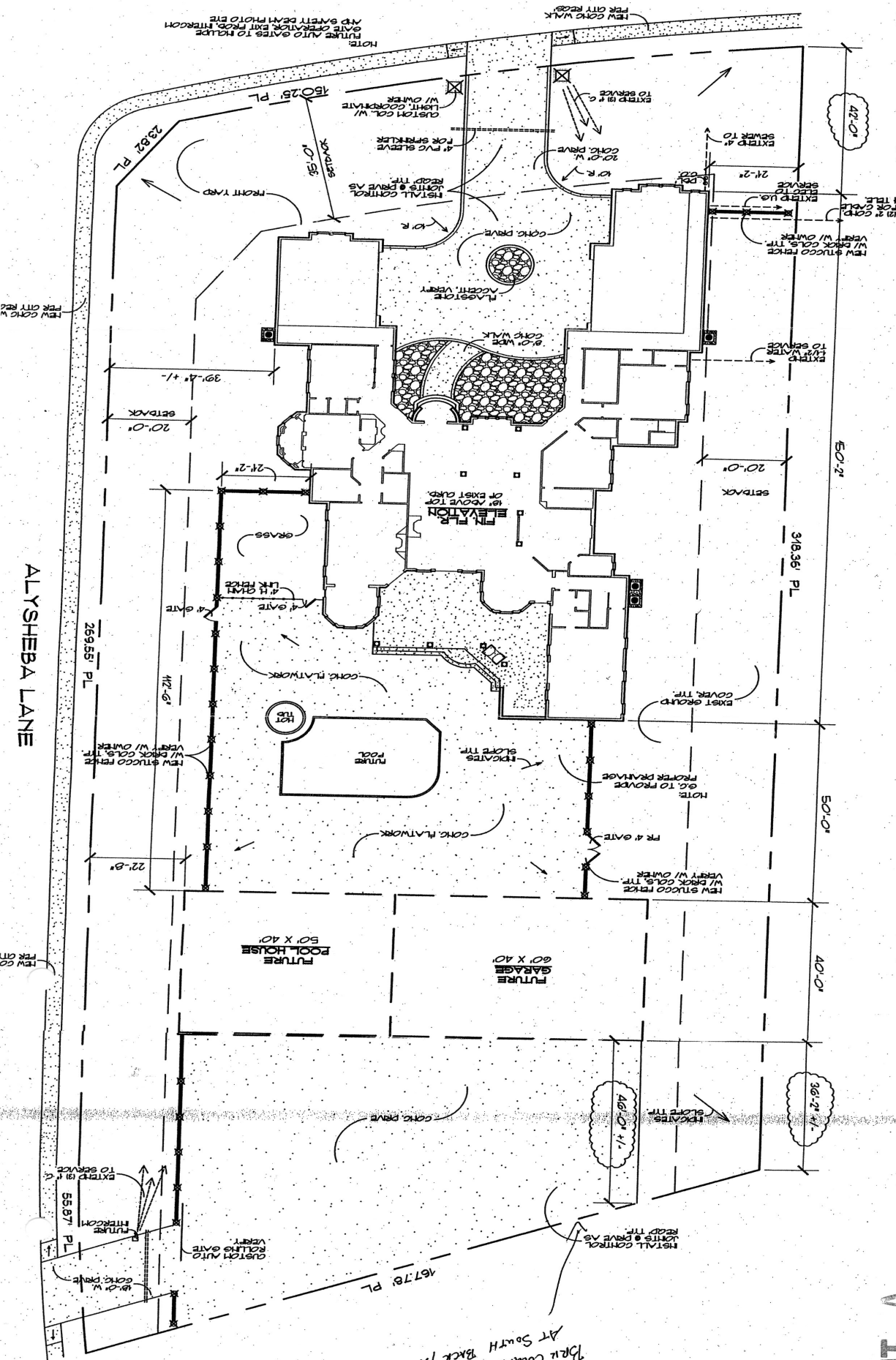
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**Dr. Ron Backer
Solomon Estates
Lot 20, Bk 4**

531 SIR BARTON

NOTE:
FUTURE AUTO GATES TO HOLD
GATE COVERS EAST FROM INTERCOM
AND SWATCH BEAM PHOTO EYE



ALYSHEBA LANE

EXHIBIT A

SITE PLAN

RECEIVED
MAR 26 2012
CITY OF MIDLAND
ENGINEERING DIVISION OFFICE

CASE NO. 512-005



WINDOW SIZE | LEGEND:

WINDOW SIZE LEGEND:
WINDOW TAGS AS SHOWN PER WINDOW & FLOOR
PLAN SHALL BE READ AS "ALLIGNS"
3050 OP - 3'-0" X 5'-0" OPERABLE
3050 FPD - 3'-0" X 5'-0" FIXED

DOOR SIZE LEGEND:

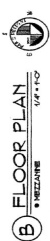
16	2'-0" X 6'-0"	PM-1	10'-0" X 6'-0"
18	2'-6" X 6'-0"	PM-2	10'-6" X 6'-0"
20	2'-0" X 8'-0"	PM-3	10'-0" X 8'-0"
22	2'-6" X 8'-0"	PM-4	10'-6" X 8'-0"
24	2'-0" X 10'-0"	PM-5	10'-0" X 10'-0"
26	2'-6" X 10'-0"	PM-6	10'-6" X 10'-0"

② 10'-0" X 10'-0" CASED OPENING
- RECESSED SIZE

NOTE: ALL DOORS ARE 6'-0" HIGH (UNLESS NOTED OTHERWISE). MOST DOOR STILES WITH ONE LEAF PRIOR TO 1998.

16. CONCRETE FINISHES
17. ALL REPAIRS
18. OTHER PORTLAND CEMENT CONCRETE
19. THE LARGER PORTLAND CEMENT CONCRETE
20. ALL CONCRETE
21. THE BUILDING
22. ANY CONCRETE
23. PROJECT
24. ANCHOR BOLTS
25. ANCHOR BOLTS
26. ANCHOR BOLTS

17. ALL READY 30
18. OTHER FORMS
19. PREPARED
20. THE LAKE
21. CORRECTION
22. AND CONCRETE
23. ALL CONCRETE
24. STANDARD
25. THE BUILDER
26. ANY CONCRETE
27. CHARACTERISTICS
28. PROJECT
29. WALLS, ETC.
30. THE FOUNDATION
31. ANCHOR BOLTS
32. DO NOT
33. ANCHOR BOLTS
34. ANCHOR BOLTS
35. ANCHOR BOLTS
36. ANCHOR BOLTS



EXPLORE

15.16 CASE NO. 5-12-005



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 1), being a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport)

Purpose:

Consider an ordinance on second reading establishing the initial zoning of land located north of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 40 acre tract. This land is located at the north end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage. No changes have occurred since first reading.

Attachments:

Map
Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 1), being a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport)

Purpose:

To hold a public hearing at approximately 10:45 a.m. and consider an ordinance establishing the initial zoning of land located north of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 40-acre tract. This land is located at the north end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage.

Attachments:

Map

Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.46-ACRE TRACT OF LAND OUT OF SECTION 45, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTH OF MIDLAND INTERNATIONAL AIRPORT; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-3, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:45 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 1 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

an IP-3, Industrial Park District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

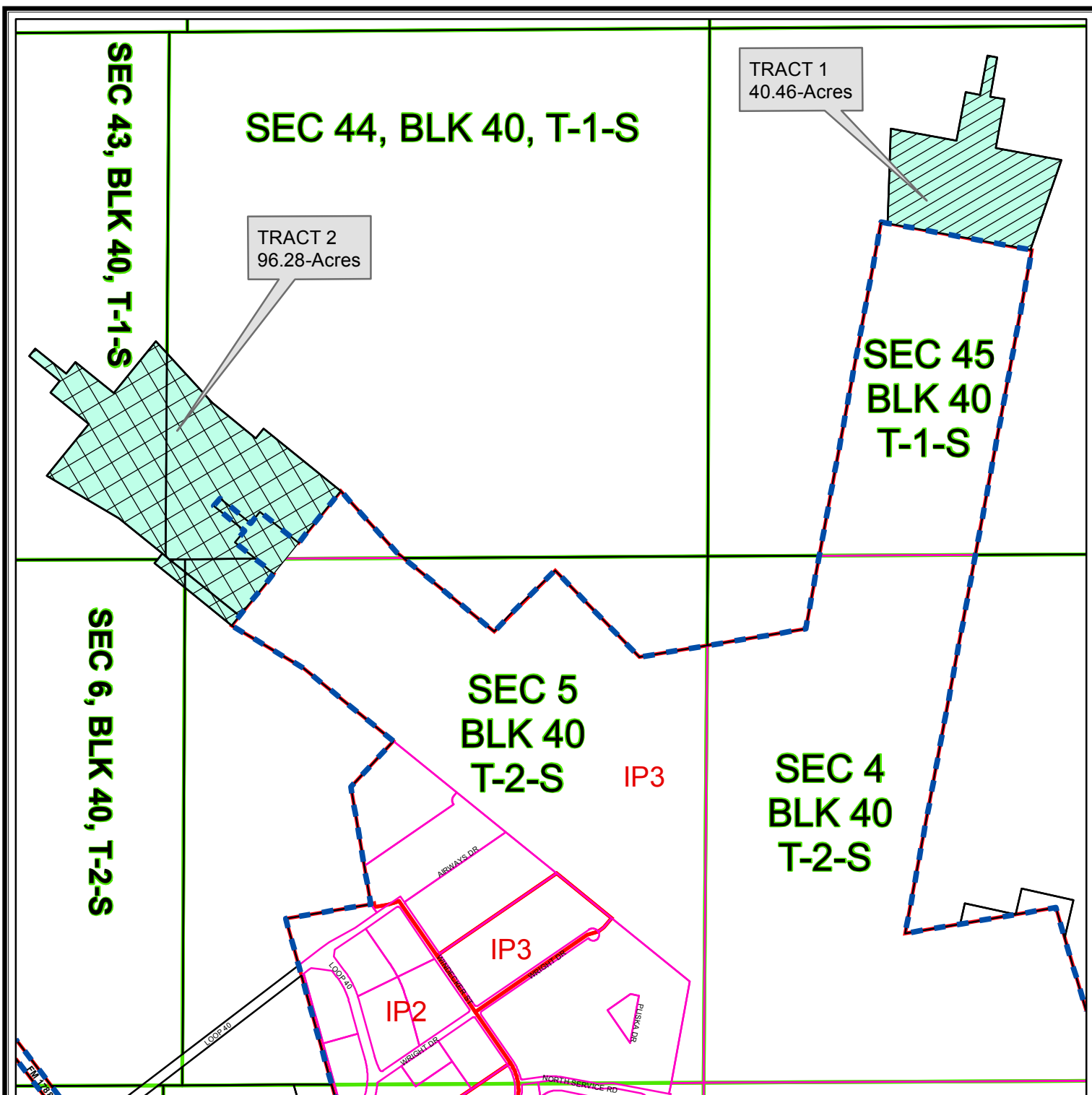
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 1,400'

TRACTS 1 & 2

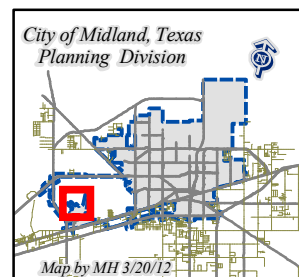
Consider the initial zoning of annexed land to IP-3, Industrial Park District on (Tract 1) a 40.46-acre tract of land out of Section 45, Block 40, T-1-S and on (Tract 2) a 96.28-acre tract of land out of Sections 43 & 44, Block 40, T-1-S and Sections 5 & 6, Block 40, T-2-S, all T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- IP2 - INDUSTRIAL PARK DISTRICT
- IP3 - INDUSTRIAL PARK DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 2), being a 96.28-acre tract of land out of Sections 43 & 44, Block 40, T-1-S, and Sections 5 & 6, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport)

Purpose: Consider an ordinance on second reading establishing the initial zoning of land located northwest of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 96 acre tract. This land is located at the end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage. No changes have occurred since first reading.

Attachments:

Map

Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 2), being a 96.28-acre tract of land out of Sections 43 & 44, Block 40, T-1-S, and Sections 5 & 6, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport)

Purpose:

To hold a public hearing at approximately 10:48 a.m. and consider an ordinance establishing the initial zoning of land located northwest of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 96-acre tract. This land is located at the end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 96.28-ACRE TRACT OF LAND OUT OF SECTIONS 43 AND 44, BLOCK 40, T-1-S, AND SECTIONS 5 AND 6, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF MIDLAND INTERNATIONAL AIRPORT; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-3, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:48 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 2 on

Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an IP-3, Industrial Park District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

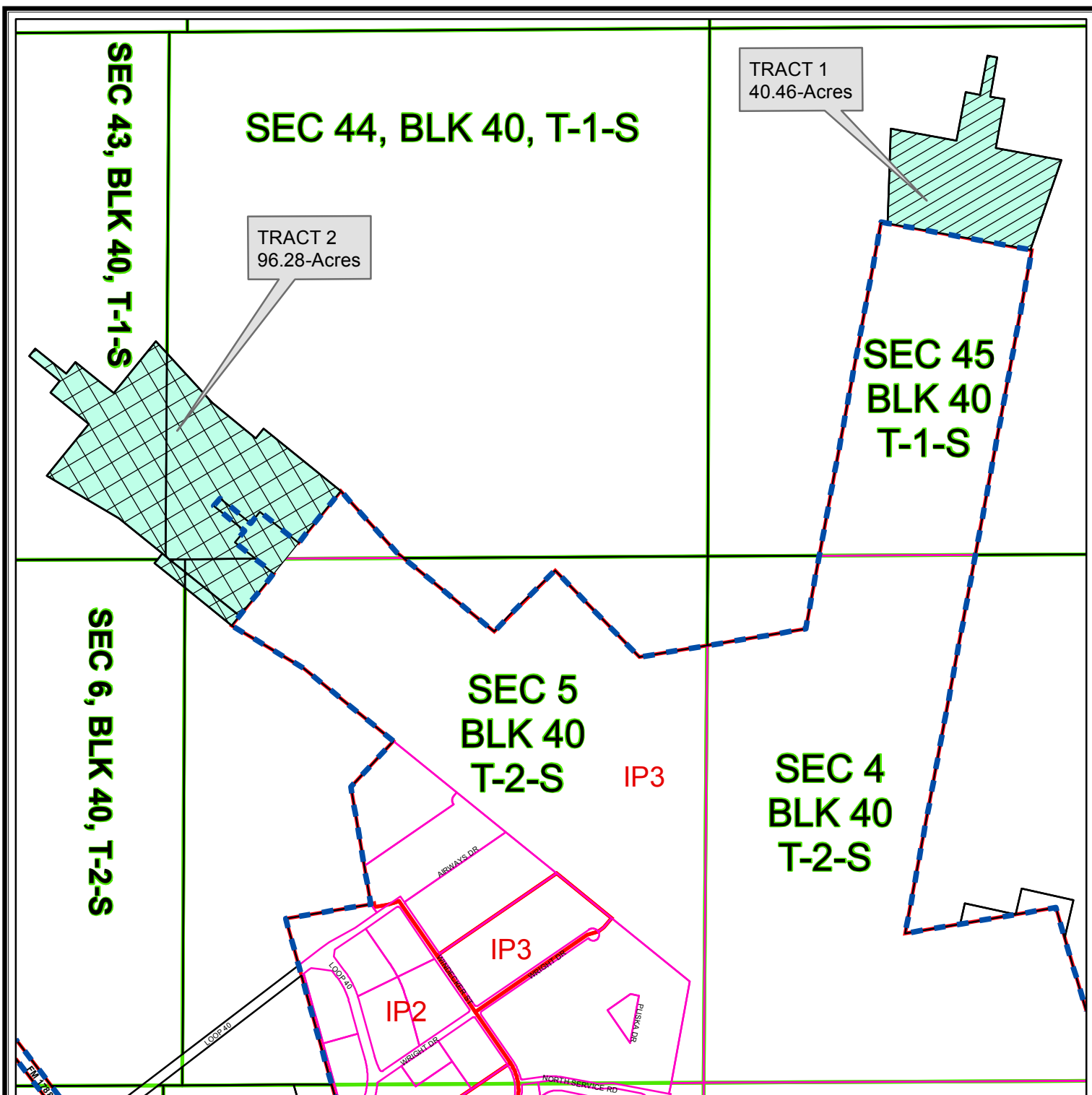
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 1,400'

TRACTS 1 & 2

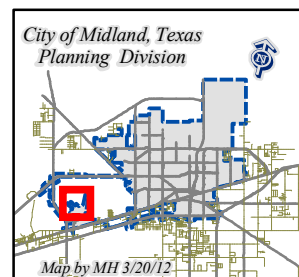
Consider the initial zoning of annexed land to IP-3, Industrial Park District on (Tract 1) a 40.46-acre tract of land out of Section 45, Block 40, T-1-S and on (Tract 2) a 96.28-acre tract of land out of Sections 43 & 44, Block 40, T-1-S and Sections 5 & 6, Block 40, T-2-S, all T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- IP2 - INDUSTRIAL PARK DISTRICT
- IP3 - INDUSTRIAL PARK DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 3), being a 55.08-acre tract of land out of Sections 8, 9, 16, & 17, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport)

Purpose: Consider an ordinance on second reading establishing the initial zoning of land located south of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 55 acre tract. This land is located near the south end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage. No changes have occurred since first reading.

Attachments:

Map

Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 3), being a 55.08-acre tract of land out of Sections 8, 9, 16, & 17, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport)

Purpose:

To hold a public hearing at approximately 10:51 a.m. and consider an ordinance establishing the initial zoning of land located south of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 55-acre tract. This land is located near the south end of a runway at the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 55.08-ACRE TRACT OF LAND OUT OF SECTIONS 8, 9, 16 AND 17, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTH OF MIDLAND INTERNATIONAL AIRPORT; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-3, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:51 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 3 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

an IP-3, Industrial Park District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

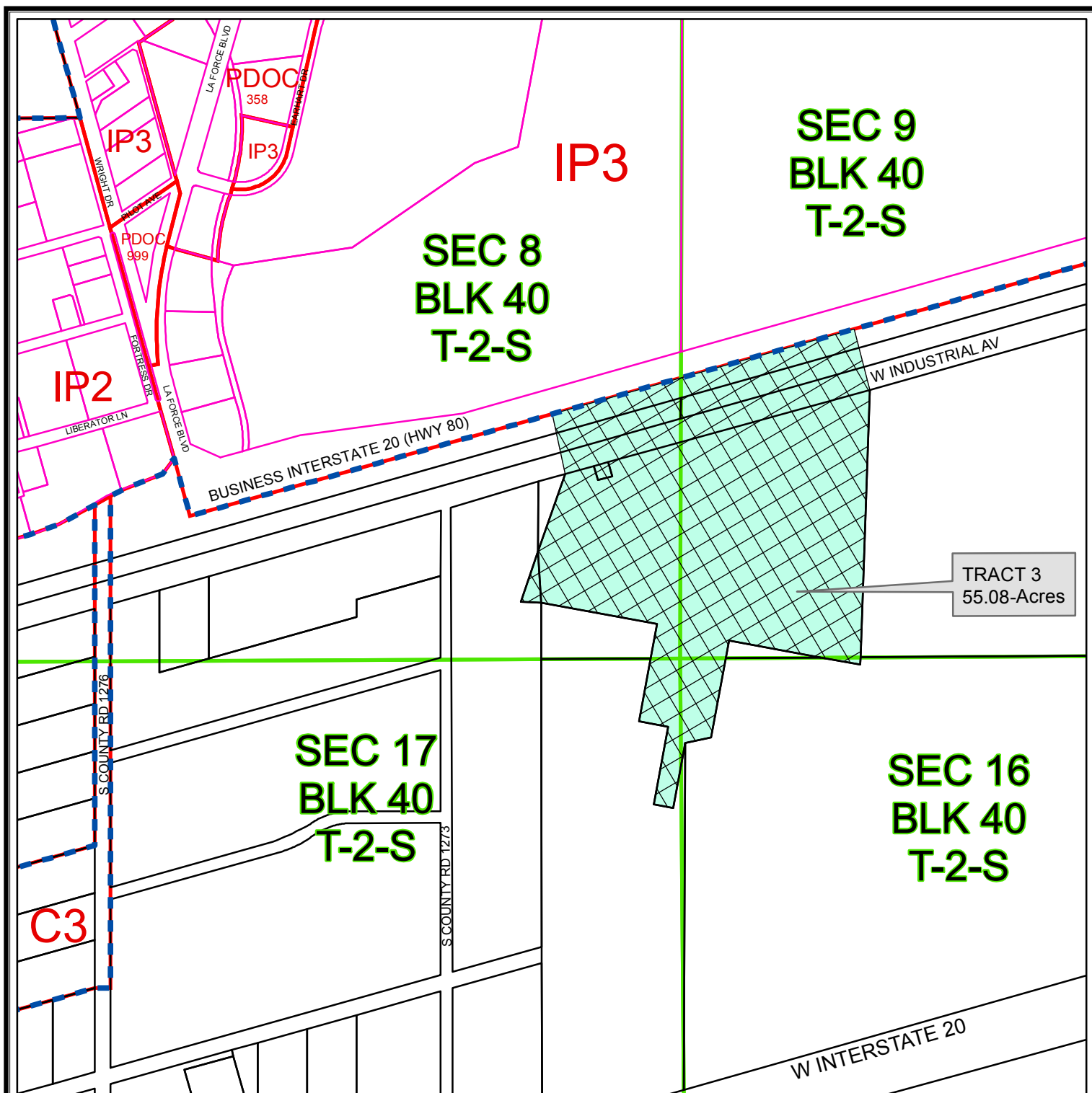
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 700'

TRACT 3

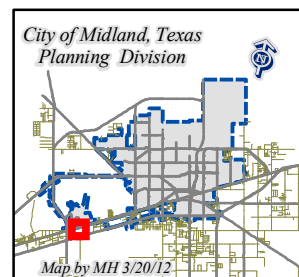
Consider the initial zoning of annexed land to IP-3, Industrial Park District on (Tract 3) a 55.08-acre tract of land out of Sections 8, 9, 16 and 17, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- PD - PLANNED DISTRICT
- C3 - COMMERCIAL DISTRICT
- IP - INDUSTRIAL PARK DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 4), being a 2.25-acre tract of land out of Section 10, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport)

Purpose: Consider an ordinance on second reading establishing the initial zoning of land located northeast of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 2 ¼ acre tract. This land is located northeast of the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage. No changes have occurred since first reading.

Attachments:

Map

Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 4), being a 2.25-acre tract of land out of Section 10, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport)

Purpose:

To hold a public hearing at approximately 10:54 a.m. and consider an ordinance establishing the initial zoning of land located northeast of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 2.25-acre tract. This land is located northeast of the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.25-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-3, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:54 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 4 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

an IP-3, Industrial Park District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

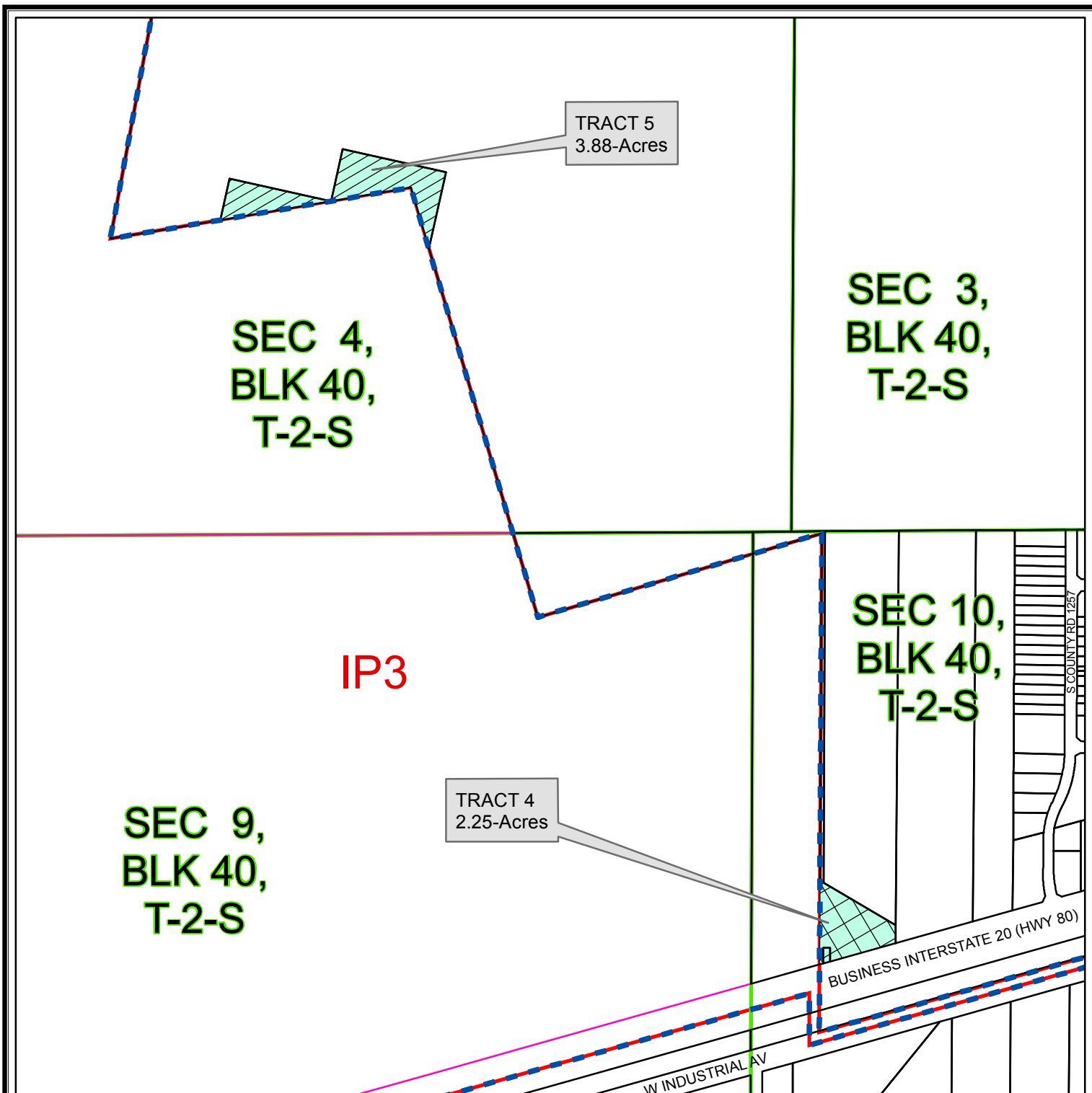
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 700'

TRACTS 4 & 5

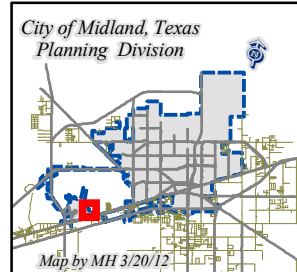
Consider the initial zoning of annexed land to IP-3, Industrial Park District on (Tract 4) a 2.25-acre tract of land out of Section 10, Block 40, T-2-S and (Tract 5) a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, all T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

IP - INDUSTRIAL PARK DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance on second reading establishing the initial zoning of annexed property (Tract 5), being a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport)

Purpose: Consider an ordinance on second reading establishing the initial zoning of land located northeast of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 3.88 acre tract. This land is located northeast of the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage. No changes have occurred since first reading.

Attachments:

Map

Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 5), being a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, T&P RR. Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport)

Purpose:

To hold a public hearing at approximately 10:57 a.m. and consider an ordinance establishing the initial zoning of land located northeast of the Midland International Airport.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 3.88-acre tract. This land is located northeast of the Midland International Airport. The adjacent land is zoned IP-3, Industrial Park District. Staff recommends that this same zoning be established for this acreage.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.88-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-3, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:57 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 5 on Exhibit "A", attached hereto and incorporated herein by reference, is hereby established as

an IP-3, Industrial Park District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

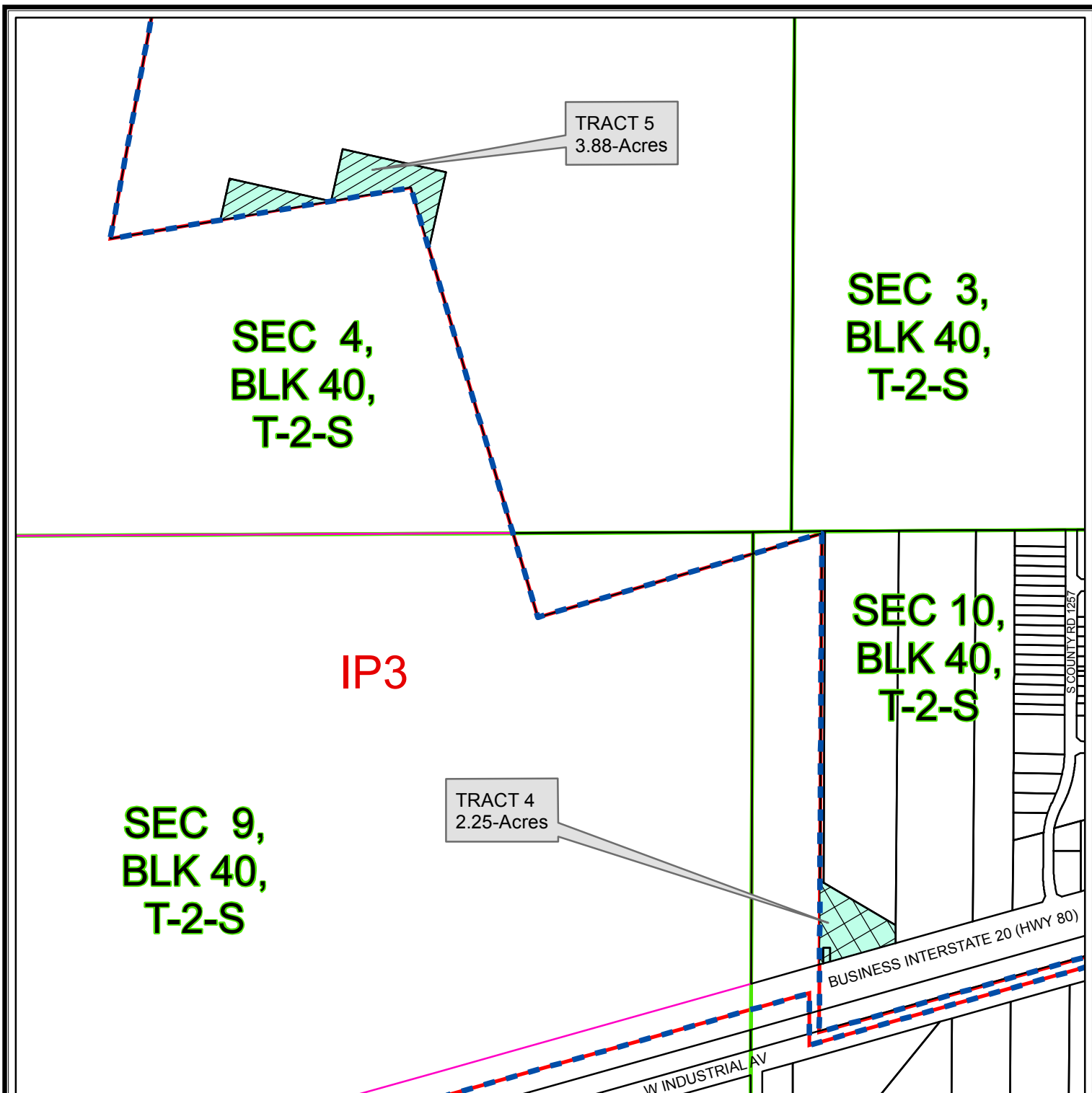
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 700'

TRACTS 4 & 5

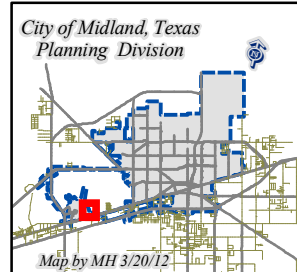
Consider the initial zoning of annexed land to IP-3, Industrial Park District on (Tract 4) a 2.25-acre tract of land out of Section 10, Block 40, T-2-S and (Tract 5) a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, all T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

IP - INDUSTRIAL PARK DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 6) being a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Purpose: Consider an ordinance on second reading establishing the initial zoning of land located on the north side of the future extension of Mockingbird Lane.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance on second reading establishing the initial zoning of this approximate 3.5 acre tract. The land is developed with a city water tower. Development around this land is not likely to occur until annexation is completed in the future, staff recommends that this tract be zoned FD, Future Development. No changes have occurred since first reading.

Attachments:

Map
Proposed Ordinance



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Z-12-009, Consider an ordinance establishing the initial zoning of annexed property (Tract 6) being a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR. Co. Survey, Midland County, Texas.

Purpose:

To hold a public hearing at approximately 11:00 a.m. and consider an ordinance establishing the initial zoning of land located on the north side of the future extension of Mockingbird Lane.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process the initial zoning of this property.

Discussion:

This land was recently annexed and it is now appropriate for the Council to consider an ordinance establishing the initial zoning of this approximate 3.5-acre tract. The land is developed with a city water tower. Development around this land is not likely to occur until annexation is completed in the future, staff recommends that this tract be zoned FD, Future Development.

Attachments:

Map
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.57-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED AT THE FUTURE EXTENSION OF MOCKINGBIRD LANE, EAST OF AVALON 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, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on April 24, 2012, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an FD, Future Development District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 11:00 a.m. on said April 24, 2012, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals and general welfare of the City of Midland to amend the zoning regulations accordingly;

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

SECTION ONE. That the zoning classification of the area indicated as Tract 6 on

Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an FD, Future Development District.

SECTION TWO. 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 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 two thousand dollars (\$2,000.00).

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

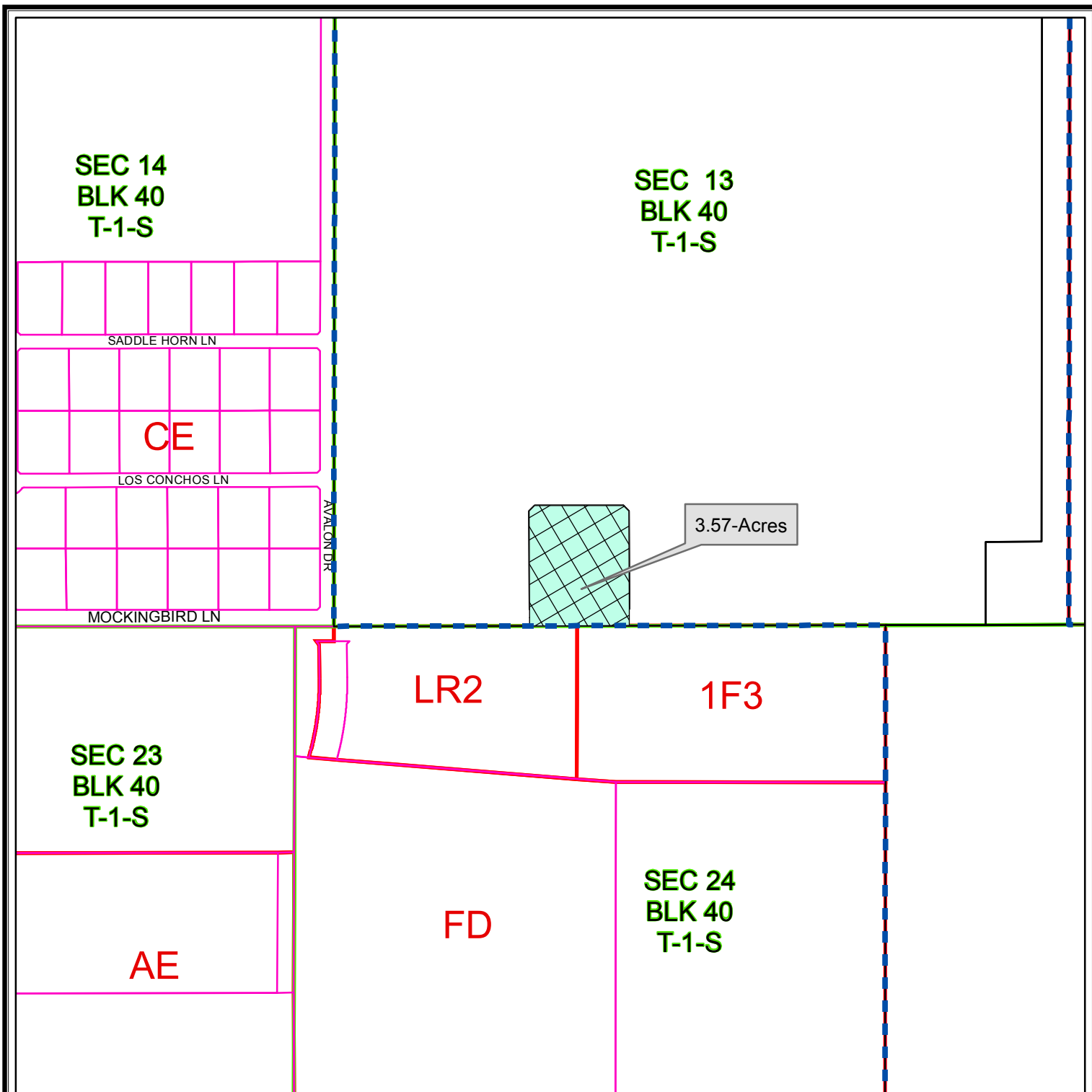
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



LOCATION & ZONING MAP

Z - 12 - 009

Scale: 1" = 500'

TRACT 6

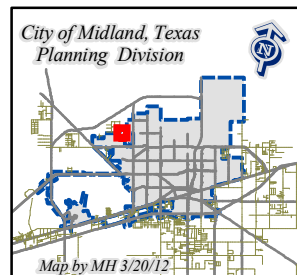
Consider the initial zoning of annexed land to FD, Future Development District on (Tract 6) a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

- LR2 - LOCAL RETAIL
- FD - FUTURE DEVELOPMENT
- CE - COUNTRY ESTATE DISTRICT
- AE - AGRICULTURE ESTATE DISTRICT
- 1F3 - ONE FAMILY DWELLING DISTRICT



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City Council Agenda

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Amy Turner, City Secretary

SUBJECT: Consider an Ordinance on second reading amending the Fiscal Year 2011-2012 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$95,000.

Purpose:

To provide the Sports and Entertainment Association of Midland (SEAM) additional funds to promote tourism in Midland.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Appropriate \$95,000 from the Hotel / Motel Fund (090) Unappropriated Fund Balance (5650) to Hotel / Motel Fund (090) Administration (005) Miscellaneous (6990) budget account

Discussion:

During the FY 2011-2012 budget process, the City Council approved funding for SEAM in the amount of \$135,000. This is the same amount the group has received for four years. FY 2010-2011 the City Council allocated an additional \$95,000 because there was an increase of qualified applications for funding.

SEAM requested funding for FY 2011-2012 in the amount of \$210,000. However, the Hotel/Motel Tax Advisory Board recommended an allocation of \$135,000 because the board had \$2 million to allocate but had over \$2.2 million in requests.

SEAM anticipates additional requests this fiscal year totaling an additional \$95,000 including \$86,250 in current grant requests for upcoming events.

Any monies not spent by SEAM will go back to Hotel/Motel Fund at the end of the fiscal year.

First reading of ordinance was heard at the April 24, 2012 meeting.



City Council Agenda

MEETING DATE: April 24, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Amy Turner, City Secretary

SUBJECT: Consider an Ordinance amending the Fiscal Year 2011-2012 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$95,000.

Purpose:

To provide the Sports and Entertainment Association of Midland (SEAM) additional funds to promote tourism in Midland.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Appropriate \$95,000 from the Hotel / Motel Fund (090) Unappropriated Fund Balance (5650) to Hotel / Motel Fund (090) Administration (005) Miscellaneous (6990) budget account

Discussion:

During the FY 2011-2012 budget process, the City Council approved funding for SEAM in the amount of \$135,000. This is the same amount the group has received for four years. FY 2010-2011 the City Council allocated an additional \$95,000 because there was an increase of qualified applications for funding.

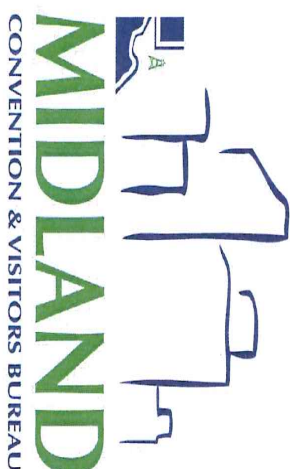
SEAM requested funding for FY 2011-2012 in the amount of \$210,000. However, the Hotel/Motel Tax Advisory Board recommended an allocation of \$135,000 because the board had \$2 million to allocate but had over \$2.2 million in requests.

SEAM anticipates additional requests this fiscal year totaling an additional \$95,000 including \$86,250 in current grant requests for upcoming events.

Any monies not spent by SEAM will go back to Hotel/Motel Fund at the end of the fiscal year.

April 11, 2012

Amy Turner
City of Midland
PO Box 1152
Midland, Texas 79702



Re: Request to be placed on City Council agenda

Dear Mrs. Turner,

The Midland Chamber of Commerce requests additional funding from the Hotel/Motel Tax Fund to continue its work regarding the Sports & Entertainment Association of Midland (SEAM), under the Midland Convention & Visitors Bureau. With the criteria put in place, the SEAM Board has granted, or has pending grants, for all but \$28,656.00 (attached) of the available funds that were received for this fiscal year. SEAM would like to request \$95,000.00 from the Hotel/Motel Tax Fund to cover any additional grants, including the \$72,000.00 in current grant requests for upcoming events. SEAM understands the dollars not disbursed will be returned to the City of Midland at the end of the Fiscal Year.

In October 2011, the COM allocated the SEAM \$135,000.00 to work with event right holders to enhance their events and promote Midland as a sporting and entertainment destination.

Included in this packet are SEAM's new internal guidelines for determining event grants, new SEAM Grant Form, and the SEAM By Laws.

The criterion that the Sports and Entertainment Association Board has been using is as follows:

Hotel/Motel Tax Generated
(*Room Nights x \$115.00 x 7% Hotel/Motel Tax*)
Overnight Visitors DVS (Direct Visitor Spending) Tax Generated
(*Overnight Visitors x Event Days x \$150 x 8.25% Sales Tax*)

These figures are totaled to determine the "*Maximum Grant Amount*" for each grant which is a larger value than most grant requests.

The procedures that have been in place for SEAM grant applications are as follows:

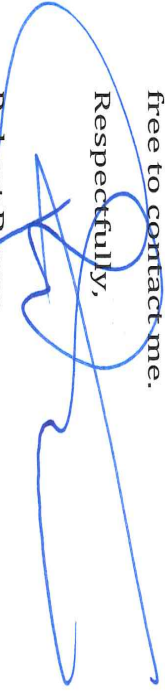
- Requests for Grant Application received from Event Right Holders
- Meeting with CVB staff if requested by event right holder to go through process
- Grant Application received and reviewed by CVB staff to research history of the event and create a snap shot of event prior to the Sports and Entertainment Association Board review
- SEAM Board reviews (and either approves or denies), based on Hotel/Motel Tax Laws set by the State of Texas
- Post Event Report (event right holders accountability for hotel room nights, day visitors and overnight visitors) is filed within 45 days of closure of event and reviewed by CVB staff for accuracy.
- SEAM Board reviews Post Event Reports and either approves or denies payment.



SEAM has worked diligently to be good stewards of the Hotel/Motel Tax money with which the City Council has entrusted this organization since 2004, and looks forward to closing 2011-2012 with great success. As the information regarding availability of grant money continues to reach into the sports and entertainment community, we feel our efforts will continue to be of great value for Midland.

Thank you for your consideration of the additional funding to SEAM. If there are any questions, please feel free to contact me.

Respectfully,


Robert Burns

President,
Midland Chamber of Commerce

Cc: Gaylia Olivas
SEAM

SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND

Draft Financials as of April 10, 2012

Grant Approval	Funding Approval	Grant	Amount Requested Previous FY	Amount Requested	Amount Granted (-)	Balance
10/01/10		Beginning Balance				\$ 135,000.00
09/28/11	11/15/11	TAM Championship Major Zone Tennis Tournament	\$ 500.00	\$ 1,200.00	\$ 1,200.00	\$ 133,800.00
09/28/11	11/15/11	TAM National Regional Tennis Tournament	\$ 2,000.00	\$ 1,500.00	\$ 1,500.00	\$ 132,300.00
09/28/11	01/23/12	Byron Johnston Holiday Basketball Classic Tournament	\$ 10,000.00	\$ 11,000.00	\$ 11,000.00	\$ 121,300.00
11/14/11	12/12/11	LHS Tall City Oilman's Basketball Tournament	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 111,300.00
11/14/11	01/23/12	Tex-Mex Barrel Racing Association	\$ 3,000.00	\$ 1,600.00	\$ 1,052.00	\$ 110,248.00
11/14/11	12/12/11	Professional Armed Forces Rodeo Association	N/A	\$ 3,000.00	\$ 3,000.00	\$ 107,248.00
12/12/11	02/14/12	Presidents Cup Soccer Tournament	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 99,248.00
12/12/11	03/13/12	LHS & MHS West Texas Softball Classic	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00	\$ 94,248.00
12/12/11	02/14/12	TAM Zone Advancement Tournament	\$ 500.00	\$ 500.00	\$ 500.00	\$ 93,748.00
			\$15,000.00			
01/10/12	04/10/12	MISD Tall City Relays	(2010)	\$ 7,500.00	\$ 813.00	\$ 92,935.00
01/10/12	04/10/12	MISD Region 1 Division 1 Powerlifting	N/A	\$ 7,500.00	\$ 2,188.00	\$ 90,747.00
			\$15,000.00			
01/10/12		District 3-5A Track Meet	(2010)	\$ 7,500.00	\$ -	\$ 90,747.00
01/10/12	03/13/12	LHS Golf Booster Club Annual Tall City Invitational	\$ 2,000.00	\$ 3,500.00	\$ 3,341.00	\$ 87,406.00
01/10/12		LHS & MHS Tournament of Champions	\$ 10,000.00	\$ 14,000.00	\$ 10,000.00	\$ 77,406.00
01/10/12	03/13/12	West Texas Kennel Club	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 73,406.00
01/10/12	03/13/12	Midland College Softball Spring Classic	\$ 5,000.00	\$ 8,500.00	\$ 7,000.00	\$ 66,406.00
01/10/12	04/10/12	MUGS Spring Classic	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 65,406.00
01/10/12		MUGS Mary Howard Tournament	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 64,406.00
01/10/12		MUGS Mother's Day Classic	\$ 500.00	\$ 1,000.00	\$ 1,000.00	\$ 63,406.00
01/10/12		MUGS ASA District Qualifier	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 62,406.00
		MUGS 8 Game Guarantee (previously held over 2 wknds)	\$ 16,000.00	\$ 15,000.00	\$ 10,000.00	\$ 52,406.00
01/10/12	02/14/12	UIL Trophies - Playoffs	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 42,406.00
02/14/12		TAM National Open B&G 18's	\$ 1,500.00	\$ 1,250.00	\$ 1,250.00	\$ 41,156.00

02/14/12	03/13/12	COM Aquatics West Texas Championship	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	\$ 39,156.00
03/13/12		Trinity School TCAF State Track Meet	N/A	\$ 6,000.00	\$ 6,000.00	\$ 33,156.00
04/10/12		Junior Olympics Boxing Tournament	N/A	\$ 4,500.00	\$ 4,500.00	\$ 28,656.00

INDICATED THAT THE GRANT DATE AND AMOUNT ARE NOT FINAL AS NO POST EVENT REPORT HAS BEEN SUBMITTED AND A FINAL GRANT AMOUNT HAS NOT BEEN AWARDED.

Upcoming Grant Requests			
West Texas State Tournament	June Event		\$20,000.00
USSA 2011 Girls Fast Pitch State Tournament	July		\$15,000.00
MUGS State ASA Tournament	July		\$25,000.00
Men's E State Tournament	August		\$2,000.00
Midland RockHounds Concert	September		\$10,000.00
Unknown Grants - new events			\$23,000.00
			\$95,000.00



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-12-008, Grace Partnership, LLC.

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a request by Grace Partnership, LLC., for a zone change from PD, Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

Grace Partnership, LLC., has replatted 14.67 acres along Tradewinds Boulevard to a single lot with the intent to develop the property with apartment buildings. While removing the split-zone is not at issue, the primary request is to amend this single PD, Planned District for a Housing Development to permit a greater density of 24 dwelling units per acre rather than the maximum permitted 16 units per acre. At this time, the developer is seeking the higher density to determine the feasibility of their project based upon constraints on this lot. The applicant has identified at least one oil well permit on the property. The greater density and required well buffer distance will be used to create a subsequent site plan for approval in the same manner as a zone change.

The request for greater density is not unique as several properties in Midland already exceed the 16 units/acre threshold indicated in the MF-1, Multi-Family District regulations of the zoning code. The Palms at Briarwood and the Blue Ridge Apartments were approved with densities of approximately 19 units per acre. More recently, the City Council approved 21 units/acre on a 9-acre lot located at Loop 250 and Leisure Drive.

Properly routing traffic is staff's primary concern in the rapidly developing Gateway Plaza area with the addition of a 250-300 unit apartment complex. This will be added to the 96-unit apartment complex across Tradewinds Blvd. and the multiplex theater being developed further south. Barring any relief of a Tradewinds Boulevard connection north, staff recommends a traffic study to evaluate alternatives including the potential need of requiring a right-of-way easement for a future road east-west across the applicant's property. This collector street would connect Tradewinds Blvd., run parallel to Business I-20 and then turn south to connect to Business I-20 at a point further west to alleviate the excess traffic created by this and other neighboring developments.

Staff concurs with the Planning & Zoning Commission in addressing the great need for housing and recommending approval of this request for an Amended Planned District for Housing Development at the higher density of 24 units/acre.

Attachments:

Application

Maps

April 16, 2012 Planning & Zoning Commission Staff Report

Proposed Ordinance

Case Number: Z-12-008

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: Grace Partnership, LLC

Address: P.O. Box 14738 432-366-2220
Street Address (Phone/e-mail)
Odessa, Texas 79768
City State Zip Code

Property Owner: _____

Address: _____
Street Address (Phone/e-mail)
_____ Zip Code
City State

Street address and Legal Description of Planned District (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a sealed Metes and Bounds Description:

1800 & 1900 Tradewinds Blvd., Lots 1 & 2, Block 4, Gateway Plaza, Section 2

Current PD Classification: PD for a Housing Development and PD for a Transition District

Requested PD Classification: Amended Planned District for Housing Development
(List by tracts if more than one zoning district is requested)

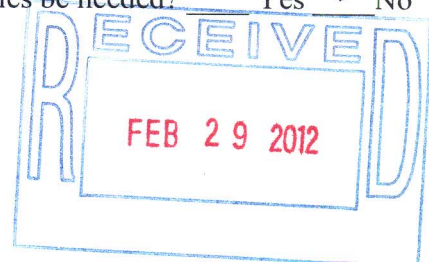
Reason for amendment request: Increased need for housing.

Describe how conditions affecting the property have changed since it was designated its present zone: Need for additional density and building height.

Density = 24 Units/Acre
~~Height = 3 stories~~

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? Yes ☒ No

2011-1359



FEES:

Single, Planned District amendment: \$550 Multiple, PD proposal: add \$75 per district.

SUBMITTALS:

Site plan submitted later,

16 copies of the PD site plan (FOLDED): _____

Site Plan in digital format .pdf and .jpg: _____

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

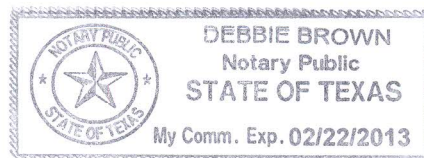
Max W. Richardson who, being by me duly sworn, upon oath says: That (s)he is authorized by Grace Partnership, LLC the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Max W. Richardson
Authorized Agent (signature)

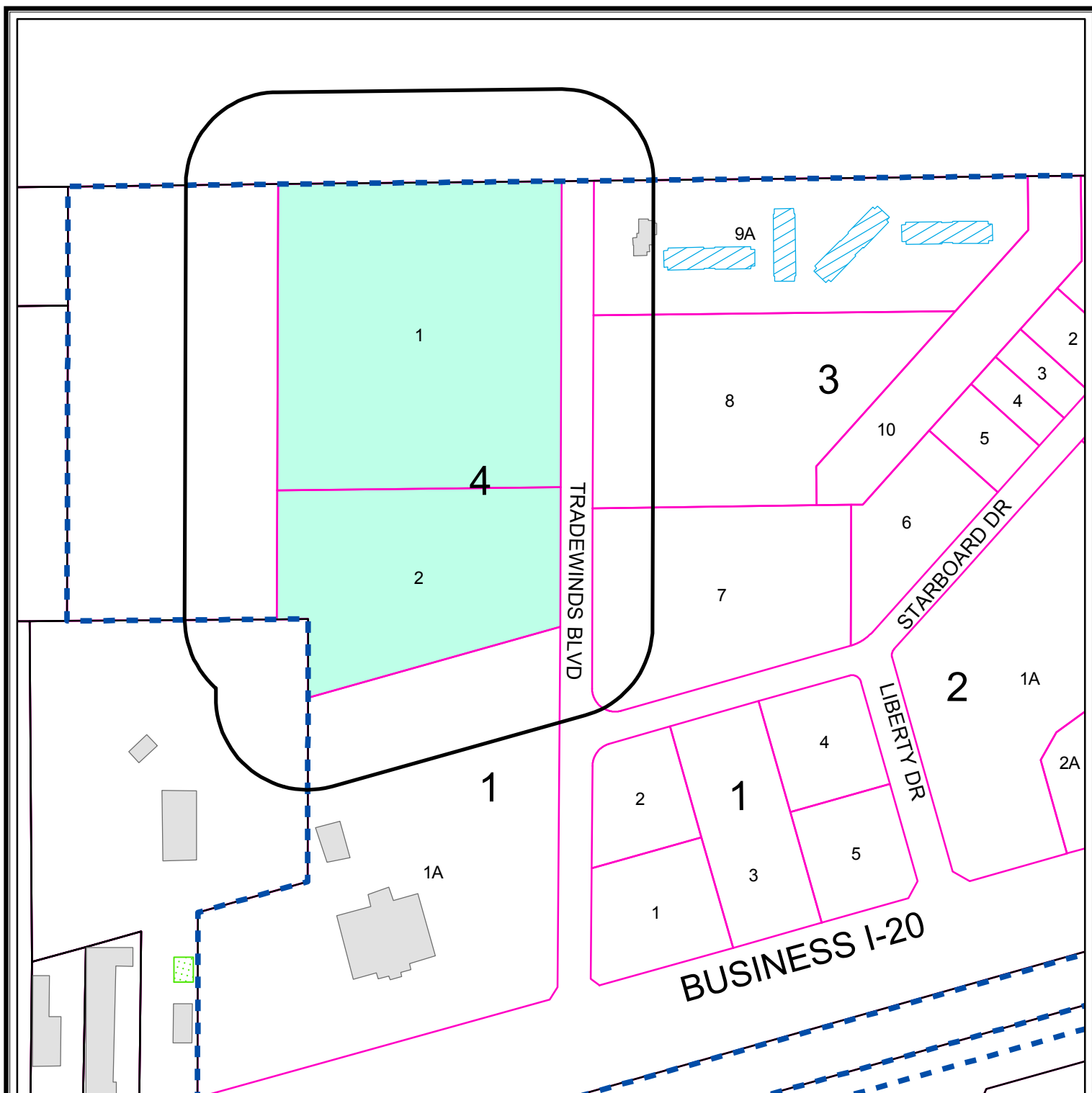
Subscribed and sworn to before me, this 28 day of February, 20 12, to certify which witness my hand and seal of office.

Debbie Brown
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JC</u>	Date: <u>2-29-12</u>
Assigned: <u>KV</u>	
For: <u>PtZ</u>	On: <u>4/16/12</u>



****Application will not be considered for scheduling until reviewed by a planner. ****



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 008

Scale: 1" = 300'

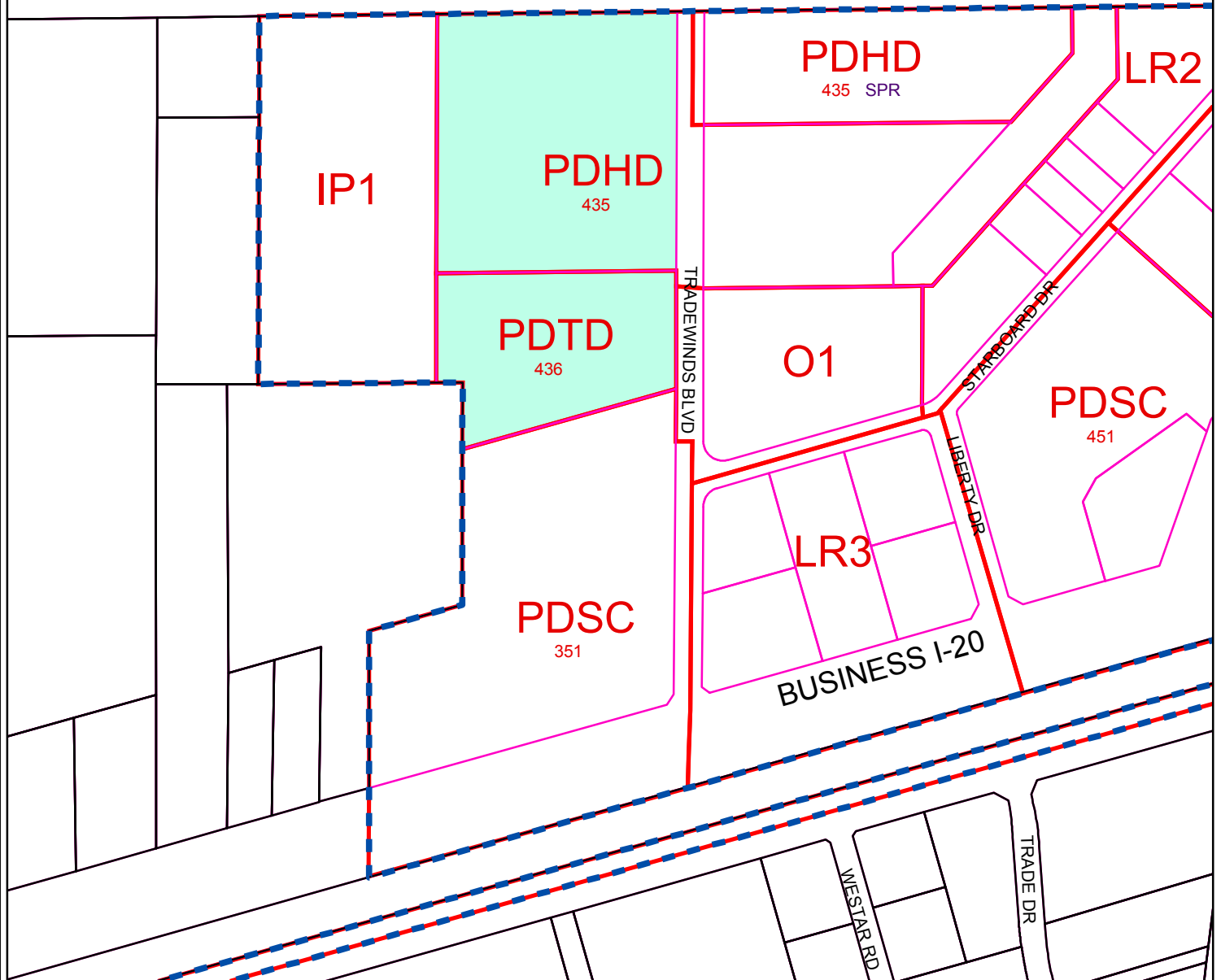
Consider a request for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District on, Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



©THE CITY OF MIDLAND - 2012
THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CIZING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.



ZONING MAP

Z - 12 - 008

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District on, Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LEGEND

- | | |
|---|--|
| ZONING | CITY PARCELS |
| CITY LIMITS | COUNTY 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
IF1, IF2, IF3	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



PLANNING AND ZONING COMMISSION

April 16, 2012

CASE: Z-12-008.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development.

APPLICANT: Grace Partnership, LLC.

LEGAL DESCRIPTION: Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20.

CURRENT ZONING: PDHD, Planned District for a Housing Development & PDTD, Planned District for a Transition District.

ASSOCIATED CASES: P-11-061

DETAILS OF REQUEST:

1. The applicant plans to develop this property with apartment buildings and remove the split zoning to the single-zoned PD, Planned District for a Housing Development as they replat this property into a single lot. While removing the split-zone is not at issue, the primary request is to amend this single PD, Planned District for a Housing Development to permit a greater density of 24 dwelling units per acre rather than the maximum permitted 16 units per acre. No other request for deviation from the City's Code is being made at this time. Since this is a Planned District, the future development of the property will be subject to a detailed site plan submittal and brought to the Planning & Zoning Commission for consideration in the same manner as a zone change.

SURROUNDING ZONING AND LAND USE:

2. The 14.67 acre plat that defines the subject property is positioned along what is a rapidly developing area known as Gateway Plaza at the northwest corner of the

intersection of Business I-20 and Loop 250. Neighboring land uses to the applicants anticipated 250-300 unit apartment development include another PD, Planned District Housing Development, with an existing 96-unit apartment complex just across Tradewinds Blvd. to the east and a PD, Planned District for a Shopping Center, set for the development of a multiplex theater and entertainment venue further south. Other zoning in this area will accommodate local retail and office use.

SITE ANALYSIS:

3. The request for greater density is not new with several properties in Midland exceeding the 16 units/acre threshold indicated in the MF-1, Multi-Family District regulations of the zoning code already. The Palms at Briarwood and the Blue Ridge Apartments were approved with densities of approximately 19 units per acre. More recently, the City Council approved 21 units/acre on a 9-acre lot located at Loop 250 and Leisure Drive. The greater need for housing is listed as one of the reasons on the applicant's request and one of staff's strongest recommendations in favor of this request.

TRAFFIC ANALYSIS:

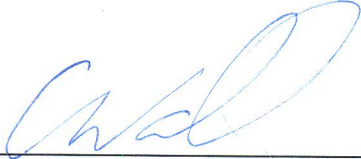
4. With this request for greater density comes greater traffic and demand on infrastructure. Properly routing vehicle flow is key to alleviating what may become a traffic issue in this Gateway Plaza area with the addition of another apartment complex carrying 250-300 units on site (500-600 tenant cars). Barring any relief of a Tradewinds Blvd. connection north, staff recommends a traffic study to evaluate the possibility of a signalized intersection at Tradewinds Blvd & Business I-20. In addition to either of the two aforementioned options, city staff has talked with the developer about the possible need of requiring a R.O.W. easement for a future road west across their property. This collector street would connect Tradewinds Blvd., run parallel to Business I-20 and then connect to Business I-20 at a point further west to alleviate the excess traffic created by this and other neighboring developments. The location of the R.O.W. easement specific to this proposed apartment site has yet to be determined.

STAFF RECOMMENDATION:

Staff concurs with the approval of this request for a zone change from Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development, subject to the following conditions:

- A. **The use and development of this property shall be subject to the regulations of the MF-1 District, except that a maximum density of 24 dwelling units per acre shall be allowed.;**

- B. Prior to any apartment development or the issuance of building permits for apartment development, a site plan must be approved in the same manner as a zone change;
- C. That a traffic study, at the City of Midland's direction, will need to be performed prior to development if the Tradewinds extension to the north does not occur;
- D. That a concession for an east to west easement on the property to serve as a collector street may be needed as a result of the findings of a traffic study or in conjunction with a Tradewinds extension.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps

CITY OF MIDLAND

ORDINANCE REQUEST FORM

DATE: April 28, 2012 **SUBJECT:** Z-12-008
Grace Partnership, LLC.

TO: Keith Stretcher, City Attorney

FROM: Cameron Walker, AICP
Planning Division Manager

MEETING

DATE: May 8, 2012 **TIME:** 10:30 a.m.
City Council Meeting

Please prepare the appropriate legal instrument on the above-mentioned subject to be heard before the City Council as indicated.

LEGAL DESCRIPTION OF PROPERTY:

Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20.

PRESENT ZONE: PDHD, Planned District for a Housing Development & PDTD, Planned District for a Transition District.

DEPARTMENT COMMENTS:

Please prepare an ordinance approving a zone change from PD, Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development, subject to the following conditions:

- A. The use and development of this property shall be subject to the regulations of the MF-1 District, except that a maximum density of 24 dwelling units per acre shall be allowed.;
- B. Prior to any apartment development or the issuance of building permits for

apartment development, a site plan must be approved in the same manner as a zone change;

- C. That a traffic study, at the City of Midland's direction, will need to be performed prior to development if the Tradewinds extension to the north does not occur;**
- D. That a concession for an east to west easement on the property to serve as a collector street may be needed as a result of the findings of a traffic study or in conjunction with a Tradewinds extension.**

Attachments:

Application

Maps

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1 AND 2, BLOCK 4, GATEWAY PLAZA, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, AND PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF BUSINESS INTERSTATE 20); 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 a Planned District for a Housing Development, 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 Housing Development, in part, and PD, Planned District for a Transition District, in part, and it shall be used as a Planned District for a Housing Development, subject to the special

conditions and restrictions hereinafter set out, said property being described as follows:

Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the use and development of this property shall be subject to the regulations of the MF-1 District, except that a maximum density of 24 dwelling units per acre shall be allowed.
2. That prior to any apartment development or the issuance of building permits for apartment development, a site plan must be approved in the same manner as a zone change.
3. That a traffic study, at the City of Midland's direction, shall be performed prior to the development if the Tradewinds extension to the north does not occur.
4. That a concession for an east-to-west easement on this property to serve as a collector street may be required as a result of the findings of a traffic study or in conjunction with a Tradewinds extension.

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 ____ day of _____, A.D., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**Planning and Zoning Commission
Minutes
April 16, 2012**

Z-12-008 – Hold a public hearing and consider a request by **Grace Partnership** for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District, on Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20)

Max Richardson, 110 West Louisiana, Midland, stated he was there to ask for 24 units of additional density per acre which he felt was not uncommon in Midland.

Ken VanDyne gave an overview for the request for zone change and greater density of 24 units per acre. He stated staff recommended a traffic study based upon this greater density in conjunction with the other Gateway Plaza Development in the area (a 96-unit apartment and multiplex movie theater). Staff would like to a connection made 1.25 north to Tradewinds Boulevard. Staff is recommending approval for a request of a higher density and a zone change subject to conditions A-D.

Discussion ensued regarding the density and traffic study for the area.

There being no one wishing to speak in favor or in opposition of the request Chairman Ferguson closed the public hearing.

Following discussion, a motion for approval was made by Commissioner Gatten; seconded by Commissioner Carrillo. The motion carried by the following vote: AYE: Ferguson, Gatten, Watkins, Norris and Carrillo. NAY: Wolf. ABSTAIN: None. ABSENT: Lanning, Wilton, Woodruff and York

PLANNING AND ZONING COMMISSION

April 16, 2012

CASE: Z-12-008.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development.

APPLICANT: Grace Partnership, LLC.

LEGAL DESCRIPTION: Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LOCATION: Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20.

CURRENT ZONING: PDHD, Planned District for a Housing Development & PDTD, Planned District for a Transition District.

ASSOCIATED CASES: P-11-061

DETAILS OF REQUEST:

1. The applicant plans to develop this property with apartment buildings and remove the split zoning to the single-zoned PD, Planned District for a Housing Development as they replat this property into a single lot. While removing the split-zone is not at issue, the primary request is to amend this single PD, Planned District for a Housing Development to permit a greater density of 24 dwelling units per acre rather than the maximum permitted 16 units per acre. No other request for deviation from the City's Code is being made at this time. Since this is a Planned District, the future development of the property will be subject to a detailed site plan submittal and brought to the Planning & Zoning Commission for consideration in the same manner as a zone change.

SURROUNDING ZONING AND LAND USE:

2. The 14.67 acre plat that defines the subject property is positioned along what is a rapidly developing area known as Gateway Plaza at the northwest corner of the

intersection of Business I-20 and Loop 250. Neighboring land uses to the applicants anticipated 250-300 unit apartment development include another PD, Planned District Housing Development, with an existing 96-unit apartment complex just across Tradewinds Blvd. to the east and a PD, Planned District for a Shopping Center, set for the development of a multiplex theater and entertainment venue further south. Other zoning in this area will accommodate local retail and office use.

SITE ANALYSIS:

3. The request for greater density is not new with several properties in Midland exceeding the 16 units/acre threshold indicated in the MF-1, Multi-Family District regulations of the zoning code already. The Palms at Briarwood and the Blue Ridge Apartments were approved with densities of approximately 19 units per acre. More recently, the City Council approved 21 units/acre on a 9-acre lot located at Loop 250 and Leisure Drive. The greater need for housing is listed as one of the reasons on the applicant's request and one of staff's strongest recommendations in favor of this request.

TRAFFIC ANALYSIS:

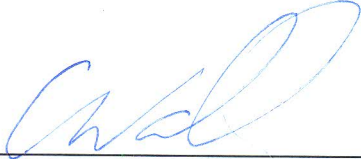
4. With this request for greater density comes greater traffic and demand on infrastructure. Properly routing vehicle flow is key to alleviating what may become a traffic issue in this Gateway Plaza area with the addition of another apartment complex carrying 250-300 units on site (500-600 tenant cars). Barring any relief of a Tradewinds Blvd. connection north, staff recommends a traffic study to evaluate the possibility of a signalized intersection at Tradewinds Blvd & Business I-20. In addition to either of the two aforementioned options, city staff has talked with the developer about the possible need of requiring a R.O.W. easement for a future road west across their property. This collector street would connect Tradewinds Blvd., run parallel to Business I-20 and then connect to Business I-20 at a point further west to alleviate the excess traffic created by this and other neighboring developments. The location of the R.O.W. easement specific to this proposed apartment site has yet to be determined.

STAFF RECOMMENDATION:

Staff concurs with the approval of this request for a zone change from Planned District for a Housing Development and a PD, Planned District for a Transition District to an Amended Planned District for Housing Development, subject to the following conditions:

- A. **The use and development of this property shall be subject to the regulations of the MF-1 District, except that a maximum density of 24 dwelling units per acre shall be allowed.;**

- B. Prior to any apartment development or the issuance of building permits for apartment development, a site plan must be approved in the same manner as a zone change;
- C. That a traffic study, at the City of Midland's direction, will need to be performed prior to development if the Tradewinds extension to the north does not occur;
- D. That a concession for an east to west easement on the property to serve as a collector street may be needed as a result of the findings of a traffic study or in conjunction with a Tradewinds extension.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: Z-12-008

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: Grace Partnership, LLC

Address: P.O. Box 14738 432-366-2220
Street Address (Phone/e-mail)
Odessa, Texas 79768
City State Zip Code

Property Owner: _____

Address: _____
Street Address (Phone/e-mail)

City State Zip Code

Street address and Legal Description of Planned District (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a sealed Metes and Bounds Description:

1800 & 1900 Tradewinds Blvd., Lots 1 & 2, Block 4, Gateway Plaza, Section 2

Current PD Classification: PD for a Housing Development and PD for a Transition District

Requested PD Classification: Amended Planned District for Housing Development
(List by tracts if more than one zoning district is requested)

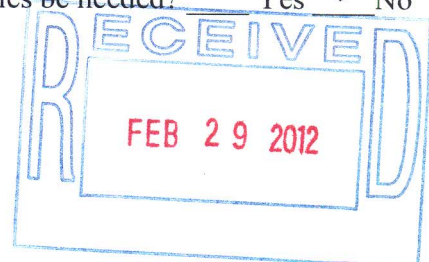
Reason for amendment request: Increased need for housing.

Describe how conditions affecting the property have changed since it was designated its present zone: Need for additional density and building height.

Density = 24 Units/Acre
~~Height = 3 stories~~

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? Yes ☒ No

2011-1359



FEES:Single, Planned District amendment: \$550 Multiple, PD proposal: add \$75 per district. ✓**SUBMITTALS:**Site plan submitted later,

16 copies of the PD site plan (FOLDED): _____

Site Plan in digital format .pdf and .jpg: _____

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.

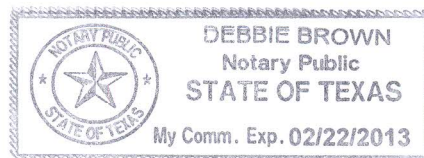
STATE of TEXAS

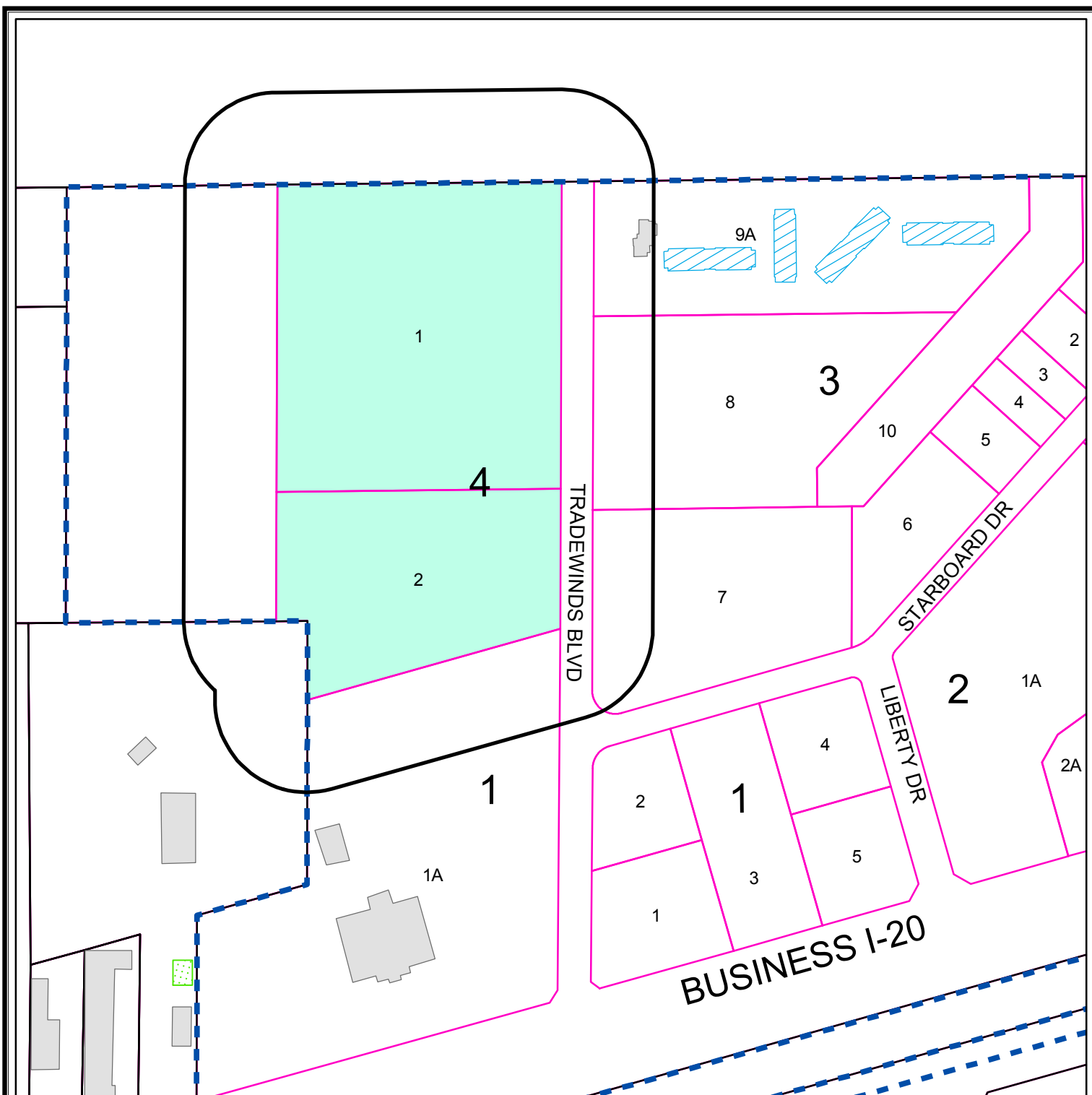
COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared

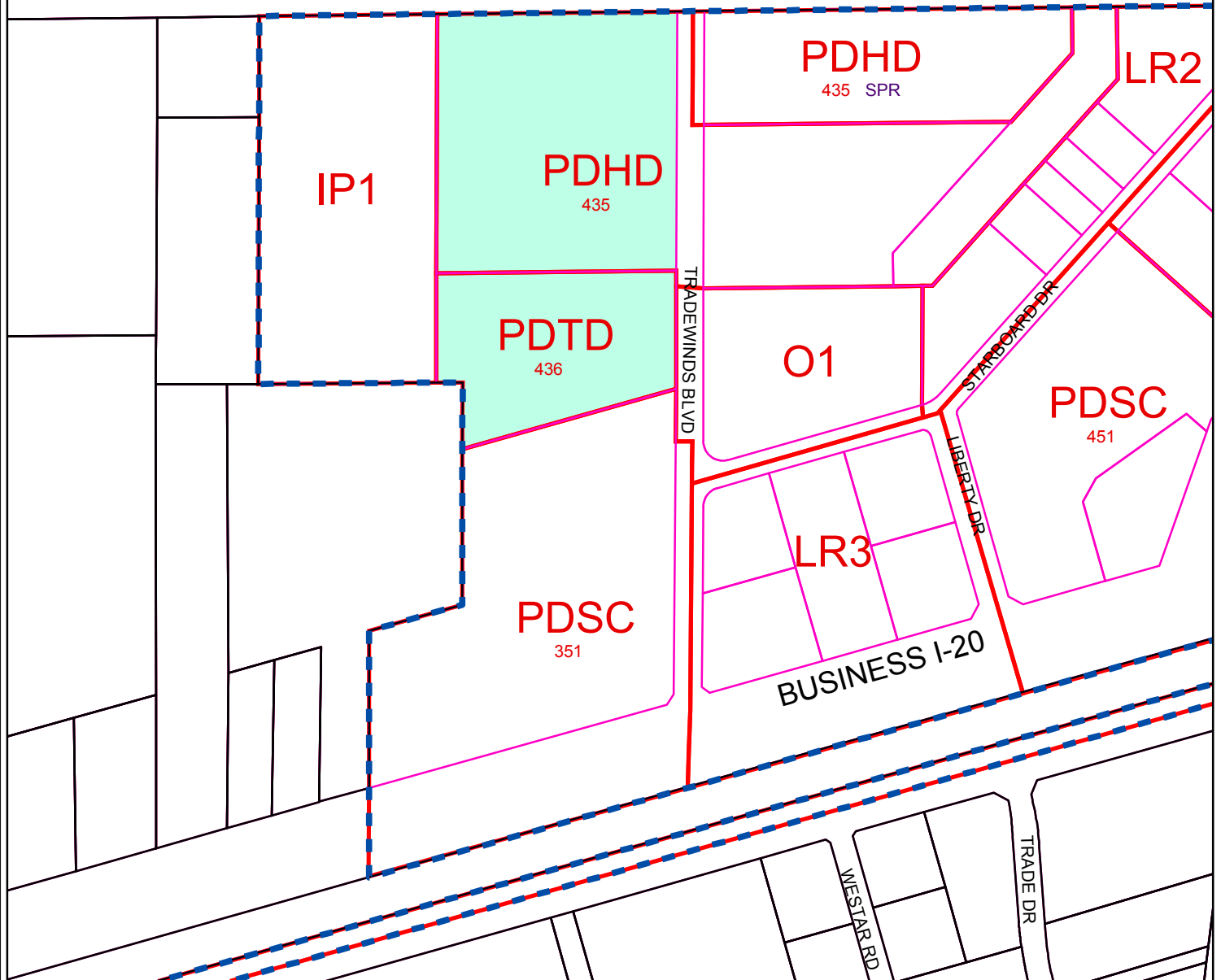
Max W. Richardson who, being by me duly sworn, upon oath says: That (s)he is authorized by Grace Partnership, LLC the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.Max W. Richardson
Authorized Agent (signature)Subscribed and sworn to before me, this 28 day of February, 20 12, to certify which witness my hand and seal of office.Debbie Brown
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JC</u>	Date: <u>2-29-12</u>
Assigned: <u>KV</u>	
For: <u>PtZ</u>	On: <u>4/16/12</u>

****Application will not be considered for scheduling until reviewed by a planner. ****



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ZONING MAP

Z - 12 - 008

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District on, Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LEGEND

- | | |
|---|--|
| ZONING | CITY PARCELS |
| CITY LIMITS | COUNTY 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
IF1, IF2, IF3	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





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-12-011, GRACO Real Estate

Purpose:

Hold a public hearing at approximately 10:33 and consider an ordinance on a request by GRACO Real Estate for a zone change from PD, Planned District for a Shopping Center to Amended Planned District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

This property is located between Loop 250 and the Blue Ridge Apartments, and is zoned Planned District for a Shopping Center, subject to the regulations of the LR-2 District and to site plan approval. The applicant wishes to construct a shopping center here, and has submitted Exhibits A and B to comply with the zoning requirements. Access to this site is from a single driveway on Loop 250 that has received TxDOT approval, and from the driveway that serves the apartments. The shopping center observes a building setback of 300 feet from Loop 250, and contains 52,088 square feet. The parking plan on Exhibit A exceeds City requirements. Exterior building materials include glazing, EIFS, stucco, brick and other masonry building products, as shown on Exhibit B. Exhibit C illustrates the general color pallet for the shopping center. The Planning and Zoning Commission recommended unanimous approval, and no public opposition was received.

Attachments:

April 16, 2012 P&Z Staff Report
Proposed Ordinance

**Planning and Zoning Commission
Minutes
April 16, 2012**

Z-12-011 - Hold a public hearing and consider a request by **Ron Childress – Graco Real Estate** for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on a 6.61-acre tract of land out of Section 4, Block “X”, H. P. Hilliard Survey, Midland County, Texas. (Generally located on the north side of W. Loop 250 North, approximately 435 feet east of Billingsley Boulevard.)

Applicant, Ron Childress representing Graco Real Estate, 2574 74th Street, Suite 210, Lubbock, Texas, stated he planned to build a shopping center and that there were also two free standing pad sites that were not part of this amended zone change.

Senior Planner Jim Compton gave an overview of the request for the zone change stating there were access points planned and the location and design of the driveway had been approved by the Texas Department of Transportation. The applicant is working with Blue Ridge Apartments for a second means of access. He stated staff recommended an executed agreement be provided prior to the second and final reading of an ordinance approval. He stated 48 trees were required to meet the Landscape Code but only 26 were provided. City policy allows developers to pay the Park Endowment Fund, which the applicant has agreed to honor. Staff recommended approval for a zone change subject to conditions A-F.

Chairman Ferguson opened the public hearing.

There being no one wishing to speak in favor or in opposition to the item, Chairman Ferguson closed the public hearing.

Following discussion a motion for approval was made by Commissioner Gatten; seconded by Commissioner Wolf. The motion carried by the following vote: AYE: Ferguson, Gatten, Wolf, Watkins, Norris and Carrillo. NAY: None. ABSTAIN: None. ABSENT: Lanning, Wilton, Woodruff and York

PLANNING AND ZONING COMMISSION

April 16, 2012

CASE: Z-12-011.

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: GRACO, Ron Childress.

OWNER: Furniture Row.

REPRESENTATIVE: West Company of Midland.

LEGAL DESCRIPTION: A 6.61-acre tract out of Section 4, Block "X", H. P. Hilliard Survey, Midland County, Texas.

LOCATION: Generally located on the north side of Loop 250, approximately 435 feet east of Billingsley Boulevard.

CURRENT ZONING: PD, Planned District for a Shopping Center.

ASSOCIATED CASE: P-11-078, Northpark, Section 15.

DETAILS OF REQUEST:

1. The subject tract is zoned PD, Planned District for a Shopping Center, and is subject to the regulations of the LR-2, Local Retail District. Further, this planned district requires that site plans be approved in the same manner as a zone change before any development can occur. GRACO desires to develop this land with a retail center. Consequently, they have submitted this application and Exhibits A, B and C to comply with the planned district terms.

SURROUNDING ZONING AND LAND USE:

2. The land north of this property is developed with the Blue Ridge Apartments. The land to the east is also owned by Furniture Row and is governed by this same planned district zoning; this land is vacant at this time. To the south is Loop 250, with retail uses along it. There is a TXU electric substation on the west side of this property, with other retail uses beyond that.

ANALYSIS:

3. While we do not yet know the tenants that will be located in this proposed shopping center, they all must be allowed in the LR-2 District. Exhibit A is a plan view of this property. Two points of access are planned. The first is a single driveway onto Loop 250, located between the entrance to the apartments and the west property line. The location and design of this driveway has been approved by the Texas Department of Transportation, who has driveway jurisdiction on Loop 250. The applicant is working with Blue Ridge Apartments to allow openings in the driveway median to the apartments for a second means of access. While we are advised that a verbal agreement is in place, the staff recommends that an executed agreement be provided prior to second and final reading of any ordinance approval. Without at least two means of ingress and egress, the staff would be unable to support this plan. At the southeast and southwest corners of Exhibit A are two pad sites intended for restaurants. However, without a particular design available, these two pads are labeled as "NOT A PART OF THIS SITE PLAN". Therefore, before any restaurant development could occur here, additional site plan approval applications would need to be approved. As one enters this shopping center from Loop 250, you would pass through a miniature "round-about" that would serve as a traffic calming device and add some aesthetic value to this outdoor space. Following this, you arrive at a retail center that is located 300 feet north of Loop 250. The applicant intends to plat this property into a single lot, rather than subdividing it into individual lots. The gross retail floor area is 52,088 square feet. With a lot area of 287,950 square feet, the floor area ratio is only 0.18:1, which is well below the typical ratio of 0.25:1 ratio for shopping centers. This ratio will increase once the restaurant pads are developed. This amount of floor area requires a minimum of 261 parking spaces, whereas 412 spaces are proposed. We recommend that the parking plan shown on Exhibit A be considered illustrative, with the actual parking requirements being determined through the building permit process. The maximum building height is listed as 33.3 feet, which exceeds the maximum allowed in the LR-2 District, which is 28.75 feet. However, given the amount of setback from property lines, the staff believes this slight increase is reasonable. There is an existing wrought iron fence along the north property line that was constructed by the Blue Ridge Apartments. We see no basis to require additional fencing from the shopping center. Any solid fence

would destroy the aesthetic character of the wrought iron fence. Solid waste collection pads are located north of the strip center. They will be enclosed on three sides by a six foot masonry block fence with an exterior to match the shopping center. Notes on Exhibit A indicate that in order to comply with the City's landscaping requirements, 23,586 square feet of landscaping is required. Staff agrees with this calculation. This same note states that a total of 27,347 square feet of landscaping is provided. A total of 48 trees are required to meet the Landscape Code, but only 26 are provided. The staff has no objection to the reduction in the number of trees. City policy allows developers to pay \$300 to the Park Endowment Fund for each required tree that is not installed, provided the developer installs at least 50 percent of the required trees. These funds are used to enhance landscaping at public parks. A single 35-foot tall pole sign is shown east of the Loop 250 driveway, which is allowed by the Sign Code. The staff recommends that all signs conform to the Sign Code.

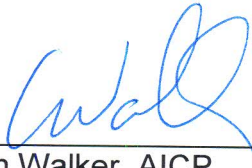
4. Exhibit B illustrates the elevation views of this shopping center. This strip center will be 521 feet wide and 103 feet deep. The majority of the building will not exceed 20 feet in height, except for a focal point tower that is 33 feet tall. Exhibit A also includes a view of the pylon sign. One element not shown is the exterior building materials. We requested a list of materials from the developer. We were advised that in addition to glazing, EIFS, Stucco, brick and other masonry products will be used for the front and sides of the building. The rear of the building will be metal R-panel. These elements conform to the Zoning Code regulations. Exhibit C is an artist's rendering of the shopping center. Generally, we do not recommend including a rendering as part of our recommendation. However, in this instance, we believe that Exhibit C can serve the purpose of defining the color pallet for the outside of the building.

STAFF RECOMMENDATION:

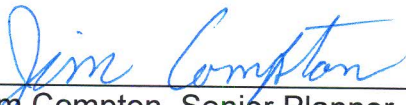
We recommend approval of this request for a zone change from PD, Planned District for a Shopping Center to amended Planned District, subject to the following conditions:

- A. **The development of this shopping center shall conform to the regulations established by Ordinance 7178.**
- B. **The development of this property shall conform to the conditions shown on Exhibits a and B in all respects, except as otherwise stated below. The exterior building color shall closely conform to the color pallet indicated on Exhibit C.**
- C. **The developer must provide an executed access agreement from the Blue Ridge Apartments.**

- D. All business signs shall conform to the regulations of the Sign Code.
- E. The developer shall pay the Park Endowment fund \$300 for each required tree that is not installed.
- F. The exterior building materials shall include glazing, EIFS, Stucco, face brick and similar masonry products.



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-12-011

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: Ron Childress - Graco Real Estate Development, Inc.

Address: 2574 74th St. Suite, 210
Street Address City State Zip Code (Phone/e-mail)
Lubbock TX 79423

Property Owner: Furniture Row USA

Address: 5603 N Broadway
Street Address City State Zip Code (Phone/e-mail)
Denver CO 80216

Street address and Legal Description of Planned District (complete Lot, Block, and Subdivision Name description below, or, if not in a recorded plat, attach a sealed Metes and Bounds Description:

Current PD Classification: PDSC

Requested PD Classification: PDSC
(List by tracts if more than one zoning district is requested)

Reason for amendment request: We are Adding a shopping Center with two Restaurants Lots.

Describe how conditions affecting the property have changed since it was designated its present zone: Nothing has changed

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? ____ Yes X No

FEES:

Single, Planned District amendment: \$550. Multiple, PD proposal: add \$75 per district.

SUBMITTALS:

16 copies of the PD site plan (FOLDED): ✓

Site Plan in digital format .pdf and .jpg: _____

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

Andrew L. Melton Jr who, being by me duly sworn, upon oath says: That (s)he is authorized by Woody 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.

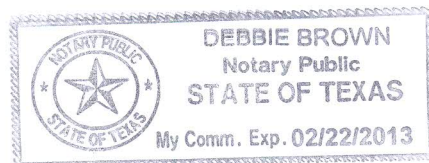
Andrew L. Melton Jr
Authorized Agent (signature)

Subscribed and sworn to before me, this 9 day of March, 20 12, to certify which witness my hand and seal of office.

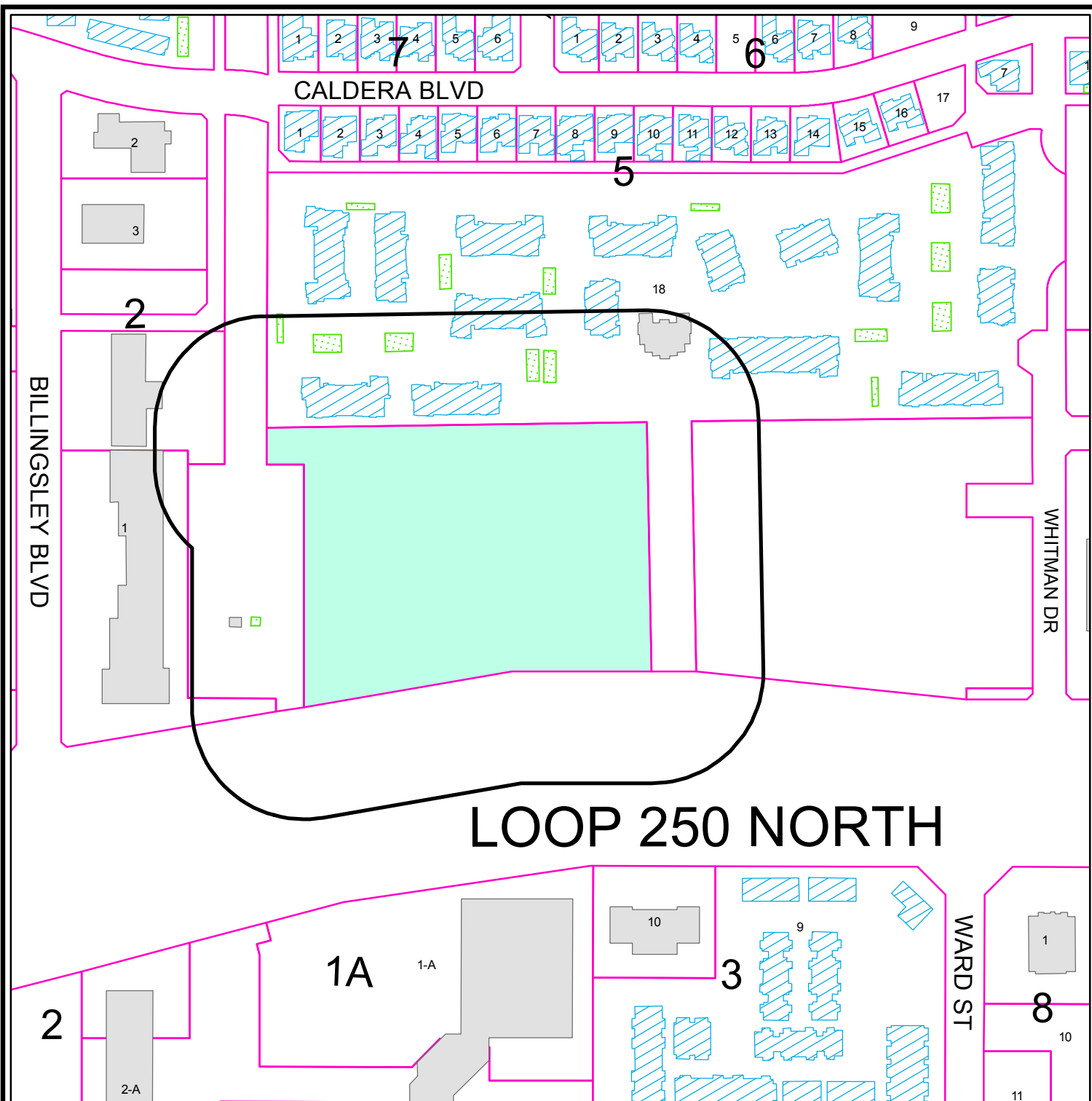
Debbie Brown

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: _____	Date: <u>3/12/12</u>
Assigned: <u>JC</u>	
For: _____	On: _____



****Application will not be considered for scheduling until reviewed by a planner. ****



PROPERTY OWNER NOTIFICATION MAP

Z - 12 - 011

Scale: 1" = 250'

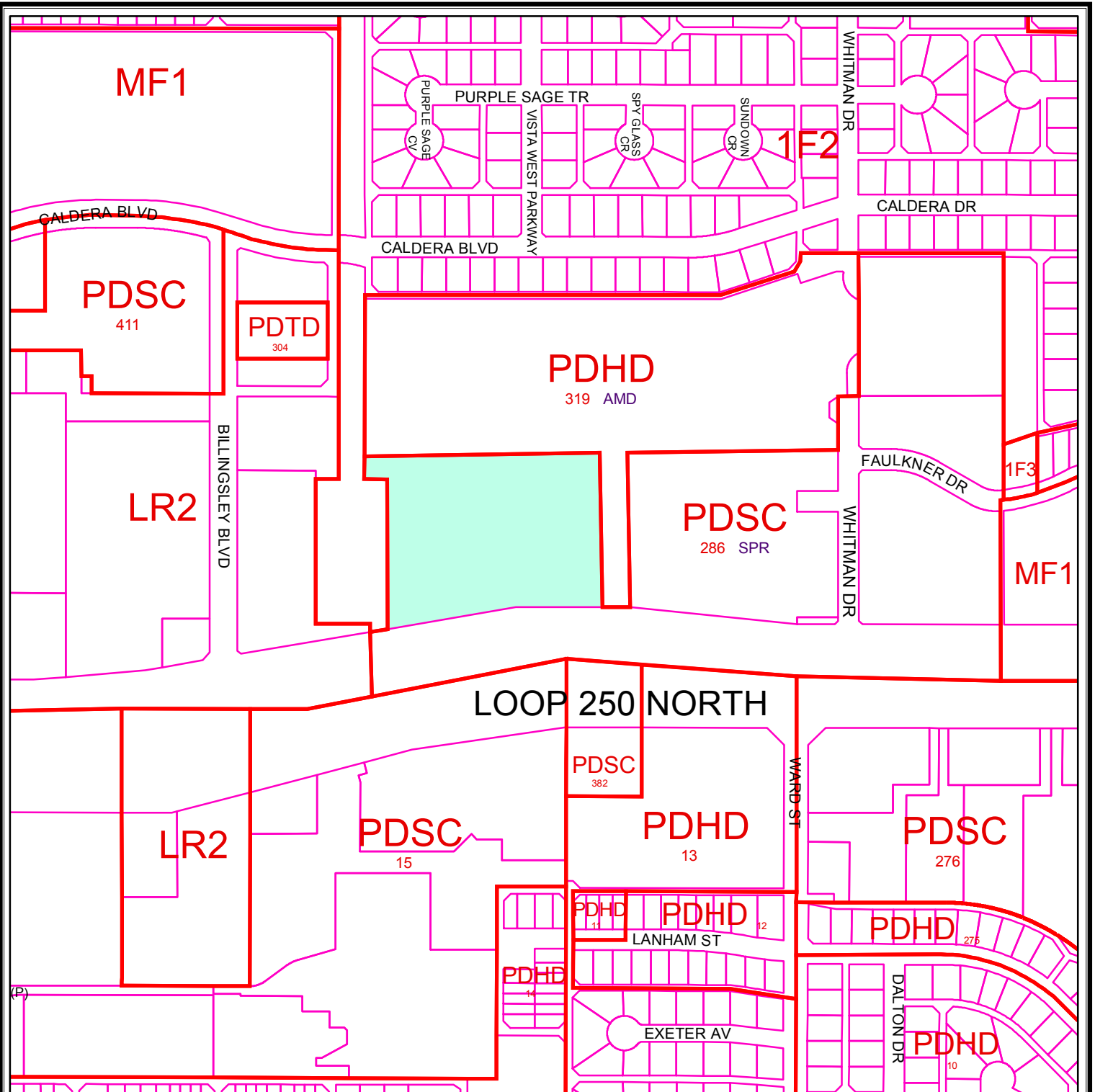
Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on a 6.61-acre tract of land out of Section 4, Block "X", H. P. Hilliard Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 011

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on a 6.61-acre tract of land out of Section 4, Block "X", H. P. Hilliard Survey, Midland County, Texas.

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, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 6.61-ACRE TRACT OF LAND OUT OF SECTION 4, 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 NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 435 FEET EAST OF BILLINGSLEY BOULEVARD); 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 6.61-acre tract of land out of Section 4, 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 shopping center shall conform to the conditions contained in City of Midland Ordinance No. 7178.
2. That the development of this property as a shopping center shall conform in all respects to the conditions shown on Exhibits “A” and “B”, which are attached hereto and incorporated herein.
3. That the exterior building colors shall generally conform to those shown on Exhibit “C”, which is attached hereto and incorporated herein.
4. That all signage shall be in compliance with the City of Midland sign code.
5. That exterior building material shall include glazing, EIFS, stucco, face brick and similar masonry.

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 ____ day of _____, A.D., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

11. RIGHTS RESERVED

T:\CIVIL\DRAWINGS\2011\2011-1547\2011-1547\2011-1547.DWG

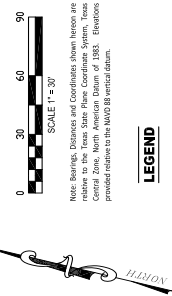


MIDLAND SHOPPING CENTER
LOT 19, BLOCK 5, NORTH PARK, MIDLAND, TEXAS

DWG. NO.: 2011-1547
DATE: MARCH 16, 2012
CHECKED BY: ALM
APPROVED BY: ALM
DESIGNED BY: DAH

NO.	REVISIONS	BY	DATE

WEST COMPANY
ENGINEERS - PLANNERS - SURVEYORS
1110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
P.O. BOX 1000
MIDLAND, TEXAS 79701
TEL: (409) 691-0088 FAX: (409) 691-0088



LEGEND

- DENOTES SET 12" X 4" IRON ROD W/ RIBBED END CAPS AND 12" X 4" IRON ROD W/ RIBBED END CAPS FOUND MONUMENT AS NOTED
- POWER POLE
- DENOTES SOUTHWESTERN BELL MANHOLE
- DENOTES SIGN
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE
- DENOTES FENCE
- DENOTES ELECTRIC LINE
- DENOTES PROPOSED WATER LINE
- DENOTES PROPOSED SEWER LINE
- DENOTES PROPOSED LANDSCAPE AREA

DIMENSION NOTE

ALL DIMENSIONS ARE TO BACK OF CURB (B.C.).

BUILDING SUMMARY

ZONE PD SHOPPING CENTER
LOT AREA: 287,560.87 FT²
TOTAL BLDG FOOTPRINT: 52,086 FT²
TOTAL LOT AREA: 287,560.87 FT²
MAX BLDG HEIGHT: 33.30 FT
PYLON SIGN HEIGHT: 35.0 FT

LANDSCAPE REQUIREMENTS

- 10% OF LOT AREA LESS STRUCTURE
- LOT AREA = 287,560.87 FT²
- REQUIRED LANDSCAPE AREA 23,586 FT²
- PROVIDED LANDSCAPE AREA 27,347 FT² (72%)

NOTE: LANDSCAPE CALCULATIONS ARE PRELIMINARY. FINAL LANDSCAPE AREA WILL DEPEND ON ULTIMATE BUILDING DESIGN.

TREE REQUIREMENTS

- 1 TREE FOR EVERY 30' STREET FRONTAGE
- 1 TREE FOR EVERY 100' SIDEWALK
- 80% FT STREET FRONTAGE 202 TREES
- 412 ON-SITE PARKING SPACES: 77.5 TREES
- TOTAL REQUIRED: 48 TREES
- PROVIDED: 48 TREES SHOWN

PARKING REQUIREMENTS

- PROVIDED:
 - 412 TOTAL ON-SITE PARKING (INCL. 9 HANDICAP PARKING)
- REQUIRED:
 - 412 TOTAL ON-SITE PARKING FOR EVERY 200 SQUARE FEET (261 SPACES)
 - 9 MINIMUM ACCESSIBLE PARKING SPACES

SCREENING FENCE

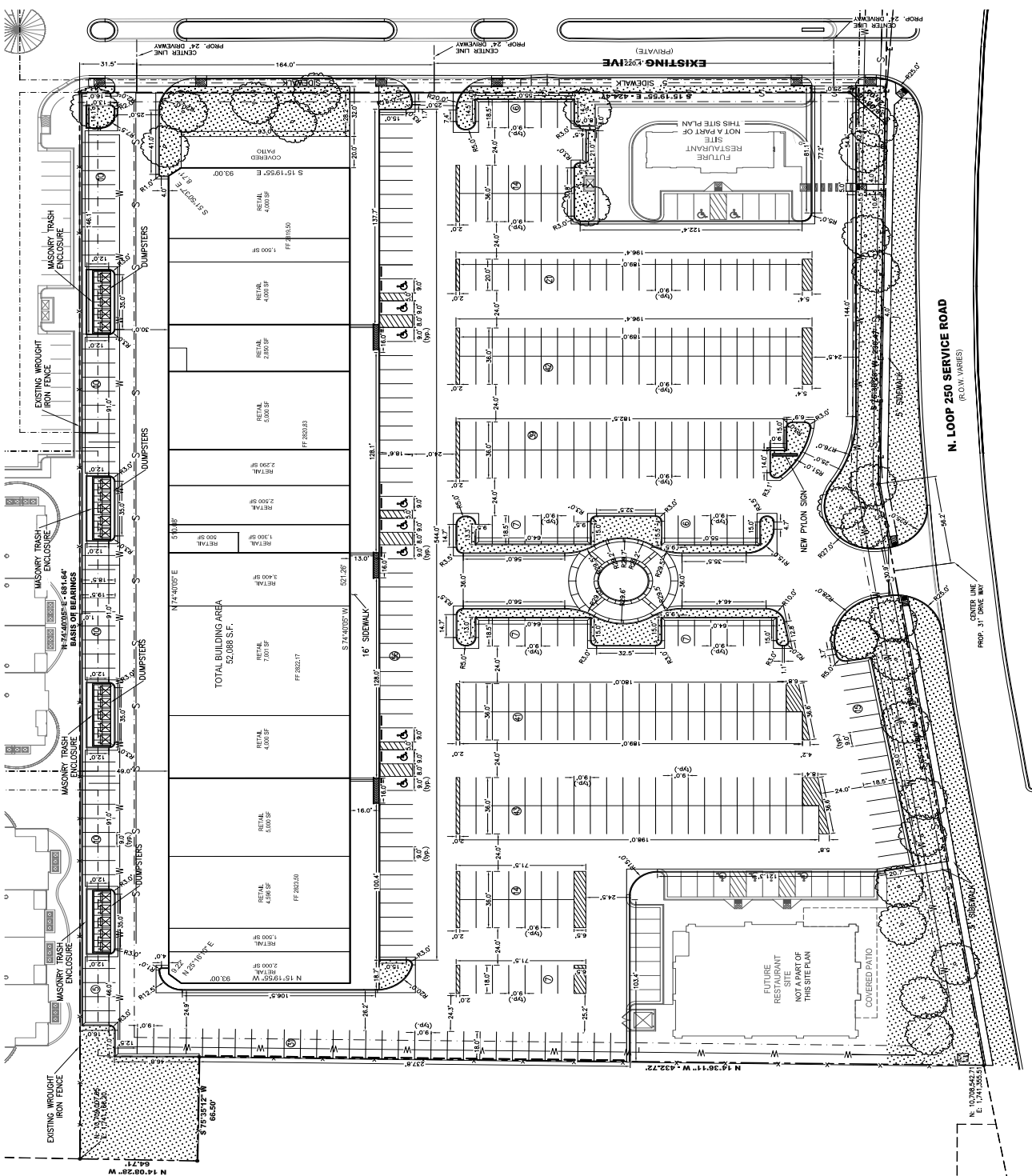
THE EXISTING WROUGHT IRON FENCE TO THE NORTH OF THE PROPERTY WILL CONTINUE TO SEPARATE THIS SHOPPING CENTER FROM THE ADJACENT APARTMENT COMPLEX.

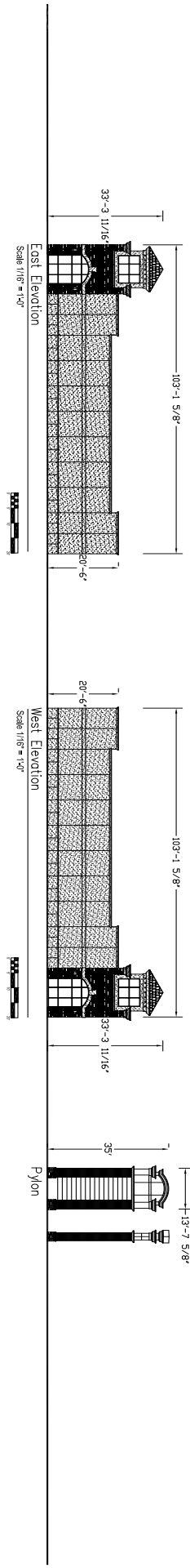
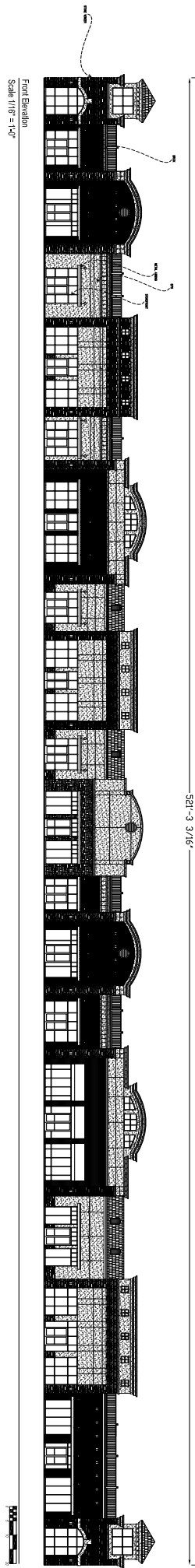
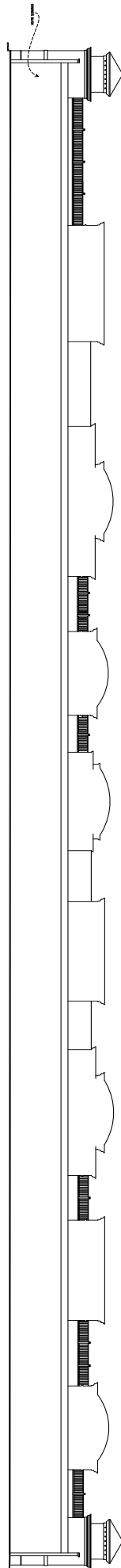
TRASH ENCLOSURES

DUMPSTERS TO BE PLACED BEHIND THE BUILDING AS SHOWN. THE DUMPSTERS WILL BE PLACED IN ENCLOSURES CONSTRUCTED OF 6" CONCRETE BLOCK OR EQUIVALENT. THE ENCLOSURES WILL BE MAINTAINED OR COMPLEMENT THE DESIGN OF THE SHOPPING CENTER. THE ENCLOSURES ARE TO BE A MINIMUM OF 8 FEET TALL.

ACCESSIBLE ROUTE REQUIREMENTS

- ACCESSIBLE PARKING SPACES AND UNLOADING ZONES SHALL NOT BE MORE THAN 150' (2%) IN ANY DIRECTION.
- THE DIRECTION OF TRAVEL SHALL BE PERPENDICULAR TO THE DIRECTION OF TRAVEL OR 150' (2%) PERPENDICULAR TO THE DIRECTION OF TRAVEL.
- ACCESSIBLE ROUTES SHALL NOT BE MORE THAN 150' (2%) IN ANY DIRECTION.
- ACCESSIBLE ROUTES SHALL NOT BE LESS THAN 5'-0" WIDE.
- SURFACES ALONG THE ACCESSIBLE ROUTE SHALL BE SMOOTH WITH NO CHANGES IN LEVEL EXCEEDING 1/4". TRANSITIONS BETWEEN MATERIALS ALONG AN ACCESSIBLE ROUTE SHALL BE SMOOTH.
- REFER TO SECTION 4.3 IN THE LATEST EDITION OF THE TEXAS ACCESSIBILITY STANDARDS FOR FURTHER REQUIREMENTS FOR ACCESSIBLE ROUTES.





GRACO

REAL ESTATE DEVELOPMENT, INC.

THE
COMMONS
NORTH PARK





City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Z-12-013, Milton Lary

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Milton Lary for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

The applicant plans to develop a self-storage facility on 3.6 acres of the 12 acres being requested to rezone as a PD, Planned District for a Shopping Center. This property is currently divided into four platted lots. The owner anticipates future development of local retail on remaining three lots. The storage facility is proposed to be developed as indicated on the Site Plan (Exhibit – A). The site plan for this storage facility will provide an on-site office/residence that provides an attractive frontage to this business on Loop 250. The storage facilities themselves set back about 100' off of the frontage road with neutral almond and white colors used on fencing and buildings. The northern fencing will be wrought iron with splitface CMU columns. Staff concurs with the Planning & Zoning Commission and recommends this rezoning and development consistent with the Site Plan, Exhibit – A.

Attachments:

Maps
April 16, 2012 Planning & Zoning Commission Staff Report
Exhibit A – Site Plan
Proposed Ordinance

**Planning and Zoning Commission
Minutes
April 16, 2012**

Z-12-013 - Hold a public hearing and consider a request by **Milton Lary** for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center on Lots 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas. (Generally located on the south side of E. Loop 250 North, between Cynthia Drive and Kniffen Drive.)

Applicant, Milton Lary, 3403 Caldera Boulevard, stated he owns 12 acres and would like to build storage buildings on this property. His office complex would be on the northern part of that property and there would be room in that same building for an on-site manager to live there. The first building would be along Cynthia Street would be made of split faced concrete block in a cream color. The office complex would be built out of stone and stucco and the colors would be almonds, creams and browns with a multicolored stone along the portion of the building.

Senior Planner Ken VanDyne gave an overview of the request for zone change stating the applicant planned to develop a self-storage facility and that the facility would provide an on-site office/residence. Staff recommended approval of the request for zone change subject to conditions A-J.

Chairman Ferguson opened the public hearing.

With no one speaking in favor of the request Chairman Ferguson called for anyone speaking in opposition of the request.

Penni Waters, 2711 East Loop 250 North, expressed concern regarding the zoning classification. She asked if there was a way the zoning could be called something other than a shopping center as she felt it might set precedence. Senior Planner Ken VanDyne explained that even if it was not zoned as a planned district for a shopping center it would basically be a shopping business center under a local retail district zone. Commissioner Watkins explained that as things develop in the area each project would have to come before the Council as a planned district. Ms. Waters felt the proposal looked very nice she supported it, but that her concern was the shopping center. She did not want a shopping center in her area.

Kelly Mason, 2801 Shanks Drive, expressed concern regarding the entrance and if there was enough room for large trucks to enter. Senior Planner VanDyne stated that the applicant had to go through the City's Transportation Manager before he could actually cut the driveway. Mr. Mason stated that you really do

have to be careful when your turning in as there is not enough room to slow down and turn off.

William Schneider, 42009 Kniffen, stated he did not want to look out his back door and see any type of buildings and that he agreed with the traffic issue stated previously. He moved into an AE area on purpose and he believed his deed had restrictions. He reiterated that he would prefer to stay in an AE area.

There being no one else wishing to speak, Chairman Ferguson closed the public hearing.

Following discussion, a motion for approval was made by Commissioner Gatten; seconded by Commissioner Watkins. The motion carried by the following vote: AYE: Ferguson, Gatten, Wolf, Watkins, Norris and Carrillo. NAY: None. ABSTAIN: None. ABSENT: Lanning, Wilton, Woodruff and York

PLANNING AND ZONING COMMISSION

April 16, 2012

CASE: Z-12-013.

REQUEST: Hold a public hearing and consider a request by Milton Lary for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center.

APPLICANT: Milton Lary.

LEGAL DESCRIPTION: Lots 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas.

LOCATION: Generally located on the south side of E. Loop 250 North, between Cynthia Drive and Kniffen Drive.

CURRENT ZONING: AE, Agriculture Estate District

DETAILS OF REQUEST:

1. The applicant requests to rezone approximately 12 acres along Loop 250 for development as a PD, Planned District for a Shopping Center. This property is currently divided into four platted lots. The owner anticipates future development of local retail on three lots with current plans for the northwest lot (Lot 88) being proposed for development with a self-storage facility. The storage facility is proposed to be developed in phases as indicated on the Site Plan (Exhibit – A). Phase 1 includes the office/living quarters for the manager employed on the premises and the western bank of storage buildings that also serves to complete the fenced area initially installed. Phases 2 & 3 include back-to-back storage bays. All of the site plan phase outlines indicate the maximum building envelopes.

SURROUNDING ZONING AND LAND USE:

2. The property is bounded on the north by Loop 250 and the west by Cynthia Drive. The land to the west and north of the Loop remain undeveloped and are zoned MF-1, Multi-Family and AE, Agriculture Estates, respectively. South of this proposed development is the city limits boundary with single family homes beyond that.

ANALYSIS:

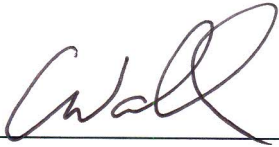
3. The site plan for this storage facility will provide an on-site office/residence that provides an attractive frontage to this business on Loop 250. The storage facilities themselves set back about 100' off of the frontage road with neutral almond and white colors used on fencing and buildings. The northern fencing will be wrought iron with splitface CMU columns as shown on the site plan. The largest storage buildings will have a 16' high sidewall with a peak of less than 20' high. The area provided for landscaping is adequate although vegetative types are not shown and will be established at the time of development. The number of parking spaces provided is adequate for the use of this facility (although one van accessible space will be required). The drive aisle provide for an easy flow of vehicles throughout the site plan.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center, subject to the following conditions:

- A. The use and development of Lots 87, 87A, 88 and 89 of this Planned District for a Shopping Center shall be subject to the regulations of the LR-2, Local Retail District, except that Lot 88 shall be developed as a storage facility and further bound by the conditions that follow;
- B. That the new construction is consistent with the Site Plan (Exhibit A);
- C. That the landscaping shall conform to City regulations in place at the time of development;
- D. That the construction of all buildings shall be in conformance with applicable building fire code requirements;
- E. That the gates to the premises must have a means of emergency access (i.e. Knox key activated switch) per city fire official;
- F. That the configuration and placement of driveways accessing public streets shall be approved by the city transportation manager;
- G. That building lighting shall directed in a manner not to cause glare beyond the property lines;
- H. That signage shall be in conformance with city code;
- I. That a drainage plan may be required prior to development of the lot;

- J. That the future development of any other lots or portions of lots within this Planned District will require a site plan and is treated in the same manner as a zone change;



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Site Plan – Exhibit A

Case Number: Z-12013

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Milton Lary	(432) 556-6480
Applicant Name	Contact #s
3403 Caldera Blvd.	79707
Address	Zip Code
Lary MR Inc.	
Property Owner Name	Contact #s
Address	Zip Code
Newton Engineering, PC	(432) 770-0499
Representative Name	Contact #s
4908 N. Midkiff Rd.	79705
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision, or if unplatted, attach a Metes and Bounds description with surveyor's seal). Describe by tracts if more than one zoning district is requested: Lots 87, 87A, 88, and 89 Block 3,
Skyview Development

PRESENT ZONE: AE REQUESTED ZONE: PDSC
(List by tracts if more than one district is requested)

Reason for Zone Change or PD Amendment: To conform to development

Present Use of Property: Pasture

Proposed Use of Property: Storage Facility

How will zone change affect the public health, safety and welfare? _____

Describe how conditions affecting the property have changed since present zoning designation: _____

Is a Specific Use Permit with Term for alcoholic beverages sales needed? _____ Yes ☒ No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
80% of fee will be refunded if no P&Z public hearing is called; if no City Council public hearing is called, then 30% of fee will be refunded.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies of the PD site plan: _____

Site Plan on a CD in .pdf and .jpg format: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): Milton E. Lang Date: 3/13/2012

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.

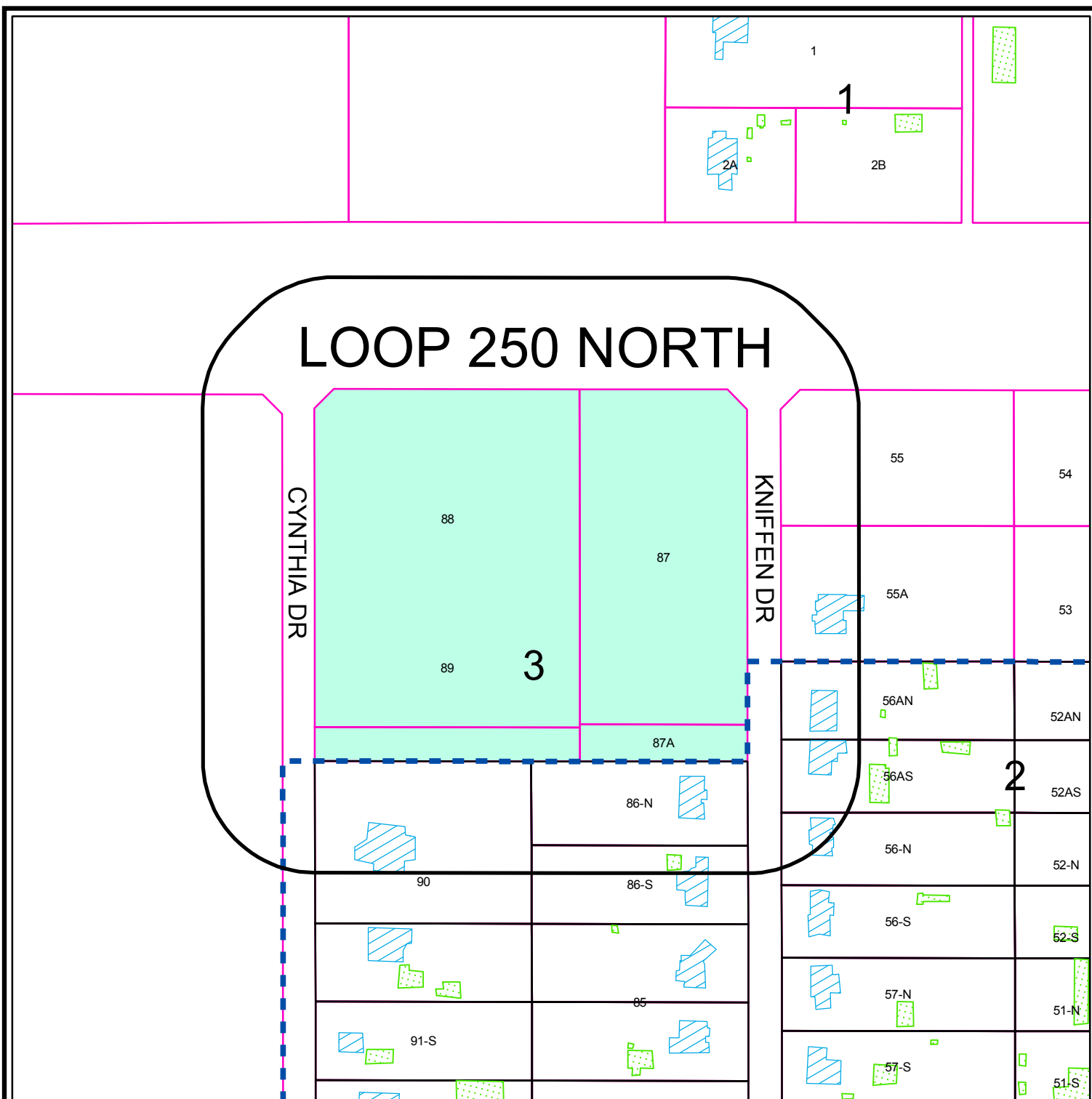
Authorized Agent (signature)

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

FOR OFFICE USE ONLY	
Rec'd By: <u>RS</u>	Date: <u>3/15/12</u>
Assigned: <u>KV</u>	
For: <u>P+Z</u>	On: <u>4/16/12</u>

****Application will not be considered for scheduling until reviewed by a planner.****



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 013

Scale: 1" = 250'

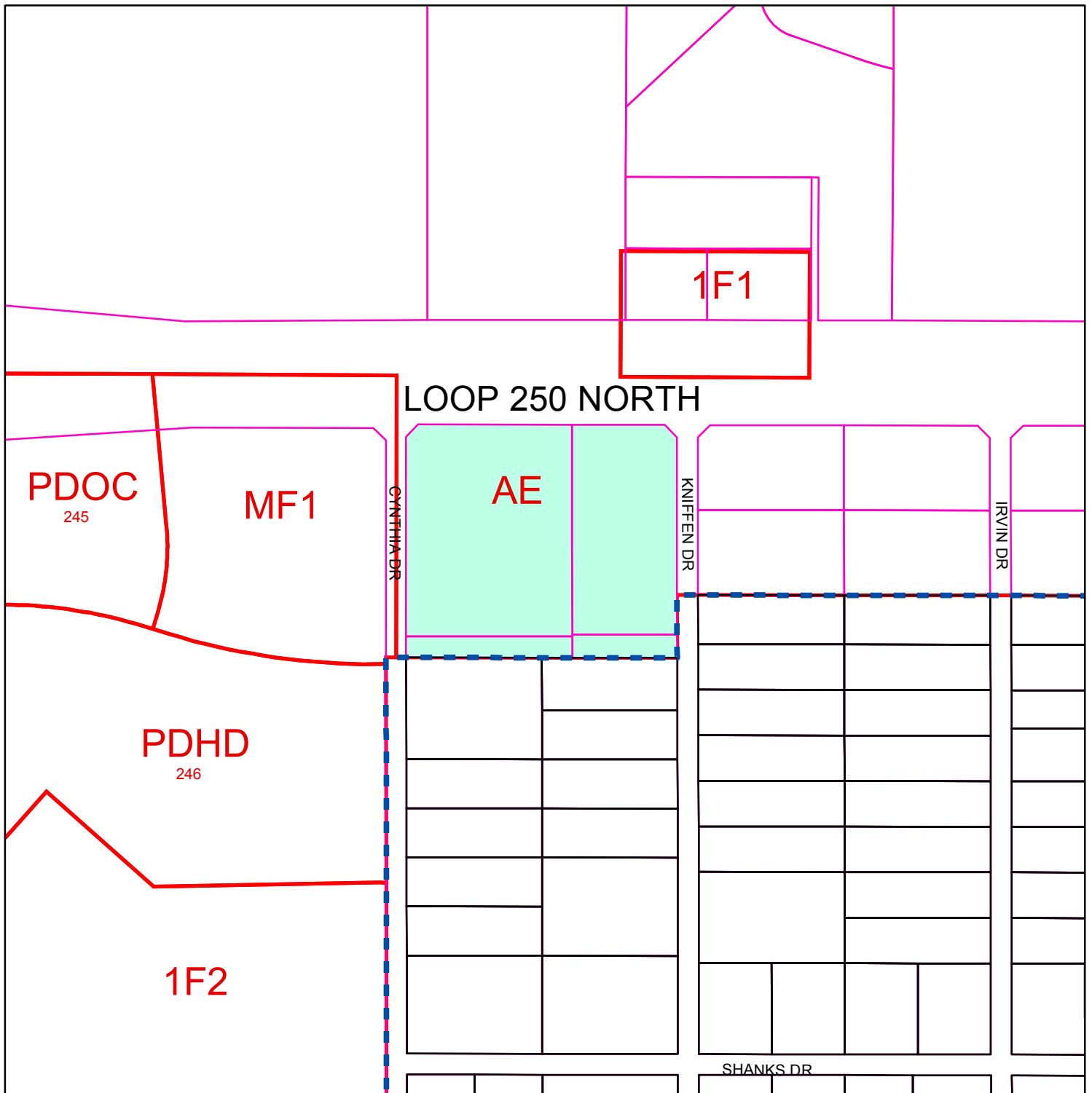
Consider a request for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Shopping Center on Lots 87, 87A, 88 and 89, Block 3, Skyview Development City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 12 - 013

Scale: 1" = 400'

Consider a request for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Shopping Center on Lots 87, 87A, 88 and 89, Block 3, Skyview Development City and County of Midland, Texas.

LEGEND

ZONING

CITY LIMITS

CITY PARCELS

COUNTY 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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ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 87, 87A, 88 AND 89, BLOCK 3, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTH SIDE OF EAST LOOP 250 NORTH, BETWEEN CYNTHIA DRIVE AND KNIFFEN DRIVE); 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 a Planned District for a Shopping Center, 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 AE, Agriculture Estate District, and it shall be used as a Planned District for a Shopping Center, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lots 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That the use and development of Lots 87, 87A, 88 and 89 of this Planned District for a Shopping Center shall be subject to the regulations of the LR-2, Local Retail District, except that Lot 88 shall be developed as a storage facility and further bound by the conditions listed below.
2. That the new construction shall be consistent with the site plan attached hereto and incorporated herein as Exhibit "A".
3. That the landscaping shall conform to City of Midland regulations in place at the time of development.
4. That the construction of all buildings shall be in conformance with all applicable Building Code and Fire Code requirements.
5. That the gates to the premises must have a means of emergency access (such as a Knox key activated switch) approved by the Fire Marshal.
6. That the configuration and placement of driveways accessing public streets shall be approved by the Traffic Engineer.
7. That building lighting shall be directed in a manner not to cause glare beyond property lines.
8. That signage shall be in conformance with the Sign Code.
9. That a drainage plan may be required prior to development of Lot 88.
10. That the future development of any other lots or portions of lots within this planned district shall require approval of a site plan in the same manner as a zone change.

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 _____ day of _____, A.D., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

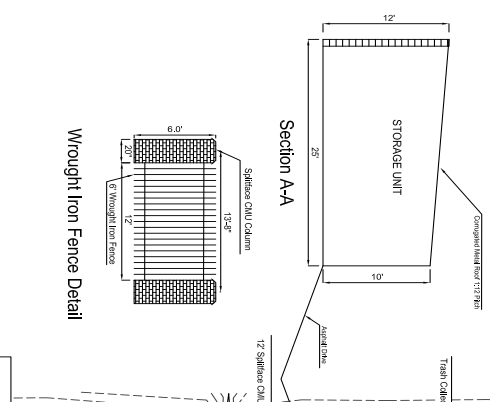
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

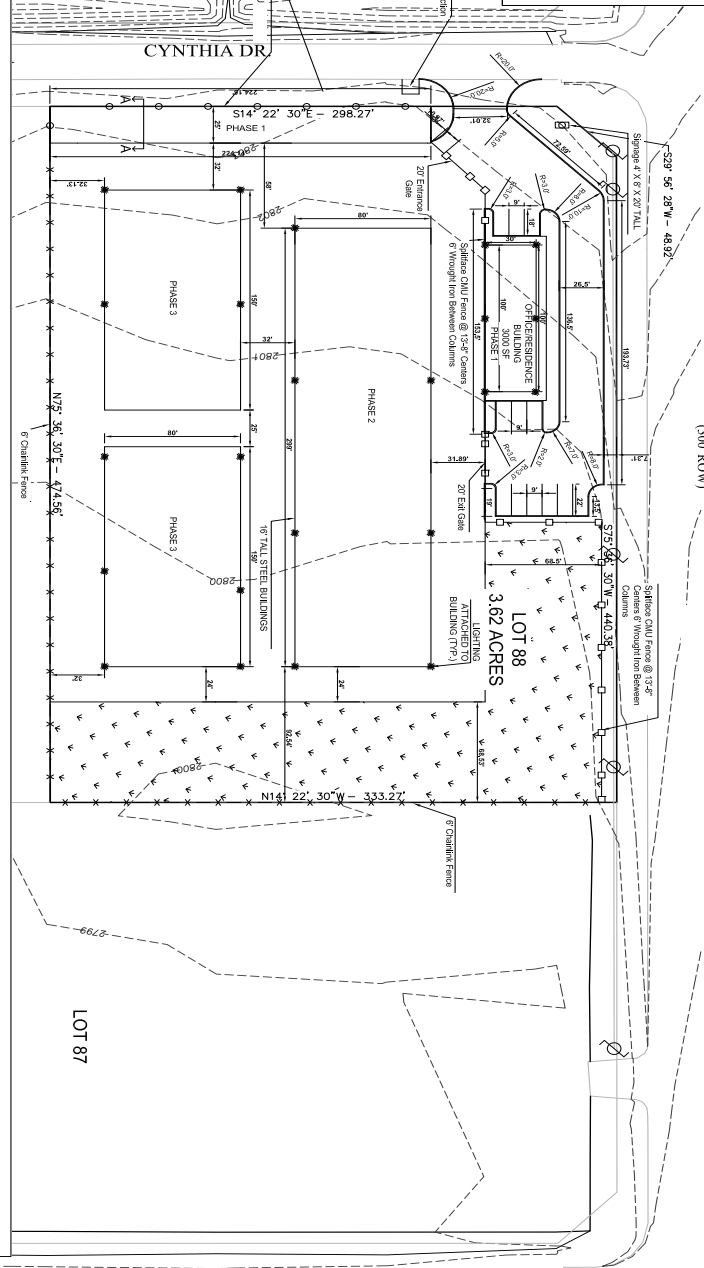
Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

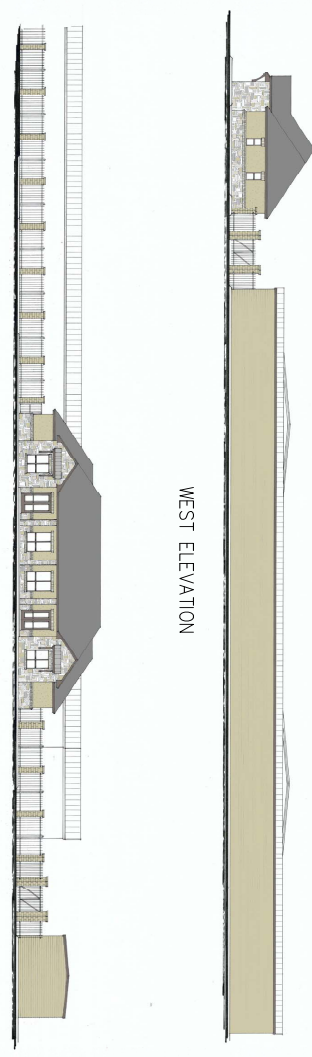


BEING LOT 88, BLOCK 3, SKYVIEW
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS



LOT 55

MILTON LARY
3403 CALDERA BLVD.
MIDLAND, TX 79705
(432)694-5488



NOT PLATTED
DOLORES MCCALL

SKYVIEW DEVELOPMENT  NEWTON ENGINEERING, PC 400 N. LAUREL BLVD. SUITE 200 GAITHERSBURG, MD 20878-4000 (410) 770-0000		DATE: 12-14-2012 TIME: 10:52
SITE PLAN	APPROVED BY: DATE:	DESIGN BY: JAM PLT NAME: PROJECT NUMBER: 11-00003



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: V-12-001, COM Aquatics, Inc.

Purpose:

Hold a public hearing at approximately 10:39 a.m. and consider an ordinance on a request by COM Aquatics, Inc. for the vacation of the east/west 20 foot alley out of Block 3, "A" Street Community Center, Section 3, being a 0.16-acre portion of land adjacent to Lot 1C, Block 3, "A" Street Community Center, Section 7, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

There is no cost to the City associated with approving this request.

Discussion:

COM Aquatics are requesting the vacation of the above described right-of-way to allow for the expansion of current operations with a new natatorium built to the north of their existing building. A portion of the new building footprint is proposed to utilize the vacated alley. The applicant is in the process of replatting lots on both sides of this alley and identified plans to vacate this alley and relocate the sewer utilities currently within it. Written confirmation has been requested by the City of Midland from all franchised utility companies regarding facilities that may be present within the rights-of-way to be vacated. Suddenlink Communication and Oncor Electric have already identified distribution facilities within this alley; these and any others, will be further addressed during the platting process. The property has been used as a local COM Aquatics alley and solid waste pickup.

The area to be vacated is approximately 7,000 square feet and is valued at \$2.00 per square foot for the northern 3,600 square feet and \$3.00 per square foot for the southern 3,400 square feet which establishes the land value at a total of \$17,400.00. Payment to the City in the amount of \$17,400.00 must be received prior to second reading. In addition, the rerouted city sewer lines must be in place, inspected by city engineers and operational prior to second reading.

Attachments:

Map
Proposed Ordinance
Site plan

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.16-ACRE PORTION OF THE EAST/WEST 20-FOOT ALLEY LOCATED WITHIN BLOCK 3, “A” STREET COMMUNITY CENTER, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH “A” STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$17,400.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.16-acre portion of the east/west 20-foot alley located within Block 3, “A” Street Community Center, Section 3, City and County of Midland, Texas, 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 right-of-way 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 right-of-way at \$17,400.00 , 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 right-of-way described herein;

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

SECTION ONE. That the 0.16-acre portion of the east/west 20-foot alley located within Block 3, “A” Street Community Center, Section 3, City and County of Midland, Texas, as described in Exhibit “A” attached hereto and made a part hereof for all legal purposes, is hereby vacated and abandoned for all public purposes. Provided, however, that

the City is hereby only abandoning the public interest in said property and this ordinance in no way affects any private easement or access easement which abutting property owners may have in said right-of-way.

SECTION TWO. That this Ordinance shall not be effective until the City of Midland has received from the property owner(s) the sum of \$17,400.00.

SECTION THREE. 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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**LEGAL DESCRIPTION OF A 0.16 ACRE ALLEY ABANDONMENT
AND VACATION WITHIN BLOCK 3, "A" STREET COMMUNITY CENTER,
SECTION 3, AN ADDITION TO THE CITY OF MIDLAND,
LOCATED IN THE NORTHEAST QUARTER OF SECTION 22,
BLOCK 39, T.&P. RR. CO. SURVEY, MIDLAND COUNTY, TEXAS**

(Plat recorded in Cabinet "B", Page 352, Plat Records of Midland County, Texas)

Boundary being further described by metes and bounds as follows:

BEGINNING at the Southeast corner of Lot 1C, Block 3, "A" Street Community Center, Section 7 as recorded in Cabinet "D", Page 358, Plat Records of Midland County, Texas being the Northeast corner of this tract;

THENCE S15°02'30"E crossing said alley, a distance of 20.00 feet to the Southeast corner of said "A" Street Community Center, Section 3 and of this tract;

THENCE S74°53'30"W with the South line of said "A" Street Community Center, Section 3, a distance of 344.00 feet to the Southwest corner of this tract;

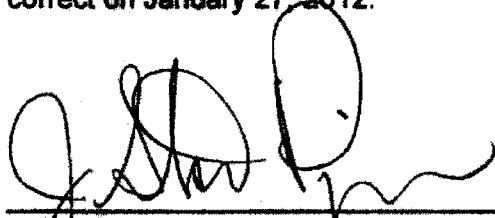
THENCE N15°02'30"W crossing said alley, a distance of 40.00 feet to the most Westerly cutback corner of said Lot 1C and the Northwest corner of this tract;

THENCE S60°06'30"E with the cutback line of said Lot 1C, a distance of 28.27 feet to the most Southerly cutback corner of said Lot 1C and an interior corner of this tract;

THENCE N74°53'30"E with the South line of said Lot 1C, a distance of 324.00 feet to the **PLACE OF BEGINNING**. Tract contains 7,080 square feet or 0.16 acres.

Bearings and distances based on "A" Street Community Center, Section 3 Final Plat as recorded in Cabinet "B", Page 352, and "A" Street Community Center, Section 7 as recorded in Cabinet "D", Page 358, all in Plat Records of Midland County, Texas.

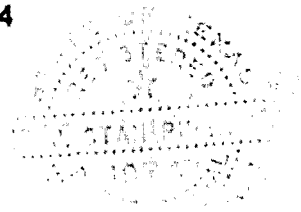
I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is true and correct on January 27, 2012.



J. Stan Piper
Registered Professional Land Surveyor #1974
Date: January 30, 2012

Prepared for:

Parkhill, Smith & Cooper, Inc
Attn.: Elizabeth Oliver
1700 W. Wall Street, Suite 100
Midland, Texas 79701



PIPER SURVEYING, P.O. BOX 60432, MIDLAND, TX 79711, 432-550-7810

Exhibit "A"

WADLEY AVENUE

0.17 Ac. Private
Access and Utility
Easement Abandonment

Lot 1D
Block 3

0.06 Ac. Private
Access and Utility
Easement Abandonment

0.16 Ac. Alley
Abandonment and
Vacation

Lot 2
Block 2

North "A" Street

W. DENGAR AVE.

**"A" Street Community Center
Midland, Texas**

EXHIBIT "A"

Proposed Vacations

February 2012



Original Scale: 1"=100'



PLANNING AND ZONING COMMISSION

February 21, 2012

CASE: P-11-075, "A" Street Community Center, Section 9.

REQUEST: Proposed Preliminary Plat.

APPLICANT/OWNER: COM Aquatics, Inc.

LEGAL DESCRIPTION: Proposed plat of "A" Street Community Center, Section 9, being a replat of Lot 1C, Block 3; "A" Street Community Center, Section 8 and the, to be vacated 0.162 acre portion of the adjacent east/west alley, City and county of Midland, Texas.

LOCATION: Generally located near the southwest corner of the intersection of W. Wadley Avenue and N. "A" Street.

DETAILS OF REQUEST:

1. The applicant is replatting two lots for the purpose of expanding the operations of the current COM Aquatics building on the southern lot with an additional pool facility to be constructed on the northern lot. This replat is required to provide to legally document the proposed changes in sewer utility relocation, changes in access and utility easements, and the vacation of a public alley, in addition to other items. An application to develop the new natatorium with a site plan and an amended planned district was also received for this project. The pending zone change will be scheduled for consideration by to the Planning and Zoning Commission after staff receives all necessary materials for a complete site plan review.

RIGHTS OF WAY (ROW):

2. A 15'x15' corner clip is required at the SW corner of the lot bordering W. Dengar and N. "A" Street.
3. Two vacation requests were submitted by the applicant and must be approved prior to final plat:
 - a. A request to vacate 0.16 acres of public alley (Exhibit B)
 - b. A request to vacate a 0.06 acre tract & a 0.17 acre tract of private and public utility easements (Exhibit C)

DRAINAGE:

4. A drainage plan will be required.

PUBLIC IMPROVEMENTS:

5. Public improvements will require the addition of fire hydrants, the re-routed sewer line to city standards, and the construction of sidewalks where required.

STAFF RECOMMENDATION:

Staff recommends approval of the preliminary plat of “A” Street Community Center, Section 9, subject to the following conditions:

- A. A statement of why the proposed re-routing of the sewer line functionally works must be submitted to the city engineering division;
- B. Vacation on the alley and the sewer line will require a letter of credit;
- C. City Council approval of the alley vacation will be required prior to final plat;
- D. That a satisfactory drainage plan is submitted and approved prior to final plat;
- E. That any required public improvements are addressed prior to final plat;
- F. A blanket refuse collection easement will be required;
- G. Technical notes for final plat.
 - a. State Plane Coordinates on two points.
 - b. Other minor scrivener errors provided to the engineer.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibit A – Proposed Preliminary Plat
Exhibit B & C – Vacation Requests

CITY OF MIDLAND
Transportation Division

APPLICATION TO VACATE RIGHT-OF-WAY

- I.** Application is hereby made to the City Council to vacate the following public right-of-way or easement:
Being a 0.16 acre alley abandonment and vacation within Block 3, "A" Street Community Center, Section 3. This alley is directly north of the existing COM Aquatics facility.
- II.** Reason for Request: This vacation facilitates the development of a new natatorium for COM Aquatics, Inc.
- III.** 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:
The to-be-vacated alley currently contains the majority of the dumpsters for the existing facility; however, dumpsters will be relocated on the property to serve both the existing and future development.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: COM Aquatics, Inc.

Address: 3003 N. A Street

Phone: (432) 684-7755

Street

Midland

City

Texas

State

79705

Zip Code

2. Metes and bounds description of property to be vacated including total square feet of vacation.
3. Map showing:
- Property to be vacated and its relationship to the applicant's property
 - Lot and block numbers of all adjacent tracts
 - Current zoning of all adjacent tracts
4. Letter(s) of Concurrence signed by adjacent property owner(s). (See attached)
5. Application Fee: **\$300.00**

Required items attached? Date Received: 1. ____ 2. ____ 3. ____ 4. ____ 5. ____

The City of Midland will take no action on this request, until items 1-5 are received.

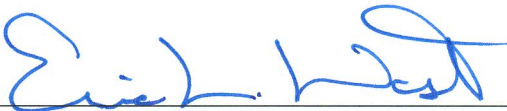
- V.** Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock 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 and to work out any issues that may arise.

VI. 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 1,000 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.

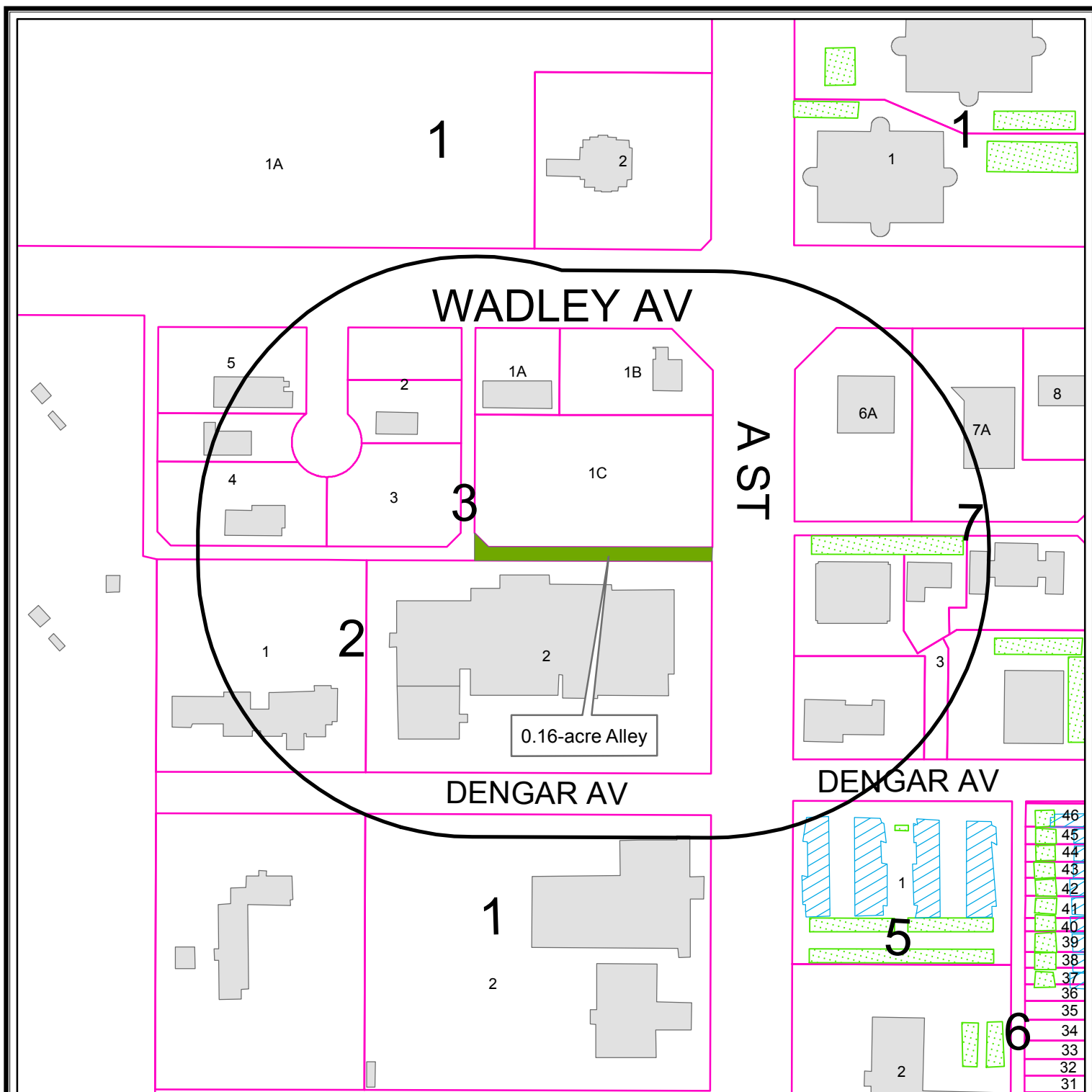
Signature of applicant:  Date: 2-1-12

****Application will not be considered for scheduling until all required items are reviewed by City Staff.****

To be completed by City of Midland staff:

According to the policy guidelines outlined above, a public hearing will ____ will not ____ be
required

FOR OFFICE USE ONLY	
Rec'd. By: <u>Rs</u>	Date: <u>2/15/12</u>
Assigned: <u>KV</u>	
For: <u>CC</u>	On: <u>5/8/12</u>



PROPERTY OWNER NOTIFICATION MAP

V - 12 - 001

Scale: 1" = 350'

Consider a request for the vacation of the east/west 20 foot alley out of Block 3, "A" Street Community Center, Section 3, being a 0.16-acre portion of land adjacent to Lot 1C, Blocks 3, "A" Street Community Center, Section 7, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 400 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BUILDING



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: M-12-009; Temporary Land Use Permit for the placement of a Manufactured Home.

Purpose:

Hold a public hearing at approximately 10:42 a.m. and approve a request to place a manufactured home for a period not exceeding one-year for the purpose of housing a veterinarian who will provide animal care services for the Lone Star Sanctuary for Animals.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are needed in association with this application.

Discussion:

Lone Star Sanctuary for Animals has recently hired a veterinarian who is moving to Midland to provide animal care services at the existing sanctuary location on the east side of Fairgrounds Road east of the Hogan Park Golf Course. Mr. Kirk French and Ms. Dolores McCall are requesting Council approval for the placement of a manufactured home in order to provide immediate housing for the new veterinarian.

The property is now developed with an animal sanctuary; prior to this use, kennel and boarding services were offered to the public. There are several existing buildings on the property. One building serves as an office and laundry room; another building (a manufactured home as well) is used for an additional office and a small animal quarantine area, a third building provides housing for cats and the large building located in the center of the development and labeled on Exhibit "A" as a barn is a roof structure only; it provides kennel spaces for dogs. Due to the existing buildings and the significant setback from Fairgrounds Road this new manufactured home will be virtually invisible from view.

Attachments: Application, Maps, Site plan - Exhibit "A"

Case No.:

M-12-009

CITY OF MIDLAND, TEXAS
Planning Division

TEMPORARY LAND USE PERMIT APPLICATION

Submission Requirements: Application shall be submitted to the Planning Division not less than eighteen (18) days prior to the City Council meeting at which action is desired.

Application is hereby made to the City Council for a Temporary Land Use Permit:

Name of Applicant: Lone Star Sanctuary for Animals Phone: 432-352-1066
E-mail: kirkfrench@att.net

Applicant's Address: 4200 N. Fairgrounds Road

Property Owner: Dolores L. McCall Phone: 432-682-5662
E-mail: doloresmccall@sbcglobal.net

Owner's Address: P. O. Drawer 2206, Midland, TX 79702

Other required information:

1. Street address and legal description of property: 3 acres as part of 2 tracts of land a 111.38 acre tract of land (West Tract) and a 152.03 acre tract of land (East Tract) situated in the West one-half (W/2) of Section 30 and the North one-half (N/2) of the Northwest one-fourth (NW/4) of Section 31, both in Block 38,
2. Zoning District: MF-1 T-1-S, T&PRR Co Survey, Midland County, Texas.
3. Type of temporary use requested: Placement of Manufactured Homes
4. Duration of temporary use: 1 Year
If more than One (1) day and is located within any residential district or is located within 1000 feet of any residential district, then a public hearing is required.
5. Proposed days and hours: N/A
6. Will alcoholic beverages be sold? Yes ☒ No
7. A detailed Site Plan is required (16 copies needed (FOLDED), plus digital - .jpg and .pdf). Show existing buildings, parking, access arrangements, surrounding streets, activity areas, areas of alcoholic beverage sales, proposed street closures, etc.
Site Plan received: ☒ Yes No

8. Are you requesting the temporary closure of any streets? _____ Yes X No

If yes, you must:

- A. Obtain and complete the "Special Event and Street Closure Application", available in the Transportation Division office (5th Floor, City Hall).
- B. Provide the City with a **general liability insurance certificate**, naming the **City** as an **Additional Insured**, in the amount of one million dollars (\$1,000,000) for the term of the closure.
9. Other information: Number of security guards provided: N/A
Number of restrooms provided: N/A
Type of music (carnival, live, etc.): N/A
Showmobile requested N/A Days and hours _____
10. A **\$500.00 Clean-up Deposit** and a **\$500.00 Damage Deposit** are required for all events. Checks need to be dated day of event. Inspection of site after the event for trash and damage is a City responsibility. The deposits, or a portion thereof, may be refunded following inspection.
Clean-up Deposit received: (Y) X (N) **Clean-up Deposit refunded:** (Y) (%) (N)
Damage Deposit received: (Y) X (N) **Damage Deposit refunded:** (Y) (%) (N)
11. A **\$200 Application Review fee** is required. **Fee received:** X Yes _____ No
\$25.00 for each additional event date.

Owner or Operator (if other than Applicant) responsible for ensuring that the conditions of this permit will be observed:

Dolores L. McCall, P. O. Box 2206, Midland, TX 79702		432-682-5662
Printed Name of Owner/Operator	Address	Zip Phone
<u>Dolores L. McCall</u>		<u>4/5/2012</u>
Signature of Owner/Operator		Date
<u>Keik French</u>		<u>4/5/2012</u>
Signature of Applicant		Date
<u>Dolores L. McCall</u>		<u>4/5/2012</u>
Signature of Property Owner, if other than Applicant		Date

****Application will not be considered for scheduling until reviewed by a planner.****

FOR OFFICE USE ONLY	
Received By: <u>PS</u>	Date: <u>4/5/2012</u>
Assigned: <u>CW</u>	
For: <u>CC</u>	On: <u>5/8/12</u>

LOOP 250 NORTH

FAIRGROUNDS RD

CYNTHIA DR

3

3

4

9

SHANKS DR

ANN DR

PROPERTY OWNER NOTIFICATION MAP

M - 12 - 009

Scale: 1" = 600'

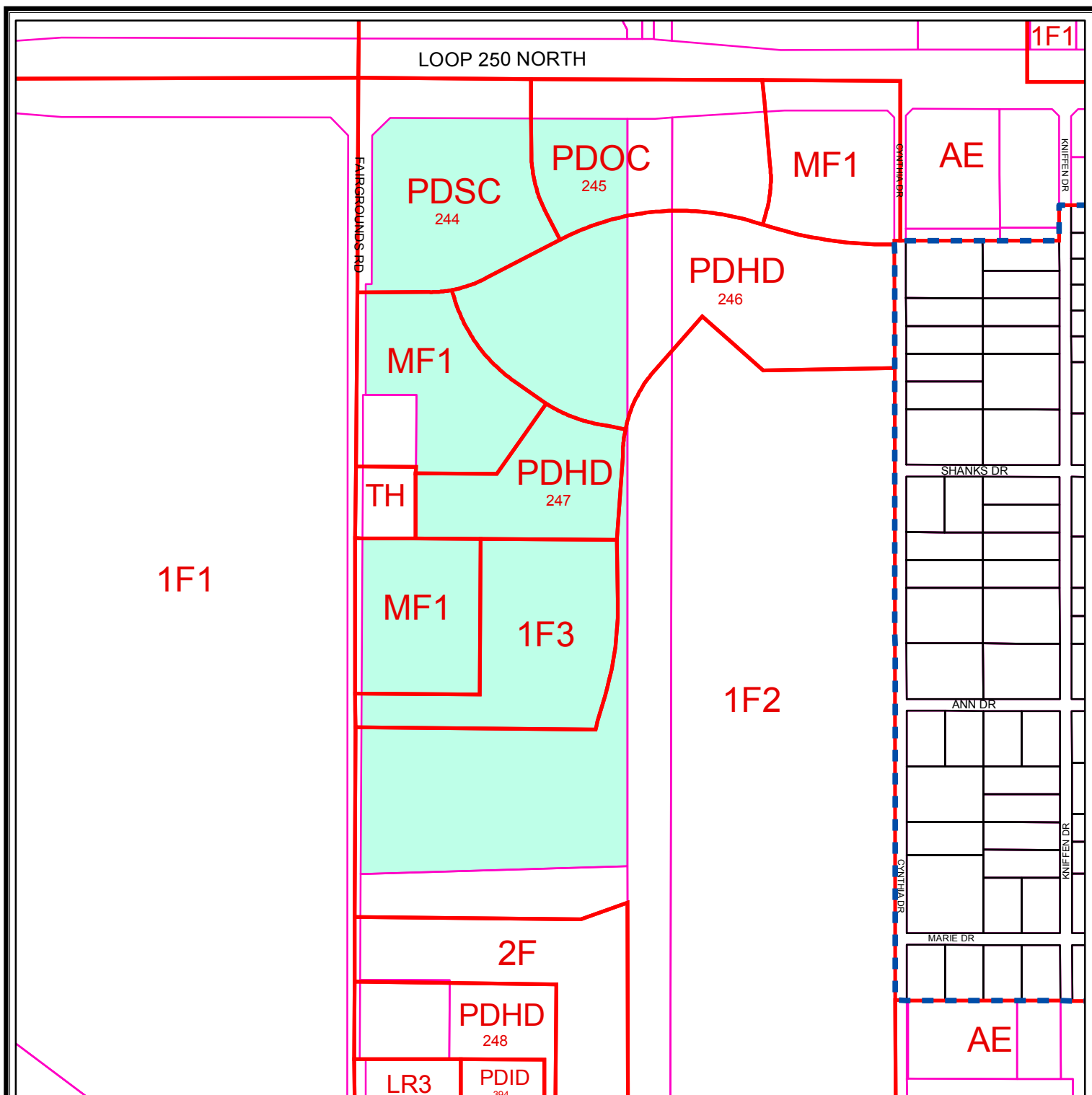
Consider a request for a Temporary Land Use Permit for a Manufactured Home on 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

M - 12 - 009

Scale: 1" = 700'

Consider a request for a Temporary Land Use Permit for a Manufactured Home on 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ZONING
- CITY PARCELS
- CITY LIMITS
- COUNTY 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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RESOLUTION NO.

**RESOLUTION AUTHORIZING THE TEMPORARY USE
OF LAND FOR A MANUFACTURED HOME ON A
111.50-ACRE TRACT OF LAND OUT OF SECTION 30,
BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND
COUNTY OF MIDLAND, TEXAS (GENERALLY
LOCATED ON THE SOUTHEAST CORNER OF
FAIRGROUNDS ROAD AND LOOP 250); AND MAKING
SAID PERMIT SUBJECT TO CERTAIN SPECIAL
CONDITIONS AND RESTRICTIONS CONTAINED
HEREIN**

WHEREAS, pursuant to Section 11-1-6(D) of the City Code of Midland, Texas, Lone Star Sanctuary has applied for authorization to temporarily use land for a manufactured home on a 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas; and

WHEREAS, the Council finds and determines that such temporary use shall be allowed;

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

SECTION ONE. That Lone Star Sanctuary is hereby authorized by the City Council to have a manufactured home on the following described land:

A 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

SECTION TWO. That said temporary use shall be allowed within the area designated herein, subject to the following conditions and restrictions:

- A. That one (1) manufactured home may be placed on the property for a time period not exceeding one (1) year.
- B. That the manufactured home shall be placed in the location shown on the site plan, which is attached hereto and incorporated herein as Exhibit "A".
- C. That prior to the placement of the manufactured home on the property, a permit application shall be submitted to the City of Midland Code Administration Division.

SECTION THREE. The City Council reserves at all times the full right and power to revoke said temporary use for violation of any of its terms or any misrepresentations

contained in the application, after a hearing of which the holder of said temporary use has been given at least one (1) day notice.

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., 2012, by the following vote:

Council members voting "AYE":

Council members voting "NAY":

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

RECOMMENDED AND APPROVED:

Courtney Sharp, City Manager

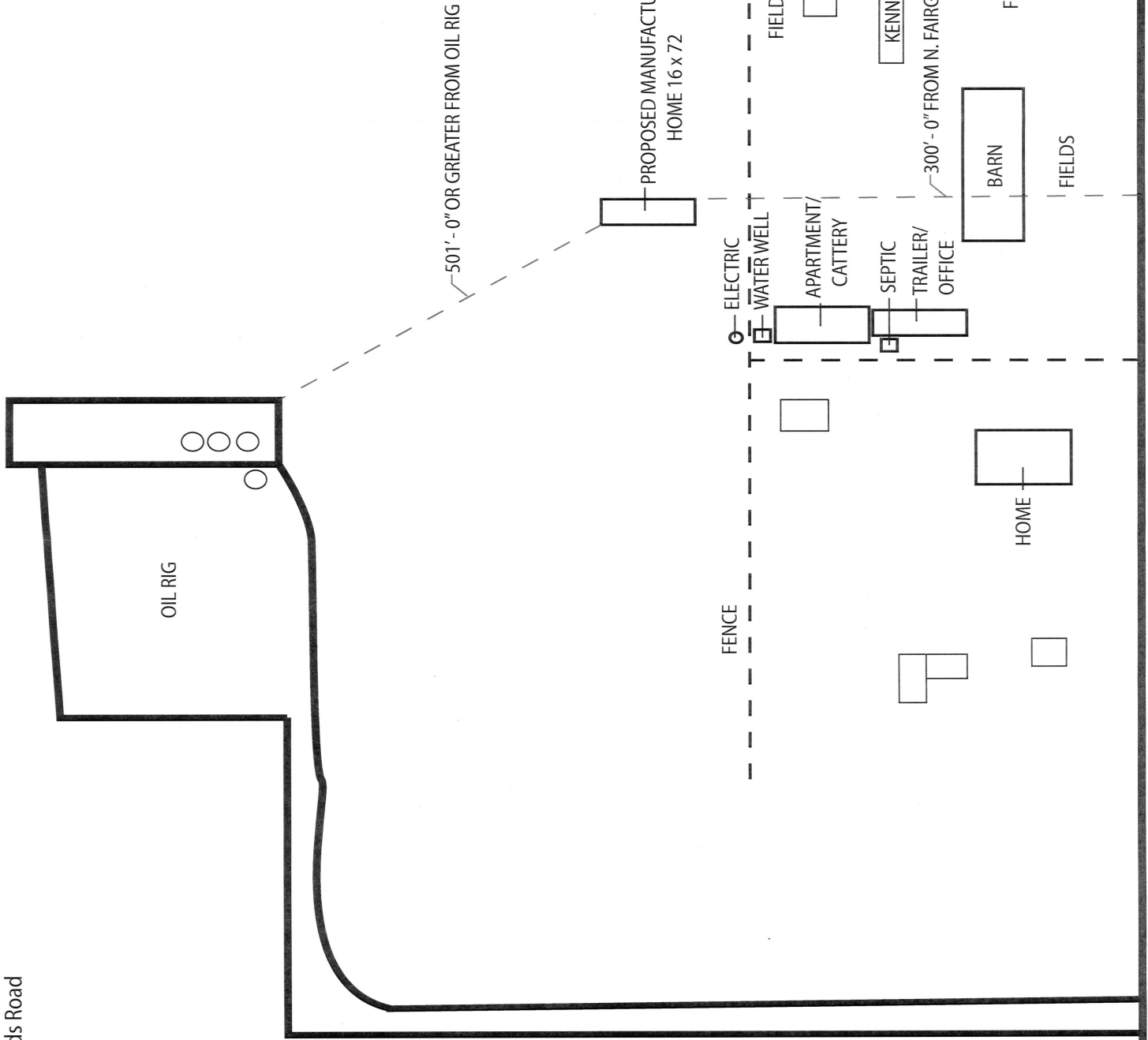
APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

LONE STAR SANCTUARY FOR ANIMALS
 4200 North Fairgrounds Road
 Midland, TX 79705



SERVICE ROAD

N. FAIRGROUNDS ROAD

RECEIVED
 APR 27 2012
 CITY OF MIDLAND
 PLANNING DIVISION OFFICE

SITE PLAN

CASE NO. *M-12-009*

EXHIBIT A



City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: S-12-002, CY Houston Management Company.

Purpose:

Hold a public hearing at approximately 10:45 a.m. and consider an ordinance on a request by CY Houston Management Company for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a bar.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

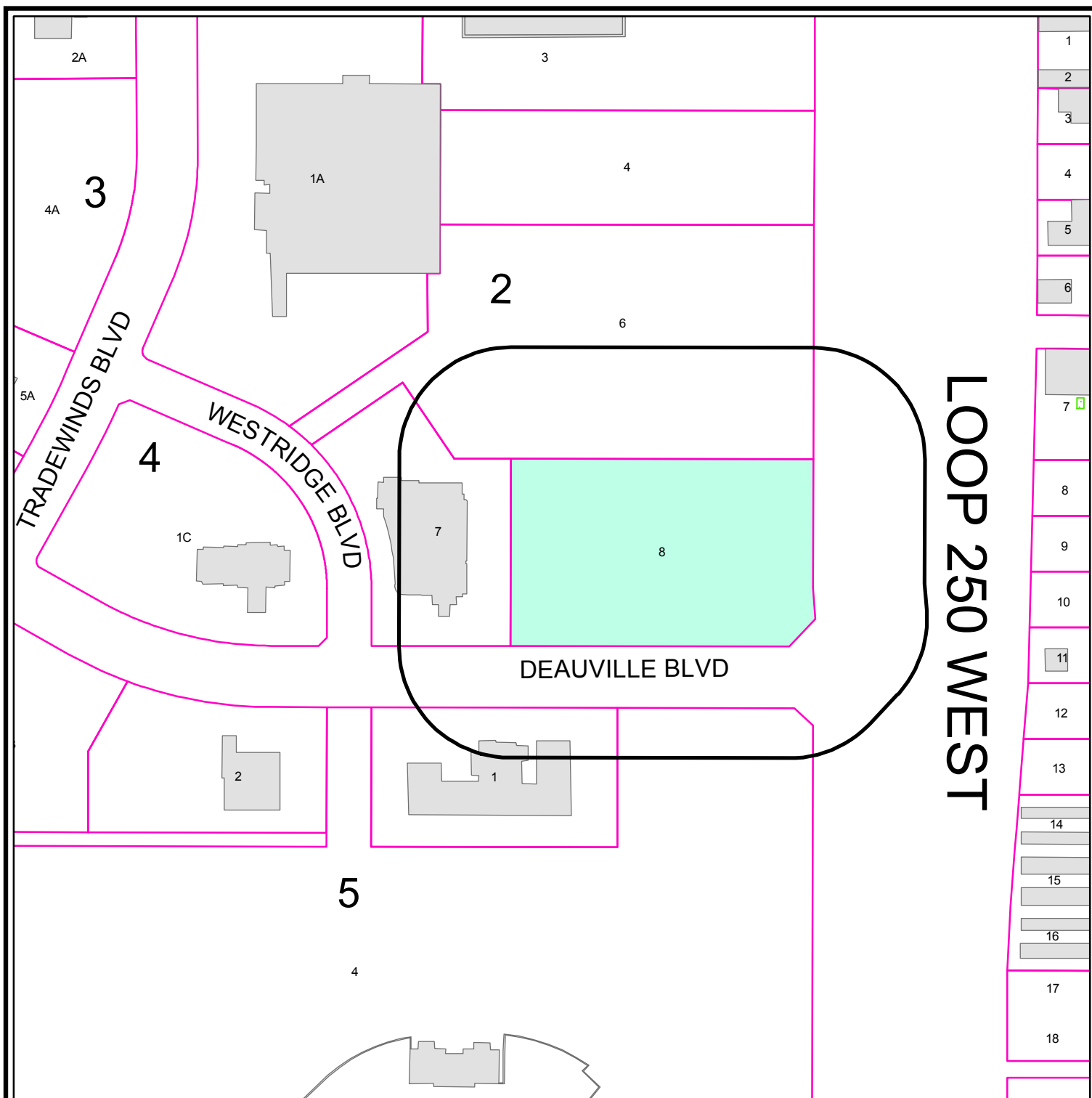
There is no cost to the City associated with approving this request.

Discussion:

The applicant plans to open a bar in the Hilton Garden Inn offering alcoholic beverages for on-premise consumption after the completion of this four-story hotel at Loop 250 and Deauville Boulevard. The hotel design features a small bar off the lobby area with 21 seats and a larger, secluded lounge with seats for 45 guests and an adjacent patio area as shown on the floor plan (Exhibit – A). Proposed hours of operation are noon to midnight, seven days a week; maximum seating within the lounge areas shall be limited to 66 seats and the adjacent patio area.

Attachments:

Maps
April 30, 2012 Planning & Zoning Commission Staff Report
Floor Plan (Exhibit – A)
Proposed Ordinance



PROPERTY OWNER NOTIFICATION MAP

S - 12 - 002

Scale: 1" = 200'

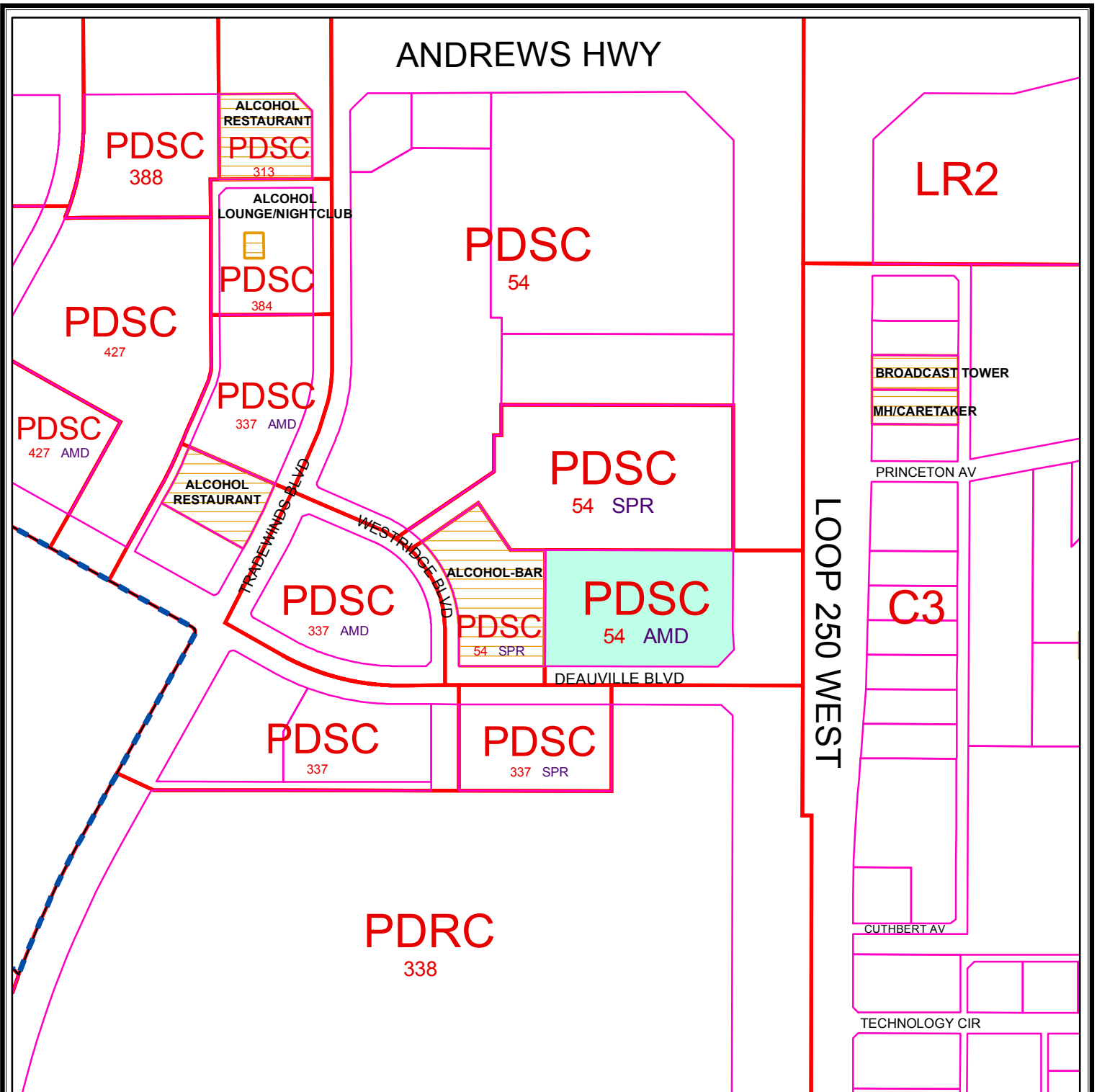
Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 12 - 002

Scale: 1" = 400'

Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LEGEND

- ZONING CITY PARCELS COUNTY PARCELS
 SPECIFIC USE PERMITS CITY LIMITS

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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PLANNING AND ZONING COMMISSION

April 30, 2012

CASE: S-12-002.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Bar.

APPLICANT: CY Houston Management Company.

OWNER: SBC, LP.

LEGAL DESCRIPTION: Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LOCATION: Generally located on the northwest corner of the intersection of N. Loop 250 West and Deauville Boulevard.

CURRENT ZONING: PD, Planned District for a Shopping Center.

ASSOCIATED CASES: Z-11-059.

DETAILS OF REQUEST:

1. On February 28, 2012 the City Council approved a planned district site plan to allow the construction of a four-story Hilton Garden Inn on this site. Within this hotel's open design will be a 21 seat lounge located adjacent to the hotel lobby. In addition, the hotel offers a more isolated lounge to the west of the lobby with seating for 45 guests and an adjacent patio area (511 square feet) adjacent to the bar. The proposed hours of operation for the hotel bar are noon to midnight, seven days a week. In order for hotel bar staff to service guests on the premises, a specific use permit for a bar must be approved.

SURROUNDING ZONING AND LAND USE:

2. This property is located on a 4.16-acres located on the northwest corner of the intersection of Loop 250 and Deauville Boulevard. The immediate surrounding area is also zoned a PD, Planned District for a Shopping Center with the exception of the city-owned Scharbauer Sports Complex to the south which is zoned a PD, Planned District for a Recreation Center. Sam's Club is to the northwest, while the construction of a new hotel to the west is nearing completion and the property immediately north is undeveloped.

ANALYSIS:

3. The proposed hotel bar is consistent with services offered at similar hotels with banquet and meeting room facilities. There are also a number of other hotels in this area that offer on-premise consumption of alcoholic beverages in addition to nearby restaurants. Staff believes that the proposal fits in with on-going development in this area and provides an amenity that travelers might expect to find in reserving a conference/banquet facility.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for the sale and on-premise consumption of alcoholic beverages in a Bar, subject to the following conditions:

- A. That the maximum seating within the lounge areas shall be limited to 66 seats and the adjacent patio area as designated on Exhibit A;
- B. That no outside entrance to a separate bar area shall be permitted;
- C. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Each day of the week from noon until midnight;
- D. That the operation of the bar shall conform to all laws established by the City of Midland and the State of Texas;
- E. That the owner shall meet applicable building and fire codes prior to the operations of the hotel bar.

Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Floor Plan – Exhibit A
Maps



CITY OF MIDLAND

ORDINANCE REQUEST FORM

DATE: April 28, 2012 **SUBJECT:** S-12-002
CY Houston Management Company.

TO: Keith Stretcher, City Attorney

FROM: Cameron Walker, AICP
Planning Division Manager

MEETING
DATE: May 8, 2012 **TIME:** 10:45 a.m.
City Council Meeting

Please prepare the appropriate legal instrument on the above-mentioned subject to be heard before the City Council as indicated.

LEGAL DESCRIPTION OF PROPERTY:

Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LOCATION: Generally located on the northwest corner of the intersection of N. Loop 250 West and Deauville Boulevard.

PRESENT ZONE: PD, Planned District for a Shopping Center.

DEPARTMENT COMMENTS:

Please prepare an ordinance approving a Specific Use Permit with Term for the sale and on-premise consumption of alcoholic beverages in a Bar, subject to the following conditions:

- A. That the maximum seating within the lounge areas shall be limited to 66 seats and the adjacent patio area as designated on Exhibit A;
- B. That no outside entrance to a separate bar area shall be permitted;
- C. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Each day of the week from noon until midnight;

- D. That the operation of the bar shall conform to all laws established by the City of Midland and the State of Texas;**
- E. That the owner shall meet applicable building and fire codes prior to the operations of the hotel bar.**

Attachments:

Application

Maps

Exhibit A – Floor Plan

PLANNING AND ZONING COMMISSION

April 30, 2012

CASE: S-12-002.

REQUEST: Hold a public hearing and consider a request for a Specific Use Permit with Term for on-premise consumption of all alcoholic beverages in a Bar.

APPLICANT: CY Houston Management Company.

OWNER: SBC, LP.

LEGAL DESCRIPTION: Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LOCATION: Generally located on the northwest corner of the intersection of N. Loop 250 West and Deauville Boulevard.

CURRENT ZONING: PD, Planned District for a Shopping Center.

ASSOCIATED CASES: Z-11-059.

DETAILS OF REQUEST:

1. On February 28, 2012 the City Council approved a planned district site plan to allow the construction of a four-story Hilton Garden Inn on this site. Within this hotel's open design will be a 21 seat lounge located adjacent to the hotel lobby. In addition, the hotel offers a more isolated lounge to the west of the lobby with seating for 45 guests and an adjacent patio area (511 square feet) adjacent to the bar. The proposed hours of operation for the hotel bar are noon to midnight, seven days a week. In order for hotel bar staff to service guests on the premises, a specific use permit for a bar must be approved.

SURROUNDING ZONING AND LAND USE:

2. This property is located on a 4.16-acres located on the northwest corner of the intersection of Loop 250 and Deauville Boulevard. The immediate surrounding area is also zoned a PD, Planned District for a Shopping Center with the exception of the city-owned Scharbauer Sports Complex to the south which is zoned a PD, Planned District for a Recreation Center. Sam's Club is to the northwest, while the construction of a new hotel to the west is nearing completion and the property immediately north is undeveloped.

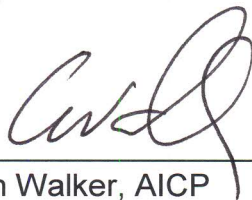
ANALYSIS:

3. The proposed hotel bar is consistent with services offered at similar hotels with banquet and meeting room facilities. There are also a number of other hotels in this area that offer on-premise consumption of alcoholic beverages in addition to nearby restaurants. Staff believes that the proposal fits in with on-going development in this area and provides an amenity that travelers might expect to find in reserving a conference/banquet facility.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a Specific Use Permit with Term for the sale and on-premise consumption of alcoholic beverages in a Bar, subject to the following conditions:

- A. That the maximum seating within the lounge areas shall be limited to 66 seats and the adjacent patio area as designated on Exhibit A;
- B. That no outside entrance to a separate bar area shall be permitted;
- C. That the days and hours of alcoholic beverage sales and consumption shall not exceed the following: Each day of the week from noon until midnight;
- D. That the operation of the bar shall conform to all laws established by the City of Midland and the State of Texas;
- E. That the owner shall meet applicable building and fire codes prior to the operations of the hotel bar.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services



Ken Van Dyne, Senior Planner
Department of Development Services

Attachments:

Application
Floor Plan – Exhibit A
Maps

Case Number: S-12-002

CITY OF MIDLAND
Planning Division

**APPLICATION FOR A SPECIFIC USE PERMIT WITH TERM
FOR THE SALE OF ALCOHOLIC BEVERAGES
FOR ON-PREMISE CONSUMPTION**

Cy Houston Management Company, LLC 972-934-8699 / cfisher@wirip.com
Applicant Name Phone/e-mail
13647 Montfort Dr. Dallas, TX 75240
Address Zip Code

SBC, L.P. 432-522-2040
Property Owner Name Phone/e-mail
1811 Heritage Blvd, Ste 100 Midland, TX 79707
Address Zip Code

Texas Western Management Partners, LP 972-934-8699
Operator (if different from Applicant or Property Owner) Phone/e-mail
13647 Montfort Dr. Dallas, TX 75240
Address Zip Code

Type of Business: Hotel Restaurant & Bar
(Restaurant, Bar, Lounge, Nightclub, etc.)

Street address and Legal Description of property on which SUP is desired (complete Lot, Block, and Subdivision, name, or if unplatted, attach a Metes and Bounds description with surveyor's seal.)

see attached survey & legal description

Current Zoning: PD-SC

Max. Floor Area: 3039 Bar/Restaurant Seating Capacity: 136

Proposed hours and days of alcoholic beverage sales: Monday thru Sunday;
Noon to Midnight

Reason for request: Bar & restaurant is a guest amenity desired by
clientelle & is a Hilton brand standard requirement for
a Hilton Garden Inn.

REQUIRED SUBMITTALS

1. Application fee: \$300 _____.

2. Site plan – 16 copies (FOLDED) ____.
3. On a CD in .pdf and .jpg digital format ____.

SIGNATURES:

Applicant: BX Michael Mahoney -VP- MHA
CY Houston Management Group, LLC Date: 1/3/12

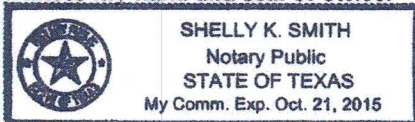
Property Owner: SBC, LP by SBC GZ, LLC Date: 1/3/12
its sole general partner by Douglas B Henson President

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
Douglas B Henson who, being by me duly sworn, upon oath says: That (s)he is
 authorized by SBC, LP, 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.

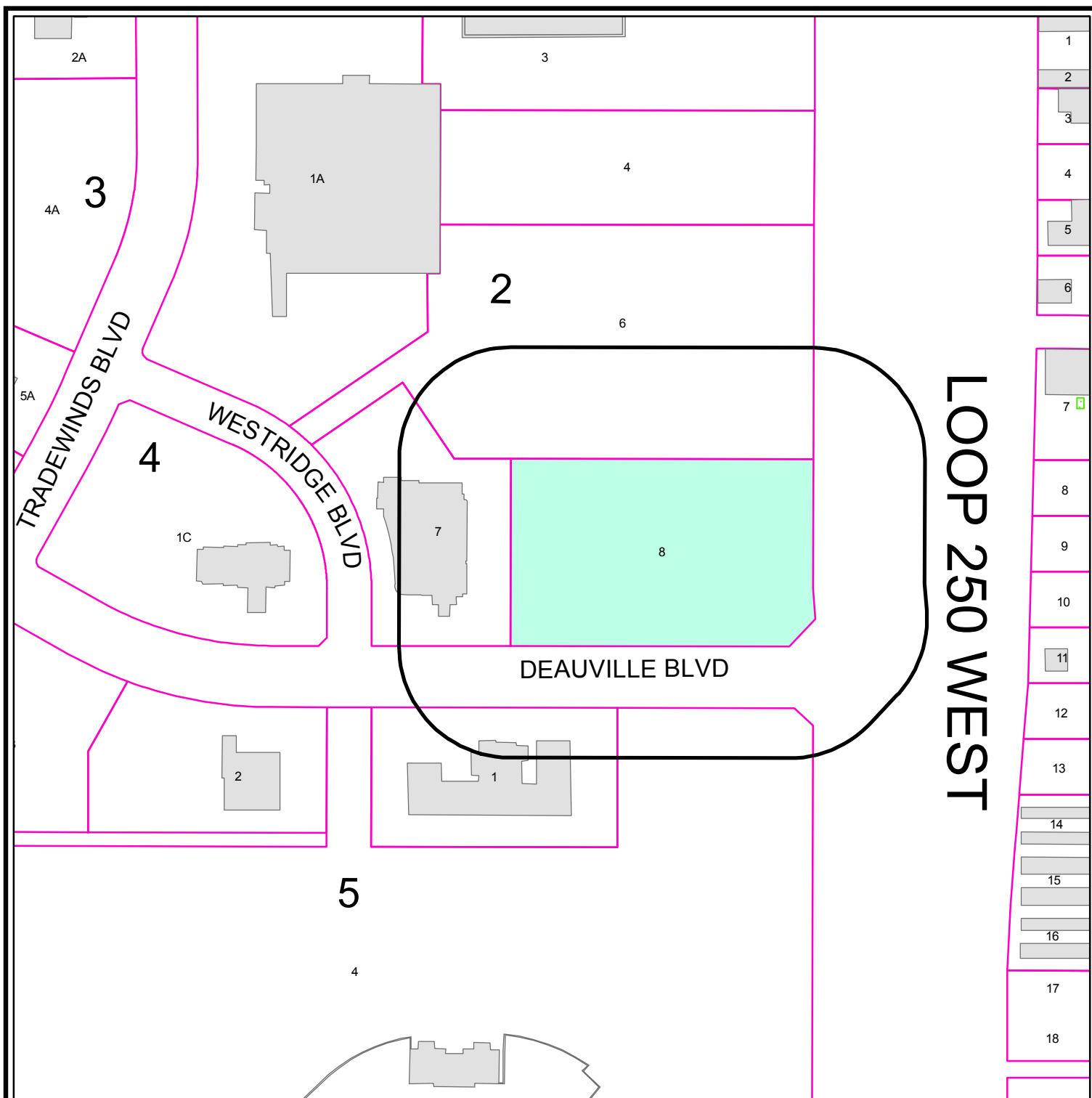
Subscribed and sworn to before me, this 3rd day of January, 2012, to certify which
 witness my hand and seal of office.



Shelly K Smith
 NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>JC</u>	Date: <u>1-9-12</u>
Assigned: <u>KV</u>	
For: <u>Pt Z</u>	On: <u>4/30/12</u>

****Application will not be considered for scheduling until reviewed by a planner.****



PROPERTY OWNER NOTIFICATION MAP

S - 12 - 002

Scale: 1" = 200'

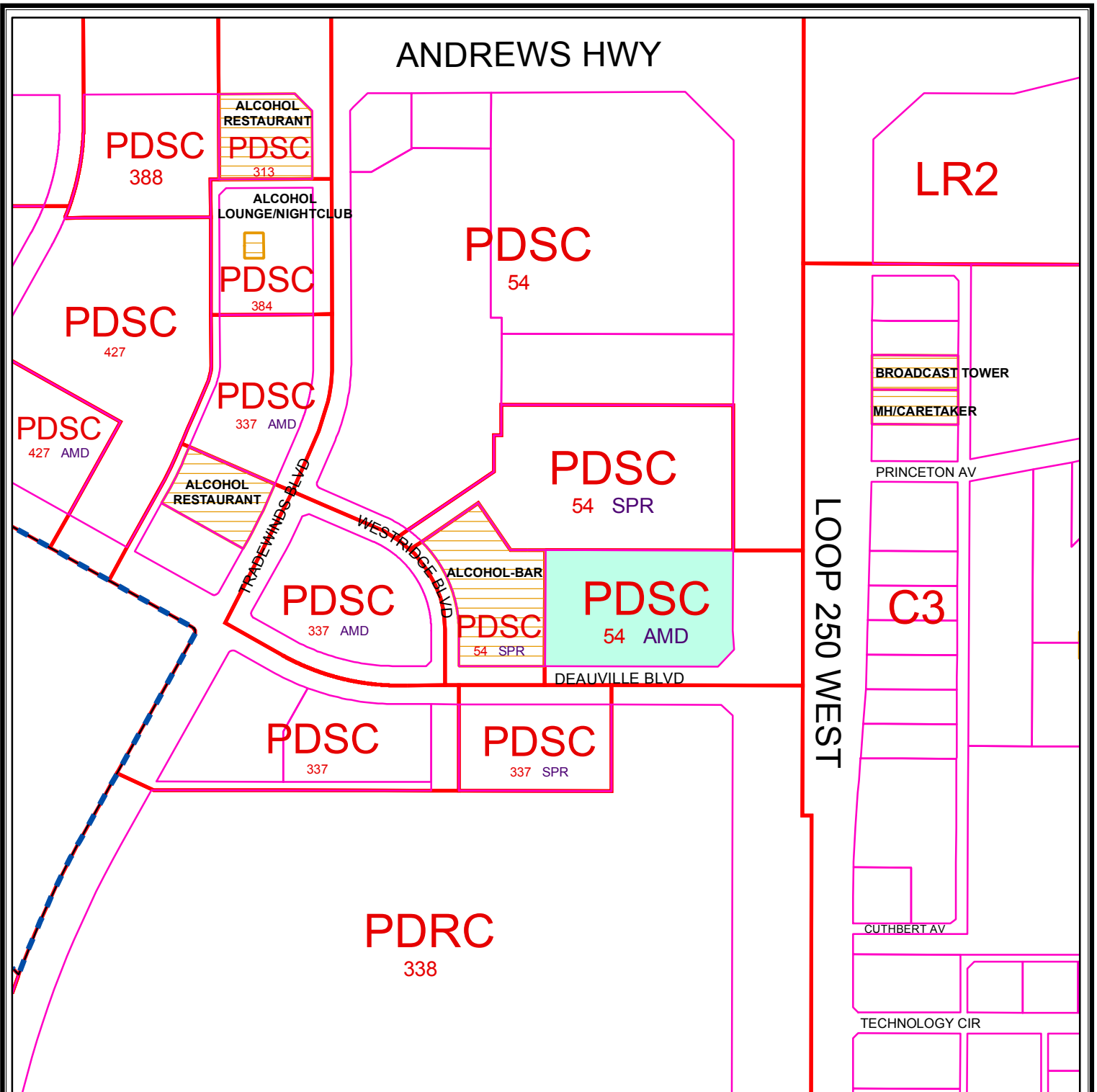
Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- CITY PARCEL
- COUNTY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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ZONING MAP

S - 12 - 002

Scale: 1" = 400'

Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

LEGEND

- ZONING CITY PARCELS COUNTY PARCELS
 SPECIFIC USE PERMITS CITY LIMITS

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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ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 8, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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 PD, Planned District for a Shopping Center, to-wit:

Lot 8, Block 2, Westridge Park Addition, Section 20, 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 bar, together with

the uses permitted in the present PD, Planned District for a Shopping Center.

SECTION TWO. That said property shall be subject to the following conditions and restrictions:

- A. That the maximum seating within the lounge areas shall be limited to 66 seats as shown on Exhibit "A". The maximum seating with the east patio area shall be limited to 24 seats; the maximum seating within the west patio area shall be limited to 10 seats. Exhibit "A" is attached hereto and incorporated herein.
- B. That no outside entrance to the bar area shall be permitted.
- C. That the days and hours of alcoholic beverage sales and consumption shall be limited to each day of the week from 12:00 p.m. (Noon) to 2:00 a.m. of the following day, unless otherwise prohibited by law.
- C. That the operation of the bar shall conform to all applicable laws established by the City of Midland and the State of Texas.
- D. That the owner shall meet all applicable Building Code and Fire Code requirements prior to operating the bar.

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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

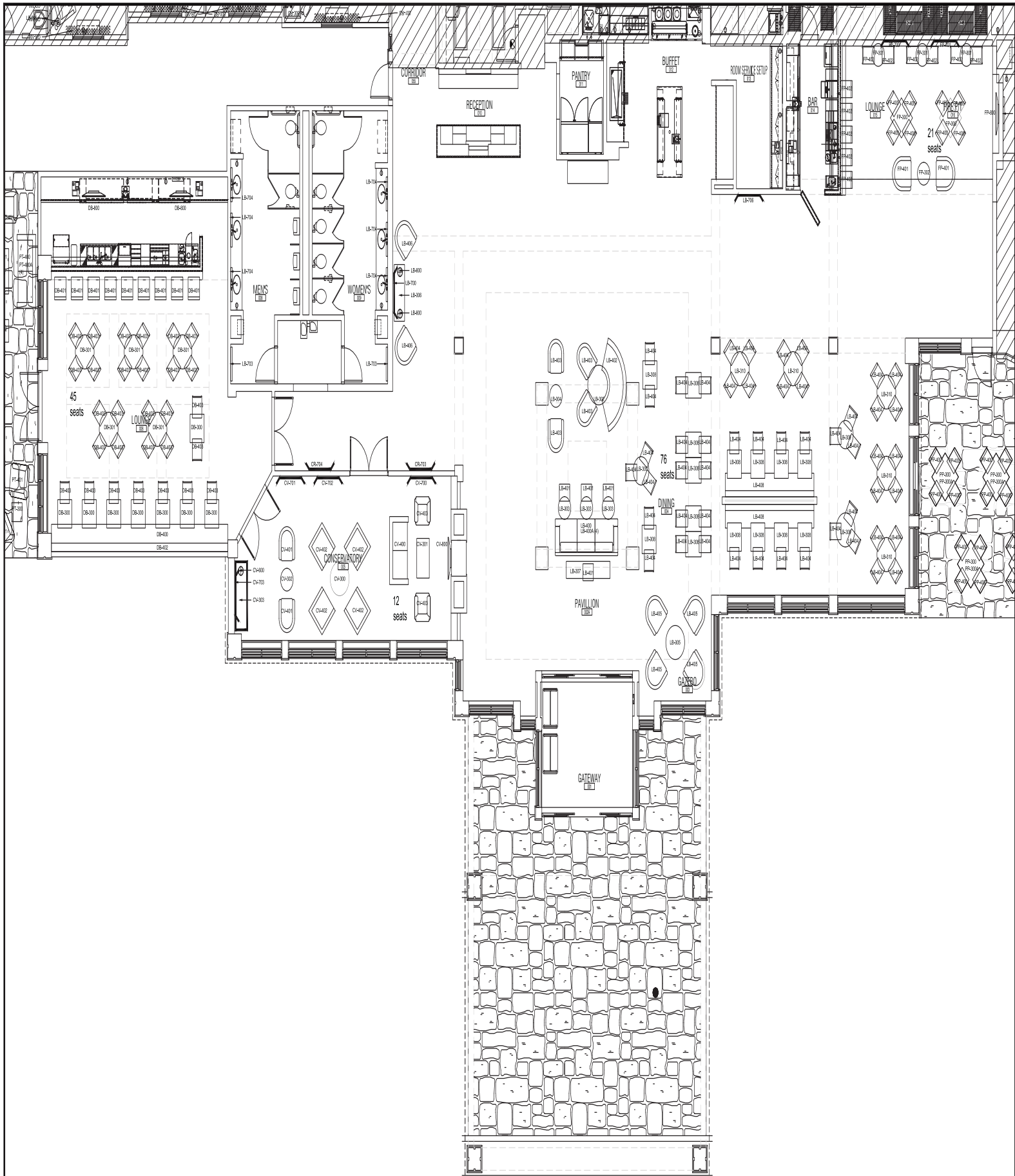
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



PAVILION FURNITURE PLAN
3/8" = 1'-0"

1



Design, Inc.
122 NW 26th
Suite 203
Fort Worth, TX 76104
phone: 817.365.2742
www.jrkdesign.us

IN AFFILIATION WITH



Curtis Architecture, Inc.
www.c-arch.us
phone: 817.365.2712

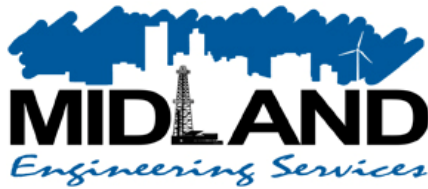


Architect:
Dustin Curtis
dustin.curtis@c-arch.us
Project Manager:
Mark Richardson
mark.richardson@jrkdesign.us

Revisions

Hilton Garden
Inn
Deauville Blvd.
Midland, TX 79701
3.12.2012
TX-082

PAVILION
FURNITURE
PLAN
28.19



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: David D. Beard, P.E. – City Engineer

SUBJECT: Consider a resolution to authorize Municipal Setting Designation for the CVS site. The CVS site is positioned in the City Limits, generally located at 301 Andrews Highway (District #3 - James)

Purpose:

Hold a public hearing at approximately 10:48 am and consider an ordinance on a request by Modern Geosciences on behalf of CVS Store #4356 to support a Municipal Setting Designation (MSD) for the site.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City to process this application.

Discussion:

The purpose of the public hearing is to allow consideration of the MSD request and allow the Applicant an opportunity to answer any questions the Council or public may have. By Texas law, a property is eligible for an MSD if: (1) the property is within the corporate limits or extraterritorial jurisdiction of a municipality authorized by statute; and (2) a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 and that supplies or is capable of supplying drinking water to the site for which the MSD is sought and property within ½ mile of the site. The Site meets these criteria.

The Site is currently entered into the Texas Voluntary Cleanup Program (VCP) to address the release and is seeking an MSD to restrict groundwater use at the Site to non-potable purposes. Using the MSD, the property owner will be able to pursue and complete VCP closure activities at the site.

Attached is a copy of the Public Notice including a Property Owner Notification map.

ORDINANCE NO.

AN ORDINANCE APPROVING A MUNICIPAL SETTING DESIGNATION SITE FOR LOT 1A, BLOCK 1, PERMIAN SHOPPING CENTER, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS CVS PHARMACY, 301 ANDREWS HIGHWAY, MIDLAND, TEXAS 79701); PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES ; 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, CVS Pharmacy Store No. 4356 (“Applicant”) has filed an application with the City of Midland seeking a Municipal Setting Designation (“MSD”) for the property described as Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas (the “Site”); and

WHEREAS, upon adoption of this ordinance, Applicant intends to file a separate application with the Texas Commission on Environmental Quality (“TCEQ”) for certification of an MSD for the Site pursuant to Chapter 361 of the Texas Health and Safety Code; and

WHEREAS, Applicant has continuing obligations to satisfy applicable statutory and regulatory provisions concerning groundwater contamination investigation and response action at the Site; and

WHEREAS, the City Council finds it to be in the public interest to support Applicant’s application to the TCEQ for an MSD for the Site; and

WHEREAS, in order for the TCEQ to certify the Site the City must prohibit the potable use of designated groundwater from beneath the Site; and

WHEREAS, the City Council finds that the eligibility requirements of Section 361.803 of the Texas Health and Safety Code have been met; and

WHEREAS, the City Council finds this ordinance will not have an adverse effect on the current or future water resource needs or obligations of the City of Midland; and

WHEREAS, the City Council finds a public drinking water supply system exists that supplies or is capable of supplying drinking water to the Site, and property within one-half

mile of the Site; and

WHEREAS, the City Council finds that where public drinking water is available, the potable use of groundwater in designated areas should be prohibited to protect the public health and welfare when the quality of the groundwater presents an actual or potential threat to human health; and

WHEREAS, a public hearing was held on May 8, 2012 and the affected community was duly notified of same and allowed the opportunity to comment on this ordinance;

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

SECTION ONE. That the above recitals are hereby adopted and approved.

SECTION TWO. That Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas, is hereby approved as a Municipal Setting Designation Site in the City of Midland.

SECTION THREE. That the use of the designated groundwater at the Site for potable water, as defined in Section 361.801(2) of the Texas Health and Safety Code, and the following uses of or contacts with the designated groundwater are prohibited: human consumption or drinking; showering or bathing; cooking; or irrigation of crops for human consumption.

SECTION FOUR. That this ordinance shall not be considered on second reading until the City of Midland has received from Applicant an application and processing fee of \$15,000.00.

SECTION FIVE. That the City Manager is hereby authorized and directed to provide advance written notice to the TCEQ, as much as is practicable, prior to the City of Midland enacting an ordinance repealing or amending this ordinance.

SECTION SIX. 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 SEVEN. 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 EIGHT. 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 NINE. 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., 2012; 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., 2012, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Courtney Sharp, City Manager

David Beard, City Engineer

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Code Administration
432.685.7390

Community Development
432.685.7408

Engineering Services
432.685.7286

Development Services

300 N. Loraine
Post Office Box 1152
Midland, Texas 79702-1152
Fax 432.683.1786

GIS
432.685.7284

Planning Division
432.685.7400

Transportation
432.685.7287

PUBLIC NOTICE

The **City Council**, of the City of Midland, Texas, will hold a public hearing at **10:48 a.m. on Tuesday, May 8, 2012**, in the Council Chamber, City Hall, 300 N. Loraine, on a request by **CVS Pharmacy** for approval of a **Municipal Setting Designation** on the following described property:

LEGAL DESCRIPTION: Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas.

LOCATION: Generally located on the northwest corner of Illinois Avenue and Andrews Highway.

Not to be considered a part of the Public Notice: 1) See reverse side for location map; 2) In order to be considered as an official objection to this request a response **must be submitted by mail or delivered in writing** to the Planning Division at the address listed above. An official objection may be filed by completing this notice and returning it to the address listed above.

I object to this request _____ **Comments:** _____
Required Information:

Property Owner's Signature

Printed Name

Property Address (No P. O. Boxes)

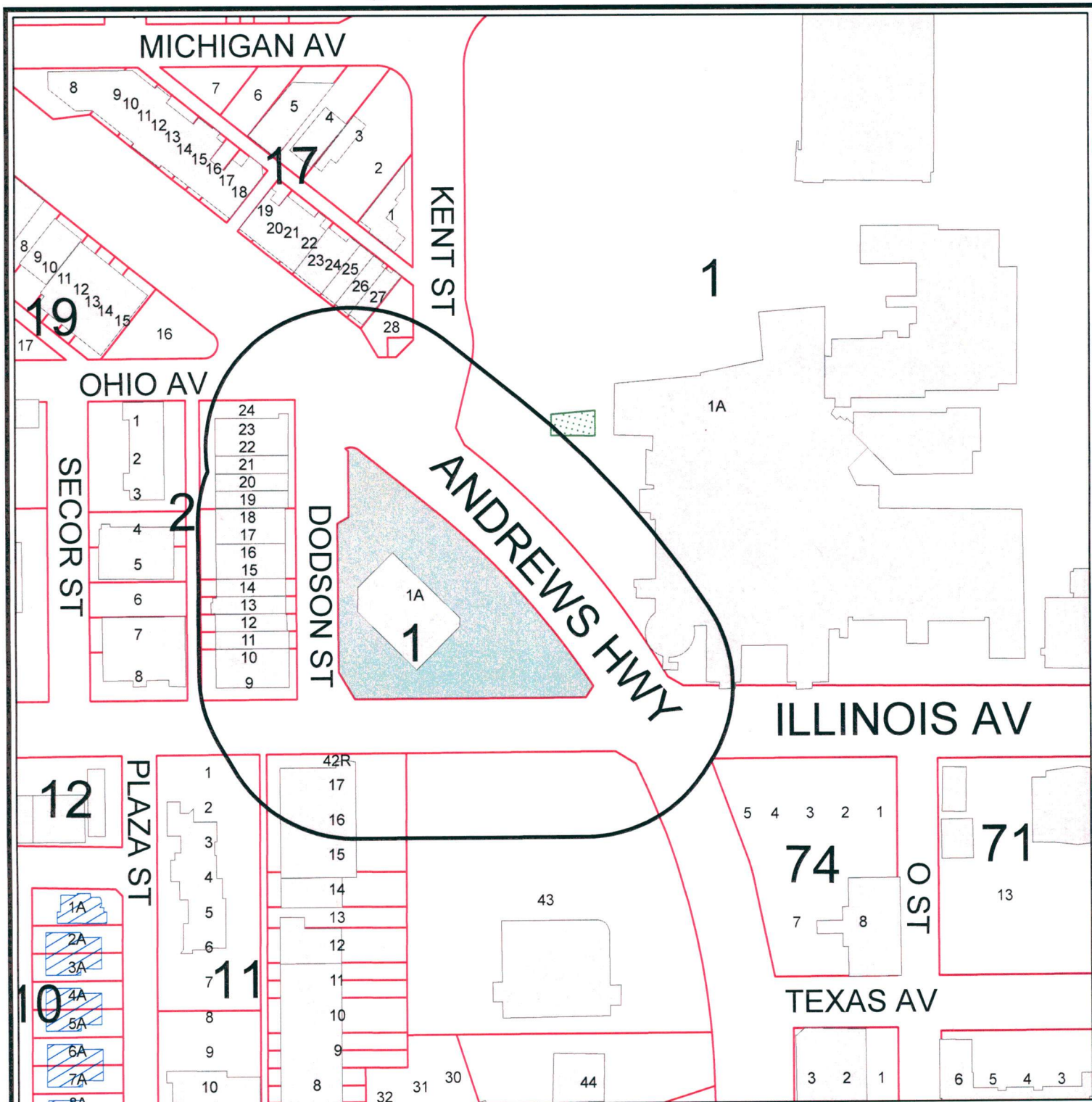
If any further information is desired, please contact the Planning Division at 685-7286. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7286.

Notices Mailed:13
Date Mailed: April 23, 2012
Case Name: CVS Pharmacy


David Beard
City Engineer

 Initials

The meeting facility is accessible to disabled persons. A wheelchair entry ramp is located at the southeast entrance to City Hall. A parking space designated for use by disabled persons is available near the southeast entrance doors. Any disabled person needing special accommodations or hearing impaired persons wishing to have an interpreter should request services through the Administrative Services Department at least 48 hours prior to the scheduled meeting by contacting Compliance Coordinator for the City of Midland, at (432) 685-7250. If communication via TDD is required, please call 1-800-735-2989.



PROPERTY OWNER NOTIFICATION MAP

Consider a request for approval of a Municipal Setting Designation by CVS Pharmacy on Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas.

Scale: 1" = 200'

LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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NOTICE OF PUBLIC HEARING MUNICIPAL SETTING DESIGNATION 301 ANDREWS HIGHWAY, MIDLAND, TEXAS

CVS Pharmacy has filed an application with the City of Midland for the city's approval of a Municipal Setting Designation (MSD) for the above-referenced property owned by them (Site). The application is made pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W.

You are receiving this notification because you are a property owner within 200 feet of the Site. **This notice implies no legal obligation upon you. If you have no interest in this matter, please discard this notice and we apologize for any inconvenience.**

PUBLIC HEARING

**May 8th, 2012 @ 10:48 am
City Council Chambers
300 N. Loraine
Midland, Texas 79702**

The purpose of the public hearing is to allow consideration of the MSD request and allow the Applicant an opportunity to answer any questions the council or public may have. By Texas law, a property is eligible for a MSD if: (1) the property is within the corporate limits or extraterritorial jurisdiction of a municipality authorized by statute; and (2) a public drinking water supply system exists that satisfies the requirements of Texas Health and Safety Code Chapter 341 and that supplies or is capable of supplying drinking water to the site for which the MSD is sought and property within ½ mile of the site. The Site meets these criteria.

As part of the redevelopment of the Site, CVS identified historical impact to shallow groundwater at the Site that is migrating from off-site properties. The groundwater that is sought to be restricted extends from 10 to 125 feet below the ground surface (bgs). The affected shallow groundwater is underlain by a confining layer that prevents downward vertical migration. The chemicals of concern identified in groundwater beneath the site exceeding applicable Tier 1 Texas Risk Reduction Program (TRRP) Residential Protection Concentration Levels (PCLs) are Benzene, Total Petroleum Hydrocarbons, and Tetrachloroethene.

The Site is currently entered into the Texas Voluntary Cleanup Program (VCP) to address the release and is seeking an MSD to restrict groundwater use at the Site to non-potable purposes only through this MSD Ordinance. Using the MSD, the Site will be able to pursue and complete VCP closure activities.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Sylvester Cantu Community Development Administrator

SUBJECT: 7 pm Public Hearing on 2012/13 CDBG Program

Purpose:

Hold a Public Hearing as part of the process of developing the 2012/13 Action Plan to the 2010-2014 Consolidated Plan for Community Development and Housing Funds.

Recommended City Council Action

☐ Approve

☐ Deny

☒ Direction/Informational

Fiscal Impact:

There is no fiscal impact to the City. All costs associated with acceptance and allocation of CDBG funds will be addressed using existing City resources.

Discussion:

The U.S. Department of Housing and Urban Development (HUD) has informed us that \$699,035 of Community Development Block Grant (CDBG) funds will be allocated for the upcoming program year. Our current grant is \$830,012. The 2012/13 program year begins on October 1, 2012. Staff recommends that \$22,336 from prior grants be reallocated into fiscal 2012/13. Therefore, a total of \$721,371 would be available for distribution. We also expect to receive \$104,400 in program income due to principal and interest payments on loans through the Owner Housing Assistance Program.

The purpose of this public hearing is:

1) To inform the public of past usage of CDBG funds. The attached pamphlet entitled "Community Development Program, 2012" is used for this purpose. We are also making available the annual assessment letter (attached) from HUD.

2) To receive comment on community development and housing concerns which could be addressed with the 2012/13 CDBG grant. The attached "2010-2014 Consolidated Plan" table shows the objectives that should be supported with CDBG funds. A summary of comments received at an earlier community meeting is attached.

3) To present applications and proposals for the use of 2012/13 CDBG funds. Attached is a list of the applications received. We have prepared evaluative reports on the applications and those are attached as well. Complete applications are on file with the Community Development Office. The attached CDBG Project Eligibility Criteria sheet is a basic guide of the factors we consider in our analysis.

The next step is for the Council CDBG Committee to make a recommendation on distributing the CDBG funds. The Committee's recommendation will be presented at a public hearing on June 12, 2012. CD staff will then prepare the draft Third Year Action Plan and have it available for a 30-day public review period. Final approval of the Plan is scheduled on July 24, 2012. The completed Plan must be submitted and received by HUD by August 15, 2012.

No action is required at this public hearing.

ATTACHMENTS:

CDBG Program Pamphlet and Map
HUD Annual Assessment Letter, dated 02/17/2012
Consolidated Plan Specific Objectives
Summary of Comments received at Community Meeting
CDBG Project Eligibility Criteria
List of Applications Received
Individual Reports on Applications and Application Excerpts

City of Midland

Community Development Program, 2012

COMMUNITY DEVELOPMENT BLOCK GRANT

The federal Housing and Community Development Act of 1974 created the Community Development Block Grant (CDBG) program, which is administered by the U.S. Department of Housing and Urban Development (HUD). The Primary Objective of the CDBG program is to develop viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

As a city over 50,000 in population, the City of Midland is entitled to an annual grant. The amount is based on a formula that takes into account a city's population, poverty level and the number of people living in overcrowded housing. For Fiscal 2012-2013, the City will receive \$699,035 in CDBG funds. To obtain these funds, the City has to submit an action plan and certifications of compliance with various requirements.

CDBG funds may be used on a variety of activities as long as they conform to statutory standards and program regulations. Generally, the following types of projects can be funded: acquiring property, improving or developing public facilities

Continues on Back Page

APPLYING FOR CDBG FUNDS

Generally, the City begins its process of identifying and selecting projects to receive CDBG assistance in January. A public notification is made and training is made available to prospective applicant groups. CDBG funded programs and projects can be conducted by the City or a subrecipient such as a nonprofit agency. Individuals do not apply for CDBG funds directly; rather, they apply for benefits at agencies that operate CDBG funded programs.

2012 CDBG Schedule

Public Hearing, May 8, 2012, 7:00 PM

Public Hearing, June 12, 2012, 7:00 PM

Final Approval, July 24, 2012, 10:00 AM

**All meetings will take place in the
City Council Chambers,
City Hall 300 N Lorraine**

Groups interested in applying for CDBG funds should contact the CD Office. This year applications are due by April 12, 2012. CD staff will review the various applications for CDBG eligibility. The City Council will conduct two public hearings (See above schedule) and then make a final decision on which projects are to be funded as part of the annual Action Plan.

After the City approves the annual Action Plan, the Action Plan is sent to HUD. HUD will then approve the Plan and the CDBG grant year begins October 1. Finally, a CDBG funded project may begin once administrative and contracting details are completed. Funds are provided on a reimbursement basis.



CONSOLIDATED PLAN

The Consolidated Plan for Community Development and Housing Funds establishes Midland's long-range strategy for investment of its HUD resources and other resources linked to activities directed at community development, housing and homeless services needs. The Plan covers a five-year period, beginning October 1, 2010 and ending September 30, 2015. Implementation of the Plan is accomplished through annual action plans.

Relative priorities and measurable objectives are established in the Plan. Specific measurable objectives of the Plan are listed below. The City must also prepare an annual evaluation of performance document that is entitled the Consolidated Annual Performance and Evaluation Report (CAPER). Both the Consolidated Plan and the CAPER can be viewed on the City's web pages.

CONSOLIDATED PLAN OBJECTIVES

Housing

- Acquire land for affordable housing development.
- Provide financial assistance to low-income first-time homebuyers to purchase new homes.
- Develop affordable housing for low-income elderly homebuyers through HUD 202 funding.
- Develop affordable rental units under the Low Income Housing Tax Credit Program.
- Provide financial assistance for rehabilitation or reconstruction of homes occupied by low-income homeowners.
- Provide financial assistance to low-income homeowners for minor repairs.

Homeless

- Develop emergency shelter units for intact families.
- Develop emergency shelter beds for individuals.
- Develop transitional housing units for intact families.
- Develop transitional housing for individuals.
- Develop affordable housing for low-income elderly.
- Develop affordable assisted living facility for low-income frail elderly.

Community Development

- Pave streets in low-income neighborhoods.
- Construct sidewalks in low-income neighborhoods.
- Improve neighborhood parks in low-income areas.
- Develop multi-purpose community center in South Midland.
- Fund meals and home cleaning programs for the elderly.
- Support childcare programming for low-income households so they may attend training or maintain employment.
- Clear and mow unsightly properties in slum/blighted areas.
- Demolish and remove dilapidated structures in slum/blighted areas.

PAST USE OF CDBG FUNDS

Accomplishments of the CDBG program over the last three years can be seen in the below Performance Profile graph. The budget for the most recent CDBG grant is presented to the right. Historically, housing programs account for almost a third of all CDBG expenditures, over \$36.3 million since 1974. The programs include assistance for low-income homeowners in addressing substandard housing conditions and for homebuyer assistance activity including purchase of land for development of affordable homes.

Accounting for almost 30% of total expenditures, infrastructure such as street paving has always been a large part of the CDBG program. Sidewalks and drainage improvements such as curb and gutters are also infrastructure expenditures.

The CDBG program has supported a variety of capital improvements at City parks and other public facilities operated by non-profit groups. Public services include senior programs and child

2011/12 CDBG BUDGET

CDBG Administration	\$161,000
Lot Clearing Program	\$24,500
Demolition Program	\$65,000
Contingency	\$24,512
SE Senior Meal Program	\$45,000
Citywide Home Cleaning	\$25,000
Child Care Local Match Program	\$30,000
Housing Reconstruction Projects	\$242,000
Housing Minor Repairs	\$80,000
Homebuyer Assistance	\$115,000
Sidewalk Improvements	<u>\$135,000</u>
TOTAL	\$947,012

care assistance among others. City slum and blight programs such as demolition and removal of dilapidated structures, clearing of unsightly weedy lots, and code enforcement have also been funded. City staff to administer the CDBG program is also paid by CDBG funds.

Performance Profile of Last Three Completed Years

	<u>2010/11</u>	<u>2009/10</u>	<u>2008/09</u>
CDBG Expenditures *	\$703,683	\$1,418,370	\$1,031,047
Accomplishments			
# of Homebuyers Assisted	6	7	3
# of Homes Reconstructed	1	2	5
# of Housing Minor Repairs	30	51	32
Streets Paved - # of Blocks	12	0	0
Sidewalks Improved - # of Blocks	4	0	14
Public Service Beneficiaries	528	545	473
# of Parcels Purchased	1	37	8
# of Affordable Homes Built	12	14	8
# of Lots Cleared	443	373	211
# of Structures Demolished	0	11	14

* Expenditures will include funds from prior years as well as use of program revenue.

From Front Page, Community Development Block Grant

and infrastructure, housing rehabilitation and preservation, home buyer assistance, code enforcement, clearance, economic development, neighborhood revitalization, and public services.

Each CDBG project must also address a CDBG National Objective: benefit low- and moderate-income persons (51% or more of beneficiaries must be low- and moderate-income persons), or aid in preventing or eliminating slum or blight.

The City must allocate at least 70% of its CDBG funds for projects that benefit low- and moderate-income persons. Additionally, funding for public services is limited to 15% of the City's annual grant amount. Program administration cannot be more than 20% of the annual grant. A CDBG project must be consistent with the local Consolidated Plan for Community Development and Housing Funds.

BELOW: Before and after photographs of an owner-occupied housing reconstruction project



The **CD Office** is located in Room 410, City Hall, 300 N Loraine. Its mailing address is:

Community Development
PO Box 1152
Midland, Texas, 79702

The fax number is 432-686-1609 and the City's web site is

www.midlandtexas.gov.

The telephone numbers and e-mail addresses of the CD Office staff are:

Sylvester Cantu
Community Development
Administrator
432-685-7408,
scantu@midlandtexas.gov

Wanda Valles,
Program Coordinator
432-685-7472,
wvalles@midlandtexas.gov

**CITIZEN ACTION CENTER
432-685-7474**

Fair Housing – it's the Law.

The Federal Fair Housing Act prohibits discrimination in housing because of race, color, national origin, religion, sex, handicap or familial status. If you have been a victim of housing discrimination please call 1-800-669-9777 toll free or go to www.hud.gov on the internet.





U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Fort Worth Regional Office, Region VI
Office of Community Planning and Development
801 Cherry Street, Unit #45, Ste. 2500
Fort Worth, TX 76102
www.hud.gov

FEB 17 2012

Courtney Sharp, City Manager
City of Midland
PO Box 1152
Midland, TX 79702

Dear Mr. Sharp:

Subject: Annual Community Assessment for the 2010 Program Year

HUD is required to conduct an annual review of performance by grant recipients according to the provisions of the Housing and Community Development Act and the National Affordable Housing Act. We must determine that each recipient is in compliance with the statutes and has the continuing capacity to implement and administer the programs for which assistance is received. This is to report the results of our review of the City of Midland's performance under the Community Development Block Grant (CDBG) program.

Report

Our review is based on an evaluation of your consolidated planning process and progress in carrying out the program, the management of funds by the city and its subrecipients, information provided in the Consolidated Annual Performance and Evaluation Report (CAPER) and the Integrated Disbursement and Information System (IDIS), and the city's achievement of program objectives.

During HUD's review of the city's program year (PY) 2010 CAPER, the Office of Fair Housing and Equal Opportunity (FHEO) indicated that the city's Analysis of Impediments to Fair Housing Choice (AI), completed in 2010, did not identify sufficient actions to alleviate the impediments identified in the AI. FHEO will contact the city directly with technical assistance on this issue.

We congratulate you on the city's accomplishments during the past year and your performance in the following areas.

- The city expended CDBG funds in a timely manner during PY 2010. For the CDBG program, a grantee should not have more than 1.5 years of grant funds in its line of credit 60 days before the end of its program year. As of August 2, 2011, the city had 1.29 years of funds in its line of credit, which is below the maximum.

However, the city currently has 2.15 years of funds in its line of credit, which means the city must expend and draw \$539,559 in CDBG funds over the next five months. We recommend that the city continue to monitor the progress of its CDBG projects, expenditures and disbursements, reprogramming funds when necessary in order to ensure the timeliness standard for PY 2011 is met.

The city completed its CDBG-R program during PY 2010 and has, therefore, met the expenditure deadline for this supplemental funding awarded in PY 2009.

- During PY 2010 the city continued to use a portion of each year's CDBG funding for improvements in a designated target area. Two infrastructure projects were completed, one additional lot was acquired for the development of affordable housing, and 12 new homes were constructed and purchased by low- and moderate-income homebuyers on previously-acquired lots. The city is reminded that land acquired with CDBG funds must meet a national objective within five years.

The city completed the reconstruction of one housing unit, made minor repairs to 29 housing units, and provided homebuyer assistance to six households. The city also cleared more than 440 lots of debris and weeds, and public services were provided to 525 people.

- According to information in the CAPER, the City of Midland expended approximately 94.5 percent of its CDBG funds on activities that principally benefit low and moderate income persons, exceeding the 70 percent minimum. The city is also in compliance with the CDBG program standards related to public service and planning and administration obligations. During the program year the city obligated 10.6 percent of its CDBG funds for public service activities and 16.1 percent for planning and administration activities, which are within the caps of 15 and 20 percent, respectively.

Conclusion

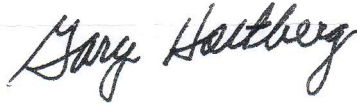
As a result of our evaluation we have determined that the City of Midland has carried out its program substantially as described in its Consolidated Action Plan; the city has the continuing capacity to carry out its approved program in a timely manner; and the Consolidated Action Plan as implemented complies with the requirements of the Housing and Community Development Act and other applicable laws and regulations.

We are providing the city with thirty days from the date of this letter to comment on this report. Should the city wish to comment or request changes to it we will take them into consideration and provide a written response. If no comments are received within the period allowed, this report will be considered to be in final form. Once it is in final form, it will be made available to the public upon request.

This report is intended to be shared with the public. You may provide copies to interested persons such as the news media, members of local advisory committees, and citizens attending public hearings. We request that you provide a copy of this letter to the Independent Public Accountant who performs the single audit of the city in accordance with OMB Circular A-133.

If there are any questions or comments about this report, please contact Ellen Melendez, Senior Community Planning and Development Representative, at 817-978-5958.

Sincerely,



for Shirley J. Henley
Director

cc:

Sylvester Cantu ✓

2010-2014 Consolidated Plan Specific Community Development Objectives

#	Objective	Outcome
DH1.1	Purchase of land for affordable housing development by the City in target areas.	100 parcels
DH1.2	Construction of affordable rental units under Low Income Housing Tax Credit Program by private developers at appropriate citywide locations.	200 units
DH1.3	Construction of affordable rental housing for low-income elderly households through HUD 202 funding by non-profit sponsor at appropriate citywide location.	100 units
DH1.4	Rehabilitation or reconstruction of homes occupied by low-income homeowners. This is the City's major projects loan program available to ICT residents.	30 units
DH1.5	Minor repair services to low-income homeowners by City and other non-profits.	1,750 units
DH1.6	Increase the number of emergency shelter beds for individuals.	5 beds
DH1.7	Increase the transitional housing capacity for individuals.	8 beds
DH1.8	Increase the number of emergency shelter units for intact families.	5 units
DH1.9	Increase the transitional housing capacity for intact families.	10 units
DH1.10	Develop a 60 unit affordable housing assisted living facility for frail elderly.	60 units
DH1.11	Develop a 60 unit affordable housing assisted living facility for near frail elderly.	60 units
DH2.1	Financial assistance by non-profit entities and the City from CDBG, HOME and other sources to low-income homebuyers.	130 units
SL1.1	Infrastructure – City Streets – Paving construction with curb and gutter in low-income areas.	8 blocks per year
SL1.2	Public Facility – City Parks – Upgrade neighborhood parks that are deteriorating. Located in low-income areas.	5 parks
SL1.3	Public Facility - Community Facility/Youth Center - an indoor/outdoor multi-purpose facility. Developer and owner operator are needed.	1 facility
SL1.4	Public Services – Senior services – support senior citizen center meal program and home cleaning program.	1,500 persons
SL1.5	Infrastructure – City Sidewalks – Sidewalk construction in low-income areas.	8 blocks per year
SL2.1	Public Services – Childcare – support local match childcare program for working families.	50 children
SL3.1	Demolition of dilapidated structures by the City in slum/blighted areas.	100 structures
SL3.2	Clearing of unsightly properties by the City in slum/blighted areas.	2,000 properties

Amended July 2011

SUMMARY
COMMENTS FROM 03/08/2012 CDBG COMMUNITY MEETING
at Casa de Amigos

City representatives in attendance - Sylvester Cantu and Wanda Valles

Needs Identified

Questioned if new programs/agencies could be funded given the fact the same public service programs are funded every year leaving little public service funding available for new programs.

City should considered funding more public services as child care, elderly and youth programs including suicide prevention are critical needs in the community.

Overall concurrent on the need for housing as people moving to Midland cannot find places to live.

Comment that booming economy has caused housing hardship on current longtime residents especially those with low and/or fixed incomes.

Questioned if the City will support new low income apartments.

Questioned if CDBG could be used to convert vacant building into housing.

Comment that housing is needed for those with income under \$2,000 per month.

Comment that it is time to pursue senior housing similar to Parker Place.

Comment that housing repair programs especially for the elderly is a need.

PROJECT ELIGIBILITY CRITERIA AND OTHER STAFF REVIEW FACTORS

- Does HUD list the activity as **eligible** for CDBG funding?
- Will the activity address a **CDBG national objective**?
 - **benefit low and moderate income persons,**
 -
 - **prevent or eliminate slums or blight, or**
 -
 - urgent community development need due to a serious and immediate threat
- How will the activity affect the ability to comply with the following requirements?
 - No less than 70% of funds shall be for activities which benefit low and moderate income persons
 - No more than 20% of funds shall be expended for planning and administrative costs
 - No more than 15% of funds shall be expended for public service projects?
- Will the activity be **consistent with the City's Consolidated Plan for Housing and Community Development Funds**? It is desirable that **high priority needs** be addressed before medium and low priority concerns are funded.
- Will the activity's proposed costs be able to meet federal **cost necessary and reasonable** standards, and be in accord with local criteria? Are there budget items that are not generally supported by the City's program?
- Will the activity have any concerns with regulations on environmental review, residential anti-displacement and intergovernmental review?
- On an outside group's ongoing program, has the operator sought replacement funding or developed a plan to do?
- If any citizen comments have been made that related to an activity's area of concern?
- Is the activity located in a low-income area of the City or primarily serving such residents?

LIST OF APPLICATIONS FOR 2012/13 CDBG FUNDS

<u>Proposed Project/Program</u>	<u>Administering Agency</u>	<u>Amount Requested</u>	
Owner Occupied Housing Major Projects	City	\$315,600	
Owner Occupied Housing Minor Repairs	City	\$80,000	
Homebuyer Assistance Program	City	\$40,000	
SE Senior Nutrition Program	Community & Senior Services	\$45,000	*
Home Cleaning Program	Casa de Amigos	\$30,000	*
Lot Clearing Program	City	\$50,000	*
Demolition Program	City	\$65,000	
CDBG Administration	City	\$140,000	#
		TOTAL	\$765,600

CDBG grant for 2012/13 will be \$699,035.

"*" Project is a public service. Maximum allowed for public services is \$104,855 or 15% of \$699,035.

"#" CDBG administration is limited to \$139,807 or 20% of \$699,035.

REPORTS ON APPLICATIONS
RECEIVED FOR 2012/13
CDBG FUNDING

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Owner-Occupied Housing Major Projects

Request: \$315,600

APPLICANT: City of Midland Community Development

Description. The City of Midland Community Development (CD) Office proposes to continue the major projects component of the City Owner-Occupied Housing Assistance Program (OHAP). The OHAP helps low-income homeowners address substandard housing conditions by providing a combination loan with a low-interest payable portion and a deferred forgivable portion for reconstruction projects. Reconstruction means demolishing a substandard home and building a new replacement home.

Budget. The requested funds plus program income would make a \$420,000 budget. Four reconstruction projects would be funded with such funding. The CD Office expects that \$104,400 in program income (monthly payments by previously assisted homeowners) will be received in 2012/13. Administrative costs of the Community Development Office to conduct the OHAP would also be paid by the requested funding.

Eligibility. Per 24 CFR 570.202(a), housing improvements and rehabilitation of single-family owner-occupied homes is an eligible activity. Program administrative services qualify as part of the OHAP. To meet the low and moderate-income benefit CDBG Objective, only homes occupied by low and moderate-income households will be CDBG aided.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes low income owner households as high priority housing needs. The OHAP will specifically address Housing Objective DH1.4.

**CITY OF MIDLAND
OFFICE MEMORANDUM**

DATE: April 9, 2012

TO: Honorable Mayor and City Council

FROM: Sylvester Cantu, Community Development Administrator

SUBJECT: **2012/13 CDBG Proposal Owner Occupied Housing Major Projects (\$315,600)**

The Community Development (CD) Office proposes continuation of the Owner-Occupied Housing Assistance Program (OHAP) **major projects activity**. OHAP major projects help low-income homeowners address substandard housing conditions by providing a combination loan with a low-interest payable portion and a deferred forgivable portion for reconstruction projects. Reconstruction means demolishing an existing substandard structure and building a new home.

Loans are based on a sliding scale where the higher one's income is, the greater the payable portion of the loan. Liens are filed for the amount of the assistance. Basic qualifications include being credit worthy, able to handle an affordable loan and a homeowner of at least two years. Only homes in selected target areas, those of elderly or disabled households within CDBG areas, and those recommended on an emergency basis are eligible.

Project costs include the construction contract, demolition and closing costs. Program income of **\$104,400** from the monthly payments by previously assisted homeowners will also be used. The above requested funds and the program income will fund **four projects** and pay for **staff time** of the CD Office to administer the program including ongoing loan servicing.

Administrative tasks include marketing, application intake, home inspections, specifications, procurement, underwriting, loan closing, contract management, progress payments, work completion, and loan servicing. Loan servicing includes monitoring compliance with requirements as well as managing the loan portfolio. The City's CD Office is the only agency in Midland that does housing reconstruction for existing homeowners.

The City's 2010 Consolidated Plan for Community Development and Housing Funds identifies reconstruction assistance for low-income home owners as a priority objective. An impact of the OHAP is property valuation increases as reconstruction projects will triple their property valuation. But the more important impact is that the homes will last many years into the future; thereby reducing worry and maintenance costs to our clients.

xc: Rick Crownover

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Owner Housing Minor Repair Program

Request: \$80,000

APPLICANT: City of Midland Community Development

Description. The City of Midland Community Development (CD) Office proposes to continue the Minor Repair Program (MRP) of the Owner-Occupied Housing Program (OHAP) which provides grant assistance for certain repair items; however, the homeowner pays, in advance, a portion of the cost. Up to \$5,000 assistance can be provided to a household during the year.

Budget. Using the requested funds plus carryover CDBG funds, 45 MRP cases would be accomplished next year. The CD Office expects that \$10,000 in program fees will be received in 2012/13. Administrative costs of the Community Development office to conduct the MRP would also be paid by the requested funding.

Eligibility. Per 24 CFR 570.202(a), housing improvements and rehabilitation of single family owner-occupied homes is an eligible activity. Program administrative services qualify as part of the OHAP. To meet the low and moderate-income benefit CDBG Objective, only homes occupied by low and moderate-income households will be CDBG aided. The MRP would be available within low income Census Tracts.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes low income owner households as high priority housing needs. The OHAP will specifically address Housing Objective DH1.5.

CITY OF MIDLAND OFFICE MEMORANDUM

DATE: April 9, 2012

TO: Honorable Mayor and City Council

FROM: Sylvester Cantu, Community Development Administrator

SUBJECT: **2012/13 CDBG Proposal – Minor Repair Program (\$80,000)**

The Community Development (CD) Office proposes continuation of the **minor repair program (MRP)** to help low-income homeowners address substandard housing conditions. The MRP provides grant assistance for major plumbing, heating/air conditioning, electrical and roof needs. Up to \$5,000 assistance can be provided during the year; however, the homeowner pays, in advance, a portion of the cost based on a sliding scale.

Basic qualifications for the MRP include being a homeowner of at least two years and residing within CDBG eligible areas. With the above requested funds, plus **\$30,000 in estimated carryover from fiscal 2012** and an estimated **\$10,000 in** client payments for a total of **\$120,000**, we expect to assist **45 homeowners** during the year and pay for program **administrative expenses**.

The program will continue to be carried out by the CD staff. Administrative tasks include application intake, verifying requested repairs, procurement, verifying completion and contractor payment.

The City's 2010 Consolidated Plan for Community Development and Housing Funds identifies financial assistance to low-income owner for minor repairs as a priority objective. The MRP is coordinated with Christmas in Action, West Texas Opportunities, Community and Senior Services and others.

xc: Rick Crownover

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Homebuyer Assistance Program

Request: \$40,000

APPLICANT: City of Midland Community Development

Description. The City's Community Development Office proposes to continue the City's Homebuyer Assistance Program (HAP). Through the HAP, low income first time homebuyers receive financial assistance to help purchase decent homes anywhere in the City. Depending on income, up to \$5,000 assistance would be provided to a homebuyer as a zero interest, deferred forgivable loan.

Budget. The requested funds plus an estimated \$75,000 of carryover CDBG funds for total of \$115,000 would assist 23 households during the year and pay for administrative costs. The CD office staff will accept and verify applications, inspect the homes, coordinate the closings and process payments.

Eligibility. Per 24 CFR 570.201(n), homeownership assistance is a basic CDBG eligible activity. In order to meet the CDBG Objective of benefit to low and moderate income persons, the City must document that each assisted household meets the low and moderate-income criteria.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes low income first-time homebuyers as high priority housing needs. The HAP will address Housing Objective DH2.1.

**CITY OF MIDLAND
OFFICE MEMORANDUM**

DATE: April 9, 2012

TO: Honorable Mayor and City Council

FROM: Sylvester Cantu, Community Development Administrator

SUBJECT: **2012/13 CDBG Proposal - Homebuyer Assistance (\$40,000)**

The City's Community Development (CD) Office proposes continuation funding for the Homebuyer Assistance Program (HAP). Through the HAP low income, first time homebuyers will be assisted financially with the purchase of decent, safe and sanitary home. Only households with incomes at or below 80% of median family income are eligible for the HAP. Prospective homebuyers must be able to obtain a mortgage to purchase their home. A homebuyer would then be able to receive a \$4,000 zero interest, deferred forgivable loan to help with the down payment and closing costs. Households under 60% of median family income would receive \$5,000. Homes can be located anywhere in the city and have been built since 1978 as well as pass a program inspection.

The requested funds plus an estimated **\$75,000 of carryover funds** from fiscal 2012 for a total of \$115,000 can assist **23 households** during the year and pay for program **administrative expenses**. The CD Office staff will accept and verify applications, inspect the homes, coordinate the closings and process the payments.

A key objective of the City's 2010 Consolidated Plan for Community Development and Housing Funds is to provide financial assistance to low income households to enable them to purchase homes. We will depend on the efforts of local lenders and realtors as well as housing non-profits (e.g. Midland Community Development Corporation) to identify buyers for the program. Funds would be made available on a first come first serve basis.

xc: Rick Crownover

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: SE Senior Center Nutrition Program

Request: \$45,000

APPLICANT: Community and Senior Services of Midland, Inc.

Description. Community and Senior Services of Midland, Inc. (CSSM) requests continuation funding for the nutrition program at the Southeast Senior Citizen Center (1803 E Indiana). Approximately 200 seniors are expected to benefit from the lunch time meal program, as well as other activities at the center during the program year. However, only the meals program is included in this application. Meals are prepared daily at the CSSM central kitchen located at 3301 Sinclair.

Budget. CDBG funds would be used to pay for an average 35 meals per day for the October 2012 to September 2013 period. The estimated \$6.02 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. The Consolidated Plan for Community Development and Housing Funds includes senior services as a high priority need. This program will specifically address Community Development Objective SL1.4.

Other Comments. As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. CDBG assistance has been provided continuously for senior citizen programming in southeast Midland since 1986. CSSM has administered CDBG funds for the SE Nutrition Program since 1988.

COVER SHEET for

2012 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

APPLICATION

ORGANIZATION NAME:	Community & Senior Services of Midland, Inc.		
PROJECT TITLE:	Southeast Senior Center Elderly Nutrition Program		
Total Project Costs:	\$48,200	Amount of CDBG Request	\$45,000
Type of Project:	☒ Operational ☐ Capital/Equipment ☐ Special		
Project Address:	1803 E Indiana		
Project Summary (50 words or less):	CDBG funds will be used to provide a hot, nutritionally balanced noon time meal to low to moderate income seniors		
Organization's Mailing Address:	3301 Sinclair, Midland, TX 79707		
Application Contact Person:	Kelly Ives		
Title of Contact Person	Executive Director		
Phone No:	432-689-6693	Fax No.:	432-689-6699
Email Address:	Kelly@cssmidland.org		

COMMUNITY & SENIOR SERVICES OF MIDLAND, INC.
CDBG APPLICATION 2012/2013

PROJECT DESCRIPTION

The objective of the Southeast Community Senior Nutrition program is to promote better mental and physical health for older persons through nutritious meals and socialization. The nutrition program will be provided each weekday in coordination with recreational, educational, prevention/health maintenance and special interest programs of the senior center. Many elderly people experience food insecurity – forced to make trade-offs between purchasing food or buying medicines or paying rent and utilities. As a result, their health suffers either from a lack of nutrition or the lack of medicine. By providing a nutritionally balanced meal, the seniors are provided that food security.

The City's Consolidated Plan identifies Senior Services as a high priority need area.

By receiving daily meals at the center, seniors will maintain or improve their health, and prevent becoming homebound or premature institutionalization. A Client Nutritional Risk Assessment is completed once a year. These assessments will be compared to determine improvement or maintenance of their nutritional risk. Also, yearly surveys are completed to provide client input and satisfaction.

A total of 200 unduplicated seniors, aged 60 and older may be expected to benefit from the program. Primarily, participants are expected to be residents of southeast Midland, with all being low to moderate-income level. Daily attendance is expected to average 35 persons. It is estimated that 8,000 meals will be provided at the Southeast Community Senior Center between October 1, 2012 and September 30, 2013.

IMPLEMENTATION AND SCHEDULE

Community & Senior Services of Midland, Inc. (CSS), with main offices at 3301 Sinclair, will carry out the nutrition program. The program will be provided each day, Monday-Friday (except holidays) at 11:30am, at Southeast Community Senior Center facilities at 1803 E. Indiana. CSS, through its central kitchen at 3301 Sinclair, will provide meals which meet the nutritional guidelines for older persons as set by the Texas Department on Aging and the Department of Aging and Disabilities. CSS also provides the meals for the Meals-on-Wheels program and two other senior center programs, Midland Senior Center and Casa de Amigos.

Two key staff involved in implementing the program have been on staff at CSS for more than fifteen years. Kelly Ives, Executive Director of CSS, is responsible for grant administration and certification of payment requests. DeAnna Bowers is the on-site administrator of the Southeast Community Senior Center and oversees the day-to-day operation of the program. Guadalupe Sanchez is the Food Service Manager responsible for selection of menus and preparation of meals and has been employed as

the Head Cook since 1991, recently promoted to Food Service Manager. See attached job descriptions and resumes.

FINANCIAL

Meals for SE Community Senior Center 8000 Meals @ \$6.02/meal = \$48,200

CDBG to provide \$45,000 in funding.

This figure includes all cost in preparing meals – personnel, supplies, food, transportation, and administration.

PROJECT WORKSHEET to 2012 CDBG Application

Agency:	Community & Senior Services	Project:	Southeast Senior Center Elderly Nutrition Program	
PROJECT DURATION	Anticipated Start Date	Mid-Point Date and Expected Status		Estimated Completion Date
On-going	10/1/12	On-going		9/30/13
PERFORMANCE MEASUREMENTS		Previous FY Actual	Current FY Projected	Proposed FY
Number of Beneficiaries		228	200	200
% Low/Mod Income Beneficiaries		219	190	190
Outcome 1: Clients will maintain or improve their score on the Determine Your Nutritional Risk form.		139	120	120
Outcome 2:				
BUDGET				
EXPENSE CATEGORY	Previous FY Actual	Current FY Projected	Proposed FY	CDBG Amount Requested
1. Program Salaries & Benefits	15730	17808	18500	
2. Food/Supplies	22042	24405	24900	
3. Office	1213	1441	1400	
4. Occupancy	2240	2294	2300	
5. Auto	1003	1105	1100	
Program/Project Subtotal	\$ 42228	\$ 47053	\$ 48200	\$ 45000
Administrative	-	-	-	-
Other (Explain)				
TOTAL EXPENSES	\$ 42228	\$ 47053	\$ 48200	\$ 45000
	-	-	-	-
FUNDING SOURCES				
1. City of Midland CDBG	42208	45000	45000	45000
2. CSS Fundraising	20	2053	3200	
3.				
TOTAL REVENUE / FUNDING	\$ 42228	\$ 47053	\$ 48200	\$ 45000
	-	-	-	-

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Home Cleaning Program

Request: \$30,000

APPLICANT: Casa de Amigos

Description. Casa de Amigos requests funds to support its Citywide Community Services' Home Cleaning Program. The program's objective is to maintain safe and sanitary living conditions for indigent senior citizens (60+ years of age) and disabled individuals. Services include an initial deep cleaning and subsequent routine weekly cleaning. It is expected that 250 clients will be assisted during the year.

Budget. The requested funds would be used to pay for wages of the Program's homemakers. These CDBG funds are proposed to be 25% of the total Citywide Community Services budget. The Citywide Community Services budget for the next year will be \$120,500. Casa is requesting an increase in CDBG funds compared to its current allocation of \$25,000.

Eligibility. Per 24 CFR 570.201(e), public services are eligible for CDBG funding. A public service for senior citizens and disabled persons is considered by HUD as a presumed benefit to low and moderate income activity under its limited clientele provisions. This request will be subject to the 15% limitation on funds allocated for public services.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes senior services as a high priority need. This program will specifically address Community Development Objective SL1.4.

Other Comments. As an ongoing program, this request is subject to the potential need for the operator to secure replacement funding. The home cleaning service has been continuously CDBG supported since 1991.

COVER SHEET for

2012 COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

APPLICATION

ORGANIZATION NAME:	Casa de Amigos of Midland, Texas Inc.		
PROJECT TITLE:	Citywide Community Services		
Total Project Costs:	\$120,500	Amount of CDBG Request	\$30,000
Type of Project:	☒ Operational ☐ Capital/Equipment ☐ Special		
Project Address:	1101 East Garden Lane		
Project Summary (50 words or less):	Citywide Community Services is a home cleaning program for low-income elderly and disabled Midlanders in order to help them maintain and safe and sanitary environment.		
Organization's Mailing Address:	1101 East Garden Lane		
Application Contact Person:	Victor Pena		
Title of Contact Person	Executive Director		
Phone No:	(432) 682-9701	Fax No.:	(432) 682-3817
Email Address:	vpena@casadeamigosmidland.org		

PROJECT DESCRIPTION

Citywide Community Services began as a local agency 26 years ago and merged with Casa de Amigos eight years later. Now a program of the agency's Senior Services offerings, Citywide Community Services helps hundreds of local elderly and disabled each year. The program provides home cleaning and periodic deep cleaning or yard maintenance services to low income senior citizens and handicapped persons identified as "head of household."

Low income elderly and disabled citizens face a variety of special problems and obstacles to healthy living that can lead to isolation and even neglect. These problems include language barriers, increasingly busy extended families, neglected health issues, limited mobility and loss of ability to care for themselves and their homes. Studies indicate that the majority of the aging population would prefer to remain at home (AARP). Institutionalization is not desirable for many reasons including the financial and emotional burden it can put on families. Many elderly persons are unable to maintain a safe and sanitary home environment for themselves due to physical and financial barriers and some do not have family members to help. Often medical circumstances interfere with their capacity to perform tasks to maintain a home. The agency seeks to address a priority outlined in the city's Community Development Block Grant Consolidated Plan for 2010-2015 "SL1. Public Services-Senior Services: to support senior citizen center meal and home cleaning program." The plan describes that the city seeks to "fund meals and home cleaning programs that benefit the elderly." This program will help the elderly maintain a safe and sanitary home while avoiding premature institutionalization. It will extend the time they can live independently within their own homes.

Clients served by Citywide Community Services are elderly and typically meet the HUD definition of low or extremely low income persons. The area immediately surrounding Casa de Amigos includes Census Tracts 16 and 17(within the CDBG target area), has a much higher concentration of persons living in poverty than the rest of the city. In 2011, the program served 208 unduplicated persons and provided 9200 units of service. Demand for the program continues to increase and the agency has budgeted to hire one additional homemaker to address the growing waiting list. The program will serve low-income elderly and qualified disabled persons living within the identified Community Development Block Grant target area. Regular on-going service to approximately 145 residents weekly throughout the year is proposed. This would represent at least 7,500 units of service based on one hour of cleaning per home or apartment each week. About 1,200 units of service are provided by the Program Coordinator through home visits, phone calls, and related agency referrals. The history of service through the program is evidenced in the table below.

Year	Units of Service	Unduplicated Persons
2006	8954	374
2007	8568	327
2008	9620	317
2009	8994	204
2010	9345	203
2011	9200	208

1. IMPLEMENTATION AND SCHEDULE

The Home Cleaning Program for low income and handicapped elderly clients is managed by the Citywide Community Services Program Coordinator, from offices located at Casa de Amigos. The coordinator will perform an initial intake interview with each participant, render a needs assessment evaluation and determine what services will be required to meet those needs.

The coordinator also manages the program staff, referred to as Homemakers. They provide direct services that include straightening, vacuuming, dusting, cleaning bathrooms and kitchens as well as mopping floors in homes or apartments. They make an effort to maintain a habitable living environment for seniors. They are assigned a weekly schedule and generally spend an hour at each residence. They are expected to work in courteous and professional manner. Homemakers provide their own transportation and report to the Program Coordinator.

Chore Work (or deep cleaning) will include the removal of dishes from cabinets, cleaning out closets in all rooms, moving furniture and appliances, cleaning draperies and blinds, and the living spaces entirely. Deep cleaning can include washing windows and sills, replacing flooring, collecting and discarding garbage and even yard work when applicable. Safety measures are observed to safeguard participants or others who may be in the area when trash or garbage is being moved. Following this initial deep cleaning, personnel provide regular upkeep of the interior of most participants' homes.

Supervision by the Program Coordinator includes on-the-job training and monitoring for performance on continuing basis. Employees provide job sheets as a form of ongoing documentation of weekly services. Clients with the highest needs are prioritized in the schedule based on continuous observation, or even the client's physician.

The Senior Services Program Director oversees the Citywide Community Services Program Coordinator and reports to the Executive Director with responsibility for all programs at Casa de Amigos. Requests for service often come from the participant, family members, clergy, other agencies and physicians. Much of the program's advocacy work involves obtaining services from other agencies within the community.

Casa de Amigos' Executive Director assists with grant and administrative matters and the Business Manager documents actual program costs and prepares certification of payment requests. She adheres to the agency's written procurement process as it applies to the project.

PROJECT WORKSHEET to 2012 CDBG Application

Agency:	Casa de Amigos of Midland, Texas Inc.	Project:	Citywide Community Services	
PROJECT DURATION	Anticipated Start Date	Mid-Point Date and Expected Status		Estimated Completion Date
1 year	October 1, 2012	April 30, 2013		September 30, 2013
PERFORMANCE MEASUREMENTS		Previous FY Actual	Current FY Projected	Proposed FY
Number of Beneficiaries		208	250	250
% Low/Mod Income Beneficiaries		100	90	90
Outcome 1: Participants maintain a safe and sanitary environment		159	200	200
Outcome 2:				
BUDGET				
EXPENSE CATEGORY	Previous FY Actual	Current FY Projected	Proposed FY	CDBG Amount Requested
1. Program Salaries & Benefits	87,500	90,000	107,000	\$30,000
2. Occupancy	1,059	1,000	1,000	
3. Mileage	5,520	5,700	7,000	
4. Training	300	500	500	
5. Client Assistance	1,842	1,800	2,000	
Program/Project Subtotal	\$96,221	\$99,000	\$ 117,500	\$30,000
Administrative	2,849	3,000	3,000	
Other (Explain)		500		
TOTAL EXPENSES	\$ 99,070	\$ 102,500	\$ 120,500	\$30,000
FUNDING SOURCES				
1. City of Midland CDBG	\$25,000	\$25,000	\$30,000	\$30,000
2. United Way of Midland	\$30,000	\$35,000	\$50,000	
3. Conoco Phillips	\$6,500	\$10,000	\$15,000	
4. Permian Basin Area Foundation- Midland Housing Trust	\$15,000	\$20,000	\$20,000	
TOTAL REVENUE / FUNDING	\$ 76,500	\$ 90,000	\$ 105,000	\$ -

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Lot Clearing Program

Request: \$50,000

APPLICANT: City of Midland Code Administration Division

Description. The City's Code Administration Division proposes funding for the lot clearing program. The lot clearing program includes the removal and disposal of debris and mowing of properties violating City Code. The program is conducted on a lien basis (i.e., up-front costs are paid by CDBG funds and then liens are placed on subject properties if costs are not paid by owners).

Budget. An estimated 476 lot clearing cases would be funded with the requested funds. All CDBG funds will be used to pay contractors to accomplish the projects.

Eligibility. The lot clearing activity is classified as a public service per 24 CFR 570.201(e) and any CDBG allocation to it will be subject to the 15% limitation on funds allocated to public services. Projects that directly address one or more of the conditions, which contributed to the decline or deterioration of slum/blight areas, meet the CDBG Objective of preventing or eliminating slums or blight. The program is proposed to occur within the City's slum and blighted areas. The Consolidated Plan identifies census tracts with substandard housing 150% greater than the city average to be "slum/blighted" areas. Coincidentally, this geographic area corresponds to the current low income census tracts.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes lot clearing as a high priority need. This program will specifically address Community Development Objective SL3.2.

CITY OF MIDLAND
OFFICE MEMORANDUM

DATE: April 12, 2012

TO: The Honorable Mayor and City Council

FROM: Steve Thorpe, Building Official

SUBJECT: Proposal for 2012-2013 CDBG Funds
Lot Mowing and Cleaning (\$50,000.00)

As part of its ongoing effort to improve the appearance of the City and to promote safe and clean surroundings for its citizens, it is the Code Administration's objective to continue the lot mowing and cleaning program. The lot mowing and cleaning program allows a more timely relief for homeowners who live next door to an undeveloped lot or abandoned property where its owners do not respond to City notices to mow and clean their property.

The basic reason for enforcing the accumulation of weeds and debris is based on the police power to protect the health, safety and welfare of citizens. Tall weeds and grass, piles of rubbish and fallen trees can become a fire hazard and harbor rodents. Children are forced to walk in streets in areas without sidewalks where tall weeds extend to the curb line of properties. In certain parts of the City where new development has not been apparent for many years, there is more evidence of abandonment and neglect. The lot mowing program is crucial to provide all areas of the City with the resources to eliminate the hazards caused by poorly maintained properties.

The City of Midland Code Administration Office employs six (6) Code Enforcement Officers and one Supervisor who are responsible for enforcing certain City Codes, one of which pertains to the accumulation of weeds, brush, and debris on lots. The Code Enforcement Office has managed the lot-mowing program since 1985.

When a Code Enforcement Officer finds a property to be in violation of the weedy lot ordinance, notice is sent to the owner of record. If the owner does not respond to the notice by mowing and cleaning the lot, or refuses to so, a contractor hired by the City of Midland performs the work. After completion, the contractor is paid for his/her work and an invoice is sent to the property owner. If the invoice is not paid after thirty days, a lien is placed against the property. When the property sells, the liens are collected and put back into the lot-mowing program to be used again.

The lot mowing and clearing program is essential to maintaining good public relations with citizens as well as other entities whose common goal is to revitalize

neighborhoods. High growth of grass and weeds are a concern that is voiced at most neighborhood meetings. It is crucial to have the necessary funds available to rid neighborhood properties of weeds and debris when its property owners fail to do so.

During the current budget year \$26,063.42 has been used for lot clearing. This amount included fees for mowing, the removal of debris, disposal of fallen trees and tires, and special projects. The areas involved included vacant houses, abandoned commercial properties, vacant lots located adjacent to occupied dwellings, and large tracts of undeveloped properties. When property owners fail to mow and clean their property themselves, they are faced not only with a mowing and debris charge, but also an administrative fee of \$50.00. Often times, this billing encourages property owners to maintain their property in the future to avoid this additional charge.

For fiscal year 2012-2013 CDBG, Code Administration Office is proposing the following:

Proposed Lot Mowing and Cleaning: 476 lots
\$50,000.00 - CDBG Amount Requested

With the requested funds and lien income generated by the lot mowing and cleaning program, combined with budgeted General Fund money and funds from the Litter Abatement Program, the Code Enforcement Office could continue to take care of properties belonging to individuals who do not respond to City notices of violation. The current lot mowing and cleaning program includes the removal and disposal of debris; the removal of fallen trees; the disposal of tires; special projects; and mowing of properties. At an average cost of \$105.00 per lot, it can be expected that 476 lot clearing invoices can be funded with \$50,000.

PROJECT WORKSHEET to CDBG Application				
Agency:		City of Midland Code Administration	Project: Lot Mowing and Cleaning	
PROJECT DURATION	Anticipated Start Date	Mid-Point Date and Expected Status		Estimated Completion Date
12 months	10-01-10	4-01-11: 238 properties mowed and cleared of all debris, tires, and fallen trees		9-30-11
PERFORMANCE MEASUREMENTS			Previous FY Actual	Current FY Projected
Number of Beneficiaries				
% Low/Mod Income Beneficiaries				
Outcome 1: Clean neighborhoods of weeds*			211	325
Outcome 2: Eliminate fire hazards*			211	325
Outcome 3: Encourage new development*			211	325
(*in slum/blight areas only)				
BUDGET				
EXPENSE CATEGORY	Previous FY Actual	Current FY Projected	Proposed FY	CDBG Amount Requested
1. Program Salaries & Benefits				
2. Lot mowing and clearing	\$22,345.41	\$58,420.00	\$72,000.00	\$50,000.00
in slum/blight areas only				
3.				
Program/Project Subtotal	\$22,345.41	\$58,420.00	\$72,000.00	\$50,000.00
Administrative				
Other (Explain)				
TOTAL EXPENSES	\$22,345.41	\$58,420.00	\$72,000.00	\$50,000.00
FUNDING SOURCES				
1. City of Midland CDBG	\$28,530.00	\$42,000.00	\$56,000.00	\$50,000.00
2. City of Midland General Funds				
3. Litter Abatement Fund	\$7,080.00	\$0.00	\$0.00	\$0.00
4. Lien Income	\$0.00	\$7,000.00	\$9,000.00	\$9,000.00
TOTAL REVENUE / FUNDING	\$35,610.00	\$49,000.00	\$65,000.00	\$59,000.00

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: Demolition Program

Request: \$65,000

APPLICANT: City of Midland Code Administration Division

Description. The City's Code Administration Division proposes CDBG funding for demolition activity in CDBG areas. The Demolition Program consists of the demolition of and removal of unoccupied dangerous and dilapidated structures. The program is conducted on a lien basis (i.e., up-front costs are paid by CDBG funds and then liens are placed on subject properties if costs are not paid by owners).

Budget. Ten structures will be demolished with the requested funds. Funds will be used to pay contractors to accomplish the projects.

Eligibility. Per 24 CFR 570.201(d), demolition and removal of a structure are eligible activities. Projects that directly address one or more of the conditions, which contributed to the decline or deterioration of slum/blight areas, meet the CDBG Objective of preventing or eliminating slums or blight. The program is proposed to occur within the City's slum and blighted areas. The Consolidated Plan identifies census tracts with substandard housing 150% greater than the city average to be "slum/blighted" areas. Coincidentally, this geographic area corresponds to the current low income census tracts.

Consolidated Plan. The Consolidated Plan for Community Development and Housing Funds includes demolition as a high priority need. This program will specifically address Community Development Objective SL3.1.

**CITY OF MIDLAND
OFFICE MEMORANDUM**

DATE: April 12, 2012

TO: The Honorable Mayor and City Council

FROM: Steve Thorpe, Building Official

SUBJECT: Proposal for 2012/2013 CDBG Funds
Demolition Program (\$65,000)

The City of Midland Code Administration Office proposes to continue the demolition program to accomplish the removal of dangerous and dilapidated structures throughout the City. Community Development Block Grant (CDBG) funds are allocated for removal of slum and blight in certain targeted neighborhoods. General Fund dollars are used in both the CDBG areas as well as those areas of the city outside the target areas.

Structures that have been abandoned and are in disrepair where doors and windows are open or missing cause unsafe conditions for neighborhoods as well as contribute to the neglected appearance of the area. A dilapidated structure not only attracts vagrants and provides a hiding place for drug dealers and criminals. It also has the tendency to reducing the value of the property and the surrounding neighborhoods. Children tend to enter unsecured buildings and often use them as play areas, not realizing the potential hazards. School officials are concerned when open or dangerous buildings exist close to school grounds fearing that someone may lure a child into the building. The availability of funding for the removal of these structures is essential for the safety and welfare of all citizens.

The City of Midland Code Administration Office employs six (6) Code Enforcement Officers and one Supervisor who are responsible for enforcing certain City Codes, one of which pertains to unsafe and dilapidated structures. With the addition of the Supervisor, more demolitions of dangerous buildings are expected. The Code Enforcement Office has managed the demolition program since 1985.

When a Code Enforcement Officer finds a property with a dilapidated and unsafe structure or structures, or a complaint is received from citizens, police officers, fire inspectors, and other City personnel, notice is sent to the owner of record. The owner has to make repairs to make the structure in a livable condition or can remove/demolish the building/s. If the owner does not respond to the notice by repairing the building or be removing the structure/s, or refuses to do so, and if the building is deemed uninhabitable, a contractor hired by the City of Midland will perform demolition work. After completion, the contractor is paid for his work, and an invoice is sent to the property owner. If the invoice is not paid after thirty days, a lien is placed against the property. When the property sells, the liens are collected and put back into the demolition program.

The City's Consolidated Plan lists the Demolition Program as a **high priority** Community Development service need since it is a program aimed at eliminating and preventing slum and blight in the city. Citizens express the need to continue this program at many of the neighborhood meetings.

The demolition program is essential to maintaining good public relations with citizens as well as other entities whose common goal is to revitalize neighborhoods. It is crucial to have the necessary funds available to rid neighborhood properties of unsafe buildings when the property owners fail to do so. Buildings that have been abandoned are dangerous when not secured. The demolition program allows the City to have funding available removing such structures to avoid potential hazards and rid criminal activity.

For fiscal year 2012-2013 CDBG, Code Administration Office is proposing the following:

Proposed Demolitions: 10 structures
\$65,000.00 - CDBG Amount Requested

During the 2011-2012 budget year, a total of eleven (11) structures are projected to be removed through the demolition program using CDBG funds. These demolitions have stalled due to issues regarding the Stewart versus Dallas case. When demolition is performed, dead and fallen trees are included in the cleanup of the property along with unsightly debris and tires. The removal of dilapidated structures provides a more permanent impact on the neighborhood. It lessens the occurrences of vandalism, graffiti, drug use and crime.

With the requested funds and lien income generated by the demolition program, the Code Enforcement Office could continue to take care of properties belonging to individuals who do not respond to City notices of violation. Dangerous conditions around schools and churches and low-income neighborhoods could be corrected. The removal of dangerous and unsafe structures is very important to the economic development of our community.

The demolition program includes the removal of unsafe and dilapidated structures, which are in violation of City Codes. With the average cost of \$6,500.00 per property, approximately ten (10) structures can be removed with the \$65,000 requested funding. And with the funds generated by lien income, an additional number of dilapidated structures can be removed.

STAFF EVALUATION OF 2013 CDBG REQUEST

NAME: CDBG Administration

Request: \$140,000

APPLICANT: City of Midland Community Development

Description. The Community Development Division (CD) of the Development Services Department is responsible for a variety of federal requirements on a general basis and on project-specific situations. These duties as well as CDBG program management, oversight and coordination are assigned to the CD Office. The CD Office is also responsible for fair housing programming. Additionally, the CD Office implements the City's housing programs - the Owner-Occupied Housing Assistance Programs (OHAP) and the Homebuyer Assistance Program (HAP).

Budget. The following proposed budget for the entire CD Office is based on preliminary personnel cost:

Personnel	\$196,500
Operating Expenses	\$ 15,500
Audit	\$ _____ 0
Total	\$212,000

Of the above, \$140,000 (or 66% of the above) would be CDBG Administration; \$72,000 would be paid from funds allocated to the CDBG housing programs and the General Fund.

Eligibility. Up to 20% of the CDBG grant may be used for administrative activities including fair housing services and planning projects. These activities have no effect on the requirement that 70% of funds be used on low and moderate-income benefit projects. HUD encourages CDBG Entitlement cities to use all (up to the 20% cap) necessary CDBG funds for proper administration of the CDBG program. Housing program administrative services qualify as part of the specific housing program and are not included in the 20% CDBG administrative cap.

**CITY OF MIDLAND
OFFICE MEMORANDUM**

DATE: April 10, 2012

TO: Honorable Mayor and City Council

FROM: Sylvester Cantu, Community Development Administrator

SUBJECT: 2012/13 CDBG Proposal - CDBG Administration (\$140,000)

This request for CDBG funding is to pay for general administration of the CDBG grant as performed by the Community Development (CD) Division of the City. The Division prepares the annual application for CDBG funds, maintains the Consolidated Plan for Community Development and Housing funds, contracts with subrecipient agencies, conducts fair housing and citizen participation programming and addresses a variety of federal requirements on a general basis and for project specific situations. Implementation of the Consolidated Plan requires participation in groups such as Midland Affordable Housing Alliance, Homeless Coalition, United Way, etc. Additionally, the CD staff is called upon to perform tasks on non-CDBG related housing and community development matters.

An allocation for CDBG administration will only pay for part of the CD Office. CD Staff also perform the two owner occupied housing assistance programs and the homebuyer assistance program. CDBG funds to be allocated to those programs and the General Fund will fund the remainder of the CD Office cost.

The proposed budget for the CD Office will pay for two staff positions and operating expenses such as supplies, advertising, a vehicle and training. Summaries of prior budgets and the proposed budget are shown below and include independent audit costs associated with the CDBG program:

	Actual <u>2008/09</u>	Actual <u>2009/10</u>	Actual <u>2010/11</u>	Budget <u>2011/12</u>	Proposed <u>2012/13</u>
Personnel	\$182,952	\$186,083	\$185,944	\$194,699	\$196,500
Operating Expenses	<u>15,739</u>	<u>14,546</u>	<u>15,413</u>	<u>15,526</u>	<u>15,500</u>
Total CD Office	\$198,691	\$200,629	\$201,357	\$210,225	\$212,000
Audit	<u>13,739</u>	<u>4,311</u>	<u>40,580</u>	<u>?</u>	<u>0</u>
TOTAL	\$212,430	\$204,940	\$241,937	\$210,225	\$212,000
Amount CDBG Admin:	\$165,775	163,870	\$173,437	\$161,000	\$140,000

Note: The proposed budget is not based on City Budget Team cost estimates nor has City Management reviewed the budget.

xc: Rick Crownover



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: **O-11-016;** Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23A No. 1) *inside the City Limits* on 467' FEL and 1,958' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-090 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 467' FEL and 1,958' FNL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

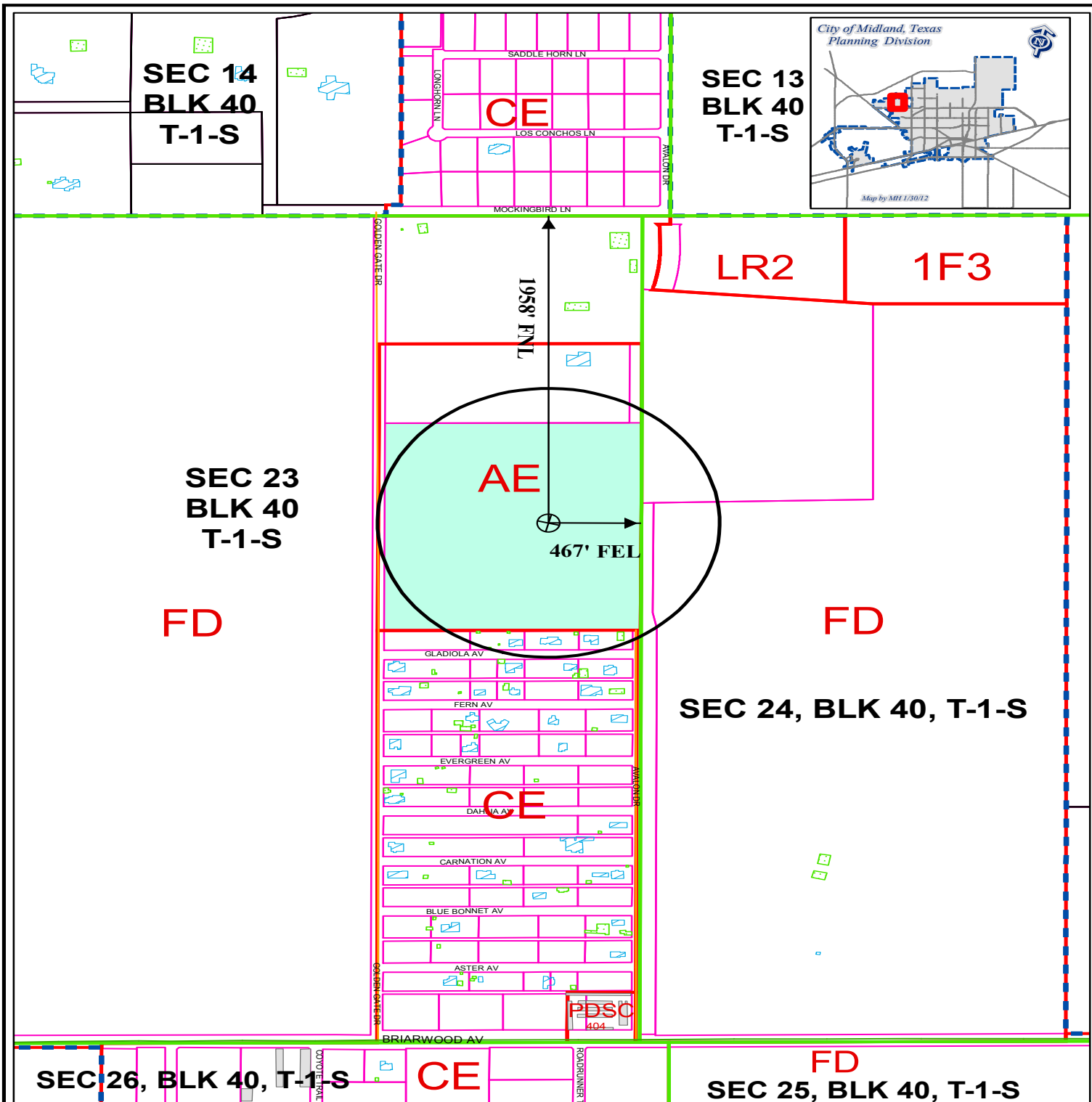
The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



LOCATION AND ZONING MAP

O - 11 - 016

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 467' FEL and 1958' FNL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 A #1

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
COUNTY PARCELS	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT
PD	PLANNED DISTRICT
AE	AGRICULTURE ESTATE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING
MH	MOBILE HOME DWELLING
TH	TOWNHOUSE DWELLING
2F	TWO-FAMILY DWELLING
MF1, MF2	MULTIPLE FAMILY DWELLING

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, JP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY

BP	BUSINESS PARK
P	PARKING
01, 02	OFFICE
NS	NEIGHBORHOOD SERVICE
LR1, LR2, LR3	LOCAL RETAIL
C1, C2, C3	COMMERCIAL
IP, JP1, IP2, IP3	INDUSTRIAL PARK
LI	LIGHT INDUSTRY
HI	HEAVY INDUSTRY



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

- 1) The tank battery location servicing all six wells will be moved to the East, further away from our nearest offset neighbors' property. Attached is a revised replacement plat outlining the changes in lengths of the applicable flow lines to the tank battery.

Enclosed you will find payment in the amount of \$6,000.00 for the amended permit fees on these six wells. I hope that this letter will sufficiently satisfy your office so we can have these amendments approved at the City Council meeting scheduled for April 24, 2012. Should you have any questions, please do not hesitate to contact me at 432-686-1828 x712 or on my cell phone at 432-238-9610.

Sincerely,

Jimmy Wright
Land Manager – Permian Basin





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-017; Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23A No. 2) *inside the City Limits* on 467' FEL and 1,983' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-091 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 467' FEL and 1,983' FNL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

- 1) The tank battery location servicing all six wells will be moved to the East, further away from our nearest offset neighbors' property. Attached is a revised replacement plat outlining the changes in lengths of the applicable flow lines to the tank battery.

Enclosed you will find payment in the amount of \$6,000.00 for the amended permit fees on these six wells. I hope that this letter will sufficiently satisfy your office so we can have these amendments approved at the City Council meeting scheduled for April 24, 2012. Should you have any questions, please do not hesitate to contact me at 432-686-1828 x712 or on my cell phone at 432-238-9610.

Sincerely,

Jimmy Wright
Land Manager – Permian Basin





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-018; Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23A No. 3) *inside the City Limits* on 467' FEL and 2,008' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-092 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 467' FEL and 2,008' FNL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

- 1) The tank battery location servicing all six wells will be moved to the East, further away from our nearest offset neighbors' property. Attached is a revised replacement plat outlining the changes in lengths of the applicable flow lines to the tank battery.

Enclosed you will find payment in the amount of \$6,000.00 for the amended permit fees on these six wells. I hope that this letter will sufficiently satisfy your office so we can have these amendments approved at the City Council meeting scheduled for April 24, 2012. Should you have any questions, please do not hesitate to contact me at 432-686-1828 x712 or on my cell phone at 432-238-9610.

Sincerely,

Jimmy Wright
Land Manager – Permian Basin





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-001; Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23 No. 3) *inside the City Limits* on 704' FNL and 2,007' FWL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-108 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 704' FNL and 2,007' FWL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

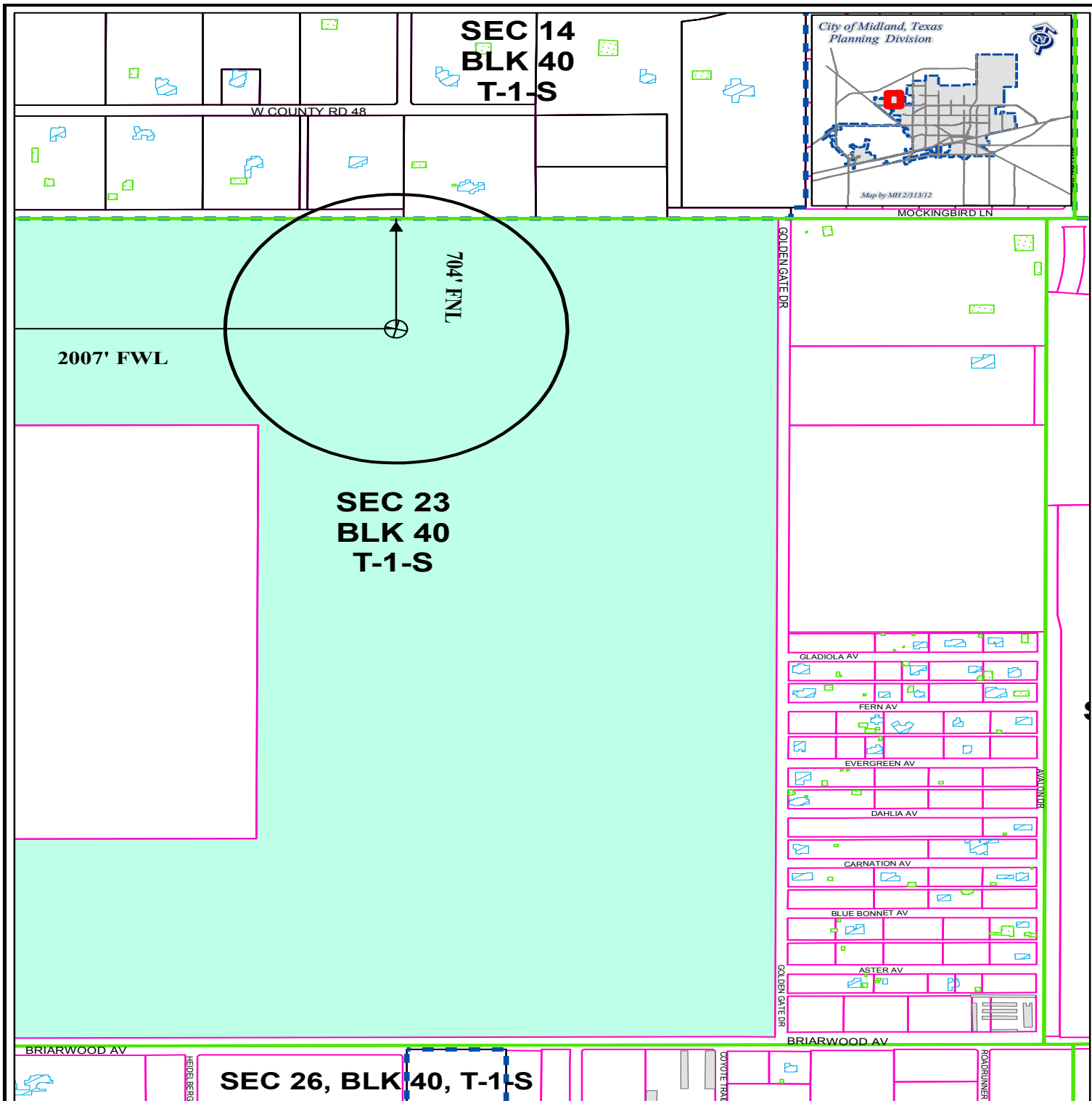
The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



LOCATION AND ZONING MAP

O - 12 - 001

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 704' FNL and 2007' FWL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 #3

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LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD
PD
AE
1F1, 1F2, 1F3
MH
TH
2F
MF1, MF2

FUTURE DEVELOPMENT
PLANNED DISTRICT
AGRICULTURE ESTATE
ONE-FAMILY DWELLING
MOBILE HOME DWELLING
TOWNHOUSE DWELLING
TWO-FAMILY DWELLING
MULTIPLE FAMILY DWELLING

BP
P
01, 02
NS
LR1, LR2, LR3
C1, C2, C3
IP, JP1, IP2, IP3
LI
HI

BUSINESS PARK
PARKING
OFFICE
NEIGHBORHOOD SERVICE
LOCAL RETAIL
COMMERCIAL
INDUSTRIAL PARK
LIGHT INDUSTRY
HEAVY INDUSTRY



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

- 1) The tank battery location servicing all six wells will be moved to the East, further away from our nearest offset neighbors' property. Attached is a revised replacement plat outlining the changes in lengths of the applicable flow lines to the tank battery.

Enclosed you will find payment in the amount of \$6,000.00 for the amended permit fees on these six wells. I hope that this letter will sufficiently satisfy your office so we can have these amendments approved at the City Council meeting scheduled for April 24, 2012. Should you have any questions, please do not hesitate to contact me at 432-686-1828 x712 or on my cell phone at 432-238-9610.

Sincerely,

Jimmy Wright
Land Manager – Permian Basin





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-002; Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23 No. 6) *inside the City Limits* on 651' FSL and 2,040' FWL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately 650' north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-109 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 651' FSL and 2,040' FWL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

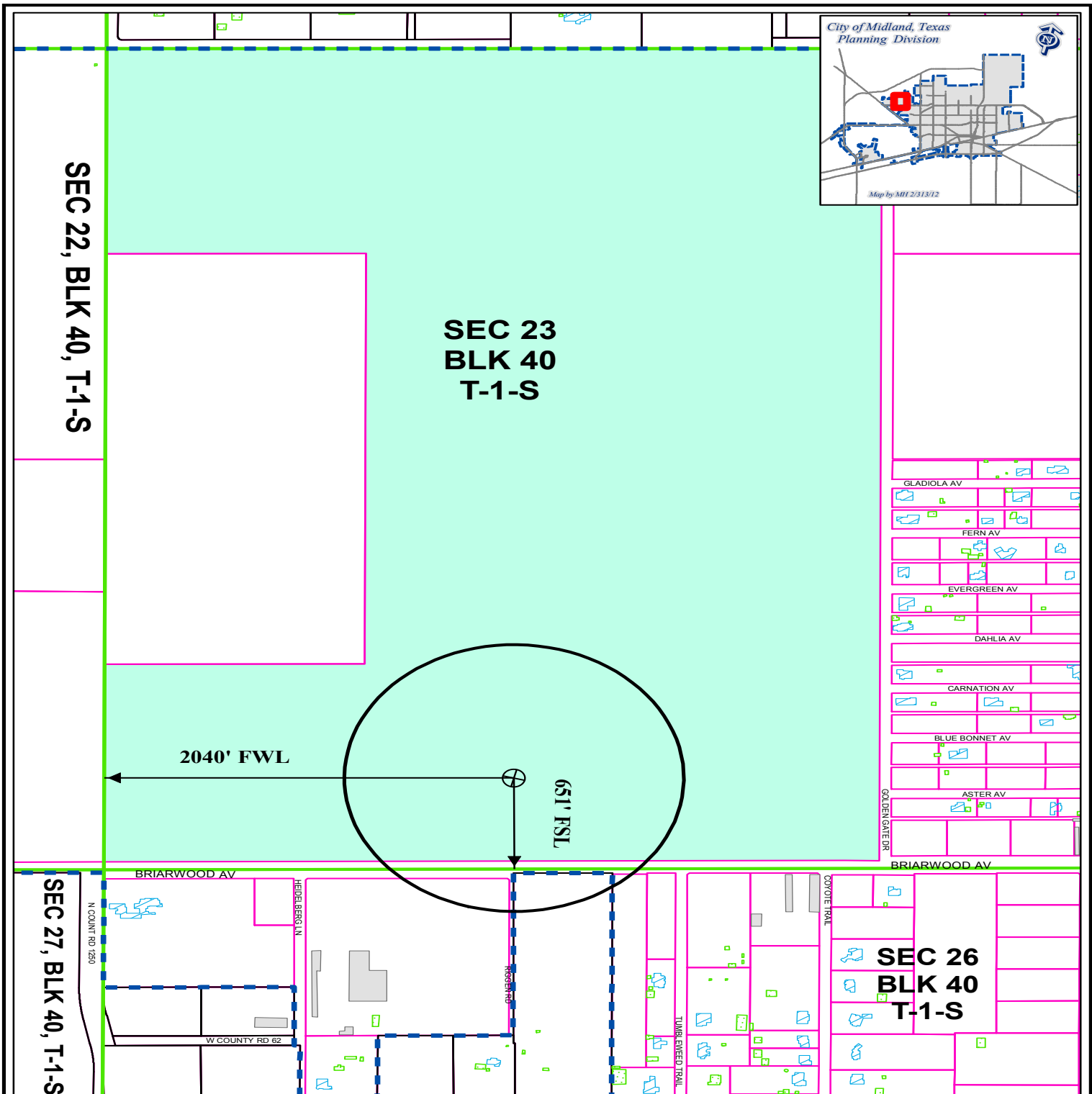
The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



LOCATION AND ZONING MAP

O - 12 - 002

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 651' FSL and 2040' FWL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 #6

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LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD
PD
AE
1F1, 1F2, 1F3
MH
TH
2F
MF1, MF2

FUTURE DEVELOPMENT
PLANNED DISTRICT
AGRICULTURE ESTATE
ONE-FAMILY DWELLING
MOBILE HOME DWELLING
TOWNHOUSE DWELLING
TWO-FAMILY DWELLING
MULTIPLE FAMILY DWELLING

BP
P
01, 02
NS
LR1, LR2, LR3
C1, C2, C3
IP, JP1, IP2, IP3
LI
HI

BUSINESS PARK
PARKING
OFFICE
NEIGHBORHOOD SERVICE
LOCAL RETAIL
COMMERCIAL
INDUSTRIAL PARK
LIGHT INDUSTRY
HEAVY INDUSTRY



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

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Enclosed you will find payment in the amount of \$6,000.00 for the amended permit fees on these six wells. I hope that this letter will sufficiently satisfy your office so we can have these amendments approved at the City Council meeting scheduled for April 24, 2012. Should you have any questions, please do not hesitate to contact me at 432-686-1828 x712 or on my cell phone at 432-238-9610.

Sincerely,

Jimmy Wright
Land Manager – Permian Basin





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-003; Consider a motion approving an amendment to an oil and gas well drilling permit for **Callon Petroleum Operating Company** (Pecan Acres 23 No. 12) *inside the City Limits* on 1911' FEL and 2,009' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately ½ mile north of Briarwood Avenue)

Purpose:

To consider an amendment to Resolution 2012-110 on a request from Callon Petroleum Operating Company to drill an oil and gas well on property located 1911' FEL and 2,009' FNL of the land described as Section 23, Block 40, T-1-S, T&P RR Co. Survey. Council approved the proposed drill site on March 20, 2012; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

N/A

Discussion:

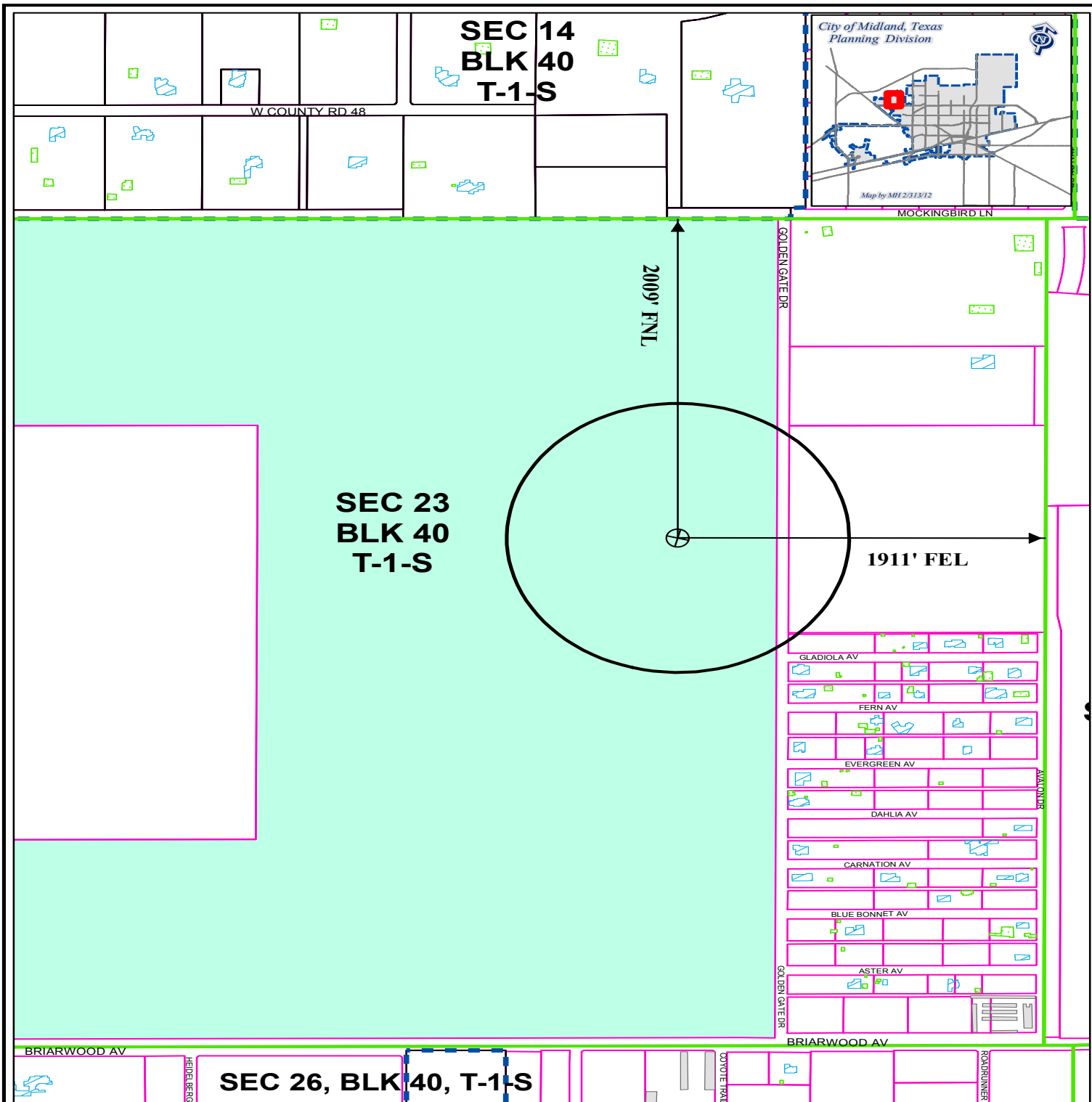
The amended conditions proposed by Callon Petroleum Operating Company are listed below.

REVISION #1: The tank battery location servicing all six wells will be moved to the East to

be further away from residential buildings. Attached is a revised survey plat indicating the proposed new battery location, which would include the new location for the frac pit.

A permit amendment fee has been paid to the City for all six wells.

Attachments: Drill site location map, Callon amendment letter – Exhibit A, Exhibit “N” – battery relocation survey.



LOCATION AND ZONING MAP

O - 12 - 003

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1911' FEL and 2009' FNL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 #12

© THE CITY OF MIDLAND 2012. THE CITY OF MIDLAND SHALL NOT BE RESPONSIBLE FOR ANY DECISIONS BASED UPON THE USE OF THIS DATA. WHILE THIS DATA IS MADE AVAILABLE TO THE PUBLIC, IT WAS CREATED FOR INTERNAL USE BY THE CITY OF MIDLAND WHICH MAKES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD
PD
AE
1F1, 1F2, 1F3
MH
TH
2F
MF1, MF2

FUTURE DEVELOPMENT
PLANNED DISTRICT
AGRICULTURE ESTATE
ONE-FAMILY DWELLING
MOBILE HOME DWELLING
TOWNHOUSE DWELLING
TWO-FAMILY DWELLING
MULTIPLE FAMILY DWELLING

BP
P
01, 02
NS
LR1, LR2, LR3
C1, C2, C3
IP, JP1, IP2, IP3
LI
HI

BUSINESS PARK
PARKING
OFFICE
NEIGHBORHOOD SERVICE
LOCAL RETAIL
COMMERCIAL
INDUSTRIAL PARK
LIGHT INDUSTRY
HEAVY INDUSTRY



Callon Petroleum Company

4305 N. GARFIELD
SUITE 235
MIDLAND, TX 79705

TELEPHONE 432/686-1828

April 11, 2012

City of Midland
Attn: Ron Jenkins
300 N. Lorraine
Midland, TX 79702

RE: Amendment to Permits
Pecan Acres 23A wells #1, 2, & 3;
Pecan Acres 23 wells #3, 6, & 12
Midland County, Texas

Dear Mr. Jenkins:

Reference is made to Callon Petroleum Operating Company's (hereafter "Callon") drilling permit applications for the Pecan Acres 23A wells number one, two, and three and the Pecan Acres 23 wells number three, six, and twelve. The City Council has approved permits for these six wells and these will be referred to collectively herein as "Permits". As we discussed, it is Callon's intent to adjust these Permits as follows:

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Sincerely,

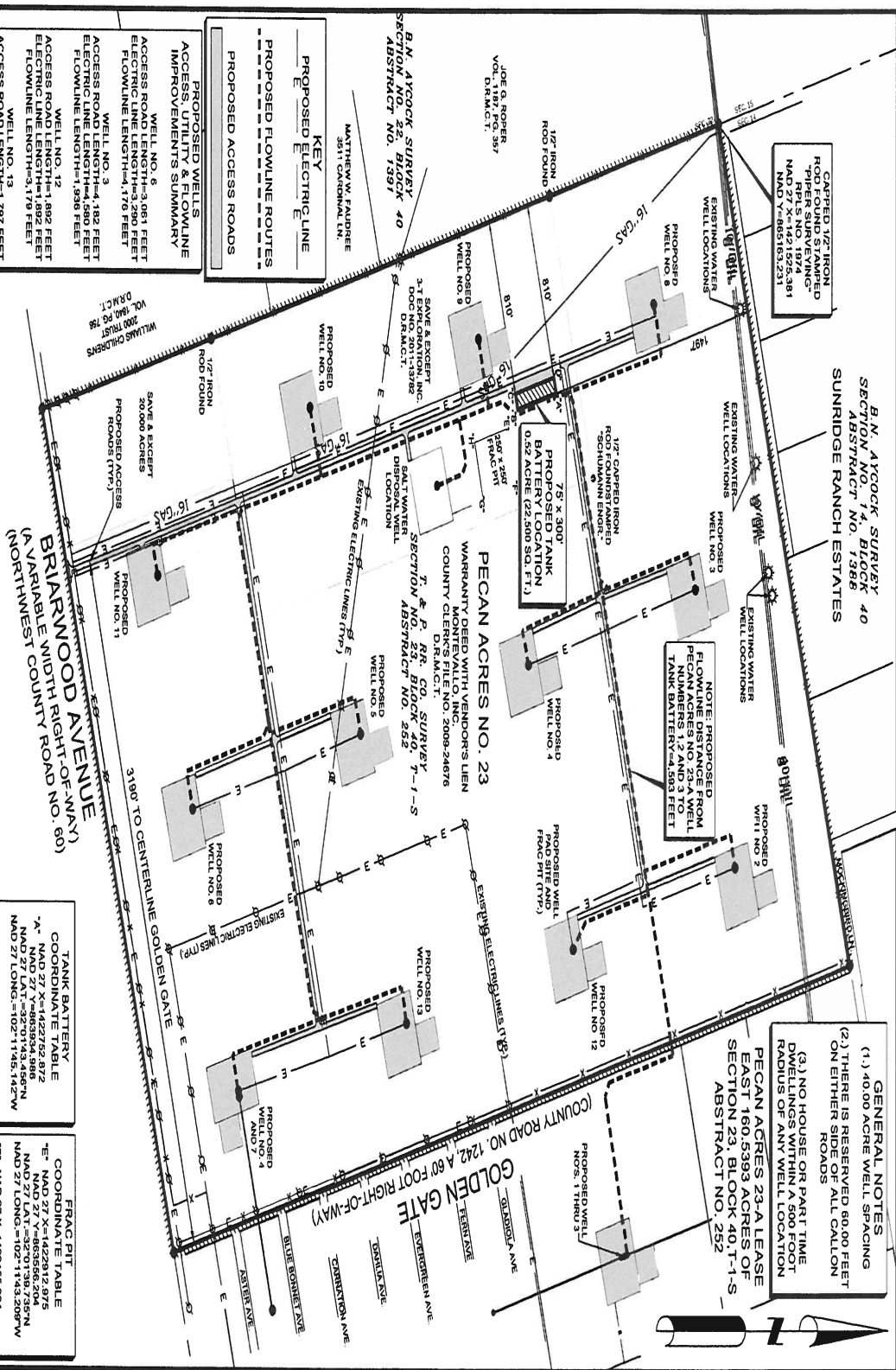
Jimmy Wright
Land Manager – Permian Basin

EXHIBIT

B. N. AYCOCK SURVEY
SECTION NO. 14, BLOCK 1388
ABSTRACT NO. 1388
SUNRISE RANCH ESTATES

CHIEF OF SURVEY
FIELD AND STATIONED
PIPER SURVEYING
NAD 83 127.381
NAD 83 127.381
NAD 83 127.381

GENERAL NOTES
(1) 40.00 ACRE WELL SPACING
(2) THERE IS RESERVED 60.00 FEET
ON EITHER SIDE OF ALL CALLOW
ROADS
(3) NO HOUSE OR PART TIME
DWELLINGS WITHIN A 500 FOOT
RADIUS OF ANY WELL LOCATION
PECAN ACRES 23A LEASE
EAST 60.5883 ACRES OF
SECTION 23, BLOCK 1388, S-1-S
ABSTRACT NO. 252



KEY
PROPOSED FLOWLINE ROUTES
PROPOSED ACCESS ROADS

PROPOSED WELLS
ACCESS, UTILITY & FLOWLINE
IMPROVEMENTS SUMMARY

WELL NO. 6
ACCESS ROAD LENGTH=3,061 FEET
ELECTRIC LINE LENGTH=3,280 FEET
FLOWLINE LENGTH=1,170 FEET
WELL NO. 3
ACCESS ROAD LENGTH=1,182 FEET
ELECTRIC LINE LENGTH=4,580 FEET
FLOWLINE LENGTH=1,938 FEET
WELL NO. 12
ACCESS ROAD LENGTH=1,892 FEET
ELECTRIC LINE LENGTH=1,592 FEET
FLOWLINE LENGTH=1,170 FEET
WELL NO. 13
ACCESS ROAD LENGTH=1,179 FEET
ELECTRIC LINE LENGTH=1,947 FEET
FLOWLINE LENGTH=5,532 FEET
NOTE:
FLOWLINE ARE CALCULATED FROM WELL
LOCATION TO TANK BATTERY

SCALE: 1" = 600'

NOTES:
1) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE
NAD 83 DATUM. THE COORDINATES WERE DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON THE
MONUMENT AND LONGITUDE ARE NAD 83 & 27 GEOGRAPHIC.
2) THIS IS A PROPOSED WELL, PLAT AND DOES NOT REPRESENT A TRUE
BOUNDARY SURVEY. THIS SURVEY IS BASED ON OWNERSHIP AND EASEMENT
INFORMATION PROVIDED BY CALLON PETROLEUM OPERATING COMPANY.
THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE EASEMENTS
OR OTHER ENCUMBRANCES THAT AFFECT THE SUBJECT TRACT THAT ARE NOT
SHOWN HEREON.

REV	DATE	BY	DESCRIPTION	CHK
1		GG	ADDED ACCESS AND UTILITY SUMMARY	
2		GG	ADDED FLOWLINE DISTANCE NOTES	
3		GG	TEXT EDIT AND REMOVE SUMMARIES	

JPSIMS
403 West Loop 820, Suite 180
Fort Worth, Texas 76108
(817) 367-0800 - Fax (817) 367-1973
Zone Engineers Surveying & Mapping Services



I HEREBY STATE THAT THIS PLAT SHOWS
THE PROPOSED WELL LOCATION, AS
STATED ON THE ACCORDING.

JAMES CURTIS YARBBER
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS 5854

TANK BATTERY COORDINATE TABLE	
"A"	NAD 27 X=1422752.872 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.142"W
"B"	NAD 27 X=1422827.177 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'44.223"W
"C"	NAD 27 X=1422754.557 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.062"W
"D"	NAD 27 X=1422880.252 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.062"W

FRAC PIT COORDINATE TABLE	
"E"	NAD 27 X=1422912.975 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.142"W
"F"	NAD 27 X=1423156.984 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.142"W
"G"	NAD 27 X=1423217.290 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.142"W
"H"	NAD 27 X=1423217.290 NAD 27 Y=4663934.986 NAD 27 LONG.=102°11'45.142"W

Callon Petroleum Operating Company

REVISED TANK BATTERY LOCATION EXHIBIT AND
PROPOSED FLOWLINE, ELECTRIC LINE, FRAC PIT
AND ACCESS ROADS, EASEMENTS

DRAWN BY: GG	DATE: 03-28-12	DWG. NO.	REV.
CHECKED BY: CV	DATE: 03-28-12	11026/PECANACRES 23A/UTL, REMED	5
SCALE: 1"=600'	APP:	PAGE 1 OF 1	



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: May 8, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, AICP

SUBJECT: Request for Council interpretation of Ordinance 8980, allowing for the development of the Hilton Garden Inn.

Purpose:

To interpret an existing ordinance.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are needed in association with this application.

Discussion:

Section Two, Line 2 of Ordinance 8980 permits the maximum height of an "office building". Staff is requesting the Council to interpret the approved ordinance and to indicate that the use of the property as a "hotel" is in compliance with the ordinance.

Ordinance 8980

ORDINANCE NO. 8980

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.18-ACRE TRACT OF LAND (BEING 6.68 ACRES INCLUSIVE OF ADJACENT RIGHTS-OF-WAY) OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. 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 THE INTERSECTION OF DEAUVILLE BOULEVARD AND LOOP 250); 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 4.18-acre tract of land (being 6.68 acres inclusive of rights-of-way) out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "E", 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 new construction shall be consistent with: the Site Plan (Exhibit "A"); the Building Elevations (Exhibits "B" and "C"); and the Rendering (Exhibit "D"). The referenced Exhibits are attached hereto and incorporated herein.
2. That the maximum height of the office building shall not exceed 62 feet.
3. That the landscaping shall conform to City of Midland regulations in place at the time of development.
4. That the placement of driveways accessing public streets shall be approved by the City.
5. That the placement of the driveway accessing the Loop 250 service drive shall be approved by the Texas Department of Transportation.
6. That the air conditioners and dumpsters shall be appropriately screened.
7. That a drainage plan must be submitted and approved with the associated plat.
8. That City of Midland Ordinance No. 8318 is hereby amended by this ordinance.

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 14th day of February, A.D., 2012; and passed to second reading on motion of Council member Hailey, seconded by Council member Sparks, by the following vote:

Council members voting "AYE": Morales, Trost, Hailey, Perry, James and Sparks

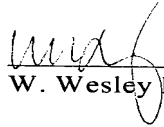
Council members voting "NAY": None

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member James, seconded by Council member Hailey, on the 28th day of February, A.D., 2012, at a regular meeting of the City Council:

Council members voting "AYE": Trost, Hailey Perry, Dufford, James and Sparks

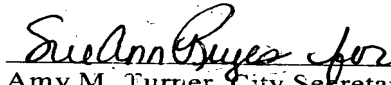
Council members voting "NAY": None

PASSED AND APPROVED THIS 28th day of February, A.D., 2012.



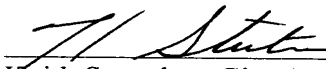
W. Wesley Perry, Mayor

ATTEST:



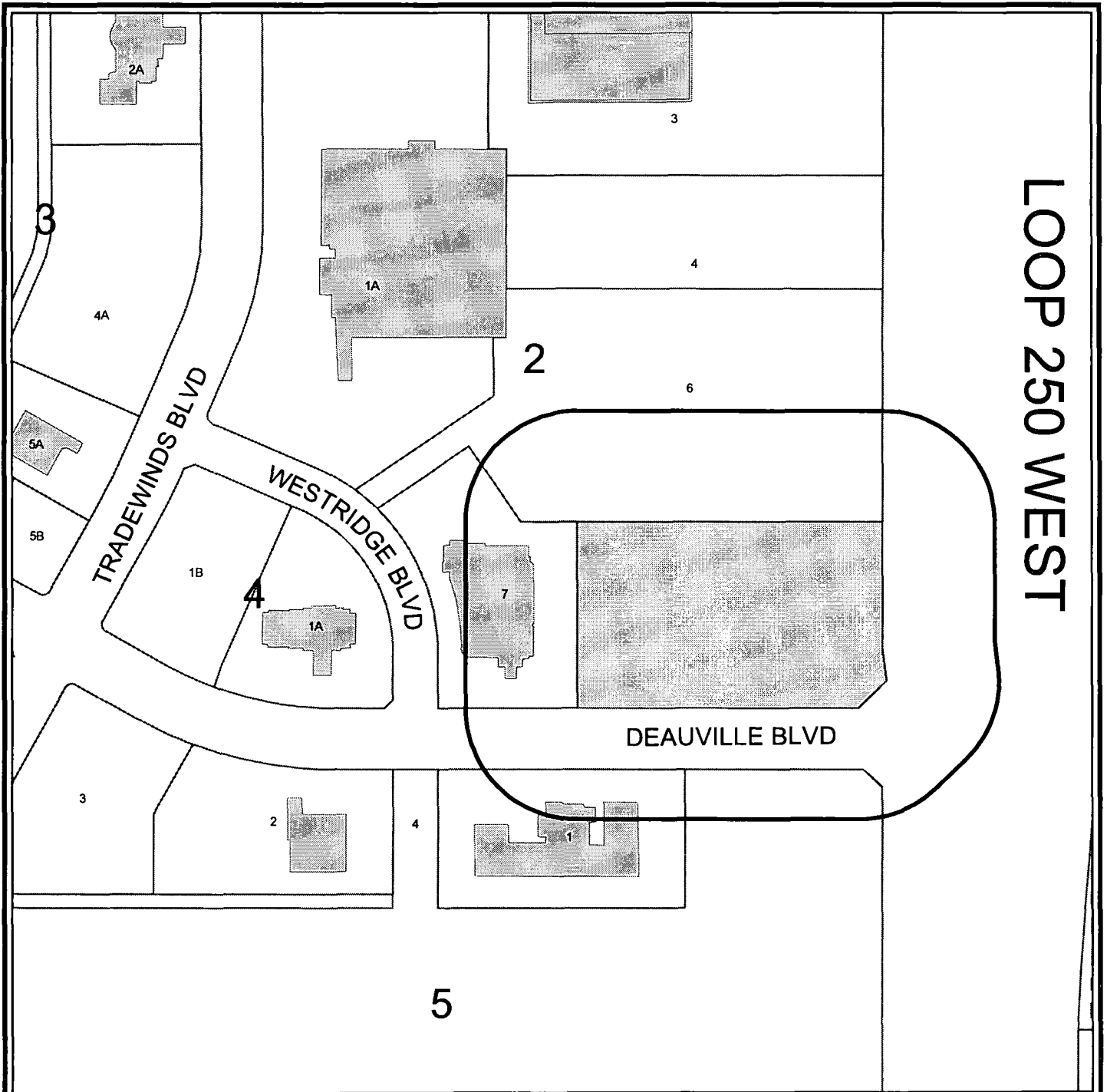
Amy M. Turner, City Secretary

APPROVED AS TO FORM:



Keith Stretcher, City Attorney

LOOP 250 WEST



PROPERTY OWNER NOTIFICATION MAP

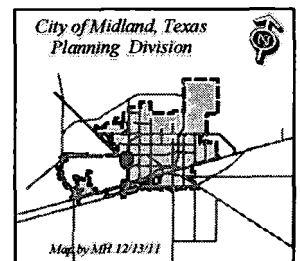
Z - 11 - 059

Scale: 1" = 250'

Consider a request for a zone change from PD, Planned Districts for a Shopping Center, to an Amended Planned District on a 4.16-acre tract of land out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

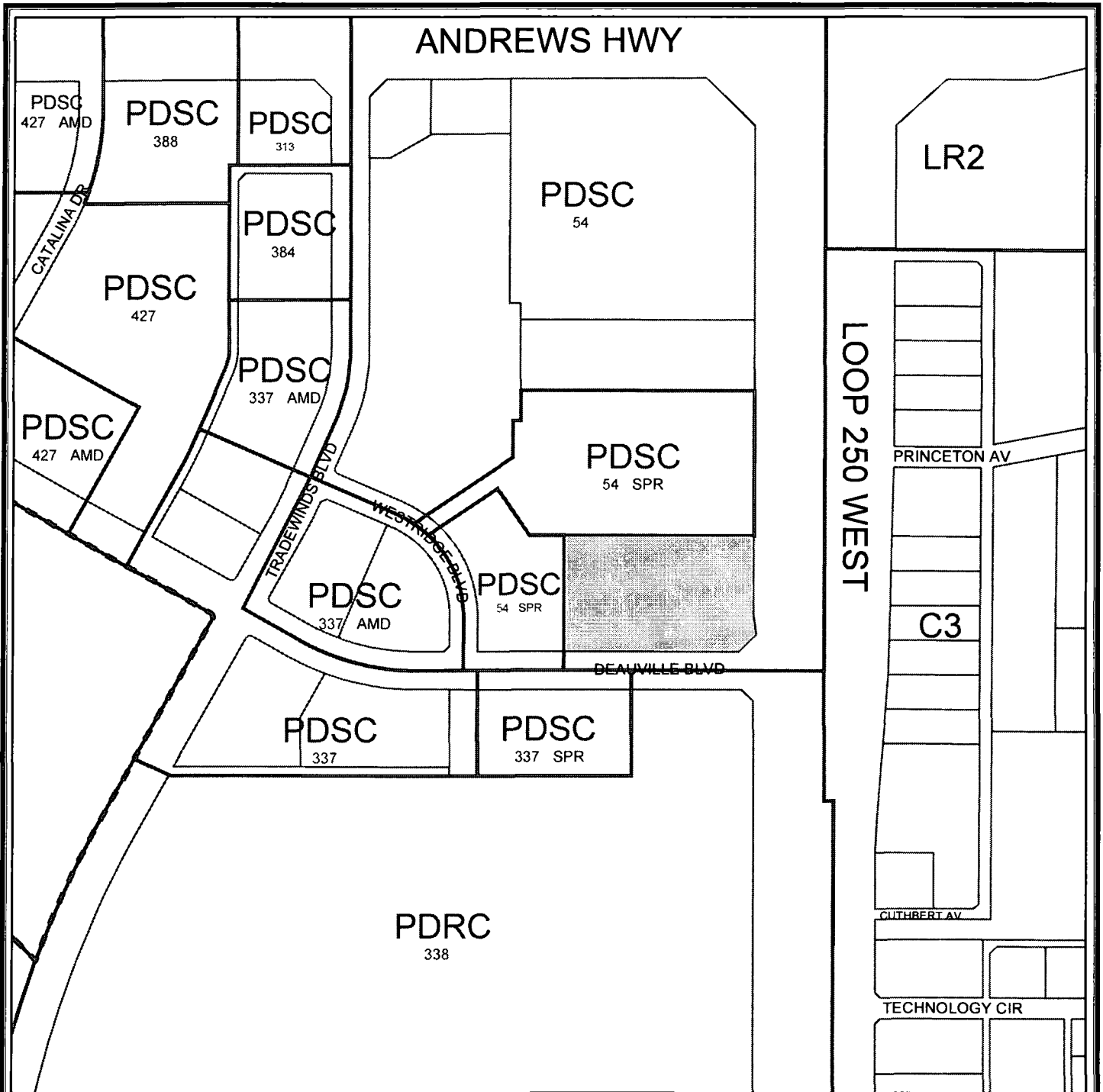
LEGEND

- CITY LIMITS
- 200 FT. LEGAL NOTICE LIMIT
- PARCEL
- PUBLIC BLDGS



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28.14



ZONING MAP

Z - 11 - 059

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned Districts for a Shopping Center, to an Amended Planned District on a 4.16-acre tract of land out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

ZONING

CITY LIMITS

CITY PARCELS

COUNTY 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, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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LOT 6

2

Frontage Road (One)

PLANNED DISTRICT SITE PLAN

WESTRIDGE PARK ADDITION

SECTION 20

Lot 8

Block 2

0' 10' 20' 40'
Original Scale: 1"=40'

PD Site Plan
Submitted to City of Midland PDZ
on December 2, 2011.

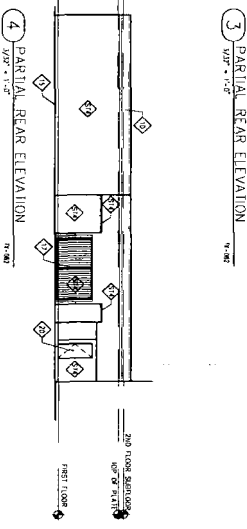
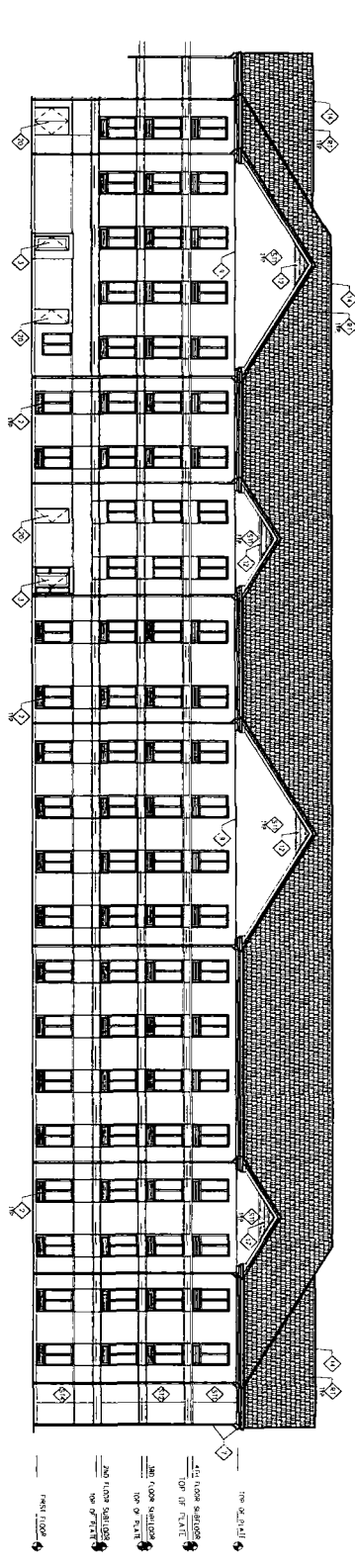
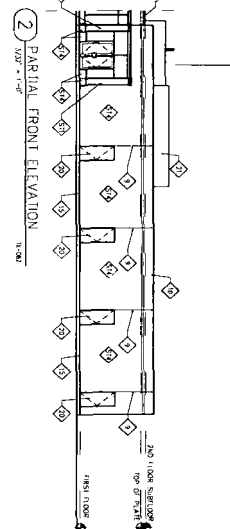
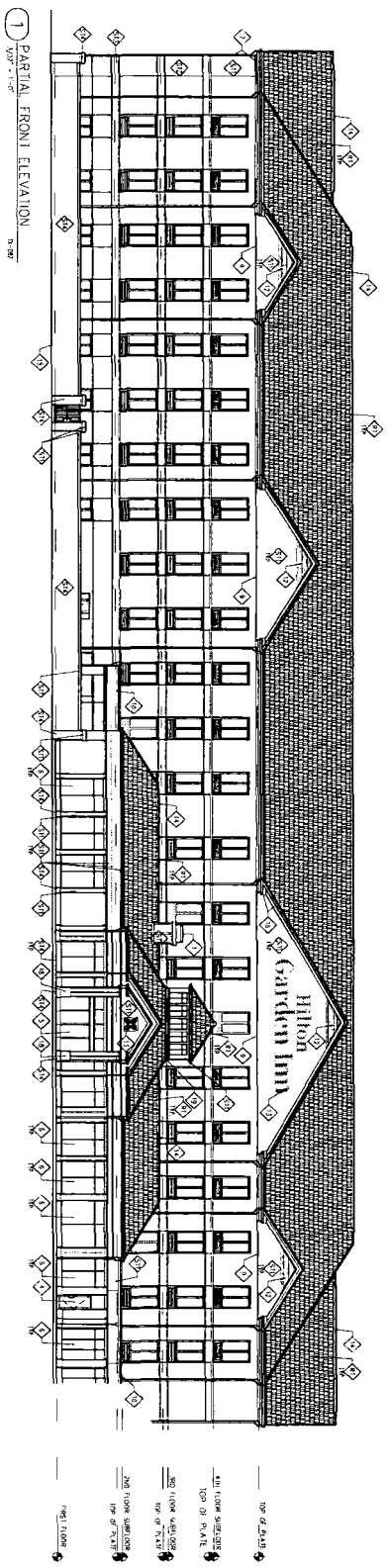
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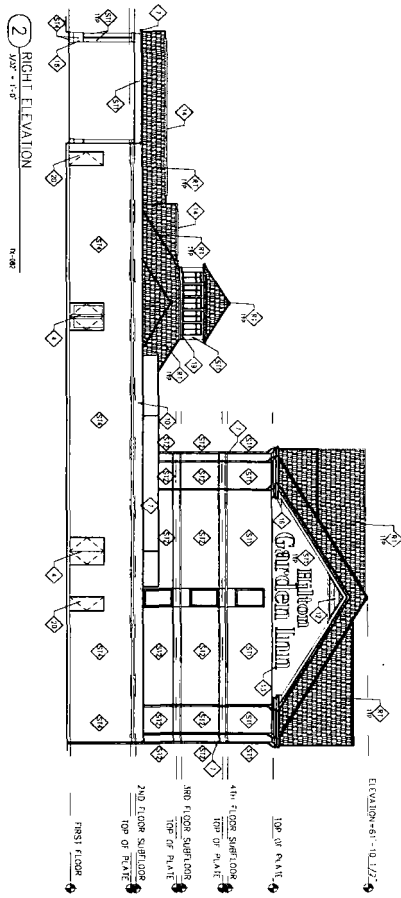
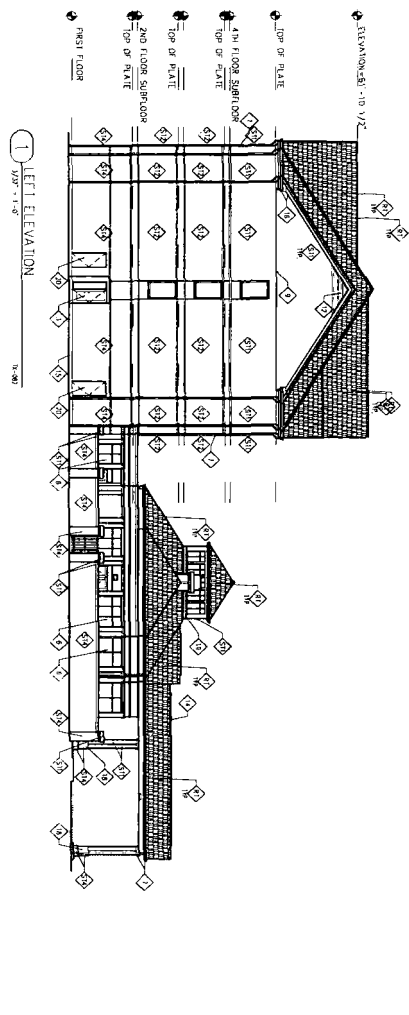
- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE PROVIDED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- SHAVED AREAS DENOTED BY [Pattern] TO BE PAVED OR OTHER DRAINING SURFACE.
- SHAVED AREAS DENOTED BY [Pattern] TO BE CONCRETE.
- SHAVED AREAS DENOTED BY [Pattern] TO BE PLANTED A LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- SHAVED AREAS DENOTED BY [Pattern] TO BE IRRIGATED GRASS AND GROUND COVER.
- SHAVED AREAS DENOTED BY [Pattern] ARE BUILDINGS.
- SHAVED AREAS DENOTED BY [Pattern] ARE SCREEN WALLS.
- AREAS DENOTED BY [Pattern] ARE FIRE LINES.
- UNLANDSCAPED AREA (NOT INCLUDING PAVEMENT) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA, LESS THE BUILDING AREA.
- EXTERIOR BUILDING MATERIALS SHALL BE DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, STUCCO, GLAZING OR SIMILAR CONSTRUCTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-70 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 BE ROOF MOUNTED AND SURROUNDED BY A SCREEN WALL.

SITE DATA	
SITE AREA	192,060 SF ±
BUILDING AREA (Foot Print)	36,465 SF ±
BUILDING AREA (Total Floor Space)	94,200 SF ±
LANDSCAPE AREA REQUIRED	14,570 SF ±
LANDSCAPED AREA SHOWN	42,435 SF ±
TREES REQUIRED (1" Cal. Min.)	42
PARKING SPACES REQUIRED	220
PARKING SPACES PLANNED	220
H.C. PARKING SPACES REQUIRED	7
H.C. PARKING SPACES SHOWN	8

WESTRIDGE PARK
ADDITION
SECTION 20

28.16





ELEVATION MATERIAL LEGEND	
1	TYPICAL ROOF: 12\"/>
2	TO MATCH EXISTING COLOR FOR 12\"/>
3	STANDARD COLOR 1
4	TO MATCH EXISTING COLOR FOR 12\"/>
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28.18

Circle A
1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.28.18.com

Link

Design, Inc.
201 N. 2nd Street
Austin, Texas 78701
Tel: 512.476.1000
www.linkdesign.com

Western International

1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.westernintl.com

Hilton Garden Inn

1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.hilton.com

TX-081

1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.tx-081.com

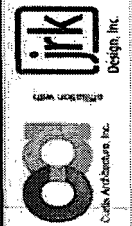
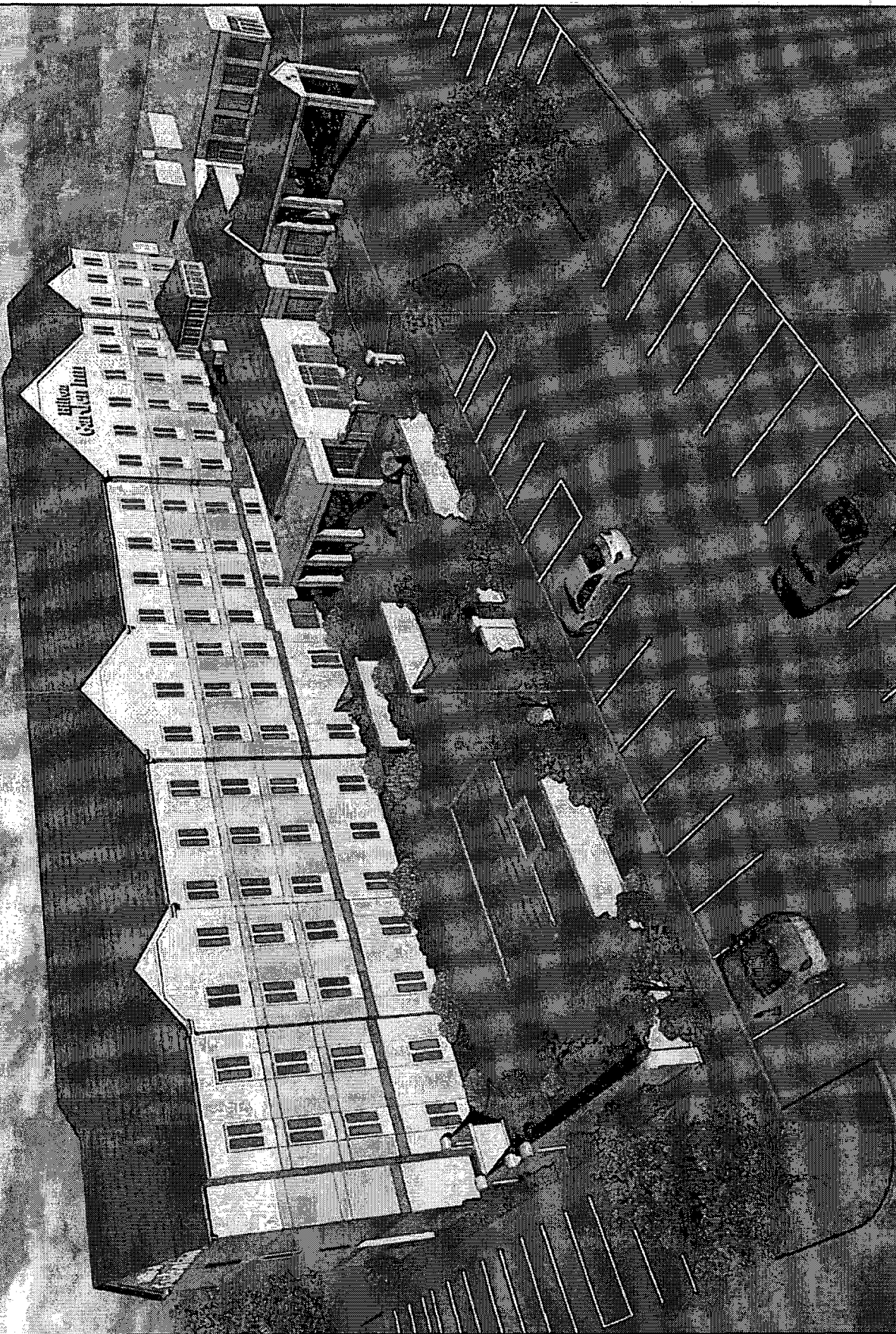
A301

1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.a301.com

Western International

1111 West 7th Street
Austin, Texas 78703
Tel: 512.476.1000
www.westernintl.com

Hilton Garden Inn- Midland, TX



Hilton Garden Inn





DATE: April 30, 2012

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: Proposed Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1

The proposed Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1 will be discussed with the Council. After receiving Council input and making the proposed changes, we hope to bring you the final agreement for your consideration at the May 22, 2012 Council meeting.

If you have any questions or if I may be of any assistance, do not hesitate to contact me.

Keith Stretcher

KS/lo

City of Midland
City Secretary's Office
Interoffice Memorandum

Date: May 3, 2012
To: The Honorable Mayor Perry and Council
From: Amy M. Turner, City Secretary
Subject: Membership - Boards and Commissions

Attached is an updated membership listing for the City's Boards and Commissions effective May 8, 2012. Remaining expirations and vacancies are listed below:

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS –Two terms expired on September 30, 2011 and two vacancies for Alternate terms expired on September 30, 2007.

MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION – Two terms expired in November 2011.

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION – Three vacancies expired on January 1, 2007, one term expired on January 1, 2009, two terms expired on January 1, 2010 and one term expired on January 1, 2012.

MIDLAND HOUSING FINANCE CORPORATION –One vacancy expired on September 30, 2010 and two terms expired on September 30, 2011.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD – One vacancy.

PARKS AND RECREATION COMMISSION –One term expired on September 30, 2011.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico) and three terms expired on September 30, 2011.

PLANING AND ZONING COMMISSION – One term expired on September 30, 2011.

TAX INCREMENT REINVESTMENT ZONE BOARD – One term expired on March 20, 2009 (one College representative), seven terms expired on March 20, 2010, two terms expired March 20, 2011 and two terms expired on March 20, 2012. (Four City representatives, two Hospital representatives, two County representatives and one College representative.)

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT-
Two terms expired on September 30, 2011, one vacancy for Alternate term expired on September 30, 2006 and one vacancy for Alternate term expired September 30, 2009.

BOARDS AND COMMISSIONS OF THE CITY OF MIDLAND

May 8, 2012

AIRPORT PLANNING AND DEVELOPMENT BOARD

(Advisory)

(Membership-10; Terms - 3 Years expiring 3-3-4.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Ronald Schwisow	09/06	Sept 30 2012	Sept 30 2012
Herbert Blankinship	09/06	Sept 30 2012	Sept 30 2012
Jerry Walton	11/09	Sept 30 2012	Sept 30 2015
Mike Owen	10/07	Sept 30 2013	Sept 30 2013
Gregory F. Baiano	09/10	Sept 30 2013	Sept 30 2016
John T. Echols	09/10	Sept 30 2013	Sept 30 2016
Dallas L. Smith	09/10	Sept 30 2013	Sept 30 2016
Earl Erdmann, Chairman	09/08	Sept 30 2014	Sept 30 2014
Brooks Smith	11/11	Sept 30 2014	Sept 30 2017
Don "Woody" Woodward	11/11	Sept 30 2014	Sept 30 2017

Ex-Officio members are Harry Spannaus, the City Manager and the City Attorney. The Secretary is the Director of Aviation.

ANIMAL SERVICES ADVISORY COMMISSION

(Advisory)

(Membership - 6; Terms - 4 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Dr. Tom Green (Veterinarian)	10/07*	Sept 30 2013	Sept 30 2017
Kelly Spencer	09/09	Sept 30 2013	Sept 30 2017
Laura Hollifield	09/08*	Sept 30 2013	Sept 30 2017
Justin Petty	04/07*	Sept 30 2013	Sept 30 2017
Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
Paul O'Neill	09/09	Sept 30 2013	Sept 30 2017

BUILDING CODES REVIEW COMMITTEE

(Membership – 9; Terms – 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
James Rigger	12/09	Dec 31 2013	Dec 31 2013
Chris Repman	12/09	Dec 31 2013	Dec 31 2013
John Cooper	12/09	Dec 31 2013	Dec 31 2013
Bill Routh	12/09	Dec 31 2013	Dec 31 2013
Tom Woodruff	12/09	Dec 31 2013	Dec 31 2013
Ron Ainsworth	12/09	Dec 31 2013	Dec 31 2013
Walter Pate	12/09	Dec 31 2013	Dec 31 2013
Robert Harrington	12/09	Dec 31 2013	Dec 31 2013
Jerry Morales	12/09	Dec 31 2013	Dec 31 2013

* Indicates appointment to an unexpired term.

CITY DEVELOPMENT ADVISORY COMMITTEE

(Advisory)

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vicky Hailey	09/10	Sept 30 2012	Sept 30 2014
Reggie Lawrence	09/10	Sept 30 2012	Sept 30 2014
Lena Margita	10/09	Sept 30 2013	Sept 30 2013
Alonda Massey	11/11	Sept 30 2013	Sept 30 2015
Tim Bryson	11/11	Sept 30 2013	Sept 30 2015

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

To sunset December 31, 2011

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Joe Molina, Jr.	09/03	Sept 30 2011	Sept 30 2011
James W. Rigger (Architect)	09/99	Sept 30 2011	Sept 30 2011
Don Woodward (At Large)	11/11*	Sept 30 2012	Sept 30 2020
Richard D. Dunham	10/05	Sept 30 2013	Sept 30 2013
Greg Turner	03/11*	Sept 30 2013	Sept 30 2021
Chris Repman	10/07*	Sept 30 2014	Sept 30 2018
Jay K. Bradford	09/10	Sept 30 2014	Sept 30 2018

ALTERNATES:

Vacancy	Sept 30 2007
Vacancy	Sept 30 2007

HOTEL/MOTEL TAX ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Tyler Wolfe	04/11*	Sept 30 2012	Sept 30 2012
Jon S. Blair	02/09*	Sept 30 2012	Sept 30 2014
Karmen Hendrix Bryant	02/12*	Sept 30 2013	Sept 30 2017
David Baur	09/10	Sept 30 2013	Sept 30 2014
Lisa Grissom	9/09	Sept 30 2013	Sept 30 2013
Steve Jones	02/09*	Sept 30 2013	Sept 30 2013
Alex Singh-Hotel/Motel Assn. Rep.	09/09	Dec 31 2013	Assn. Appt.
Vicky Hailey (Liaison Officer)			

* Indicates appointment to an unexpired term.

HOUSING AUTHORITY COMMISSION

(Membership - 5; Terms - 2 Years expiring 2 even & 3 odd.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Rosie Gransberry	06/08*	Oct 2012	Oct 2012
Norma Duran	11/08*	Oct 2012	Oct 2014
Gregory Maes	11/11	Oct 2013	Oct 2015
Carla Repman, Vice Chairman	09/09	Oct 2013	Oct 2013
James A. Blischke	01/10	Oct 2013	Oct 2013

ALTERNATES:

Dennis Bade	11/11	Oct 2013	Oct 2015
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JOINT ECONOMIC DEVELOPMENT TASK FORCE

(Ad Hoc)

	<u>Appt. Date</u>
(Midland)	
Wes Perry	01/08
LuAnn Morgan	12/00
Keith Stretcher	12/00
Tommy Hudson	08/07
John Breier	01/04
(Odessa)	
Larry Melton	08/01
Jim Morris	11/00
Richard Morton	01/02
Joel Roberts	11/00
Neil McDonald	11/00

MANAGED COMPETITION COMMITTEE

(Ad Hoc)

	<u>Appt. Date</u>
Jon Morgan	01/02
Wes Perry	01/02
Roy Nelson	01/02
Hugh "Andy" Shaffer	12/03
Scott Dufford	01/02
Ted Tipton	04/04
Kevin Sparks	11/07
Scott Lovett	04/10
P. Lourcey Sams	04/10

Ex-Officio members are the Mayor and the City Manager.

• Indicates appointment to an unexpired term.

MIDLAND CENTER ADVISORY BOARD

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years expiring 3-2-2.)

		<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Brent Blackburn	(City)	09/09*	Sept 30 2013	Sept 30 2016
Charles Spence	(CC)	11/07	Sept 30 2013	N/A
Lorri Lyon West	(City)	09/10	Sept 30 2013	Sept 30 2016
Patricia S. Blackwell	(City)	10/07*	Sept 30 2014	Sept 30 2014
Paula Mitchell	(City)	09/08	Sept 30 2014	Sept 30 2014
Greg Turner	(CC)	12/11	Sept 30 2014	N/A
Tracy Bacon	(CC)	12/11	Sept 30 2014	N/A
Jerry Morales (Liaison Officer)				

Ex-Officio members are the City Manager and Executive Director of the Chamber of Commerce.

MIDLAND CENTRAL APPRAISAL DISTRICT BOARD OF DIRECTORS

Five Directors, Elected by Local Taxing Entities.

City Nominates/Cast Vote for one Director

(Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>
Chad Clark	3/12*	Dec 31 2013

MIDLAND DEVELOPMENT CORPORATION

(Membership - 5; Terms -3 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Michael Trost	02/11*	Jan 14 2013	Jan 14 2019
Cary J. Love	12/09	Jan 14 2013	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2013	Jan 14 2019
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017

- Indicates appointment to an unexpired term.

**MIDLAND FOOTBALL-SOCCER AND BASEBALL COMPLEX
DEVELOPMENT CORPORATION**

(Decision Making)

Membership - 7; Terms - 2 Years)

	<u>Appt Date</u>	<u>Eligibility Term Expires</u>	<u>Expires</u>
Ken Marks, Vice President	10/07	Nov 2011	Nov 2011
James G. Smith	12/07	Nov 2011	Nov 2011
Mike Thompson	11/11	Nov 2013	Nov 2015
Tim Bryson	11/11	Nov 2013	Nov 2015
Wesley D. Bownds	02/09*	Nov 2013	Nov 2013
John James	08/08*	Nov 2013	Nov 2013
Rick Davis (MISD Resp.)	10/10*	Nov 2013	Nov 2015

MIDLAND HIGHER EDUCATION FACILITIES CORPORATION

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2007	
Vacancy		Jan 1 2009	
Cathy Oestmann	11/05*	Jan 1 2010	Jan 1 2010
Steve Jones	09/08*	Jan 1 2010	Jan 1 2012
Curt Kamradt	11/05*	Jan 1 2012	Jan 1 2012

MIDLAND HOUSING FINANCE CORPORATION

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - (Damon L. Blakeley)	07/07*	Sept 30 2010	
Adrienne Valencia	10/07	Sept 30 2011	Sept 30 2011
Melissa Wicker	10/07	Sept 30 2011	Sept 30 2011
Jerry Morales (Liaison Officer)	10/08	Sept 30 2012	Sept 30 2012
Nathan Miller	11/11*	Sept 30 2012	Sept 30 2016

- Indicates appointment to an unexpired term.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD

(Ad Hoc)

Appt. Date**Vacancy**

Richard Hatchett	11/08
W. L. "Scooter" Brown	09/04
Ken Burgess	09/04
Jim Hightower	11/08
Ted H. Jones	09/04
Mitch Malouf	11/08
Christi Newton	09/04
Dan Rush	09/04

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD

(Decision Making)

(Membership - 6; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Willie Barber	09/08	Sept 30 2012	Sept 30 2012
Raymond McCarthy	09/08	Sept 30 2012	Sept 30 2012
Michael Trost	09/08	Sept 30 2012	Sept 30 2012
John H. James	09/09	Sept 30 2013	Sept 30 2013
Karen York	06/09*	Sept 30 2013	Sept 30 2013
Guy McKenize	03/11*	Sept 30 2013	Sept 30 2015

OIL AND GAS ADVISORY COMMITTEE

(Advisory)

(Membership – 5; Terms – 3 Years expiring 2-2-1)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Richard D. Dunham (Realtor/Petro Eng.)	01/10	Sept 30 2013	Sept 30 2016
D. Patrick Darden (Petroleum Eng.)	02/10	Sept 30 2012	Sept 30 2015
Don Eubank (Drilling Eng.)	04/10	Sept 30 2012	Sept 30 2015
Paul Brown	11/11	Sept 30 2014	Sept 30 2017
David Rosen	11/11	Sept 30 2014	Sept 30 2017

*

Indicates appointment to an unexpired term.

PARKS AND RECREATION COMMISSION

(Advisory)

(Membership - 9; Terms - 3 Years expiring 3-3-3.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Berry Simpson	09/10*	Sept 30 2011	Sept 30 2017
Amanda McCann	11/11*	Sept 30 2012	Sept 30 2018
David Ham	09/06	Sept 30 2012	Sept 30 2012
Charles A. Spence	01/10*	Sept 30 2013	Sept 30 2016
Susan Nichols	02/06*	Sept 30 2013	Sept 30 2013
Eric L. West	10/07	Sept 30 2013	Sept 30 2013
Kenny Harper	03/12*	Sept 30 2013	Sept 30 2019
P. Lourcey Sams	09/08	Sept 30 2014	Sept 30 2014
Tina Corbett	09/08	Sept 30 2014	Sept 30 2014

PERMIAN BASIN AIRPORT BOARD

(Advisory)

(Membership - 30; Terms - 1 year.)

	<u>Appt. Date</u>	<u>Term Expires</u>
10 Members of the Airport Planning and Development Board		
Bob Forrest (Carlsbad, NM)	10/04	Sept 30 2010
Larry Shed (Hobbs, NM)	10/01	Sept 30 2010
Larry Gill (Abilene)	10/10	Sept 30 2011
Isabelle Blanchard (Pecos)	10/10	Sept 30 2011
David Harrell (Snyder)	10/07	Sept 30 2011
Elvin Brownlee III (Andrews)	12/10*	Sept 30 2012
Jim Little (Big Spring)	09/03	Sept 30 2012
David Hardwick (Ft. Stockton)	10/07	Sept 30 2012
Don Bethel (Lamesa)	02/91	Sept 30 2012
Henry Cutbirth (Monahans)	09/05	Sept 30 2012
Willie Taylor (Odessa)	02/00	Sept 30 2012
Gloria Pena (Odessa)	03/03*	Sept 30 2012
Barbara Graff (Odessa)	06/10*	Sept 30 2012
Luis E. Elguezabal (San Angelo)	10/07	Sept 30 2012
Lex Hinds (Seminole)	10/08	Sept 30 2012
Glenn Wortham (Sweetwater)	10/07	Sept 30 2012
Lance Goodrich (Artesia, NM)	09/09	Sept 30 2012
Larry Fry (Roswell, NM)	09/00	Sept 30 2012

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

* Indicates appointment to an unexpired term.

**PERMIAN BASIN COMMUNITY CENTER FOR MENTAL HEALTH
AND MENTAL RETARDATION**

(Decision Making)

(Membership - 2 (City); Terms - 2 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Janet R. Pritchett (City)	05/09*	June 2012	June 2014
Larry Edgerton	07/10*	June 2013	June 2015

PERSONNEL BOARD OF APPEALS

(Decision Making)

(Membership - 3; No designated terms.)

	<u>Appt. Date</u>
John James	03/08
Hugh A. "Andy" Shaffer	09/05
Michael Trost	01/10

PLANNING AND ZONING COMMISSION

(Advisory & Decision Making)

(Membership - 9; Terms - 3 Years)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Becky Ferguson, Chairman	03/04*	Sept 30 2011	Sept 30 2011
Kevin Wilton	09/08*	Sept 30 2012	Sept 30 2015
Bill Woodruff	02/05*	Sept 30 2012	Sept 30 2012
Royce Watkins	02/08*	Sept 30 2012	Sept 30 2015
Karen York	01/10*	Sept 30 2012	Sept 30 2018
Jane Wolf	03/09*	Sept 30 2013	Sept 30 2016
Cindy Lanning	09/10	Sept 30 2013	Sept 30 2016
Jay Norris	11/11	Sept 30 2014	Sept 30 2017
Galen Gatten, Vice Chairman	09/08	Sept 30 2014	Sept 30 2014

ALTERNATES:

Tony Carrillo	11/11	Sept 30 2014	Sept 30 2017
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- Indicates appointment to an unexpired term.

TAX INCREMENT REINVESTMENT ZONE BOARD

(Decision Making)

(Membership - 12; Terms - 2 Years, or 3 Years if appointed after 3/1/07)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Neil Florer (College)	07/01	Mar 20 2009	Mar 20 2009
Dan Rush (City)	07/01	Mar 20 2010	Mar 20 2010
Mark T. Wellen (City), Vice Chairman	07/01	Mar 20 2010	Mar 20 2010
Jay Reynolds (Hospital)	03/02	Mar 20 2010	Mar 20 2010
Ralph Way (College)	07/01	Mar 20 2010	Mar 20 2010
Jimmy Davis (Hospital)	03/07	Mar 20 2010	Mar 20 2013
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
C. Mark Wheeler (City), Treasurer	04/08	Mar 20 2011	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Brent Kennedy (City)	06/09	Mar 20 2012	Mar 20 2015
John L. Kennedy (City)	10/09*	Mar 20 2012	Mar 20 2018

Ex-Officio member is President, Board of Trustees, Midland Independent School District

ZONING BOARD OF ADJUSTMENT**AND****AIRPORT ZONING BOARD OF ADJUSTMENT**

(Decision Making)

(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Trudi Edwards	10/07	Sept 30 2011	Sept 30 2011
Manny Ribera	10/07	Sept 30 2011	Sept 30 2011
Todd Byars	02/08*	Sept 30 2012	Sept 30 2014
Ken Morgan	01/10*	Sept 30 2012	Sept 30 2014
Carla Repman	01/10*	Sept 30 2013	Sept 30 2015

ALTERNATES: (not applicable to Airport Zoning)

Vacancy		Sept 30 2006	
Vacancy		Sept 30 2009	
Annabel Holguin	11/11	Sept 30 2013	Sept 30 2015
Greg Turner	11/11	Sept 30 2013	Sept 30 2015

* Indicates appointment to an unexpired term.



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Gary F. Harris
Address: 2305 Wyndewood
 Midland TX 79707
 (City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 29 years.

Professional and/or Community Activities:

Member of Fannin Terrace Baptist Church for 28 years--serve as a Deacon

Retired member of the Texas Section of ASCE--served as local Branch President and later as State VP of Technical Affairs

Retired member of the Texas Society of Professional Engineers

What is your personal vision for the City?

I want Midland to thrive, to develop the infrastructure to accommodate the growth to be the major City between Dallas and El Paso

Please specify any time constraints you may have.

None, I am retired

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Represent the City of Midland on the Fresh Water Supply District Board

Please tell us why you are interested in serving on this board or commission.

During my Engineering career, I have worked on water projects and I am very interested in Potable Water, the life blood of a City.

Date: 4/30/2012

Phone: (432) 697-0975 (Home)

Retired (Business)

Email: PTL@Grandecom.net

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Retired Civil Engineer, P.E.

What contribution would you most like to make?

Do what I can to help the Fresh Water Supply District be successful in supplying the City of Midland with a reliable source of Potable Water at an affordable price to the residents of Midland.

Additional pertinent information or references:

David Criner, Midland Co. Sheriff Dept.-(432) 230-8767

Kyle Womack, P.E. Engineer-(432) 770-7875

Doug Lamb, Pastor -(432) 682-5272

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Gary F. Harris

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: Wayne Merritt

Address: 708 Augusta Dr.

Midland, Texas 79705

(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 64 years.

Professional and/or Community Activities:

Banking consultant, commercial real estate

Date: 5/1/2012

Phone: 694 3929 (Home)

528 9646 (Business)

Email: lwmeritt@gmail.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Retired banker

What is your personal vision for the City?

A place of unlimited professional opportunities in a family oriented atmosphere

Please specify any time constraints you may have.

sporadic consulting trips, but not enough to miss many board meetings

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Fresh Water District

Please tell us why you are interested in serving on this board or commission.

Water is a very important resource to Midland's future. And, I have experience serving on professional and non-profit boards.

What contribution would you most like to make?

An active board member

Additional pertinent information or references:

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant

Wayne Merritt

Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland

City Secretary's Office

PO Box 1152

Midland, TX 79702

FAX: (432) 685-7433

Submit Via Email

Print Application



APPLICATION FOR CITY OF MIDLAND BOARDS/COMMISSIONS/COMMITTEES

As an applicant for a City board, commission, or committee, please be advised that all information on this application is subject to the Texas Open Records Act and will be available to the public.

PLEASE TYPE OR PRINT CLEARLY:

Name: P. Lourcey Sams

Address: P.O. Box 1933

Midland TX 79702
(City) (State) (Zip)

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 45 years.

Professional and/or Community Activities:

American Assoc. Petroleum Geologist, West Tx Geological Society, FEPA, American Assoc. of Professional Landman, Midland

Chamber of Commerce Government Affairs-Past Member, Interstate Oil & Gas Commerce Commission, West Tx MS Society-Past

Member, Midland United Girls Softball, COM Parks and Recreation Advisory Board, COM Managed Competition Committee

What is your personal vision for the City?

To see the City of Midland continue its expansion of economic growth in the oil and gas base along with continued diversification efforts to enhance long-term stability. Midland has made significant strides with health care services, law enforcement, parks and recreation and other social and entertainment services that should be supported and continued.

Please specify any time constraints you may have.

I am self employed and envision no specific constraints as it applies to this application.

Date: 4/11/2012

Phone: 432-682-0793 (Home)

432-682-8261 (Business)

Email: lsams@psams.com

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: Oil & Gas - Self Employed; Municipal Water

Please list below the Board(s) or Commission(s) on which you are interested in serving:

(You can find a complete and current list on the City's website at www.midlandtexas.gov)

(1) Name of Board/Commission:

Midland County Freshwater Supply District No. 1

Please tell us why you are interested in serving on this board or commission.

My experience as an executive of a municipal water firm has given me experience in ground water projects from development through delivery. My experience includes both engineering aspects of water development as well as legal and political issues.

What contribution would you most like to make?

My municipal water experience could bring empirical input to the freshwater district.

Additional pertinent information or references:

As well as vast and extensive board experiences through my involvement in the Brazos Valley Water Alliance of Central Texas, I have had extensive dealings with various municipalities involved in private-public type partnerships in furtherance of the municipalities' needs.

(2) Name of Board/Commission:

What contribution would you most like to make?

Additional pertinent information or references:

Applications are maintained on file in the City Secretary's office for a period of one year. Should you need additional information, please call us at 432-685-7430.

Signature of Applicant



Applications may be submitted online via email or print in order to send by mail or fax:

City of Midland
City Secretary's Office
PO Box 1152
Midland, TX 79702
FAX: (432) 685-7433

Submit Via Email

Print Application

P. Lourcey Sams

P. Lourcey Sams is a co-founder of the Brazos Valley Water Alliance, LP, (the “Alliance”). He has served as the CEO of the Alliance since inception in 2002 to 2005 and currently serves on the Board of Managers for the Alliance and as Director of Marketing.

In addition to his position with the Alliance, Sams also serves as the President of Pennant Development and Production, LLC an oil and gas acquisition and operation firm. Since 1988, he has also served as President of Banner Energy, Inc., which is an administration entity for numerous limited partnerships and joint ventures engaged in exploration and production. Sams is also involved in a number of ventures involving municipal water, real estate, oil and gas and finance.

Sams is currently serves as a member of the City Of Midland Parks and Recreation Advisory Board, the City of Midland Managed Competition Committee and is a member of the American Association of Petroleum Geologists, the West Texas Geological Society, the Financing Exploration and Production Association, and the American Association of Professional Landmen. He formerly served as a member of the Interstate Oil and Gas Commerce Commission, the Midland Chamber of Commerce Government Affairs Committee, and as a board member of the West Texas Multiple Sclerosis Society, the West Texas Hunting Retriever Club and Midland United Girls Softball Association.

Sams graduated from Austin College in Sherman, Texas in 1977, and currently resides in Midland, Texas. After graduation he was employed by Amoco Production Company from 1977 to 1982.