

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

May 22, 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. Receive an update from the Fire Department regarding the use of squad trucks for improved response times.
2. 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.

AGENDA FOR CITY COUNCIL MEETING
May 22, 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 - Monsignor Larry Droll, St. Ann's Catholic Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation of Midland 101 Class of 2011-12 Graduates.

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 May 8, 2012.
6. Consider a resolution approving the purchase of five thousand (5,000) tons of flexible base caliche from Jones Brothers Partnership, of Odessa, Texas, for a total cost of \$63,750.00 (GENERAL SERVICES) (2012 - 139)
7. Consider a resolution authorizing the execution of Amendment Number 1 to the Professional Services Agreement with Parkhill, Smith & Cooper, Incorporated, for improvements contained in the Airport Capital Improvement Program; said amendment to include the following projects: Executive Apron Reconstruction Area B, Northwest Taxilane Extension Project Phase 2, Emergency Roadway

and Gates Rehabilitation, Access Control System Software and Cable Upgrade, Airpark Hangar Expansion, Replat and Rezone Property at Midland International Airport; the City will up-front the Federal Aviation Administration and Texas Department of Transportation portion of the design phase of these projects and be reimbursed out of the 2013 Federal Aviation Administration and Texas Department of Transportation Entitlement Funds; the City share for the project is \$97,750.00, the Federal Aviation Administration share is \$173,700.00, and the Texas Department of Transportation share is \$6,750.00; and appropriating necessary funds. (AIRPORTS) (2012 - 140)

8. Consider a motion on a request by Newton Engineering for Southwest Baptist Church to approve items requested for deferral in the amount of \$32,804, and to enter into a development agreement to accept funds for the construction of a water main extension along SH 191 frontage and to waive the associated public improvement guarantee. This property is positioned in the City Limits, generally located on the north side of SH 191 approximately 4 miles west of Loop 250. (ENGINEERING SERVICES)
9. Consider a resolution authorizing the City of Midland to file a joint application with Midland County for Fiscal Year 2012 Justice Assistance Grant Funds Program totaling \$31,908.00; and authorizing the execution of an agreement regarding the division of said grant funds; the City of Midland will receive \$19,145.00 (60%) and Midland County will receive \$12,763.00 (40%) of the grant funds respectively; this agreement does not supersede, modify or amend any other prior agreements. (POLICE) (2012 - 141)
10. Consider a resolution authorizing the execution of Change Order Number One with Red River Construction Company, Incorporated, adding \$503,102.00 for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project; and appropriating \$503,102.00; the original contract was for \$5,357,080.00; this Change Order brings the total contract price to \$5,860,182.00. (UTILITIES) (2012 - 142)
11. Receive for information and possibly discuss Second Quarter Fiscal Year 2011 - 2012 Investment Report (FINANCE)
12. Consider a resolution of the City Of Midland, Texas, denying Atmos Energy Corporation - West Texas Division's ("Atmos West Texas") requested rate change; requiring the company to reimburse the City's reasonable ratemaking expenses; finding that the meeting at which this resolution is passed is open to the public as required by law; requiring notice of this resolution to the company and the City's legal counsel. (CITY MANAGER'S OFFICE) (2012 - 143)
13. Consider a resolution authorizing the Mayor to execute a wholesale water delivery agreement with the Midland County Fresh Water Supply District No. 1 regarding the transportation of City-owned water from the T-Bar Ranch Water

Field to the City of Midland; the T-Bar Ranch Water Field is located in Loving County and Winkler County, Texas. (CITY MANAGER'S OFFICE) (2012 - 144)

SECOND READINGS

14. Consider an ordinance on second reading 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)
15. Consider an ordinance on second reading 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)
16. Consider an ordinance on second reading 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)
17. Consider an ordinance on second reading 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)

18. Consider an ordinance on second reading 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)

PUBLIC HEARINGS

19. At approximately 10:30 a.m. hold a public hearing and consider an ordinance amending Title XI, "Planning and Development", Chapter 2, "Plats and Subdivisions", Section 1, "General Provisions", Subsection (E), "Jurisdiction", of the City Code of Midland, Texas, by repealing Paragraph 9, which prohibits the issuance of a septic permit for a new or expanded septic system for property for which a plat has not been approved; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine; and ordering publication. (DEVELOPMENT SERVICES) (9022)
20. 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 Lots 10A-29A, and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Shopping Center, to be used as an Amended Planned District (Generally located on both sides of Quicksand Cove, west of Spence 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) (9023)
21. 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 a 36.81-acre tract of land which is presently zoned FD, Future Development District, to be used as a 1F-3, One-Family Dwelling District; by permitting a 3.98-acre tract of land which is presently zoned FD, Future Development District, to be used as a TH, Townhouse District; said tracts being located in Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas; said tracts being more specifically described

by metes and bounds made a part hereof; said tracts are generally located on the west side of Holiday Hill Road, approximately 450 feet south of Briarwood Avenue; 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) (9024)

MISCELLANEOUS

22. Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP ("Operator") to drill an oil and gas well within the City limits located 1,910.4 feet from the north line and 820.8 feet from the west line, Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas (Generally located on the east side of Holiday Hill Road, approximately ½ mile south of Mockingbird Lane). (DEVELOPMENT SERVICES) (2012 - 145) (Barron #1)
23. Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP ("Operator") to drill an oil and gas well within the City limits located 714 feet from the north line and 730.4 feet from the west line, Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas (Generally located on the east side of Holiday Hill Road, approximately 720 feet south of Mockingbird Lane). (DEVELOPMENT SERVICES) (2012 - 146) (Barron #3)
24. Consider a resolution authorizing the execution of a road repair agreement with Vector Oil & Gas LP regarding its applications to drill oil and gas wells within the City limits in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (DEVELOPMENT SERVICES) (2012 - 147)
25. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "C" 1) inside the City Limits located 1021 feet from the north line and 2310 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately ¾ mile north of Mockingbird Lane - Resolution 2011-281) (DEVELOPMENT SERVICES)
26. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "D" 1) inside the City Limits located 1021 feet from the north line and 1041 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately ¾ mile north of Mockingbird Lane – Resolution 2011-282) (DEVELOPMENT SERVICES)
27. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "G" 1) inside the City Limits located 1650 feet from the north line and 2310 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the

west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-283) (DEVELOPMENT SERVICES)

28. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "H" 1) inside the City Limits located 1650 feet from the north line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-284) (DEVELOPMENT SERVICES)
29. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "I" 1) inside the City Limits located 2310 feet from the south line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{1}{2}$ mile north of Mockingbird Lane. – Resolution 2011-285) (DEVELOPMENT SERVICES)
30. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "J" 1) inside the City Limits located 2322 feet from the south line and 2310 feet from the east line, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{1}{2}$ mile north of Mockingbird Lane. – Resolution 2011-301) (DEVELOPMENT SERVICES)
31. Consider a motion interpreting City of Midland Ordinance No. 8640 and determining that a proposed apartment development to be located on Lot 1, Block 11 and the north 100 feet of Lot 1, Block 10, Claydesta Plaza, City and County of Midland, Texas, is in compliance with Ordinance No. 8640 which governs said property. Said property is generally located on the southeast corner of the intersection of North "A" street and Veterans' Airpark Lane. (DEVELOPMENT SERVICES)
32. Consider an ordinance vacating and abandoning a 0.032-acre portion of West Louisiana Avenue right-of-way adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, City and County of Midland, Texas (Generally located on the southwest corner of the intersection of West Louisiana Avenue and North Colorado Street); adopting the appraisal by the City Manager of \$1,400.00; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9025)
33. Consider a resolution selecting Wells Fargo Bank to provide depository and other banking services for the City of Midland; and authorizing the City Manager to negotiate and execute a Professional Services Agreement with Wells Fargo Bank for said services. (FINANCE) (2012 - 148)
34. Consider a resolution authorizing the City Manager and City Attorney to negotiate terms for the purchase of property located in the 4500 Block of Sinclair

Avenue, Midland, Texas. (GENERAL SERVICES) (2012 - 149)

35. Consider a resolution authorizing the mayor to execute an employment agreement with the City Attorney. (CITY ATTORNEY'S OFFICE) (2012 - 150)
36. Consider making appointments to various Boards and Commissions.
37. At approximately 12:00 noon, recess to Midland International Airport, 9506 La Force Boulevard, for lunch and an Airport Department update in the Airport Media Room.

EXECUTIVE SESSION

38. 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. Deliberation Regarding Real Property, Section 551.072
 - a.1. Discuss the purchase and value of property described as approximately 2.5 acres out of a 14.28 acre tract of land out of Wallace Heights, Section 4, an addition to the City of Midland as per plat of record in Cabinet "C", page 174, Plat Records, Midland County, Texas.
 - b. Section 551.074 Personnel Matters
 - b.1. Deliberate the employment, evaluation, duties, and salary of the Presiding Municipal Court Judge, the Associate Municipal Court Judge, the City Manager, the City Attorney and the City Secretary.
 - c. Section 551.087, Deliberation Regarding Economic Development Negotiations
 - c.1. Discuss business prospects that the City of Midland and/or 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
May 08, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on May 08, 2012.

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

Council Members absent: Council Member Scott Dufford (At-Large), Council Member John James (District 3) (James arrived at 9:02 a.m.).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Development Services Director Rick Crownover, Community Services Director Tina Jauz, Parks & Recreation Manager Michelle James, Building Official Steve Thorpe, City Engineer David Beard, Multimedia Developer Ryan Stout, First Assistant City Attorney John Ohnemiller, City Planner Ken VanDyne, and Oil & Gas Compliance Officer Ron Jenkins.

1. Discuss the proposed process for developers of required public improvements.

Assistant City Manager Jim Nichols provided an overview of the proposed deferral process noting staff was still working on details. He explained a deferral is a temporary delay in meeting a city standard. The intent was to be fair to development customers, by being predictable, consistent and providing reasonable assurance to the City that the work will be completed.

He explained the proposed details of the program including triggering requirements, cash deposits, and that all deferral would be registered with the County Clerk to ensure the property was registered. He explained how deposits could be refunded if work had not been completed in 5, 10, 15 or 20 years.

Following discussion, it was noted that the next steps would be to get feedback from the development community on the rebate process and clear plans with Legal, Finance, and other necessary staff members. The final product would be brought back before City Council for approval.

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.

City Manager Sharp reported that this is an issue on the Council agenda. There is a residential housing development where the developer is proposing to divert run-off onto Beal Park and in exchange will create park improvements.

Community Services Director Jauz and Parks & Recreation Manager Michelle James reported on their meeting with the developer explaining that they would like to divert their run-off from the development into an undeveloped portion of Beal Park. They also explained what improvements would be done in exchange noting how those changes were consistent with the Parks Master Plan.

City Attorney Stretcher noted the Council will need to make certain findings at the end of the public hearing and that the City is neutral and would listen to all of the pros and cons of the project before making a determination.

3. Receive an update from Alonda Massey of EZ-Rider regarding the status of their projects and operations.

Alonda Massey reviewed the EZ-Rider ridership report, gave an update on the route study, explained the green initiatives planned for the new building, provided an update on their budget process, and explained how in-kind services helped their organization.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:01 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:09 a.m., May 08, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (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: Council Member Scott Dufford (At-Large).

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

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

OPENING ITEMS

1. Invocation – Council Member Jerry Morales.
2. Pledge of Allegiance

PRESENTATIONS

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

No presentations were made.

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.

Donald DeVoru, 700 W. Scharbauer, requested a new van for the Senior Center. He noted they have funds to buy a new van but there is confusion as to who would own it and asked for assistance.

Rosa Arizpe, 2102 S. Terrell Street, asked for assistance in surveying the land behind her property noting she could not sell the land without it being surveyed. She noted she had a home demolished but did not do it in time and owed \$7,000 and asked for assistance. She also spoke about a mobile home they bought and moved onto their property and are now being told to move it off the land. She asked that the mobile home be allowed to stay.

Shorty Shaw, 3201 Todd Road, spoke about a project in their area where they are selling water to the oil companies and complained about the water trucks going up and down their residential neighborhood roads. He asked Council to stop this from happening.

Joel Rodgers, 2200, N. "H" Street, spoke about an article he read in the paper regarding Planning & Zoning Commission. He noted that when people make comments that they are in favor of more housing he finds those comments offensive. He suggested that the apartments be two stories instead of three and expressed concern for increased traffic. He felt the growth of the town was out of control and asked the Council to practice moderation.

CONSENT AGENDA

Council Member Hailey moved to approve Consent Agenda items 5 - 13 excluding 8; 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.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of April 24, 2012
6. Approved a resolution approving the purchase of a water tank, pump and installation on an existing 1987 Caterpillar 615 Auger Scraper for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 130

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

7. Approved a resolution approving a master agreement for an estimated annual supply of Emulsified Asphalt for the Transportation Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 131

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

9. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for engineering firms to provide professional services (engineering and surveying) for the construction of a water main to provide fire protection and domestic service to the current property owners along the west side of FM 1788 south of SH 191. (Engineering)

RESOLUTION NO. 2012 - 133

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 FARMTO-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

10. Approved a resolution awarding the MBR Satellite Reclaimed Water Production Facility Project to Red River Construction Company and appropriating funds. (Utilities)

RESOLUTION NO. 2012 - 134

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

11. Approved a resolution approving the amended Bylaws of the Midland Development Corporation. (City Attorney)

RESOLUTION NO. 2012 - 135

RESOLUTION APPROVING THE AMENDED BYLAWS OF THE MIDLAND DEVELOPMENT CORPORATION

12. Approved a resolution approving an economic development agreement between the Midland Development Corporation and the City of Midland for the extension of a water line along Midkiff Road, south of Business Interstate 20, as authorized by Chapter 501 of the Texas Local Government Code; and appropriating funds therefor. (City Attorney)

RESOLUTION NO. 2012 - 136

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

13. Approved a resolution regarding the City's Water Purification Plant Improvements Project with Cajun Constructors. (City Attorney)

RESOLUTION NO. 2012 - 137

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

The following item was pulled from consent calendar and considered individually.

8. Consider a resolution authorizing the execution of a Professional Service Agreement with Parkhill Smith & Cooper for surveying, design, right-of-way acquisition and construction administration services in connection with construction of wastewater collection system along the SH 191 corridor. (Engineering)

RESOLUTION NO. 2012 - 132

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

Discussion ensued about water service in the area.

Council Member Hailey moved to approve Resolution No. 2012 - 132; 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.

SECOND READINGS

14. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9005 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

15. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9008 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

16. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9009 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

17. Consider an ordinance on second reading 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

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9010 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

18. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Morales moved to approve the second and final reading of Ordinance

No. 9011 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

19. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9012 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

20. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9013 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

21. Consider an ordinance on second reading 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.) (Development Services)

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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9014 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

22. 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. (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 Reyes read the caption of Ordinance No. 9015.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9015 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.

PUBLIC HEARINGS

23. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on 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 - District 2) (Development Services)

ORDINANCE NO. 9016

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

Planning Division Manager Walker gave an overview of the item noting the applicant is taking two different plats with different zoning and combining for the development of another apartment complex. Staff had concern for traffic and would require a traffic study. He noted the City Code allows a maximum density of 16 units per acre but explained that exceptions have been made going up to 21 units per acre. Staff and Planning & Zoning Commission support the item.

Discussion ensued about the density.

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

Max Richardson, 110 W. Louisiana, reported he is working with Endeavor to move the well and would have to have concurrence with the landowner. He noted the maximum units would be 300 but if the well was not moved it would create a property that was undevelopable.

Discussion ensued about the process of filing for a permit with the Railroad Commission and that this well had not applied for a permit with the City of Midland. If this plat was filed and approved prior to the oil and gas permit, it would control the variance for the oil and gas well.

Janice Havens, 38 Sunnygrove, Odessa, with Havens Group Real Estate reported they had lost a number of deals because buyers felt there were too many issues to deal with because the permit had been filed with the Railroad Commission. She noted a developer would not begin architectural drawings knowing there potentially would be an oil and gas well. Their goal was to do a letter agreement with Endeavor, the seller, the buyer, and the owner of the house where the well site would be moved to. She noted that there are not enough tracts to do multi-family housing and expressed concern for the need for more housing.

Joel Rodgers noted that although there was a housing shortage now it was due to an imbalance and later there would be a housing glut if too many houses were built. He spoke in favor of balance.

There being no one else wishing to speak, the public hearing was closed at 11:04 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9016.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9016 in accordance with the Charter of the City of Midland with the amendment to change the density from 24 to 21; seconded by Council Member James.

Council Member Morales moved to amend the motion by requiring a traffic study be done prior to any building permit issuance. Due to the lack of a second, the motion died.

Discussion ensued about a traffic study.

Council Member Morales moved to amend the motion by requiring the traffic study prior to the approval of the site plan; seconded by Council Member James. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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

24. At approximately 10:33 hold a public hearing 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. (Development Services)

ORDINANCE NO. 9017

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

Planning Division Manager Walker gave an overview of the item noting the request was to bring a group of retail development with the potential future expansion of two restaurants. He reported no letters of objection had been received.

Mayor Perry opened the public hearing at 11:26 a.m.

Ron Childress, Ransom Canyon, reported he was from Graco Real Estate. He noted they previously developed the Talbots and Chico's in Midland in the late 1990's and that the majority of their business was to develop shopping centers.

Discussion ensued about traffic flow and parking if the two restaurants were to be built.

There being no one else wishing to speak, the public hearing was closed at 11:31 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9017.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9017 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

25. At approximately 10:36 a.m. hold a public hearing 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 on Lot 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas. (Generally located on the south side of East Loop 250 North, between Cynthia Drive and Kniffen Avenue.) (Development Services)

ORDINANCE NO. 9018

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

Planning Division Manager Walker gave an overview of the item noting it was a proposal for storage units with a single entrance off of Cynthia Drive.

Mayor Perry opened the public hearing at 11:39 a.m.

Milton Lary, 6807 Executive Court, reported he is the owner of the property and that he desires to build a storage building on the property explaining he would keep it as attractive as possible. He also explained that this use would have the least impact on the surrounding residential neighborhood.

There being no one else wishing to speak, the public hearing was closed at 11:42 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9018.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9018 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.

26. At approximately 10:39 a.m. hold a public hearing 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 (Generally located near the southwest corner of the intersection of West Wadley Avenue and North "A" Street). (Development Services)

ORDINANCE NO. 9019

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 AVEUNE AND NORTH "A" STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$17,400.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker gave an overview of the item noting COM Aquatics would like to build another pool in what is currently used as a parking area. The applicant was intending to replat and vacate a portion of the alley. Any utilities located in the alley would need to be relocated at the applicant's expense. He reported the applicant was seeking a determination if there was interest in vacating that portion of the alley and that it would not come back for second reading until the details had been worked out. He reported no letters of objection had been received.

Mayor Perry opened the public hearing at 11:45 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9019.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9019 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

27. At approximately 10:42 a.m. hold a public hearing and consider a resolution on a request by Lone Star Sanctuary for Animals 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. (Generally located on the southeast corner of the intersection of North Fairgrounds Road and East Loop 250 North). (Development Services)

RESOLUTION NO. 2012 - 138

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

Planning Division Manager Walker gave an overview of the item noting the current animal sanctuary had outgrown their facilities and was addressing their long-term needs. They were requesting permission to locate a manufactured home on site to house a vet they brought in from out of state to care for the animals. He noted the home

is 501 feet from a proposed well site and that the property was served by a private water well and septic system.

Mayor Perry opened the public hearing at 11:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member James moved to adopt Resolution No. 2012 - 138; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

28. At approximately 10:45 hold a public hearing and consider an ordinance on a request by CY Houston Management Company for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption in a bar, on Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas. (Generally located on the northwest corner of Illinois Avenue and Andrews Highway.) (Development Services)

ORDINANCE NO. 9020

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

Planning Division Manager Walker gave an overview of the item noting it was the future site of the Hilton Garden Inn. He explained the request was to consider on-premises sale of alcoholic beverages. He noted no letters of objection had been received.

Mayor Perry opened the public hearing at 11:52 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9020.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9020 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

29. At approximately 10:48 a.m. hold a public hearing and consider an ordinance on a request by CVS Pharmacy for approval of a Municipal Setting Designation on Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas. (Generally located on the northeast corner of Illinois Avenue and Andrews Highway). (Engineering)

ORDINANCE NO. 9021

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

City Engineer David Beard gave an overview of the item noting staff provided a briefing on this item at the last Council meeting. He reported he received one letter back from the owner who was not opposed.

Mayor Perry opened the public hearing at 11:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9021.

Council Member James moved approval of the first of two readings of Ordinance No. 9021 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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

It was noted that the public hearing would be held at 7:00 p.m.

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 $\frac{3}{4}$ mile north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Ron Jenkins gave an overview of the item noting the tank battery was being moved further to the east and further from residences. He noted the frac pit was also being moved and that the battery and pit served all six wells on this agenda.

Council Member Sparks moved to approve 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 $\frac{3}{4}$ mile north of Briarwood Avenue); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member James moved to approve 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); 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.

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)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

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

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)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

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

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)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

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

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)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member Hailey moved to approve 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); 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.

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)

Planning Division Manager Walker gave an overview of the item noting that staff was asking for Council to make a determination that a hotel can be built even though the Ordinance calls for an office building.

City Attorney Stretcher reported that this case was approved by a Planned District explaining that although the Ordinance says office building it was really meant to be broader to include a hotel. He noted the site plan showed a motel. The Council had a

choice, they could tell the developer to go back through the whole process or they could make a ruling that said it was meant to include a hotel. He noted staff recommended that Council approve the item and allow the developer to move forward with building a hotel.

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

39. Consider making appointments to various Boards and Commissions.

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

EXECUTIVE SESSION

40. 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, 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.

Mayor Perry recessed the meeting to executive session at 12:23 p.m. The Council met in executive session until 1:20 p.m.

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.

Discussion ensued regarding the details of the agreement.

RECESS

Mayor Perry recessed the meeting at 2:10 p.m.

Mayor Perry reconvened the meeting at 7:00 p.m. in the Council Chamber with the following Council Members present: Hailey, Perry, James, Sparks.

CDBG PUBLIC HEARING

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

Community Development Manager Sylvester Cantu gave an overview of the item noting that the purpose for the public hearing was to allow for public input and to consider proposals for the coming year. He reviewed the list of proposals received and noted that the second public hearing would be held on June 12, 2012, and that final approval was scheduled for July 24, 2012.

Brief discussion ensued about the maximum cap on public services.

Mayor Perry opened the public hearing at 7:15 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

All of the business at hand having been completed, the meeting adjourned at 7:16 p.m.

PASSED AND APPROVED the 22nd day of May, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Regina Stephenson, Purchasing Manager

SUBJECT: Consider a resolution approving a master agreement for Flexible Base "City Base" Caliche - Bid 4843-12

Purpose:

Approval of a resolution authorizing the purchase of an annual master agreement for the purchase of Flexible Base "City Base" Caliche

Recommended City Council Action

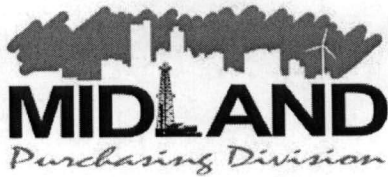
☐ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

\$63,750.00 General Fund

Discussion:

The material is used to maintain the City's streets, alleys, drainage channels and for trench backfill. Two bids were received for 5,000 tons of Flexible Base "City Base" caliche. We recommend awarding the master agreement to the low bidder Jones Brothers Partnership of Odessa, Texas for \$12.75 per ton for an estimated annual cost of \$63,750.



Master Agreement

4843-12

For

Flexible Base "City Base" Caliche

THIS AGREEMENT, made this 23rd day of May, 2012, by and between the City of Midland, Texas, a home rule municipal corporation, hereinafter referred to as "City", and Jones Brothers Partnership, hereinafter referred to as "Company".

1. Company agrees to sell Flexible Base "City Base" Caliche listed in Exhibit A, 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: \$63,750.00

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

2. Said Flexible Base "City Base" Caliche are 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 Flexible Base "City Base" Caliche shall be delivered to the City's 2100 N. Fairgrounds Rd., 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 23, 2012, and terminating on May 22, 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.

Jones Brothers Partnership

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. 4843-12

THE STATE OF TEXAS §

§

COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, an officer of Jones Brothers Partnership, 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



CITY OF MIDLAND
PURCHASING DIVISION
BID REQUEST

DATE: 04-16-12

PAGE: 01

(THIS IS NOT AN ORDER)

BID NO: 4843-12

OPENING TIME: 11:00 AM

OPENING DATE: 05-02-12

CITY OF MIDLAND
 300 NORTH LORAIN
 P. O. BOX 1152
 MIDLAND, TX 79702

BIDS WILL BE RECEIVED IN THE OFFICE OF THE City Secretary, Suite 330
 UNTIL 11:00 A.M. 05-02-12 FOR GOODS AND SERVICES DESCRIBED BELOW WHICH WILL BE DELIVERED TO:

Transportation, 2100 N. Fairgrounds Rd, Midland, Texas

ITEM NO.	QTY	UNIT	DESCRIPTION	UNIT PRICE	AMOUNT
001			Annual master agreement for approximately 5,000 tons of Flexible Base "City Base" Caliche in accordance with the attached Detail Sheet and Master Agreement.	\$12.75	
				TOTAL	\$63,750. ⁰⁰

NOTICE TO BIDDERS:

- FAILURE TO RESPOND WITH EITHER A BID OR "NO BID" WILL SUBJECT YOUR FIRM TO REMOVAL FROM THE BID LIST FOR THIS TYPE OF MATERIAL, EQUIPMENT OR SUPPLY ITEM.
- BIDS SHALL BE DELIVERED TO THE CITY IN A SEALED PACKAGE (ENVELOPE, ETC) UNLESS THE CITY STATES IN THE DESCRIPTION THAT THE BID MAY BE FAXED OR E-MAILED, OTHERWISE, BIDS FAXED OR E-MAILED DIRECTLY TO THE CITY WILL BE REJECTED. A SEALED BID MAY BE FAXED TO A THIRD PARTY FOR SEALED DELIVERY TO THE CITY. PLEASE CALL FOR MORE INFORMATION.
- IF THIS PURCHASE REQUIRES A CONTRACT, THE ATTACHED CONTRACT AND INSURANCE REQUIREMENTS ARE **NON-NEGOTIABLE**. MODIFICATIONS BY BIDDER/CONTRACTOR OF ANY MATERIAL TERM(S) TO THE CONTRACT DOCUMENTS WILL BE DEEMED A NON-RESPONSIVE BID. NON-RESPONSIVE BIDS WILL BE REJECTED. BIDDER/CONTRACTOR MUST BE WILLING TO SIGN THE CONTRACT AS IS AND WITHOUT MODIFICATIONS, PROVIDE PROPERLY EXECUTED BONDS (IF APPLICABLE) AND PROVIDE INSURANCE SPECIFICALLY AS REQUIRED WITHIN THE CONTRACT DOCUMENTS **WITHIN 21 DAYS** OF THE DATE OF THE TRANSMITTAL LETTER.
- IF THE SELECTED BIDDER/CONTRACTOR CANNOT MEET THE REQUIREMENTS OF PARAGRAPH 3, THEN THE CITY RESERVES THE RIGHT TO AWARD THIS PURCHASE TO ANOTHER BIDDER.
- IMPORTANT NOTICE** - IF THE CONTRACT DOCUMENTS REQUIRE WORKER'S COMPENSATION INSURANCE, BIDDER/CONTRACTOR MUST CARRY WORKER'S COMPENSATION INSURANCE TO BE ELIGIBLE FOR THIS CONTRACT. IF YOU CANNOT PROVIDE WORKER'S COMPENSATION INSURANCE AS REQUIRED BY STATE OF TEXAS STATUTE WE RESPECTFULLY REQUEST THAT YOU "NO BID" THIS WORK.

FOR ADDITIONAL INFORMATION, CONTACT (432) 685-7234 OR 685-7233. FAX NO. (432) 685-0523

NOTE: EACH BIDDER IS TO INDICATE BRAND NAME PRODUCT NUMBER AND ATTACH DESCRIPTIVE LITERATURE CLEARLY MARKED TO SHOW EACH ITEM ON THIS BID.
 THE UNDERSIGNED HEREBY OFFERS TO FURNISH AND DELIVER THE ARTICLES OR SERVICE AS SPECIFIED ABOVE AT THE PRICES AND TERMS HEREIN STATED AND IN STRICT ACCORDANCE WITH THE SPECIFICATIONS AND CONDITIONS OF BIDDING ALL WHICH ARE MADE A PART OF THIS OFFER. THIS OFFER IS NOT SUBJECT TO WITHDRAWAL WITHOUT PERMISSION.

COMPANY NAME: <u>JONES Bros. Dirt & Paving</u> ADDRESS <u>1401 S. GRANDVIEW</u> CITY <u>ODESSA</u> ST <u>TX</u> ZIP <u>79761</u> PHONE NO. <u>631-1670</u> FAX NO. <u>432-832-0724</u> EMAIL: <u>r.neely@jonesdp.com</u>	CASH DISCOUNT: <u>0</u> % <u>0</u> DAYS DELIVERY CAN BE MADE _____ AUTHORIZED SIGNATURE <u>[Signature]</u>
--	--

PLEASE READ CONDITIONS FOR BIDDING ON BACK BEFORE SUBMITTING

Exhibit "A"



THE CITY OF MIDLAND
DETAIL SHEET
FOR
Flexible Base "City Base" Caliche

ITEM	DESCRIPTION	QTY	COST EA.	TOTAL
1	Flexible Base "City Base" Caliche, Grade 2, in accordance with Item 247 "flexible base" of the TXDOT standard specifications for the construction of highways, streets and bridges.	5000 Tons	\$ <u>6.75</u>	\$ <u>33,750.00</u>
2	Freight	5000 Tons	\$ <u>6.00</u>	\$ <u>30,000.00</u>

TOTAL BID: \$ 63,750.00

VENDOR CONTACT:

All potential vendors shall direct ALL questions, areas for bid clarification and specification verification to the Purchasing Agent IN WRITING, via mail or fax as follows:

The City Of Midland
Office of the Purchasing Agent
P.O. Box 1152
Midland, TX 79702

OR

FAX: (432) 685-0523
E-mail: purchasing@midlandtexas.gov

All vendors on the bid list will then be notified of the questions and presented an answer. Verbal responses shall not be considered binding.

Award:

If the Contract is awarded, it will be awarded to either the lowest responsible bidder, or to the bidder who provides goods or services at the best value for the City of Midland. In determining the best value for the City of Midland, the City of Midland may consider the criteria enumerated in Section 252.043 of the Texas Local Government Code.

BID WAIVERS:

A. WAIVER OF ATTORNEY FEES: BY SUBMITTING THIS BID, BIDDER 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 BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS BID, THE CONSTRUCTION, VALIDITY OR INTERPRETATION OF THE BID DOCUMENTS, OR THE CONSTRUCTION, VALIDITY, INTERPRETATION, AWARD, OR BREACH OF THE CONTRACT, 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 BIDDER AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE RECOVERY OF ATTORNEY'S FEES TO WHICH BIDDER MIGHT OTHERWISE BE ENTITLED.

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

THE BIDDER AND CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THESE BID DOCUMENTS, INCLUDING THE CONTRACT, WITH COMPETENT LEGAL COUNSEL PRIOR TO SUBMISSION OF THE BID OR EXECUTION OF THE CONTRACT.

B. BIDDER'S WAIVER:

BY SUBMITTING A BID, THE BIDDER AGREES TO WAIVE AND DOES HEREBY VOLUNTARILY AND INTENTIONALLY WAIVE, ABANDON AND RELINQUISH ANY CLAIM THE BIDDER HAS OR MAY HAVE IN THE FUTURE AGAINST THE CITY OF MIDLAND, TEXAS, AND 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 BID;
2. WAIVER OR DELETION OF ANY OF THE REQUIREMENTS UNDER THE BID DOCUMENTS OR THE CONTRACT DOCUMENTS;
3. ACCEPTANCE OR REJECTION OF ANY BIDS; OR
4. AWARD OF THE CONTRACT.

BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES THAT THE BIDDER UNDERSTANDS ALL OF THE TERMS OF THE BIDDING DOCUMENTS AND CONSENTS TO THE BIDDING PROCESS AND THE POSSIBILITY OF A NEGATIVE ASSESSMENT. BY SUBMITTING A BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THERE WAS AND IS NO DISPARITY OF BARGAINING POWER BETWEEN THE BIDDER AND THE CITY OF MIDLAND, TEXAS. THE BIDDER AGREES THAT THIS IS THE INTENTIONAL RELINQUISHMENT OF A PRESENTLY EXISTING KNOWN RIGHT. BY SIGNING THE REQUEST FOR BID AND/OR BELOW, YOUR COMPANY AGREES TO THE ABOVE WAIVER(S).

C. 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 Contract, Contractor or his legal representative, shall give the City Manager, or any other reasonable official of the Owner, notice in writing (consisting of one original and seven copies of notice attached to a copy of this Contract) 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 Contractor will settle, the physical and mailing addresses of Contractor at the time and date the claim was presented and the physical and mailing addresses of Contractor for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Contractor 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 Owner from any liability whatsoever. The Owner is under no obligation to provide notice to Contractor that Contractor's notice is insufficient. Owner 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, Contractor's failure to comply with the requirements herein shall perpetually bar Contractor's claim for damages under Chapter 271 of the Texas Local Government Code, and Section 311.034 of the Texas Government Code, regardless if Owner has actual or constructive notice or knowledge of said claim or alleged damages. Contractor agrees that the requirements of this entire Contract are reasonable.

The bidder agrees that this is the intentional relinquishment of the above listed rights.

By Signing below, your company agrees to the above waiver(s). If this form is not signed and included with your bid documents your bid will be considered non-responsive and will be rejected.

JONES BROS. DIRT & PAVING
Company Name
Rick Neely
Authorized Signature
RICK NEELY
Print Above Name

4-26-12
Date
(432) 631-1670
Phone
(432) 332-0724
Fax

RESOLUTION NO.

RESOLUTION APPROVING THE PURCHASE OF FIVE THOUSAND (5,000) TONS OF FLEXIBLE BASE CALICHE FROM JONES BROTHERS PARTNERSHIP, OF ODESSA, TEXAS, FOR A TOTAL COST OF \$63,750.00

WHEREAS, the City Manager approved the specifications and authorized the advertisement for bids for Five Thousand (5,000) tons of flexible base caliche; and

WHEREAS, Bid No. 4843-12 was opened on May 2, 2012, with the lowest and most responsible bid being submitted by Jones Brothers Partnership of Odessa, Texas, at a total price of \$63,750.00, as shown on the bid tabulation attached hereto as Exhibit "A" and incorporated herein for all legal purposes; and

WHEREAS, the Council finds the price proposed by Jones Brothers Partnership of Odessa, Texas, to be fair and reasonable; and

WHEREAS, the City Council finds it to be in the public interest to authorize the purchase of Five Thousand (5,000) tons of flexible base caliche from Jones Brothers Partnership of Odessa, Texas;

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 Five Thousand (5,000) tons of flexible base caliche from Jones Brothers Partnership of Odessa, Texas, for a total cost of \$63,750.00.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay for said flexible base caliche out of funds available in the Fiscal Year 2011 – 2012 General Fund (001) Engineering Services (080) Transportation (0085) budget account upon receipt of proper invoice or statement therefor 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 # 4843-12			Master Agreement for Caliche		CSA Materials		Jones Bros. Dirt & Paving	
OPENED May 2, 2012					PO Box 60693		1401 S Grandview	
Est. Cost: \$63,750.00					San Angelo, TX 76906		Odessa, TX 79761	
					John Campbell		Rick Neely	
					(325) 655-4511		(432) 631-1670	
ITEM	QTY	DESCRIPTION	COST EA.	TOTAL	COST EA.	TOTAL		
1	5000	Tons - Flexible Base "City Base" Caliche, Grade 2	\$8.75	\$43,750.00	\$6.75	\$33,750.00		
2	5000	Tons - Freight	\$4.45	\$22,250.00	\$6.00	\$30,000.00		
TOTALS:				\$66,000.00		\$63,750.00		

<u>Bidding Summary:</u> <u>6</u> Bid requests were issued. <u>2</u> Bids listed above <u>0</u> NO BIDS were received. <u>4</u> Bidders did not respond. Reece Albert, Price Construction, Cappital Aggregate, Don Wise Sand & Gravel
--



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Marv Esterly, Director of Airports

SUBJECT: Consider a resolution authorizing the execution of Amendment #1 to Parkhill, Smith & Cooper's Professional Services Agreement

Purpose:

Consider a resolution authorizing the execution of Amendment #1 to Parkhill, Smith & Cooper's Professional Services Agreement to include: Executive Apron Reconstruction Area B, Northwest Taxiway Extension Project Phase I, Perimeter Emergency Roadway and Gates Rehabilitation, Access Control System Software and Cable Upgrade, Airpark T-Hangar Design and Replat and Rezone Property at Midland International Airport, and appropriate necessary funds.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

TOTAL	-	\$ 278,200.00
FAA	-	\$ 173,700.00
TxDOT	-	\$ 6,750.00
Airport	-	\$ 97,750.00

Appropriation Language

Emergency Roadway and Gates Rehabilitation (7083)

That the sum of \$31,500.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Emergency Roadway and Gates Rehabilitation (7082).

That the sum of \$3,500.00 is hereby appropriated from the Airport Passenger Facility Charge (PFC)

Fund (501) Unappropriated Fund Balance (5650) to the Emergency Roadway and Gates Rehabilitation (7082).

Northwest Taxilane Extension – Phase 2 (7083)

That the sum of \$167,700.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Northwest Taxilane Extension – Phase 2 (7083).

Executive Apron Reconstruction – Area B (7081)

That the sum of \$16,200.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Executive Apron Reconstruction – Area B (7081)

That the sum of \$1,800.00 is hereby appropriated from the Airport Passenger Facility Charge (PFC) Fund (501) Unappropriated Fund Balance (5650) to the Executive Apron Reconstruction – Area B (7081)

Access Control System and Cable Upgrade (7084)

That the sum of \$30,000.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Access Control System and Cable Upgrade (7084).

Airpark Hangar Expansion (7085)

That the sum of \$7,500.00 is hereby appropriated from the Airport Restricted Assets Fund (509) Unappropriated Fund Balance (5650) to the Airpark Hangar Expansion (7085).

Replat and Rezone Property At Midland International Airport (8994)

That the sum of \$20,000.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Replat and Rezone Property at Midland International Airport (8994)

Discussion:

The City of Midland, Texas and Parkhill, Smith and Cooper entered into an Agreement for Professional Services in February 2011, for improvements contained in the Airport Capital Improvement Program. This is Amendment #1 to said Agreement to include the following projects: 1. Executive Apron Reconstruction - Area B; 2. Northwest Taxiway Extension - Phase 2; 3. Emergency Roadway and Gates Rehabilitation; 4. Access Control System and Cable Upgrade; 5. Airpark Hangar Expansion; and 6. Replat and Rezone Property at Midland International Airport. Work on these projects will start immediately.

In order to have Projects #1-5 constructed in 2013, it will be necessary for the Department of Airports to design these projects in 2012. In doing so, the Department of Airports must upfront the FAA/TxDOT portion of the Design Phase of these projects and be reimbursed out of 2013 FAA/TxDOT entitlement funds. Failure to do so will push the Construction Phase of these projects to the Spring of 2014.

Project #6 needs to be completed to accommodate requests by two developers to purchase property in the Airport Industrial Park for the construction of a hotel. The Department of Airports feels that having a new modern hotel close to the Airport will be a great asset to passengers and a good use for the property in question. An appraisal has been completed on the property recently placing the FMV at \$435,000, and pending the approval of the replat and zone change, the property will be placed on the market for bids.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR IMPROVEMENTS CONTAINED IN THE AIRPORT CAPITAL IMPROVEMENT PROGRAM; SAID AMENDMENT TO INCLUDE THE FOLLOWING PROJECTS: EXECUTIVE APRON RECONSTRUCTION AREA B, NORTHWEST TAXILANE EXTENSION PROJECT PHASE 2, EMERGENCY ROADWAY AND GATES REHABILITATION, ACCESS CONTROL SYSTEM SOFTWARE AND CABLE UPGRADE, AIRPARK HANGAR EXPANSION, REPLAT AND REZONE PROPERTY AT MIDLAND INTERNATIONAL AIRPORT; THE CITY WILL UP-FRONT THE FEDERAL AVIATION ADMINISTRATION AND TEXAS DEPARTMENT OF TRANSPORTATION PORTION OF THE DESIGN PHASE OF THESE PROJECTS AND BE REIMBURSED OUT OF THE 2013 FEDERAL AVIATION ADMINISTRATION AND TEXAS DEPARTMENT OF TRANSPORTATION ENTITLEMENT FUNDS; THE CITY SHARE FOR THE PROJECT IS \$97,750.00, THE FEDERAL AVIATION ADMINISTRATION SHARE IS \$173,700.00, AND THE TEXAS DEPARTMENT OF TRANSPORTATION SHARE IS \$6,750.00; AND APPROPRIATING NECESSARY FUNDS

WHEREAS, the City of Midland and Parkhill, Smith & Cooper, Inc., previously entered into an agreement relating to professional services for improvements contained in the Airport Capital Improvement Program at the Midland International Airport; and

WHEREAS, the Department of Airports recommends that certain improvements be made at the Midland International Airport; and

WHEREAS, the City will up-front the Federal Aviation Administration/Texas Department of Transportation (FAA/TxDot) portion of the Design Phase of these projects and be reimbursed from the 2013 FAA/TxDot entitlement funds in order to prevent the delay of the Construction Phase of these projects until the spring of 2014; and

WHEREAS, the City Council finds it to be in the public interest to make certain amendments to said agreement;

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

SECTION ONE. That the Mayor and the City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, an amendment to the professional services agreement with Parkhill, Smith & Cooper, Inc. for the Airport Capital Improvement Program. Said amendment to be on file in the City Secretary's office referenced by the date and number of this resolution.

SECTION TWO. That the sum of \$31,500.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Emergency Roadway and Gates Rehabilitation (7082).

That the sum of \$3,500.00 is hereby appropriated from the Airport Passenger Facility Charge (PFC) Fund (501) Unappropriated Fund Balance (5650) to the Emergency Roadway and Gates Rehabilitation (7082).

SECTION THREE. That the sum of \$167,700.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Northwest Taxilane Extension - Phase 2 (7083).

SECTION FOUR. That the sum of \$16,200.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Executive Apron Reconstruction - Area B (7081).

That the sum of \$1,800.00 is hereby appropriated from the Airport Passenger Facility Charge (PFC) Fund (501) Unappropriated Fund Balance (5650) to the Executive Apron Reconstruction - Area B (7081).

SECTION FIVE. That the sum of \$30,000.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Access Control System and Cable Upgrade (7084).

SECTION SIX. That the sum of \$7,500.00 is hereby appropriated from the Airport Restricted Assets Fund (509) Unappropriated Fund Balance (5650) to the Airpark Hangar Expansion (7085).

SECTION SEVEN. That the sum of \$20,000.00 is hereby appropriated from the Airport Operating Fund (500) Unappropriated Fund Balance (5650) to the Replat and Rezone Property at Midland International Airport (8994).

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

AMENDMENT NO. 1
TO
AGREEMENT
CITY OF MIDLAND, TEXAS
AND
PARKHILL, SMITH & COOPER, INC.
FOR
PROFESSIONAL SERVICES

WHEREAS, the City of Midland, Texas and Parkhill, Smith & Cooper, Inc. have entered into an Agreement for professional services dated February 8, 2011, for improvements contained in the Airport Capital Improvement Program;

AND WHEREAS, the City of Midland, Texas desires to perform the improvements listed in the Recitals of the Agreement as Item 3 Emergency Roadway and Gates Rehabilitation, Item 4 Northwest Taxilane Extension – Phase 2, Item 15 Executive Apron Reconstruction – Area B, Item 16 Access Control System and Cable Upgrade, Item 17 Airpark Hangar Expansion and Item 18 Replat and Rezone Property at Midland International Airport:

THIS AGREEMENT WITNESSETH:

- A. The Recitals of the Agreement shall be amended to include the following Items as follows:
- 15. Executive Apron Reconstruction – Area B
 - 16. Access Control System and Cable Upgrade
 - 17. Airpark Hangar Expansion
 - 18. Replat and Rezone Property at Midland International Airport
- B. Exhibit B, Article 4 - PAYMENTS TO THE ARCHITECT/ENGINEER, the following shall be added to paragraph 4.01a.A.:

“Item 3 Emergency Roadway and Gates Rehabilitation

1b. A Lump Sum amount of \$ 43,000 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>1,500</u>
b.	Preliminary Design Phase	\$ <u>14,000</u>
c.	Final Design Phase	\$ <u>9,500</u>
d.	Bidding Phase	\$ <u>3,000</u>
e.	Construction Phase	\$ <u>15,000</u>

Item 4 Northwest Taxilane Extension – Phase 2

1 c. FAA Eligible

A Lump Sum amount of \$135,000 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>10,500</u>
b.	Preliminary Design Phase	\$ <u>38,500</u>
c.	Final Design Phase	\$ <u>22,300</u>
d.	Bidding Phase	\$ <u>8,700</u>
e.	Construction Phase	\$ <u>55,000</u>

FAA Non-Eligible

A Lump Sum amount of \$89,500 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>N/A</u>
b.	Preliminary Design Phase	\$ <u>N/A</u>
c.	Final Design Phase	\$ <u>47,000</u>
d.	Bidding Phase	\$ <u>5,200</u>
e.	Construction Phase	\$ <u>37,300</u>

Item 15 Executive Apron Reconstruction – Area B

1d. A Lump Sum amount of \$120,000 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>N/A</u>
b.	Preliminary Design Phase	\$ <u>N/A</u>
c.	Final Design Phase	\$ <u>15,000</u>
d.	Bidding Phase	\$ <u>3,000</u>
e.	Construction Phase	\$ <u>102,000</u>

Item 16 Access Control System and Cable Upgrade

1e. A Lump Sum amount of \$48,000 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>5,500</u>
b.	Preliminary Design Phase	\$ <u>8,500</u>
c.	Final Design Phase	\$ <u>5,500</u>
d.	Bidding Phase	\$ <u>3,500</u>
e.	Construction Phase	\$ <u>25,000</u>

Item 17 Airpark Hangar Expansion

1f. A Lump Sum amount of \$3,000 based on the following distribution of compensation:

a.	Study and Report Phase	\$ <u>3,000</u>
b.	Preliminary Design Phase	\$ <u>TBD</u>
c.	Final Design Phase	\$ <u>TBD</u>
d.	Bidding Phase	\$ <u>TBD</u>
e.	Construction Phase	\$ <u>TBD</u> ”

- C. Exhibit B, Article 4 – PAYMENTS TO THE ARCHITECT/ENGINEER, the following shall be added to paragraph 4.01b.A.2.:

“Item 18 Replat and Rezone Property at Midland International Airport

- 2a. The total compensation for Engineering/Architectural Services under Item 18 of the Recitals on Page 1 shall be compensated on the Standard Hourly Rate Method of Payment and shall not exceed \$20,000 without written authorization from Owner.”

- D. Exhibit B, Article 4 - PAYMENTS TO THE ARCHITECT/ENGINEER, the following shall be added to paragraph 4.02.C.:

	<u>“Item 3</u>	<u>Item 4a</u>	<u>Item 4b</u>	<u>Item 15</u>	<u>Item 16</u>	<u>Item 17</u>
Design Administration	\$ 2,000	\$10,000	\$ 2,000	N/A	\$ 7,000	\$1,000
Design Surveying & Testing	\$ 5,000	\$20,000	\$ 3,500	N/A	N/A	\$3,500
Construction Administration	\$ 10,000	\$10,000	\$ 2,000	\$ 20,000	\$10,000	TBD
Construction Surveying & Testing	\$ 5,000	\$80,000	\$17,000	\$100,000	N/A	TBD
Resident Project Representative	\$ 20,000	\$45,000	\$45,000	\$155,000	\$50,000	TBD”

IN WITNESS WHEREOF, the City of Midland, Texas and Parkhill, Smith & Cooper, Inc. have hereto set their hands this 22nd day of May, 2012.

OWNER:

CITY OF MIDLAND, TEXAS

By: _____
W. Wesley Perry

Title: Mayor

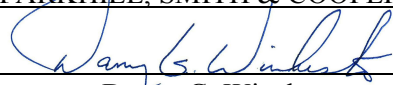
Date Signed: _____

Address for giving notices:

P.O. Box 1152
Midland, Texas 79702
Phone: (432) 685-7357

ARCHITECT/ENGINEER:

PARKHILL, SMITH & COOPER, INC.

By: 
Danny G. Winchester

Title: Firm Principal

Date Signed: 5/10/2012

Address for giving notices:

1700 W. Wall
Midland, Texas 79701
Phone: (432) 697-1447

IN DUPLICATE



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: David Beard,

SUBJECT: Consider a motion on a request by Newton Engineering for Southwest Baptist Church Addition, to approve items requested for deferral in the amount of \$32,804, and to enter into a development agreement to accept funds for the construction of a water main extension along the SH 191 frontage and to waive the associated public improvement guarantee. This property is positioned in the City Limits, generally located on the north side of SH 191 approximately 4 miles west of Loop 250. (District #4 - Trost)

Purpose:

Consider a motion on a request by Newton Engineering for Southwest Baptist Church, to approve items requested for deferral in the amount of \$32,804, and to enter into a development agreement to accept funds for the construction of a water main extension along the SH 191 frontage and to waive the associated public improvement guarantee. This property is positioned in the City Limits, generally located on the north side of SH 191 approximately 4 miles west of Loop 250. (District #4 - Trost)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Total value of deferral (recommended items) \$32,804.00

Staff will be working with council, in the near future, to develop a policy to trigger when the deferred improvements will be required to be constructed.

Discussion:

The Southwest Baptist Church Addition is located on the north side of SH 191 approximately 4 miles west of Loop 250.

Newton Engineering is proposing to plat the property and defer all public improvements and provide a cash deposit for the construction of water distribution improvements along the SH 191 frontage. Below is a summary of the deferral request along with a discussion of public improvements related to the development of land associated with this plat:

Deferral Request

1. Wastewater Collection: The applicant is requesting deferral of wastewater collection improvement.
 - The City is currently working with Parkhill, Smith, & Cooper to provide wastewater service to the SH 191 corridor. Once complete, the property owner agrees to tie into the improvements within 180 days.
2. Sidewalk: The applicant is requesting deferral of sidewalks. Sidewalk construction is typically accomplished during the building permit phase (builder constructs the sidewalk). Currently, sidewalks will not be required along the SH 191 frontage. If sidewalks are required, they will be addressed when a building permit application is submitted.
3. Paving: Access to the site is provided along the SH 191 access road. No paving improvements are required.
4. Drainage: A Drainage Study for this site has been submitted and approved by City Staff.

Staff supports this deferral request.

Public Improvements

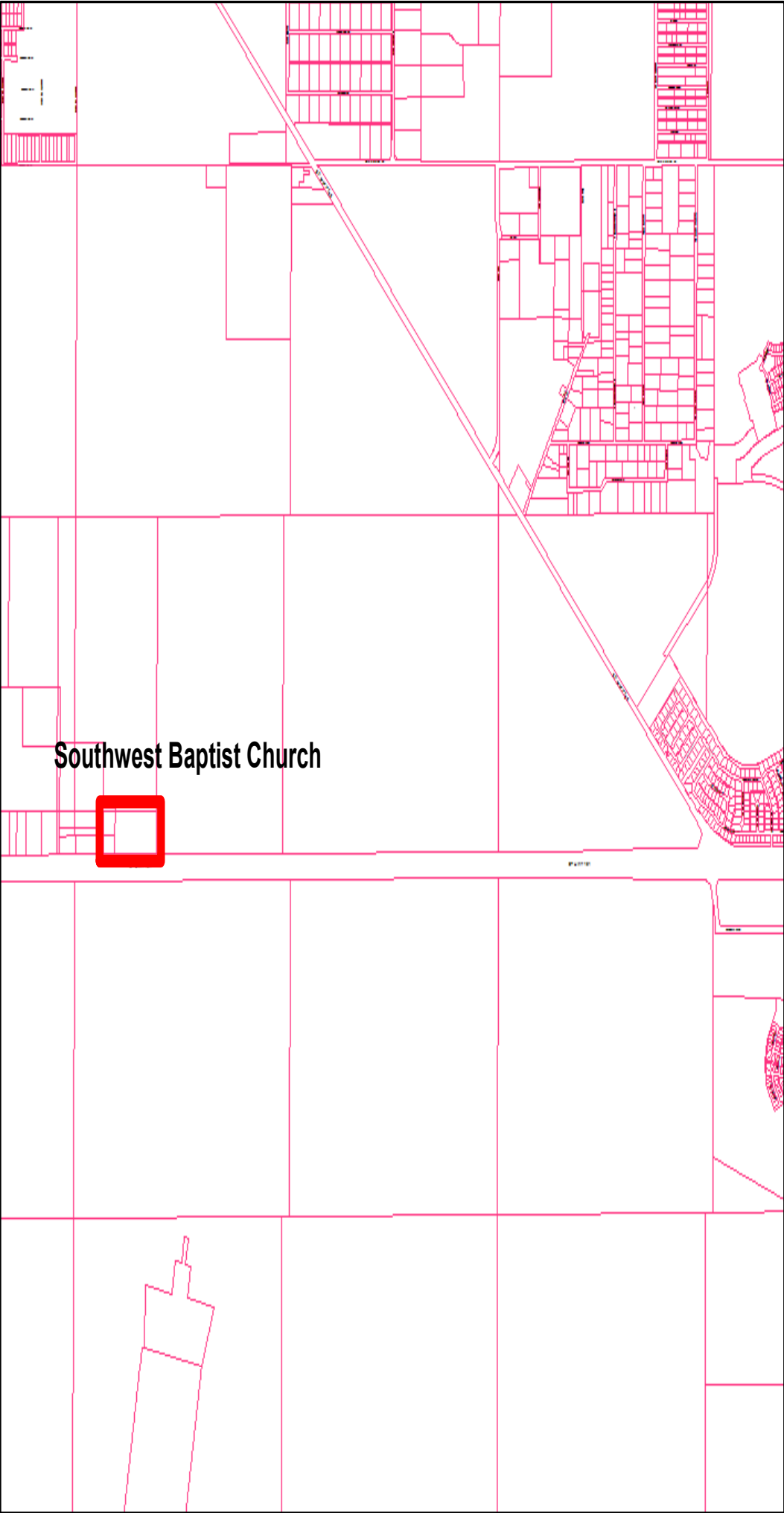
1. Water Distribution: The City is currently working with Parkhill, Smith, & Cooper to provide water distribution improvements along the SH 191 corridor. The applicant has agreed to provide a cash deposit for the improvements along the SH 191 frontage in the amount of \$32,804.

Attached is a location map, along with a deferral justification, and cost estimate from Newton Engineering.

**ENGINEERING SERVICES
DEPARTMENT**

Deferral of Public Improvements

Southwest Baptist Church





City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Price Robinson, Chief of Police

SUBJECT: **FY 2012 Justice Assistance Grant (JAG) Program**

Purpose:

Requesting approval to apply for the FY2012 Justice Assistance Grant (JAG) Program

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

City of Midland will receive \$19,145.00 to be used to purchase equipment, technology, and other material directly related to basic law enforcement. There is no cash match required.

Discussion:

The City of Midland Police Department has received notice that we, in conjunction with Midland County, are eligible for a federal grant in the amount of \$31,908.00 through the 2012 Justice Assistance Grant. The Attorney General of Texas has determined that Texas counties are responsible for more than 50% of the costs incurred for the prosecution and incarceration of Part I violent crimes. The Office of the Attorney General has certified this fact to the Bureau of Justice Assistance. The effect of the Attorney General's certification is that cities and counties will have to file a joint application with the Bureau of Justice Assistance, with the cities and counties agreeing to the funding allocations among them.

The end result is that the City of Midland will receive \$19,145.00 (60%) and Midland County will receive \$12,763.00 (40%).

GMS APPLICATION NUMBER 2012-H2430-TX-DJ

CITY SECRETARY
CONTRACT NO.

THE STATE OF TEXAS

KNOW ALL BY THESE PRESENT

COUNTY OF MIDLAND

**INTERLOCAL AGREEMENT
BETWEEN THE CITY OF MIDLAND, TEXAS AND COUNTY OF MIDLAND, TEXAS**

FY2012 JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD

This Agreement is made and entered into this 22nd day of May, 2012, by and between The COUNTY of MIDLAND, acting by and through its governing body, the Commissioners Court, hereinafter referred to as COUNTY, and the CITY of MIDLAND, acting by and through its governing body, the City Council, hereinafter referred to as CITY, both of Midland County, State of Texas, witnesseth:

WHEREAS, this Agreement is made under the authority of Chapter 791, Texas Government Code: and

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party: and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of both parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement: and

WHEREAS, the CITY agrees to provide the COUNTY \$12,763.00 from the JAG award for the Tactical Team Support and Training Program: and

WHEREAS, the CITY and COUNTY believe it to be in their best interests to reallocate the JAG funds.

NOW THEREFORE, the COUNTY and CITY agree as follows:

Section 1.

CITY agrees to pay COUNTY a total of \$12,763.00 of JAG funds.

Section 2.

COUNTY agrees to use \$12,763.00 for the Tactical Team Support and Training Program until September 30, 2014.

GMS APPLICATION NUMBER 2012-H2430-TX-DJ

Section 3.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the Texas Tort Claims Act.

Section 4.

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the Texas Tort Claims Act.

Section 5.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 6.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 7.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

CITY OF MIDLAND, TEXAS

COUNTY OF MIDLAND, TEXAS

City Manager

County Judge

ATTEST:

APPROVED AS TO FORM:

City Secretary

County Attorney

APPROVED AS TO FORM:

City Attorney

RESOLUTION NO.

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2012 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$31,908.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$19,145.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$12,763.00 (40%) OF THE GRANT FUNDS RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS

WHEREAS, the City of Midland, in conjunction with Midland County, has received notice it is eligible for a federal grant in the amount \$31,908.00 through the FY2012 Justice Assistance Grant Program, with said grant funds to be used to purchase law enforcement equipment, technology and other material directly related to basic law enforcement; and

WHEREAS, the City of Midland and Midland County are required to allocate the percentage of funds to be received by each law enforcement entity, and to file a joint application with the Bureau of Justice Assistance to receive said grant funds; and

WHEREAS, said joint application requires that the City of Midland and Midland County enter into an agreement regarding the division of said grant funds; and

WHEREAS, the \$31,908.00 in grant funds will be divided so that the City of Midland will receive \$19,145.00 (60%) and Midland County will receive \$12,763.00 (40%) respectively; and

WHEREAS, the City of Midland City Council finds it to be in the public interest to authorize the City of Midland to file a joint application with the Bureau of Justice Assistance stipulating that the City of Midland will receive \$19,145.00 (60%) and Midland County will receive \$12,763.00 (40%) of said grant funds; and

WHEREAS, the City of Midland City Council finds it to be in the public interest to authorize the execution of an agreement regarding the division of said grant funds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF MIDLAND, TEXAS:

SECTION ONE. That the Chief of Police of the City of Midland is hereby authorized to file a joint application with the Bureau of Justice Assistance stipulating that the City of Midland will receive \$19,145.00 (60%) and Midland County will receive \$12,763.00 (40%) of said grant funds, with said grant funds to be used to purchase law enforcement equipment, technology and other material directly related to basic law enforcement. Said application shall be placed on file in the City Secretary's office referenced by the number and date of this resolution.

SECTION TWO. That the City Manager is hereby authorized and directed to execute, on behalf of the City of Midland, an agreement with Midland County regarding the division of FY2012 Justice Assistance Grant funds. Said agreement shall be placed on file in the City Secretary's office referenced by the number and date of this resolution.

SECTION THREE. The agreement does not supersede, modify or amend any prior agreements. The agreement relates only to the receipt of funds through the FY2012 Justice Assistance Grant Program and no other matters.

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



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Stuart Purvis, Utilities Director

SUBJECT: Approve Change Order Number 1 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and Appropriate Funds

Purpose:

Consider a resolution approving Change Order Number 1 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and appropriate funds.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Award amount is \$503,102 from the Water and Sewer Fund.

Discussion:

On June 14, 2011, the City Council awarded the WPCP Headworks Improvements Screen Replacement Project to Red River Construction in the amount of \$5,357,080. This project includes the replacement of influent screens, digester gas piping, and rehabilitation of the number 3 digester. HDR is the design firm for this project.

This Change Order includes the following:

1. Changing the specified flow meter from a Doppler type to a dual path transit time meter. Due to existing conditions at the plant, this meter was determined to be more accurate and have a higher long-term reliability than the Doppler. Additional cost was \$8,042.15 and an additional 7 days on the contract.

2. Modifications to the coatings added to the headworks discharge flume due to discovery of differing conditions once the screens were removed. Additional cost was \$7,505.42 and an additional 83 days on the contract.
3. Change from an explosion proof control cabinet for the screenings press and conveyor to a NEMA 4X stainless steel cabinet. Credit of \$4,500.00 and no additional days on the contract.
4. Removal of an additional 149,200 gallons of sludge from the number 3 digester. Once the cover was removed from the digester, it was found to contain additional material that had to be removed before work could commence. This could not have been foreseen during the design phase of the project. Additional cost was \$12,520.72 and no additional days on the contract.
5. Additional work to the interior of digester number 3 not anticipated during the design phase of the project. Once digester number 3 was emptied, additional work was required to remove and replace corroded piping and additional coatings to seal the digester. Additional cost was \$53,688.53 and no additional days on the contract.
6. Modification to the gated entrance of the plant to provide a stable base for the long-term operation of the gate structure. Additional cost was \$7,775.51 and no additional days on the contract.
7. Modifications to the 8" flame arrestor in the digester gas flame to allow it to work with the existing back pressure valve. Additional cost was \$1,724.04 and no additional days on the contract.
8. Removal of the corroded concrete pipe support on the inlet pipe and replacement with a stainless steel pipe support. Additional cost was \$5,721.05 and no additional days on the contract.
9. Addition of a fully automatic non-potable water booster pump system for each of the four new rotating screens. Water pressures at the new screens were not as anticipated and were not adequate for the operation of the screen. This required new pumps and piping to insure proper operation. Additional cost was \$179,557.10 and no additional days on the contract.
10. Replacement of approximately 80 feet of 48" pipe that failed during construction. This pipe was not of the type generally used in non-submerged applications and corroded to the point of failure. This was identified during construction and replaced with the appropriate pipe. Additional cost was \$273,473.57 and no additional days on the contract.
11. Modification of the electrical feed to the jet mixer pump control panel to allow for dual feeds to the pumps. Additional cost was \$3,515.76 and no additional days on the contract.
12. Modification to the rehabilitation method of digester number 3 based on actual conditions found when the digester was opened. Credit of \$45,922.02 and an additional 90 days on the contract.

This results in a net increase to the contract of \$503,101.83 and a total addition of 90 days to the contract.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF
CHANGE ORDER NUMBER ONE WITH RED RIVER
CONSTRUCTION COMPANY, INCORPORATED,
ADDING \$503,102.00 FOR ADDITIONAL WORK TO
THE EXISTING CONTRACT FOR THE HEADWORKS
IMPROVEMENTS - REPLACEMENT OF INFLUENT
SCREENS PROJECT; AND APPROPRIATING
\$503,102.00; THE ORIGINAL CONTRACT WAS FOR
\$5,357,080.00; THIS CHANGE ORDER BRINGS THE
TOTAL CONTRACT PRICE TO \$5,860,182.00**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of Change Order No. 1 with Red River Construction Company, Inc., for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project, and to appropriate necessary funds;

**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, on behalf of the City of Midland, Change Order No. 1 with Red River Construction Company, Inc., for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project, said change order being on file in the office of the City Secretary and referenced by the date and number of this Resolution.

SECTION TWO. That the sum of \$503,102.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Influent Screens Replacement Project (8966).

SECTION THREE. That the City Treasurer is hereby authorized to pay red River Construction Company, Inc., according to the terms of the contract referenced herein as amended from funds appropriated herein upon the proper receipt of an invoice 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:

Stuart Purvis, Director of Utilities

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**CHANGE ORDER NO. 1 TO CONTRACT
BETWEEN THE CITY OF MIDLAND, TEXAS,
AND RED RIVER CONSTRUCTION COMPANY**

THIS CHANGE ORDER NO. 1, entered into on this 23RD day of May, 2012, by and between the City of Midland, Texas, (hereinafter "City"), a Home Rule Municipal Corporation of the State of Texas, and Red River Construction Company, (hereinafter "Contractor").

WHEREAS, the City and Contractor executed a Headworks Improvements Replacement of Influent Screens Project Contract ("Contract"), which was duly authorized by Resolution No. 2011-136 of the City Council on June 14, 2011; and

WHEREAS, the City and Contractor have agreed to a change order to said Contract;

IT IS THEREFORE AGREED that said Contract is hereby amended, effective on the date when signed by the last party, as follows:

1. **Amendment 1:** The Scope of Work of the Contract is hereby amended to include the work specified in Exhibit "A" attached hereto by reference and incorporated herein for all legal purposes.
2. **Amendment 2:** As compensation to Contractor for performing the additional work specified in Exhibit "A," the funds to be paid to Contractor pursuant to the terms of the Contract are hereby increased by \$503,101.83.
3. Except as expressly amended in this Change Order No. 1, the provisions of the previously amended Contract remain in full force and effect according to the terms thereof.

CITY:

CITY OF MIDLAND, TEXAS

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

CONTRACTOR:
RED RIVER CONSTRUCTION COMPANY

By: _____

Title: _____

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared _____, a representative of RED RIVER CONSTRUCTION COMPANY, known to me to be the person and official whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same as the act and deed of said entity, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2012.

Notary Public, State of Texas



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Receive for information and possibly discuss Second Quarter Fiscal Year 2011 - 2012 Investment Report

Purpose:

Compliance with the Public Funds Investment Act (PFIA) requires providing information on investments to governing body on a quarterly basis.

Recommended City Council Action

☐ Approve ☐ Deny ☒ Directional / Informational

Fiscal Impact:

None

Discussion:

Report indicates compliance with all PFIA requirements.

Results for second quarter FY 2012 indicate the yield on the portfolio for the first quarter was .3587% as compared to the benchmark 3 month Treasury yield of .0707% and pool yields of .1028% to .0999%. The effective interest rate on the portfolio as of March 31, 2012 was 0.2297%. Average maturity was 16.28 months at quarter end.

The negative amounts in the Portfolio Summary associated with Unrealized Gains/Losses in Portfolio and Change in Unrealized Gains/(Losses) are an indicator of lower market rates and securities with higher rates being called. No unrealized losses are anticipated to be realized during the year.

Unrealized gains in the portfolio attributable to market conditions at the end of the second quarter were \$273,695. Unrealized gains or losses do not necessarily result in cash gains or losses, but do reflect changes in the market value of securities in the portfolio.

CITY OF MIDLAND
INVESTMENT PORTFOLIO REPORT
SECOND QUARTER FY2012
AS OF 3/31/2012

This Quarterly Report is in compliance with the City of Midland Investment Policy and the Public Funds Investment Act (Chapter 2256).

The Investment Portfolio is in compliance with the City of Midland Investment Policy and applicable State Laws.

Robert McNaughton
Director of Finance



Rolly Hughes
Asst. Treasurer



Tommy Howell
Comptroller



Portfolio Summary
2nd Q Fiscal 2012

	2nd Quarter	Year to Date
Weekly Average Portfolio	\$222,056,313	\$207,521,024
Yield on Portfolio (annualized)	0.3587%	0.5556%
Cash Gains/(Losses)	\$0	\$361,875
Yield including Gains/(Losses) (annualized)	0.3587%	0.9044%
Unrealized Gains/(Losses) in Portfolio	-\$273,695	-\$273,695
Change from Previous Period	-\$307,390	-\$602,845
3 Mo T-Bill yield on Average Portfolio	0.0707%	0.0451%
Texpool yield on Average Portfolio	0.0999%	0.0959%
TexStar yield on Average Portfolio	0.1028%	0.0952%

City of Midland
Listing of Investments
March 31, 2012

Investment Type	Maturity Date	Fund Owner- ship	Coupon Interest Rate	Principal	Beginning Market Value	Change in Position from Previous Quarter	Current Market Value	Accrued Interest to Date	Unrealized Profit/ Loss	Cumulative Unrealized Profit/ Loss
CASH	31-Mar-12	pooled	0.0000%	2,307,092.72	1,929,099.69	377,993.03	2,307,092.72	-	-	-
LOGIC	31-Mar-12	pooled	0.2955%	122,211.30	122,126.95	84.35	122,211.30	-	-	-
LOGIC	31-Mar-12	fund 365	0.2955%	29.07	29.04	0.03	29.07	-	-	-
LOGIC	31-Mar-12	fund 366	0.2955%	15,116.55	15,106.12	10.43	15,116.55	-	-	-
LOGIC	31-Mar-12	fund 389	0.2955%	1,414.95	1,413.98	0.97	1,414.95	-	-	-
LOGIC	31-Mar-12	fund 397	0.2955%	5,748.83	5,744.85	3.98	5,748.83	-	-	-
LOGIC	31-Mar-12	fund 501	0.2955%	13,676.02	13,666.57	9.45	13,676.02	-	-	-
LOGIC	31-Mar-12	fund 531	0.2955%	1,360.26	1,359.32	0.94	1,360.26	-	-	-
LOGIC	31-Mar-12	fund 532	0.2955%	5,582.15	5,578.30	3.85	5,582.15	-	-	-
TEXPOOL	31-Mar-12	pooled	0.0793%	74,632,010.09	75,034,780.69	(402,770.60)	74,632,010.09	-	-	-
TEXPOOL	31-Mar-12	fund 157	0.0793%	171,670.19	171,628.35	41.84	171,670.19	-	-	-
TEXPOOL	31-Mar-12	fund 158	0.0793%	2,550.26	2,549.50	0.76	2,550.26	-	-	-
TEXPOOL	31-Mar-12	fund 159	0.0793%	4,621.09	4,619.97	1.12	4,621.09	-	-	-
TEXPOOL	31-Mar-12	fund 165	0.0793%	90,475.63	90,453.57	22.06	90,475.63	-	-	-
TEXPOOL	31-Mar-12	fund 167	0.0793%	3,682.72	3,681.82	0.90	3,682.72	-	-	-
TEXPOOL	31-Mar-12	fund 168	0.0793%	4,697.89	4,696.76	1.13	4,697.89	-	-	-
TEXPOOL	31-Mar-12	fund 169	0.0793%	6,859.70	6,858.08	1.62	6,859.70	-	-	-
TEXPOOL	31-Mar-12	fund 185	0.0793%	8,152.40	8,150.43	1.97	8,152.40	-	-	-
TEXPOOL	31-Mar-12	fund 186	0.0793%	200,376.62	200,327.78	48.84	200,376.62	-	-	-
TEXPOOL	31-Mar-12	fund 187	0.0793%	20,786.16	20,781.12	5.04	20,786.16	-	-	-
TEXPOOL	31-Mar-12	fund 188	0.0793%	116,369.76	116,341.44	28.32	116,369.76	-	-	-
TEXPOOL	31-Mar-12	fund 189	0.0793%	84,123.15	84,102.70	20.45	84,123.15	-	-	-
TEXPOOL	31-Mar-12	fund 365	0.0793%	12,469.98	12,466.84	3.14	12,469.98	-	-	-
TEXPOOL	31-Mar-12	fund 375	0.0793%	484,856.66	484,738.58	118.08	484,856.66	-	-	-
TEXPOOL	31-Mar-12	fund 389	0.0793%	1,296,671.22	1,296,355.23	315.99	1,296,671.22	-	-	-
TEXPOOL	31-Mar-12	fund 397	0.0793%	1,523,110.04	1,522,738.96	371.08	1,523,110.04	-	-	-
TEXPOOL	31-Mar-12	fund 501	0.0793%	4,091,535.70	3,669,584.01	421,951.69	4,091,535.70	-	-	-
TEXPOOL	31-Mar-12	fund 531	0.0793%	200,683.71	200,634.84	48.87	200,683.71	-	-	-
TEXPOOL	31-Mar-12	fund 621	0.0793%	11,848,691.59	11,845,804.60	2,886.99	11,848,691.59	-	-	-
TEXPOOL	31-Mar-12	fund 641	0.0793%	7,709.26	7,707.36	1.90	7,709.26	-	-	-
TEXSTAR	31-Mar-12	pooled	0.1055%	49,984,176.92	64,960,662.08	(14,976,485.16)	49,984,176.92	-	-	-
TEXSTAR	31-Mar-12	fund 160	0.1055%	3,621,002.96	-	3,621,002.96	3,621,002.96	-	-	-
TEXSTAR	31-Mar-12	fund 160	0.1055%	4,152,356.85	-	4,152,356.85	4,152,356.85	-	-	-
TEXSTAR	31-Mar-12	fund 162	0.1055%	2,000,231.75	-	2,000,231.75	2,000,231.75	-	-	-
TEXSTAR	31-Mar-12	fund 163	0.1055%	2,500,289.69	-	2,500,289.69	2,500,289.69	-	-	-
TEXSTAR	31-Mar-12	fund 182	0.1055%	39,157.71	39,147.82	9.89	39,157.71	-	-	-
TEXSTAR	31-Mar-12	fund 184	0.1055%	387,014.25	386,916.58	97.67	387,014.25	-	-	-
TEXSTAR	31-Mar-12	fund 190	0.1055%	180,088.97	180,043.52	45.45	180,088.97	-	-	-
TEXSTAR	31-Mar-12	fund 191	0.1055%	405,322.83	645,203.07	(239,880.24)	405,322.83	-	-	-
TEXSTAR	31-Mar-12	fund 192	0.1055%	124,687.79	124,656.33	31.46	124,687.79	-	-	-
TEXSTAR	31-Mar-12	fund 193	0.1055%	26,212.21	26,205.60	6.61	26,212.21	-	-	-
TEXSTAR	31-Mar-12	fund 194	0.1055%	298,991.55	298,916.09	75.46	298,991.55	-	-	-
TEXSTAR	31-Mar-12	fund 195	0.1055%	4,760,139.24	4,758,937.91	1,201.33	4,760,139.24	-	-	-
TEXSTAR	31-Mar-12	fund 196	0.1055%	1,579,989.21	1,579,590.47	398.74	1,579,989.21	-	-	-
TEXSTAR	31-Mar-12	fund 380	0.1055%	1,164,739.80	1,327,433.98	(162,694.18)	1,164,739.80	-	-	-
TEXSTAR	31-Mar-12	fund 381	0.1055%	16,551,552.13	-	16,551,552.13	16,551,552.13	-	-	-
TEXSTAR	31-Mar-12	fund 621	0.1055%	574,102.52	573,957.63	144.89	574,102.52	-	-	-
TEXSTAR	31-Mar-12	fund 776	0.1055%	2,000,231.75	-	2,000,231.75	2,000,231.75	-	-	-

City of Midland
Listing of Investments
March 31, 2012

Investment Type	Maturity Date	Fund Owner- ship	Coupon Interest Rate	Principal	Beginning Market Value	Change in Position from Previous Quarter	Current Market Value	Accrued Interest to Date	Unrealized Profit/ Loss	Cumulative Unrealized Profit/ Loss
				187,634,623.80	171,784,798.53	15,849,825.27	187,634,623.80	-	-	-
FFCB	31-Mar-12	pooled	0.1167%	-	5,000,240.00	(5,000,240.00)	-	-	-	-
FHLB NOTE	22-Feb-17	pooled	0.2500%	30,000,000.00	-	29,907,000.00	29,907,000.00	2,054.79	(93,000.00)	(93,000.00)
FHLB NOTE	14-Sep-18	pooled	2.3500%	-	5,010,340.00	(5,010,340.00)	-	-	-	-
FHLB NOTE	08-Sep-20	pooled	3.1000%	-	10,000,740.00	(10,000,740.00)	-	-	-	-
FHLB NOTE	28-Mar-17	pooled	0.3000%	10,000,000.00	-	9,963,230.00	9,963,230.00	328.77	(36,770.00)	(36,770.00)
FHLB NOTE	28-Feb-20	pooled	1.2500%	10,000,000.00	-	9,896,390.00	9,896,390.00	11,301.37	(103,610.00)	(103,610.00)
FHLMC	01-Nov-21	pooled	3.1250%	5,000,000.00	5,022,375.00	(62,690.00)	4,959,685.00	65,068.49	(40,315.00)	(133,315.00)
				55,000,000.00	25,033,695.00	29,692,610.00	54,726,305.00	78,753.42	(273,695.00)	
				242,634,623.80	196,818,493.53	45,542,435.27	242,360,928.80	78,753.42	(273,695.00)	

As of March 31, 2012

AGING SCHEDULE - TOTAL PORTFOLIO:

TOTAL PORTFOLIO BY INVESTMENT TYPE:

CASH	1.0%	\$ 2,307,092.72	\$ 2,307,092.72	0.0000%	\$ 2,307,092.72
LOGIC	0.1%	165,139.13	165,139.13	0.2955%	165,139.13
TEXPOOL	39.1%	94,812,103.82	94,812,103.82	0.0793%	94,812,103.82
TEXSTAR	37.2%	90,350,288.13	90,350,288.13	0.0734%	90,350,288.13
FGIC	0.0%	-	-	0.0000%	-
C.D.'s	0.0%	-	-	0.0000%	-
T-BILL's	0.0%	-	-	0.0000%	-
SLMA's	0.0%	-	-	0.0000%	-
T-NOTE's	0.0%	-	-	0.0000%	-
FHLB NOTE	20.6%	50,000,000.00	50,000,000.00	0.0000%	49,766,620.00
FNMA	0.0%	-	-	0.0000%	-
FFCB	0.0%	-	-	0.0000%	-
FHLMC	2.1%	5,000,000.00	5,000,000.00	3.1250%	4,959,685.00
SLUG's	0.0%	-	-	0.0000%	-

EFFECTIVE INTEREST RATE FOR TOTAL PORTFOLIO:

AVERAGE MATURITY IN MONTHS

Transaction List		Fiscal 2012								
Bot/ Sold	Type Security	Rate	Trade Date	Settlement Date	Maturity Date	Broker	Face Amount	Price %	32's	Principal Amount
Q2 FISCAL 2012										
Bot	FHLB	0.250%	01-Feb-12	22-Feb-12	22-Feb-17	BOSC	30,000,000.00	100	0.0000	30,000,000.00
Bot	FHLB	1.250%	02-Feb-12	28-Feb-12	28-Feb-20	BOSC	10,000,000.00	100	0.0000	10,000,000.00
Bot	FHLB	0.300%	07-Mar-12	28-Mar-12	28-Mar-18	VS	10,000,000.00	100	0.0000	10,000,000.00



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL / CITY MANAGER

FROM: Tommy T. Hudson, Deputy City Manager

SUBJECT: Atmos Energy Corporation

Purpose:

Consider a Resolution to deny the effective date of an Atmos West Texas proposed rate increase.

Recommended City Council Action

☐ Approve

☒ Deny

☐ Direction/Informational

Fiscal Impact:

Atmos is asking for an approximately \$11.6 million or 14.8% increase to system wide base rate.

Discussion:

The City, along with approximately 66 other cities served by Atmos Energy Corp., West Texas Division ("Atmos West Texas" or "Company"), is a member of the Steering Committee of Cities Served by Atmos West Texas ("Cities"). On or about February 7, 2012, Atmos West Texas filed with the City a Statement of Intent to increase rates within the City.

In 2003, the Texas Legislature passed legislation referred to as the Gas Reliability Infrastructure Program ("GRIP") which authorized annual piecemeal rate reviews that Texas courts have concluded significantly restrict city jurisdiction, participation, and input. Atmos West Texas took advantage of this piecemeal process for several years, but as part of the settlement of the 2006 GRIP filing, Cities and Atmos West Texas agreed to a substitute for GRIP.

That substitute process was called a Rate Review Mechanism ("RRM") and was intended as an expedited but comprehensive rate review that included a number of fixed values and constraints. The RRM was intended as a three-year experiment, but was extended for a fourth year. Last year, Cities focused on the rate disparity between Amarillo, Lubbock and other West Texas cities, and the Company has responded with a

system-wide rate case that should ultimately put all West Texas cities on the same rates.

Background on Atmos West Texas Rate Case

On February 7, 2012, Atmos Energy Corporation, West Texas Division (“Atmos West Texas” or “Company”) filed with the members of Steering Committee of Cities Served by Atmos West Texas (“Steering Committee” or “Cities”) that exercise original jurisdiction over the Company’s rates, a request for a system-wide (*i.e.*, including Amarillo and Lubbock) rate increase by approximately \$11.6 million. Cities passed resolutions suspending the effective date of the proposed increase to allow Cities’ attorneys and consultants to study the request. A summary of the consultants’ findings is attached as Exhibit A. Scheduling difficulties have precluded representatives of the Company, Amarillo, Lubbock, and the Steering Committee from meeting to discuss settlement.

Timing of City Action

Cities with original jurisdiction suspended the proposed effective date of March 13, 2012, extending city jurisdiction until June 11, 2012. Cities and the Company have a mutual hope of achieving settlement that resolves the pending rate case and extends the Rate Review Mechanism (“RRM”) process. However, it does not appear that settlement can be achieved within a time frame that would allow the Cities to take final action prior to June 11, 2012. Thus, the Cities’ Executive Committee recommends passage of a denial resolution. Such action will result in the Company appealing to the Railroad Commission but does not preclude a subsequent settlement. If settlement is achieved, the Steering Committee will return to member cities with a request for approval of the settlement.

Recommendation and Explanation of Denial Resolution

The Cities’ Executive Committee recommends the Cities pass resolutions denying Atmos West Texas’ proposed rate increase. The denial resolution will prevent the Company’s proposed rate increase from automatically taking effect on June 11, 2012, and allow more time to engage in settlement discussions.

Exhibit A

Steering Committee of Cities Served by Atmos West Texas' ("Cities") Consultants' Recommended Adjustments to Atmos West Texas Division's 2012 Statement of Intent to Increase Rates

Following a review of the Company's 2012 Statement of Intent, Cities' consultants found justification for an approximately \$15 million decrease to the revenue requested by Atmos West Texas Division, resulting in a \$2.3 million decrease to the current rates charged by Atmos West Texas. Cities' consultants' recommendation for a rate decrease is based upon the following major components:¹

- Lowering the Company's return on equity from 10.9% to 9.5%, resulting in a revenue requirement decrease of \$5.2 million.
- Removing the Company's improper post-test year adjustment to add plant from January to March 2012, resulting in a revenue requirement decrease of \$1.2 million.
- Various adjustments to accumulated deferred income tax, resulting in a revenue requirement decrease of \$1.5 million.
- Various adjustments to rate base to recognize FASB 106 other post-employment benefits ("OPEBs") as customer-supplied funds in rate base and remove certain capitalized incentive awards, resulting in a revenue requirement decrease of \$3.5 million.
- Recognizing new depreciation rates as filed by the Company (without adjustment by Cities' consultants), resulting in a revenue requirement decrease of \$1.5 million.
- Various adjustments to the Company's requested level of operating and maintenance ("O&M") expense, resulting in a revenue requirement decrease of \$2.4 million.
- Capping the Residential customer charge at \$9.00, instead of Atmos' requested \$18.00.
- Rejecting the proposed Depreciation Surcharge as the Company has not shown that the current depreciation rates are yet reflected in the rates for Lubbock and Amarillo.
- Rejecting the proposed Franchise Fee and Tax adjustments unless the Company will adopt amendments to the existing franchise agreements to provide for this "separated" revenue in the computation of fees.

¹ Please note that the adjustments listed are on a stand-alone basis, and may have a different impact when combined with the other adjustments.

- Rejecting the proposed Conservation and Energy Efficiency Rider as it significantly expands the scope of the Company's energy conservation program but has not been sufficiently evaluated to ensure that its goals of conservation and energy efficiency will be met in a cost effective manner.
- Renewing the Rate Review Mechanism but rejecting the Company's proposed tariff revisions.
- The full impacts of the Company's optional Rate Parity tariff are as yet unknown. The tariff is designed implement a system-wide cost of service, so that the Cities, Amarillo, and Lubbock all pay the same rates. While the full impact of the rate parity is as yet unknown, the Company's filing indicates that the Amarillo and Lubbock rate jurisdictions will bear much more of the Company's proposed increase in rates than Cities, due to an historical subsidization of the Amarillo and Lubbock rate jurisdictions by Cities.

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF _____ DENYING
ATMOS ENERGY CORP., WEST TEXAS DIVISION'S
("ATMOS WEST TEXAS") REQUESTED RATE CHANGE;
REQUIRING THE COMPANY TO REIMBURSE THE
CITY'S REASONABLE RATEMAKING EXPENSES;
FINDING THAT THE MEETING AT WHICH THIS
RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS
REQUIRED BY LAW; REQUIRING NOTICE OF THIS
RESOLUTION TO THE COMPANY AND THE CITY'S
LEGAL COUNSEL**

WHEREAS, the City of _____, Texas ("City") is a gas utility customer of Atmos Energy Corp., West Texas Division ("Atmos West Texas" or "Company"), and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, §104.001 et seq. of GURA, has exclusive original jurisdiction over Atmos West Texas' rates, operations, and services within the City; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Atmos West Texas ("Cities"), a coalition of similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in Atmos Energy Corporation's West Texas Division; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 request to increase rates under the Gas Reliability Infrastructure Program ("GRIP") process, Cities and the Company worked collectively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, Cities and the Company agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and

WHEREAS, on or about February 7, 2012, the Company filed a Statement of Intent with the cities retaining original jurisdiction within its West Texas service division to increase rates by approximately \$11.6 million; and

WHEREAS, Atmos West Texas proposed March 13, 2012, as the effective date for its requested increase in rates; and

WHEREAS, the City suspended the effective date of Atmos West Texas' proposed rate increase for the maximum period allowed by law and thus extended the City's jurisdiction until June 11, 2012; and

WHEREAS, the Cities' Executive Committee hired and directed legal counsel and consultants to prepare a common response to the Company's requested rate increase and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, Cities' consultants conducted a review of the Company's requested rate increase and found justification that the Company's rates should be decreased; and

WHEREAS, Cities hope to achieve settlement with the Company that perpetuates the RRM process prior to the expiration of City jurisdiction; and

WHEREAS, if Cities and the Company are unable to reach agreement prior to June 11, 2012, the Company may impose its proposed rates; and

WHEREAS, the Executive Committee for the Cities recommends denial of the Company's proposed rate increase in order to continue settlement discussions pending the Company's appeal of Cities' denials to the Railroad Commission of Texas; and

WHEREAS, the GURA § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

1. That the rates proposed by Atmos West Texas to be recovered through its gas rates charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

2. That the Company shall continue to charge its existing rates to customers within the City and that said existing rates are reasonable.

3. That the City's reasonable rate case expenses shall be reimbursed by the Company.

4. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

5. A copy of this Resolution shall be sent to Atmos West Texas, care of Jeffrey Foley, Vice-President, Rates and Regulatory Affairs, at Atmos Energy Corporation, West Texas Division, 5110 80th Street, Lubbock, Texas 79424, and to Geoffrey Gay, General Counsel to Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED this _____ day of _____, 2012.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

City Attorney

RESOLUTION NO. 2012-044

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE MARCH 13, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., WEST TEXAS DIVISION ("ATMOS WEST TEXAS") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS WEST TEXAS ("CITIES") TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND CITIES' LEGAL COUNSEL

WHEREAS, on or about February 7, 2012, Atmos Energy Corp., West Texas Division ("Atmos West Texas" or "Company"), pursuant to Gas Utility Regulatory Act § 104.102 filed with the City of Midland ("City") a Statement of Intent to change gas rates in all municipalities exercising original jurisdiction within its West Texas Division service area, effective March 13, 2012; and

WHEREAS, the City is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, §104.001 et seq. of GURA has exclusive original jurisdiction over Atmos West Texas' rates, operations, and services within the City; and

WHEREAS, in order to maximize the efficient use of resources and expertise, it is reasonable for the City to maintain its involvement in the Steering Committee of Cities Served by Atmos West Texas ("Cities") and to cooperate with similarly situated cities in conducting a review of the Company's application and to hire and direct legal counsel and consultants and to prepare a common response and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, Atmos West Texas proposed March 13, 2012, as the effective date for its requested increase in rates; and

WHEREAS, it is not possible for the City to complete its review of Atmos West Texas' filing by March 13, 2012; and

WHEREAS, the City will need an adequate amount of time to review and evaluate Atmos West Texas' rate application to enable the City to adopt a final decision as a local regulatory

authority with regard to Atmos West Texas' requested rate increase; and

WHEREAS, the Gas Utility Regulatory Act § 104.107 grants local regulatory authorities the right to suspend the effective date of proposed rate changes for ninety (90) days; and

WHEREAS, the Gas Utility Regulatory Act § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

SECTION ONE. That the March 13, 2012, effective date of the rate request submitted by Atmos West Texas on February 7, 2012, be suspended for the maximum period allowed by law to permit adequate time to review the proposed changes and to establish reasonable rates.

SECTION TWO. That the City is authorized to cooperate with the Steering Committee of Cities Served by Atmos West Texas and its member cities in the West Texas service area and under the direction of the Steering Committee's Executive Committee to hire and direct legal counsel and consultants, negotiate with the Company, make recommendations to the City regarding reasonable rates, and to direct any necessary administrative proceedings or court litigation associated with an appeal of a rate ordinance and the rate case filed with the City or Railroad Commission.

SECTION THREE. That the City's reasonable rate case expenses shall be reimbursed by Atmos West Texas.

SECTION FOUR. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

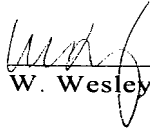
SECTION FIVE. That a copy of this Resolution shall be sent by the City Secretary to Atmos, care of Mr. Jeffrey Foley, Vice President, Rates and Regulatory Affairs, 5110 80th Street, P.O. Box 1121, Lubbock, Texas 79408-1121, and to Geoffrey Gay, General Counsel to Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

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

City of Midland at a regular meeting on the 28th day of February, A.D., 2012, by the following vote:

Council members voting "AYE": Trost, Hailey, Perry, Dufford, James and Sparks

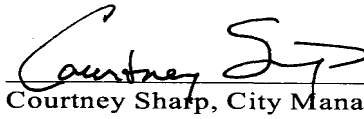
Council members voting "NAY": None


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

RESOLUTION NO.

**RESOLUTION OF THE CITY OF MIDLAND, TEXAS,
DENYING ATMOS ENERGY CORPORATION - WEST
TEXAS DIVISION'S ("ATMOS WEST TEXAS")
REQUESTED RATE CHANGE; REQUIRING THE
COMPANY TO REIMBURSE THE CITY'S REASONABLE
RATE MAKING EXPENSES; FINDING THAT THE
MEETING AT WHICH THIS RESOLUTION IS PASSED
IS OPEN TO THE PUBLIC AS REQUIRED BY LAW;
REQUIRING NOTICE OF THIS RESOLUTION TO THE
COMPANY AND THE CITY'S LEGAL COUNSEL**

WHEREAS, the City of Midland, Texas ("City") is a gas utility customer of Atmos Energy Corporation - West Texas Division ("Atmos West Texas" or "Company"), and is a regulatory authority under the Gas Utility Regulatory Act ("GURA") and under Chapter 104, §104.001 et seq. of GURA, has exclusive original jurisdiction over Atmos West Texas' rates, operations, and services within the City; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Atmos West Texas ("Cities"), a coalition of similarly situated cities served by the Company that have joined together to facilitate the review and response to natural gas issues affecting rates charged in Atmos Energy Corporation's West Texas Division; and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 request to increase rates under the Gas Reliability Infrastructure Program ("GRIP") process, Cities and the Company worked collectively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three-year experiment by Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, the Cities and the Company agreed to extend the RRM process in reaching a settlement in 2010 on the third RRM filing; and

WHEREAS, the Company filed a Statement of Intent with the cities retaining original jurisdiction within its West Texas service division to increase rates by approximately \$11.6 million, on or about February 7, 2012; and

WHEREAS, Atmos West Texas proposed March 13, 2012, as the effective date for its requested increase in rates; and

WHEREAS, the City suspended the effective date of Atmos West Texas' proposed

rate increase for the maximum period allowed by law and thus extended the City's jurisdiction until June 11, 2012; and

WHEREAS, the Cities' Executive Committee hired and directed legal counsel and consultants to prepare a common response to the Company's requested rate increase and to negotiate with the Company and direct any necessary litigation; and

WHEREAS, the Cities' consultants conducted a review of the Company's requested rate increase and found justification that the Company's rates should be decreased; and

WHEREAS, the Cities hope to achieve settlement with the Company that perpetuates the RRM process prior to the expiration of City jurisdiction; and

WHEREAS, if Cities and the Company are unable to reach agreement prior to June 11, 2012, the Company may impose its proposed rates; and

WHEREAS, the Executive Committee for the Cities recommends denial of the Company's proposed rate increase in order to continue settlement discussions pending the Company's appeal of Cities' denials to the Railroad Commission of Texas; and

WHEREAS, the GURA § 103.022 provides that costs incurred by Cities in ratemaking activities are to be reimbursed by the regulated utility.

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

SECTION ONE. That the rates proposed by Atmos West Texas to be recovered through its gas rates charged to customers located within the City limits, are hereby found to be unreasonable and shall be denied.

SECTION TWO. That the Company shall continue to charge its existing rates to customers within the City and that said existing rates are reasonable.

SECTION THREE. That the City's reasonable rate case expenses shall be reimbursed by the Company.

SECTION FOUR. That it is hereby officially found and determined that the meeting at which this Resolution is passed is open to the public as required by law and the public notice of the time, place, and purpose of said meeting was given as required.

SECTION FIVE. That the City Secretary shall send a copy of this Resolution to Atmos West Texas, care of Jeffrey Foley, Vice-President, Rates and Regulatory Affairs, at Atmos Energy Corporation, West Texas Division, 5110 80th Street, Lubbock, Texas 79424, and to Geoffrey Gay, General Counsel to Cities, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

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



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Courtney Sharp, City Manager

SUBJECT: Consider a resolution authorizing the Mayor to negotiate and execute a Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1

Purpose:

Consider a resolution authorizing the Mayor to negotiate and execute a Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Discussion:

Attached is the proposed Wholesale Water Delivery Agreement between the City of Midland and Midland County Fresh Water Supply District No. 1 (District).

City Staff along with our Legal Advisor, Financial Advisor, and Underwriter have worked with the District for the past three months in developing this agreement. This agreement will provide for the development and construction of the T-Bar well field and all associated infrastructure for the delivery of water to Midland.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A WHOLESALE WATER DELIVERY AGREEMENT WITH THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1 REGARDING THE TRANSPORTATION OF CITY-OWNED WATER FROM THE T-BAR RANCH WATER FIELD TO THE CITY OF MIDLAND; THE T-BAR RANCH WATER FIELD IS LOCATED IN LOVING COUNTY AND WINKLER COUNTY, TEXAS

WHEREAS, the City Council finds it to be in the public interest to authorize the Mayor to execute a Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No.1;

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

SECTION ONE. That the Mayor is hereby authorized and directed to execute a Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1 regarding the transportation of water from the T-Bar Ranch Water Field. Said agreement being attached hereto, marked as Exhibit "A" and incorporated herein for all purposes. The Mayor is authorized to make modifications to the agreement as long as the intent of the agreement is not changed.

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: 5/22/2012

TO: City Council / City Manager

FROM: Ken Van Dyne,

SUBJECT: Grace Partnership, LLC. - Zone Change for a Housing Development

Purpose:

This is the second reading to 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. The zone change was approved with a lower density request of 21 units per acre. No changes have been made to this item since its first reading on May 8, 2012.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / 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 original request was 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. Council approved a density of 21 units per acre on May 8, 2012. 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 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.



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)

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)

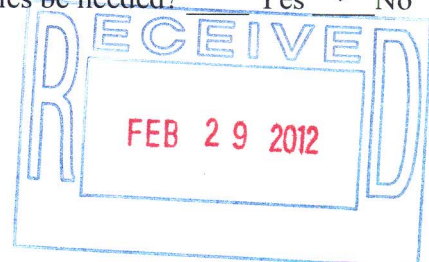
Reason for amendment request: Increased need for housing.

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.

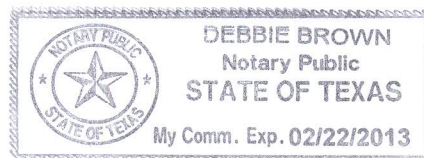
STATE of TEXAS

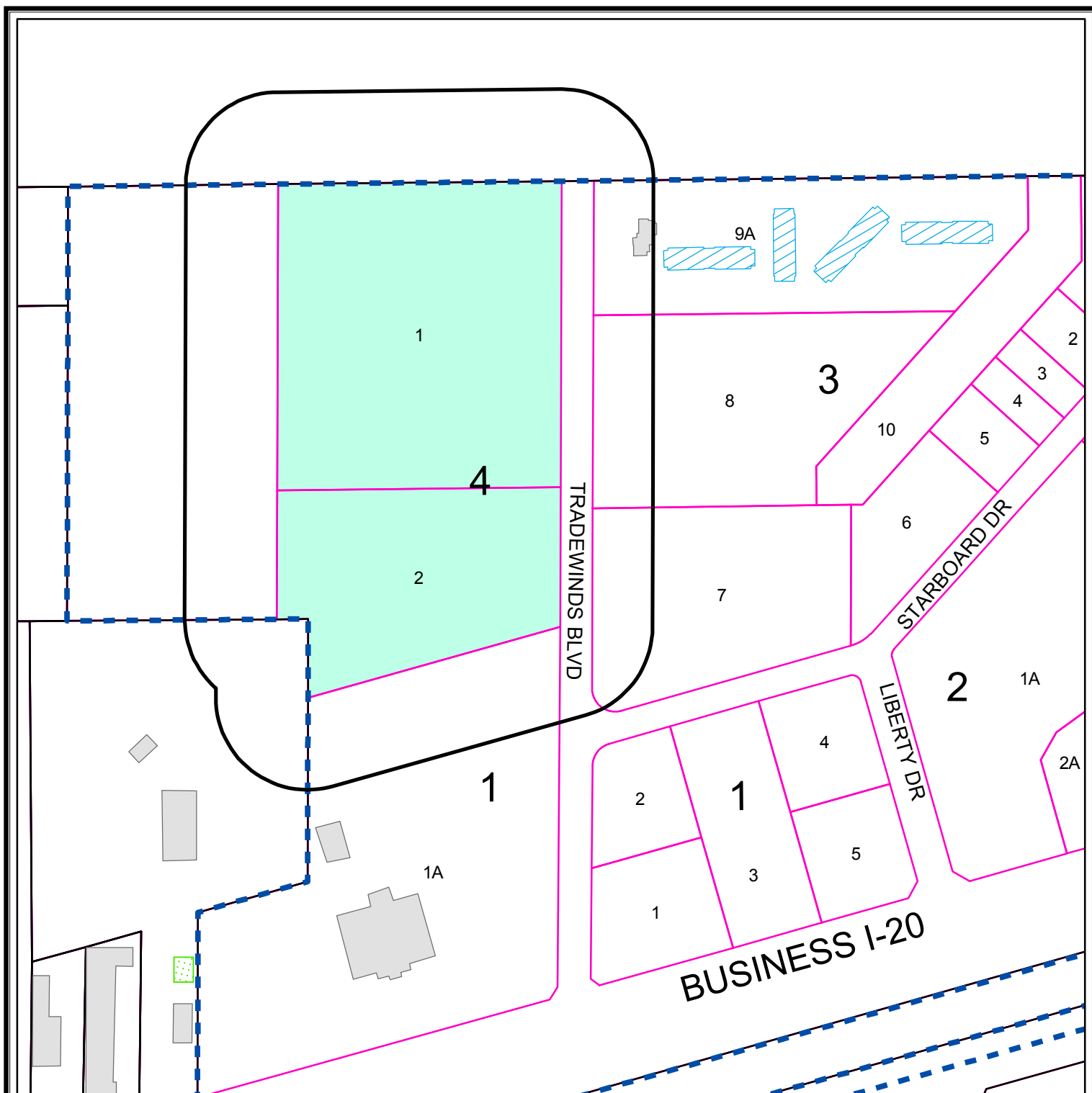
COUNTY OF MIDLAND

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. ****



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 008

Scale: 1" = 300'

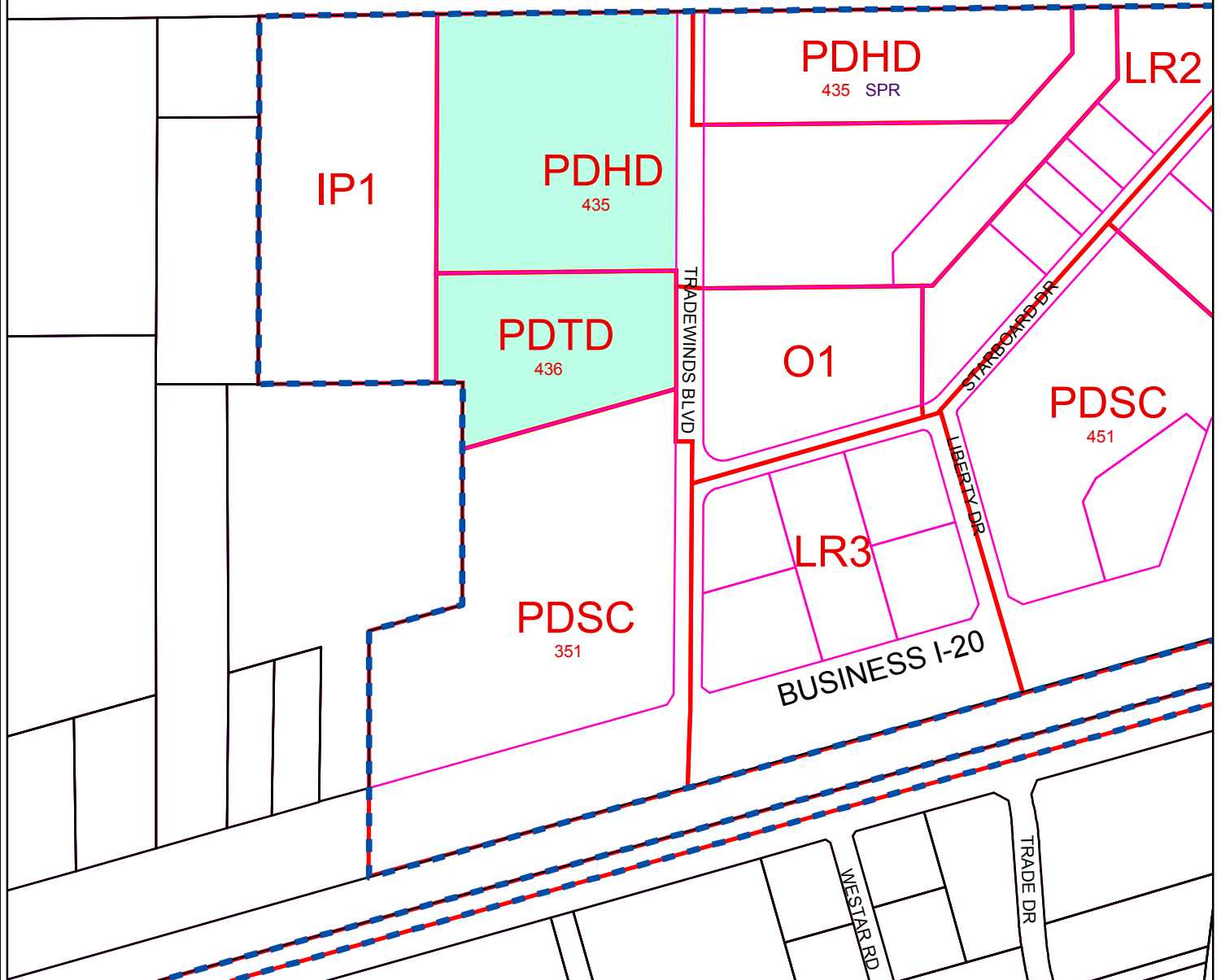
Consider a request for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District on, Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LEGEND

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



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 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:

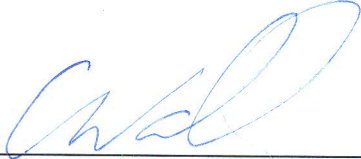
4. With this request for greater density comes greater traffic and demand on infrastructure. Properly routing vehicle flow is key to alleviating what may become a traffic issue in this Gateway Plaza area with the addition of another apartment complex carrying 250-300 units on site (500-600 tenant cars). 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 21 dwelling units per acre may be allowed.
2. That prior to any apartment development or the issuance of a building permit for apartment development, a site plan must be approved by the Midland City Council in the same manner as a zone change.
3. That a traffic study, at the developer's sole expense, shall be performed prior to the site plan being submitted to the City Council.
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:

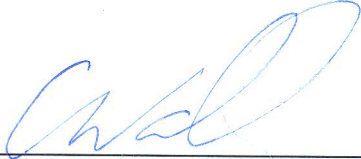
4. With this request for greater density comes greater traffic and demand on infrastructure. Properly routing vehicle flow is key to alleviating what may become a traffic issue in this Gateway Plaza area with the addition of another apartment complex carrying 250-300 units on site (500-600 tenant cars). 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)

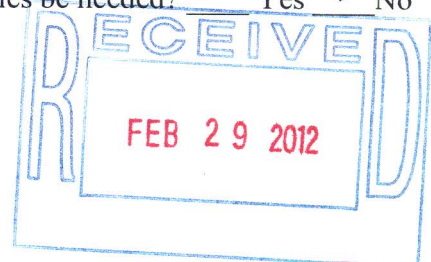
Reason for amendment request: Increased need for housing.

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.

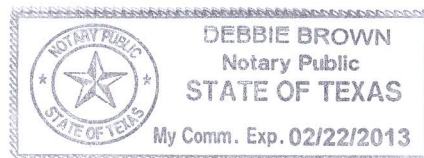
STATE of TEXAS

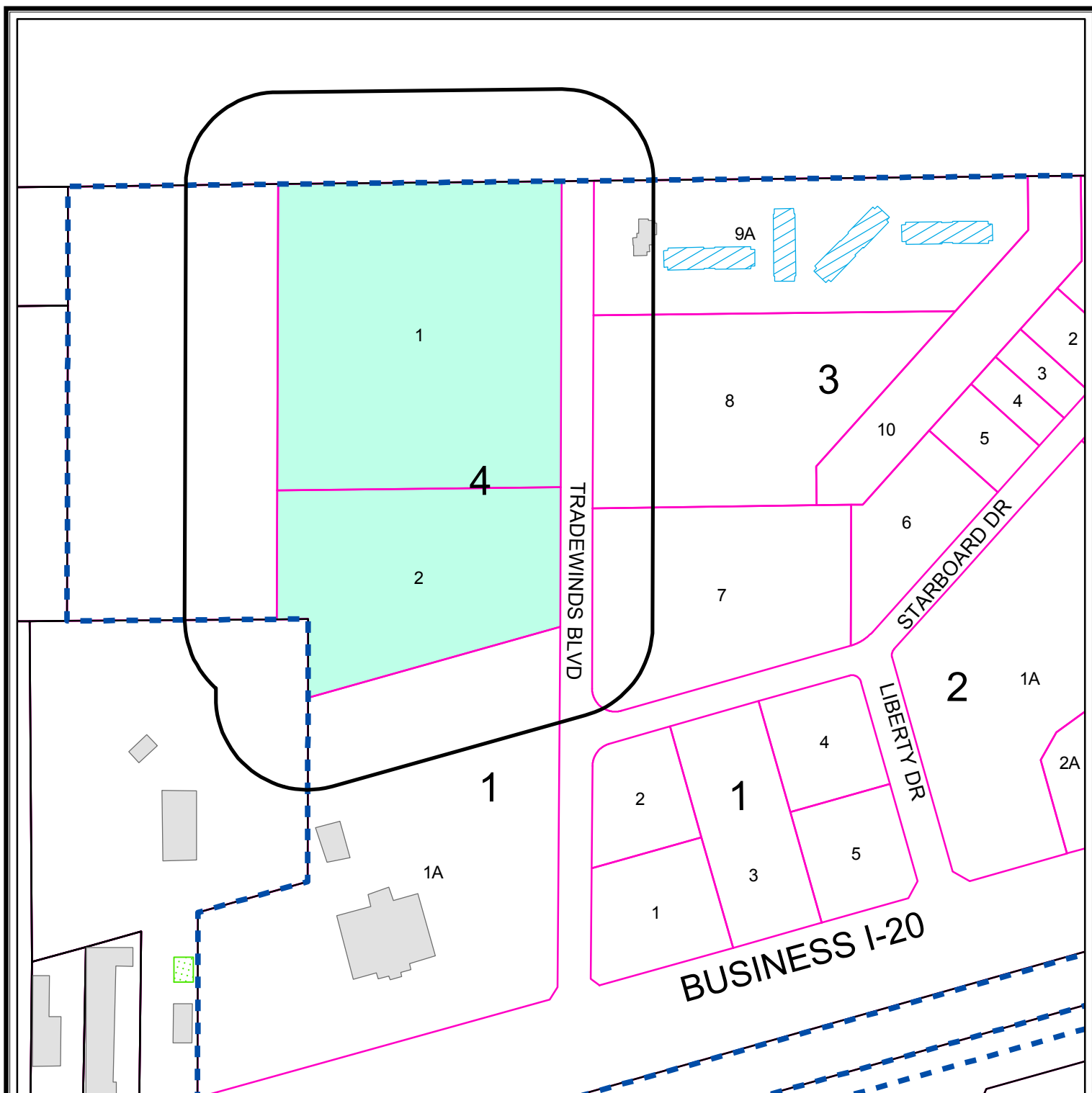
COUNTY OF MIDLAND

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. ****



OWNER NOTIFICATION WITHIN CITY LIMITS ONLY

Z - 12 - 008

Scale: 1" = 300'

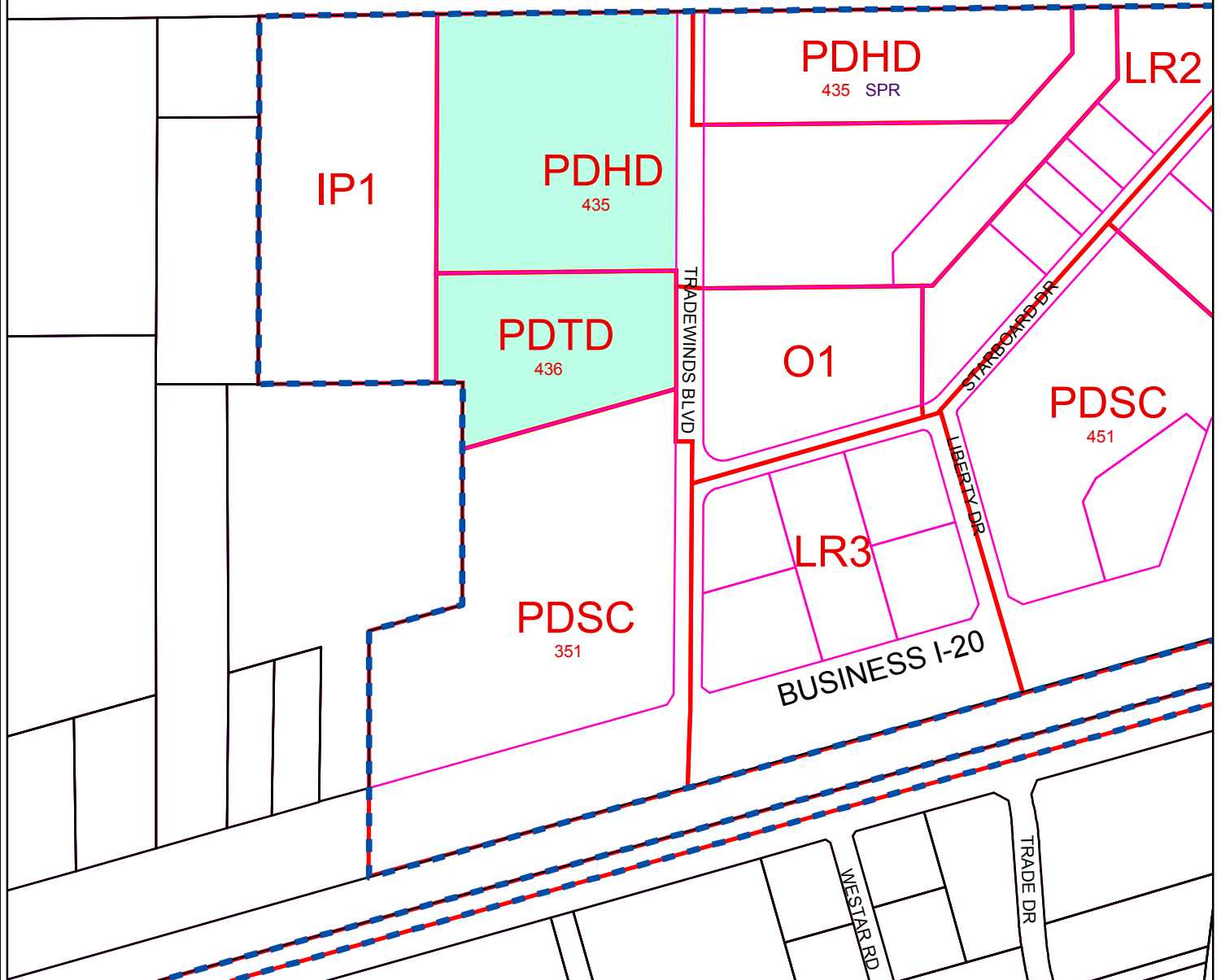
Consider a request for a zone change from PD, Planned District for a Housing Development and from PD, Planned District of a Transition District, to an Amended Planned District on, Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas.

LEGEND

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



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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 DECISION. 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





City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Jim Compton, Senior Planner

SUBJECT: GRACO Real Estate

Purpose:

Consider an ordinance on second reading 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 ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

GRACO Real Estate wishes to construct a shopping center on this property, which is located on Loop 250, south of the Blue Ridge Apartments. The Planned District zoning requires approval of a site plan in the same manner as a zone change before any development can occur. Following a recommendation for approval by the Planning and Zoning Commission, the City Council approved the adoption of three exhibits on May 8, 2012. These exhibits included a site plan, elevation views and an exhibit with a general building color pallet. There are no letters of opposition to this request. It is now appropriate for the City Council to consider this ordinance on second and final reading.

Attachments:

Location Map



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

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

**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.

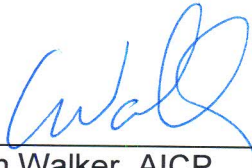
4. Exhibit B illustrates the elevation views of this shopping center. This strip center will be 521 feet wide and 103 feet deep. The majority of the building will not exceed 20 feet in height, except for a focal point tower that is 33 feet tall. Exhibit A also includes a view of the pylon sign. One element 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:

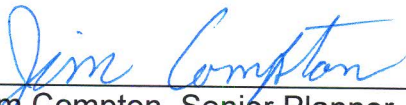
We recommend approval of this request for a zone change from PD, Planned District for a Shopping Center to amended Planned District, subject to the following conditions:

- 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: _____

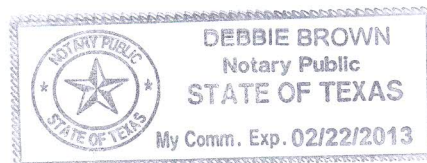
If an agent is authorized by the property owner to file and execute the application on behalf of the property owner, the agent must complete the affidavit below.STATE OF TEXAS
COUNTY OF MIDLAND

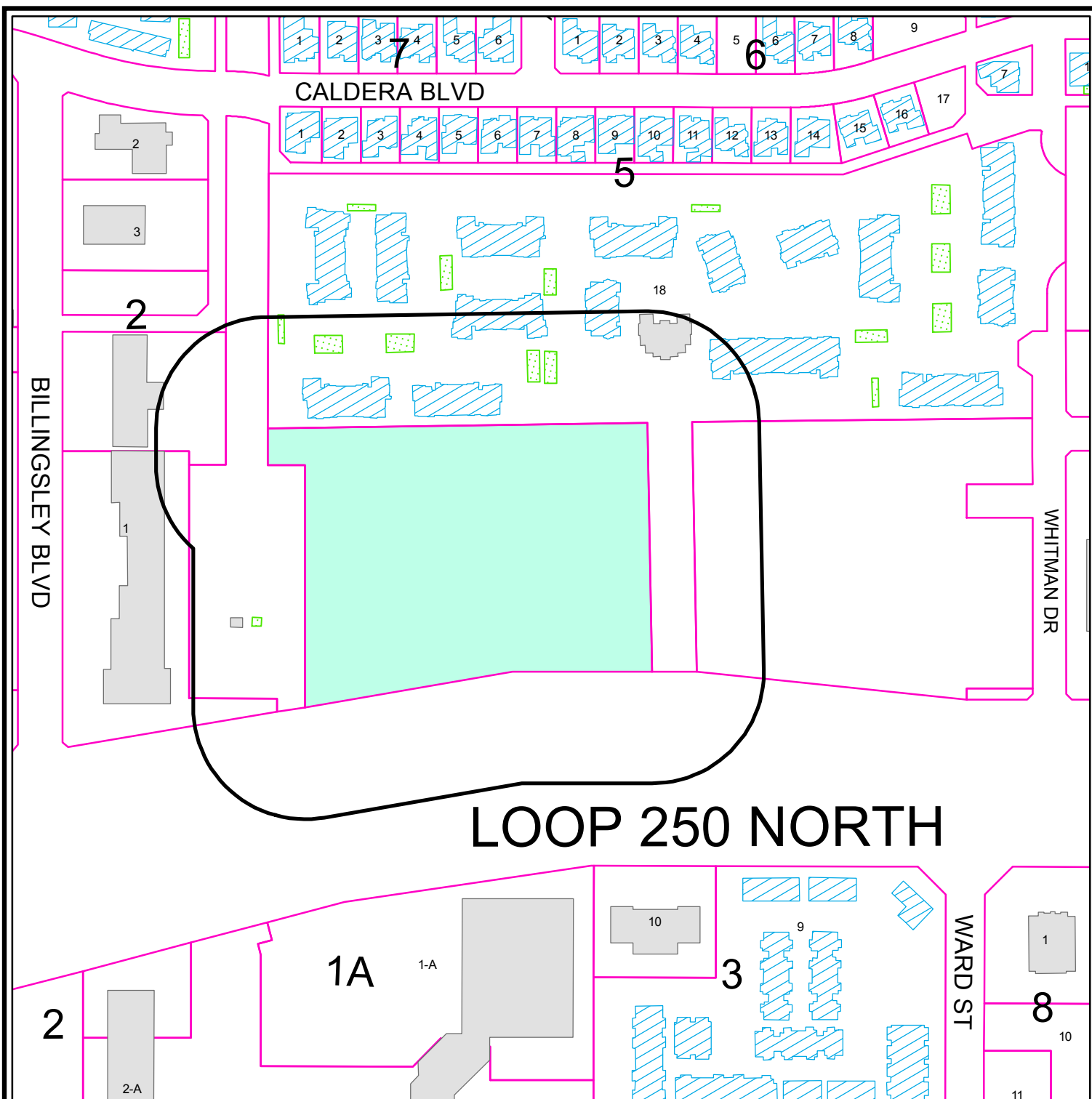
Before me, the undersigned authority, on this day personally appeared

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'

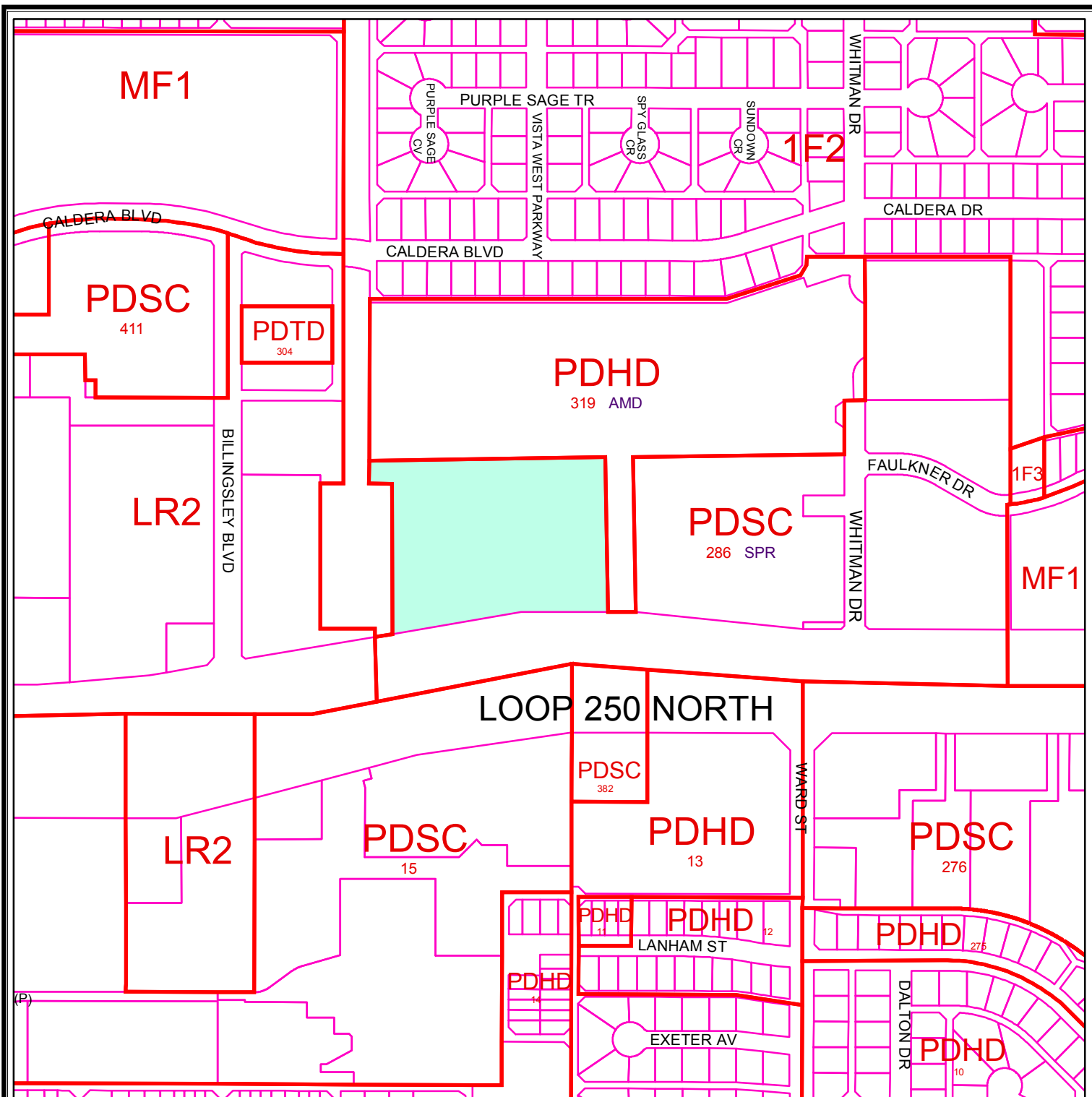
Consider a request for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on a 6.61-acre tract of land out of Section 4, Block "X", H. P. Hilliard Survey, Midland County, Texas.

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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SITEPLAN

MIDLAND SHOPPING CENTER
LOT 19, BLOCK 5, NORTH PARK, MIDLAND, TEXAS

LEGEND

DENOTES SET 12" RANCH IRON ROD W/ RIBBED END CAPS AND 1/2" DIA. SPOUT
DENOTES FOUND MONUMENT AS NOTED

DENOTES SIGN

DENOTES SOUTHWESTERN BELL MANHOLE

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: 235,474 FT²

MAX BLDG HEIGHT: 33.30 FT

PLYON SIGN HEIGHT: 35.07

LANDSCAPE REQUIREMENTS

- 10% OF LOT AREA LESS STRUCTURE
- LOT AREA = 287,560.87 FT²
- REQUIRED LANDSCAPE AREA 23,547.4 FT²
- PROVIDED LANDSCAPE AREA 27,347 FT² (12%)

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 20.2 TREES
- 412 ONITE PARKING SPACES: 77.5 TREES
- TOTAL REQUIRED: 97.7 TREES
- PROVIDED: 97 TREES SHOWN

PARKING REQUIREMENTS

PROVIDED:

- 412

REQUIRED:

- 412 SPACES FOR EVERY 200 SQUARE FEET (201 SPACES)
- 9 MINIMUM ACCESSIBLE PARKING SPACES

SCREENING FENCE

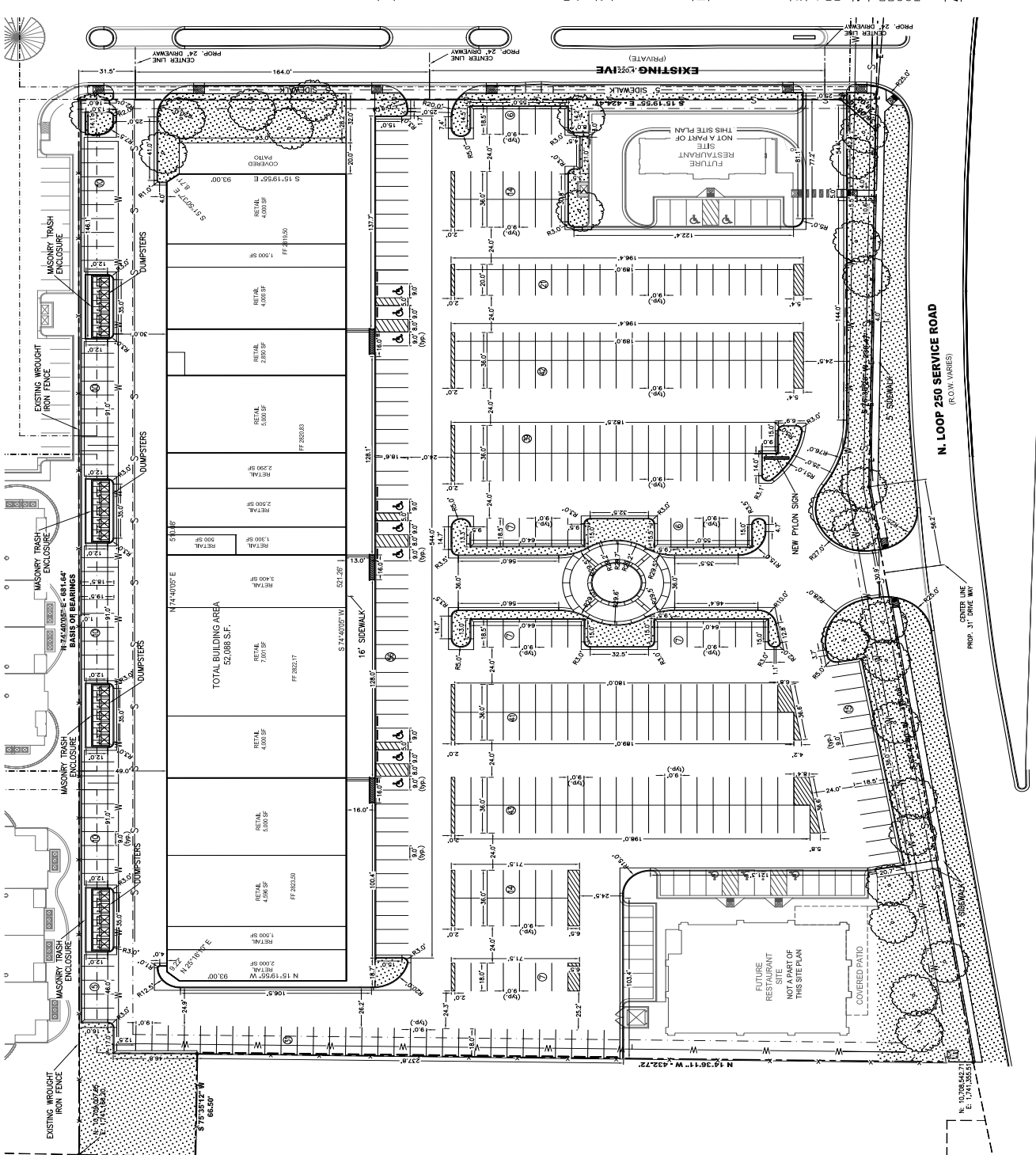
THE EXISTING WROUGHT IRON FENCE TO THE NORTH OF THE PROPERTY WILL CONTINUE TO SEPARATE THE SHOPPING CENTER FROM THE ADJACENT APARTMENT COMPLEX.

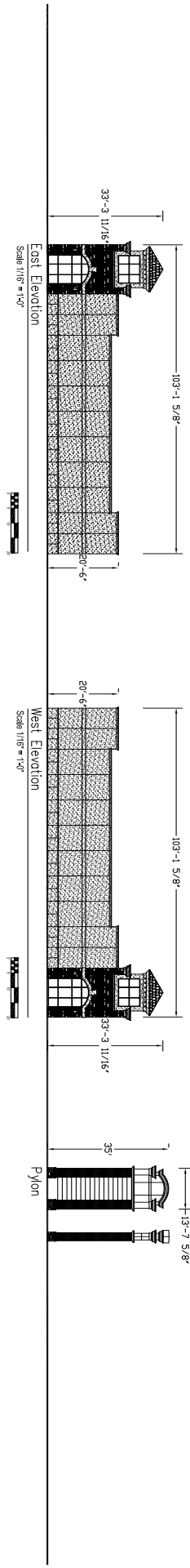
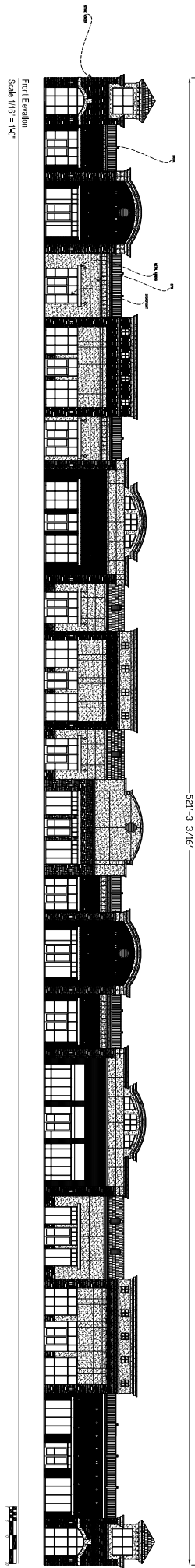
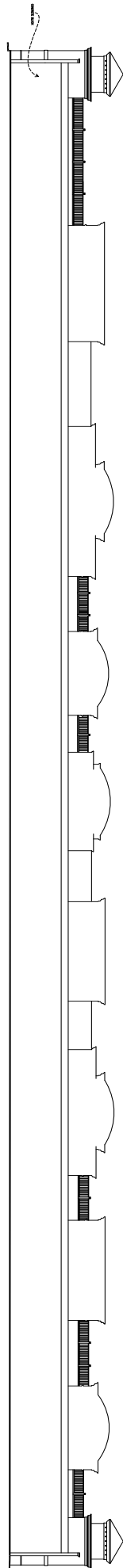
TRASH ENCLOSURES

DUMPSTERS TO BE PLACED BEHIND THE BUILDING AS SHOWN. THE DUMPSTERS WILL BE PLACED IN ENCLOSURES CONSTRUCTED OF CONCRETE OR MASONRY. THE ENCLOSURES SHALL BE 6' HIGH OR COMBINATION THE DESIGN OF THE SHOPPING CENTER. THE ENCLOSURES ARE TO BE A MINIMUM OF 6 FEET TALL.

ACCESSIBLE ROUTE REQUIREMENTS

- ACCESSIBLE PARKING SPACES AND UNLOADING ZONES SHALL NOT BE MORE THAN 150' (120' IN ANY DIRECTION).
- THE DIRECTION OF TRAVEL TO THE UNLOADING ZONES SHALL BE THE DIRECTION OF TRAVEL OR 150' (120' IN ANY DIRECTION).
- UNLESS ACCESSIBLE ROUTE CHANGES DIRECTION, THE UNLOADING ZONES SHALL NOT BE MORE THAN 150' (120' IN ANY DIRECTION).
- ACCESSIBLE ROUTES SHALL NOT BE LESS THAN 3'-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:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Ken Van Dyne,

SUBJECT: Milton Lary - Zone Change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center.

Purpose:

This is the second reading to 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. No changes have been made to this item since its first reading on May 8, 2012.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / 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.



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:

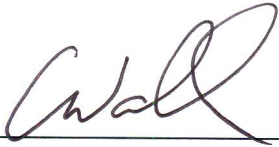
3. The site plan for this storage facility will provide an on-site office/residence that provides an attractive frontage to this business on Loop 250. The storage facilities themselves set back about 100' off of the frontage road with neutral almond and white colors used on fencing and buildings. The 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: 2-12-013

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.

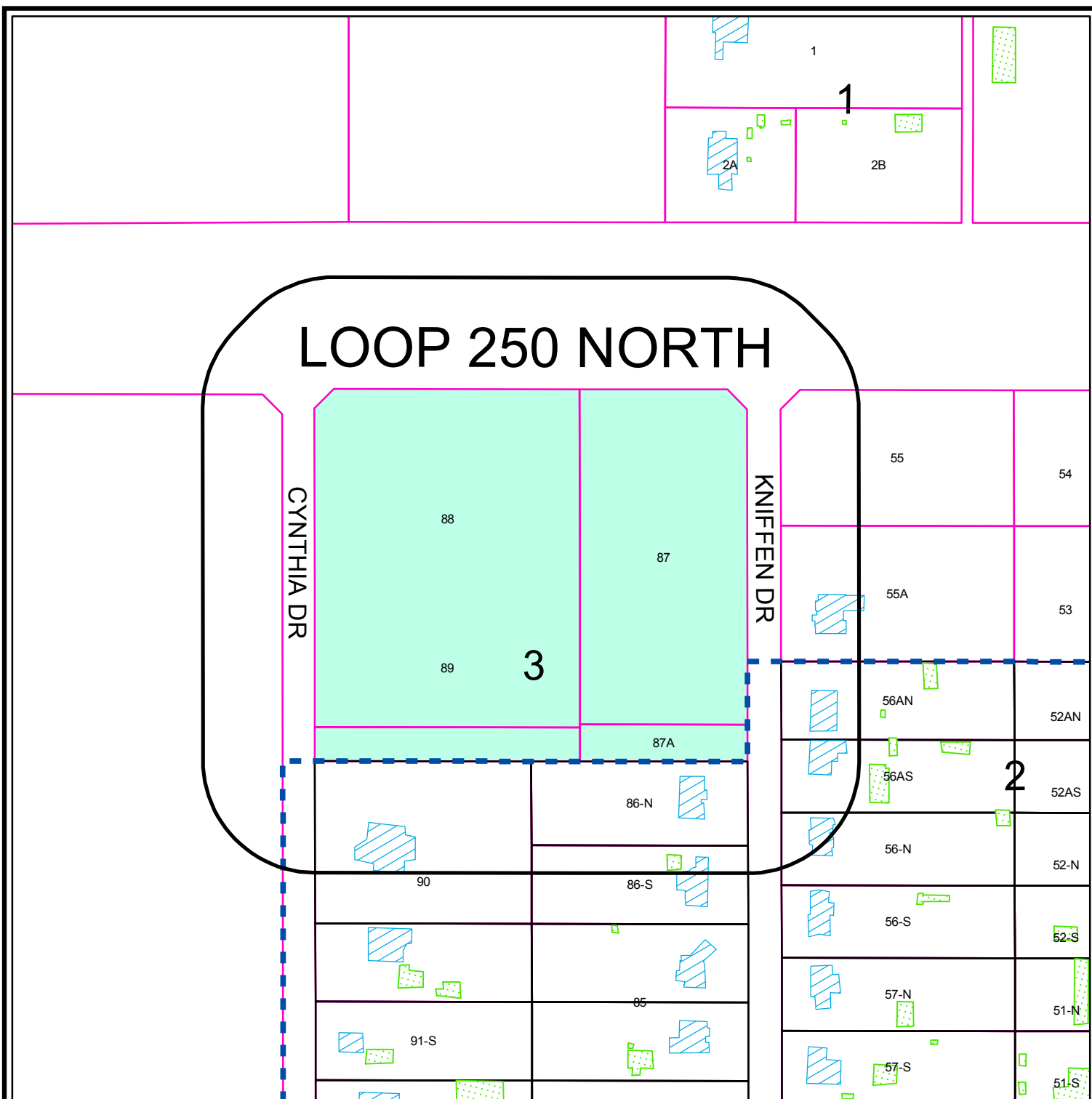
Authorized Agent (signature)

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'

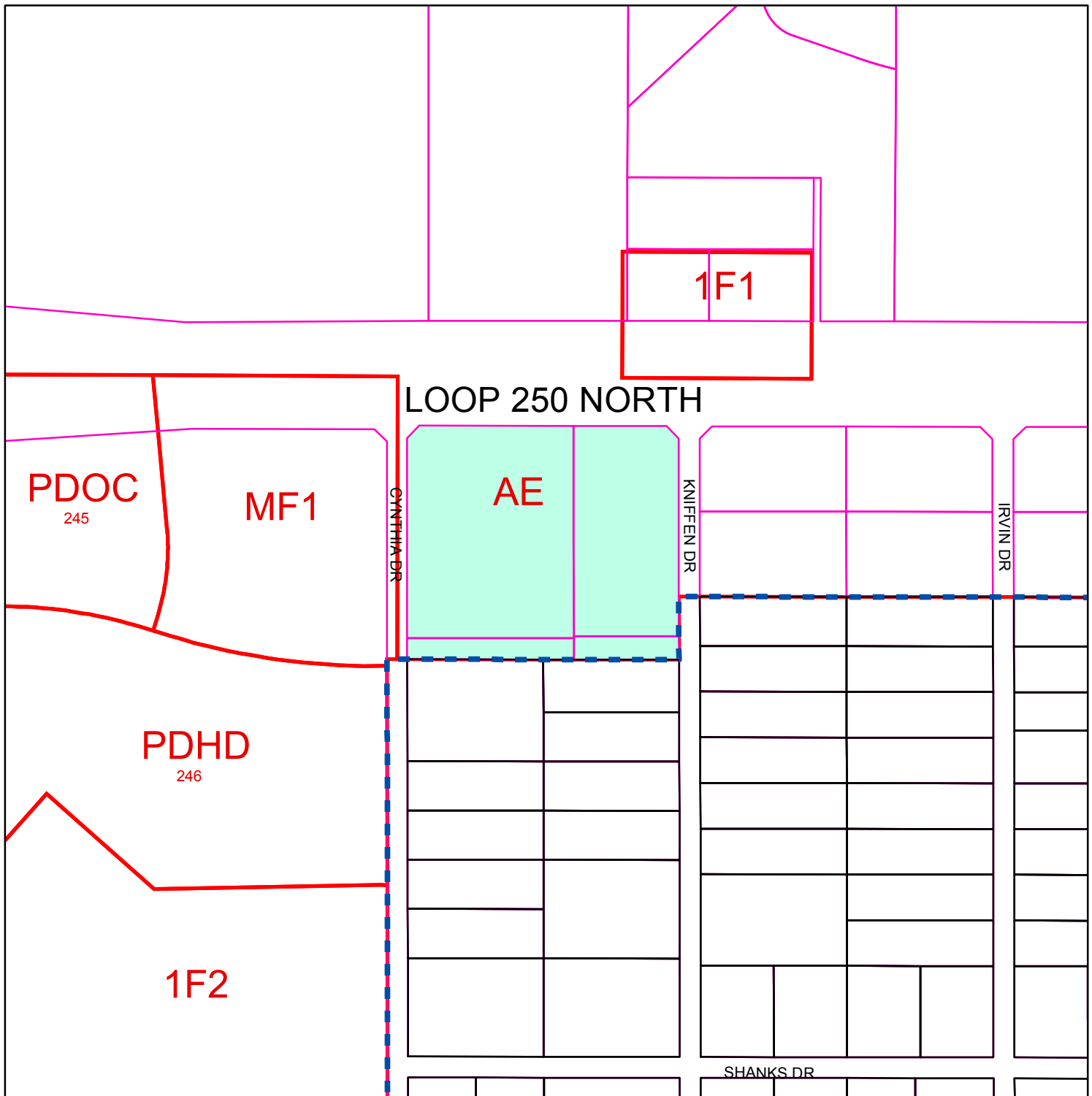
Consider a request for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Shopping Center on Lots 87, 87A, 88 and 89, Block 3, Skyview Development City and County of Midland, Texas.

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:

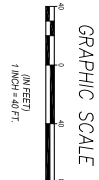
Rick Crownover, Director of Development
Services

APPROVED AS TO FORM:

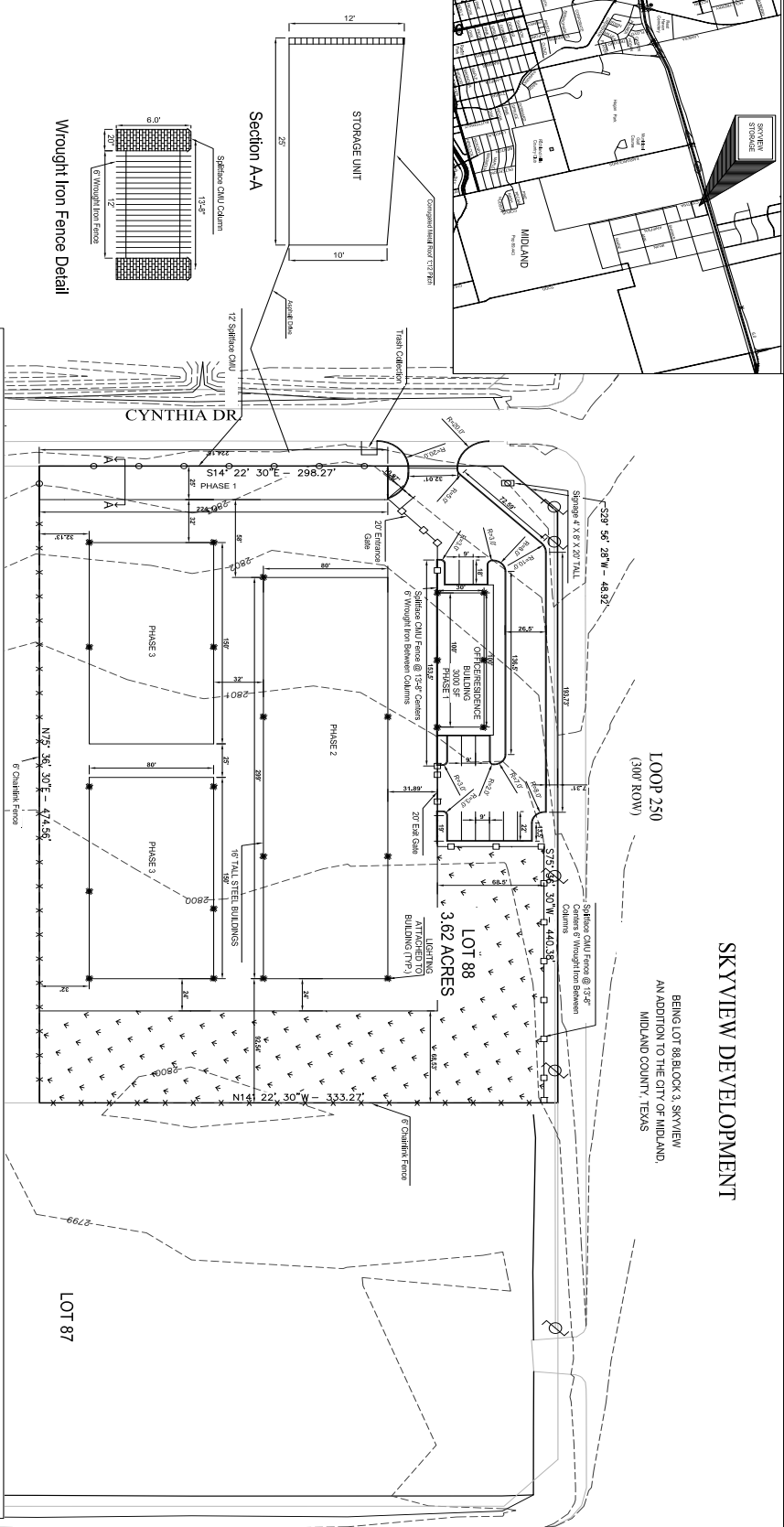
Keith Stretcher, City Attorney

LOOP 250
(300' ROW)

BEING LOT 88, BLOCK 3, SKYVIEW
AN ADDITION TO THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS

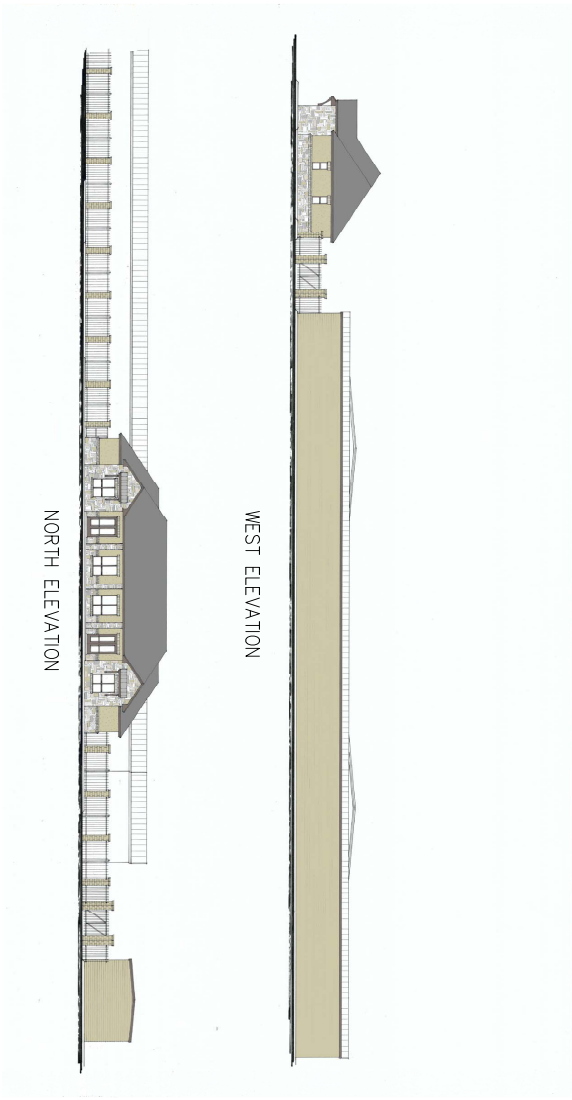


16.17



Wrought Iron Fence Detail

NOT PLATTED
DOLORES MCCALL



WEST ELEVATION

NORTH ELEVATION

LOT 55A

LOT 55

LOT 56A

MILTON LARY
3403 CALDERA BLVD.
MIDLAND, TX 79705
(432)694-5488

SKYVIEW DEVELOPMENT



NEWTON ENGINEERING, PC
P.O. BOX 10000
NEWTON, MA 02450
TEL: 617/552-4600
FAX: 617/552-4601

SCALE: 1" = 40'	APPROVED BY:	DESIGN BY: JAW
DATE: FEB. 13, 2012		FILE NAME:
SITE PLAN		PROJECT NUMBER 11-ME2003



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: David Beard,

SUBJECT: Second Reading Municipal Setting Designation (CVS)

Purpose:

Hold a public hearing at approximately 10:48am and consider an ordinance (second reading) on a request by Modern Geosciences on behalf of CVS Store #4356 to authorize the City of Midland to support the application of a Municipal Setting Designation for the CVS site located at 301 Andrews Hwy. The CVS site is positioned in the City Limits, generally located at the northwest corner of Illinois Ave. and Andrews Hwy. (District #3 - James)

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

The site is currently entered into the Texas Voluntary Cleanup Program (VCP) and is seeking an MSD to restrict groundwater use at the site to non-potable purposes. Using the MSD, the Site will be able to pursue and complete VCP closure activities.

The purpose of the public hearing is to allow consideration of the MSD application request and allow the applicant or his representative an opportunity to answer any questions the council or public may have.

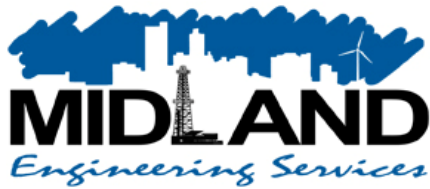
By Texas law, a property is eligible for a MSD if:

- (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 both criteria.

Attached is a copy of the Public Notice including a Property Owner Notification map.



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:

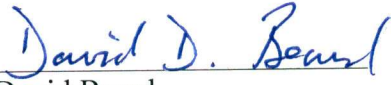
Property Owner's Signature

Printed Name

Property Address (No P. O. Boxes)

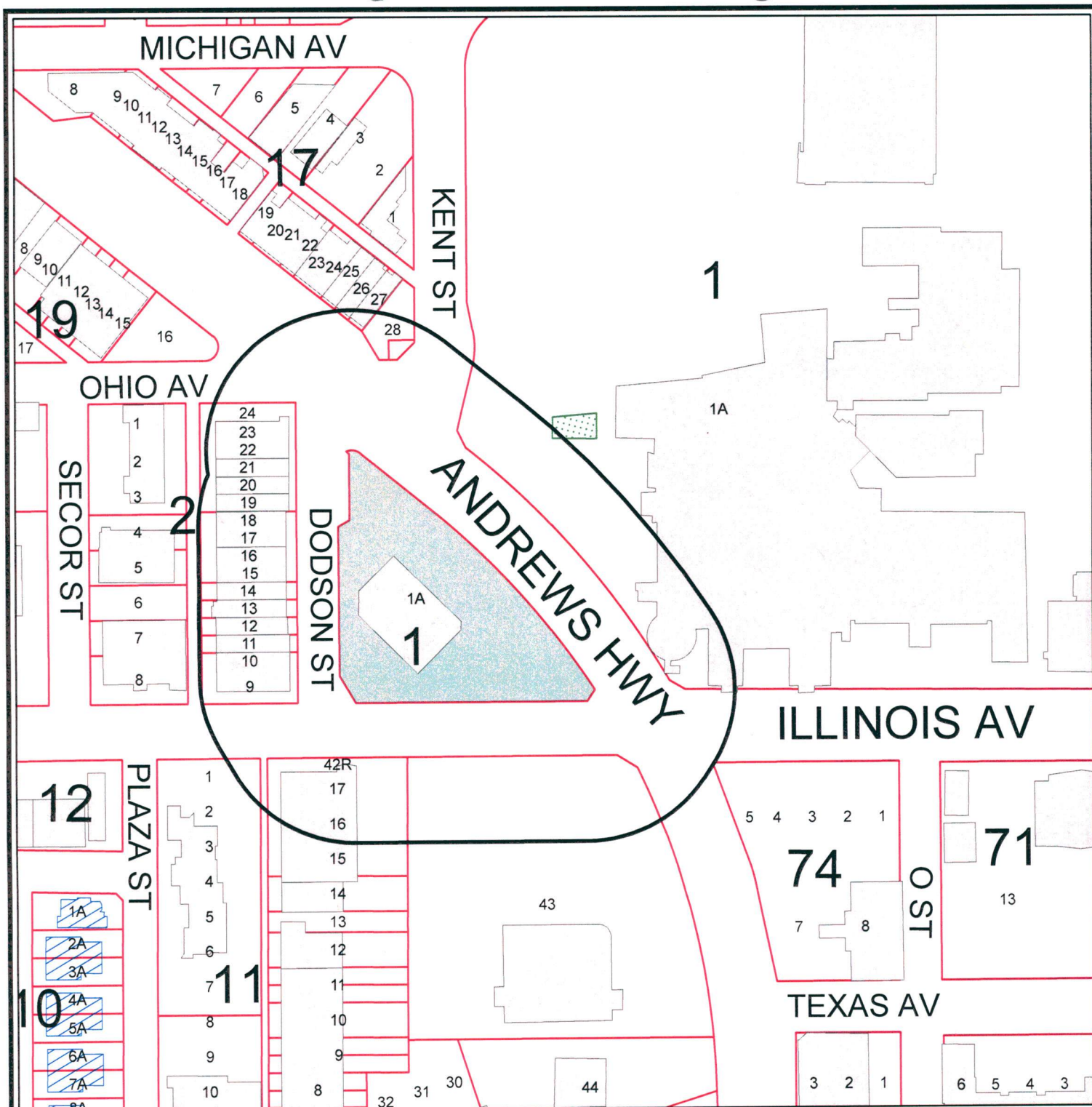
If any further information is desired, please contact the Planning Division at 685-7286. Si ud. desea más información en Español sobre esta cuestión, llame al : 685-7286.

Notices Mailed:13
Date Mailed: April 23, 2012
Case Name: CVS Pharmacy


David Beard
City Engineer

DDB 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: 5/22/2012

TO: City Council / City Manager

FROM: Ken Van Dyne,

SUBJECT: CY Houston Management Company - Specific Use Permit for on-premise consumption of all alcoholic beverages in a bar.

Purpose:

This is the second reading to 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. No changes have been made to this item since its first reading on May 8, 2012.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / 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 2:00 a.m., seven days a week; maximum seating within the lounge areas shall be limited to 66 seats and a combined total of 34 seats in the two patio areas.



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:

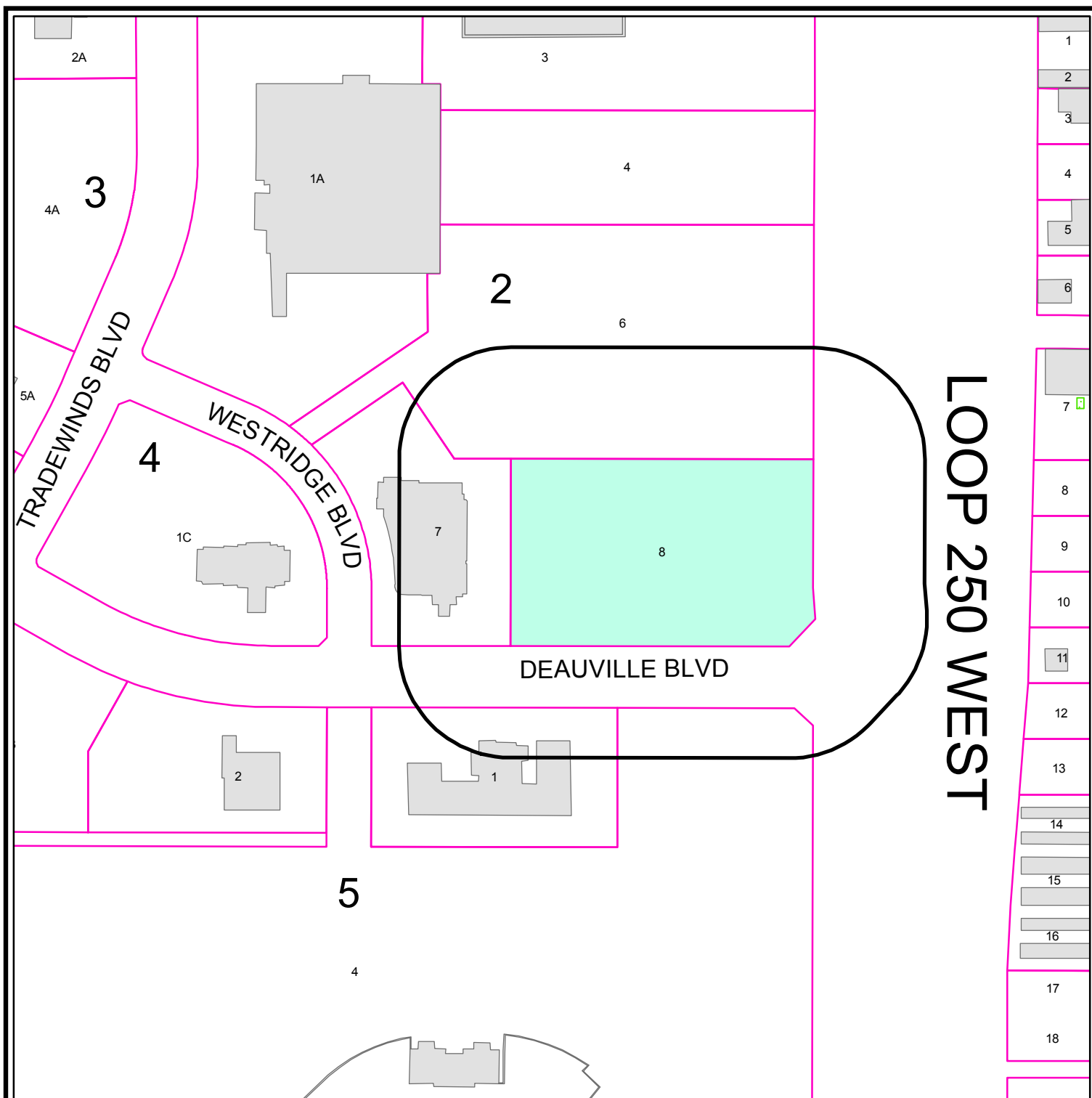
There is no cost to the City associated with approving this request.

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'

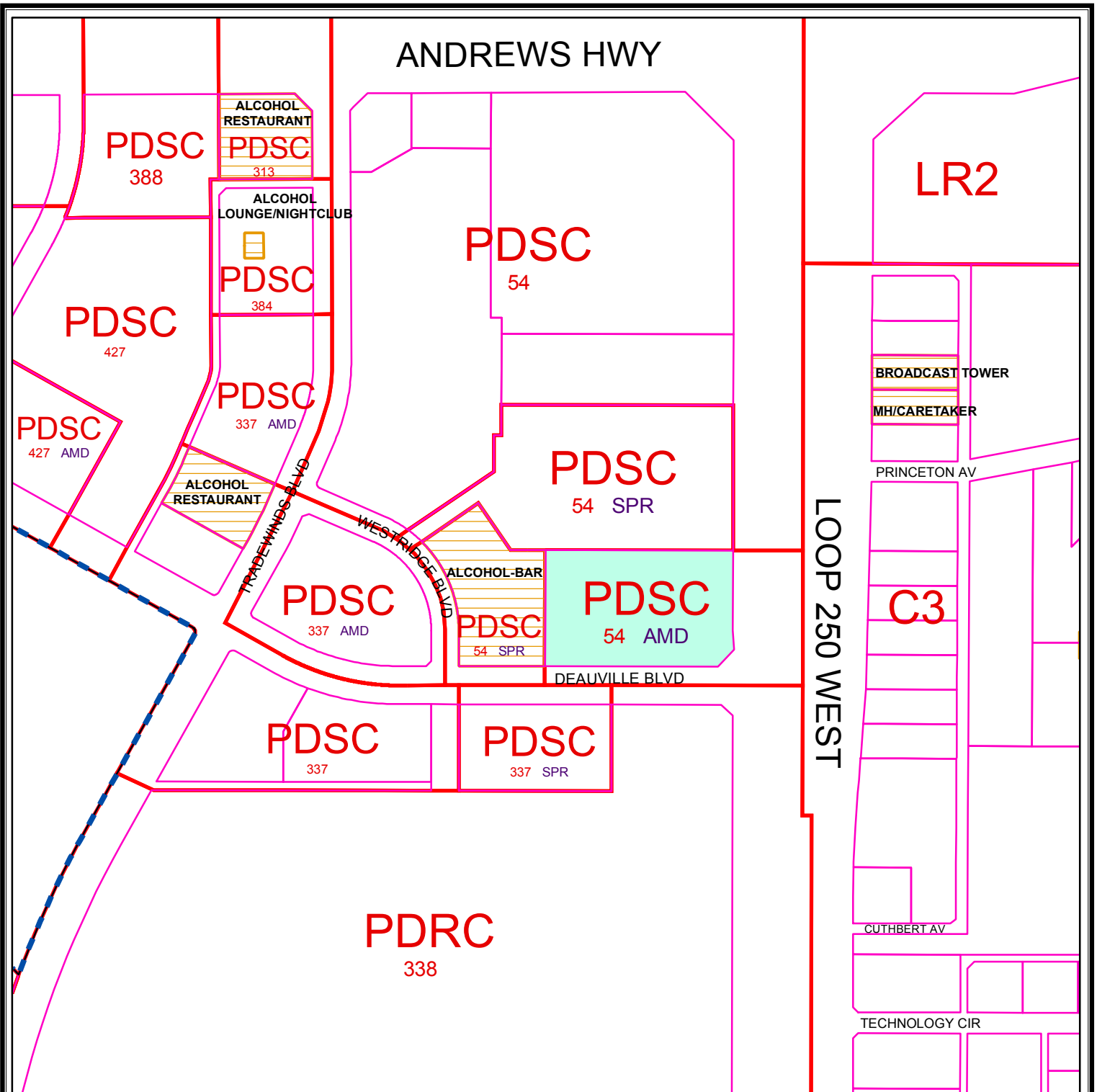
Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

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:

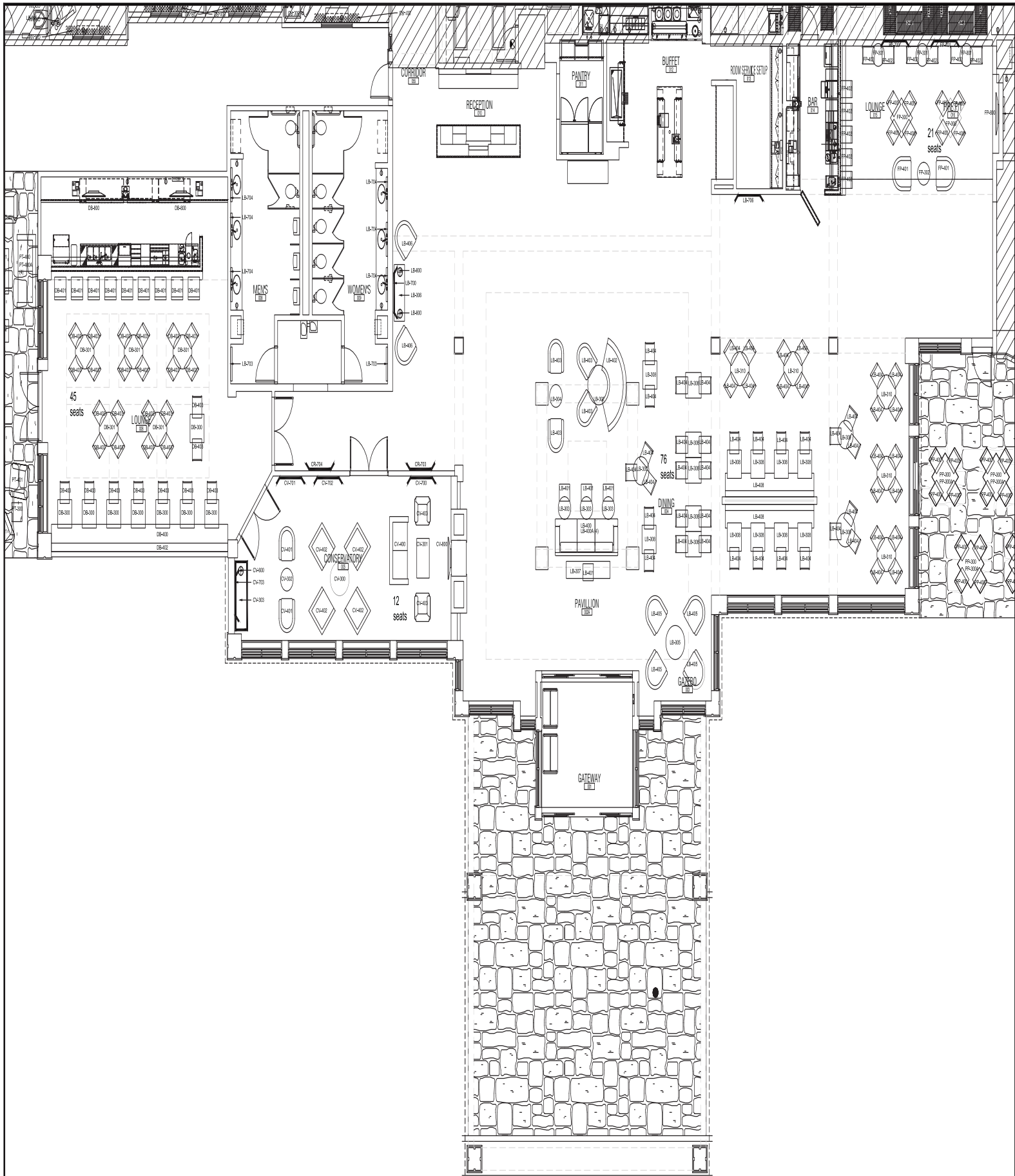
- A. That the maximum seating within the lounge areas shall be limited to 66 seats and the adjacent patio area as designated on Exhibit A;
- B. That no outside entrance to a separate bar area shall be permitted;
- C. That the days and hours of alcoholic beverage sales and consumption shall not exceed 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



PAVILION FURNITURE PLAN
1/8" = 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
18.7

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

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

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.

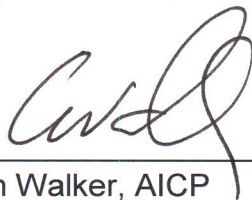
ANALYSIS:

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, 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- Mh Date: 1/3/12

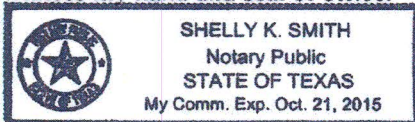
Property Owner: SBC, LP by SBC GZ, LLC Date: 1/3/12
its sole general partner by Douglas B Henson President

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.

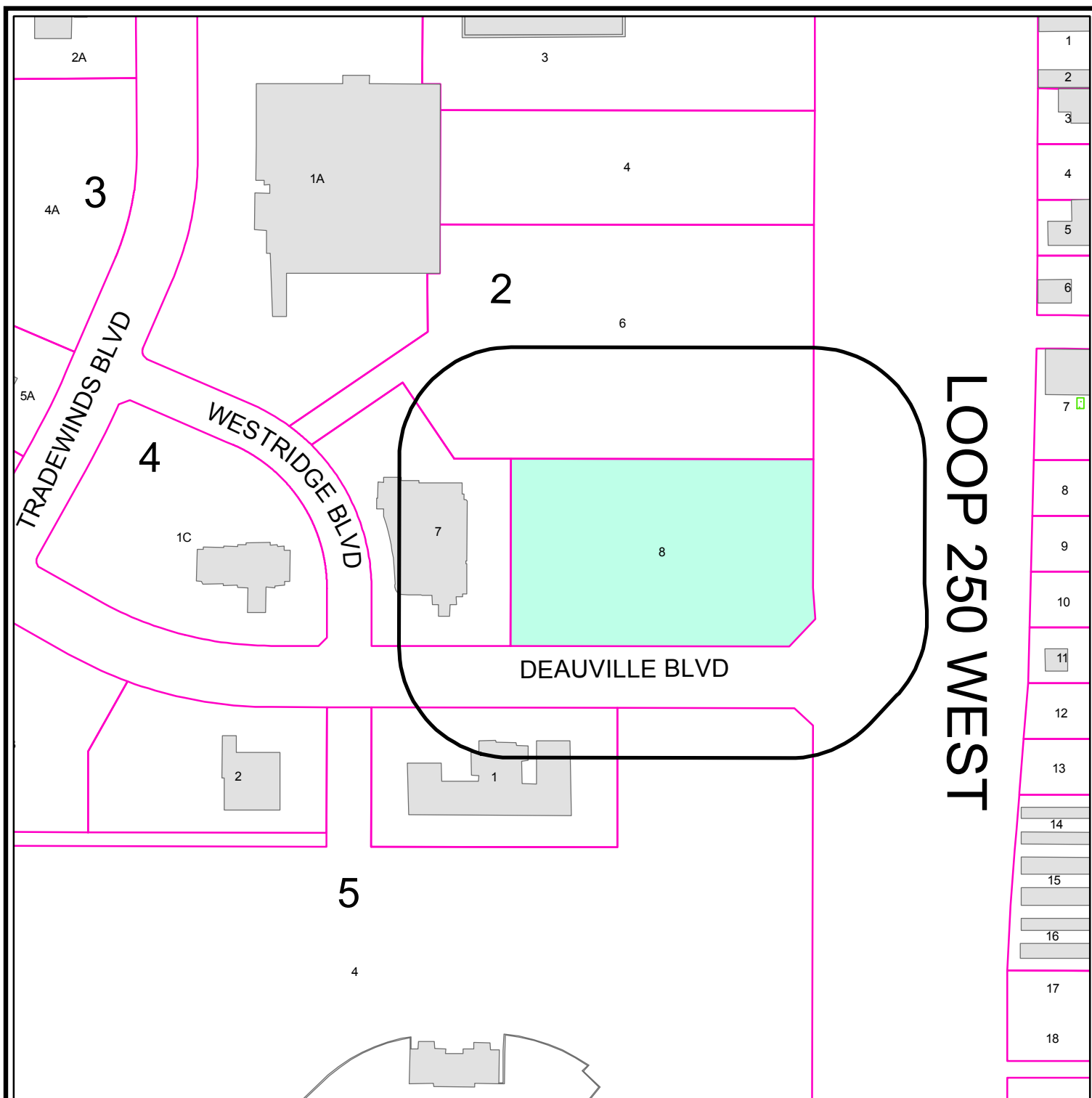
Subscribed and sworn to before me, this 3rd day of January, 2012, to certify which
witness my hand and seal of office.



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'

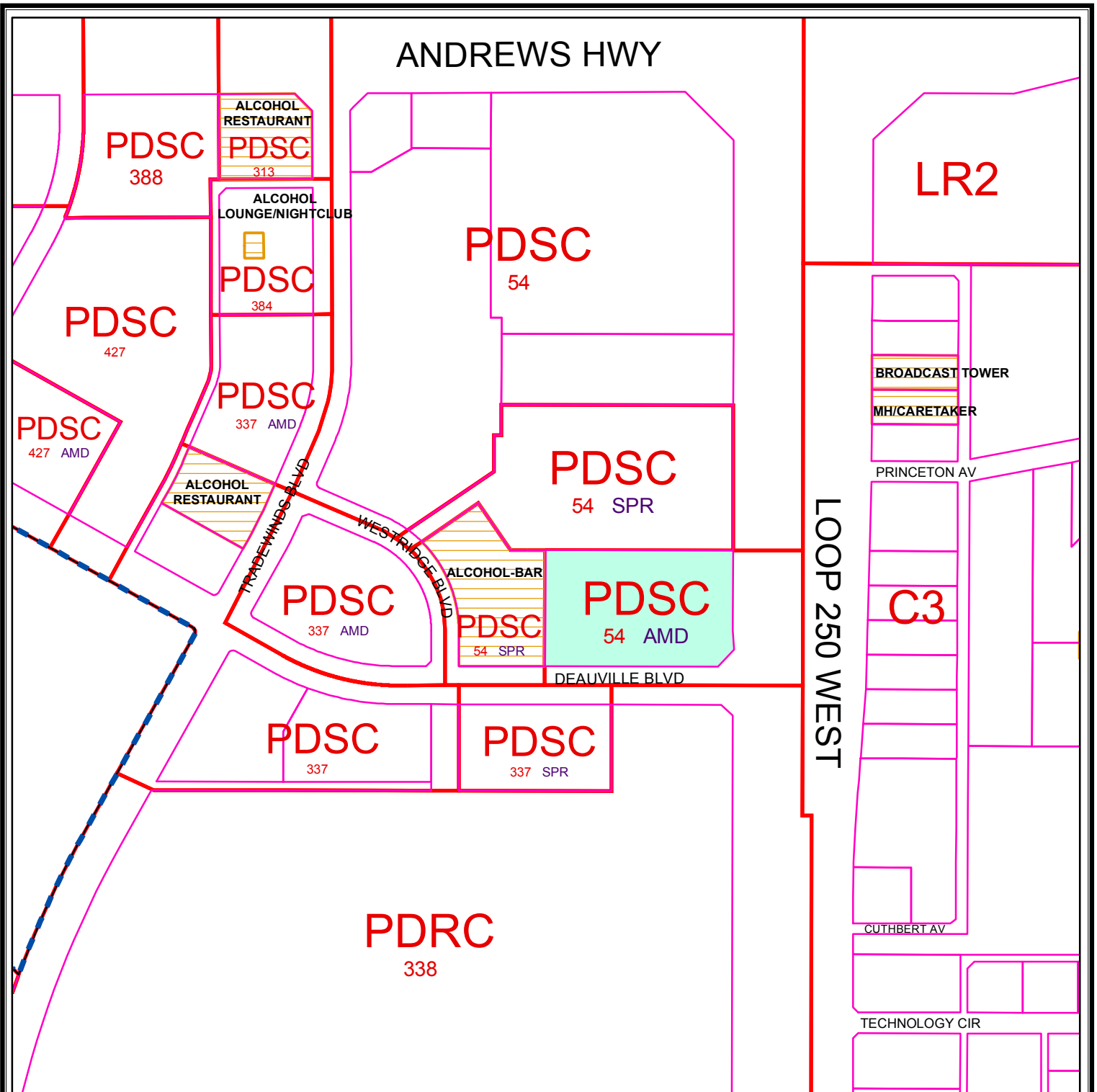
Consider a request for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas.

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

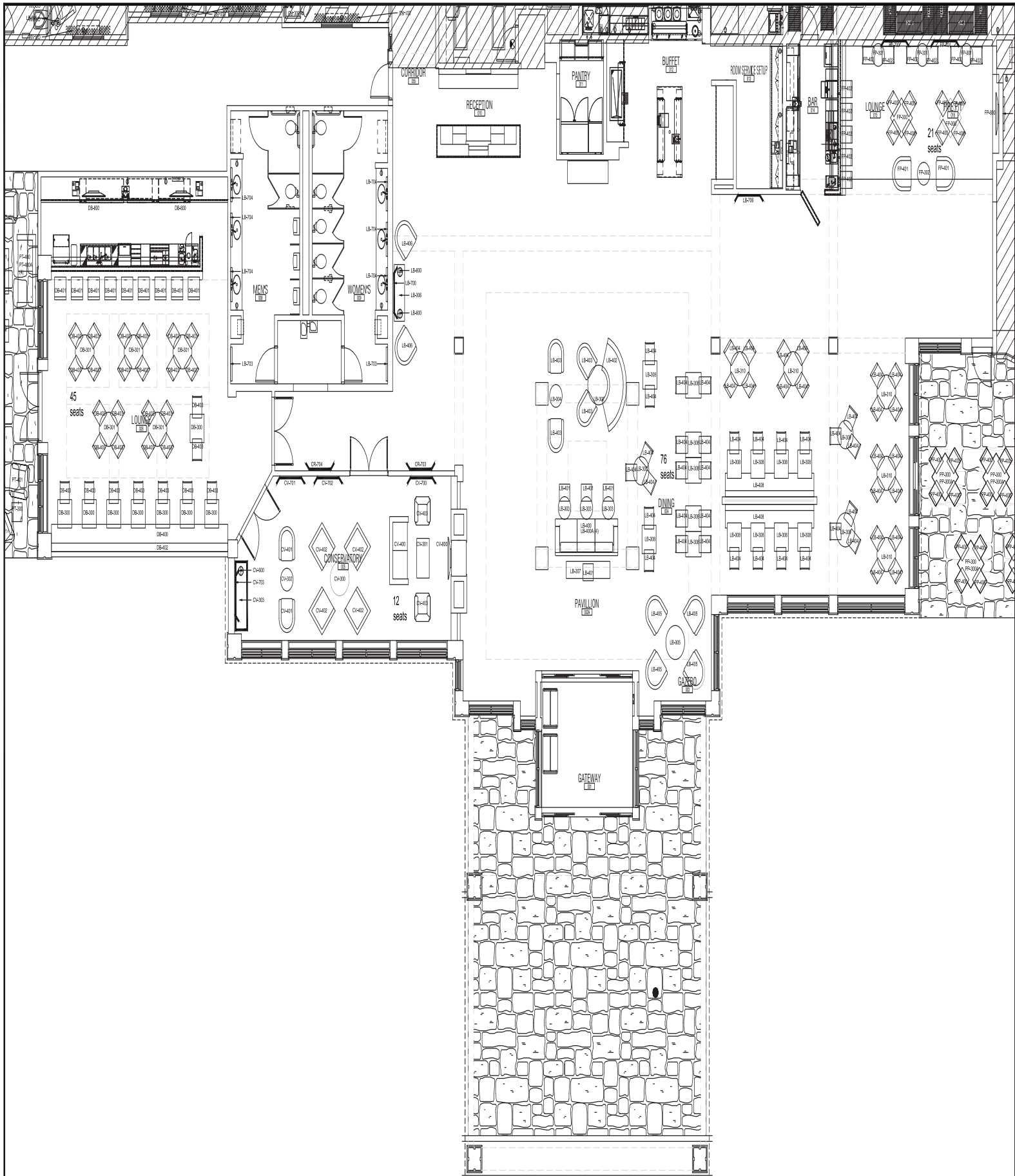
- ▬ ZONING ▬ CITY PARCELS ▬ COUNTY PARCELS
▬ SPECIFIC USE PERMITS - - CITY LIMITS

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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PAVILION FURNITURE PLAN
1/8" = 1'-0"

1

Design, Inc. 122 NW 26th Suite 201 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	WESTERN INTERNATIONAL 1347 Market Dr. Suite 100 Fort Worth, TX 76104	Architect: Dustin Curtis dustin.curtis@c-arch.us Project Manager: Mark Richardson mark.richardson@jrkdesign.us	Revisions <table border="1"> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> <tr><td> </td><td> </td></tr> </table>									Hilton Garden Inn Deaume Blvd. Midland, TX 79701 3.12.2012 TX-082	PAVILION FURNITURE PLAN 18.20



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012
TO: City Council / City Manager
FROM: Jim Compton, Senior Planner
SUBJECT: Subdivision Code Amendment

Purpose:

Hold a public hearing at approximately 10:30 a.m. and consider an ordinance on a City-initiated proposal to delete Section 11-2-1(E) 9 of the Subdivision Code.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

State law provides for the extension of the Subdivision Code regulations into Midland's ETJ, which currently extends 3.5 miles beyond the City limit. Sometimes, the enforcement of these regulations is very difficult. Within the City limit, the Code requires a property to be platted prior to the issuance of a building permit. State and local laws prohibit public utility companies from serving unplatted land. Thus, enforcement within the City is very effective. However, Midland does not provide water and sewer service in the ETJ, and the City cannot regulate other utility providers. In an effort to reduce the number of improper ETJ subdivisions, the City Council adopted Section 11-2-1(E) 9, which prohibits the issuance of septic permits to unplatted land. Unfortunately, such requests occur too late in the development process. By the time a septic permit is requested, the land is already subdivided, a structure is in place and utility services, especially electric service, are available. Due to the poor success in preventing land subdivisions outside the platting process, staff recommends deleting this section. The Planning and Zoning Commission recommended unanimous approval on April 16, 2012.

Attachment:

Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE XI, “PLANNING AND DEVELOPMENT”, CHAPTER 2, “PLATS AND SUBDIVISIONS”, SECTION 1, “GENERAL PROVISIONS”, SUBSECTION (E), “JURISDICTION”, OF THE CITY CODE OF MIDLAND, TEXAS, BY REPEALING PARAGRAPH 9, WHICH PROHIBITS THE ISSUANCE OF A SEPTIC PERMIT FOR A NEW OR EXPANDED SEPTIC SYSTEM FOR PROPERTY FOR WHICH A PLAT HAS NOT BEEN APPROVED; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE; AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to amend the Midland City Code as it relates to the regulation of septic permits; and

WHEREAS, the City Council finds that the public health, safety and general welfare will be best served by repealing the prohibition of the issuance of a septic permit for a new or expanded septic system for property for which a plat has not been approved;

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

SECTION ONE. That Title XI, “Planning and Development”, Chapter Two, “Plats and Subdivisions”, Section 1, “General provisions”, Subsection (E), “Jurisdiction”, Paragraph 9 of the City Code of Midland, Texas, is hereby repealed.

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 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

M-12-004 – Consider a City-Initiated proposal to delete Section 11-2-1(E)9 of the **Subdivision Code**.

Senior Planner Jim Compton gave an overview of Section 11-2-1 (E)9 and stated the City has basically not had an overwhelming success with this section. Staff was not aware of a single instance in which this regulation had stopped an illegal land sale. Staff recommended that Section 11-2-1(E)9 of the Subdivision Code be stricken.

Following discussion, a motion for approval was made by Commissioner Watkins; seconded by Commissioner Norris. 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: M-12-004.

REQUEST: Consider a City-Initiated proposal to delete Section 11-2-1(E)9 of the Subdivision Code.

DETAILS OF REQUEST:

1. The State enabling legislation that authorizes municipalities to regulate the subdivision of land requires all owners of land within the City to receive approval of a subdivision plat before land can be subdivided into two or more parts. This same legislation applies to Midland's Extra Territorial Jurisdiction, or ETJ. This is an area located outside the City limit, but within 3.5 miles thereof. Midland's Subdivision Code includes a condition that prohibits the issuance of a building permit to unplatted property. Both State and local law also prohibit the connection of any public utility service to unplatted land. Thus, the staff has little difficulty in enforcing subdivision regulations on land inside the City limit. However, for land in the ETJ, building permits are not required, and the City does not sell water and sewer services beyond the City limits. We have no ability to require other public utility companies to refrain from providing services to unplatted land. Once a land owner acquires a physical address from the Midland Emergency Communication District, the owner is able to receive electric service. This means he can run a water well pump, and can get a permit to install a septic system. With electricity, water and a septic system, an owner is able to establish a residence or business without ever platting their land. Having a physical address is the key that allows land to be developed. Given these conditions, it is virtually impossible for the City of Midland to oversee the frequent ETJ land subdivisions that are occurring.
2. In an effort to enhance the enforcement of subdivision regulations in the ETJ, the staff recommended, and the City Council agreed, to add a section to the Subdivision Code. Section 11-2-1(E)9 prohibits the issuance of a permit for a septic system to unplatted land, either inside the City or in the ETJ. Since the City's Health Department issues septic permits both inside the City and in the ETJ, we were hoping we could curtail some of the illegal subdivisions in the ETJ. Unfortunately, the installation of a septic system is one of the last things a land owner does before setting up housekeeping. The subdivision of land has already occurred, the land has been sold to a new owner, the water well is dug and the residential structure is in place before City staff learns of the illegal subdivision.

PLANNING AND ZONING COMMISSION

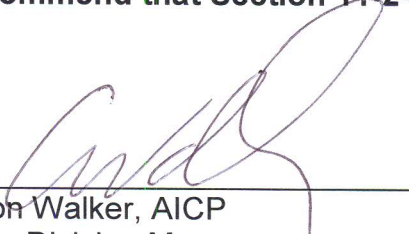
April 16, 2012

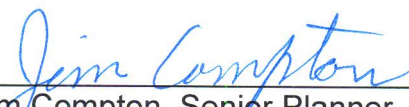
M-12-004

3. The reality is that this regulation has not been successful. The issuance of a septic permit occurs too late in the development process. We are not aware of a single instance in which this regulation has stopped an illegal land sale, either inside the City limit or in the ETJ. For this reason, the staff is now recommending that this regulation be stricken from the Subdivision Code. (In an effort to stop the sale of land earlier in the development process, for several years the staff has been working with Midland Emergency Communications District, who issues addresses to land outside the City. When they receive an address request, they allow the Planning staff to review each case to determine whether the land is platted, and if not, whether there is a public benefit in requiring the land to be platted before an address is issued. Again, we have had little success. Once someone purchases land in the ETJ, it is virtually impossible to mandate that the property owner file a plat on his property.)

STAFF RECOMMENDATION:

We recommend that Section 11-2-1(E)9 of the Subdivision Code be stricken.



Cameron Walker, AICP
Planning Division Manager
Department of Development Services

Jim Compton, Senior Planner
Department of Development Services



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Jim Compton, Senior Planner

SUBJECT: Glenn Miller Homes

Purpose:

Hold a public hearing at approximately 10:33 a.m. and consider an ordinance on a request by Glen Miller Homes for a zone change from PD, Planned District for a Housing Development to Amended Planned District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

The subject property consists of 22 single-family lots located along Quicksand Cove, a short cul-de-sac street. The current zoning is Planned District for a Housing Development, subject to 1F-2 District regulations, except that the front yard setback is reduced from 20 feet to 15 feet. Mr. Miller is requesting a further reduction to 10 feet. He states that his request is being driven by his clients, who claim reduced landscape maintenance and watering, along with an opportunity for either a larger back yard or larger home. There are numerous instances where the City Council has approved front yard setback reductions to 15 feet when short streets are involved, and even two instances where five-foot front yards have been approved. The attached ordinance also prohibits front entry driveways. The Planning and Zoning Commission voted 6-1 to recommend approval, and the Staff concurs.

Attachments:

April 30, 2012 P&Z Staff Report
Proposed Ordinance

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 10A-29A, AND LOTS 31 AND 32, BLOCK 5, GREATHOUSE ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON BOTH SIDES OF QUICKSAND COVE, WEST OF SPENCE 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 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:

Lots 10A-29A, and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, City and County of Midland, Texas.

SECTION TWO. That said property shall be subject to the following special conditions and restrictions:

1. That this property shall continue to be subject to the conditions and regulations contained in City of Midland Ordinance No. 8505, except as otherwise stated below.
2. That the minimum front yard setback for all lots in this planned district shall be ten feet.
3. That none of the lots in this planned district shall have front entry garages; all garage access shall be from the alleys at the rear of the lots.
4. That City of Midland Ordinance No. 8604 is hereby repealed.

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 30, 2012

Z-12-015 - Hold a public hearing and consider a request by **Glen Miller Homes** for a *zone change* from PD, Planned District for a Housing Development to Amended Planned District on Lots 10A through 29A and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, City and County of Midland, Texas. (Generally located on both sides of Quicksand Cove, west of Spence Drive.)

Applicant yielded to staff. Senior Planner Jim Compton gave an overview of the request and stated the applicant wished to reduce the 15-foot front yard setback to 10 feet. There are already three lots developed with a 15-foot front yard setback and the owners indicated they wish to join in the 10-foot setback. Staff recommended approval of the zone change subject to conditions A-D.

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.

Susan Mauter, Midland Texas stated she moved into the area about four months ago and wanted more information what the hearing was about.

Cameron Walker explained that the residences are looking to re-zone in order to reduce the front yard. He stated homeowners wish to build a larger home and would like less lawn maintenance. No more lots are being created in the cul-de-sac and that only the homes in the cul-de-sac were being affected.

Glen Miller of Glenn Miller Homes stated the request was due to owners wanting to build larger homes.

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

A motion for approval subject to conditions A-D was made by Commissioner Watkins; seconded by Commissioner Norris. The motion carried by the following vote: AYE: Ferguson, Gatten, Wolf, Watkins, Norris, York and Carrillo. NAY: None. ABSTAIN: None. ABSENT: Lanning, Wilton, and Woodruff.

PLANNING AND ZONING COMMISSION

April 30, 2012

CASE: Z-12-015.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Housing Development to Amended Planned District.

APPLICANT/OWNER: Glen Miller Homes, Calvin Wood, Jerry Watson and David Rayle.

LEGAL DESCRIPTION: Lots 10A through 29A, and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, City and County of Midland, Texas.

LOCATION: Both sides of Quicksand Cove, west of Spence Drive.

CURRENT ZONING: PD, Planned District for a Housing Development.

DETAILS OF REQUEST:

1. The lots on this street were originally zoned Planned District for a Housing Development, subject to the standards of the 1F-2 District. Additionally, a site plan was approved to screen the alley between Holiday Hill Road and the lots. These conditions are contained in Ordinance 8505. Later, Ordinance 8604 was adopted that reduced the front yard setbacks from 20 feet to 15 feet. Additionally, front-entry driveways are prohibited except for circular driveways with at least 65 feet of street frontage; the garage door is setback 20 feet from the front property line; or where the driveways curve 90 degrees to create a parking pad parallel to Quicksand Cove such that no portion of a parked vehicle extends into the public right-of-way. The applicant has now submitted a zone change request to reduce the 15-foot front yard to 10 feet. He has also provided signed letters from the owners of three lots that are already developed with a 15-foot front yard setback, indicating a desire to join Mr. Miller in this rezoning request.

SURROUNDING ZONING AND LAND USE:

2. Quicksand Cove is a short cul-de-sac street that contains 22 lots. The area to the north is also zoned Planned District for a Housing Development, subject to 1F-2 District regulations (20-foot front yards). The land to the south is zoned LR-2 District, and the land to the southeast is zoned FM-1 District, both of which are

vacant. The area west, across Holiday Hill Road, was just annexed into the City limit, and is zoned for retail and apartment uses.

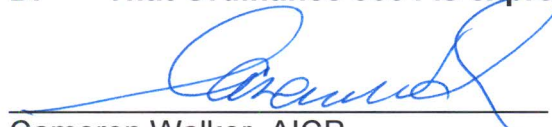
ANALYSIS:

3. The applicant claims the additional reduction in front yard setback is desired by his clients. To them, it represents less lawn watering and maintenance, and the opportunity for a slightly larger home and/or larger rear yards. The City Council has generally approved reductions to 15 feet along short streets that carry very little traffic, since only the respective homeowners are affected. In two instances, a reduction to five-foot front yards has been approved by the Council. One example is the Grandridge Park subdivision, located west of Lowe's Home Improvement. This subdivision is surrounded with a masonry screening wall, again to limit any impacts to the affected homeowners. Because of these precedents, combined with the fact that Quicksand Cove is a short, cul-de-sac street where rear entry garages are predominant, we have no objection to this rezoning request.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from PD, Planned District for a Shopping Center, subject to the following regulations:

- A. That the development of this property shall be subject to the regulations 8505, except as otherwise stated below.
- B. That the minimum front yard setback for lots within this platted district shall be ten (10) feet.
- C. That front driveway access for all lots in this planned district shall be prohibited.
- D. That Ordinance 8604 is expressly repealed.


Cameron Walker, AICP
Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 212-015

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: Glenn Miller Homes 413 2877
Address: PO Box 8021 694-2877
Street Address (Phone/e-mail)
City Midland State TX Zip Code 79708
Property Owner: (same)
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:

Lots 10A-29A, and Lots 31 & 32, Block 5, Greathouse, Sec. 8

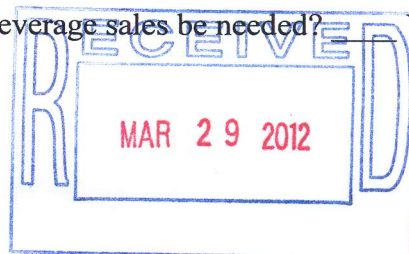
Current PD Classification: PDHP

Requested PD Classification: Amended Planned District - 10' Front Set Back
(List by tracts if more than one zoning district is requested)

Reason for amendment request: Reduced Yard area, water conservation

Describe how conditions affecting the property have changed since it was designated its present zone: ① Our current drought & ② I have customers wanting larger homes.

Will a Specific Use Permit with Term for alcoholic beverage sales be needed? Yes ☒ 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):

Andrew Miller

Date: 3/28/12

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

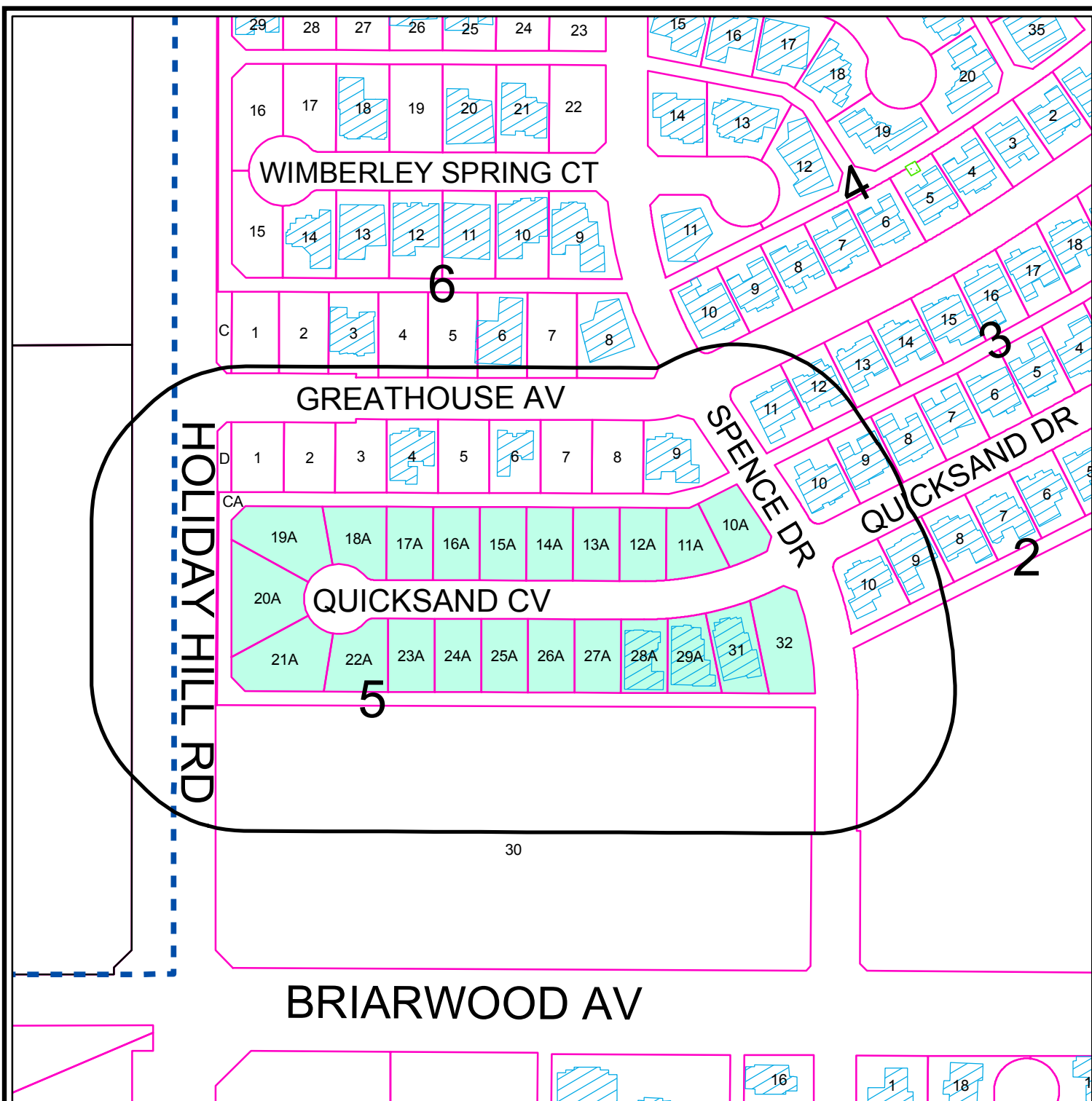
FOR OFFICE USE ONLY

Rec'd By: JC Date: 3/29/12

Assigned: KV

For: Pd 2 On: 4/30/12

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



PROPERTY OWNER NOTIFICATION MAP

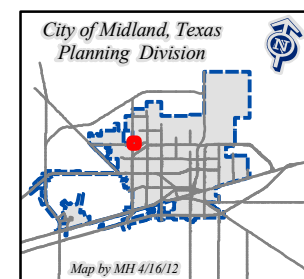
Z - 12 - 015

Scale: 1" = 200'

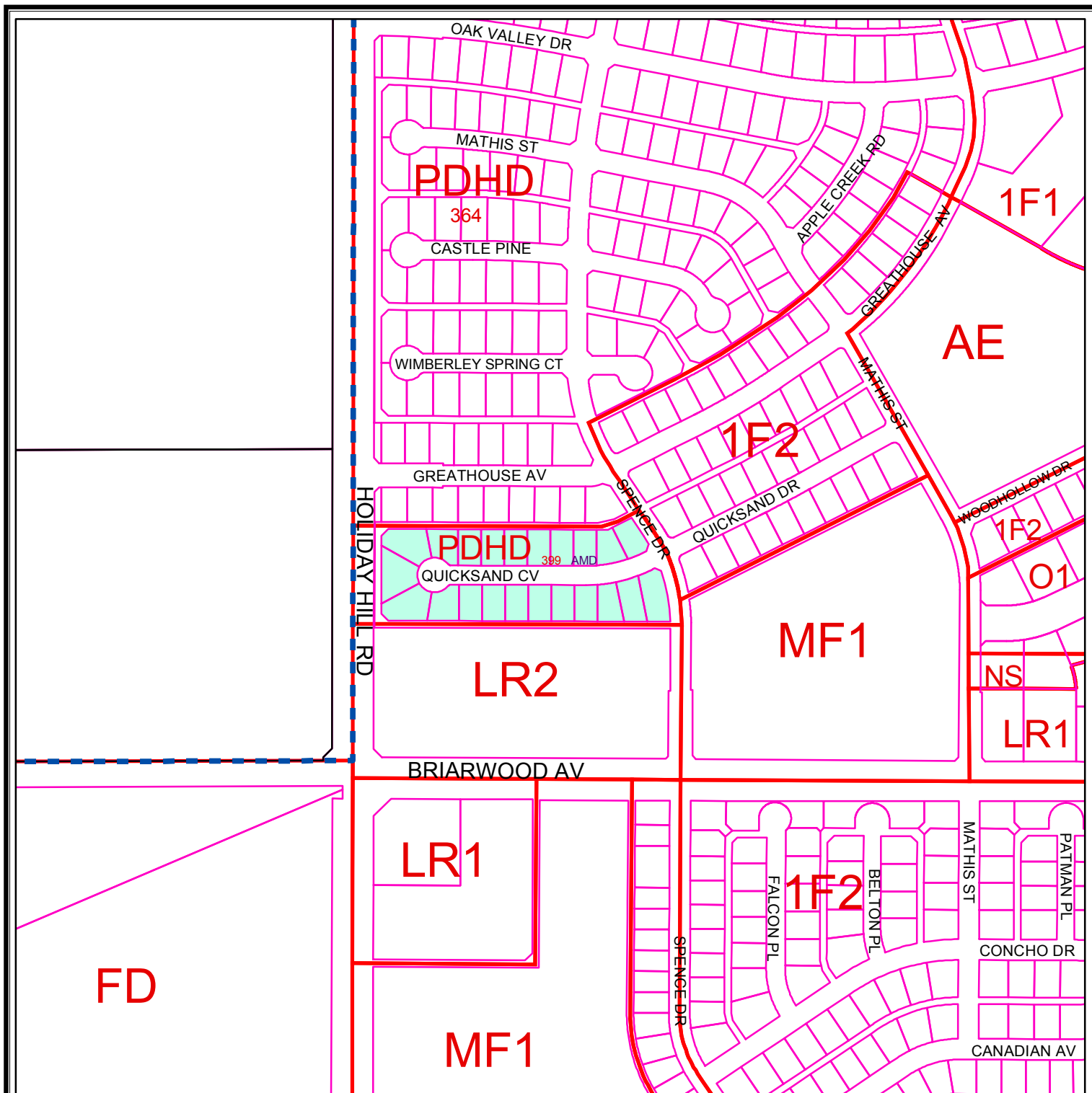
Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lots 10A thru 29A and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, City and County of Midland, Texas.

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 - 015

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lots 10A thru 29A and Lots 31 and 32, Block 5, Greathouse Addition, Section 8, 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
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Jim Compton, Senior Planner

SUBJECT: Mockingbird Oaks Development

Purpose:

Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Mockingbird Oaks Development for a zone change from FD, Future Development District to 1F-3, One-Family Development District and TH, Townhouse Development District.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

Mike Jackson has submitted a preliminary plat named Los Patios, Section 3. It is located west of Holiday Hill Road and 450 feet south of Briarwood Avenue, and contains 135 residential lots. This property must be rezoned from the current FD District before development can occur. He is proposing a four acre tract to be zoned TH District, which is located adjacent to Holiday Hill Road; the balance of the property (36.81 acres) is proposed to be zoned 1F-3 District. The density of these districts is consistent with the existing Los Patios neighborhood as well as the Comprehensive Plan. The Planning and Zoning Commission recommended approval of this request, and the staff concurs.

Attachments:

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 36.81-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 3.98-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; SAID TRACTS BEING LOCATED IN SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 450 FEET SOUTH OF BRIARWOOD AVENUE; 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 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 1F-3, One-Family Dwelling District, and a TH, Townhouse District, as 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 FD, Future

Development District, and it shall be used as a 1F-3, One-Family Dwelling District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 36.81-acre tract of land out of Section 25, 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 "A", which is attached hereto and incorporated herein.

SECTION TWO. 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 FD, Future Development District, and it shall be used as a TH, Townhouse District, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 3.98-acre tract of land out of Section 25, 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 "B", which is attached hereto and incorporated herein.

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

April 30, 2012

CASE: Z-12-016.

REQUEST: Hold a public hearing and consider a request for a zone change from FD, Future Development District to 1F-3, One-Family Dwelling District and TH, Townhouse District.

APPLICANT: Mockingbird Oaks Development, LLC.

OWNER: SBC.

LEGAL DESCRIPTION: A 40.27-acre tract out of Section 25, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas.

LOCATION: West side of Holiday Hill Road, between Los Patios Drive and Briarwood Avenue.

CURRENT ZONING: FD, Future Development District.

ASSOCIATED CASE: P-12-018, Los Patios, Section 2.

DETAILS OF REQUEST:

1. This property was annexed into the City limits in 2009. Since there was no development plan at that time, it was zoned FD District. We have now received a development plan consisting of a preliminary plat application and this zone change application. The owner plans to continue the style of development begun by the Los Patios neighborhood to the south. The applicant is proposing about four acres of townhouse development, and almost 37 acres of single-family detached homes. The associated preliminary plat application is also scheduled on the April 30th agenda. The Planning and Zoning Commission must first support the zone change request before it can consider the associated plat.

SURROUNDING ZONING AND LAND USE:

2. The land to the south is zoned for single-family in the form of townhouse development and several planned districts for single-family development. The area to the north is vacant and is zoned FD District, but we anticipate additional retail development at the intersection of Holiday Hill Road and Briarwood Avenue. The area east across Holiday Hill road is developed with single-family homes and an apartment complex. The area to the east is vacant, but is beginning to experience residential growth at this time.

ANALYSIS:

3. The Comprehensive Plan identifies this area as suitable for residential development. The Los Patios neighborhood is developed at a slightly higher density than what has been constructed in the recent past. However, there appears to be a strong market for moderate sized residential development, and the density is in line with the Comprehensive Plan recommendations. The staff sees this proposal as an extension of what has been a successful development concept, and would expect this proposal would experience the same.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from FD, Future Development District to 1F-3, One-Family Dwelling District and TH, Townhouse District.

Cameron Walker, ACIP
Planning Division Manager
Department of Development Services

Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 2-12-016

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Mockingbird Oaks Development, LLC (432) 697-3402

Applicant Name	Contact #s
3902 CALDERA BLVD.	79705
Address	Zip Code

SBC CORPORATION

Property Owner Name	Contact #s
----------------------------	-------------------

Address	Zip Code
John M. Newton	(432) 438-7784

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:

See attached. REQUESTING 36.79 ACRES TO BE ZONED FOR 1F-3 AND 3.98 ACRES TO BE ZONED TH.

PRESENT ZONE: FD REQUESTED ZONE: 1F-3 AND TH

(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: Residential

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): John M. Watson Date: 4-2-2012

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

John M. Watson who, being by me duly sworn, upon oath says: That (s)he is authorized by Mike Jackson, 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.

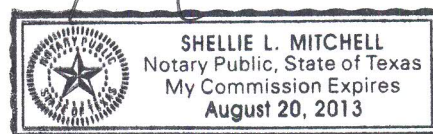
John M. Watson

Authorized Agent (signature)

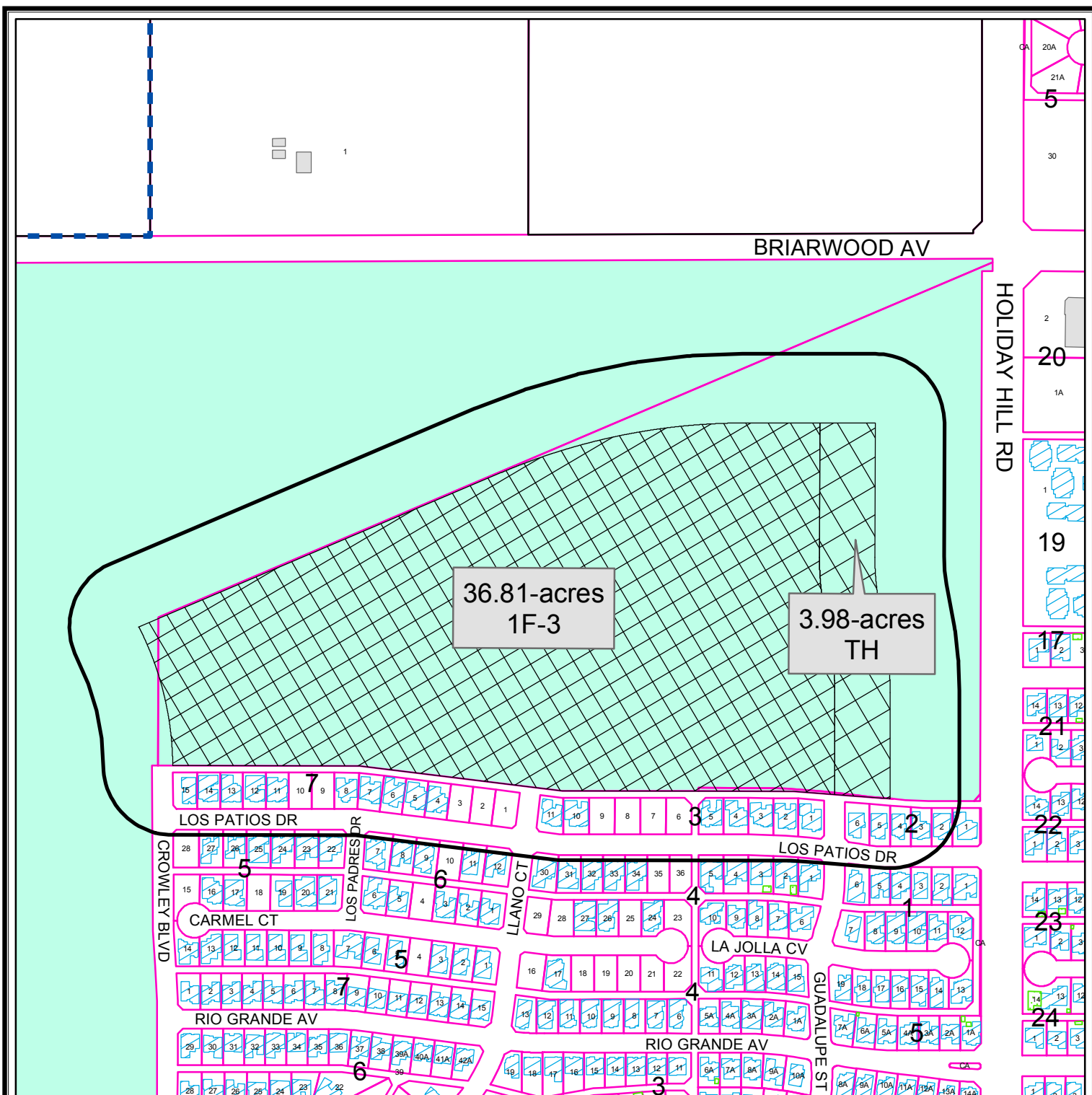
Subscribed and sworn to before me, this 2 day of April, 20 12, to certify which witness my hand and seal of office.

Shellie L. Mitchell
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>RS</u>	Date: <u>4/2/12</u>
Assigned: _____	
For: _____	On: _____



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



PROPERTY OWNER NOTIFICATION MAP

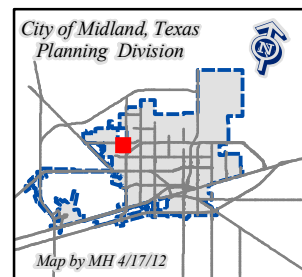
Z - 12 - 016

Scale: 1" = 400'

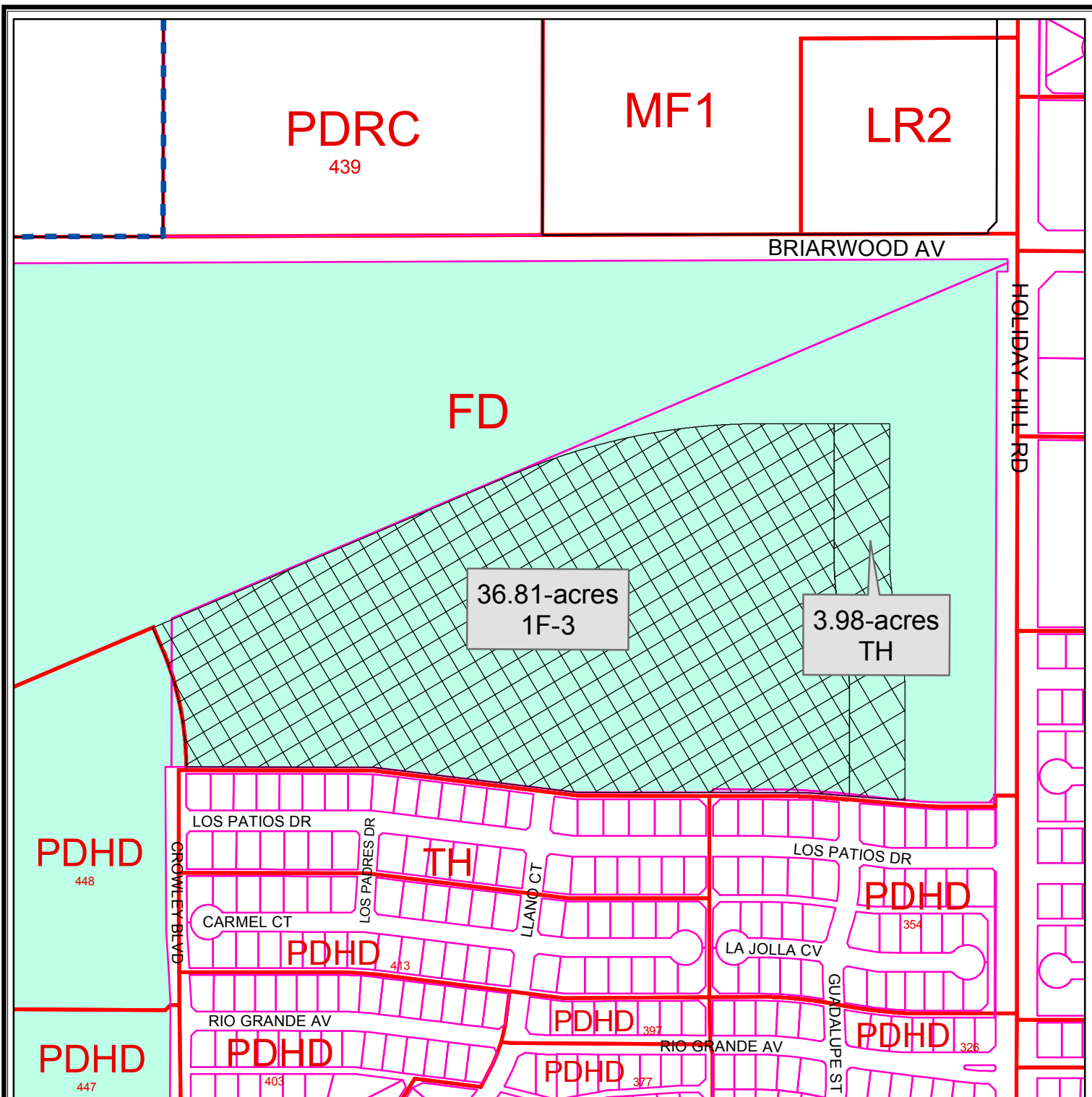
Consider a request for a zone change from FD, Future Development District, to TH, Townhouse Dwelling District on 3.98-acre tract of land and to 1F-3, One-Family Dwelling District on a 36.81-acre tract of land all out of Section 25, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

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 - 016

Scale: 1" = 400'

Consider a request for a zone change from FD, Future Development District, to TH, Townhouse Dwelling District on 3.98-acre tract of land and to 1F-3, One-Family Dwelling District on a 36.81-acre tract of land all out of Section 25, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

— CITY LIMITS

— 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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City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-006; Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP (Operator), *for a Permit to Drill an Oil and Gas Well within the City Limits*, (Barron #1) located 1910.4 feet from the north line and 820.8 feet from the west line located in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately ½ mile south of Mockingbird Lane.)

Purpose:

To consider a resolution on a request from Vector Oil & Gas LP (Barron #1) for a *Permit to Drill an Oil and Gas Well within the City Limits* located 1910.4 feet from the north line and 820.8 feet from the west line located in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. Council held a public hearing on April 10, 2012. The required 30-day period for public comment has passed and the Council may consider this request. No letters of objection have been received.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. No variances have been requested. Fences and landscaping will be installed to meet the style of the subdivision.

Attachments: Application; Location map; Exhibit A – Drill Site, Exhibit B - Tank battery map, Exhibit C – Flowline locations.

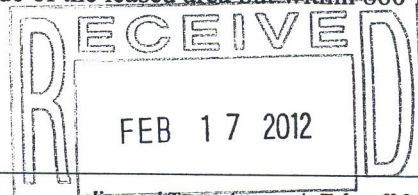


012-006

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 9/26/11	Operator Name (must match W-1) Vector Oil & Gas LP	Operator Address 3141 Hood Street; Suite 700 Dallas, Texas 75219
Representative Name Michael W. Wallace	Representative Address (within Midland City Limits) 508 West Wall Street; Suite 1200 Midland, Texas 79701	Rep. Tele. (432) 686-4327 Rep. Fax (432) 686-0302
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
Permit Compliance Contact (Choose 1): Option A: 24/7 Answering Services - No. 1 (Tele.): (432) 582-3190 No. 2 (Tele.): Option B: Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Exhibit A Attached Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). See Exhibit B		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): 1. Attached to Exhibit C 2. 3.		
ATTACHED AS EXHIBIT C is (a Title Opinion by _____, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from James H. Chandler a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].		
III. Surface Ownership & Use		
General Description of Current Surface Use (within 860 feet of proposed surface location): Vacant land with some single family dwellings and pens outside of the leased area but within 860 feet of the proposed location.		
ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].		



ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Barron #1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit G

Legal Description of Proposed Well Site:

1910.4' FNL & 820.8' FWL of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: None

(2) Operations: Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Exhibit N

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Exhibit O

Trench and encapsulate per RRC Rule 27 (c) (10) (v)

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Vector Oil & Gas LP

[NAME OF COMPANY]

By Michael W Wallace
Its Michael W. Wallace

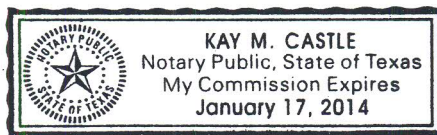
State of Texas

County of Midland

Michael W. Wallace, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

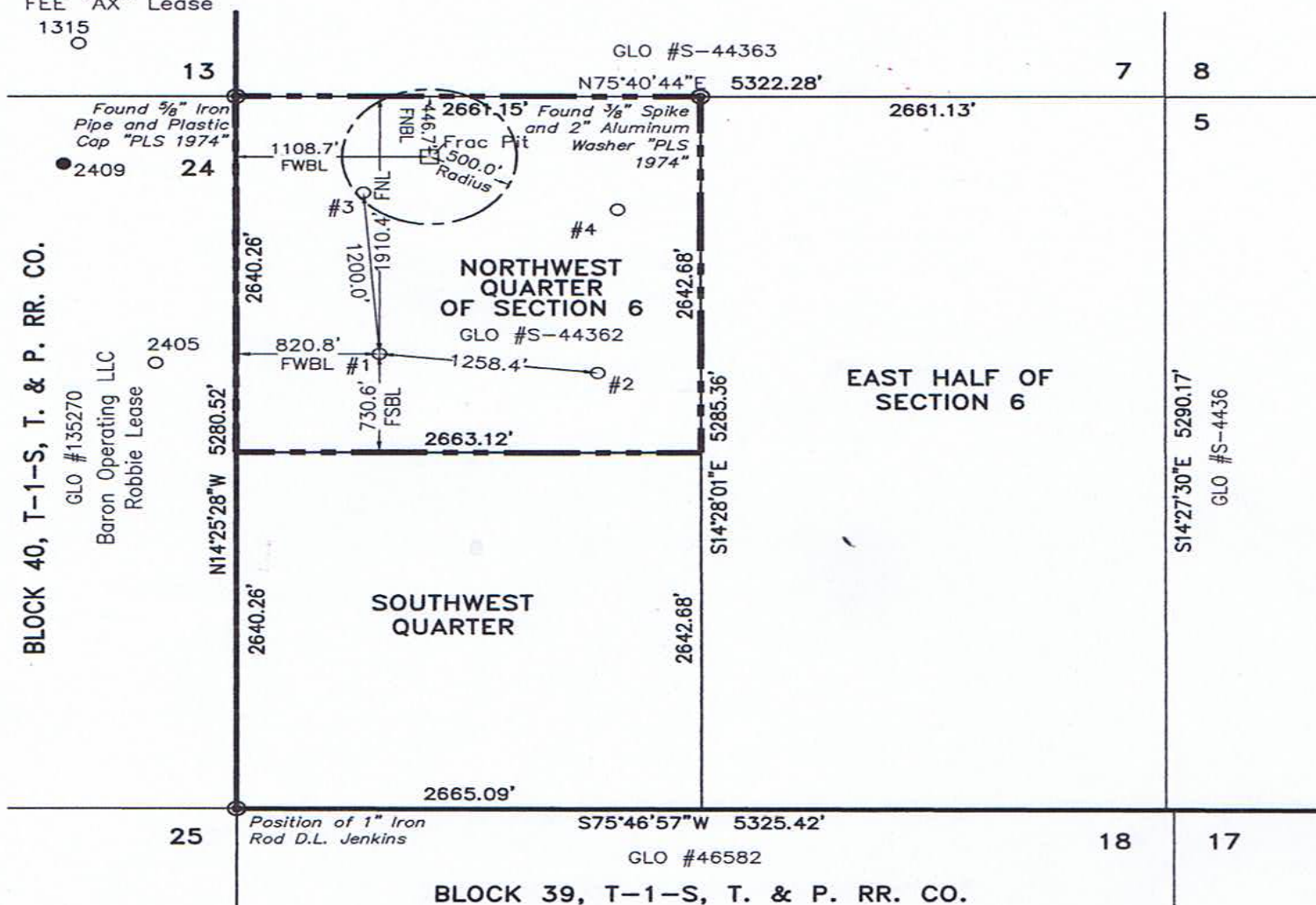
Kay M Castle
Notary Public, State of Texas

[S E A L]



Faskin Oil and
Ranch. LTD
FEE "AX" Lease
1315
O

HARD ROCK ENERGY INC.



1927 NAD
N/Y= 866207.66
E/X= 1433143.03

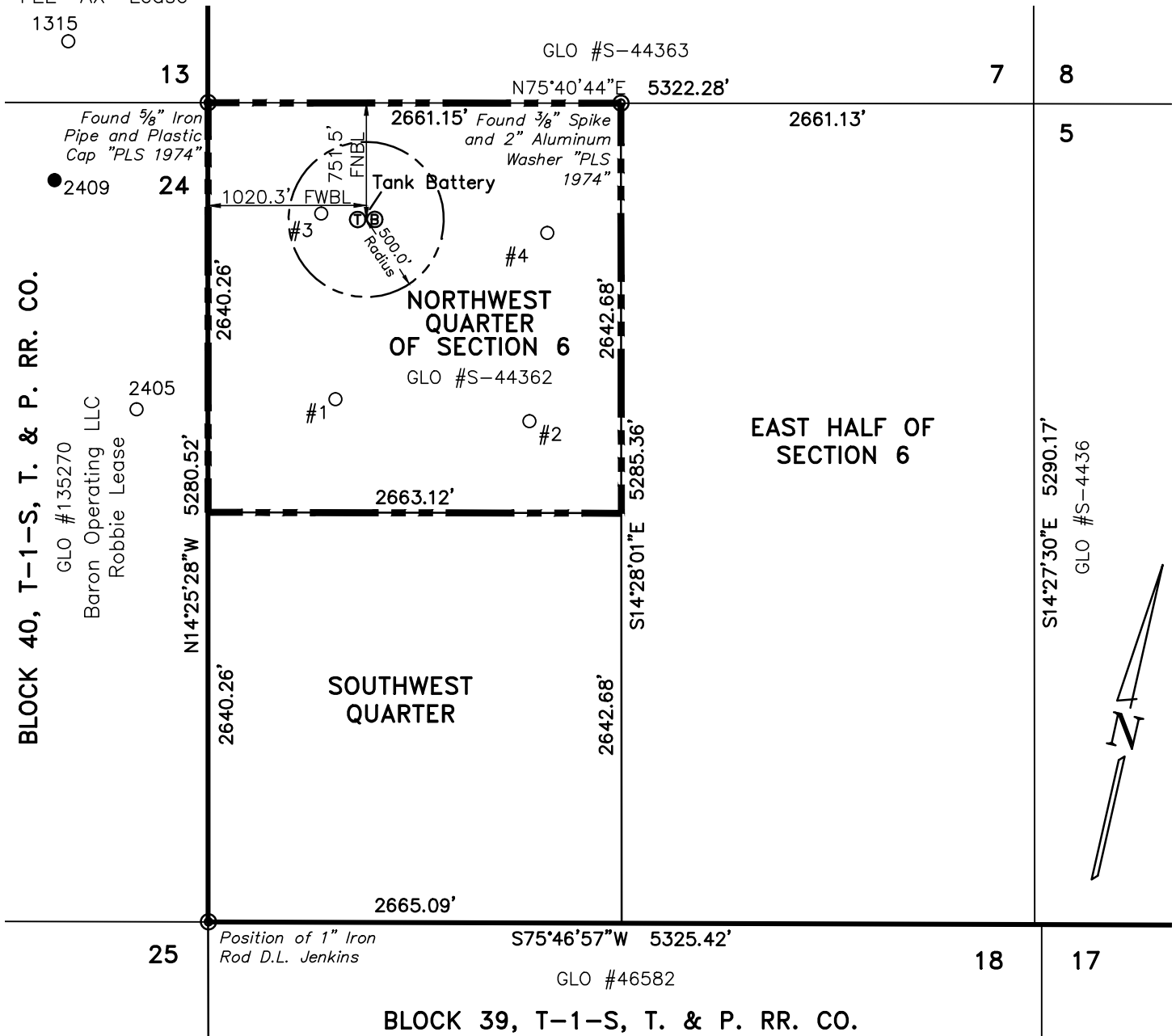


Revised 2/17/12 by TC

OPERATOR:	BARRON #1	FIELD:
Vector Oil & Gas L.P. 3141 Hood St. Ste 350 Dallas, Tx 75219	DESCRIPTION: Northwest Quarter of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas	ACREAGE: 161.43 Acres in Lease
The well location shown on this plat represents an actual survey made by me or under my supervision to the best of my knowledge and belief as surveyed on the ground. 7/13/11	LOCATION IN SURVEY: 1910.4' FNL & 820.8' FWL	ELEVATION: 2852'
	LOCATION IN LEASE: 730.6' FSBL & 820.8' FWBL	DATE: 7/21/11
	NEAREST POST OFFICE: 5.6 Miles Southeast to Midland, Texas	SCALE: 1"=1000'
	GEODETIC POSITION: LATITUDE: 32°02'08.085" LONGITUDE: 102°09'46.414"	DRAWN BY: Tina Chalambaga
	STATE PLANE COORDINATES: NORTH (Y) 10708783.58 EAST (X) 1729609.67	DWG FILE: HolidayHill5.Dwg
		FIELD BOOK: Midland #56, Pg. 12
		NORTH AMERICA DATUM OF 1922
		ZONE: Central STATE: TX

Faskin Oil and
Ranch, LTD
FEE "AX" Lease
1315
O

HARD ROCK ENERGY INC.



Drawing File: HolidayHill5.Dwg; Scale: 1"=1000' Drawn by: Tina Chalambaga; Date: 7/21/11
Revised 2/17/12 by TC; Revised 3/7/12 by TC

**PLAT OF A TANK BATTERY LOCATED IN THE
NORTHWEST QUARTER OF SECTION 6 BLOCK X,
H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS**

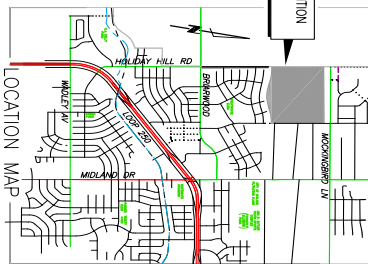
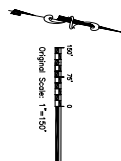
Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System,
1983/96CORS NAD, Central Zone.

Prepared for:
Vector Oil & Gas L.P.
3141 Hood St. Ste 350
Dallas, Tx 75219



PIPER SURVEYING P.O. BOX 60432; MIDLAND, TEXAS 79711; 432.550.781(22.8)

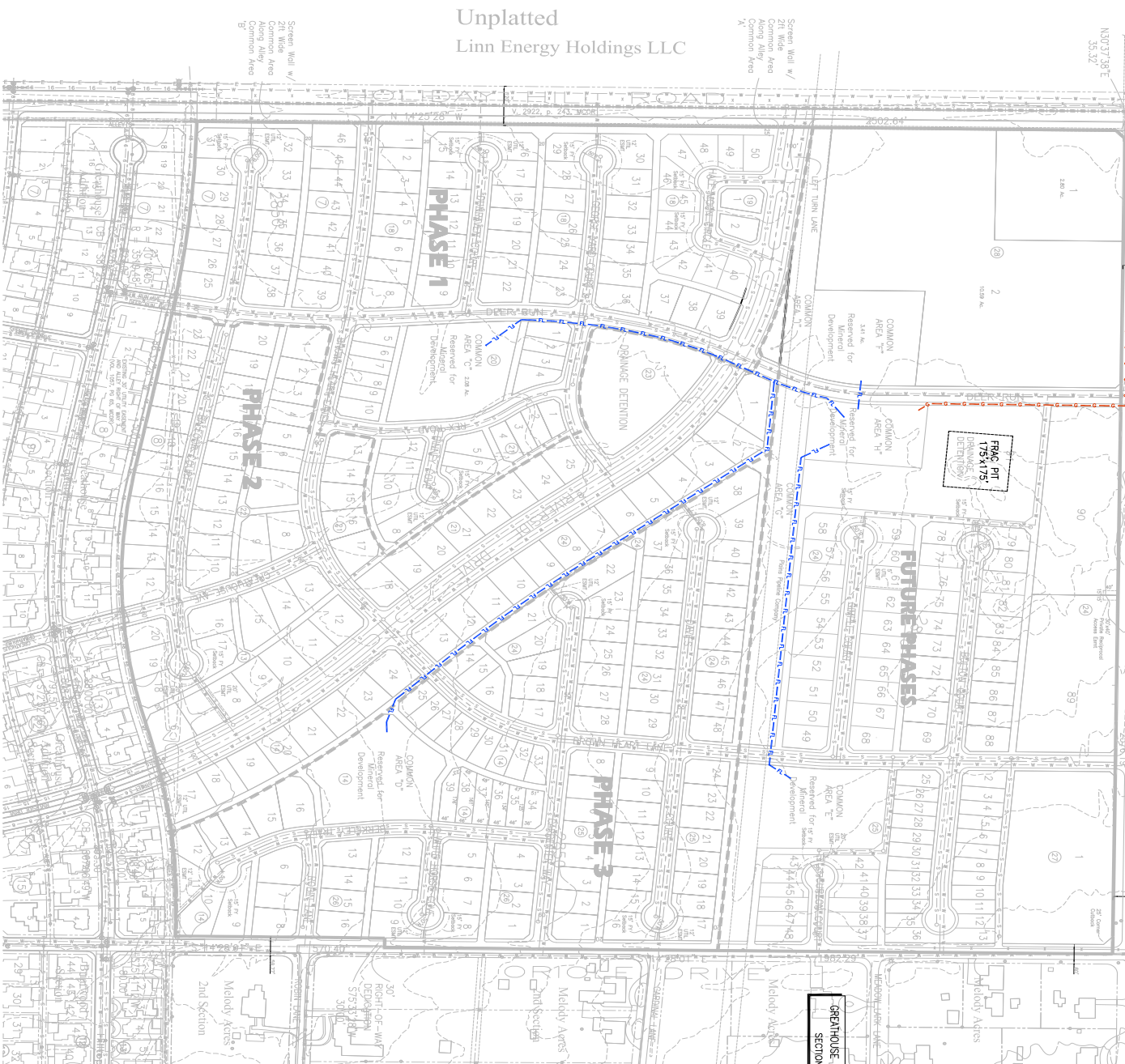
City of Midland, Midland County, Texas



LEGEND

-
- Legend:
- PROPOSED PLAT LIMITS (Solid black line)
 - PROPOSED STREET ROW (Dashed black line)
 - PHASING BOUNDARY (Dotted black line)
 - ZONING BOUNDARY (Long dashed black line)
 - CITY LIMITS (Thick solid black line)
 - EXISTING SECTION CORNER (Circle with a crosshair)
 - EXISTING PLATED LOTS & STREET R/W (Thin solid black line)
 - EXISTING EASEMENTS (Thin dashed black line)
 - EXISTING WATER LINE (Blue line with 'W' markers)
 - EXISTING SEWER LINE & MANHOLE (Blue line with 'S' markers)
 - EXISTING FENCE (Thin solid black line)
 - EXISTING ELEVATION CONTOURS (Thin solid black line)
 - (from COM GIS survey) (Thin solid black line)
 - PROPOSED PLATED LOTS & STREET R/W (Thin solid black line)
 - PROPOSED EASEMENTS (Thin dashed black line)
 - PROPOSED WATER LINE (Blue line with 'W' markers)
 - PROPOSED SEWER LINE & MANHOLE (Blue line with 'S' markers)
 - BURIED FLOW LINE AND ELECTRIC LINES (Orange line with 'E' markers)
 - GAS LINE (Orange line with 'G' markers)

Unplatted
Linn Energy Holdings LLC



OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on May 22, 2012, considered the application of Vector Oil & Gas LP, dated September 26, 2011, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Vector Oil & Gas LP, dated September 26, 2011, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Vector Oil & Gas LP, Barron #1 oil and gas well shall be 1910.4 feet from the north line and 820.8 feet from the west line, Section 6, Blk X, H.P. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in that application of Vector Oil & Gas LP, which is incorporated herein. Further, all operations done under this permit shall be done and accomplished in strict accordance with the Midland City Code, Ordinance 8769, which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit. Also, all operations done under this permit shall be done and accomplished in strict accordance and compliance with the General Conditions, which are attached hereto marked as Exhibit "A" and incorporated into and made a part of this permit for all purposes. All operations done and required under this permit shall be done and accomplished in strict accordance and compliance with the Specific Conditions which are attached hereto, marked as Exhibit "B", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from May 22, 2012, through May 22, 2013, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts the permittee from its responsibilities or obligations as to third parties. The issuance of this permit only means that the permittee has, at this time, complied with Ordinance No. 8769 and that the Midland City Council, as a regulatory body, will allow the permittee to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize the recipient to act with impunity as to third parties, nor does it insulate the permittee from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize the permit holder from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. The permittee has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield the permittee from third party tort liability stemming from the consequences of the permitted activity.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, utility and drainage rights-of-way.

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

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of May, 2012.

Vector Oil & Gas LP

By: _____

Michael W. Wallace Vice President of Operations

OIL AND GAS PERMIT: ORDINANCE 8769 GENERAL CONDITIONS- EXHIBIT "A"

(K)

General Conditions of all Oil and Gas Well Permits.

1.

General Obligations of Operator.

The Operator shall be required to:

a.

Comply with the terms and conditions of this Section, the Midland City Code, the rules and regulations of the Railroad Commission, and any other state or federal agency that enforces land use, mineral use, or environmental protection regulations.

b.

Promptly clear Drill and Operation sites of litter, trash, refuse and other substances used, allowed, or occurring in the operations, and after abandonment or completion, grade, level, and restore such property to the same surface conditions as nearly as practicable as existed before operations.

c.

Indemnify and hold harmless the City of Midland, the City's officers, agents and employees, from any and all claims, losses, damages, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any Person, or for damage to any property arising out of or in connection with the work done by Operator under an Oil and Gas well permit: where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of the Operator and any other Person or entity.

d.

Promptly pay all fines, penalties and other assessments imposed due to breach of any of the conditions herein. If the Operator does not agree that a breach has occurred, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the alleged breach. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that the Operator deems relevant.

e.

Promptly restore to its former condition any public property damaged by the oil and gas operation.

f.

Except as permitted by Subsection U, hereof, Operator shall not, either directly or indirectly, assign all or any part of an Oil and Gas Well Permit.

g.

If required by the Permit, Operator shall execute a "Road Repair Agreement" between itself and the City of Midland and submit all necessary information and insurance and guarantees to the City prior to the issuance of any Oil and Gas Well Permit under this Section.

2.

Irrevocable Letter of Credit, Certificate of Deposit, or Surety Bond.

Prior to the issuance of an Oil and Gas well permit, the Operator shall provide the City Attorney with a guarantee in the form of an irrevocable letter of credit, certificate of deposit, or surety bond in the name of the City. The Applicant shall be entitled to receive the interest earned if the certificate of deposit reaches maturity. The letter of credit, certificate of deposit, or surety bond must satisfy the following:

a.

The letter of credit, certificate of deposit or surety bond shall be issued by a reliable bank or insurance carrier authorized to do business in the State of Texas;

b.

The letter of credit, certificate of deposit or surety bond shall be effective starting on or before the effective date of the Oil and Gas Well Permit;

c.

The letter of credit, certificate of deposit or surety bond shall be in the amount of twenty-five thousand dollars (\$25,000.00);

d.

The letter of credit, certificate of deposit or surety bond shall remain in full force and effect for a period of three years; and

e.

The letter of credit, certificate of deposit or surety bond shall authorize the City of Midland to draw upon such credit in the event the City Manager, or his designee, determines said credit is needed to remedy any violation of this Section.

If the well is still producing or if the well has not been abandoned or plugged, the Operator must renew the letter of credit, certificate of deposit or surety bond on or before one hundred twenty (120) days prior to the expiration of the letter of credit, certificate of deposit or surety bond.

The City of Midland may draw upon the letter of credit, certificate of deposit or surety bond to recover costs of repairs, modifications, or construction to remedy any violations by the Operator under this Section. The City may make partial or full draws of the letter of credit, certificate of deposit or surety bond. The City may draw upon the letter of credit, certificate of deposit or surety bond in the event the City has not received a new letter of credit, certificate of deposit or surety bond within the one hundred twenty (120) day renewal time period required above.

The Operator shall maintain the principal amount of \$25,000.00 in the form of a letter of credit, certificate of deposit or surety bond at all times throughout the term of the permit. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$25,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

If an operator has three (3) or more Oil and Gas Well Permits in effect which have been approved by the City Council, the Operator may petition the Council to consolidate the letter of credits, certificate of deposits or surety bonds into one letter of credit, certificate of deposit or surety bond that would cover all Oil and Gas Wells in the City limits. The consolidated letter of credit, certificate of deposit or surety bond shall be in an amount determined by the City Council as sufficient to cover the costs of repairs, modifications, construction or to remedy violations by the Operator but in no event shall the amount be less than \$75,000.00.

3.

Insurance.

In addition to the letter of credit, certificate of deposit or surety bond required above, the Operator shall carry a policy or policies of insurance issued by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any Oil and Gas Well Permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files additional insurance as required herein.

- a. General requirements applicable to all policies.
 - i. The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.
 - ii. All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.
 - iii. All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.
 - iv. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
 - v. Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.
 - vi. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
 - vii. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
 - viii. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
 - ix. During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

x.

Upon request, certified copies of all insurance policies shall be furnished to the City.

xi.

Operator shall have the right to maintain a qualified, self-insurance plan and/or maintain prudent levels of self-insured retentions for insurance coverage required in this section; however, Operator shall remain financially obligated for all self-insured retention amounts and deductibles. To the extent of the liabilities assumed by the Operator, Operator's insurance shall be primary coverage as to any liabilities of the City.

b.

Standard Commercial General Liability Policy.

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability, accidental death and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000.00 per occurrence for Bodily Injury, Accidental Death, and Property Injury.

c.

Excess or Umbrella Liability.

\$1,000,000	Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.
-------------	---

\$10,000,000	Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period when necessary.
--------------	--

d.

Environmental Pollution Liability Coverage.

Operator shall purchase and maintain in force for the duration of any Oil and Gas Well Permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site.

Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, refuse material or other irritants, contaminants or pollutants.

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

Employers Liability shall be a minimum of \$1,000,000.00 per accident.

iii.

Such coverage shall include a waiver of subrogation in favor of the City of Midland and provide coverage in accordance with applicable State and Federal laws.

f.

Automobile Liability Insurance.

i.

Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

ii.

Coverage must include all owned, hired and not-owned automobiles.

g.

Certificates of Insurance.

i.

The company must be licensed or authorized to do business in the State of Texas.

ii.

The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.

iii.

Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.

iv.

Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

v.

Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

vi.

At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

Indemnification.

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

Notice.

The notices provided in this permit may be served in person or by registered or certified mail. Operator shall within ten (10) days notify the City Manager in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Notice addresses are as follows:

City of Midland
Attn: Office of the City Manager
P. O. Box 1152
Midland, Texas 79702

OPERATOR: _____
Michael W. Wallace, Vice President of Operations

Vector Oil & Gas LP
508 West Wall Street; Suite 1200
Midland, Texas 79701
(432)686-4327

OIL AND GAS WELL PERMIT: ORDINANCE 8769 SPECIFIC CONDITIONS-EXHIBIT "B"

(L)

Specific conditions of all Oil and Gas Well Permits; On-Site Requirements.

1.

Abandoned wells. All wells shall be abandoned in accordance with the rules of the Railroad Commission and pursuant to Subsection (O) of this Section.

2.

Automated audible alarm system. After completion, the appropriate system for flowing gas and/or flowing oil wells must be maintained to provide warnings for a substantial drop in pressure, or the release of any oil or gas, or a fire. Said audible alarm system must be approved by the Fire Marshal prior to installation of production equipment at the flowing gas and/or flowing oil well site.

3.

Blowout prevention. In all cases, ram-type and annular Blowout Preventers shall be used on all wells being drilled. In cases where Re-working is being performed on a Well, ram-type or annular Blowout Preventers shall be used. Protection shall be provided to prevent blowout during Drilling operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute. In addition to the Blowout Preventers stated above, all drilling must be equipped with flow lines and valves commensurate with the working pressures involved as required by the Railroad Commission each Blowout Preventer shall be a double-ram design with blinds and pipe. After surface casing has been set and cemented to surface, each Blowout Preventer shall be tested and witnessed by Operator's personnel and the results of such test shall be documented in the Operator's well file. Testing expenses shall be the responsibility of the Operator. The Operator shall provide a complete report of the well blowout prevention test to the City Manager within fifteen (15) days of the test.

4.

Casing. The surface portions of the Well shall be cased with cement circulated to the surface. All surface and intermediate casing must comply with all applicable rules of the Railroad Commission and the Texas Commission on Environmental Quality.

5.

Compliance. Operator shall comply at all times with all applicable federal, state and City requirements.

6.

Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including water or brine from any oil and gas operation or the contents of any container used in connection with any oil and gas operation in, into, or upon any Right-of-way, alleys, streets, lots, storm

drain, ditch or sewer, sanitary drain without permits from the appropriate City departments, or any body of water or onto any private property in the City.

7.

Drilling notice. The operator shall provide at least a forty eight (48)-hour notice to the City Manager prior to mobilizing the Drilling Equipment. In addition to notification to the City Manager, the operator shall provide a notice to the owners of at least forty eight (48) hours or more prior to mobilizing the drilling equipment through a publication in the Midland Reporter Telegram and a posting in the City Secretary's Office.

8.

Drill stem testing. No drill stem testing shall be allowed.

9.

Dust, vibration, odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drill Site or Operation Site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

10.

Electric lines. All electric lines going under City roadways must be bored and encased pursuant to city standards. All electric lines to production facilities may be overhead service unless the surrounding neighborhood is developed with underground electric service. If the surrounding neighborhood is developed with underground electric service, then all electric lines to production facilities shall be buried underground.

11.

Electric motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.

12.

Emergency response plan. Prior to the commencement of any oil or gas production activities, Operator shall submit to the City Manager an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil and gas wells. Said plan shall use existing guidelines established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the Emergency Response Plan shall be kept at the Operator's office.

13.

Equipment painted. All production equipment on the site shall be painted beige and maintained at all times, including pumping units, tanks, buildings and structures. The City shall regularly inspect all painted structures and inform Operator when repainting is necessary. Operator shall repaint within sixty (60) days written notice from City. When requiring re-painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Upon request of the Operator, a color other than beige may be approved by the City Council.

14.

Explosives. Use of an explosive perforating gun during completion operations and during plugging operations and down-hole operations that require such explosives shall be allowed.

15.

Fire notice. In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department in accordance with the City of Midland Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Railroad Commission and not exceed any state or federal permitting limit.

16.

Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the Fire Marshal and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and/or reworking operations. The Operator shall be responsible for the maintenance and upkeep of such equipment.

17.

Fracing operations. No fracing or formation fracture stimulation operations may take place before 7:00 a.m. or after 7:00 p.m.

18.

Fresh water wells. The measurements required by this Subsection shall be in a direct line from the closest Oil and Gas well to the fresh water well.

a.

Upon request of an owner of a fresh water well within 860 feet of an Oil and Gas well, who has been duly notified, Operator shall provide the City Manager with a "pre-drilling" and "post-drilling" water analysis from any such existing fresh water well(s).

b.

Operator shall conduct and fund annual testing for water wells that have been tested pursuant to Subsection (L)18.a. above. This testing program shall continue for the production life of The Well plus three years for a producing well, or for a period of one (1) year for a dry hole.

19.

Compressors. No onsite compressor used to "lift gas" shall be used. No compressor of any type shall be used. In the event Operator determines the use of such compressor is necessary, a detailed plan shall be submitted by Operator to the City Council for consideration. An on-site compressor plan shall include the following information:

- a. The physical size of the compressor;
- b. The power source of the compressor;
- c. The horsepower of the compressor;
- d. The noise of the compressor; and
- e. The manufacturer of the compressor.

No compressor of any type shall be used unless a plan is approved by the City Council.

20.

Gas emission or burning restricted. Operator shall not allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Railroad Commission, then such vent or open flame shall not be located closer than three hundred thirty (330) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in an effort to minimize detrimental effects to adjacent owners. Operator shall provide notice to the Fire Marshall prior to any open flaring of gas. Gas may not be flared unless for a limited time when completing, or recompleting a well, and only if flaring will not constitute a fire hazard to other owners. If flaring gas, it shall not be burned at a rate greater than 3,000 mcf/d. No gas may be flared between the hours of 7:00 p.m. and 7:00 a.m., except in an emergency.

21.

Gas processing onsite. Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without prior written consent of the City Manager.

22.

Grass, weeds, trash. All Drill sites and Operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any Tanks, production facilities, or producing wells.

23.

Hazardous plan. Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, or stored, on the Operations Site shall be submitted to the City Manager.

24.

Lights. Except under emergency circumstances, operator shall not Operate any lights located at the Drill Site. To the extent practicable, and taking into account safety considerations, emergency site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet. This paragraph does not apply during initial Drilling Operations.

25.

Monitoring for H₂S gas. If required by the Railroad Commission, equipment for the monitoring of H₂S gas shall be used during Drilling. The Operator will comply with all requirements found in Statewide Rule 36 of the Railroad Commission, as amended. Within sixty (60) days after completion, and annually thereafter, Operator shall submit to the City Manager results of testing to determine the concentration of H₂S produced from the Well. If the results of the H₂S testing proves to be one hundred (100) PPM H₂S or greater, the Operator is responsible for determining the one hundred (100) PPM H₂S radius of exposure for each Well and production facility. Wells and facilities where the concentration of H₂S is equal to or greater than one hundred (100) PPM will be considered "Sour." Safety systems described herein must be approved by the Fire Marshall.

a.

The following safety alarms and equipment are required at the well site of all wells that are capable of producing at a sustained rate of at least one hundred twenty-five (125) barrels of oil per day and/or three hundred (300) MCF of gas per day and for "sour" wells whose one hundred (100) PPM H₂S radius of exposure is greater than fifteen (15) feet:

i.

H₂S monitors located along the fencing, as set forth in Subsection M (for "sour" wells only).

ii.

Automated audible alarms to provide warnings for a substantial drop in pressure or for the presence of H₂S in concentrations greater than one hundred (100) PPM.

iii.

Automated valve to shut-in production from the well if a substantial drop in pressure or if the presence of H₂S in concentrations greater than one hundred (100) PPM is detected.

b.

The following safety alarms and equipment are required at "Sour" Tank battery facilities:

i.

H₂S monitors located along the fencing, as set forth in Subsection M.

ii.

Automated audible alarm to provide warnings for the presence of H₂S in concentrations greater one hundred (100) PPM.

iii.

An electrical device capable of shutting down power to all "Sour" wells producing into the battery in the event H₂S in concentrations great than 100 PPM is detected.

26.

Muffling exhaust. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the Drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

27.

Pits. The following applies for pits used for Drilling and completion operations:

a.

No pit shall be placed in a floodplain without obtaining a floodplain development permit from the City Department of Development Services.

b.

No fresh water pit may be placed in any City recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all City, state and federal regulations.

c.

The use of earthen pits shall be allowed so long as the construction, use, dewatering and closure of such pits meets or exceeds the requirements of the applicable Railroad Commission rules and Texas Commission on Environmental Quality rules. In addition to compliance with applicable Railroad Commission rules, and Texas Commission on Environmental Quality rules, such earthen reserve pits shall also meet the following requirements;

(i)

the maximum size of a reserve pit shall be no greater than two hundred (200) feet by two hundred (200) feet;

(ii)

The pits shall be lined with a plastic liner having a minimum thickness of eight (8) mil reinforced polyethylene;

(iii)

Reserve pits used in Drilling operations shall be fenced on all open sides during such operations and shall be enclosed on all sides once Drilling operations have ceased;

(iv)

Reserve pits shall be closed within one hundred (180) days of the cessation of drilling operations;

(v)

Drill cuttings may be disposed of on the Drill Site using a deep burial method provided that the burial pit containing the cuttings is located entirely within one hundred thirty five (135) feet of the surface location of the Well, provided that all free water has been removed prior to burying the cuttings, and an impermeable liner is placed above the cuttings prior to covering the cuttings and liner with top soil, and provided that the burial pit is constructed in such a manner that the cuttings will be covered with a minimum of thirty six (36) inches of clean, compactable soil. A survey and description of the location of any closed pit used in connection with the Drill Site shall be recorded in the property records of the county in which the real property is located.

28.

Salt water wells. No commercial salt-water disposal wells that receive water by truck shall be located within the City of Midland. In the event the operator determines that the use of a non-commercial salt-water well is necessary, a detailed plan shall be submitted by the operator to the City Council for consideration. No salt water disposal well of any type shall be used unless a plan is approved by the City Council.

29.

Signs.

a.

A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Subsection (M) of this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two square feet not more than four square feet and shall be lettered with the following:

i.

Well name and number;

ii.

Name of operator;

iii.

The emergency 911 number; and

iv.

A 24-hour phone number that will provide an emergency phone number of Operator's Representatives as stated in Subsection F.

b.

Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" shall be posted immediately upon completion of the well site fencing at the entrance of the well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering for this sign shall be two (2) inches or greater in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Texas Railroad Commission.

c.

Provide a National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required at the entrance to the Operation Site adjacent to the Operator's sign if chemicals are present. A label must be located on each chemical Tank indicating exact chemicals that may be contained in such Tank. Text shall be minimum two inches or greater in height, contrasting with the background color.

30.

Storage of equipment. Storage of equipment and materials shall be minimized and limited to the immediate operational needs of the well. Lumber, pipes, empty drums, trucks, trailers, automobiles, junk tubing, casing and rods shall not be left on the operation site except when drilling or reworking operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any Street, Right-of-Way or in any driveway, alley or upon any Operation Site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for Drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

31.

Tank Battery Facilities. At the tank battery for either oil and/or gas Wells a sensor for fire detection should be appropriately placed near heater treaters, separators, and oil storage tanks that would allow an automated valve placed at the header to be closed in the event of a detected fire. All storage tanks shall be equipped with a secondary containment system. The secondary containment system shall be a minimum of three (3) feet in height and one and one-half (1½) times the contents of the total tank volume. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks. No storage tank shall be over sixteen 16 feet in height. All storage tanks shall be built on an adequate foundation with a twelve 12-mil liner being placed

beneath each tank, extending a minimum of three (3) feet beyond the edge of each tank.

Operator must use portable steel storage tanks or fiberglass tanks for storing all fluids from the well. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, lightning arrester and pressure relief valve. All tanks must be enclosed by a fence as required by Section (M) herein. No tank shall exceed sixteen (16) feet in height. No tank battery shall be constructed within five hundred (500) feet of any Occupied Residence, Occupied Commercial Structure or Occupied Public Building, unless a variance is granted by the City Council.

Drilling mud, cuttings, liquid hydrocarbons and all other field refuse derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a steel pit or an approved earthen pit. All disposals must be in accordance with the rules of the Railroad Commission and with a plan submitted to and approved by the City Manager. Water stored in on-site tanks shall be removed as necessary.

All refuse shall be disposed of in such a manner as to comply with the applicable air and water pollution control regulations of the state, the conditions of this permit, and any applicable ordinance of the City.

Temporary flowback tanks shall be removed within ninety (90) days after completion date of the well at the pad site unless permission is obtained from the City Manager to extend the time period for no more than thirty (30) days. Completion date is that date which is stated as the "completion or recompletion date" shown on the Form W-2 or G-I filed with the Railroad Commission.

All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at one hundred (135) feet from any street or alley right-of-way, three hundred thirty (330) feet from any public athletic field, and five hundred (500) feet from an Occupied Residence, Occupied Commercial Structure or Occupied Public Building, church, public or private school, hospital, nursing home, college or university or daycare center unless a variance is granted by the Midland City Council. Operator shall institute operational practices involving the daily monitoring of tank integrity and fluid levels within each tank. The use of a remote monitoring system is acceptable.

No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the 100-year floodplain without a floodplain development permit obtained from the Department of Development services.

All fluids and tank bottoms will be disposed of in accordance with Railroad Commission regulations.

32.

Valves. Each flowing high volume well must have an automated shut-off valve to shut-in the well's production at the Operation Site for either a fire or

abnormal change in pressure. The fire department shall have access to the Operation Site and the shut-off valve in an emergency.

33.

Work hours for site development. No construction activities involving the excavation of, demolition of, alteration to, or repair work on any access road or pad site shall occur before 7:00 a.m. or after 7:00 p.m.

34.

Wellhead status after fracing. The wellhead between the time of Drilling/completion and tank battery construction, shall be:

a.

Surrounded with a six (6) foot tall temporary chain link fence having a gate and lock until permanent fencing is installed;

b.

The gate shall be locked at all times, except when the Operator is involved in active operations;

c.

The cellar shall be filled or closed; and

d.

The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

35.

Inspections. In accordance within applicable law, the City Manager, or his designee, at his sole cost, risk and expense shall have a right of entry to the Drill Site/Operation Site and may, at his discretion, visit the Drill Site/Operation Site to make sure operator is in compliance with the requirements of this Section.

36.

Violation. In the event a violation of this ordinance is determined by the City's official (or officials), the City may act in any or all of the following ways:

a.

The City, through its designated official (or officials), may issue a notice of violation to the Operator, its agent, agents, employees or independent contractors (whether on site or not), or to any Person participating in the Drilling of the Well. Such notice may include a citation to appear before the Midland Municipal Court.

b.

If the City Manager, or his designee, finds the Operator to be in violation of any requirement of the applicable Oil and Gas well permit, then the City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in Subsection (K) of this Section, in order to remedy such violation. In the event that a violation is not capable of being remedied within such ten (10) business day period, then Operator must have commenced efforts

to remedy such violation within said ten (10) business day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, the City shall not draw against the letter of credit, certificate of deposit or surety bond. In the event the City makes a claim on the letter of credit, certificate of deposit or surety bond pursuant to the terms hereof, reinstatement of the full amount of the letter of credit, certificate of deposit or surety bond shall be a condition to the cure of the violation leading to such claim. Alternatively, if the City Manager finds the Operator to be in violation of any requirement of the applicable Oil and Gas Well Permit, the City Manager shall give written notice to the Operator that unless all violations are corrected within ten (10) business days of the Operator's receipt of notice of the violation, the City Manager shall recommend to the City Council that the Oil and Gas Well Permit be cancelled by the City Council. In the event that a violation is not capable of being remedied within such ten(10)business-day period, then Operator must have commenced efforts to remedy said violation within said ten (10) business-day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, as determined by the City, the City shall not draw against the letter of credit, certificate of deposit or surety bond. If the City Council determines to consider the cancelling of the permit, it shall give the Operator written notice of the date and time of the hearing and shall give the Operator the opportunity to be heard and present facts the Operator deems relevant. The cancelling of a permit requires the majority vote of the City Council.

c.

Prosecution of violations of this Section shall be given priority and expedited upon the Municipal Court docket. Provided, however, that this subsection does not grant or guarantee Persons cited a right to expedited consideration of their citation before the Midland Municipal Court.

d.

In the event that there exists an imminent threat to public health and safety, a certified peace officer, in conjunction with the Railroad Commission, may order the temporary cessation of operations. An Operator may appeal the order to an appropriate Court in Midland County, Texas and request an expedited hearing. With respect to the contestation of an order issued pursuant to this subsection, an Operator retains all of its legal remedies.

M.

Fencing and landscaping.

1.

Fences.

A fencing plan shall be submitted, said plan containing a description of the building materials, dimensions, and locations of the proposed fence/walls and gates. The plan shall take into consideration the surrounding area and neighborhood.

At a minimum, tank battery facilities, wellheads and any production equipment associated with Oil and Gas wells shall be enclosed by a chain link fence at least seven (7) feet in height with beige-colored slats woven through the chain link, topped with three (3) strands of barbed wire angled outward or concertina wire, and shall be equipped with a locking gate. Gates shall be provided with a combination catch and locking attachment for a padlock, and shall be kept locked except when being used for access to the operation site. Operator must provide the City Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the Operation Site to be used only in case of an emergency.

The City Council may require additional or a different type of fencing to the extent necessary to conform with architectural standards and building materials existing on lots and/or lands immediately adjacent to the well and within five (500) feet of the Well at the time the Oil and Gas Well Permit is issued.

Additionally, if at any time within twenty-four (24) months following the issuance of an Oil and Gas Well Permit, a structure intended for permanent occupancy is constructed within five hundred (500) feet of the Well, the City Council may require the operator to undertake a one-time revision of the fencing plan to account for architectural standards and building materials associated with such structure to the extent that the revised fencing plan is consistent with, but not better than, the architectural standards and building materials associated with such structure.

Fences shall not be required on drill sites during drilling, completion or re-working operations as long as 24-hour on-site supervision is provided.

2.

Landscaping.

a.

The City will require tree preservation and/or planting measures.

i.

A minimum number of eight trees shall be required to be planted within 25 feet from the outside perimeter of the wall or walls required herein.

ii.

At least 75 percent of the trees shall be evergreen.

iii.

The minimum size of each tree planted will be at least four inches in diameter measured one foot above ground level.

iv.

All trees that die within three years of the date of project completion will be replaced by another replacement tree. The replacement tree carries the same three-year replacement requirement. A replacement of any tree that dies within three years of planting will be replaced by the Operator or agent and a new three-year guarantee will begin at the time of replacement.

b.

The following list of trees is considered desirable. Planting of trees for this list is acceptable. Other trees will be considered by the City Manager. The approval of additional species will be judged on adaptability, long-term health and growing characteristic of the tree type.

Scientific Name	Common Name
Pinus elarica	Afghan Pine, Mondell Pine
Pinus Sylvestris	Russian Pine
Ulmas Crassifolia	Cedar Elm

c.

Operator may submit a plan in lieu of subparagraphs (M)2.a and b above. The Operator must describe the type, number, and location of trees to be planted under this Section. The City Council may consider any proposal prepared in accordance with this subparagraph. Any alternative plan shall not be effective unless approved by the City Council.

d.

Operator shall submit an irrigation plan detailing the measures to be taken to adequately irrigate all landscaping, including indicating the proposed water source for irrigation, and the proposed efforts to replace dead or dying screening vegetation. Upon request by the Operator, the City may provide access to fresh water to be used for such irrigation if water is readily available and in conformance with City policies and procedures.

e.

In such instances, where City water is not available, a variance may be requested. Additionally, when City water becomes available, the provisions of this subsection shall be required.

(N)

Cleanup and Maintenance.

1.

Cleanup after well servicing. After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within one hundred eighty (180) days.

2.

Clean-up after spills, leaks and malfunctions. After any Railroad Commission reportable spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the City Manager all refuse materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. The Operator shall comply with all requirements found in Statewide Rule 91 of the Railroad Commission, as amended. If Statewide Rule 91 requires reporting of the spill, the operator shall comply with the notification and reporting requirements found in Statewide Rule 20 of the Railroad Commission, as amended. Upon request the Operator shall furnish the City Manager with all information filed with the Railroad Commission. If the Operator fails to begin site clean-up immediately the City Manager may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the City Manager deems necessary to clean-up such spill, leak or malfunction. The City shall then be able to collect from operator the costs involved in the site clean-up. The City may collect from the posted letter of credit, certificate of deposit or surety bond or any other legal means.

3.

Free from debris. The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other refuse material within a radius of one hundred (100) feet around any production facilities, tanks and producing wells.

4.

Painting. All production equipment shall be painted beige and maintained at all times, including pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

5.

Blowouts. In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this permit and shall provide the City Manager with the same information as required to be filed with the Railroad Commission under Statewide Rule 20 as soon as practicable.

6.

Cleanup after Drilling/Completion. After the well has been drilled and completed, the Operator shall clean the Drill site, complete restoration activities and repair all damage to public property caused by such operations within ninety (90) days as specified previously in Subsection (L)27.

O.

Drilled and Abandoned Wells.

1.

Surface Requirements for Plugged and Abandoned Well. Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator so abandoning shall be responsible for the restoration of the Operation site to its original condition as nearly as practicable, in conformity with the requirements of this permit underground pipelines associated with operations shall be purged of all fluids and may be abandoned in place.

2.

Surface Requirements for Drilled and Abandoned Well. Abandonment shall be approved by the City Manager after restoration of the Drill Site has been accomplished in conformity with the following requirements at the discretion of the City Manager:

a.

The Derrick and all appurtenant equipment thereto shall be removed from Drill site;

b.

All tanks, towers, and other surface installations shall be removed from the Drill site;

c.

All concrete foundations, above ground piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

d.

All holes and depressions shall be filled with clean, compactable soil;

e.

All, refuse and trash shall be removed from the Drill Site; and

f.

During abandonment, Operator shall comply with all applicable subsections in this section; and

g.

The drill site shall be restored, as close as practicable, to its original condition.

h.

Unless modified by the approved plan, deep burying of pits within the drill site perimeter is permitted. A survey and description of the location of any closed pit used in connection with the drill site shall be recorded in the property records of the county in which the real property is located. In any event the Operator shall comply with Subsection (L), Paragraph 27.

3.

Abandoned well requirement. The Operator shall furnish the following to the City Manager:

a.

A copy of the W-3A "Notice of Intention to Plug & Abandon" and W-3 "Plugging Record" forms on the same date these forms are submitted to the Railroad Commission.

b.

Prior 48-hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

c.

All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three feet below the surface. A permanent abandonment marker, with the well identity and location permanently inscribed, shall be welded to the casing.

4.

Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

P.

Certificate of Request for Inspection and Extension of Permit.

On or before ninety (90) days prior to each annual anniversary date of Operator's Oil and Gas Well Permit, Operator shall submit to the City Manager a Certificate of Request for Inspection of Permit. The Certificate of Request for Inspection of Permit must state the location and name of the well and the date the permit was granted by the City Council. The Certificate of Request for Inspection of Permit must be signed by the Operator before a notary public stating that the well is in compliance with the permit and all applicable Ordinances. The Certificate of Request for Inspection of Permit must be accompanied by an application and inspection fee of \$300.00. The City Manager shall grant a one-year inspection approval on the oil/gas drilling permit if the Operator is in compliance with the permit and all applicable ordinances as they apply to the

inspected well. Prior to authorizing the inspection approval, the City Manager, or his designee, shall inspect the oil and gas well site that is subject to the oil/gas drilling permit. The City Manager shall issue his decision in writing, within thirty (30) days of receiving the Certificate for Request for Inspection of Permit, either granting or denying the inspection of the oil/gas drilling permit.

The Operator may appeal the City Manager's denial of an oil/gas drilling permit inspection by submitting, in writing, an appeal to the City Council within thirty (30) days of the City Manager's written denial of the oil and gas well permit inspection. If an appeal is received by the City Council, a hearing shall be set before a meeting of the City Council to consider the denial of the oil/gas drilling permit inspection. The City Council shall hear and consider the recommendation of the City Manager, or his designee, before deciding whether or not to uphold the City Manager's decision. The Operator shall be allowed to speak and present any relevant evidence for consideration by the City Council prior to a vote of the council. A majority vote of the City Council shall be required to uphold the denial of the Oil and Gas Well Permit inspection by the City Manager. An inspection that is approved shall be valid for one (1) year from the inspection date.

(Q)

Measurement.

The measurement of all distances set forth herein shall be calculated from the proposed surface location of the well and tank batteries in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object.

(R)

Effect of denial of oil and gas well permit.

If an application for an Oil and Gas Well Permit is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the City Council for the same proposed Oil and Gas Well or a different location for a well. A new application may also be filed on any of the mineral estate owned or leased by the applicant. Once all of the Operator's administrative and legislative remedies have been exhausted herein, the Operator may appeal or challenge the denial of an application in an appropriate Court in Midland County Texas under applicable state or federal law.

(S)

Amendment to Oil and Gas Well Permit.

1.

Amendment required. Within one hundred eighty (180) days after an Operator has been granted an Oil and Gas Well Permit, an Operator may submit an application to the City to amend an existing Oil and Gas Well Permit to commence Drilling from a new Drill site that is not shown on (or incorporated by reference as part of) the existing Oil and Gas Well Permit.

2.

Application Requirement for Amendment to Permit. An application for an amended Oil and Gas Well Permit shall meet all the requirements of this

Section, shall be in writing, shall be on forms provided by the City, shall be signed by the Operator, and shall include the following:

- a. An amendment fee of \$1,000.00.
- b. A description of the proposed amendments.
- c. Any changes to the information previously submitted with the application for the existing oil/gas drilling permit (if such information has not previously been provided to the City).
- d. Such additional information as is reasonably required by the City to demonstrate compliance with the original oil/gas drilling permit.
- e. Such additional information as is reasonably required by the City to prevent imminent destruction of property or injury to persons.

3.

Review of Application for Amendment to Permit. All applications for an amended oil/gas drilling permit shall be considered in accordance with the factors listed in Subsection (I) herein. The City Council may elect to consider the application for an amended oil/gas drilling permit without the requirement of a public hearing.

4.

Standard of review.

- a. **No Material Change from Existing Permit.** If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil and Gas Well Permit, and are otherwise in conformance with the requirements of this section, other applicable City Ordinances, the Oil/Gas Drilling Permit then the City Council shall approve the Amended Application.
- b. **Material Change from Existing Permit.** If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, are not in conformance with the requirements of this Section, other applicable City Ordinances, the Oil/Gas Well Permit, or if, in the judgment of the City Council, the activities proposed by the amendment might create a risk of imminent destruction of property or injury to persons or property or that were not otherwise taken into consideration by the existing Oil/Gas Well Permit, the City Council may require the amendment to be processed as a new Oil and Gas Well Permit Application.

T.

Independent Contractor. Operator understands and agrees that Operator, its employees, servants, agents, and representatives, shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

U.

Assignability; Transfer Permit.

1.

The Operator shall not, either directly or indirectly, assign, sell, or transfer any part of the Oil and Gas Well Permit, or any interest, right, duty, obligation or privilege under the permit, except in accordance with this Subsection.

2.

An Oil and Gas Well Permit may be transferred upon written request by the Operator with the consent of the City Council:

a.

If the transferee agrees in writing to be bound by the terms and conditions of the current Oil and Gas Well Permit and road repair agreement;

b.

If all information previously provided to the City as part of the current Oil and Gas Well Permit is updated to reflect any changes; and

c.

If the transferee provides the insurance and security required by this section.

3.

In determining whether to approve the transfer permit, the City Council may consider the financial standing of the transferee and its record of compliance with respect to existing permits. Should the transfer permit be denied, the transferee may file an application for a new Oil and Gas Well Permit.

4.

The insurance and security provided by the transferor shall be released if the transfer permit is approved; provided, however, that the transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer, except to the extent that the transferee expressly agrees in writing to assume such liabilities as part of the transfer.

5.

Applications for the transfer of Oil and Gas Well Permits shall be filed with the City's planning department. A non-refundable administration fee shall be charged for each application in the amount of five hundred (\$500.00).

V.

Time Limit Requirements. The failure of the City Council to review and approve an Oil and Gas Well Permit within a specified time limit shall not cause the application for the Oil and Gas Well Permit to be deemed approved. If the City Council denies a request for a permit, the applicant may file a request with the City Council to re-consider the application. The applicant may present any new evidence to the council and may present any extenuating circumstances or other matters deemed relevant by the applicant. The decision of the City Council regarding the issuance of a permit is not final until the request for re-consideration is voted upon by the City Council.

W.

Indemnification. The oil and gas well permit may contain the following language:

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

X.

Incident Reports or Written Complaints. The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within thirty (30) days after Operator has notice of the existence of such reports or complaints.

Y.

Expiration of permit. Drilling must commence on the Well covered by the Oil and Gas Well permit twelve (12) months of approval by the City Council, after which the Oil and Gas Well Permit shall automatically expire if no drilling has commenced. A permit extension for a maximum time period of six (6) months may be granted by the City Manager without reapplication after the City Manager receives a written request from the Operator.

Z.

Takings determination.

1.

Any aggrieved applicant that believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution or under other state law, may file an application with the City Council requesting a takings determination.

2.

The applicant seeking a takings determination from the Council shall file its appeal with the office of the City Secretary. The City Secretary shall then

forward the appeal to the City Council for consideration. An appeal fee in the amount of two hundred fifty (\$250.00) dollars shall accompany each filing.

3.

The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other State law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

4.

If the Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City Staff that formed the basis of the takings determination appeal. If the Council denies the appeal, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision or in the event the Council does not act on the application, then the operator may appeal to the county or district court after the expiration of one hundred twenty (120) days from the date the application is heard by the City Council.

Notice addresses are as follows:

City of Midland
Attn: Office of the City Manager
P. O. Box 1152
Midland, Texas 79702

OPERATOR: _____
Michael W. Wallace, Vice President of Operations

Vector Oil & Gas LP
508 West Wall Street; Suite 1200
Midland, Texas 79701
(432) 686-4327

RESOLUTION NO.

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO VECTOR OIL & GAS LP (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,910.4 FEET FROM THE NORTH LINE AND 820.8 FEET FROM THE WEST LINE, SECTION 6, BLOCK “X”, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY ½ MILE SOUTH OF MOCKINGBIRD LANE)

WHEREAS, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, “Police Regulations,” Chapter 1, “General Offenses,” of the City Code of Midland, Texas, so as to establish Section 23, “Oil and Gas Well Permits issued on or after January 1, 2010,” which governs the granting or rejecting of Oil and Gas Well Permits; and

WHEREAS, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

WHEREAS, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

WHEREAS, Operator has submitted an application to the City of Midland to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, notice of the public hearing on this matter was provided in accordance

with Section 6-1-23(H)(1) and a public hearing was held on April 10, 2012; and

WHEREAS, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

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

SECTION ONE. That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

SECTION TWO. That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill an oil and gas well within the City limits located 1,910.4 feet from the north line and 820.8 feet from the west line, Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

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



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-007; Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP (Operator) for a Permit to Drill an Oil and Gas Well within the City Limits, (Barron #3) located 714 feet from the north line and 730.4 feet from the west line located in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 720 feet south of Mockingbird Lane.)

Purpose:

To consider a resolution on a request from Vector Oil & Gas LP (Barron #3) for a Permit to Drill an Oil and Gas Well within the City Limits located 714 feet from the north line and 730.4 feet from the west line located in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland. Council held a public hearing on April 10, 2012. The required 30-day period for public comment has passed and the Council may consider this request. No letters of objection have been received.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

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

Discussion:

The Oil and Gas Advisory Committee has reviewed this well site in detail and recommends approval. No variances have been requested. Fences and landscaping will be installed to meet the style of the subdivision.

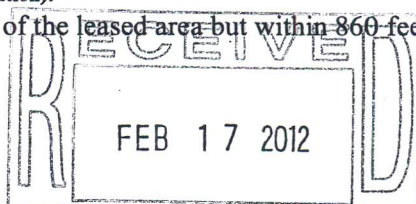


012-007

APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 9/26/11	Operator Name (must match W-1) Vector Oil & Gas LP	Operator Address 3141 Hood Street; Suite 700 Dallas, Texas 75219
Representative Name Michael W. Wallace	Representative Address (within Midland City Limits) 508 West Wall Street; Suite 1200 Midland, Texas 79701	Rep. Tele. (432) 686-4327 Rep. Fax (432) 686-0302
Fee: \$4,000.00 Rec'd Yes ___ No ___	NOTE: All attachments need to bound and put in a binder before submitting.	Pages 1-4
Permit Compliance Contact (Choose 1): Option A: 24/7 Answering Services - No. 1 (Tele.): (432) 582-3190 No. 2 (Tele.): Option B: Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Exhibit A Attached Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). See Exhibit B		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): 1. Attached to Exhibit C 2. 3.		
ATTACHED AS EXHIBIT C is (a Title Opinion by _____, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from James H. Chandler a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].		
III. Surface Ownership & Use		
General Description of Current Surface Use (within 860 feet of proposed surface location): Vacant land with some single family dwellings and pens outside of the leased area but within 860 feet of the proposed location.		
ATTACHED AS EXHIBIT D is (a Title Opinion by _____, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].		



ATTACHED AS EXHIBIT E is a (map/p lat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Barron #3

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit G

Legal Description of Proposed Well Site:

714' FNL & 730.4' FWL of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

- (1) Drilling: None
- (2) Operations: Sharyland Utilities L.P.

Description of water source to be used during Drilling:

Water to be trucked onto well site

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Exhibit N

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: Exhibit O

Trench and encapsulate per RRC Rule 27 (c) (10) (v)

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

By Michael W. Wallace
Its Michael W. Wallace

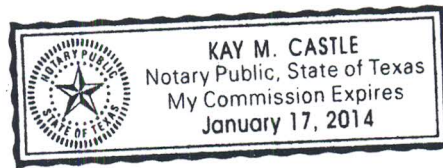
State of Texas)

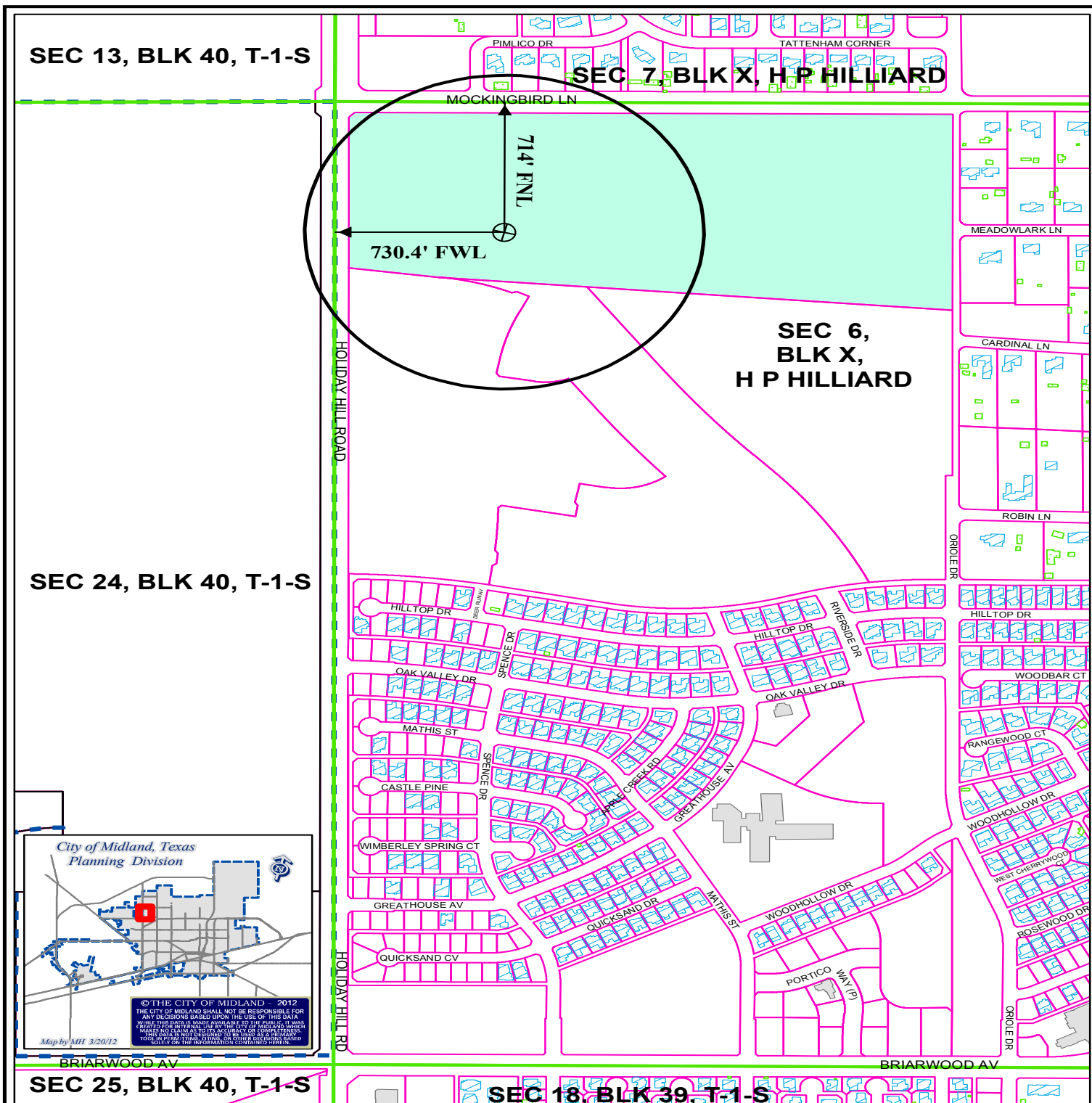
County of Midland)

Michael W. Wallace, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

Kay M. Castle
Notary Public, State of Texas

[SEAL]





O - 12 - 007

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 714' FNL and 730.4' FWL, Section 6, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Barron # 3

6 Faskin Oil and
Ranch. LTD
FEE "AX" Lease
1315
O

HARD ROCK ENERGY INC.

BLOCK 40, T-1-S, T. & P. RR. CO.

GLO #135270

Baron Operating LLC
Robbie Lease

2405
O

N14°25'28"W 5280.52'

25

Position of 1" Iron
Rod D.L. Jenkins

S75°46'57"W 5325.42'

GLO #46582

BLOCK 39, T-1-S, T. & P. RR. CO.

GLO #S-44363

N75°40'44"E 5322.28'

7

8

5

Found 3/8" Iron
Pipe and Plastic
Cap "PLS 1974"

2409

24

1108.7'
FWBL

730.4'
FWBL

#3

#1

#4

NORTHWEST
QUARTER
OF SECTION 6

GLO #S-44362

#2

EAST HALF OF
SECTION 6

S14°27'30"E 5290.17'

GLO #S-4436

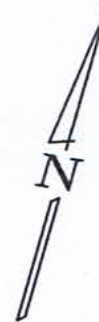
18

17

1927 NAD
N/Y= 867343.97
E/X= 1432757.48



P.O. Box 60432, Midland, Texas 79711
(432)550-7810, Fax (432)550-0312

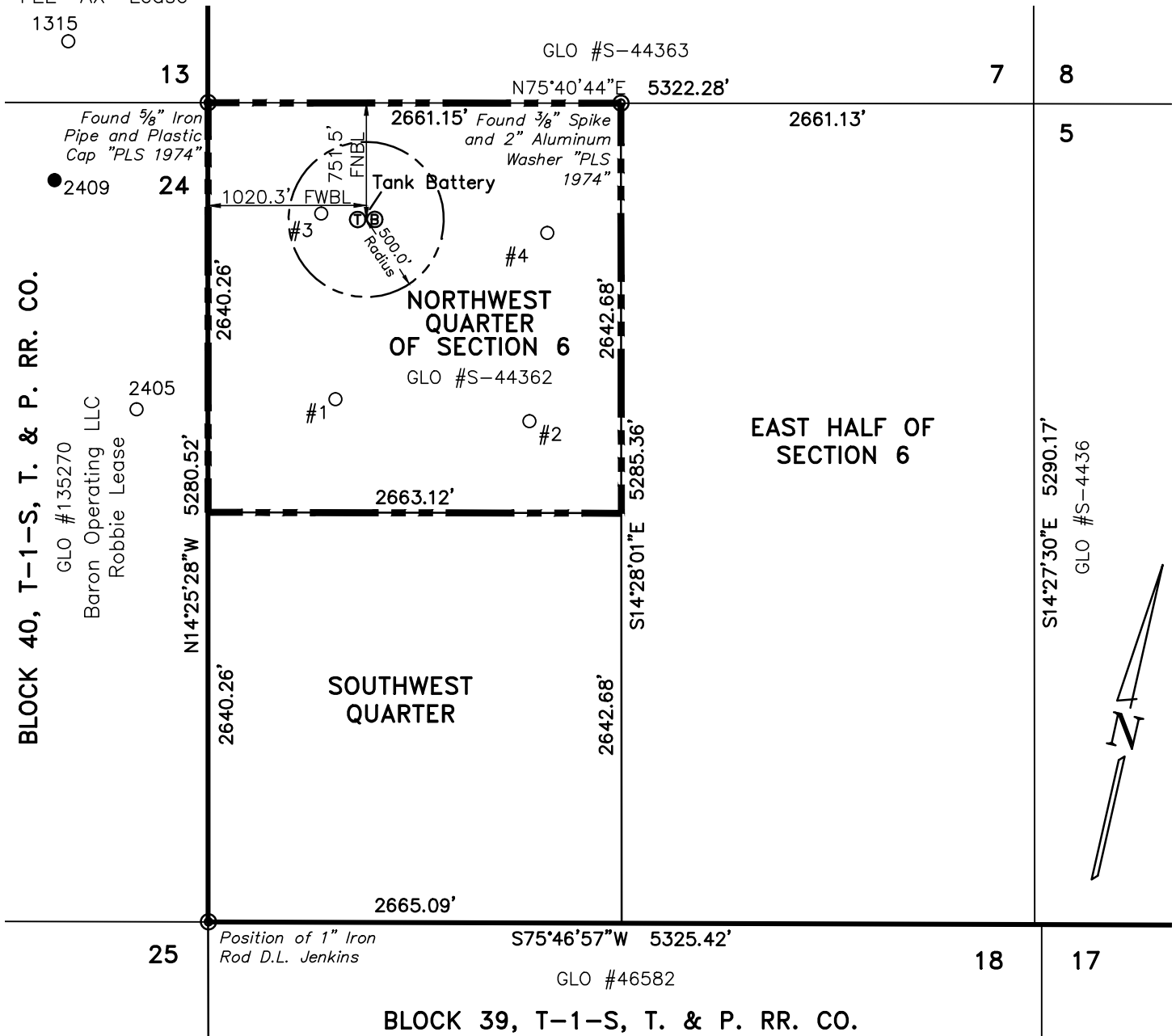


Revised 2/17/12 by TC
Revised 2/13/12 by TC

OPERATOR:	BARRON #3	FIELD:
Vector Oil & Gas L.P. 3141 Hood St. Ste 350 Dallas, Tx 75219	DESCRIPTION: Northwest Quarter of Section 6, Block X, H.P. Hilliard Survey, Midland County, Texas	ACREAGE: 161.43 Acres in Lease
The well location shown on this plat represents an actual survey made by me or under my supervision to the best of my knowledge and belief as surveyed on the ground. 7/13/11	LOCATION IN SURVEY: 714.0' FNL & 730.4' FWL	ELEVATION: 2858'
J. STAN PIPER PROFESSIONAL LAND SURVEYOR REGISTERED SEAL NO. 1974	LOCATION IN LEASE: 714.0' FNBL & 730.4' FWBL	DATE: 7/21/11
	NEAREST POST OFFICE: 5.8 Miles Southeast to Midland, Texas	SCALE: 1"=1000'
	GEODETIC POSITION: LATITUDE: 32°02'19.265" LONGITUDE: 102°09'51.110"	DRAWN BY: Tina Chalambaga
	STATE PLANE COORDINATES: NORTH (Y) 10709919.88 EAST (X) 1729224.10	DWG FILE: HolidayHill5.Dwg
		FIELD BOOK: Midland #56, Pg. 12
		NORTH AMERICA DATUM OF 1923.8
		ZONE: Central STATE: ...

Faskin Oil and
Ranch, LTD
FEE "AX" Lease
1315
O

HARD ROCK ENERGY INC.



Drawing File: HolidayHill5.Dwg; Scale: 1"=1000' Drawn by: Tina Chalambaga; Date: 7/21/11
Revised 2/17/12 by TC; Revised 3/7/12 by TC

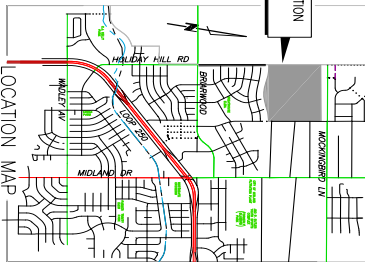
**PLAT OF A TANK BATTERY LOCATED IN THE
NORTHWEST QUARTER OF SECTION 6 BLOCK X,
H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS**

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System,
1983/96CORS NAD, Central Zone.

Prepared for:
Vector Oil & Gas L.P.
3141 Hood St. Ste 350
Dallas, Tx 75219



PIPER SURVEYING P.O. BOX 60432; MIDLAND, TEXAS 79711; 432.550.781(23.9



- ## LEGEND
- | | |
|--|---|
| | PROPOSED PLAT LIMITS |
| | PROPOSED STREET ROW |
| | PAVING SHOULDER |
| | ZONING BOUNDARY |
| | CITY LIMITS |
| | EXISTING SECTION CORNER |
| | EXISTING PLATTED LOTS & STREET R/W |
| | EXISTING EASEMENTS |
| | EXISTING WATER LINE |
| | EXISTING SEWER LINE & MANHOLE |
| | EXISTING FENCE |
| | EXISTING ELEVATION CONTOURS
(from COM OS Survey) |
| | PROPOSED PLATTED LOTS & STREET R/W |
| | PROPOSED EASEMENTS |
| | PROPOSED WATER LINE |
| | PROPOSED SEWER LINE & MANHOLE |
| | BURNED FLOW LINE AND ELECTRIC LINES |
| | GAS LINE |

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on May 22, 2012, considered the application of Vector Oil & Gas LP, dated September 26, 2011, to drill an oil and gas well inside the territorial limits of the City of Midland, Texas. The City Council of the City of Midland, Texas, by appropriate action approved the application and authorized the issuance of this permit.

This documentation hereby constitutes a permit, issued in accordance with the Midland City Code, Ordinance 8769, to drill an oil and gas well, in the application of Vector Oil & Gas LP, dated September 26, 2011, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Vector Oil & Gas LP, Barron #3 oil and gas well shall be 714 feet from the north line and 730.4 feet from the west line, Section 6, Blk X, H.P. Survey, Midland County, Texas. The hole size, casing program, cement program and total depth of that well shall be in strict compliance with the proposed hole size, casing program, cementing program and proposed total depth found in that application of Vector Oil & Gas LP, which is incorporated herein. Further, all operations done under this permit shall be done and accomplished in strict accordance with the Midland City Code, Ordinance 8769, which is hereby incorporated into this permit by reference and made applicable hereto with the same force and effect as if the same were copied fully in this permit. Also, all operations done under this permit shall be done and accomplished in strict accordance and compliance with the General Conditions, which are attached hereto marked as Exhibit "A" and incorporated into and made a part of this permit for all purposes. All operations done and required under this permit shall be done and accomplished in strict accordance and compliance with the Specific Conditions which are attached hereto, marked as Exhibit "B", and incorporated into and made a part of this permit for all purposes.

This permit shall be effective from May 22, 2012, through May 22, 2013, and so long thereafter as oil or gas is produced or until such time as the permittee has permanently abandoned the operations of the well or facility for which this permit is issued.

The issuance of this permit by the City of Midland does not in any way alter or modify the rights as between the surface estate owner(s) and mineral estate owner(s) if there exists a severance of the surface estate and mineral estate. This permit in no way exempts the permittee from its responsibilities or obligations as to third parties. The issuance of this permit only means that the permittee has, at this time, complied with Ordinance No. 8769 and that the Midland City Council, as a regulatory body, will allow the permittee to proceed under the conditions of this permit. The issuance of this permit is intended to be only a negative pronouncement that grants no affirmative rights to the permittee to occupy the property. It is expressly provided that this permit does not authorize a trespass by the permittee as to any third party. This permit does not in any way restrict the use of the surface estate. Securing a permit does not authorize the recipient to act with impunity as to third parties, nor does it insulate the permittee from the consequences of its actions with regard to those third parties. The receipt of a permit does not undertake to adjudicate property rights.

This permit granted by the City of Midland does not act to immunize the permit holder from civil tort liability from private parties for actions arising out of the use of the permit. This is because the permit is a “negative pronouncement” that grants no affirmative rights to the permittee. The issuance of this permit does not authorize any injury to persons or property or an invasion of other property rights, or any infringement of State or local law or regulations. The permittee has obtained a permit from the City of Midland but the consequences of acting under the permit have not been immunized. The fact that the City of Midland has issued a permit to drill an oil and gas well does not shield the permittee from third party tort liability stemming from the consequences of the permitted activity.

A right-of-way license agreement approved by a resolution of the Midland City Council is required for any oil and/or gas flowline or pipeline or any other device associated with a proposed well site that extends into, on, above, in, under, across or through any City rights-of-way, including but not limited to streets, alleys, utility and drainage rights-of-way.

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

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of May, 2012.

Vector Oil & Gas LP

By: _____

Michael W. Wallace Vice President of Operations

OIL AND GAS PERMIT: ORDINANCE 8769 GENERAL CONDITIONS- EXHIBIT "A"

(K)

General Conditions of all Oil and Gas Well Permits.

1.

General Obligations of Operator.

The Operator shall be required to:

a.

Comply with the terms and conditions of this Section, the Midland City Code, the rules and regulations of the Railroad Commission, and any other state or federal agency that enforces land use, mineral use, or environmental protection regulations.

b.

Promptly clear Drill and Operation sites of litter, trash, refuse and other substances used, allowed, or occurring in the operations, and after abandonment or completion, grade, level, and restore such property to the same surface conditions as nearly as practicable as existed before operations.

c.

Indemnify and hold harmless the City of Midland, the City's officers, agents and employees, from any and all claims, losses, damages, causes of action, suits, and liability of any kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any Person, or for damage to any property arising out of or in connection with the work done by Operator under an Oil and Gas well permit: where such injuries, death or damages are caused by Operator's sole negligence or the joint negligence of the Operator and any other Person or entity.

d.

Promptly pay all fines, penalties and other assessments imposed due to breach of any of the conditions herein. If the Operator does not agree that a breach has occurred, the Operator may file a written objection with the City Manager within ten (10) days of being notified of the alleged breach. The City Manager shall review the objections and give the Operator the opportunity to be heard and present facts that the Operator deems relevant.

e.

Promptly restore to its former condition any public property damaged by the oil and gas operation.

f.

Except as permitted by Subsection U, hereof, Operator shall not, either directly or indirectly, assign all or any part of an Oil and Gas Well Permit.

g.

If required by the Permit, Operator shall execute a "Road Repair Agreement" between itself and the City of Midland and submit all necessary information and insurance and guarantees to the City prior to the issuance of any Oil and Gas Well Permit under this Section.

2.

Irrevocable Letter of Credit, Certificate of Deposit, or Surety Bond.

Prior to the issuance of an Oil and Gas well permit, the Operator shall provide the City Attorney with a guarantee in the form of an irrevocable letter of credit, certificate of deposit, or surety bond in the name of the City. The Applicant shall be entitled to receive the interest earned if the certificate of deposit reaches maturity. The letter of credit, certificate of deposit, or surety bond must satisfy the following:

a.

The letter of credit, certificate of deposit or surety bond shall be issued by a reliable bank or insurance carrier authorized to do business in the State of Texas;

b.

The letter of credit, certificate of deposit or surety bond shall be effective starting on or before the effective date of the Oil and Gas Well Permit;

c.

The letter of credit, certificate of deposit or surety bond shall be in the amount of twenty-five thousand dollars (\$25,000.00);

d.

The letter of credit, certificate of deposit or surety bond shall remain in full force and effect for a period of three years; and

e.

The letter of credit, certificate of deposit or surety bond shall authorize the City of Midland to draw upon such credit in the event the City Manager, or his designee, determines said credit is needed to remedy any violation of this Section.

If the well is still producing or if the well has not been abandoned or plugged, the Operator must renew the letter of credit, certificate of deposit or surety bond on or before one hundred twenty (120) days prior to the expiration of the letter of credit, certificate of deposit or surety bond.

The City of Midland may draw upon the letter of credit, certificate of deposit or surety bond to recover costs of repairs, modifications, or construction to remedy any violations by the Operator under this Section. The City may make partial or full draws of the letter of credit, certificate of deposit or surety bond. The City may draw upon the letter of credit, certificate of deposit or surety bond in the event the City has not received a new letter of credit, certificate of deposit or surety bond within the one hundred twenty (120) day renewal time period required above.

The Operator shall maintain the principal amount of \$25,000.00 in the form of a letter of credit, certificate of deposit or surety bond at all times throughout the term of the permit. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$25,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

If an operator has three (3) or more Oil and Gas Well Permits in effect which have been approved by the City Council, the Operator may petition the Council to consolidate the letter of credits, certificate of deposits or surety bonds into one letter of credit, certificate of deposit or surety bond that would cover all Oil and Gas Wells in the City limits. The consolidated letter of credit, certificate of deposit or surety bond shall be in an amount determined by the City Council as sufficient to cover the costs of repairs, modifications, construction or to remedy violations by the Operator but in no event shall the amount be less than \$75,000.00.

3.

Insurance.

In addition to the letter of credit, certificate of deposit or surety bond required above, the Operator shall carry a policy or policies of insurance issued by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas. In the event such insurance policy or policies are cancelled, any Oil and Gas Well Permit issued under this Section shall be suspended on such date of cancellation and the Operator's right to operate under such Oil and Gas Well Permit shall immediately cease until the Operator files additional insurance as required herein.

- a. General requirements applicable to all policies.
 - i. The City, the City's officials, employees, agents and officers shall be endorsed as an "Additional Insured" on all policies, except under Operator's Workers Compensation Policy.
 - ii. All policies shall be written on an occurrence basis, except for Environmental Pollution Liability (Seepage and Pollution coverage) and Excess and Umbrella Liability, which may be on a claims-made basis.
 - iii. All policies shall be written by an admitted insurer or eligible surplus lines insurer authorized to do business in the State of Texas.
 - iv. Deductibles shall be listed on the Certificate of Insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.
 - v. Certificates of Insurance shall be delivered to the City of Midland, P.O. Box 1152, Midland, Texas 79702, Attn: City Attorney's Office, evidencing all the required coverages, including endorsements, prior to the issuance of an Oil and Gas Well Permit under this Section.
 - vi. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the City.
 - vii. Any failure on the part of the City to request required insurance documentation shall not constitute a waiver of the insurance requirements specified herein.
 - viii. Each policy shall be endorsed to provide the City a minimum thirty (30) day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten (10) day notice shall be acceptable in the event of non-payment of premium.
 - ix. During the term of any Oil and Gas Well Permit issued hereunder, the Operator shall report, in writing, within thirty (30) days of the occurrence, to the City Manager, any known

loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

x.

Upon request, certified copies of all insurance policies shall be furnished to the City.

xi.

Operator shall have the right to maintain a qualified, self-insurance plan and/or maintain prudent levels of self-insured retentions for insurance coverage required in this section; however, Operator shall remain financially obligated for all self-insured retention amounts and deductibles. To the extent of the liabilities assumed by the Operator, Operator's insurance shall be primary coverage as to any liabilities of the City.

b.

Standard Commercial General Liability Policy.

This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability, accidental death and personal injury. This coverage shall be a minimum Combined Single Limit of \$1,000,000.00 per occurrence for Bodily Injury, Accidental Death, and Property Injury.

c.

Excess or Umbrella Liability.

\$1,000,000	Excess, if the Operator has a stand-alone Environmental Pollution Liability (EPL) policy.
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\$10,000,000	Excess, if the Operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution. If Seepage and Pollution coverage is written on a "claims made" basis, the Operator must maintain continuous coverage and purchase Extended Coverage Period when necessary.
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d.

Environmental Pollution Liability Coverage.

Operator shall purchase and maintain in force for the duration of any Oil and Gas Well Permit issued hereunder, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site.

Coverage shall be maintained in an amount of at least \$1,000,000 per loss, with an annual aggregate of at least \$10,000,000.

Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, refuse material or other irritants, contaminants or pollutants.

e.

Workers Compensation and Employers Liability Insurance.

i.

Workers Compensation benefits shall be Texas Statutory Limits.

ii.

Employers Liability shall be a minimum of \$1,000,000.00 per accident.

iii.

Such coverage shall include a waiver of subrogation in favor of the City of Midland and provide coverage in accordance with applicable State and Federal laws.

f.

Automobile Liability Insurance.

i.

Combined single limit of \$1,000,000.00 per occurrence for bodily injury and property damage.

ii.

Coverage must include all owned, hired and not-owned automobiles.

g.

Certificates of Insurance.

i.

The company must be licensed or authorized to do business in the State of Texas.

ii.

The insurance set forth by the insurance company must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO or an equivalent policy form acceptable to the City, with the exception of environmental pollution liability and control of well coverage.

iii.

Set forth all endorsements and insurance coverage according to requirements and instructions contained herein.

iv.

Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the City. All policies shall be endorsed to read "THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCE WRITTEN NOTICE TO THE OWNER AND THE CITY, EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE, TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

v.

Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

vi.

At the request of an Operator, the Council may grant a variance to insurance requirements if the Council determines that the insurance procured by the Operator is sufficient to protect the City. A variance of this type may be required because of a change in underwriting policies of admitted insurance carriers.

Indemnification.

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

Notice.

The notices provided in this permit may be served in person or by registered or certified mail. Operator shall within ten (10) days notify the City Manager in writing of any change in such agent or mailing address unless operations in the City are discontinued and abandonment is complete.

Notice addresses are as follows:

City of Midland
Attn: Office of the City Manager
P. O. Box 1152
Midland, Texas 79702

OPERATOR: _____
Michael W. Wallace, Vice President of Operations

Vector Oil & Gas LP
508 West Wall Street; Suite 1200
Midland, Texas 79701
(432)686-4327

OIL AND GAS WELL PERMIT: ORDINANCE 8769 SPECIFIC CONDITIONS-EXHIBIT "B"

(L)

Specific conditions of all Oil and Gas Well Permits; On-Site Requirements.

1.

Abandoned wells. All wells shall be abandoned in accordance with the rules of the Railroad Commission and pursuant to Subsection (O) of this Section.

2.

Automated audible alarm system. After completion, the appropriate system for flowing gas and/or flowing oil wells must be maintained to provide warnings for a substantial drop in pressure, or the release of any oil or gas, or a fire. Said audible alarm system must be approved by the Fire Marshal prior to installation of production equipment at the flowing gas and/or flowing oil well site.

3.

Blowout prevention. In all cases, ram-type and annular Blowout Preventers shall be used on all wells being drilled. In cases where Re-working is being performed on a Well, ram-type or annular Blowout Preventers shall be used. Protection shall be provided to prevent blowout during Drilling operations as required by and in conformance with the requirements of the Railroad Commission and the recommendations of the American Petroleum Institute. In addition to the Blowout Preventers stated above, all drilling must be equipped with flow lines and valves commensurate with the working pressures involved as required by the Railroad Commission each Blowout Preventer shall be a double-ram design with blinds and pipe. After surface casing has been set and cemented to surface, each Blowout Preventer shall be tested and witnessed by Operator's personnel and the results of such test shall be documented in the Operator's well file. Testing expenses shall be the responsibility of the Operator. The Operator shall provide a complete report of the well blowout prevention test to the City Manager within fifteen (15) days of the test.

4.

Casing. The surface portions of the Well shall be cased with cement circulated to the surface. All surface and intermediate casing must comply with all applicable rules of the Railroad Commission and the Texas Commission on Environmental Quality.

5.

Compliance. Operator shall comply at all times with all applicable federal, state and City requirements.

6.

Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including water or brine from any oil and gas operation or the contents of any container used in connection with any oil and gas operation in, into, or upon any Right-of-way, alleys, streets, lots, storm

drain, ditch or sewer, sanitary drain without permits from the appropriate City departments, or any body of water or onto any private property in the City.

7.

Drilling notice. The operator shall provide at least a forty eight (48)-hour notice to the City Manager prior to mobilizing the Drilling Equipment. In addition to notification to the City Manager, the operator shall provide a notice to the owners of at least forty eight (48) hours or more prior to mobilizing the drilling equipment through a publication in the Midland Reporter Telegram and a posting in the City Secretary's Office.

8.

Drill stem testing. No drill stem testing shall be allowed.

9.

Dust, vibration, odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of oil, gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that, vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any Drill Site or Operation Site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

10.

Electric lines. All electric lines going under City roadways must be bored and encased pursuant to city standards. All electric lines to production facilities may be overhead service unless the surrounding neighborhood is developed with underground electric service. If the surrounding neighborhood is developed with underground electric service, then all electric lines to production facilities shall be buried underground.

11.

Electric motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. No electric power shall be generated on location. All electrical installations and equipment shall conform to the City ordinances and the appropriate national codes.

12.

Emergency response plan. Prior to the commencement of any oil or gas production activities, Operator shall submit to the City Manager an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of oil and gas wells. Said plan shall use existing guidelines established by the Railroad Commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency and City Fire Code. A copy of the Emergency Response Plan shall be kept at the Operator's office.

13.

Equipment painted. All production equipment on the site shall be painted beige and maintained at all times, including pumping units, tanks, buildings and structures. The City shall regularly inspect all painted structures and inform Operator when repainting is necessary. Operator shall repaint within sixty (60) days written notice from City. When requiring re-painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Upon request of the Operator, a color other than beige may be approved by the City Council.

14.

Explosives. Use of an explosive perforating gun during completion operations and during plugging operations and down-hole operations that require such explosives shall be allowed.

15.

Fire notice. In the event of a fire or discovery of a fire, smoke, or unauthorized release of flammable or hazardous materials on any property, the Operator shall immediately report such condition to the Fire Department in accordance with the City of Midland Fire Code. The reporting limits for hazardous materials release shall conform to the requirements of the Railroad Commission and not exceed any state or federal permitting limit.

16.

Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the Fire Marshal and required by any applicable federal, state, or local law shall be provided by the Operator, at the Operator's cost, and shall be maintained on the drilling site at all times during drilling and/or reworking operations. The Operator shall be responsible for the maintenance and upkeep of such equipment.

17.

Fracing operations. No fracing or formation fracture stimulation operations may take place before 7:00 a.m. or after 7:00 p.m.

18.

Fresh water wells. The measurements required by this Subsection shall be in a direct line from the closest Oil and Gas well to the fresh water well.

a.

Upon request of an owner of a fresh water well within 860 feet of an Oil and Gas well, who has been duly notified, Operator shall provide the City Manager with a "pre-drilling" and "post-drilling" water analysis from any such existing fresh water well(s).

b.

Operator shall conduct and fund annual testing for water wells that have been tested pursuant to Subsection (L)18.a. above. This testing program shall continue for the production life of The Well plus three years for a producing well, or for a period of one (1) year for a dry hole.

19.

Compressors. No onsite compressor used to "lift gas" shall be used. No compressor of any type shall be used. In the event Operator determines the use of such compressor is necessary, a detailed plan shall be submitted by Operator to the City Council for consideration. An on-site compressor plan shall include the following information:

- a. The physical size of the compressor;
- b. The power source of the compressor;
- c. The horsepower of the compressor;
- d. The noise of the compressor; and
- e. The manufacturer of the compressor.

No compressor of any type shall be used unless a plan is approved by the City Council.

20.

Gas emission or burning restricted. Operator shall not allow, cause or permit gases to be vented into the atmosphere or to be burned by open flame except as provided by law or as permitted by the Railroad Commission. If the venting of gases into the atmosphere or the burning of gases by open flame is authorized as provided by law or as permitted by the Railroad Commission, then such vent or open flame shall not be located closer than three hundred thirty (330) feet from any building not used in operations on the drilling site and such vent or open flame shall be screened in an effort to minimize detrimental effects to adjacent owners. Operator shall provide notice to the Fire Marshall prior to any open flaring of gas. Gas may not be flared unless for a limited time when completing, or recompleting a well, and only if flaring will not constitute a fire hazard to other owners. If flaring gas, it shall not be burned at a rate greater than 3,000 mcf/d. No gas may be flared between the hours of 7:00 p.m. and 7:00 a.m., except in an emergency.

21.

Gas processing onsite. Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises without prior written consent of the City Manager.

22.

Grass, weeds, trash. All Drill sites and Operation sites shall be kept clear of high grass, weeds, and combustible trash within a radius of one hundred (100) feet around any Tanks, production facilities, or producing wells.

23.

Hazardous plan. Hazardous Materials Management Plan (HMMP) and all Material Safety Data Sheets (MSDS) for all hazardous materials that will be located, or stored, on the Operations Site shall be submitted to the City Manager.

24.

Lights. Except under emergency circumstances, operator shall not Operate any lights located at the Drill Site. To the extent practicable, and taking into account safety considerations, emergency site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent dwellings and buildings within three hundred (300) feet. This paragraph does not apply during initial Drilling Operations.

25.

Monitoring for H₂S gas. If required by the Railroad Commission, equipment for the monitoring of H₂S gas shall be used during Drilling. The Operator will comply with all requirements found in Statewide Rule 36 of the Railroad Commission, as amended. Within sixty (60) days after completion, and annually thereafter, Operator shall submit to the City Manager results of testing to determine the concentration of H₂S produced from the Well. If the results of the H₂S testing proves to be one hundred (100) PPM H₂S or greater, the Operator is responsible for determining the one hundred (100) PPM H₂S radius of exposure for each Well and production facility. Wells and facilities where the concentration of H₂S is equal to or greater than one hundred (100) PPM will be considered "Sour." Safety systems described herein must be approved by the Fire Marshall.

a.

The following safety alarms and equipment are required at the well site of all wells that are capable of producing at a sustained rate of at least one hundred twenty-five (125) barrels of oil per day and/or three hundred (300) MCF of gas per day and for "sour" wells whose one hundred (100) PPM H₂S radius of exposure is greater than fifteen (15) feet:

i.

H₂S monitors located along the fencing, as set forth in Subsection M (for "sour" wells only).

ii.

Automated audible alarms to provide warnings for a substantial drop in pressure or for the presence of H₂S in concentrations greater than one hundred (100) PPM.

iii.

Automated valve to shut-in production from the well if a substantial drop in pressure or if the presence of H₂S in concentrations greater than one hundred (100) PPM is detected.

b.

The following safety alarms and equipment are required at "Sour" Tank battery facilities:

i.

H₂S monitors located along the fencing, as set forth in Subsection M.

ii.

Automated audible alarm to provide warnings for the presence of H₂S in concentrations greater one hundred (100) PPM.

iii.

An electrical device capable of shutting down power to all "Sour" wells producing into the battery in the event H₂S in concentrations great than 100 PPM is detected.

26.

Muffling exhaust. Exhaust from any internal combustion engine or compressor, stationary or mounted on wheels, used in connection with the Drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and disruptive vibrations and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

27.

Pits. The following applies for pits used for Drilling and completion operations:

a.

No pit shall be placed in a floodplain without obtaining a floodplain development permit from the City Department of Development Services.

b.

No fresh water pit may be placed in any City recognized drainage way, FEMA floodplain or floodway. Construction of the fresh water pit must comply with all City, state and federal regulations.

c.

The use of earthen pits shall be allowed so long as the construction, use, dewatering and closure of such pits meets or exceeds the requirements of the applicable Railroad Commission rules and Texas Commission on Environmental Quality rules. In addition to compliance with applicable Railroad Commission rules, and Texas Commission on Environmental Quality rules, such earthen reserve pits shall also meet the following requirements;

(i)

the maximum size of a reserve pit shall be no greater than two hundred (200) feet by two hundred (200) feet;

(ii)

The pits shall be lined with a plastic liner having a minimum thickness of eight (8) mil reinforced polyethylene;

(iii)

Reserve pits used in Drilling operations shall be fenced on all open sides during such operations and shall be enclosed on all sides once Drilling operations have ceased;

(iv)

Reserve pits shall be closed within one hundred (180) days of the cessation of drilling operations;

(v)

Drill cuttings may be disposed of on the Drill Site using a deep burial method provided that the burial pit containing the cuttings is located entirely within one hundred thirty five (135) feet of the surface location of the Well, provided that all free water has been removed prior to burying the cuttings, and an impermeable liner is placed above the cuttings prior to covering the cuttings and liner with top soil, and provided that the burial pit is constructed in such a manner that the cuttings will be covered with a minimum of thirty six (36) inches of clean, compactable soil. A survey and description of the location of any closed pit used in connection with the Drill Site shall be recorded in the property records of the county in which the real property is located.

28.

Salt water wells. No commercial salt-water disposal wells that receive water by truck shall be located within the City of Midland. In the event the operator determines that the use of a non-commercial salt-water well is necessary, a detailed plan shall be submitted by the operator to the City Council for consideration. No salt water disposal well of any type shall be used unless a plan is approved by the City Council.

29.

Signs.

a.

A sign shall be immediately and prominently displayed at the gate on the temporary and permanent site fencing erected pursuant to Subsection (M) of this Section. Such sign shall be durable material, maintained in good condition and, unless otherwise required by the Railroad Commission, shall have a surface area of not less than two square feet not more than four square feet and shall be lettered with the following:

i.

Well name and number;

ii.

Name of operator;

iii.

The emergency 911 number; and

iv.

A 24-hour phone number that will provide an emergency phone number of Operator's Representatives as stated in Subsection F.

b.

Permanent weatherproof signs reading "DANGER NO SMOKING OR OPEN FLAME ALLOWED IN THIS AREA" shall be posted immediately upon completion of the well site fencing at the entrance of the well site and tank battery or in any other location approved or designated by the Fire Chief of the City. Sign lettering for this sign shall be two (2) inches or greater in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the Fire Department and the Operator, well and lease designations required by the Texas Railroad Commission.

c.

Provide a National Fire Prevention Association (NFPA) 704 diamond hazard identification signs are required at the entrance to the Operation Site adjacent to the Operator's sign if chemicals are present. A label must be located on each chemical Tank indicating exact chemicals that may be contained in such Tank. Text shall be minimum two inches or greater in height, contrasting with the background color.

30.

Storage of equipment. Storage of equipment and materials shall be minimized and limited to the immediate operational needs of the well. Lumber, pipes, empty drums, trucks, trailers, automobiles, junk tubing, casing and rods shall not be left on the operation site except when drilling or reworking operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any Street, Right-of-Way or in any driveway, alley or upon any Operation Site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for Drilling or production operations on the site. The Fire Department shall be the entity that determines whether any equipment on the site shall constitute a fire hazard.

31.

Tank Battery Facilities. At the tank battery for either oil and/or gas Wells a sensor for fire detection should be appropriately placed near heater treaters, separators, and oil storage tanks that would allow an automated valve placed at the header to be closed in the event of a detected fire. All storage tanks shall be equipped with a secondary containment system. The secondary containment system shall be a minimum of three (3) feet in height and one and one-half (1½) times the contents of the total tank volume. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tanks. No storage tank shall be over sixteen 16 feet in height. All storage tanks shall be built on an adequate foundation with a twelve 12-mil liner being placed

beneath each tank, extending a minimum of three (3) feet beyond the edge of each tank.

Operator must use portable steel storage tanks or fiberglass tanks for storing all fluids from the well. Tanks must meet the American Petroleum Institute standards. All tanks must have a vent line, lightning arrester and pressure relief valve. All tanks must be enclosed by a fence as required by Section (M) herein. No tank shall exceed sixteen (16) feet in height. No tank battery shall be constructed within five hundred (500) feet of any Occupied Residence, Occupied Commercial Structure or Occupied Public Building, unless a variance is granted by the City Council.

Drilling mud, cuttings, liquid hydrocarbons and all other field refuse derived or resulting from or connected with the drilling, re-working or deepening of any well shall be discharged into a steel pit or an approved earthen pit. All disposals must be in accordance with the rules of the Railroad Commission and with a plan submitted to and approved by the City Manager. Water stored in on-site tanks shall be removed as necessary.

All refuse shall be disposed of in such a manner as to comply with the applicable air and water pollution control regulations of the state, the conditions of this permit, and any applicable ordinance of the City.

Temporary flowback tanks shall be removed within ninety (90) days after completion date of the well at the pad site unless permission is obtained from the City Manager to extend the time period for no more than thirty (30) days. Completion date is that date which is stated as the "completion or recompletion date" shown on the Form W-2 or G-I filed with the Railroad Commission.

All tanks shall be set back pursuant to the standards of the Railroad Commission and the National Fire Protection Association, but in all cases, shall be at one hundred (135) feet from any street or alley right-of-way, three hundred thirty (330) feet from any public athletic field, and five hundred (500) feet from an Occupied Residence, Occupied Commercial Structure or Occupied Public Building, church, public or private school, hospital, nursing home, college or university or daycare center unless a variance is granted by the Midland City Council. Operator shall institute operational practices involving the daily monitoring of tank integrity and fluid levels within each tank. The use of a remote monitoring system is acceptable.

No meters, storage tanks, separation facilities, or other aboveground facilities, other than the well head and flow lines, shall be placed in a floodway identified by FEMA on the most current FIRM or the 100-year floodplain without a floodplain development permit obtained from the Department of Development services.

All fluids and tank bottoms will be disposed of in accordance with Railroad Commission regulations.

32.

Valves. Each flowing high volume well must have an automated shut-off valve to shut-in the well's production at the Operation Site for either a fire or

abnormal change in pressure. The fire department shall have access to the Operation Site and the shut-off valve in an emergency.

33.

Work hours for site development. No construction activities involving the excavation of, demolition of, alteration to, or repair work on any access road or pad site shall occur before 7:00 a.m. or after 7:00 p.m.

34.

Wellhead status after fracing. The wellhead between the time of Drilling/completion and tank battery construction, shall be:

a.

Surrounded with a six (6) foot tall temporary chain link fence having a gate and lock until permanent fencing is installed;

b.

The gate shall be locked at all times, except when the Operator is involved in active operations;

c.

The cellar shall be filled or closed; and

d.

The Bradenhead shall be piped to the surface and open to the atmosphere or have an observable and adequate pressure gauge with operable test valve.

35.

Inspections. In accordance within applicable law, the City Manager, or his designee, at his sole cost, risk and expense shall have a right of entry to the Drill Site/Operation Site and may, at his discretion, visit the Drill Site/Operation Site to make sure operator is in compliance with the requirements of this Section.

36.

Violation. In the event a violation of this ordinance is determined by the City's official (or officials), the City may act in any or all of the following ways:

a.

The City, through its designated official (or officials), may issue a notice of violation to the Operator, its agent, agents, employees or independent contractors (whether on site or not), or to any Person participating in the Drilling of the Well. Such notice may include a citation to appear before the Midland Municipal Court.

b.

If the City Manager, or his designee, finds the Operator to be in violation of any requirement of the applicable Oil and Gas well permit, then the City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in Subsection (K) of this Section, in order to remedy such violation. In the event that a violation is not capable of being remedied within such ten (10) business day period, then Operator must have commenced efforts

to remedy such violation within said ten (10) business day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, the City shall not draw against the letter of credit, certificate of deposit or surety bond. In the event the City makes a claim on the letter of credit, certificate of deposit or surety bond pursuant to the terms hereof, reinstatement of the full amount of the letter of credit, certificate of deposit or surety bond shall be a condition to the cure of the violation leading to such claim. Alternatively, if the City Manager finds the Operator to be in violation of any requirement of the applicable Oil and Gas Well Permit, the City Manager shall give written notice to the Operator that unless all violations are corrected within ten (10) business days of the Operator's receipt of notice of the violation, the City Manager shall recommend to the City Council that the Oil and Gas Well Permit be cancelled by the City Council. In the event that a violation is not capable of being remedied within such ten(10)business-day period, then Operator must have commenced efforts to remedy said violation within said ten (10) business-day period and thereafter continue with such efforts to remedy said violation with due diligence until completed, and as long as the Operator continues with efforts to remedy a violation with due diligence, as determined by the City, the City shall not draw against the letter of credit, certificate of deposit or surety bond. If the City Council determines to consider the cancelling of the permit, it shall give the Operator written notice of the date and time of the hearing and shall give the Operator the opportunity to be heard and present facts the Operator deems relevant. The cancelling of a permit requires the majority vote of the City Council.

c.

Prosecution of violations of this Section shall be given priority and expedited upon the Municipal Court docket. Provided, however, that this subsection does not grant or guarantee Persons cited a right to expedited consideration of their citation before the Midland Municipal Court.

d.

In the event that there exists an imminent threat to public health and safety, a certified peace officer, in conjunction with the Railroad Commission, may order the temporary cessation of operations. An Operator may appeal the order to an appropriate Court in Midland County, Texas and request an expedited hearing. With respect to the contestation of an order issued pursuant to this subsection, an Operator retains all of its legal remedies.

M.

Fencing and landscaping.

1.

Fences.

A fencing plan shall be submitted, said plan containing a description of the building materials, dimensions, and locations of the proposed fence/walls and gates. The plan shall take into consideration the surrounding area and neighborhood.

At a minimum, tank battery facilities, wellheads and any production equipment associated with Oil and Gas wells shall be enclosed by a chain link fence at least seven (7) feet in height with beige-colored slats woven through the chain link, topped with three (3) strands of barbed wire angled outward or concertina wire, and shall be equipped with a locking gate. Gates shall be provided with a combination catch and locking attachment for a padlock, and shall be kept locked except when being used for access to the operation site. Operator must provide the City Fire Chief with a "Knox Padlock" or "Knox Box with a key" to access the Operation Site to be used only in case of an emergency.

The City Council may require additional or a different type of fencing to the extent necessary to conform with architectural standards and building materials existing on lots and/or lands immediately adjacent to the well and within five (500) feet of the Well at the time the Oil and Gas Well Permit is issued.

Additionally, if at any time within twenty-four (24) months following the issuance of an Oil and Gas Well Permit, a structure intended for permanent occupancy is constructed within five hundred (500) feet of the Well, the City Council may require the operator to undertake a one-time revision of the fencing plan to account for architectural standards and building materials associated with such structure to the extent that the revised fencing plan is consistent with, but not better than, the architectural standards and building materials associated with such structure.

Fences shall not be required on drill sites during drilling, completion or re-working operations as long as 24-hour on-site supervision is provided.

2.

Landscaping.

a.

The City will require tree preservation and/or planting measures.

i.

A minimum number of eight trees shall be required to be planted within 25 feet from the outside perimeter of the wall or walls required herein.

ii.

At least 75 percent of the trees shall be evergreen.

iii.

The minimum size of each tree planted will be at least four inches in diameter measured one foot above ground level.

iv.

All trees that die within three years of the date of project completion will be replaced by another replacement tree. The replacement tree carries the same three-year replacement requirement. A replacement of any tree that dies within three years of planting will be replaced by the Operator or agent and a new three-year guarantee will begin at the time of replacement.

b.

The following list of trees is considered desirable. Planting of trees for this list is acceptable. Other trees will be considered by the City Manager. The approval of additional species will be judged on adaptability, long-term health and growing characteristic of the tree type.

Scientific Name	Common Name
Pinus elarica	Afghan Pine, Mondell Pine
Pinus Sylvestris	Russian Pine
Ulmas Crassifolia	Cedar Elm

c.

Operator may submit a plan in lieu of subparagraphs (M)2.a and b above. The Operator must describe the type, number, and location of trees to be planted under this Section. The City Council may consider any proposal prepared in accordance with this subparagraph. Any alternative plan shall not be effective unless approved by the City Council.

d.

Operator shall submit an irrigation plan detailing the measures to be taken to adequately irrigate all landscaping, including indicating the proposed water source for irrigation, and the proposed efforts to replace dead or dying screening vegetation. Upon request by the Operator, the City may provide access to fresh water to be used for such irrigation if water is readily available and in conformance with City policies and procedures.

e.

In such instances, where City water is not available, a variance may be requested. Additionally, when City water becomes available, the provisions of this subsection shall be required.

(N)

Cleanup and Maintenance.

1.

Cleanup after well servicing. After the well has been completed or plugged and abandoned, the Operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within one hundred eighty (180) days.

2.

Clean-up after spills, leaks and malfunctions. After any Railroad Commission reportable spill, leak or malfunction, the Operator shall remove or cause to be removed to the satisfaction of the City Fire Chief and the City Manager all refuse materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. The Operator shall comply with all requirements found in Statewide Rule 91 of the Railroad Commission, as amended. If Statewide Rule 91 requires reporting of the spill, the operator shall comply with the notification and reporting requirements found in Statewide Rule 20 of the Railroad Commission, as amended. Upon request the Operator shall furnish the City Manager with all information filed with the Railroad Commission. If the Operator fails to begin site clean-up immediately the City Manager may then employ any cleanup expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the City Manager deems necessary to clean-up such spill, leak or malfunction. The City shall then be able to collect from operator the costs involved in the site clean-up. The City may collect from the posted letter of credit, certificate of deposit or surety bond or any other legal means.

3.

Free from debris. The public street entrance and property on which a well site is located shall at all times be kept free of mud, debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other refuse material within a radius of one hundred (100) feet around any production facilities, tanks and producing wells.

4.

Painting. All production equipment shall be painted beige and maintained at all times, including pumping units, tanks, secondary containment and buildings or structures. When requiring painting of such facilities, the City Manager shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance.

5.

Blowouts. In the event of the loss of control of any well, Operator shall immediately take all reasonable steps to regain control regardless of any other provision of this permit and shall provide the City Manager with the same information as required to be filed with the Railroad Commission under Statewide Rule 20 as soon as practicable.

6.

Cleanup after Drilling/Completion. After the well has been drilled and completed, the Operator shall clean the Drill site, complete restoration activities and repair all damage to public property caused by such operations within ninety (90) days as specified previously in Subsection (L)27.

O.

Drilled and Abandoned Wells.

1.

Surface Requirements for Plugged and Abandoned Well. Whenever abandonment occurs pursuant to the requirements of the Railroad Commission, the Operator so abandoning shall be responsible for the restoration of the Operation site to its original condition as nearly as practicable, in conformity with the requirements of this permit underground pipelines associated with operations shall be purged of all fluids and may be abandoned in place.

2.

Surface Requirements for Drilled and Abandoned Well. Abandonment shall be approved by the City Manager after restoration of the Drill Site has been accomplished in conformity with the following requirements at the discretion of the City Manager:

a.

The Derrick and all appurtenant equipment thereto shall be removed from Drill site;

b.

All tanks, towers, and other surface installations shall be removed from the Drill site;

c.

All concrete foundations, above ground piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the Railroad Commission;

d.

All holes and depressions shall be filled with clean, compactable soil;

e.

All, refuse and trash shall be removed from the Drill Site; and

f.

During abandonment, Operator shall comply with all applicable subsections in this section; and

g.

The drill site shall be restored, as close as practicable, to its original condition.

h.

Unless modified by the approved plan, deep burying of pits within the drill site perimeter is permitted. A survey and description of the location of any closed pit used in connection with the drill site shall be recorded in the property records of the county in which the real property is located. In any event the Operator shall comply with Subsection (L), Paragraph 27.

3.

Abandoned well requirement. The Operator shall furnish the following to the City Manager:

a.

A copy of the W-3A "Notice of Intention to Plug & Abandon" and W-3 "Plugging Record" forms on the same date these forms are submitted to the Railroad Commission.

b.

Prior 48-hour notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

c.

All wells shall be abandoned in accordance with the rules of the Railroad Commission; however, all well casings and cellars shall be cut and removed to a depth of at least three feet below the surface. A permanent abandonment marker, with the well identity and location permanently inscribed, shall be welded to the casing.

4.

Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the Railroad Commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

P.

Certificate of Request for Inspection and Extension of Permit.

On or before ninety (90) days prior to each annual anniversary date of Operator's Oil and Gas Well Permit, Operator shall submit to the City Manager a Certificate of Request for Inspection of Permit. The Certificate of Request for Inspection of Permit must state the location and name of the well and the date the permit was granted by the City Council. The Certificate of Request for Inspection of Permit must be signed by the Operator before a notary public stating that the well is in compliance with the permit and all applicable Ordinances. The Certificate of Request for Inspection of Permit must be accompanied by an application and inspection fee of \$300.00. The City Manager shall grant a one-year inspection approval on the oil/gas drilling permit if the Operator is in compliance with the permit and all applicable ordinances as they apply to the

inspected well. Prior to authorizing the inspection approval, the City Manager, or his designee, shall inspect the oil and gas well site that is subject to the oil/gas drilling permit. The City Manager shall issue his decision in writing, within thirty (30) days of receiving the Certificate for Request for Inspection of Permit, either granting or denying the inspection of the oil/gas drilling permit.

The Operator may appeal the City Manager's denial of an oil/gas drilling permit inspection by submitting, in writing, an appeal to the City Council within thirty (30) days of the City Manager's written denial of the oil and gas well permit inspection. If an appeal is received by the City Council, a hearing shall be set before a meeting of the City Council to consider the denial of the oil/gas drilling permit inspection. The City Council shall hear and consider the recommendation of the City Manager, or his designee, before deciding whether or not to uphold the City Manager's decision. The Operator shall be allowed to speak and present any relevant evidence for consideration by the City Council prior to a vote of the council. A majority vote of the City Council shall be required to uphold the denial of the Oil and Gas Well Permit inspection by the City Manager. An inspection that is approved shall be valid for one (1) year from the inspection date.

(Q)

Measurement.

The measurement of all distances set forth herein shall be calculated from the proposed surface location of the well and tank batteries in a straight line, without regard to intervening structures or objects, to the closest exterior point of the object.

(R)

Effect of denial of oil and gas well permit.

If an application for an Oil and Gas Well Permit is denied by the City Council, nothing herein contained shall prevent a new permit application from being submitted to the City Council for the same proposed Oil and Gas Well or a different location for a well. A new application may also be filed on any of the mineral estate owned or leased by the applicant. Once all of the Operator's administrative and legislative remedies have been exhausted herein, the Operator may appeal or challenge the denial of an application in an appropriate Court in Midland County Texas under applicable state or federal law.

(S)

Amendment to Oil and Gas Well Permit.

1.

Amendment required. Within one hundred eighty (180) days after an Operator has been granted an Oil and Gas Well Permit, an Operator may submit an application to the City to amend an existing Oil and Gas Well Permit to commence Drilling from a new Drill site that is not shown on (or incorporated by reference as part of) the existing Oil and Gas Well Permit.

2.

Application Requirement for Amendment to Permit. An application for an amended Oil and Gas Well Permit shall meet all the requirements of this

Section, shall be in writing, shall be on forms provided by the City, shall be signed by the Operator, and shall include the following:

- a. An amendment fee of \$1,000.00.
- b. A description of the proposed amendments.
- c. Any changes to the information previously submitted with the application for the existing oil/gas drilling permit (if such information has not previously been provided to the City).
- d. Such additional information as is reasonably required by the City to demonstrate compliance with the original oil/gas drilling permit.
- e. Such additional information as is reasonably required by the City to prevent imminent destruction of property or injury to persons.

3.

Review of Application for Amendment to Permit. All applications for an amended oil/gas drilling permit shall be considered in accordance with the factors listed in Subsection (I) herein. The City Council may elect to consider the application for an amended oil/gas drilling permit without the requirement of a public hearing.

4.

Standard of review.

- a. **No Material Change from Existing Permit.** If the activities proposed by the amendment are not materially different from the activities covered by the existing Oil and Gas Well Permit, and are otherwise in conformance with the requirements of this section, other applicable City Ordinances, the Oil/Gas Drilling Permit then the City Council shall approve the Amended Application.
- b. **Material Change from Existing Permit.** If the activities proposed by the amendment are materially different from the activities covered by the existing Oil/Gas Well Permit, are not in conformance with the requirements of this Section, other applicable City Ordinances, the Oil/Gas Well Permit, or if, in the judgment of the City Council, the activities proposed by the amendment might create a risk of imminent destruction of property or injury to persons or property or that were not otherwise taken into consideration by the existing Oil/Gas Well Permit, the City Council may require the amendment to be processed as a new Oil and Gas Well Permit Application.

T.

Independent Contractor. Operator understands and agrees that Operator, its employees, servants, agents, and representatives, shall at no time represent themselves to be employees, servants, agents, and/or representatives of the City. The City shall not have any control over the means or methods by which Operator shall perform its obligations hereunder. Operator shall furnish all equipment and materials necessary to perform hereunder and shall at all times be acting as an independent contractor. No action by either party should be construed to create a partnership, joint venture, or other dual enterprise between the parties.

U.

Assignability; Transfer Permit.

1.

The Operator shall not, either directly or indirectly, assign, sell, or transfer any part of the Oil and Gas Well Permit, or any interest, right, duty, obligation or privilege under the permit, except in accordance with this Subsection.

2.

An Oil and Gas Well Permit may be transferred upon written request by the Operator with the consent of the City Council:

a.

If the transferee agrees in writing to be bound by the terms and conditions of the current Oil and Gas Well Permit and road repair agreement;

b.

If all information previously provided to the City as part of the current Oil and Gas Well Permit is updated to reflect any changes; and

c.

If the transferee provides the insurance and security required by this section.

3.

In determining whether to approve the transfer permit, the City Council may consider the financial standing of the transferee and its record of compliance with respect to existing permits. Should the transfer permit be denied, the transferee may file an application for a new Oil and Gas Well Permit.

4.

The insurance and security provided by the transferor shall be released if the transfer permit is approved; provided, however, that the transfer shall not relieve the transferor from any liability to the City arising out of any activities conducted prior to the transfer, except to the extent that the transferee expressly agrees in writing to assume such liabilities as part of the transfer.

5.

Applications for the transfer of Oil and Gas Well Permits shall be filed with the City's planning department. A non-refundable administration fee shall be charged for each application in the amount of five hundred (\$500.00).

V.

Time Limit Requirements. The failure of the City Council to review and approve an Oil and Gas Well Permit within a specified time limit shall not cause the application for the Oil and Gas Well Permit to be deemed approved. If the City Council denies a request for a permit, the applicant may file a request with the City Council to re-consider the application. The applicant may present any new evidence to the council and may present any extenuating circumstances or other matters deemed relevant by the applicant. The decision of the City Council regarding the issuance of a permit is not final until the request for re-consideration is voted upon by the City Council.

W.

Indemnification. The oil and gas well permit may contain the following language:

OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY OF MIDLAND, THE CITY'S OFFICERS, AGENTS, AND EMPLOYEES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS, AND LIABILITY OF ANY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY ARISING OUT OF OR IN CONNECTION WITH THE WORK DONE BY OPERATOR UNDER AN OIL AND GAS WELL PERMIT WHERE SUCH INJURIES, DEATH, OR DAMAGES ARE CAUSED BY OPERATOR'S SOLE NEGLIGENCE OR THE JOINT NEGLIGENCE OF THE OPERATOR AND ANY OTHER PERSON OR ENTITY.

X.

Incident Reports or Written Complaints. The Operator shall provide a copy of any "incident reports" or written complaints submitted to the Railroad Commission or any other state or federal agency within thirty (30) days after Operator has notice of the existence of such reports or complaints.

Y.

Expiration of permit. Drilling must commence on the Well covered by the Oil and Gas Well permit twelve (12) months of approval by the City Council, after which the Oil and Gas Well Permit shall automatically expire if no drilling has commenced. A permit extension for a maximum time period of six (6) months may be granted by the City Manager without reapplication after the City Manager receives a written request from the Operator.

Z.

Takings determination.

1.

Any aggrieved applicant that believes that an action taken pursuant to this Section by the City Council or any officer or employee of the City constitutes a taking under the Texas or United States Constitution or under other state law, may file an application with the City Council requesting a takings determination.

2.

The applicant seeking a takings determination from the Council shall file its appeal with the office of the City Secretary. The City Secretary shall then

forward the appeal to the City Council for consideration. An appeal fee in the amount of two hundred fifty (\$250.00) dollars shall accompany each filing.

3.

The appeal shall state the reasons that the applicant believes would support a finding that the City's actions constitute a taking under the Texas or United States Constitution or pursuant to other State law and shall include evidence substantiating the purported diminution in value of the applicant's real property.

4.

If the Council finds by a majority vote in favor of the applicant it may: (1) grant the relief requested, or (2) direct the City Manager to rescind action taken by City Staff that formed the basis of the takings determination appeal. If the Council denies the appeal, or after a favorable determination the City Council fails to take action as specified above, the applicant may appeal the decision or inaction of the City Council to the county or district court of the county in which the affected real property is located within thirty (30) days of the date that the Council issues its final decision or in the event the Council does not act on the application, then the operator may appeal to the county or district court after the expiration of one hundred twenty (120) days from the date the application is heard by the City Council.

Notice addresses are as follows:

City of Midland
Attn: Office of the City Manager
P. O. Box 1152
Midland, Texas 79702

OPERATOR: _____
Michael W. Wallace, Vice President of Operations

Vector Oil & Gas LP
508 West Wall Street; Suite 1200
Midland, Texas 79701
(432) 686-4327

RESOLUTION NO.

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO VECTOR OIL & GAS LP (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 714 FEET FROM THE NORTH LINE AND 730.4 FEET FROM THE WEST LINE, SECTION 6, BLOCK “X”, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 720 FEET SOUTH OF MOCKINGBIRD LANE)

WHEREAS, on December 8, 2009, the City Council of the City of Midland duly approved Ordinance No. 8769 which amended Title VI, “Police Regulations,” Chapter 1, “General Offenses,” of the City Code of Midland, Texas, so as to establish Section 23, “Oil and Gas Well Permits issued on or after January 1, 2010,” which governs the granting or rejecting of Oil and Gas Well Permits; and

WHEREAS, the purpose of said section is to establish reasonable and uniform limitations, safeguards, and regulations for present and future operations related to the exploring, drilling, developing, producing, transporting and storing of oil or gas or other substances produced in association with oil and gas within the City of Midland to protect the health, safety, and general welfare of the public and the orderly development of the City of Midland; abate or prevent potential public nuisances; minimize the potential adverse impact to surface and mineral owners, protect the quality of the environment and encourage the orderly production of available mineral resources; and

WHEREAS, Section 6-1-23(C) of the City Code of Midland, Texas, makes it an offense to knowingly drill or participate in the drilling of any well or to re-enter any well within the corporate limits of the City of Midland without a permit having first been issued by the authority of the City Council; and

WHEREAS, Operator has submitted an application to the City of Midland to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, notice of the public hearing on this matter was provided in accordance

with Section 6-1-23(H)(1) and a public hearing was held on April 10, 2012; and

WHEREAS, subsequent to said public hearing, and in accordance with Section 6-1-23(H)(1), the City Council allowed the public and Operator thirty (30) days to submit written input to the City Manager regarding Operator's application to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council has considered those issues set forth in Section 6-1-23(I) in determining whether to grant or deny a permit to Operator to drill an oil and gas well on the property described in Section Two hereof; and

WHEREAS, the City Council finds it to be in the public interest to approve the issuance of a permit to Operator to drill an oil and gas well on the property described in Section Two hereof;

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

SECTION ONE. That the above recitals are hereby adopted and approved by the City Council of the City of Midland.

SECTION TWO. That the Mayor is hereby authorized and directed to execute a permit, on behalf of the City of Midland, that will allow Operator to drill an oil and gas well within the City limits located 714 feet from the north line and 730.4 feet from the west line, Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

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



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-12-006 and O-12-007; Consider a resolution authorizing the execution of a road repair agreement with Vector Oil & Gas LP regarding its applications to drill oil and gas wells within the City Limits, in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. The Road Repair Agreement will cover Briarwood Avenue and Holiday Hill Road in the amount of \$75,000.00.

Purpose:

Consider a motion approving a road repair agreement between the City of Midland and Vector Oil & Gas LP.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

This agreement will cover the cost of road damages to Briarwood Avenue and Holiday Hill Road that are attributable to Vector Oil & Gas LP in association with the above drilling permit. The total amount of letter of credit covering two proposed well sites is \$75,000; this is the amount specified in the City's oil and gas drilling regulations.

Discussion:

Vector Oil & Gas LP has met the requirements contained in the City code related to this matter.

Attachments: Draft agreement

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE EXECUTION OF A
ROAD REPAIR AGREEMENT WITH VECTOR OIL &
GAS LP REGARDING ITS APPLICATIONS TO DRILL
OIL AND GAS WELLS WITHIN THE CITY LIMITS IN
SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY,
CITY AND COUNTY OF MIDLAND, TEXAS**

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a road repair agreement with Vector Oil & Gas LP;

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

THAT the Mayor is hereby authorized and directed to execute on behalf of the City of Midland, Texas, a road repair agreement with Vector Oil & Gas LP. Said agreement shall be substantially similar in form as that of Exhibit "A", which is attached hereto and incorporated herein for all purposes.

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 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

Road Repair Agreement

Vector Oil & Gas LP, intends to use portions of Holiday Hill Road and Briarwood Avenue to access its oil and gas lease. Operator agrees to pay actual road repair costs up to a maximum amount of Seventy-Five Thousand and no/hundred dollars (\$75,000.00) per calendar year for damage done to Holiday Hill Road and Briarwood Avenue and the lease entrance gate to the extent that any such damage is verifiably attributable to traffic servicing Vector Oil & Gas LP. Operator will not be obligated to pay for any damage to Holiday Hill Road and Briarwood Avenue attributable to other parties or for damage associated with normal wear and tear. Operator will not be required to pay road repair expenses in excess of \$25,000.00 per calendar year per well not to exceed a total of \$75,000.00 per calendar year for all wells it operates within the city limits in Section 6, Block X, HP Hilliard Survey, Midland County, Texas. Operator has attached to this agreement a Letter of Credit in the amount of \$75,000 which will serve to secure payment of any such road repair expenses for the wells (Barron #1, Barron #3 and future applications) Operator plans to drill within the city limits in Section 6 Block X, HP Hilliard Survey, Midland County, Texas. In the event such letter of credit, certificate of deposit or surety bond is not restored to \$75,000.00 within ten (10) days after the date of the reduction of the letter of credit, certificate of deposit or surety bond, the City may draw and receive the remaining balance of the letter of credit, certificate of deposit or surety bond, and the Oil and Gas Well Permit shall be suspended on such date and the Operator's right to operate under Oil and Gas Well Permit shall immediately cease until the Operator files the required letter of credit, or certificate of deposit or surety bond.

Vector Oil & Gas LP and the City of Midland agree that documentation of any road damage determined to be caused by Operator's use of Holiday Hill Road and Briarwood Avenue to access any of the Wells shall be presented to Operator. If the Operator does not agree, then Operator may file a written objection with the City Manager within ten (10) days of being notified of the road damage. The City Manager shall review the objections and give Operator the opportunity to be heard and present facts that Operator deems relevant. The City reserves the right after giving ten (10) business days written notice to the Operator regarding such violation, to draw upon the letter of credit, certificate of deposit or surety bond as outlined in Subsection (K) General Conditions of all Oil and gas Well Permits, in order to remedy such situation under ordinance 8769, 6-1-23 "Oil & Gas Well Permits". The amount drawn from the letter of credit, certificate of deposit or surety bond shall not exceed the limits previously described by this agreement.

AGREED TO AND ACCEPTED BY THE FOLLOWING PARTIES:

Vector Oil & Gas LP

City of Midland

Date: _____

Date: _____

By: _____

By: _____

Michael W. Wallace

Mayor: W. Wesley Perry



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-001; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "C" 1) *inside the City Limits* located 1021 feet from the north line and 2310 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the N. Midland Drive, approximately 3/4 mile north of Mockingbird Lane - Resolution 2011-281)

Purpose:

To consider an amendment to Resolution 2011-281 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 1021 feet from the north line and 2310 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on November 8, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has

been changed on the application.

REVISION #2: A revised "Exhibit A" has been signed by the appropriate representative.

REVISION #3: A revised "Exhibit N" (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised "Exhibit S" (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit "A" – Change of Operator's Representative, Exhibit "N" – Concept Plan; Exhibit "S" – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701 NOTE: All attachments need to bound and put in a binder before submitting.	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888
Fee: \$4,000.00 Rec'd Yes ___ No ___		Pages 1-4

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele.):

No. 2 (Tele.):

Option B: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT E is a (map/p latsatellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys. Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p latsatellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans C 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

1021' FNL and 2310' FWL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: none

(2) Operations: Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

All electric lines will be opened for the immediate future, ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

NAME OF COMPANY

By Jim Mason
its District Production Manager

County of Midland)

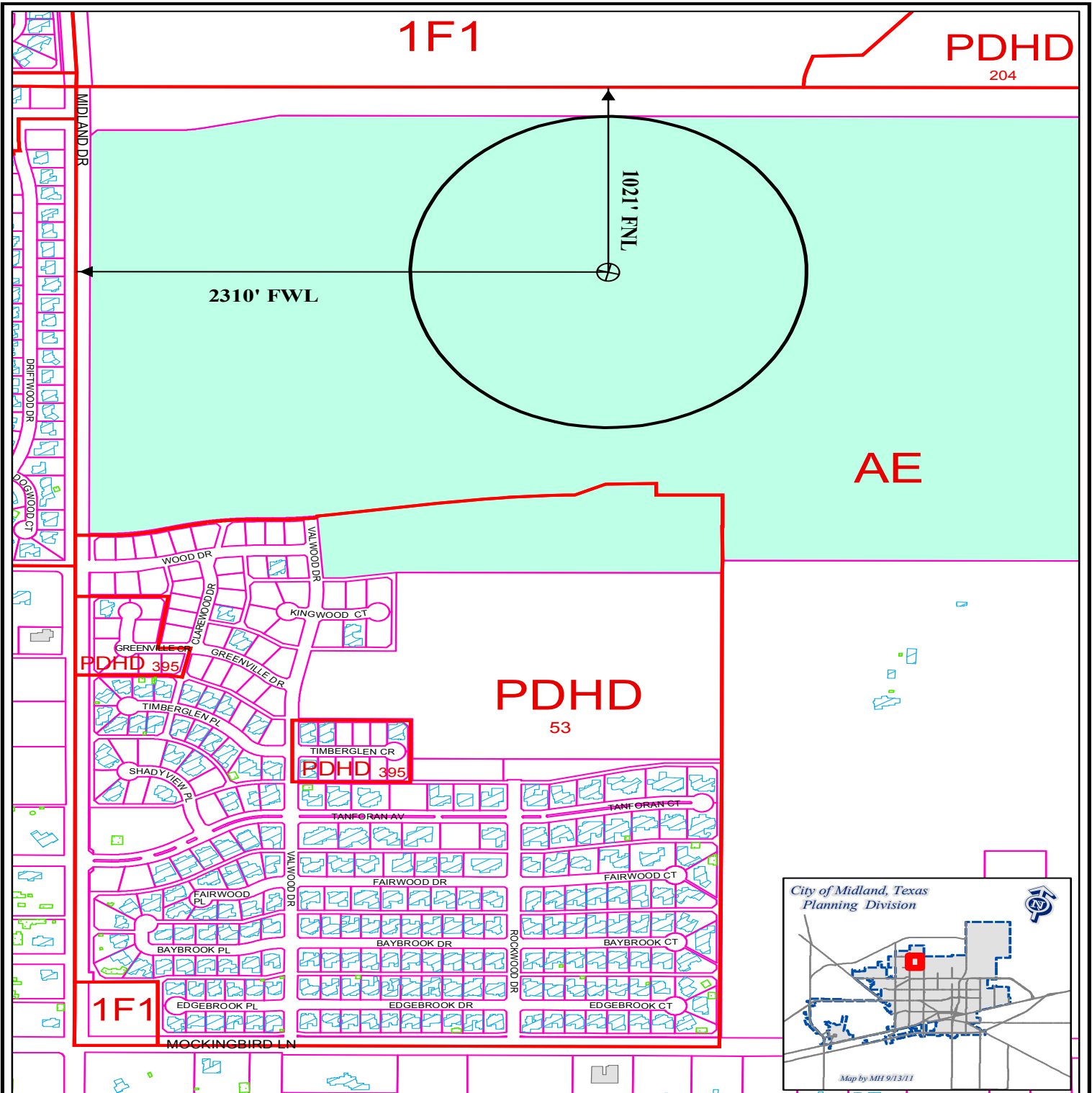
State of Texas)

Jim Mason, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



[S E A L]

Susan J. Armstrong
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 001

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1021' FNL and 2310' FWL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "C" #1

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
SURVEY SEC.	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	

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, O2
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

BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans C #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

Reference is made to our drilling permit Application for the Bluestem Energy Holdings, LLC Evans C #1 well, dated July 22, 2011, which was amended and recently received final approval by the City Council on November 8, 2011. As you are aware, several revisions have become necessary to this Application, and this letter and the enclosed attachments shall represent such revisions. Such revisions are set forth below:

REVISION #1: Attached is an Amendment to Application for Oil and Gas Permit where on page 2, we have modified the text regarding the manner in which our electrical lines will be installed. These changes are in accordance with our Surface Agreement with the surface owners. Additionally, we have changed our company's Representative to Jim Mason, Bluestem's District Production Manager, whose contact information has been updated on page 1 of the Application.

REVISION #2: Attached is a Revised Exhibit "A", (Operator's Representative), for the Amendment which has been properly executed by Jim Mason.

REVISION #3: Attached is a Revised Exhibit "N", (Concept Plan), for the Amendment which modifies the original Exhibit "N" in accordance with the following:

- Sets out a description of the revised Evans Central Tank Battery Facility as approved by the Midland Fire Marshall
- Sets out a schematic entitled "Piping Plan and Dimensions – Proposed Improvements" of the Evans Central Tank Battery Facility

Ron Jenkins
Page 2
May 4, 2012

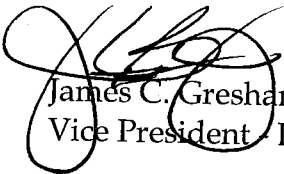
REVISION #4: Attached is a Revised Exhibit "S", (Drainage Plan), along with a plat which sets out the drainage retention berm surrounding the Central Tank Battery

Also enclosed is a check in the amount of \$1,000.00 as consideration for this Amendment. Please let me know if the attached information is in accordance with your needs.

Thank you again for your assistance in this regard.

Regards:

Bluestem Energy Holdings, LLC


James C. Gresham Jr., CPL
Vice President Land

BLUESTEM | ENERGY

May 4, 2012

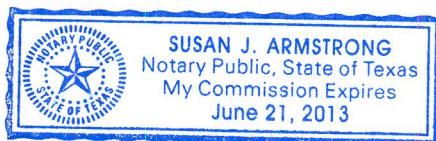
EXHIBIT A

1. My name is Jim Mason and I am the District Production Manager for Bluestem Energy Holdings, LLC.
2. I understand and agree that I am responsible for ensuring compliance with all conditions of the Oil and Gas Permit for the Bluestem Evans C 1 well. Along with all applicable laws, regulations, ordinances by any and all employees, contractors, subcontractors, of Operator at the oil and gas operation site.
3. I further understand that it is my sole obligation in the event I am relieved of these responsibilities, that the name, local address, and local phone number of my replacement will be provided to the City Secretary.

By: Jim Mason
Jim Mason,
District Production Manager

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.



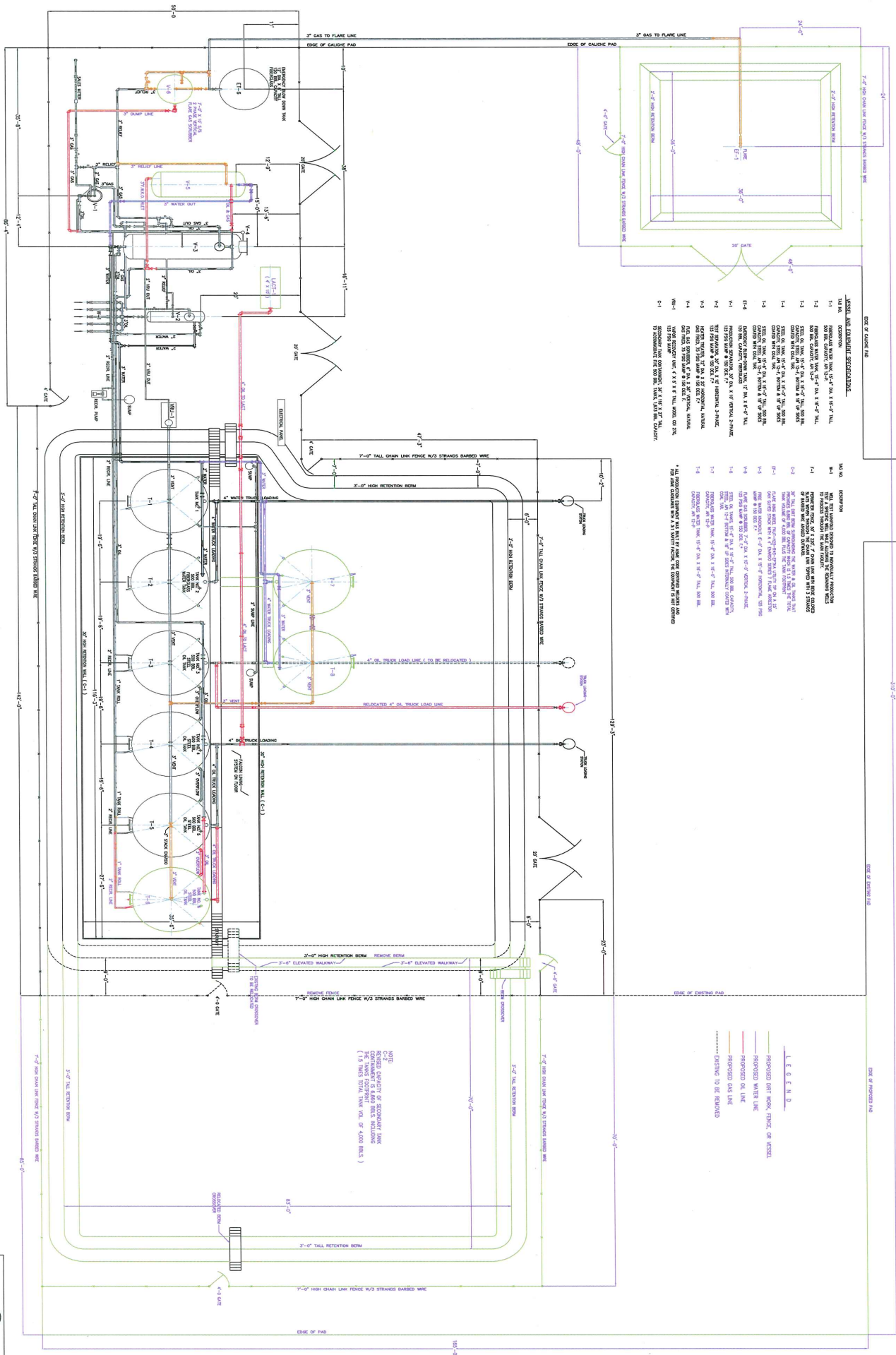
Susan J. Armstrong
Notary Public in and for the State of Texas

Evans Central Tank Battery**Facility Expansion**

Bluestem Energy Holdings, LLC is proposing to expand the Evans Central Tank Battery to handle increased produced oil, gas, and water volumes from the drilled and planned drill wells on the Evans lease. The following is a list of the proposed changes to the facility as outlined in the attached Evans Tank Battery Drawing entitled "Piping Plan and Dimensions – Proposed Improvements". In addition to these proposed changes, the requirements in the City of Midland Drilling Ordinance No. 8769 and of the City of Midland Fire Marshall will be updated to accommodate the expanded facility as to fire detection, lightning protection, secondary containment for the tanks, perimeter fencing, and emergency egress.

The proposed changes to the Evans Central Tank Battery are as follows:

- Increase the tank battery pad size to 165' x 310' (Original size was 165' x 225').
- Add two 500 bbl fiberglass water storage tanks (15' 6" Dia x 16' tall). The facility total will be four 500 bbl fiberglass water storage tanks.
- Add one 500 bbl steel oil storage tank (15' 6" Dia x 16' tall). The facility total will be four 500 bbl steel oil storage tanks.
- Modify the existing 36" tall dirt berm surrounding the water and oil tanks to provide 6,860 bbls of capacity which is 1.5 times the total tank volume of 4,000 bbls plus the tanks foot print. The current 36" dirt berm has a capacity of 4,300 bbls of capacity which is 1.5 times the total tank volume of 2,500 bbls plus the tanks foot print.
- Add a 6' Dia x 15' horizontal free water knockout to handle the increased produced fluid volumes.
- Add a 7' Dia x 10' vertical 2-phase flare gas scrubber to prevent liquids from going up the emergency flare stack in an emergency upset or condition.
- Add a 25' OAH guyed emergency flare stack with an auto ignitor and a 4" Enardo Series 7 flame arrestor. The flare stack will be surrounded by a 24" tall dirt berm and enclosed with a fence.
- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.

[illegible][illegible]

LEGEND

- PROPOSED DIRT WORK, FENCE, OR VESSEL
- PROPOSED WATER LINE
- PROPOSED OIL LINE
- PROPOSED GAS LINE
- EXISTING TO BE REMOVED

NOTE:
C-2
RENSED CAPACITY OF SECONDARY TANK
CONTAINMENT IS 6,860 BELLS, INCLUDING
THE TANKS FOOTPRINT
(1.5 TIMES TOTAL TANK VOL. OF 4,000 BELLS)

REFERENCE DRAWINGS		REVISIONS	
NUMBER	DESCRIPTION	DATE	REVISION
1	CHANGED DRAWING BY THE CONTRACTOR TO READ FROM OPEN JOINTS	12/2/71	1
2	ADDED THE NUMBER AND DIMENSIONS IN BRACKETS AND COMMENTS	1/24/72	2
3	ADDED ELAVATED DRAINAGE, BRIDGE JOINTS AND DATE TO DRAWING	7/2/72	3

Bluestem Energy

BLUESTEM ENERGY
EVANS TANK BATTERY
MIDLAND COUNTY, TEXAS

PIPING PLAN AND DIMENSIONS
 PROPOSED IMPROVEMENTS
 DRAWN BY: C.G.H.
 DATE: 3/19/12
 CHECKED BY:
 DRAWING NO. 12-050-02



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012

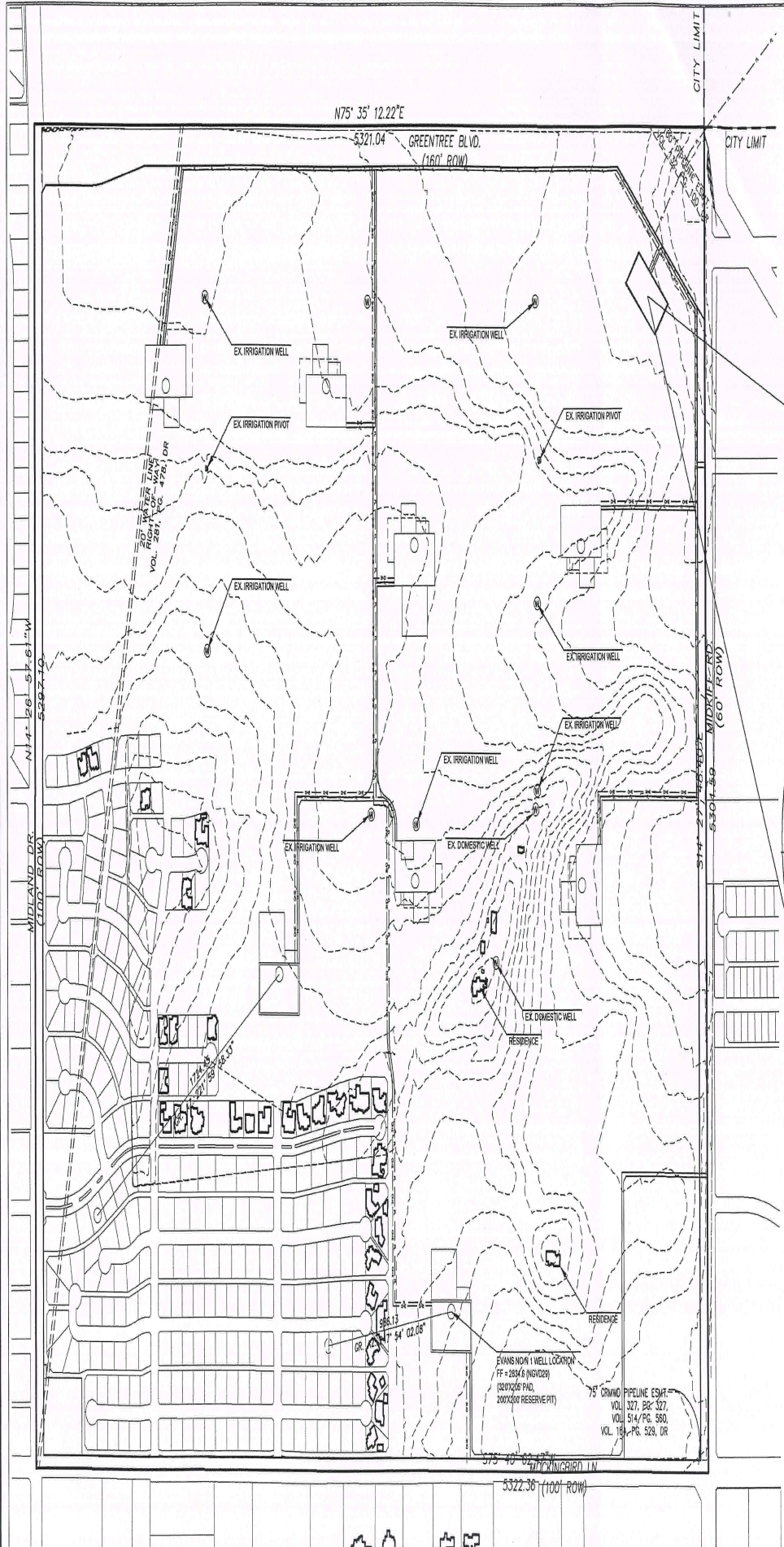
John M. Newton, P.E.

Newton Engineering, LP

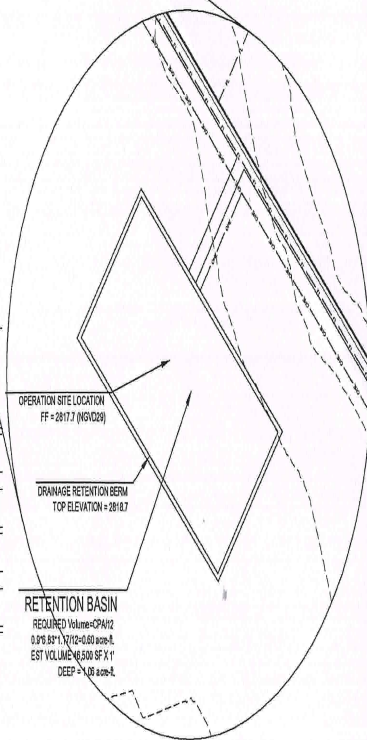
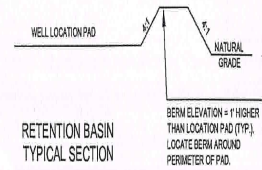
The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



SCALE: 1" = 600'



OVERHEAD ELECTRIC
3" FLOW LINES
EDGE OF CALICHE ROAD

NEWTON ENGINEERING, PC
Professional Engineer
 License No. 102292
 (432) 770-0499

**SECTION 8,
 BLOCK X,
 H.P. HILLIARD
 SURVEY, CITY
 OF MIDLAND,
 MIDLAND
 COUNTY, TEXAS**

**OPERATION
 SITE DRAINAGE
 PLAN**

Project No. 15-10003
 Date: JAN. 2012
 Drawn By: JMN
 Scale: 1"=600'

2



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-002; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "D" 1) *inside the City Limits* located 1021 feet from the north line and 1041 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the N. Midland Drive, approximately $\frac{3}{4}$ mile north of Mockingbird Lane – Resolution 2011-282)

Purpose:

To consider an amendment to Resolution 2011-282 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 1021 feet from the north line and 1041 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on December 13, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has

been changed on the application.

REVISION #2: A revised "Exhibit A" has been signed by the appropriate representative.

REVISION #3: A revised "Exhibit N" (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised "Exhibit S" (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit "A" – Change of Operator's Representative, Exhibit "N" – Concept Plan; Exhibit "S" – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701 NOTE: All attachments need to bound and put in a binder before submitting.	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888 Pages 1-4
Fee: \$4,000.00 Rec'd Yes ___ No ___		

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele.):

No. 2 (Tele.):

Option B: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a Licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a Licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a Licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT E is a (map/p lot/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/p lot/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans D 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

1021' FNL and 1041' FWL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

- (1) Drilling: none
- (2) Operations: Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (preference exhibits as necessary) [See § L(10)]:

All electric lines will be overhead for the immediate future, ultimately electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

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ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

NAME OF COMPANY

By Jim Mason
its District Production Manager

County of Midland)

State of Texas)

Jim Mason
sworn declared he/she signed the application in the capacity designated, if any, and further states that
he/she has read the above application and attached exhibits and the statements therein are true and
correct to the best of their knowledge.



[SEAL]

Susan J. Armstrong
Notary Public, State of Texas

1F1

SEC 8, BLK 39, T-1-S

PDHD

204

1021' FNL

1041' FWL

AE

SEC 8, BLK X, H P HILLIARD

SEC 7, BLK X, H P HILLIARD

PDHD 395

PDHD

53

PDHD 395

1F1

SEC 5, BLK X, H P HILLIARD

LOCATION AND ZONING MAP

O - 11 - 002

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1021' FNL and 1041' FWL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "D" #1

LEGEND

 CITY PARCELS	 PUBLIC BLDGS	 CITY LIMITS
 SURVEY SEC.	 PRIVATE BLDGS	 860 FT. BUFFER
 ZONING	 ACCESSORY BLDGS	

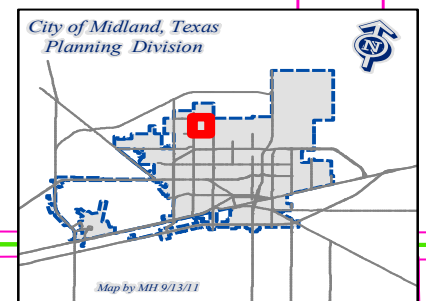
ZONING DISTRICTS:

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



BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans D #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

Reference is made to our drilling permit Application for the Bluestem Energy Holdings, LLC Evans D #1 well, dated July 22, 2011, which was amended and recently received final approval by the City Council. As you are aware, several revisions have become necessary to this Application, and this letter and the enclosed attachments shall represent such revisions. Such revisions are set forth below:

REVISION #1: Attached is an Amendment to Application for Oil and Gas Permit where on page 2, we have modified the text regarding the manner in which our electrical lines will be installed. These changes are in accordance with our Surface Agreement with the surface owners. Additionally, we have changed our company's Representative to Jim Mason, Bluestem's District Production Manager, whose contact information has been updated on page 1 of the Application.

REVISION #2: Attached is a Revised Exhibit "A", (Operator's Representative), for the Amendment which has been properly executed by Jim Mason.

REVISION #3: Attached is a Revised Exhibit "N", (Concept Plan), for the Amendment which modifies the original Exhibit "N" in accordance with the following:

- Sets out a description of the revised Evans Central Tank Battery Facility as approved by the Midland Fire Marshall
- Sets out a schematic entitled "Piping Plan and Dimensions – Proposed Improvements" of the Evans Central Tank Battery Facility

Ron Jenkins
Page 2
May 4, 2012

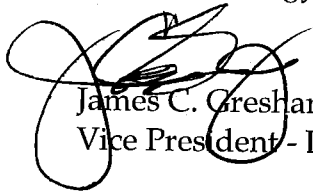
REVISION #4: Attached is a Revised Exhibit "S", (Drainage Plan), along with a plat which sets out the drainage retention berm surrounding the Central Tank Battery

Also enclosed is a check in the amount of \$1,000.00 as consideration for this Amendment. Please let me know if the attached information is in accordance with your needs.

Thank you again for your assistance in this regard.

Regards:

Bluestem Energy Holdings, LLC



James C. Gresham Jr., CPL
Vice President - Land

BLUESTEM | ENERGY

26.10

May 4, 2012

EXHIBIT A

1. My name is Jim Mason and I am the District Production Manager for Bluestem Energy Holdings, LLC.
2. I understand and agree that I am responsible for ensuring compliance with all conditions of the Oil and Gas Permit for the Bluestem Evans D 1 well. Along with all applicable laws, regulations, ordinances by any and all employees, contractors, subcontractors, of Operator at the oil and gas operation site.
3. I further understand that it is my sole obligation in the event I am relieved of these responsibilities, that the name, local address, and local phone number of my replacement will be provided to the City Secretary.

By: 
Jim Mason,
District Production Manager

STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.



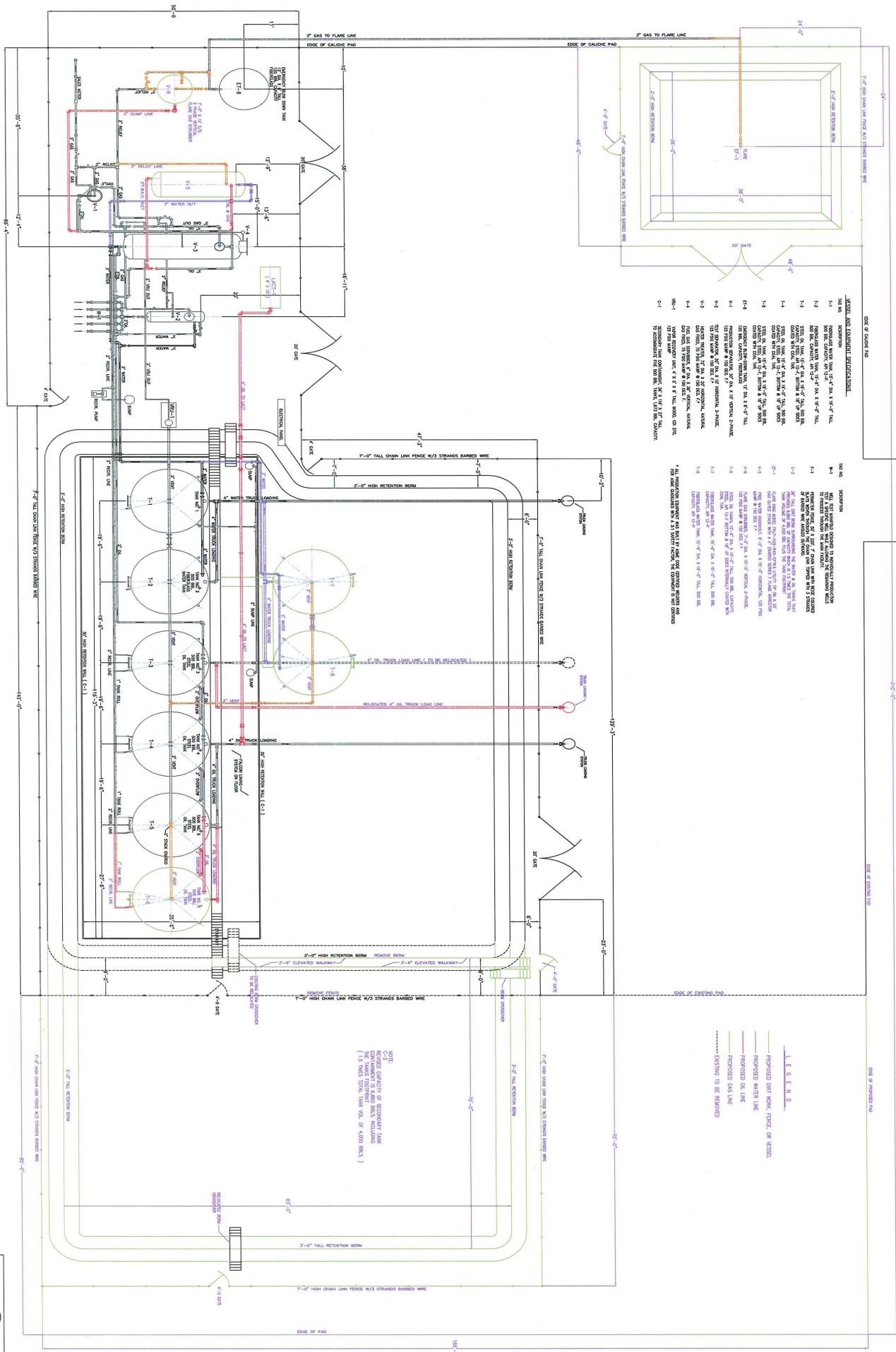

Notary Public in and for the State of Texas

Evans Central Tank Battery**Facility Expansion**

Bluestem Energy Holdings, LLC is proposing to expand the Evans Central Tank Battery to handle increased produced oil, gas, and water volumes from the drilled and planned drill wells on the Evans lease. The following is a list of the proposed changes to the facility as outlined in the attached Evans Tank Battery Drawing entitled "Piping Plan and Dimensions – Proposed Improvements". In addition to these proposed changes, the requirements in the City of Midland Drilling Ordinance No. 8769 and of the City of Midland Fire Marshall will be updated to accommodate the expanded facility as to fire detection, lightning protection, secondary containment for the tanks, perimeter fencing, and emergency egress.

The proposed changes to the Evans Central Tank Battery are as follows:

- Increase the tank battery pad size to 165' x 310' (Original size was 165' x 225').
- Add two 500 bbl fiberglass water storage tanks (15' 6" Dia x 16' tall). The facility total will be four 500 bbl fiberglass water storage tanks.
- Add one 500 bbl steel oil storage tank (15' 6" Dia x 16' tall). The facility total will be four 500 bbl steel oil storage tanks.
- Modify the existing 36" tall dirt berm surrounding the water and oil tanks to provide 6,860 bbls of capacity which is 1.5 times the total tank volume of 4,000 bbls plus the tanks foot print. The current 36" dirt berm has a capacity of 4,300 bbls of capacity which is 1.5 times the total tank volume of 2,500 bbls plus the tanks foot print.
- Add a 6' Dia x 15' horizontal free water knockout to handle the increased produced fluid volumes.
- Add a 7' Dia x 10' vertical 2-phase flare gas scrubber to prevent liquids from going up the emergency flare stack in an emergency upset or condition.
- Add a 25' OAH guyed emergency flare stack with an auto ignitor and a 4" Enardo Series 7 flame arrestor. The flare stack will be surrounded by a 24" tall dirt berm and enclosed with a fence.
- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.

[illegible][illegible]

LEGEND

- PROPOSED DIRT WORK, FENCE OR VESSEL
- PROPOSED WATER LINE
- PROPOSED OIL LINE
- PROPOSED GAS LINE
- EXISTING TO BE REMOVED

REFERENCE DRAWINGS		REVISIONS	
NUMBER	DESCRIPTION	DATE	REVISION
1	CHANGED DRAWING BY THE CONTRACTOR TO READ FROM OPEN JOINTS	12/2/71	1
2	ADDED THE NUMBER AND DIMENSIONS IN BRACKETS AND COMMENTS	1/24/72	2
3	ADDED ELEVATED EXTERIOR BRIDGE APPROXIMATE AND DATE TO DRAWING	7/2/72	3

Bluestem Energy

BLUESTEM ENERGY
EVANS TANK BATTERY
MIDLAND COUNTY, TEXAS

DRAWN BY: C.G.H.		CHECKED BY:	
DATE: 3/9/12		DRAWING NO. 12-050-02	



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012
John M. Newton, P.E.

Newton Engineering, LP

The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-003; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "G" 1) *inside the City Limits* located 1650 feet from the north line and 2310 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-283)

Purpose:

To consider an amendment to Resolution 2011-283 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 1650 feet from the north line and 2310 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on November 8, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has been changed on the application.

REVISION #2: A revised “Exhibit A” has been signed by the appropriate representative.

REVISION #3: A revised “Exhibit N” (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised “Exhibit S” (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit “A” – Change of Operator’s Representative, Exhibit “N” – Concept Plan; Exhibit “S” – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888
Fee: \$4,000.00 Rec'd Yes ☐ No ☐	NOTE: All attachments need to be bound and put in a binder before submitting. Pages 1-4	

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele.):

No. 2 (Tele.):

Option B: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a Licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a Licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):

Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a Licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a Licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT E is a (map/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans G 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

1650' FNL and 2310' FEL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

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Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: none

(2) Operations: Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Electric lines will be installed for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (15)(2). [See § J(18)].

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Bluestem Energy Holdings, LLC

[NAME OF COMPANY]

By Jim Mason
District Production Manager

County of Midland)

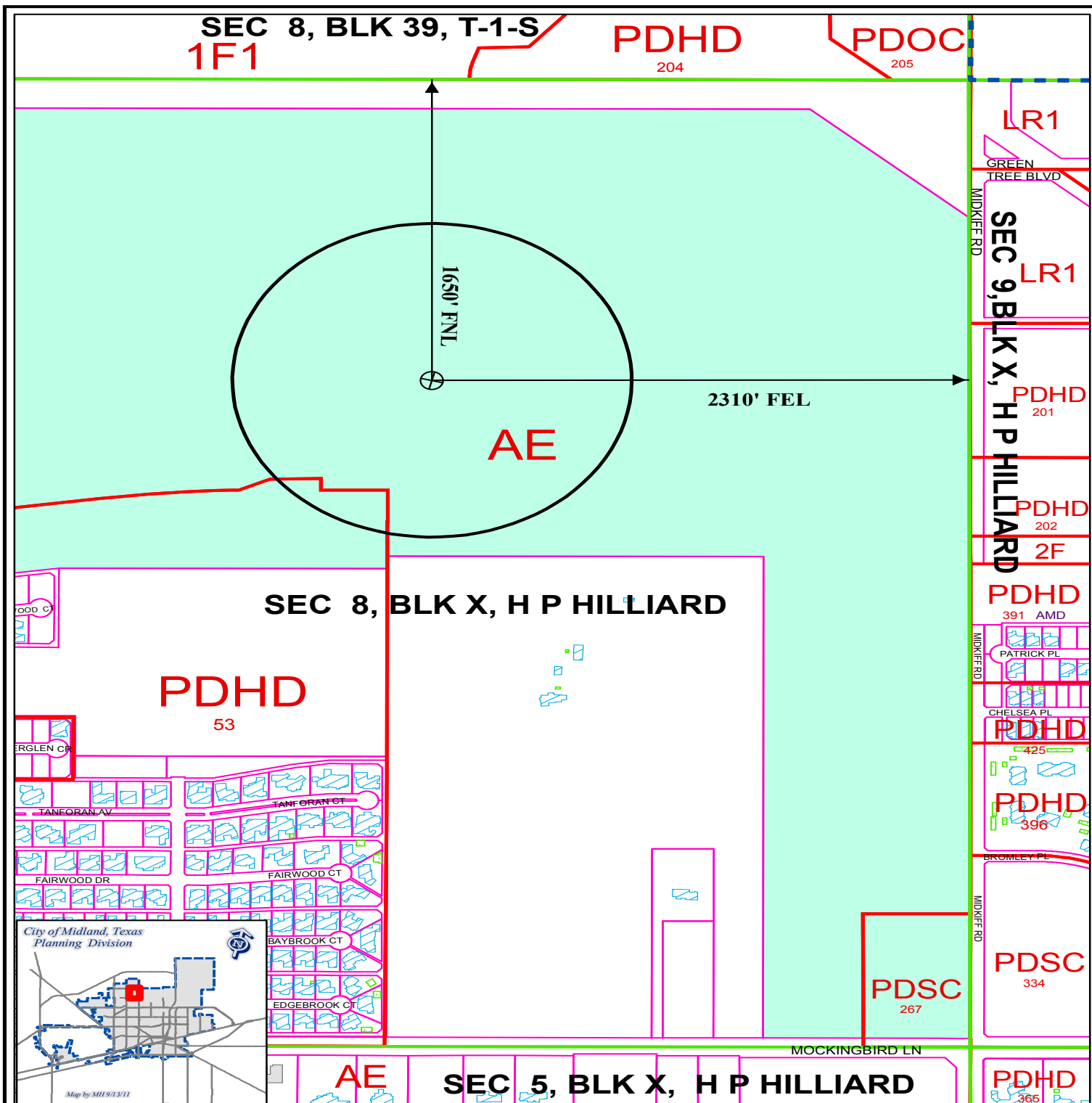
State of Texas)

Jim Mason, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



[SEAL]

Susan J. Armstrong
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 003

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1650' FNL and 2310' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "G" #1

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
SURVEY SEC.	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	OFFICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	NS	NEIGHBORHOOD SERVICE
MH	MOBILE HOME DWELLING	LR1, LR2, LR3	LOCAL RETAIL
TH	TOWNHOUSE DWELLING	C1, C2, C3	COMMERCIAL
2F	TWO-FAMILY DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
MF1, MF2	MULTIPLE FAMILY DWELLING	LI	LIGHT INDUSTRY
		HI	HEAVY INDUSTRY

BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans G #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

Reference is made to our drilling permit Application for the Bluestem Energy Holdings, LLC Evans G #1 well, dated July 22, 2011, which was amended and recently received final approval by the City Council on November 8, 2011. As you are aware, several revisions have become necessary to this Application, and this letter and the enclosed attachments shall represent such revisions. Such revisions are set forth below:

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Ron Jenkins
Page 2
May 4, 2012

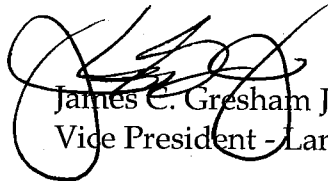
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Thank you again for your assistance in this regard.

Regards:

Bluestem Energy Holdings, LLC



James E. Gresham Jr., CPL
Vice President - Land

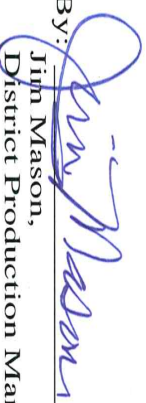
BLUESTEM | ENERGY

27.10

May 4, 2012

EXHIBIT A

1. My name is Jim Mason and I am the District Production Manager for Bluestem Energy Holdings, LLC.
2. I understand and agree that I am responsible for ensuring compliance with all conditions of the Oil and Gas Permit for the Bluestem Evans G 1 well. Along with all applicable laws, regulations, ordinances by any and all employees, contractors, subcontractors, of Operator at the oil and gas operation site.
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By: 
Jim Mason,
District Production Manager

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.




Notary Public in and for the State of Texas

Evans Central Tank Battery**Facility Expansion**

Bluestem Energy Holdings, LLC is proposing to expand the Evans Central Tank Battery to handle increased produced oil, gas, and water volumes from the drilled and planned drill wells on the Evans lease. The following is a list of the proposed changes to the facility as outlined in the attached Evans Tank Battery Drawing entitled "Piping Plan and Dimensions – Proposed Improvements". In addition to these proposed changes, the requirements in the City of Midland Drilling Ordinance No. 8769 and of the City of Midland Fire Marshall will be updated to accommodate the expanded facility as to fire detection, lightning protection, secondary containment for the tanks, perimeter fencing, and emergency egress.

The proposed changes to the Evans Central Tank Battery are as follows:

- Increase the tank battery pad size to 165' x 310' (Original size was 165' x 225').
- Add two 500 bbl fiberglass water storage tanks (15' 6" Dia x 16' tall). The facility total will be four 500 bbl fiberglass water storage tanks.
- Add one 500 bbl steel oil storage tank (15' 6" Dia x 16' tall). The facility total will be four 500 bbl steel oil storage tanks.
- Modify the existing 36" tall dirt berm surrounding the water and oil tanks to provide 6,860 bbls of capacity which is 1.5 times the total tank volume of 4,000 bbls plus the tanks foot print. The current 36" dirt berm has a capacity of 4,300 bbls of capacity which is 1.5 times the total tank volume of 2,500 bbls plus the tanks foot print.
- Add a 6' Dia x 15' horizontal free water knockout to handle the increased produced fluid volumes.
- Add a 7' Dia x 10' vertical 2-phase flare gas scrubber to prevent liquids from going up the emergency flare stack in an emergency upset or condition.
- Add a 25' OAH guyed emergency flare stack with an auto ignitor and a 4" Enardo Series 7 flame arrestor. The flare stack will be surrounded by a 24" tall dirt berm and enclosed with a fence.
- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012

John M. Newton, P.E.

Newton Engineering, LP

The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-004; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "H" 1) *inside the City Limits* located 1650 feet from the north line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-284)

Purpose:

To consider an amendment to Resolution 2011-284 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 1650 feet from the north line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on November 8, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has been changed on the application.

REVISION #2: A revised “Exhibit A” has been signed by the appropriate representative.

REVISION #3: A revised “Exhibit N” (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised “Exhibit S” (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit “A” – Change of Operator’s Representative, Exhibit “N” – Concept Plan; Exhibit “S” – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701 NOTE: All attachments need to bound and put in a binder before submitting.	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888
Fee: \$4,000.00	Rec'd Yes ☐ No ☐	Pages 1-4

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele):

No. 2 (Tele):

Option B: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(7)].

ATTACHED AS EXHIBIT E is a (map/p latsatellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated Streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drift Site. The (map/p latsatellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans H 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

1650' FNL and 990' FEL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: none

(2) Operations: Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

Electric lines will be opened for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

NAME OF COMPANY

By Jim Mason
District Production Manager

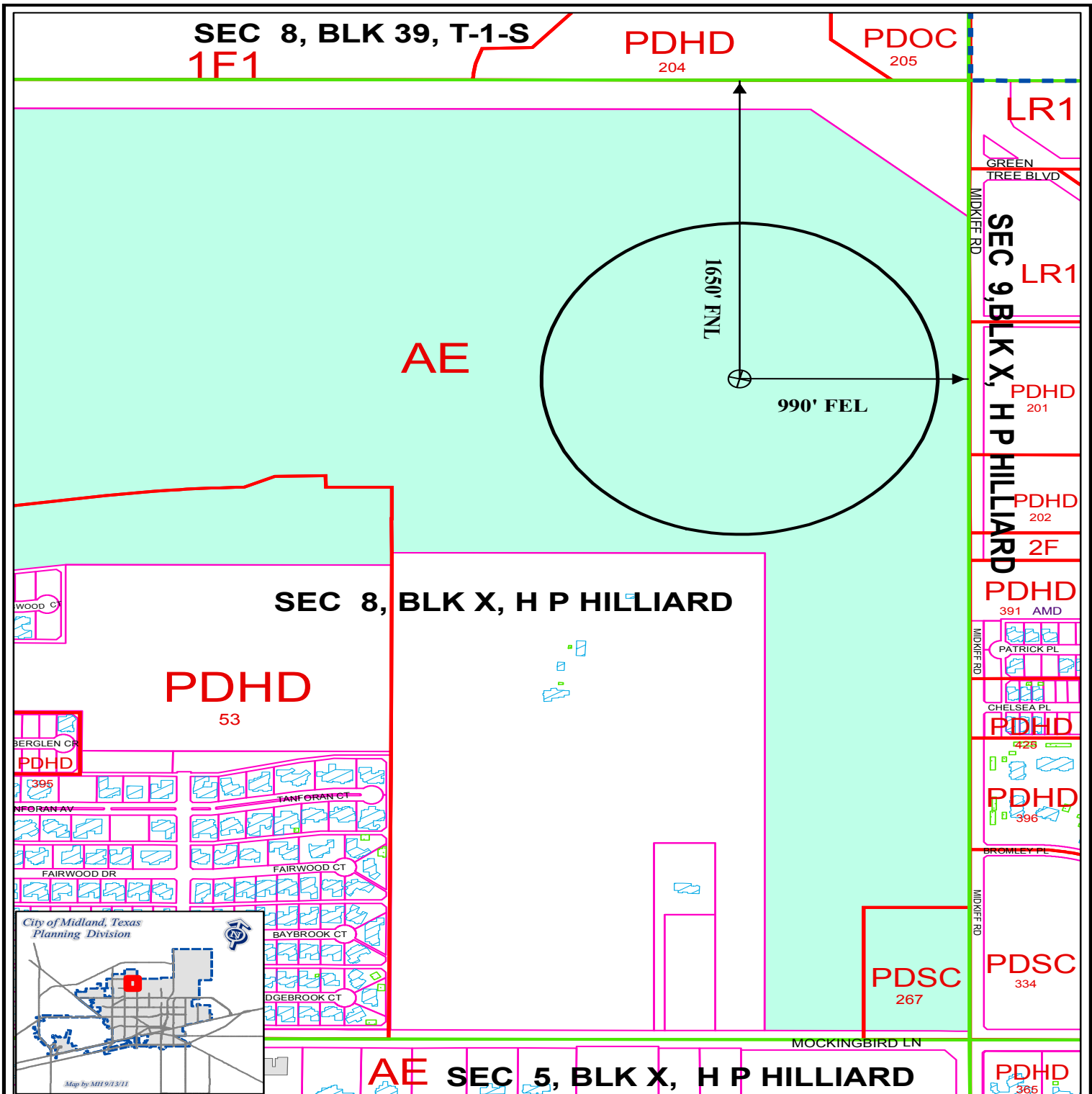
County of Midland)

State of Texas)

Jim Mason
sworn declared he/she signed the application in the capacity designated, if any, and further states that
he/she has read the above application and attached exhibits and the statements therein are true and
correct to the best of their knowledge.



Susan J. Armstrong
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 004

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1650' FNL and 990' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "H" #1

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
SURVEY SEC.	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	NS	NEIGHBORHOOD SERVICE
MH	MOBILE HOME DWELLING	LR1, LR2, LR3	LOCAL RETAIL
TH	TOWNHOUSE DWELLING	C1, C2, C3	COMMERCIAL
2F	TWO-FAMILY DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
MF1, MF2	MULTIPLE FAMILY DWELLING	LI	LIGHT INDUSTRY
		HI	HEAVY INDUSTRY

BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans H #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

Reference is made to our drilling permit Application for the Bluestem Energy Holdings, LLC Evans H #1 well, dated July 22, 2011, which was amended and recently received final approval by the City Council on November 8, 2011. As you are aware, several revisions have become necessary to this Application, and this letter and the enclosed attachments shall represent such revisions. Such revisions are set forth below:

REVISION #1: Attached is an Amendment to Application for Oil and Gas Permit where on page 2, we have modified the text regarding the manner in which our electrical lines will be installed. These changes are in accordance with our Surface Agreement with the surface owners. Additionally, we have changed our company's Representative to Jim Mason, Bluestem's District Production Manager, whose contact information has been updated on page 1 of the Application.

REVISION #2: Attached is a Revised Exhibit "A", (Operator's Representative), for the Amendment which has been properly executed by Jim Mason.

REVISION #3: Attached is a Revised Exhibit "N", (Concept Plan), for the Amendment which modifies the original Exhibit "N" in accordance with the following:

- Sets out a description of the revised Evans Central Tank Battery Facility as approved by the Midland Fire Marshall
- Sets out a schematic entitled "Piping Plan and Dimensions – Proposed Improvements" of the Evans Central Tank Battery Facility

Ron Jenkins
Page 2
May 4, 2012

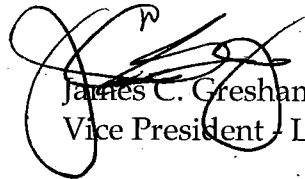
REVISION #4: Attached is a Revised Exhibit "S", (Drainage Plan), along with a plat which sets out the drainage retention berm surrounding the Central Tank Battery

Also enclosed is a check in the amount of \$1,000.00 as consideration for this Amendment. Please let me know if the attached information is in accordance with your needs.

Thank you again for your assistance in this regard.

Regards:

Bluestem Energy Holdings, LLC



James C. Gresham Jr., CPL
Vice President - Land

BLUESTEM | ENERGY

28.10

May 4, 2012

EXHIBIT A

1. My name is Jim Mason and I am the District Production Manager for Bluestem Energy Holdings, LLC.
2. I understand and agree that I am responsible for ensuring compliance with all conditions of the Oil and Gas Permit for the Bluestem Evans H 1 well. Along with all applicable laws, regulations, ordinances by any and all employees, contractors, subcontractors, of Operator at the oil and gas operation site.
3. I further understand that it is my sole obligation in the event I am relieved of these responsibilities, that the name, local address, and local phone number of my replacement will be provided to the City Secretary.

By: 
Jim Mason,
District Production Manager

STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.




Notary Public in and for the State of Texas

Evans Central Tank Battery

Facility Expansion

Bluestem Energy Holdings, LLC is proposing to expand the Evans Central Tank Battery to handle increased produced oil, gas, and water volumes from the drilled and planned drill wells on the Evans lease. The following is a list of the proposed changes to the facility as outlined in the attached Evans Tank Battery Drawing entitled "Piping Plan and Dimensions – Proposed Improvements". In addition to these proposed changes, the requirements in the City of Midland Drilling Ordinance No. 8769 and of the City of Midland Fire Marshall will be updated to accommodate the expanded facility as to fire detection, lightning protection, secondary containment for the tanks, perimeter fencing, and emergency egress.

The proposed changes to the Evans Central Tank Battery are as follows:

- Increase the tank battery pad size to 165' x 310' (Original size was 165' x 225').
- Add two 500 bbl fiberglass water storage tanks (15' 6" Dia x 16' tall). The facility total will be four 500 bbl fiberglass water storage tanks.
- Add one 500 bbl steel oil storage tank (15' 6" Dia x 16' tall). The facility total will be four 500 bbl steel oil storage tanks.
- Modify the existing 36" tall dirt berm surrounding the water and oil tanks to provide 6,860 bbls of capacity which is 1.5 times the total tank volume of 4,000 bbls plus the tanks foot print. The current 36" dirt berm has a capacity of 4,300 bbls of capacity which is 1.5 times the total tank volume of 2,500 bbls plus the tanks foot print.
- Add a 6' Dia x 15' horizontal free water knockout to handle the increased produced fluid volumes.
- Add a 7' Dia x 10' vertical 2-phase flare gas scrubber to prevent liquids from going up the emergency flare stack in an emergency upset or condition.
- Add a 25' OAH guyed emergency flare stack with an auto ignitor and a 4" Enardo Series 7 flame arrestor. The flare stack will be surrounded by a 24" tall dirt berm and enclosed with a fence.
- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.

[illegible]

LEGEND

- PROPOSED DRIP IRRIGATION FOR ANNUAL
- PROPOSED WATER LINE
- PROPOSED OLIVE LINE
- PROPOSED GAS LINE
- EXISTING TO BE REMOVED

PIPING PLAN AND DIMENSIONS
 PROPOSED IMPROVEMENTS



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012

John M. Newton, P.E.

Newton Engineering, LP

The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-005; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "I" 1) *inside the City Limits* located 2310 feet from the south line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately ½ mile north of Mockingbird Lane. – Resolution 2011-285)

Purpose:

To consider an amendment to Resolution 2011-285 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 2310 feet from the south line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on November 8, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has been changed on the application.

REVISION #2: A revised “Exhibit A” has been signed by the appropriate representative.

REVISION #3: A revised “Exhibit N” (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised “Exhibit S” (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit “A” – Change of Operator’s Representative, Exhibit “N” – Concept Plan; Exhibit “S” – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701 NOTE: All attachments need to bound and put in a binder before submitting.	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888 Pages 1-4
Fee: \$4,000.00	Rec'd Yes ___ No ___	

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele.):

No. 2 (Tele.):

Option B: Jim Mason, NO. 1 (432) 770-8322, NO. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from _____, a Certified Petroleum Landman/an opinion letter from _____, a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from _____, a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT E is a (map/pat/satellite/aerial photo) depicting all Residences, commercial structures, public buildings, all publicly dedicated streets and alleys, Rights of Way, and permanent accessory structures surrounding the proposed Drill Site. The (map/pat/satellite/aerial photo) includes two circles, as required by the Ordinance—one depicting a 500 foot radius and one depicting an 860 foot radius from the proposed well's surface location. [See § J(10)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

IV. Well & Operations Information

Proposed Well Name: Evans I 1

Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary)[See § J(11) and § L(4)]:

See attached Exhibit V

Legal Description of Proposed Well Site:

2310' FSL and 990' FEL, Sec. 8, Blk. X, Hilliard Survey

ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)].

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT I is a copy of the approved Texas Railroad Commission permit to drill (Form W-1), together with all attachments (also file copy of W-1 with City Secretary before commencement of drilling operations). [See § J(16) and (20)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

ATTACHED AS EXHIBIT K (if applicable) is the list of alternative locations developed in consultation with the Oil & Gas Advisory Committee. [See § J(27)].

ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at least \$25,000. Option (if applicable): Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. Option B (if applicable): Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/certificate of deposit/surety bond in conjunction with this request. [See § J(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) Drilling: none

(2) Operations: Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:

All electric lines will be overhead for the immediate future. Ultimately, electrical lines will be buried in the proposed corridors as shown on Exhibit N, in accordance with the Surface Agreement dated November 3, 2010 between Operator and the Surface Owner.

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]:

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the *Letter of Credit/Certificate of Deposit* in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

NAME OF COMPANY

By Jim Mason
its District Production Manager

County of Midland)

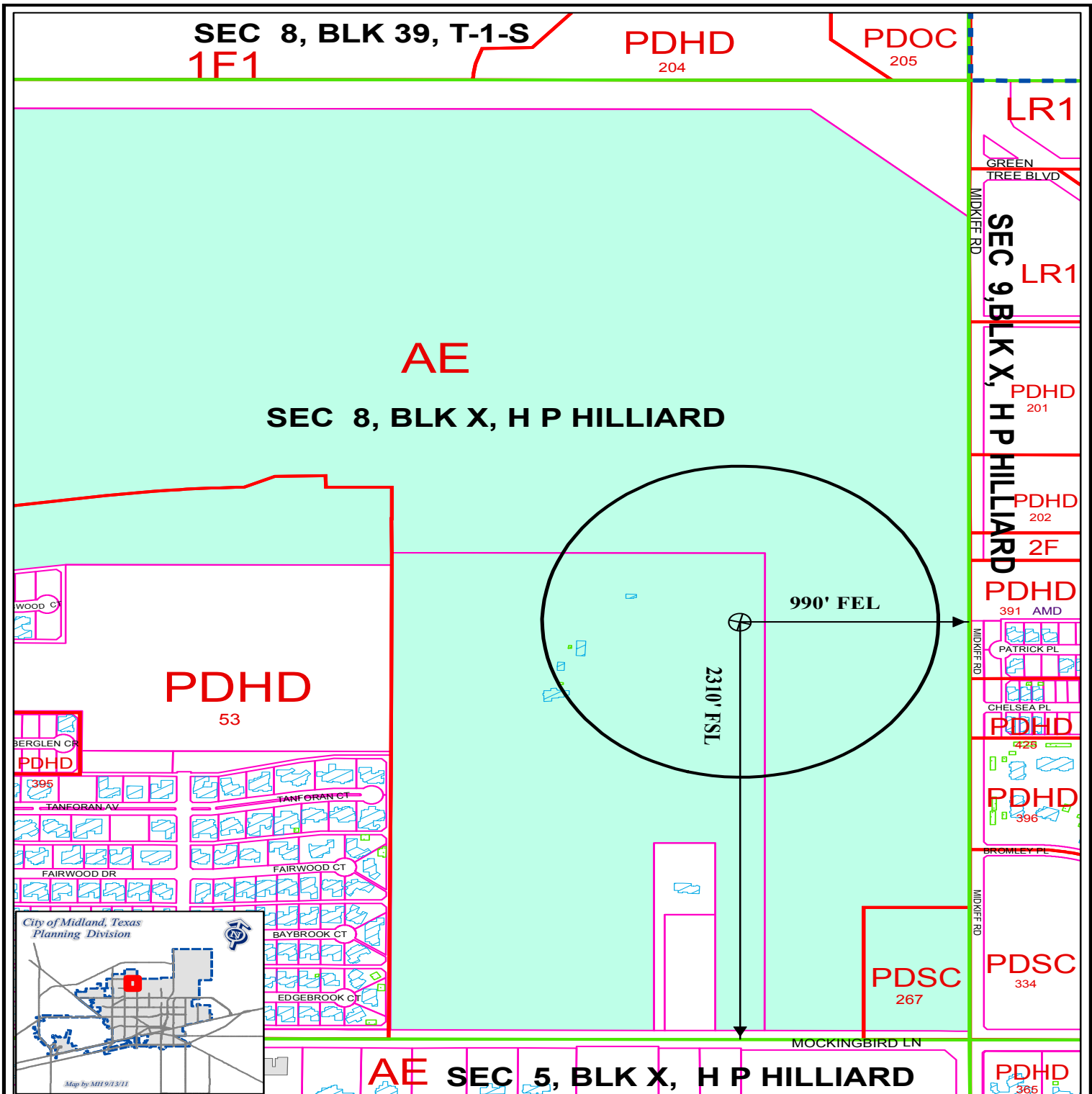
State of Texas)

Jim Mason, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



[SEAL]

Susan J. Armstrong
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 005

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 2310' FSL and 990' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "I" #1

LEGEND

CITY PARCELS	PUBLIC BLDGS	CITY LIMITS
SURVEY SEC.	PRIVATE BLDGS	860 FT. BUFFER
ZONING	ACCESSORY BLDGS	

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	NS	NEIGHBORHOOD SERVICE
MH	MOBILE HOME DWELLING	LR1, LR2, LR3	LOCAL RETAIL
TH	TOWNHOUSE DWELLING	C1, C2, C3	COMMERCIAL
2F	TWO-FAMILY DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
MF1, MF2	MULTIPLE FAMILY DWELLING	LI	LIGHT INDUSTRY
		HI	HEAVY INDUSTRY

BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans I #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

Reference is made to our drilling permit Application for the Bluestem Energy Holdings, LLC Evans I #1 well, dated July 22, 2011, which was amended and recently received final approval by the City Council on November 8, 2011. As you are aware, several revisions have become necessary to this Application, and this letter and the enclosed attachments shall represent such revisions. Such revisions are set forth below:

REVISION #1: Attached is an Amendment to Application for Oil and Gas Permit where on page 2, we have modified the text regarding the manner in which our electrical lines will be installed. These changes are in accordance with our Surface Agreement with the surface owners. Additionally, we have changed our company's Representative to Jim Mason, Bluestem's District Production Manager, whose contact information has been updated on page 1 of the Application.

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REVISION #3: Attached is a Revised Exhibit "N", (Concept Plan), for the Amendment which modifies the original Exhibit "N" in accordance with the following:

- Sets out a description of the revised Evans Central Tank Battery Facility as approved by the Midland Fire Marshall
- Sets out a schematic entitled "Piping Plan and Dimensions – Proposed Improvements" of the Evans Central Tank Battery Facility

Ron Jenkins
Page 2
May 4, 2012

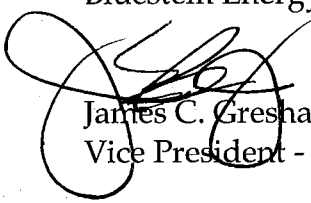
REVISION #4: Attached is a Revised Exhibit "S", (Drainage Plan), along with a plat which sets out the drainage retention berm surrounding the Central Tank Battery

Also enclosed is a check in the amount of \$1,000.00 as consideration for this Amendment. Please let me know if the attached information is in accordance with your needs.

Thank you again for your assistance in this regard.

Regards:

Bluestem Energy Holdings, LLC



James C. Gresham Jr., CPL
Vice President - Land

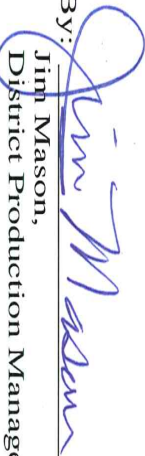
BLUESTEM | ENERGY

29.10

May 4, 2012

EXHIBIT A

1. My name is Jim Mason and I am the District Production Manager for Bluestem Energy Holdings, LLC.
2. I understand and agree that I am responsible for ensuring compliance with all conditions of the Oil and Gas Permit for the Bluestem Evans I 1 well. Along with all applicable laws, regulations, ordinances by any and all employees, contractors, subcontractors, of Operator at the oil and gas operation site.
3. I further understand that it is my sole obligation in the event I am relieved of these responsibilities, that the name, local address, and local phone number of my replacement will be provided to the City Secretary.

By: 
Jim Mason,
District Production Manager

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.



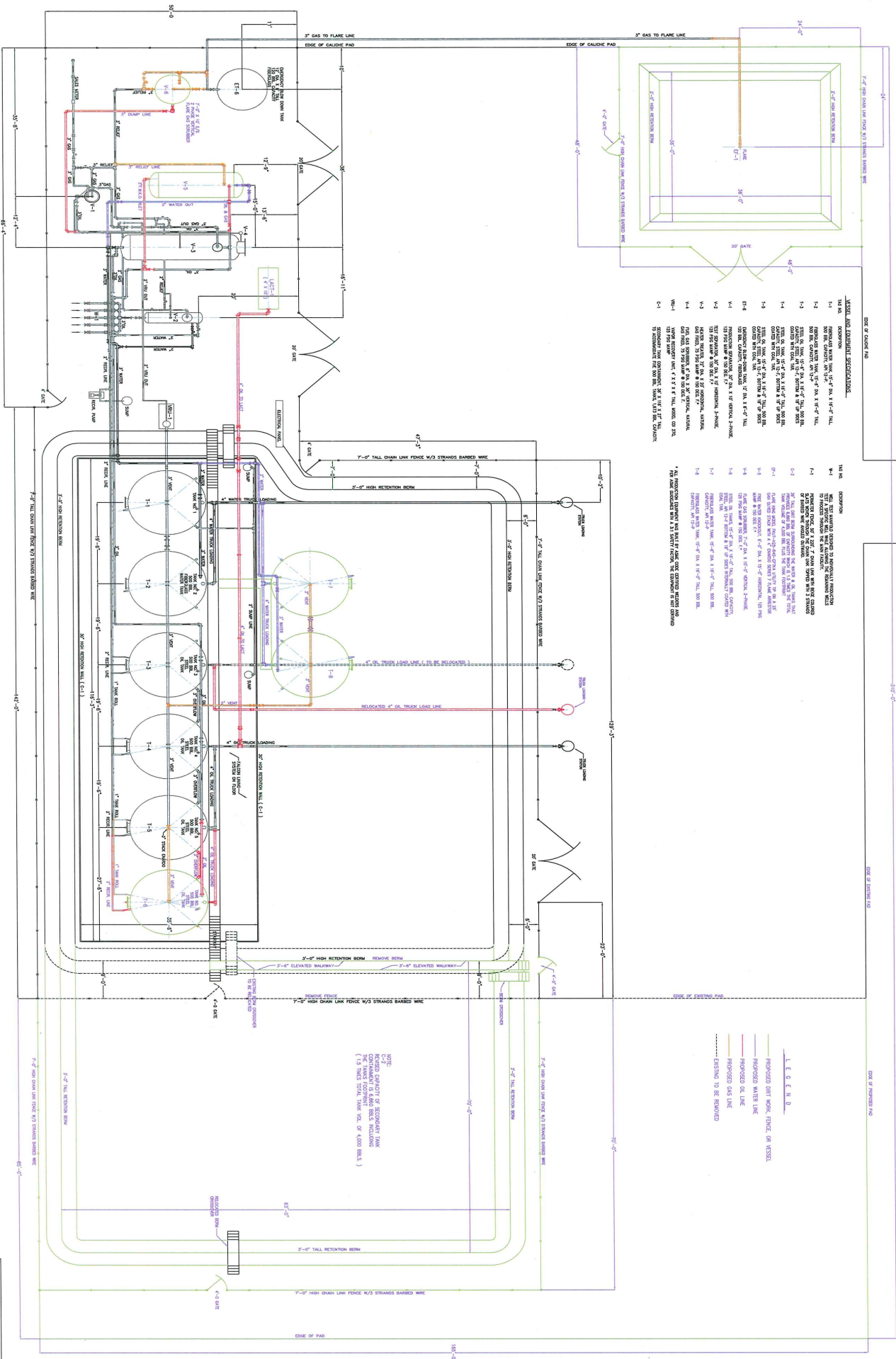

Notary Public in and for the State of Texas

Evans Central Tank Battery**Facility Expansion**

Bluestem Energy Holdings, LLC is proposing to expand the Evans Central Tank Battery to handle increased produced oil, gas, and water volumes from the drilled and planned drill wells on the Evans lease. The following is a list of the proposed changes to the facility as outlined in the attached Evans Tank Battery Drawing entitled "Piping Plan and Dimensions – Proposed Improvements". In addition to these proposed changes, the requirements in the City of Midland Drilling Ordinance No. 8769 and of the City of Midland Fire Marshall will be updated to accommodate the expanded facility as to fire detection, lightning protection, secondary containment for the tanks, perimeter fencing, and emergency egress.

The proposed changes to the Evans Central Tank Battery are as follows:

- Increase the tank battery pad size to 165' x 310' (Original size was 165' x 225').
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- Add one 500 bbl steel oil storage tank (15' 6" Dia x 16' tall). The facility total will be four 500 bbl steel oil storage tanks.
- Modify the existing 36" tall dirt berm surrounding the water and oil tanks to provide 6,860 bbls of capacity which is 1.5 times the total tank volume of 4,000 bbls plus the tanks foot print. The current 36" dirt berm has a capacity of 4,300 bbls of capacity which is 1.5 times the total tank volume of 2,500 bbls plus the tanks foot print.
- Add a 6' Dia x 15' horizontal free water knockout to handle the increased produced fluid volumes.
- Add a 7' Dia x 10' vertical 2-phase flare gas scrubber to prevent liquids from going up the emergency flare stack in an emergency upset or condition.
- Add a 25' OAH guyed emergency flare stack with an auto ignitor and a 4" Enardo Series 7 flame arrestor. The flare stack will be surrounded by a 24" tall dirt berm and enclosed with a fence.
- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.

[illegible][illegible]

LEGEND

PROPOSED DIRT WORK, PAVED OR KESSEL
— PROPOSED WATER LINE
PROPOSED GAS LINE
PROPOSED GAS LINE
--- EXISTING TO BE REMOVED

THIS DRAWING IS THE PROPERTY OF ENGINEER PRESTON SYSTEMS, INC. NO REPRODUCTION OF THE ENTIRE OR PARTIAL CONTENTS OF THIS DRAWING IS TO BE MADE WITHOUT THE WRITTEN PERMISSION OF ENGINEER PRESTON SYSTEMS, INC. IF THIS DRAWING IS USED FOR ANY OTHER PROJECT, THE USER SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMISSIONS FROM THE APPROPRIATE PARTY. ENGINEER PRESTON SYSTEMS, INC. WILL NOT BE RESPONSIBLE FOR ANY REPRODUCTION OF THIS DRAWING FOR ANY OTHER PROJECT. IF THIS DRAWING IS USED FOR ANY OTHER PROJECT, THE USER SHALL BE RESPONSIBLE FOR OBTAINING THE NECESSARY PERMISSIONS FROM THE APPROPRIATE PARTY. ENGINEER PRESTON SYSTEMS, INC. WILL NOT BE RESPONSIBLE FOR ANY REPRODUCTION OF THIS DRAWING FOR ANY OTHER PROJECT.		REFERENCE DRAWINGS		REVISIONS	
NUMBER	DESCRIPTION	DATE	REVISION	DESCRIPTION	
1/2/7/1/1	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	1/2/7/1/1	1	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	
1/2/7/1/1	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	1/2/7/1/1	2	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	
1/2/7/1/1	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	1/2/7/1/1	3	ENGINEER DRAWING OF THE CONCRETE SLAB FROM JOHN ANDERSON	

Bluestem|Energy

BLUESTEM ENERGY
EVANS TANK BATTERY
MIDLAND COUNTY, TEXAS

PIPING PLAN AND DIMENSIONS
 PROPOSED IMPROVEMENTS
 DRAWN BY: C.G.H.
 DATE: 3/19/12
 CHECKED BY:
 DRAWING NO. 12-050-02



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012

John M. Newton, P.E.

Newton Engineering, LP

The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: May 22, 2012

TO: CITY COUNCIL/CITY MANAGER

FROM: Cameron Walker, Planning Division Manager

SUBJECT: O-11-006; Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "J" 1) *inside the City Limits* located 2322 feet from the south line and 2310 feet from the east line, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately ½ mile north of Mockingbird Lane. – Resolution 2011-301)

Purpose:

To consider an amendment to Resolution 2011-301 on a request from Bluestem Energy Holdings, LLC to drill an oil and gas well on property located 2322 feet from the south line and 2310 feet from the east line, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. Council approved the proposed drill site on December 13, 2011; however, the applicant is requesting consideration of amended drilling conditions.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The amended conditions proposed by Bluestem Energy Holdings, LLC are listed below.

REVISION #1: The electrical line location and the name of a company representative has been changed on the application.

REVISION #2: A revised “Exhibit A” has been signed by the appropriate representative.

REVISION #3: A revised “Exhibit N” (Concept Plan) indicates amended battery location including the tanks and additional production equipment.

REVISION #4: A revised “Exhibit S” (Drainage Plan) has been received for the tank battery.

An additional fee has been paid to the City to cover this amended permit.

Attachments: Application, Drill site location, Letter, Exhibit “A” – Change of Operator’s Representative, Exhibit “N” – Concept Plan; Exhibit “S” – Drainage Plan



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information

Date 07/22/2011	Operator Name (must match W-1) Bluestem Energy Holdings, LLC	Operator Address 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701
Representative Name Jim Mason	Representative Address (within Midland City Limits) 400 W. Illinois Ave, Ste. 900 Midland, Texas 79701 NOTE: All attachments need to bound and put in a binder before submitting.	Rep. Tele. (432) 770-8322 Rep. Fax (817) 872-9888 Pages 1-4
Fee: \$4,000.00 Rec'd Yes No		

Permit Compliance Contact (Choose 1):

Option A: Jim Mason, No. 1 (432) 770-8322, No. 2 (432) 685-0134

24/7 Answering Services - No. 1 (Tele.):

No. 2 (Tele.):

Option B: Jim Mason, No. 1 (432) 770-8322, No. 2 (432) 685-0134

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Same as above

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]).

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

1. Evans Resources, LP, P.O. Box 7962, Midland, TX 79708
2. Joy D. Anguish Trust and David D. Anguish Trust, P.O. Box 2749, Longview, TX 75606
3. Anguish Partnership, P.O. Box 63, Midland, TX 79702

ATTACHED AS EXHIBIT C is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/Title Commitment by Abstract Company/a Take-off from a Certified Petroleum Landman/an opinion letter from a licensed Texas Attorney) indicating that [Operator] has a legal right to develop the mineral estate that is the subject of this Application. [See § J(5)].

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):
Farming

ATTACHED AS EXHIBIT D is (a Title Opinion by Robert Rendall, a licensed Texas Attorney/a Take-off from a Certified Petroleum Landman/Current Tax Roll from Midland Central Appraisal District), which lists the name(s) and address(es) of all surface owners within 860 feet of the surface well location. [See § J(7)].

ATTACHED AS EXHIBIT F is a copy of the notification letter(s) sent to 100 percent of the surface owners, Certified Mail, Return Receipt Requested. [See § J(36)].

Proposed Well Name: Evans J 1

See attached Exhibit V

2322' FSL and 2310' FEL,

ATTACHED AS EXHIBIT H is the Map with the proposed transportation route(s) and road(s) for equipment, chemicals, or refuse products used or produced in the proposed oil and gas operations. [See § J(12)].

ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)].

Committee. [See § J(27)].

ATTACHED AS EXHIBIT M is the Road Repair Agreement and Letter of Credit/Certificate of Deposit/Surety Bond in the amount of at

least \$25,000. *Option B (applicable):* Applicant would further state that no City-owned streets or alleys will be used by the Operator in connection with its oil and gas operations and as a result, requests a waiver from the Council of this requirement. *Option B (if applicable):* Because Applicant has three Road Repair Agreements in effect that have been approved by the Council, Applicant requests that the Council consolidate all agreements into one and is filing the necessary \$75,000 letter of credit/surety bond in conjunction with this request. [See § 3(31)].

ATTACHED AS EXHIBIT N is the Concept Plan depicting the proposed Operations Site (which includes tanks, roads, power lines, and pipeline routes). [See § J(32)].

Description of Public Utilities required during (1) drilling and (2) operations:

(1) **Drilling:** none

(2) **Operations:** Sun Electric

Description of water source to be used during Drilling:

Evans water wells located in N/2 of Sec. 8, Blk. X, Hilliard Survey

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]:
All electric lines will be overhead for the immediate future; ultimately, electrical lines will be buried in the proposed

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary)
See § J(35):

See Exhibit O

V. Additional Required Exhibits

ATTACHED AS EXHIBIT P is the Letter of Credit/Certificate of Deposit in accordance with Subsection (K)(2). [See § J(18)].

ATTACHED AS EXHIBIT Q are Tax certificates from Midland Central Appraisal District to be submitted indicating that all taxes on personal and real property, including minerals, owned by Applicant are current. [See § J(29)].

ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)].

ATTACHED AS EXHIBIT S (if applicable) is the Drainage Plan approved by the City Engineer relating to Applicant's proposed operations. [See § J(21)].

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)].

ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Bluestem Energy Holdings, LLC

NAME OF COMPANY

By Jim Mason
its District Production Manager

County of Midland)

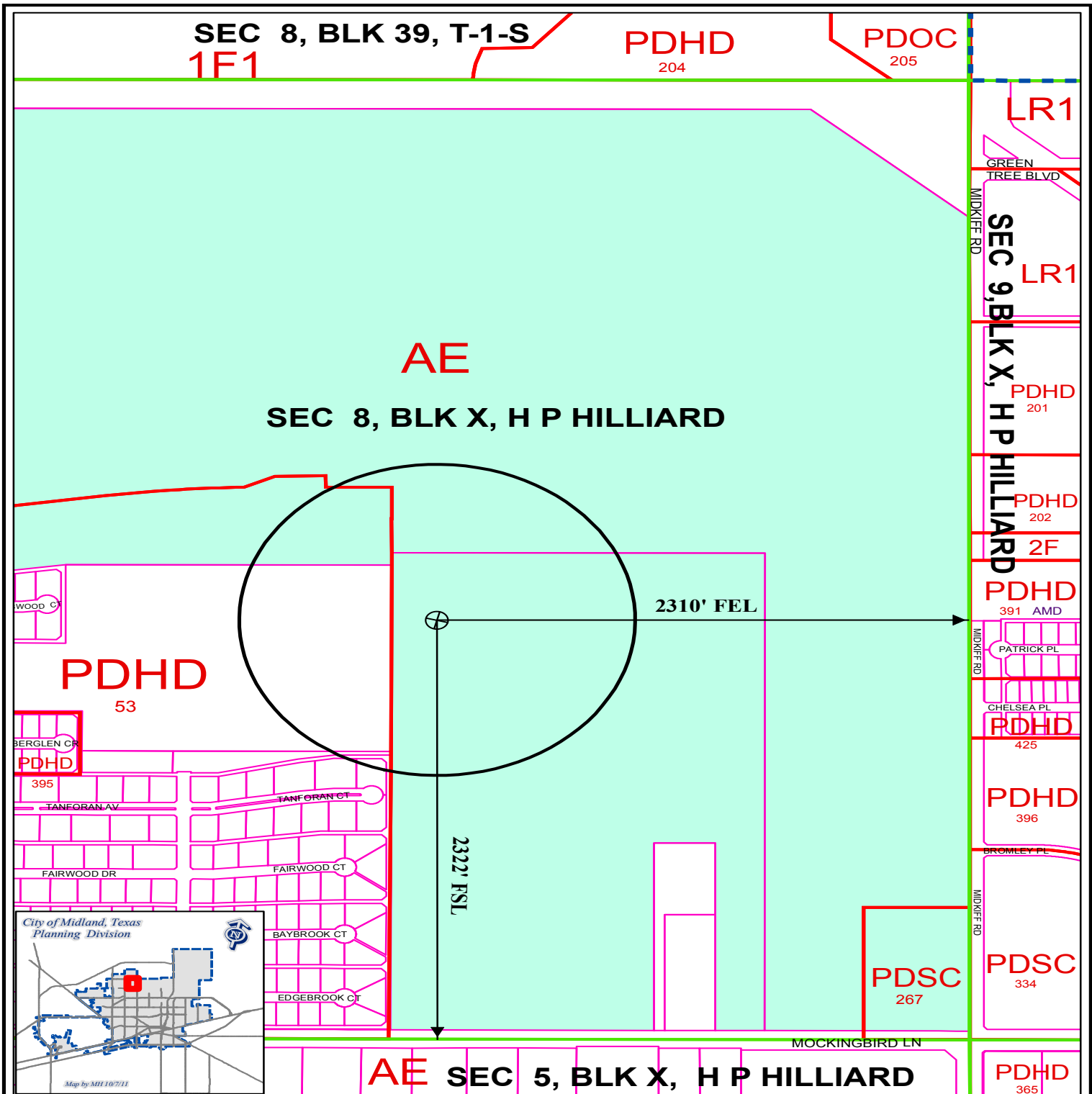
State of Texas)

Jim Mason, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.



[SEAL]

Susan J. Armstrong
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 11 - 006

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 2322' FSL and 2310' FEL, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Evans "J" #1

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
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PD	PLANNED DISTRICT	P	PARKING
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BLUESTEM | ENERGY

May 4, 2012

Ron Jenkins
City of Midland Oil and Gas Compliance Officer
300 N. Loraine
Midland, Texas 79702

RE: Revision of City of Midland Oil and Gas Permits
Bluestem Energy Holdings, LLC
Evans J #1 Well
Evans Prospect
Midland County, Texas

Dear Ron:

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Ron Jenkins
Page 2
May 4, 2012

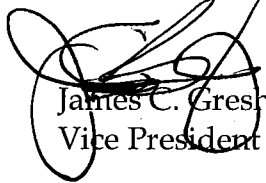
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Regards:

Bluestem Energy Holdings, LLC



James C. Gresham Jr., CPL
Vice President - Land

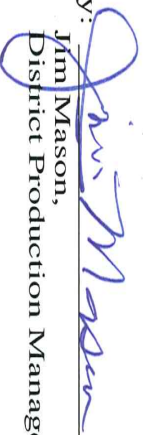
BLUESTEM | ENERGY

30.10

May 4, 2012

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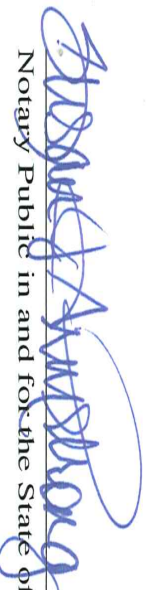
By: 
Jim Mason,
District Production Manager

STATE OF TEXAS
COUNTY OF MIDLAND

§
§
§

THE FORGOING INSTRUMENT was acknowledged before me on this the 4th day of May, 2012 by Jim Mason as District Production Manager for Bluestem Energy Holdings, LLC, known to me to be the person whose signature is subscribed above.



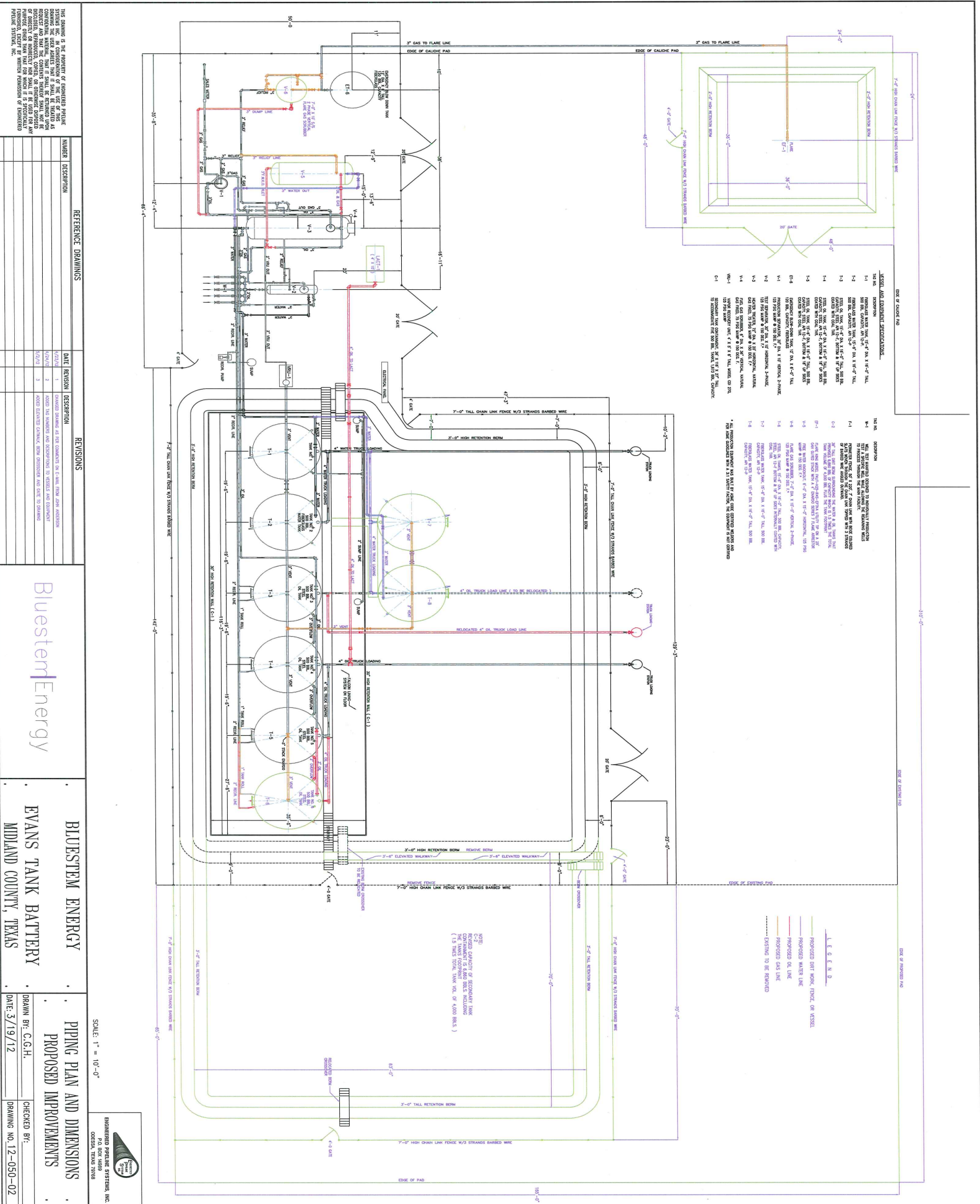

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Evans Central Tank Battery**Facility Expansion**

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- Add a Lease Automated Custody Transfer (LACT) Unit. The dimensions and specifications for this unit will be determined by the contracted oil purchaser.



BLUESTEM ENERGY

EVANS TANK BATTERY

MIDLAND COUNTY, TEXAS

PIPING PLAN AND DIMENSIONS

PROPOSED IMPROVEMENTS

DRAWN BY: C.G.H.

CHECKED BY:

DATE: 3/19/12

DRAWING NO: 12-050-02



NEWTON ENGINEERING, PC

4908 N. Midkiff Rd.
Midland, Texas 79705
(432) 770-0499

F-13856

SECTION 8, BLOCK X, HP HILLIARD SURVEY

OPERATION SITE

DRAINAGE REPORT

MAY 2012

Prepared by:



John M. Newton
5-2-2012

John M. Newton, P.E.

Newton Engineering, LP

The operation site is located in the Southeast quarter of Section 8, Block X. The existing land drains northeast to Green Tree Blvd. right of way which ultimately drains to Midland Draw. The proposed pad is 310'x165' or 1.17 acres.

I utilized the City of Midland Storm Drainage Design Manual (SDDM) to evaluate and design a retention basin for the proposed well location. In Section 10.7.1, I used Eq. 10-11 ($V=CPA/12$) to find the volume of retention that will be required on this site. Coefficient of runoff (C) was calculated using Table 4-2 of the SDDM. I computed the C to be 0.90 during the 100 year event. Precipitation Event (P) during the 100 yr. 24 hr event is 6.83 in from Table 4-10 in the SDDM. Using $V=CPA/12$ yields a retention basin of 0.60 acre-ft. The estimated volume of the retention basin is 46,500 sf x 1' deep or 1.06 acre-ft.

I recommend using a berm located around the location, as depicted on page 2, to retain this runoff.



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Cameron Walker, Planning Division Manager

SUBJECT: Consider a motion interpreting City of Midland Ordinance 8640 determining that a proposed apartment development to be located on Lot 1, Block 11 and the north 100 feet of Lot 1, Block 10, Claydesta Plaza, City and County of Midland, Texas, is in compliance with Ordinance 8640 which governs said property. Said property is generally located on the southeast corner of the intersection of North "A" street and Veterans' Airpark Lane.

Purpose:

To interpret an existing ordinance.

Recommended City Council Action

☐ Approve ☐ Deny ☒ Directional / Informational

Fiscal Impact:

No City funds are needed in association with this application.

Discussion:

Ordinance 8640 approved the development of apartments at the corner of Veteran's Airpark Lane and North "A" Street. Included with the governing ordinance was a site plan (Exhibit A) and an elevation (Exhibit B) of the proposed buildings. This project was never constructed.

Exhibit A: The applicant has submitted a new site plan that in his words "has slight modifications to the (original) site plan". The developer is asking the City Council to determine if his proposed site plan meets the spirit and intent of the original approved site plan. The proposed site plan has minor changes in the building footprint that mainly affect the clubhouse and swimming pool locations.

Exhibit B: The original approved exterior of the buildings consisted of stone and stucco veneer. The proposed building elevations meet the original design and building height, however, the applicant wishes to use brick and horizontal wood siding instead. The applicant is requesting the City Council to determine that these materials meet the spirit and intent of the original exhibits approved under Ordinance 8640. The developer intends to proceed with construction of the 210 units and associated 436 parking spaces (parking ratio per unit is 2.08) in the immediate future.

CLAYDESTA, L.P.

6 Desta Drive, Suite 2750
Midland, Texas 79705

May 11, 2012

Mayor Wes Perry
City of Midland, Texas
400 North Loraine
Midland, Texas 79701

Re: Interpretation of Ordinance No. 8640
("Ordinance")

Dear Mayor Perry:

ClayDesta, L.P. is the Owner of Lot 1A Block 11, ClayDesta Plaza, an addition to the City of Midland, Texas located on the southwest corner of A Street and Veterans Airpark Road (the "Property"). The Property is zoned under a Planned District with Site Plan contained in the above referenced zoning Ordinance.

The Property is under contract to a Buyer who is ready to close the purchase of the property and commence construction of the apartment complex on the Property in accordance with all of the conditions contained in the Ordinance.

The proposed construction has slight modifications to the Site Plan which is attached to the Ordinance. I am asking the City Council to approve the slight modifications as being an acceptable interpretation.

The modifications are as follows:

1. Exhibit A – the location of a small number of the residential buildings, the Club House and pool area have been slightly altered. Attached is an overlay which was the proposed construction in comparison to the Site Plan attached to the Ordinance.
2. Exhibit B – identified the façade of the building will be stucco. The Buyer proposes the façade be brick and wood.

These modifications are acceptable to ClayDesta, L.P., the Seller, and have been approved by the Architectural Central Committee of ClayDesta Plaza.

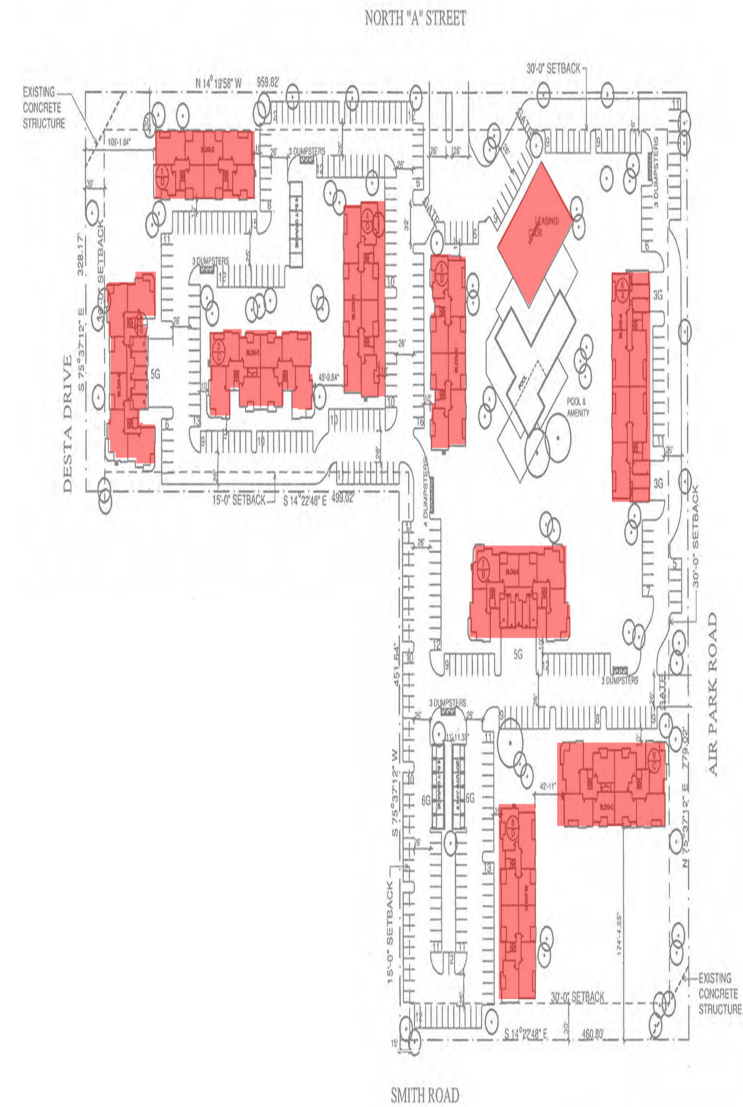
It is our belief the modifications are within the original intent of the City Council when the Ordinance was approved and do not require proceeding through the entire re-zoning process.

Your favorable consideration will be most appreciated.

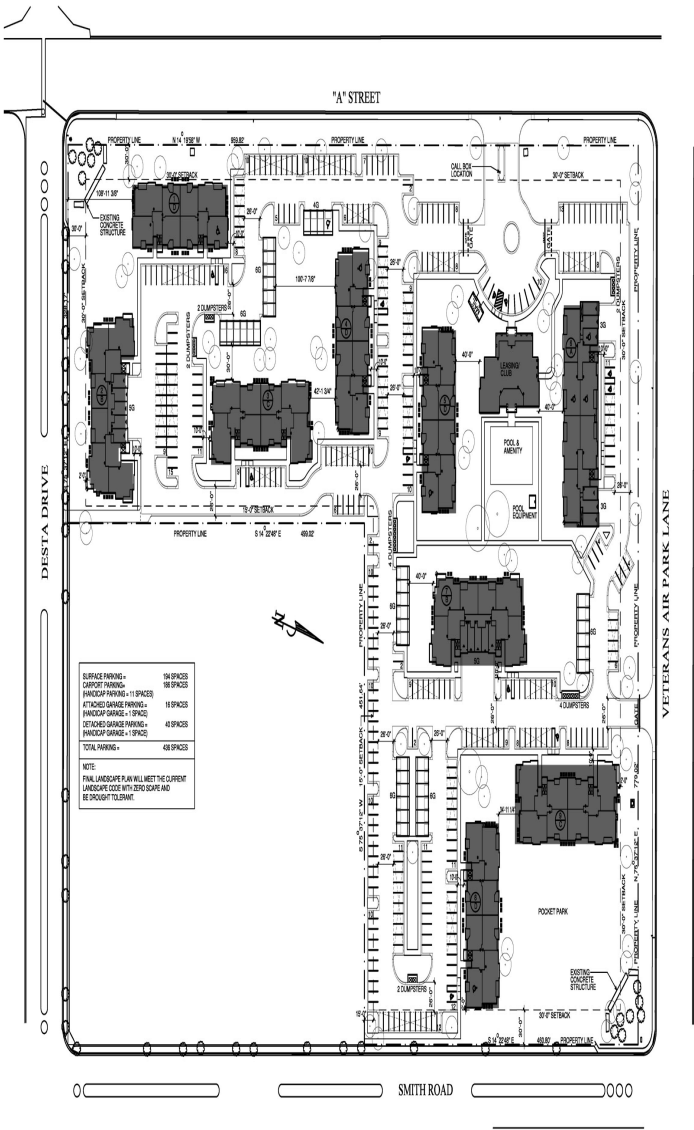
Very truly yours,

ClayDesta, L.P.

By: 
K. Brock Thompson
Executive Vice President

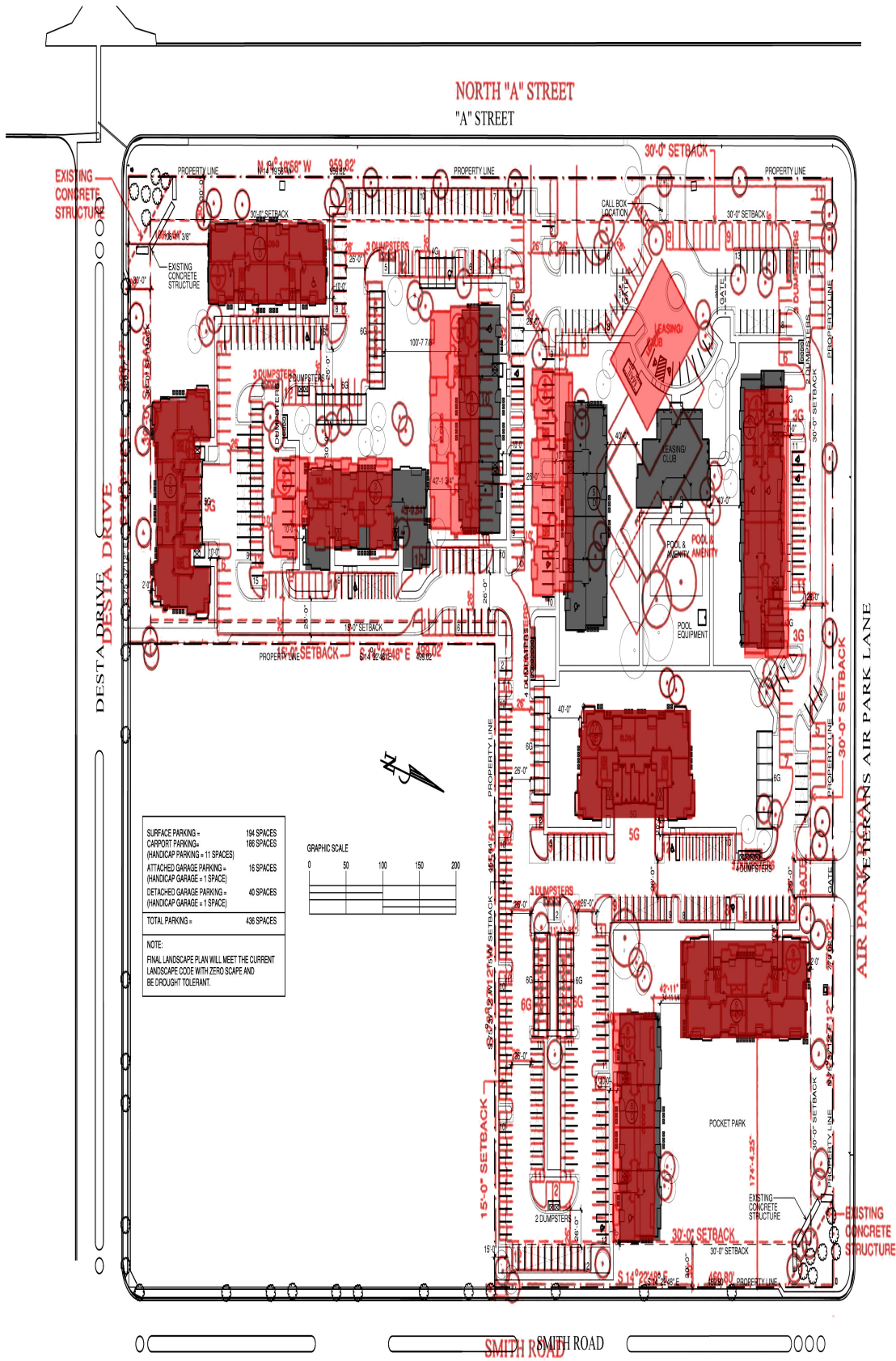


EXISTING SITE PLAN



PROPOSED SITE PLAN

MIDWAY STATION SHEMATIC SITE PLANS MIDLAND, TEXAS



MIDWAY STATION - MIDLAND, TEXAS - SCHEMATIC SITE PLAN

SCALE: 1"=50'-0"



BUILDING 'A' REAR ELEVATION
SCALE 1/8"=1'-0"



BUILDING 'A' FRONT ELEVATION
SCALE 1/8"=1'-0"

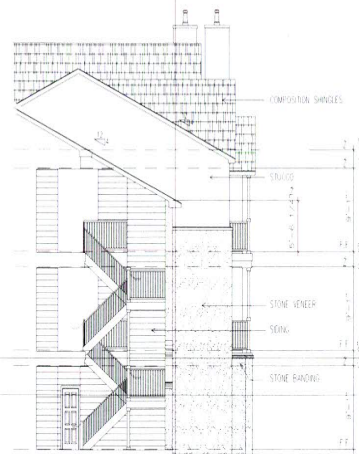
4/26/12
APPROVED:
CLAYDESTA MULTI FAMILY ASSOCIATES
ADMINISTRATIVE COMMITTEE
K. Grace Thompson
K. Hesseman
Michele Maly
MITCH MALY
SECRETARY

CLAYDESTA MUTI FAMILY CONCEPTUAL ELEVATION

MIDLAND, TEXAS



3 BUILDING 'A' END ELEVATION (BLDG. #6,11)
SCALE 1/8"=1'-0"



4 BUILDING 'A' STAIR ELEVATION
SCALE 1/8"=1'-0"



2 BUILDING 'A' BACK ELEVATION (BLDG. #6,11)
SCALE 1/8"=1'-0"



1 BUILDING 'A' FRONT ELEVATION (BLDG. #6,11)
SCALE 1/8"=1'-0"

JOB# 07141
DATE: 06/10/2014

ARCHITECT: J. P. GUNTER, ARCHITECTS
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ELEVATIONS

ORDINANCE NO. 8640

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 11, AND THE NORTH 100 FEET OF LOT 1, BLOCK 10, CLAYDESTA PLAZA, CITY AND COUNTY OF MIDLAND, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF NORTH "A" STREET AND VETERANS AIRPARK LANE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN 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 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 MF-1, Multiple-Family Dwelling District, as set out hereinafter;

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

SECTION ONE. That 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 an Office Center, and it shall be used as an MF-1, Multiple-Family Dwelling District, subject to the conditions and restrictions hereinafter set out, said property being described as follows:

Lot 1, Block 11, and the North 100 feet of Lot 1, Block 10, Claydesta Plaza, City and

County of Midland, Texas.

SECTION TWO: That the use and development of this property shall be subject to the conditions and restrictions of a MF-1, Multiple-Family Dwelling District.

SECTION THREE. *That the development of apartments on this tract shall conform to the conditions shown on Exhibits A and B in all respects, except as otherwise stated below.*

1. That the maximum building height shall not exceed 45 feet above grade.
2. That the electric access gates shall be compatible with the City of Midland emergency vehicles.
3. That the maximum number of units shall not exceed 210, and the maximum density shall not exceed 17.5 dwelling units per acre.
4. *That all signs shall conform to the City of Midland Sign Code.*
5. That a minimum of 20 percent of this site shall be landscaped.
6. That the driving aisles shall be a minimum of 26 feet in width.
7. That the exterior architecture and building materials shall conform to the conditions shown on Exhibit B.

SECTION FOUR. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FIVE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION SIX. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SEVEN. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION EIGHT. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the 13th day of May, A.D., 2008; and passed to second reading on motion of Council member Morgan, seconded by Council member Hailey, by the following vote:

Council members voting "AYE":	Morgan, Hailey, Trost, Perry, Dufford and James
-------------------------------	--

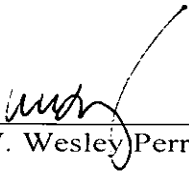
Council members voting "NAY":	None
-------------------------------	-------------

The above and foregoing ordinance was read in full and finally adopted by the following vote upon motion of Council member Hailey, seconded by Council member Dufford, on the 27th day of May, A.D., 2008, at a regular meeting of the City Council:

Council members voting "AYE":	Hailey, Dufford, Trost, Morgan, Perry and James
-------------------------------	--

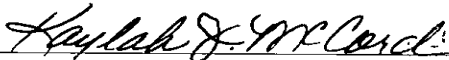
Council members voting "NAY":	None
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PASSED AND APPROVED THIS 27th day of May, A.D., 2008.



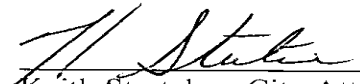
W. Wesley Perry, Mayor

ATTEST:

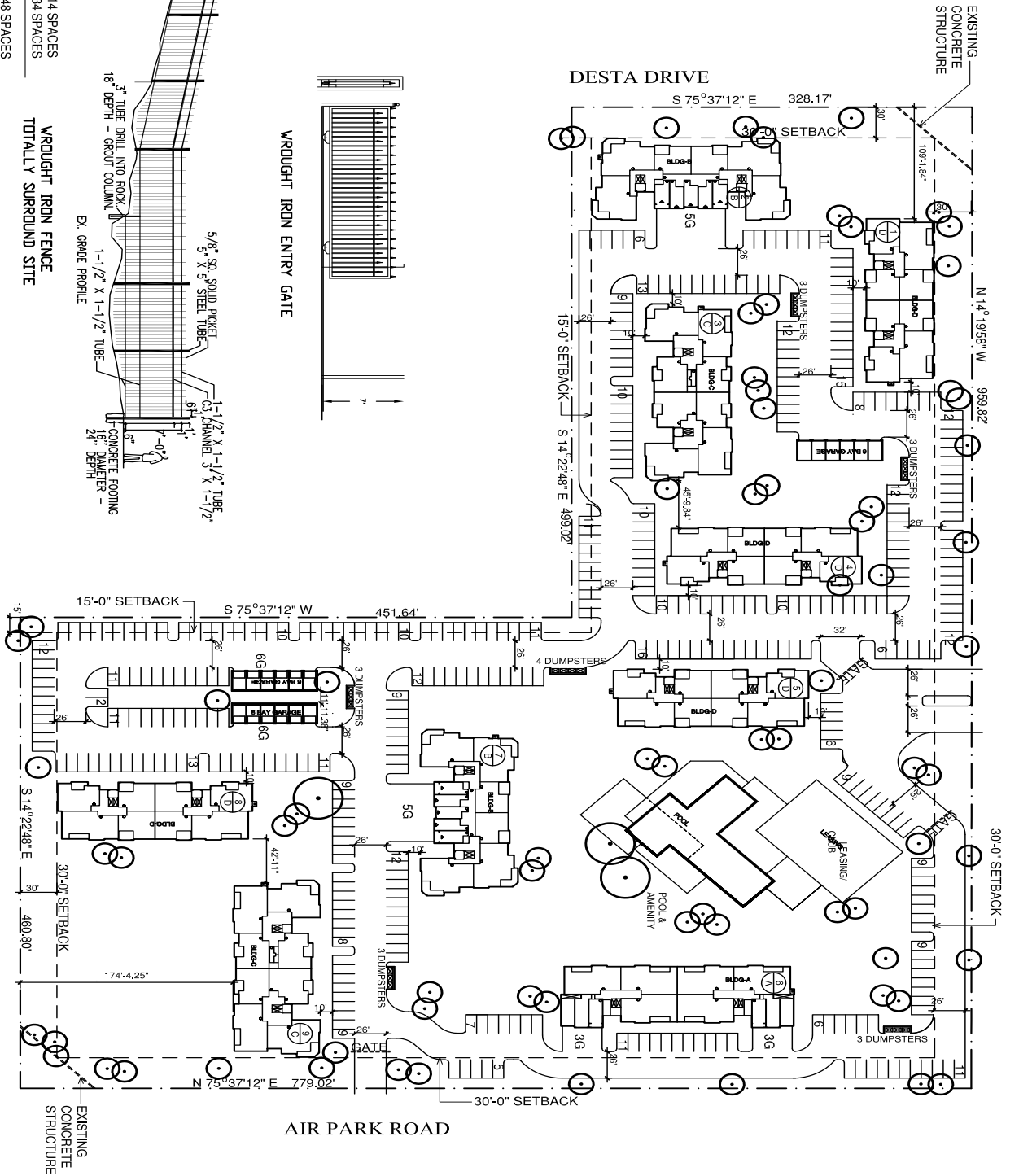


Kaylah J. McCord, City Secretary

APPROVED AS TO FORM:



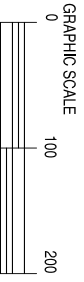
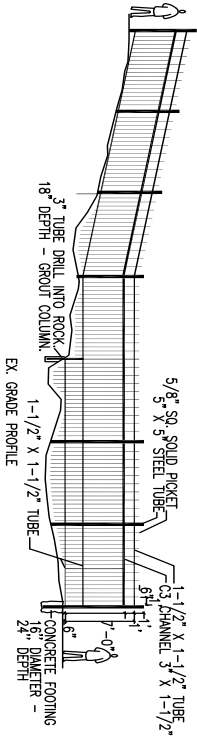
Keith Stretcher, City Attorney



WROUGHT IRON ENTRY GATE

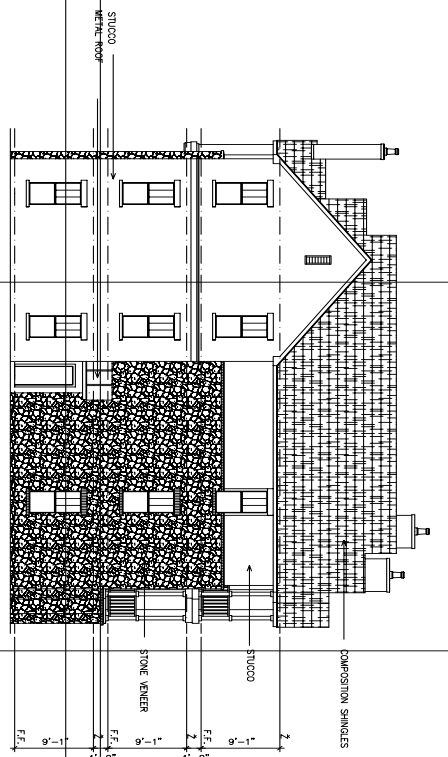
SURFACE PARKING = 414 SPACES
GARAGE PARKING = 34 SPACES
TOTAL PARKING = 448 SPACES

WROUGHT IRON FENCE
TOTALLY SURROUND SITE

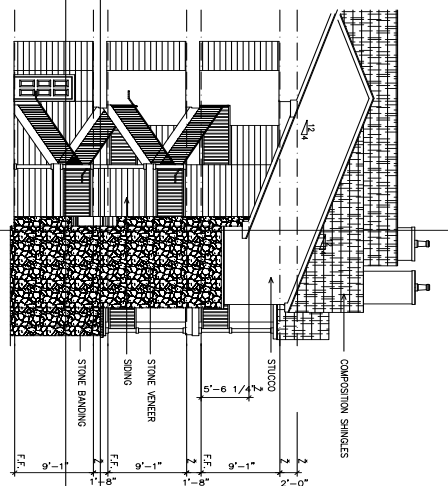


CLAY DESTA - MIDLAND, TEXAS - SCHEMATIC SITE PLAN

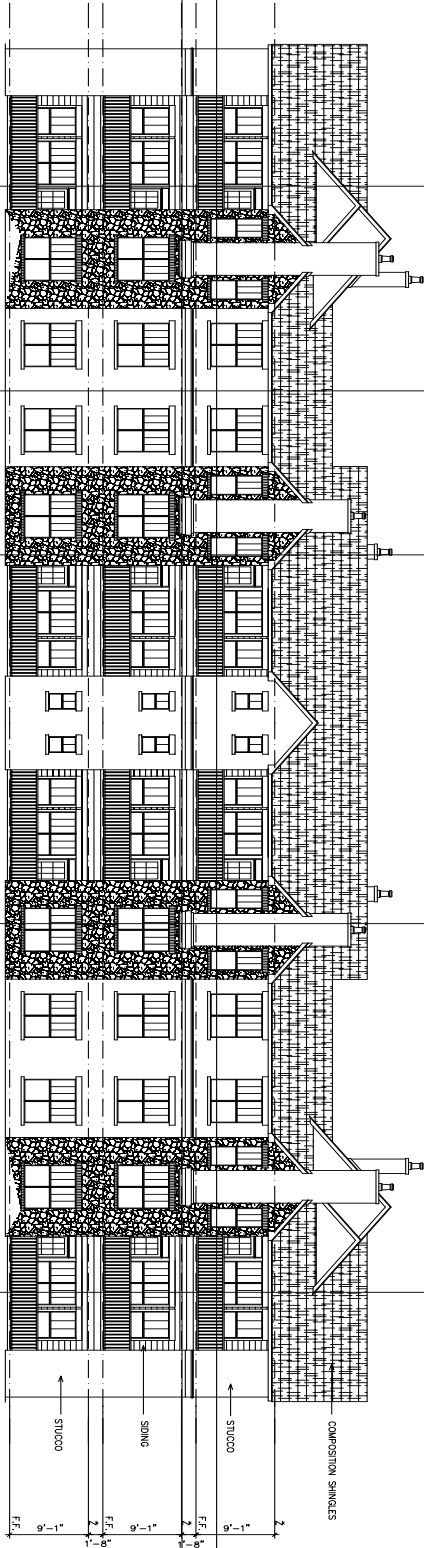
SCALE: 1"=100'-0"



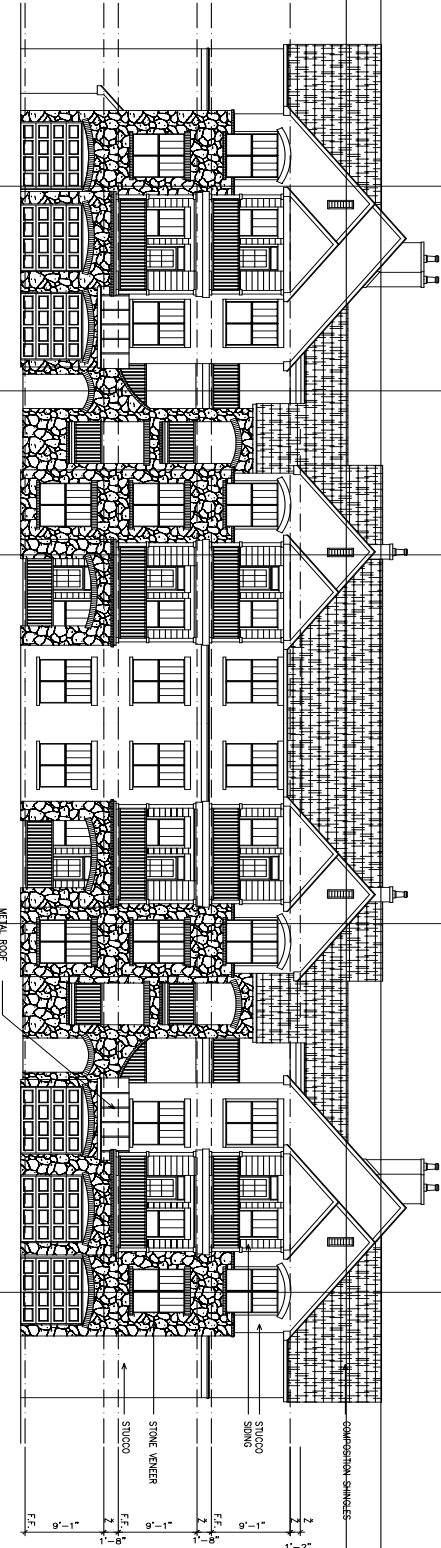
3 BUILDING 'A' END ELEVATION (BUDGS. #6.11)
SCALE 1/8"=1'-0"



4 BUILDING 'A' STAIR ELEVATION
SCALE 1/8"=1'-0"



2 BUILDING 'A' BACK ELEVATION (BUDGS. #6.11)
SCALE 1/8"=1'-0"



1 BUILDING 'A' FRONT ELEVATION (BUDGS. #6.11)
SCALE 1/8"=1'-0"



City Council Agenda

Approved for Agenda:
jnichols
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Ken Van Dyne,

SUBJECT: Duke Edwards - Consider an ordinance on request for the vacation of right-of-way

Purpose:

Consider an ordinance on a request by Duke Edwards for the vacation of the 0.032-acre portion of the right-of-way of W. Louisiana Avenue adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

There is no cost to the City associated with this application.

Discussion:

Andrew Mellen of the West Company is representing Duke Edwards concerning the replatting of the north 75 feet of the east half of the block located at the northeast corner of Colorado Street and Louisiana Avenue. They are requesting the vacation of the above described right-of-way to allow for the future development of this portion of the block for additional parking space for a new restaurant. This property is located east of the Subway Restaurant that fronts Big Spring St. The south portion of the property has a single family residence with the north area undeveloped.

The area to be vacated is approximately eight feet behind the Louisiana Ave. curb edge and has not been used for public travel. The area is approximately 1,400 square feet and is valued at \$1.00 per square foot which establishes its value at \$1,400.00. While the City has no utilities in this right-of-way, the applicant will have to dedicate an easement for existing utilities (ONCOR Electric) which will be covered in the platting phase. A payment to the City in the amount of \$1,400.00 must be received prior to second reading.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.032-ACRE PORTION OF WEST LOUISIANA AVENUE RIGHT-OF-WAY ADJACENT TO THE NORTH 75 FEET OF THE EAST HALF OF BLOCK 29, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOUISIANA AVENUE AND NORTH COLORADO STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$1,400.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.032-acre portion of West Louisiana Avenue right-of-way adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, 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 \$1,400.00 , 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 0.032-acre portion of West Louisiana Avenue right-of-way adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, 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 \$1,400.00.

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

Case Number: N-12-003

CITY OF MIDLAND
Planning 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:
10' X 140' EASEMENT ALONG LOUISIANA AVE.
- II. Reason for Request: EXTEND SIZE OF LOT FOR COMMERCIAL BUILDING
- 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:
DOES NOT AFFECT CITY TRANSPORTATION

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: DUKE EDWARDS

Address: P.O. BOX 51108

Street

MIDLAND

City

TX

State

Phone: _____

79710

Zip Code

2. Metes and bounds description of property to be vacated.
3. Map showing property to be vacated and its relationship to the applicant's property.
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. _____

- V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

Caprock Energy / TXU 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 Planning Division, must first agree to the proposed vacation. It is the applicant's responsibility to obtain a letter of concurrence signed by the affected land owners.
 - b. If all letters are received indicating that the affected land owners agree to the request, then a public hearing before the City Council will be scheduled. Public notice of the hearing will be mailed by the Planning Division to land owners 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 land owner.

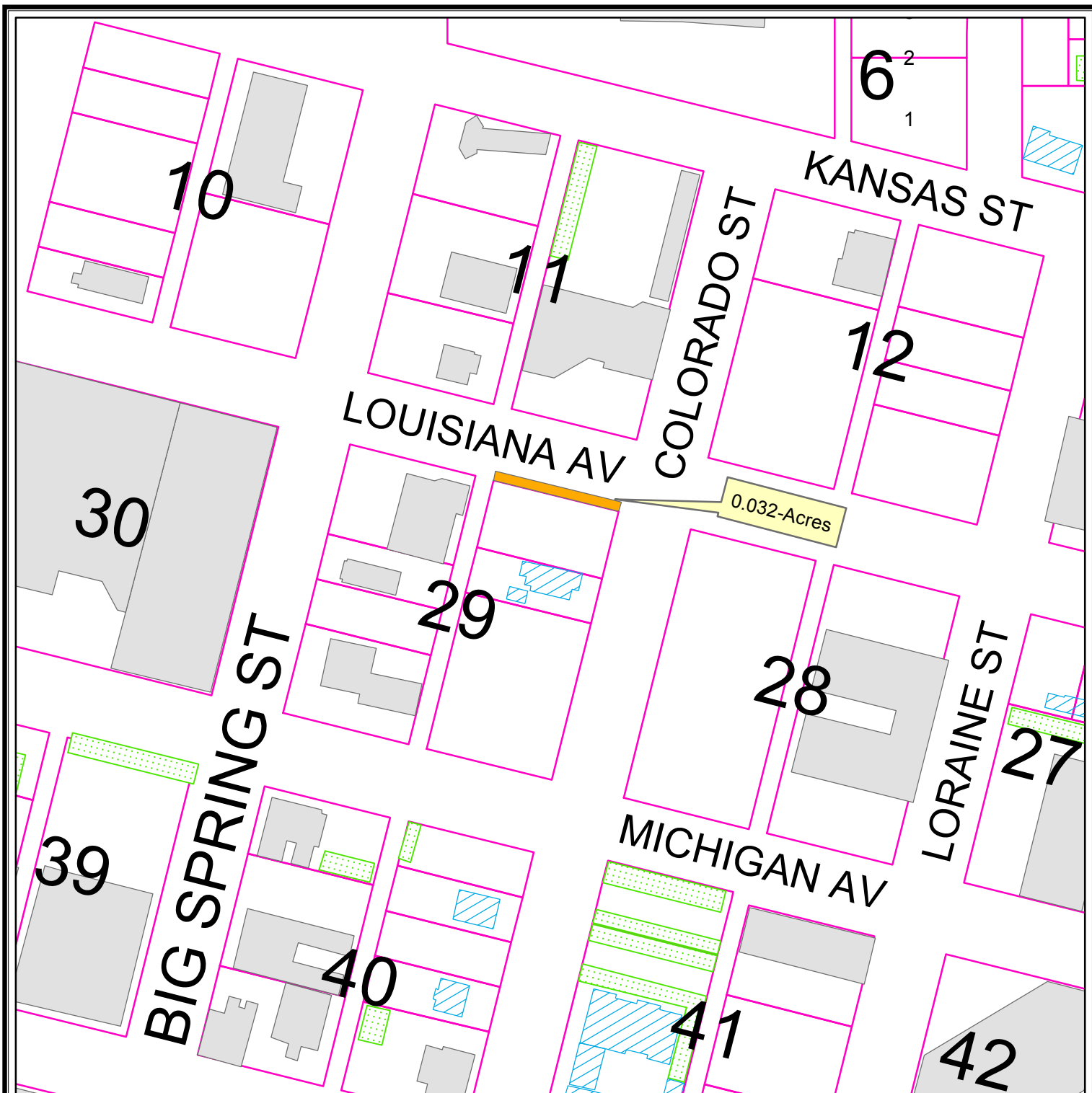
Signature of applicant: _____ Date: _____

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

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>VP</u>	Date: <u>3/29/12</u>
Assigned: <u>KV</u>	
For: <u>CC</u>	On: <u>5/22/12</u>



LOCATION MAP

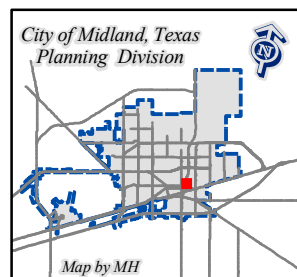
V - 12 - 003

Scale: 1" = 200'

Consider a request for the vacation of a 0.032-acre portion of the right-of-way of W. Louisiana Avenue adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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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, SITING, OR OTHER DECISIONS, BUT SOLELY ON THE INFORMATION CONTAINED HEREIN.

CITY OF MIDLAND

ORDINANCE REQUEST FORM

DATE: May 10, 2012 **SUBJECT:** V-12-003
Duke Edwards

TO: Keith Stretcher, City Attorney

FROM: Cameron Walker, AICP
Planning Division Manager

MEETING

DATE: May 22, 2012 **TIME:** Miscellaneous Items
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: A 0.032-acre portion of the right-of-way of W. Louisiana Avenue adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, City and County of Midland, Texas.

LOCATION: Generally located on the southwest corner of the intersection of W. Louisiana Avenue and N. Colorado Street.

CURRENT ZONING: C-1, Central Area District

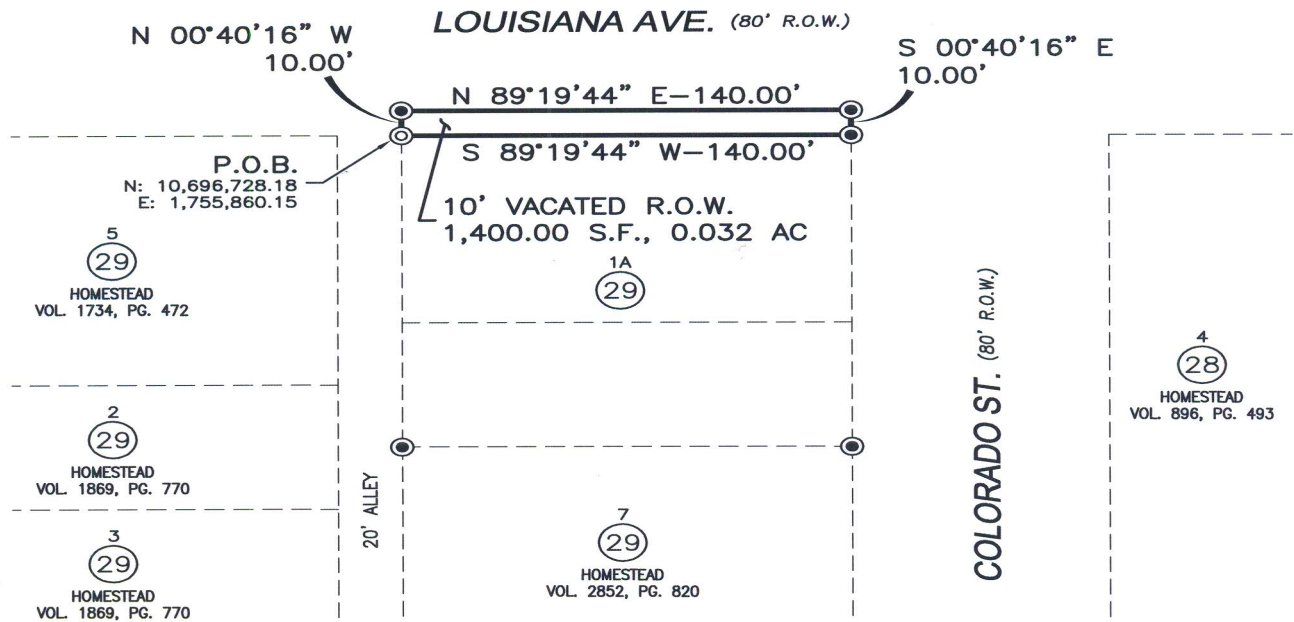
DEPARTMENT COMMENTS:

- A. Please prepare an ordinance to vacate and abandon the public right-of-way described in the attached Land Survey. Easements for existing franchise utilities (electric) shall be noted on the plat;**
- B. That the sum of the land value at a total of \$1,400.00 shall be paid to the City of Midland prior to the approval of 2nd reading on this item.**

Attachments:

Application
Map
Land Survey

ABANDONED RIGHT OF WAY EXHIBIT LOUISIANA AVE.



LEGAL DESCRIPTION of a 0.032 acre tract of Louisiana Avenue Right-of-Way out of Homestead Addition to the City of Midland, Texas as recorded in Volume 596, Page 811 of the Deed Records of Midland County, Texas and being in Section 26, Block 39, T-1-S, T&P RR Co. Survey Midland County, Texas. Subject tract being more particularly described as follows:

BEGINNING at (N: 10,696,728.18, E: 1,755,860.15) a found 1/2 inch iron rod, said point being the Northwest corner of Lot 1, Block 29, Homestead Addition to the City of Midland, for the Southwest corner of this tract;

THENCE N 00°40'16" W across Louisiana Avenue a distance of 10.00 feet to a set 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for the Northwest corner of this tract;

THENCE N 89°19'44" E a distance of 140.00 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for the Northeast corner of this tract;

THENCE S 00°40'16" E across Louisiana Avenue a distance of 10.00 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for the Northeast corner of said Lot 1, Block 29, for the Southeast corner of this tract;

THENCE S 89°19'44" W with the Southerly Right-of-Way line of Louisiana Avenue, a distance of 140.00 feet to the POINT OF BEGINNING;

Subject Tract containing a total of 0.032 acres (1,400 s.f.) of land.

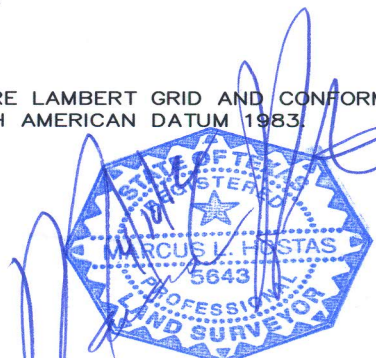
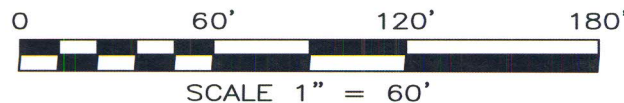
NOTE:
COORDINATES, BEARINGS, DISTANCES AND AREAS SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM 1983.

© COPYRIGHT 2012 WEST COMPANY OF MIDLAND



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND 1/2-INCH IRON ROD
- DENOTES BOUNDARY LINE



WEST COMPANY

OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 - FAX (432) 687-0868

T: /CIVIL DRAWINGS/2012/2012-0533/EXHIBIT/2012-0533 LOUISIANA ROW EXHIBIT.dwg

LAND SURVEY

CASE NO. V-12-003 **32.10**



Office of
City Manager

300 N. Loraine
P.O. Box 1152
Midland, TX 79702-1152

432.685.7203
Fax 432.686.1600

May 11, 2012

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.032-acre portion of West Louisiana Avenue right-of-way adjacent to the north 75 feet of the east half of Block 29, Homestead Addition, City and County of Midland, Texas

Dear Members of the City Council:

The above-referenced property has been appraised in accordance with Chapter 272 of the Texas Local Government Code. The fair market value of the property is \$1,400.00. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

Courtney Sharp
City Manager

Exhibit "B"



City Council Agenda

Approved for Agenda:
csharp
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Bob McNaughton, Finance Director

SUBJECT: Consider a Resolution selecting a Depository Institution and Authoring the City Manager to Negotiate and Execute a Contract for Depository Services

Purpose:

Review of depository proposals, depository selection, and direction to execute contract

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Annually budgeted item of \$40,500

Discussion:

Subsequent to Council approval of a depository services RFP on March 20, a Request for Proposals (RFP) for Banking Services/Depository services was mailed to ten potential depositories on March 20. Statutory notice for receipt of applications for depository services was published in the Midland Reporter Telegram on March 23. A presubmission conference on April 3 was held with five potential depositories in attendance. RFP's were received from two banks, four banks did not bid but asked to continue to be considered when the next RFP is issued and four banks did not respond.

Proposals were received from Wells Fargo Bank and CitiBank. Proposals were evaluated by staff and presented to the Finance and Audit Committee on May 11.

A recommendation was made to pursue a contract with Wells Fargo Bank for depository services for the next two years with an option for an additional two years.

Subsequent to depository selection by Council, the City Manager will conclude negotiations and execute the necessary contract documents.

RESOLUTION NO.

**RESOLUTION SELECTING WELLS FARGO BANK TO
PROVIDE DEPOSITORY AND OTHER BANKING
SERVICES FOR THE CITY OF MIDLAND; AND
AUTHORIZING THE CITY MANAGER TO NEGOTIATE
AND EXECUTE A PROFESSIONAL SERVICES
AGREEMENT WITH WELLS FARGO BANK FOR SAID
SERVICES**

WHEREAS, a Request for Proposals was advertised for depository and other commercial banking services (“Professional Services”); and

WHEREAS, the Council finds Wells Fargo Bank to be the most highly qualified provider for such Professional Services based on demonstrated competence, knowledge, and qualifications; and

WHEREAS, the Council finds it to be in the public interest to select Wells Fargo Bank to provide said Professional Services; and

WHEREAS, the Council authorizes the City Manager to negotiate and execute a professional services agreement with Wells Fargo Bank for the performance of said Professional Services;

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

THAT the City Manager is hereby authorized and directed to negotiate and execute, on behalf of the City of Midland, a professional services agreement with Wells Fargo Bank for performance of said Professional Services.

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: professional services agreement from funds

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:
thudson
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Robert Patrick, General Services Director

SUBJECT: Discussion authorizing the City Manager and City Attorney to negotiate the purchase of property described as approximately 2.5 acres out of a 14.28 acre tract of land out of Wallace Heights, Section 4, an addition to the City of Midland as per plat of record in Cabinet "C", page 174, Plat Records, Midland County, Texas.

Purpose:

To purchase land for the new Fire Station 10 site.

Recommended City Council Action

☒ Approve ☐ Deny ☒ Directional / Informational

Fiscal Impact:

No funding required at this time.

Discussion:

Consider authorizing the City Manager and City Attorney to negotiate a sales price with the owner of 4501 Sinclair, Midland, Texas for the new Fire Station 10 site.

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE CITY MANAGER
AND CITY ATTORNEY TO NEGOTIATE TERMS FOR
THE PURCHASE OF PROPERTY LOCATED IN THE
4500 BLOCK OF SINCLAIR AVENUE, MIDLAND,
TEXAS**

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager and City Attorney to negotiate the terms for the purchase of property located in the 4500 block of Sinclair Avenue, Midland, Texas;

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

THAT the City Manager and City Attorney are hereby authorized to negotiate, on behalf of the City of Midland, the terms for the purchase of property located in the 4500 block of Sinclair Avenue, Midland, Texas.

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 of Midland
Office Memorandum

DATE: 5/22/2012

TO: The Honorable Mayor and City Council Members

FROM: Keith Stretcher, City Attorney

SUBJECT: Consider a resolution authorizing the Mayor to execute an Employment Agreement with the City Attorney

The proposed resolution authorizes the Mayor to execute an Employment Agreement with the City Attorney.

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

RESOLUTION NO.

**RESOLUTION AUTHORIZING THE MAYOR TO
EXECUTE AN EMPLOYMENT AGREEMENT WITH
THE CITY ATTORNEY**

WHEREAS, the Council finds it to be in the public interest to authorize the Mayor to execute an Employment Agreement with the City Attorney;

**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, an Employment Agreement with the City Attorney. Said Employment Agreement being attached hereto, marked as Exhibit "A", and incorporated herein for all purposes.

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 of Midland
City Secretary's Office
Interoffice Memorandum

Date: May 17, 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 22, 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 22, 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 Rikken	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>Term Expires</u>	<u>Eligibility 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	
Adrianne 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)

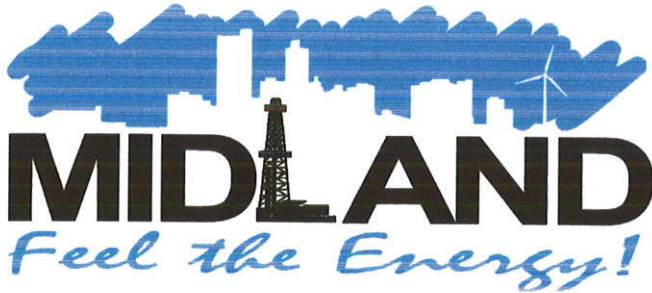
(Membership - 5; Terms - 2 Years expiring 3 odd & 2 even.)

	<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



City Council Agenda

Approved for Agenda:
thudson
City Manager's Office

MEETING DATE: 5/22/2012

TO: City Council / City Manager

FROM: Robert Patrick, General Services Director

SUBJECT: Discussion authorizing the City Manager and City Attorney to negotiate the purchase of property described as approximately 2.5 acres out of a 14.28 acre tract of land out of Wallace Heights, Section 4, an addition to the City of Midland as per plat of record in Cabinet "C", page 174, Plat Records, Midland County, Texas.

Purpose:

To purchase land for the new Fire Station 10 site.

Recommended City Council Action

☒ Approve ☐ Deny ☒ Directional / Informational

Fiscal Impact:

No funding required at this time.

Discussion:

Consider authorizing the City Manager and City Attorney to negotiate a sales price with the owner of 4501 Sinclair, Midland, Texas for the new Fire Station 10 site.