

CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
July 09, 2013 - 9:30 AM
BASEMENT CONFERENCE ROOM
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 presentation from Parkhill, Smith & Cooper regarding the conceptual layout for the Briarwood Avenue Extension (Holiday Hill Road – Avalon Drive).

AGENDA FOR CITY COUNCIL MEETING
July 09, 2013 – 10:00 AM
Council Chamber - City Hall

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

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Receive presentation from Keep Midland Beautiful regarding awards they have received.

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 June 25, 2013.
6. Consider a resolution authorizing the office of the City Attorney to file all documents, employ all necessary experts and make all necessary appearances to represent the City of Midland in a lawsuit styled Colonial County Mutual Insurance Company v. City of Midland; County Court at Law No. 2, Midland County, Texas; Cause No. CC17101; and authorizing the payment of all costs. (CITY ATTORNEY'S OFFICE) (2013 - 192)

7. Consider a resolution affirming the City of Midland's policy of non-discrimination regarding all City programs, activities and services; adopting a Non-Discrimination Policy Statement; authorizing the City Manager to handle all inquiries regarding said policy; and appointing the Director of Administrative Services as the City of Midland's Americans with Disabilities Act (ADA) Liaison. (CITY MANAGER'S OFFICE) (2013 - 193)
8. Consider a resolution approving plans and specifications and authorizing advertisement for bids for the animal services building renovation project. (GENERAL SERVICES) (2013 - 194)
9. Consider a resolution authorizing the execution of an addendum to the Public Improvement Development Agreement with Playa Del Pueblo, LTD. for development of Playa Del Pueblo Addition; and appropriating funds in the amount of \$88,461 therefor; said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES) (2013 - 195)
10. Consider a resolution accepting a modification to the Fiscal Year 2013 Grant Award from the Southwest Border High Intensity Drug Trafficking areas program in the amount of \$75,816.00; these funds will be directed to the Fiscal Year 2013 High Intensity Drug Trafficking Areas Grant Project 7107; and appropriating funds. (POLICE) (2013 - 196)
11. Consider a resolution authorizing the City of Midland to file a joint application with Midland County for Fiscal Year 2013 Justice Assistance Grant Funds Program totaling \$29,554.00; and authorizing the execution of an Agreement Regarding the division of said grant funds; the City of Midland will receive \$17,732.00 (60%) and Midland County will receive \$11,822.00 (40%) of the grant funds respectively; this agreement does not supersede, modify or amend any other prior agreements. (POLICE) (2013 - 197)
12. Consider a resolution authorizing the execution of Change Order Number Three with Red River Construction Company, Incorporated, adding \$22,660.56 for additional work to the existing contract for the Headworks Improvements - Replacement of Influent Screens Project; and appropriating \$22,660.56; the original contract was for \$5,357,080.00; this change order brings the total contract price to \$6,208,395.56. (UTILITIES) (2013 - 198)
13. Consider a resolution authorizing the execution of a Discharge License Agreement with Holly Energy Partners - Operating, L.P., for the purpose of discharging treated wastewater. (UTILITIES) (2013 - 199)
14. Consider a resolution authorizing the employment of the law firm of Cotton, Bledsoe, Tighe & Dawson, P.C. to represent City of Midland employees in

depositions arising from the lawsuit styled Richard Sanchez, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc. (441st Judicial District Court, Midland County, Texas; Cause No. CV-49,117) or the lawsuit styled Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc. (116th Judicial District Court, Dallas County, Texas; Cause No. 12-15024); and authorizing the payment of all costs. (CITY ATTORNEY'S OFFICE) (2013 - 200)

SECOND READINGS

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 1.011-acre tract of land being the north 141 feet of Block 1, Harrison Tract, City and County of Midland, Texas, and more specifically described in Section One hereof, which is presently zoned PD, Planned District for an Office Center, to be used as a PD, Planned District for a Transition District (Generally located on the east side of North Midland Drive, approximately 160 feet north of Shell 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) (9149)
16. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City Limits, being a 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard); and approving a public service plan. (DEVELOPMENT SERVICES) (9158)
17. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City limits, being a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the north side of State Highway 191, west of North Farm-to-Market Road 1788); and approving a public service plan. (DEVELOPMENT SERVICES) (9159)
18. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City limits, being a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40); and approving a public service plan. (DEVELOPMENT SERVICES) (9160)

19. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 40.498-acre tract of land out of Sections 37, 38 and 48, 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 south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard; 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) (9152)
20. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 305.17-acre tract of land out of Section 37, Block 41, 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 LI, Light Industrial District; said tract is generally located on the north side of State Highway 191, west of North Farm-to-Market Road 1788; 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) (9153)
21. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 2.47-acre tract of land out of Section 8, 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-2, Industrial Park District; said tract is generally located on the west side of Wright Drive, approximately 850 feet south of loop 40; 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) (9154)
22. 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 Lot 21, Block 3, Wydewood Estates, Section 33, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Housing Development, to be used as an Amended Planned District (Generally located on the south side of Wadley Avenue, approximately 450 feet east of Sunburst 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) (9155)
23. 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 Lot 3, Block 3, the adjacent vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3, and Lot 1C, Block 3, "A" Street Community Center, Section 7, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Community Center, in part, and PD, Planned District for a Shopping Center, in part, to be used as an Amended Planned District (Generally located near the southwest corner of the intersection of West Wadley Avenue and North "A" Street); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9156)

24. Consider an ordinance on second reading amending Title V, "Business Regulations", Chapter 10, "Sidewalk Sales and Selling from Fixed Locations", Section 2, "Permit and License Required if Selling from a Fixed Location", and Section 9, "Duty of Police", so as to allow licensed food vendors to sell food at a location adjacent to the Midland County Courthouse; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of five hundred dollars (\$500.00); and ordering publication. (DEVELOPMENT SERVICES) (9157)
25. Consider an ordinance on second reading vacating and abandoning a 0.13-acre portion of alley right-of-way adjacent to Lots 18-21, Block 166, a 0.25-acre portion of alley right-of-way adjacent to Lots 1-15, Block 165, a 0.14-acre portion of alley right-of-way adjacent to Lots 1-4, Block 167, a 1.78-acre portion of Leslie Drive right-of-way, and a 0.64-acre portion of Kristie Lane right-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway); adopting the appraisal by the City Manager of \$192,073.50; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9161)
26. 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 Lots 1-15, Block 165, Lots 1-25, Block 166, Lots 1-4, Block 167, the adjacent to be vacated 1.79 acres of Leslie Drive, the 0.43 acres of Kristie Lane, and the 0.45 acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas, and more specifically described in Section One hereof, which is presently zoned 1F-2, One-Family Dwelling District, to be used as a PD, Planned District for a housing development (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway); 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) (9150)

PUBLIC HEARINGS

27. At approximately 10:30 A.M. hold a public hearing regarding a proposed oil and gas permit to Vector Oil & Gas (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Barron #4) located 838 feet from north line and 2186 feet from west line, Section 6, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the Oriole Drive, approximately 840 feet south of Mockingbird Lane.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
28. At approximately 10:33 A.M. hold a public hearing regarding a proposed oil and gas permit to Petroplex Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #4) located 2173 feet from south line and 2173 feet from west line, Section 8, Block 39, T-1-S, T&P RR Co Survey, Midland County, Texas. (Generally located on the east side of the extension of North Midland Drive, approximately ½ mile north of Green Tree Boulevard.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
29. At approximately 10:36 A.M. hold a public hearing regarding a proposed oil and gas permit to Midland Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Wimberley 1 #4) located 832 feet from south line and 982 feet from east line, Section 1, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the north side of the E. Loop 250 North, north of North Fairgrounds Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
30. At approximately 10:39 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #1) located 1550 feet from south line and 1980 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately 2 ½ mile north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
31. At approximately 10:42 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #2) located 660 feet from north line and 2173 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

32. At approximately 10:45 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #3) located 467 feet from north line and 467 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Hwy 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
33. At approximately 10:48 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 #8) located 660 feet from north line and 660 from west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately $\frac{3}{4}$ mile west of Golden Gate Drive.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
34. At approximately 10:51 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 22A #3) located 660 feet from north line and 587 from east line, Section 22, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately one mile north of Briarwood Avenue.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)
35. Consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 5.32-acre tract of land which is presently zoned PD, Planned District for a Housing Development, to be used as an Amended Planned District for a Housing Development; by permitting a 5.35-acre tract of land which is presently zoned 1F-1, One-Family Dwelling District, to be used as a 1F-2, One-Family Dwelling District; said tracts being out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the east side of State Highway 158 and at the west extension of Mosswood Drive); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9162)
36. Consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, which is presently zoned 1F-3, One-Family Dwelling District, to be used as a TH, Townhouse Dwelling District (Generally located at the east side of North Lamesa Road, approximately $\frac{1}{2}$ mile north of East Loop 250 North); 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) (9163)

37. Consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas, and more specifically described in Section One hereof, which is presently zoned PD, Planned District for a Mixed Use District, to be used as a PD, Planned District for a Housing Development (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of North Midland 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) (9164)
38. Consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 1A, Block 5, and Lots 2A-5A and 7A, Block 4, Bizzell-Kiser, Section 5, and Lot 6B, Block 4, Bizzell-Kiser, Section 6, and a 0.45-acre portion of Tract 4, Bizzell-Kiser, and Lots 10A-16A, Block 7, Bizzell-Kiser, Section 5, and a 0.145-acre portion of Tract 7, Bizzell-Kiser, and all of Block 3, Bizzell-Kiser, Sections 4 and 5, and Lots 1A, 10A-12A, Block 4, Bizzell-Kiser, Section 5, and Lots 8B and 9B, Block 4, Bizzell-Kiser, Section 6, and Lot 2A, Block 5, Bizzell-Kiser, Section 5, and Lots 1A-3A, 5A-9A, 12A-22A, Block 6, Bizzell-Kiser, Section 5, and Lots 10A and 11A, Block 6, Bizzell-Kiser, Section 4, and a 0.166-acre portion of Tract 6, Bizzell-Kiser, and Lots 1A and 2A, Block 7, Bizzell-Kiser, Section 4, and Lots 3A-9A, Block 7, Bizzell-Kiser, Section 5, and a 0.656-acre portion of Tract 7, Bizzell-Kiser, and Lots 1A-4A, Block 9, Bizzell-Kiser, Section 4, and a 0.45-acre portion of Tract 9, Bizzell-Kiser, and all of Block 10, Bizzell-Kiser, Section 4, and Lots 1A-7A, Block 11, Bizzell-Kiser, Section 4, and Lot 8A, Block 11, Bizzell-Kiser, Section 5, and a 0.87-acre portion of Tract 11, Bizzell-Kiser, and all of Block 12, Bizzell-Kiser, Section 4, and Lots 1A-21A, Block 13, Bizzell-Kiser, Section 7, and Lots 22B and 23B, Block 13, Bizzell-Kiser, Section 8, and Lots 1A-18A, Block 14, Bizzell-Kiser, Section 4, and a 0.18-acre portion of Tract 14, Bizzell-Kiser, and Blocks 45 and 46, Belmont Addition, and all adjacent and previously vacated rights-of-way, City and County of Midland, Texas, and more specifically described in Section One hereof, which is presently zoned MH, Manufactured Home Dwelling District, in part, and 1F-3, One-Family Dwelling District, in part, to be used as a PD, Planned District for a Housing Development (Generally located south of East Gist Avenue, between South Main Street and South Terrell Street); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9165)

39. Consider a resolution authorizing the temporary use of land for school faculty housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas (Generally located on the southwest corner of the intersection of South Lamesa Road and East Gist Avenue); and making said permit subject to certain special conditions and restrictions contained herein. (DEVELOPMENT SERVICES) (2013 - 201)

MISCELLANEOUS

40. Consider an ordinance amending the official municipal budget for Fiscal Year 2012-2013 in order to provide additional funds to the Sports and Entertainment Association of Midland; the additional funding provided to the Sports and Entertainment Association of Midland will be used for upcoming events; the additional funds will allow for the promotion of tourism in the City of Midland; and ordering recordation; and appropriating funds. (CITY SECRETARY'S OFFICE) (9166)
41. Consider a resolution approving the issuance of a permit to Petroplex Energy, Inc. ("Operator") to drill an oil and gas well within the City limits located 1,260 feet from the north line and 672 feet from the east line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of the extension of North Midkiff Road, approximately 3/4 of a mile north of the extension of Green Tree Boulevard); and waiving the requirement of a Road Repair Agreement. (DEVELOPMENT SERVICES) (2013 - 202)
42. Consider a motion on a request by James Grose (Tradewinds Apartments) for interpretation of City of Midland Ordinance No. 9090 which approved site plans for a Planned District for a Housing Development on Lot 1A, Block 4, Gateway Plaza, City and County of Midland, Texas. This request relates to the removal of dormers from the front and rear elevations of building and reduced stone on buildings. This property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business Interstate 20. This motion involves the City Council's interpretation of a Planned District. (DEVELOPMENT SERVICES)
43. Consider an ordinance vacating and abandoning a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas (Generally located on the west side of North Carver Street, approximately 270 feet south of Dormard Avenue); adopting the appraisal by the City Manager of \$599.20; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9167)

44. Consider an ordinance vacating and abandoning a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas (Generally located on south side of East Spruce Avenue, approximately 150 feet north of East Pine Avenue); adopting the appraisal by the City Manager of \$424.90; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9168)
45. Consider an ordinance vacating and abandoning a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas (Generally located on the east side of North Jackson Street, approximately 270 feet south of Dormard Avenue); adopting the appraisal by the City Manager of \$804.00; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9169)
46. Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES) (9170)
47. Consider a motion making appointments to various Boards and Commissions.

EXECUTIVE SESSION

48. 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 551.087 Deliberate Economic Development Negotiations
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.
 - b. Section 551.072 Deliberation Regarding Real Property.
 - b.1. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321, Block 035, Lots 5 & 6, Blk 35 Addition, Original Town, Midland, Midland County, Texas.
 - b.2. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321; Blk: 035, Lots 7 & 8, Original Town, Midland, Midland County, Texas.

Respectfully Submitted,

Courtney B. Sharp
City Manager

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

**MIDLAND CITY COUNCIL
MINUTES
June 25, 2013**

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 June 25, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member John Love (District 2), and Council Member John James (District 3).

Council Members absent: Mayor Pro Tem Jeff Sparks (District 1) and Council Member Michael Trost (District 4) (Trost 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, Utilities Director Stuart Purvis, Community Services Director Tina Jauz, Downtown Development Director Genora Young, Engineering Director Jose Ortiz, Parks & Recreation Manager Laurie Williams, Assistant Utilities Director Holly Rosas, Transportation Manager Gary Saunders, Building Official Steve Thorpe, Assistant Code Administration Manager Ron Jenkins, Assistant City Attorney Natasha Brooks, Interim Planning Division Manager Ken VanDyne, and Public Information Officer Sara Higgins.

1. Receive an update from the Parks & Recreation Division regarding parks rebranding.

Community Services Director Tina Jauz reported that there was an action item on the regular agenda and the purpose of this briefing was to bring the City Council up to speed about parks rebranding.

Parks & Recreation Manager Laurie Williams shared a sign that was recently created noting there are a total of 33 signs that will be posted along the side of parks indicating there is a wellness loop and indicated the distance of the loop. She shared another sign that shows the trail layout and indicated each sign had QR Codes. Any person with a smart phone and barcode app could scan the QR Code and would be directed the City of Midland website where they could find more information about parks, recreation, and hike and bike trails. All signs should be in place by the end of July.

She shared a map of the hike and bike trail system current routes indicating that some of the routes are not striped at this time. They are asking for a RFQ to hire a consultant to work on a comprehensive plan for the hike and bike trail system.

2. Receive a presentation from AMD Engineering regarding the conceptual layout for Tradewinds Boulevard Extension (Thomason Drive - Gateway Plaza Addition).

Engineering Director Jose Ortiz introduced Leslie Bruce and Jimmy McDaniel of AMD Engineering.

Mr. Bruce gave a brief history and background on himself, Mr. McDaniel and AMD Engineering. He indicated the scope of the project is to: 1) complete the design and construction of Tradewinds Boulevard, Anetta Drive, and Leisure Drive; and 2) do additional conceptual planning on Avalon Drive, the connector between Avalon and Tradewinds, and regional drainage.

He reviewed the schedule noting they expected construction to be completed around September 2014. Discussion ensued about expedited construction options.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:45 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., June 25, 2013.

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

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, 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, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 26, 27, 28, 29, 30, 31, 20, 21, 22, 23, 24, 25, 32, 33, 34, 35, 37, 36.

OPENING ITEMS

1. Invocation - Pastor Randell Everett, First Baptist Church
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.

There were no citizens present wishing to speak.

CONSENT AGENDA

Council Member Trost moved to approve Consent Agenda items 5 - 18; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of June 11, 2013.
6. Approved a resolution adding one special meeting, on August 6, 2013, and two regular meetings, one on August 20, 2013, and the second on August 26, 2013, to the City Council meetings scheduled for the 2013 calendar year. (FINANCE)

RESOLUTION NO. 2013 - 177

RESOLUTION ADDING ONE (1) SPECIAL MEETING, ON AUGUST 6, 2013, AND TWO (2) REGULAR MEETINGS, ONE ON AUGUST 20, 2013, AND THE SECOND ON AUGUST 26, 2013, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2013 CALENDAR YEAR

7. Approved a resolution authorizing a Consultant Services Agreement with Berry, Dunn, McNeil & Parker, LLC dba Berry, Dunn, McNeil & Parker PLLC to provide assistance in preparing a requirements definition and Request for Proposal for an integrated Planning, Code Administration and Building Administration system as well as a Financial and Human Resources software needs assessment through DIR contract DIR-SDD-2053 for the Communication and Information Systems Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 178

RESOLUTION APPROVING THE EXECUTION OF AN AGREEMENT FOR COMPUTER RELATED CONSULTATION SERVICES THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$139,505.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM

8. Approved a resolution approving a contract for the Water, Wastewater and Fire Hydrant Taps project for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 179

RESOLUTION AWARDING A CONTRACT FOR THE WATER, WASTEWATER AND FIRE HYDRANT TAPS PROJECT TO TEC EXCAVATION, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$500,000.00; AND APPROPRIATING FUNDS

9. Approved a resolution authorizing the advertisement of Request for Qualifications (RFQ) for Hike/Bike Master Plan development. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 180

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR QUALIFICATIONS FOR AN ENGINEERING/ARCHITECTURAL FIRM TO ANALYZE AND DEVELOP THE HIKE AND BIKE TRAIL PLAN FOR THE COMMUNITY SERVICES DEPARTMENT

10. Approved a resolution approving the sole source purchase of 13 - M7300 mobile radios with accessories, 2 - XG-100M mobile radios with accessories and 2 - M5300 mobile radios with accessories for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 181

RESOLUTION AUTHORIZING THE PURCHASE OF SEVENTEEN (17) MOBILE RADIOS IN ASSORTED CONFIGURATIONS, WITH ACCESSORIES, FROM HOLSUM BAKERS, INCORPORATED, DBA CAPROCK COMMUNICATIONS OF MIDLAND, TEXAS; SAID PURCHASE WAS NOT BID BUT PURCHASED AS A SOLE SOURCE; AND THE COSTS FOR THE RADIOS SHALL BE APPROXIMATELY \$77,579.25

11. Approved a resolution authorizing advertisement for bids for Airport Capital Improvement Projects. (AIRPORTS)

RESOLUTION NO. 2013 - 182

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY PARKHILL, SMITH AND COOPER, INCORPORATED, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CAPITAL IMPROVEMENT PROJECTS DESCRIBED AS NORTHWEST TAXIWAY EXTENSION PROJECT - PHASE II (7083); PERIMETER EMERGENCY ROADWAY AND GATES REHABILITATION (7082); AND TAXIWAY P RUN-UP (7103) AT THE MIDLAND INTERNATIONAL AIRPORT

12. Approved a resolution to approve the execution a renewal right of way license (2006-306) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 38, Section 9 and 10, T-2-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 183

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 9 AND 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

13. Approved a resolution to approve the execution of a renewal right of way license (2005-306) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline

located in Block 38, Section 10, T-2-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 184

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

14. Approved a resolution to approve the execution of a renewal right of way license (2001-256) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of two pipelines located in Block 37, Section 4, 9, and 16, T-3-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 185

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING TWO (2) PIPELINES, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINES ARE LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 4, 9, AND 16, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

15. Approved a resolution to approve the execution of a renewal right of way license (1993-999) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 37, Section 2 and 3, T-3-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 186

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE

TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 2 AND 3, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

16. Approved a resolution to approve the execution of a renewal right of way license (2005-267) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 38, Section 44, T-1-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 187

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 44, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

17. Approved a resolution to approve the execution of a renewal right of way license (2001-255) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline crossing in and along Todd Drive in Block 38, Section 30, 32, and 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 188

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 30, 32, AND 41, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

18. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of \$26,110 with SBC, LP (Doug Henson) for the construction of an oversized wastewater main in Deauville Blvd. along the north frontage of Westridge Park Addition - Section 23 (Chevron site). Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 189

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH SBC, LP FOR DEVELOPMENT OF WESTRIDGE PARK ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF AVALON DRIVE AND DEAUVILLE BOULEVARD); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$26,110.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

SECOND READINGS

19. Consider an ordinance on second reading temporarily closing the east/west alleys abutting the north and south boundary lines of Lot 1, Block 1, Fairgrounds Addition from the east right-of-way line of Fairgrounds Road east to their intersection with the north/south alley at Midland Draw and the north/side alley abutting the east boundary line of Lot 1, Block 1, Fairgrounds Addition at Midland Draw. (ENGINEERING SERVICES)

ORDINANCE NO. 9151

AN ORDINANCE TEMPORARILY CLOSING A PORTION OF THE EAST/WEST ALLEYS ABUTTING THE NORTH AND SOUTH BOUNDARY LINES OF LOT 1, BLOCK 1, FAIRGROUNDS ADDITION, FROM THE EAST RIGHT-OF-WAY LINE OF FAIRGROUNDS ROAD EAST TO THEIR INTERSECTION WITH THE NORTH/SOUTH ALLEY AT MIDLAND DRAW AND THE NORTH/SOUTH ALLEY ABUTTING THE EAST BOUNDARY LINE OF LOT 1, BLOCK 1, FAIRGROUNDS ADDITION AT MIDLAND DRAW IN THE CITY OF MIDLAND, TEXAS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9151.

Council Member James moved to approve the second and final reading of Ordinance No. 9151 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

PUBLIC HEARINGS

20. At approximately 10:30 A.M. hold a public hearing and consider a resolution on a request by San Miguel Catholic Church for a Temporary Land Use Permit for a church fair on Lot 1A, Block 19, Midland Heights Addition, Section 4, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Camp Street and Dakota Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 190

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOT 1A, BLOCK 19, MIDLAND HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF CAMP STREET AND DAKOTA AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting the item was a request for a Temporary Land Use Permit for a church fair. There will be no sale of alcohol and the proposed hours of operation are July 21 from 12:00 p.m. to 12:00 a.m. and July 22 from 12:00 p.m. to 10:00 p.m. He reported there will be adequate security guards and restrooms.

Mayor Perry opened the public hearing at 10:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2013 - 190; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

21. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by Real Property Resources (Tract 1) the initial zoning of annexed land to FD, Future Development District, on a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9152

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, 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 SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD; 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

Interim Planning Division Manager Ken VanDyne provided an overview of item noting this was for the initial zoning of land to be annexed.

Mayor Perry opened the public hearing at 10:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9152.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9152 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost,

Perry, Dufford. NAY: None. ABSTAIN: None. ABSENT: James, Sparks.

22. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Covington (Tract 2) the initial zoning of annexed land to LI, Light Industrial District, on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Highway 191 west side of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9153

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, 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 LI, LIGHT INDUSTRIAL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TO-MARKET ROAD 1788; 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was a 305-acre tract located near the performing arts center. There are several active oil wells and there are a number of flow lines running through the property that will be rerouted.

Mayor Perry opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9153.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9153 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

23. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Younger Properties (Tract 3) the initial zoning of annexed land to IP-2, Industrial Park District, on a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9154

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, 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-2, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40; 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was for the initial zoning of land that is proposed to be annexed.

Council Member Dufford opened the public hearing at 10:58 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9154.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9154 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Perry, Sparks.

24. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by David Miller for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 21, Block 3, Wyndwood Estates, Section 33, City and County of Midland, Texas. (Generally located at the south side of W. Wadley Avenue, approximately 450 feet east of Sunburst Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9155

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 21, BLOCK 3, WYDEWOOD ESTATES, SECTION 33, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WADLEY AVENUE, APPROXIMATELY 450 EAST OF SUNBURST 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this would be the second amendment to the Site Plan for apartments on Wadley next to Buffalo Wild Wings. The applicant desires to add another 620 square feet to the club house which is positioned towards the center of the development. Staff has no objections to the request. There is also an additional change for signage; rather than using the two signs they are allowed, at 40 square feet, they are requesting one larger sign of 80 square feet when the maximum allowed is 64 square feet.

Mayor Perry opened the public hearing at 11:05 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9155.

Council Member James moved approval of the first of two readings of Ordinance No. 9155 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost,

Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

25. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by COM Aquatics for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 7, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of W. Wadley Avenue and N. "A" Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9156

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 3, THE ADJACENT VACATED 0.162-ACRE EAST/WEST ALLEY, "A" STREET COMMUNITY CENTER, SECTION 3, AND LOT 1C, BLOCK 3, "A" STREET COMMUNITY CENTER, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A COMMUNITY CENTER, IN PART, AND PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH "A" STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this vacation was for the purpose of building a new swimming pool. Staff is comfortable that there is plenty of overflow parking.

Mayor Perry opened the public hearing at 11:09 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 9156.

Council Member James moved approval of the first of two readings of Ordinance No. 9156 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

DEVELOPMENT SERVICES

26. Consider an ordinance amending City Code Sections 5-10-2 and 5-10-9 to include Midland County Courthouse, 500 N. Loraine. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9157

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", SECTION 2, "PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION", AND SECTION 9, "DUTY OF POLICE", SO AS TO ALLOW LICENSED FOOD VENDORS

TO SELL FOOD AT A LOCATION ADJACENT TO THE MIDLAND COUNTY COURTHOUSE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

Building Official Steve Thorpe gave an overview of item noting it was a request of the County to allow a food vendor to work along the north curb of Tennessee Avenue in front of the Midland County Courthouse. This is identical to what was done at Centennial Plaza. A vendor can be on site for one week, then must be gone for one week and then can return for another week. The vendor must have a mobile vendor license from the Health Department, approval from the Police Department, and their food cart must be aesthetically pleasing.

Deputy City Secretary Moreno read the caption of Ordinance No. 9157.

Council Member Love moved approval of the first of two readings of Ordinance No. 9157 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

MISCELLANEOUS

27. Consider a resolution approving the issuance of a permit to Petroplex Energy, Inc. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #3) located 467 feet from north line and 2058 feet from west line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of extension of N. Midland Drive, approximately 1 mile north of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 191

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PETROPLEX ENERGY, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE NORTH LINE AND 2,058 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF THE EXTENSION OF NORTH MIDLAND DRIVE, APPROXIMATELY 1 MILE NORTH OF GREEN TREE BOULEVARD); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Ron Jenkins gave an overview of item noting that no letters of objection had been received, the Oil & Gas Advisory Committee reviewed the application, and Petroplex is requesting a waiver of the Road Repair Agreement as they will not be using City streets to access their well.

Council Member James moved to adopt Resolution No. 2013 - 191; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

28. Consider an ordinance on a request for the annexation of a 40.498-acres tract (Tract 1) of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland

County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9158

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was for Betenbough Homes housing development noting it had gone through two public hearings.

Deputy City Secretary Moreno read the caption of Ordinance No. 9158.

Council Member Love moved approval of the first of two readings of Ordinance No. 9158 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

29. Consider an ordinance on a request of the annexation of a 305.17-acre (Tract 2) of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9159

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TOMARKET ROAD 1788); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was a 305.17 acre tract of land and that the item had gone through two public hearings.

Deputy City Secretary Moreno read the caption of Ordinance No. 9159.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9159 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

30. Consider an ordinance on a request for the annexation of a 2.47-acres tract (Tract 3) of

land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9160

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting there are several oil wells on the property.

Deputy City Secretary Moreno read the caption of Ordinance No. 9160.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9160 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

31. Consider an ordinance on a request for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9161

AN ORDINANCE VACATING AND ABANDONING A 0.13-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 18-21, BLOCK 166, A 0.25-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-15, BLOCK 165, A 0.14-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-4, BLOCK 167, A 1.78-ACRE PORTION OF LESLIE DRIVE RIGHT-OF-WAY, AND A 0.64-ACRE PORTION OF KRISTIE LANE RIGHT-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$192,073.50; AND ORDERING RECORDATION BY THE CITY SECRETARY

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this is for a senior living center. The zoning allows for construction up to 50 feet but he indicated this will be a two-story building. He noted some of the initial opposition fell by the wayside when they learned it will be a two-story building.

Granger MacDonald, Kerrville, Texas, stated this was an affordable senior project and noted that they were working in conjunction with MCDC. He felt that the asking price of

\$192,000 was too much and asked the Council to consider a lesser amount. When prompted, he thought \$35,000 was a fair asking price.

Deputy City Secretary Moreno read the caption of Ordinance No. 9161.

Council Member Love moved approval of the first of two readings of Ordinance No. 9161 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

City Attorney Stretcher reported that the City owns the land and that they can reduce the value at their discretion. It was noted that the City Manager came up with the value based on Midland Central Appraisal Districts' assessment.

Discussion ensued regarding the need for the project and the viability if the asking price was too high.

David Diaz, 5101 Sherwood, reported there are other non-profits in town that could be doing the same thing but they are not. Council has long history of providing donation of land noting they were not asking for a donation but would like a fairer price.

Council Member Trost moved to amend the motion by setting the price at \$35,000; seconded by Council Member Love. The motion to amend failed by the following vote: AYE: Love, Morales, Trost. NAY: Perry, Dufford, James. ABSTAIN: None. ABSENT: Sparks.

Discussion ensued about what would be considered a fair value of the property. The developer was encouraged to research recent sales of property and to make a recommendation of price at the next Council Meeting. Mr. Granger indicated that anything more than \$70,000 would likely kill the deal.

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

32. Consider a motion directing staff to begin the process of annexation for approximately 36 acres of land per the terms of an Agriculture Exemption Agreement which the owner now wishes to develop. (DEVELOPMENT SERVICES)

Interim Planning Division Manager Ken VanDyne reported this proposed annexation is to the west of North of Loop 250 by 1788. The initial plat received indicates an interest in the tenant developing the area for an office development on one of the tracts and staff is in support of annexing the area.

Council Member Dufford moved to approve a motion directing staff to begin the process of annexation for approximately 36 acres of land per the terms of an Agriculture Exemption Agreement which the owner now wishes to develop; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

33. Continued consideration of an ordinance on a request by GBT Realty Corporation for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District, on a 1.011-acre tract of land being the north 141.00 feet of Block 1,

Harrison Tract, City and County of Midland, Texas. (Generally located at the east side of North Midland Drive, approximately 160 feet north of Shell Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9149

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.011-ACRE TRACT OF LAND BEING THE NORTH 141 FEET OF BLOCK 1, HARRISON TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET NORTH OF SHELL 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item.

Deputy City Secretary Moreno read the caption of Ordinance No. 9149.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9149 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

When asked about the deed restriction, City Attorney Stretcher reported that a deed restriction does not bind the City Council noting that zoning is a separate function. Zoning is public and a deed restriction is private.

Council Member James reported that many of the issues of the community had been addressed by the developer but noted the developer had expressed that if he did not have the 47 signatures required by the deed restriction he would not move forward on the project.

Mayor Perry clarified that if the Council votes against this item no changes can be made for one year. Mr. VanDyne explained that if the developer was able to show extenuating circumstances, that time could be dropped down to six months.

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

34. Discuss the City's legislative agenda in the 83rd Regular Session of the Texas Legislature. (CITY ATTORNEY'S OFFICE)

City Attorney Keith Stretcher gave an overview of the various bills that affected the City of Midland during the 83rd Regular Session of the Texas Legislature.

Council commended Mr. Stretcher for his work and thanked him for doing a good job.

35. Consider a motion making appointments to various Boards and Commissions.

No appointments were made.

EXECUTIVE SESSION

37. 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 551.087 Deliberate Economic Development Negotiations

- a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives. (Ask Courtney if this is going on).

Mayor Perry announced that the Council would recess to Executive Session and then would reconvene at the Airport for Agenda Item 36 at approximately 12:30 p.m. He recessed the meeting at 11:42 a.m. The entire Council met in Executive Session until 12:25 p.m.

36. 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.

Director of Airports Marv Esterly presented an update on the airports.

All of the business at hand having been completed, the meeting adjourned at 2:34 p.m.

PASSED AND APPROVED the 9th day of July, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

City of Midland
CITY ATTORNEY'S OFFICE
Office Memorandum

DATE: July 3, 2013

TO: The Honorable Mayor and City Council Members

FROM: Don Fletcher, Assistant City Attorney

SUBJECT: Colonial County Mutual Insurance Company v. City of Midland, in the County Court at Law No. 2, Midland County, Texas; Cause No. CC17101

The City of Midland has been sued by the Colonial County Mutual Insurance Company in the County Court at Law No. 2, Midland County, Texas, regarding an automobile accident in which a City of Midland police officer was involved on or about November 11, 2012.

The proposed resolution authorizes the City Attorney's office to file all necessary documents, employ experts, make all appearances necessary and pay all associated costs for the defense of this lawsuit.

If you have any questions or if I may be of any assistance, please do not hesitate to contact me at 685-7253.

Don Fletcher

DF

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED COLONIAL COUNTY MUTUAL INSURANCE COMPANY V. CITY OF MIDLAND; COUNTY COURT AT LAW NO. 2, MIDLAND COUNTY, TEXAS; CAUSE NO. CC17101; AND AUTHORIZING THE PAYMENT OF ALL COSTS

WHEREAS, Colonial County Mutual Insurance Company has filed a cause of action against the City of Midland in the County Court at Law No. 2, Midland County, Texas; and

WHEREAS, the City Council of the City of Midland finds it to be in the public interest to authorize the City Attorney to execute all documents, employ all necessary experts and make all appearances in representing the City of Midland in said lawsuit;

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

SECTION ONE. That the City Attorney is hereby authorized to file all motions and other documents, and to make all appearances necessary to provide a defense in the litigation styled Colonial County Mutual Insurance Company v. City of Midland; County Court at Law No. 2, Midland County, Texas; Cause No. CC17101.

SECTION TWO. That the City Attorney is hereby authorized to employ all experts which may be necessary in the defense of said lawsuit.

SECTION THREE. That the City Attorney is hereby authorized to respond to all settlement offers from the Plaintiff in said lawsuit.

SECTION FOUR. That the City Treasurer is hereby authorized, upon receipt of proper invoice or statement, approved by the City Manager or the City Attorney, to pay court costs and any experts employed by the City Attorney out of funds available in the General Liability Self-Insurance Fund.

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., 2013, 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: 7/9/2013

TO: City Council / City Manager

FROM: Sara Higgins, Public Information Officer

SUBJECT: Consider a resolution affirming the City of Midland's policy of non-discrimination regarding all city programs, activities and services; adopting a non-discrimination policy statement; authorizing the City Manager to handle all inquiries regarding said policy; and appointing the Administrative Services Director as the City's ADA liaison.

Purpose:

To affirm the City of Midland's policy of non-discrimination regarding all city programs, activities and services; adopt a non-discrimination policy statement; authorize the City Manager to handle all inquiries regarding said policy; and appoint the Administrative Services Director as the City's ADA liaison.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

None

Discussion:

In order to receive certain federal grant funding in the future, the City of Midland must have an official city-wide policy in place for members of the general public that the City does not discriminate in the delivery of services or benefits on the basis of race, color, national origin, religion, sex, disability, or age. We have been told by the Governor's Office that the language in this resolution and its addition to a public forum such as a bulletin board or the City's website will satisfy that requirement.

This conversation also brought up the need to officially appoint one ADA liaison with the City, so the Administrative Services Director will be appointed as the main contact for ADA-related inquiries.

RESOLUTION NO. _____

**RESOLUTION AFFIRMING THE CITY OF MIDLAND'S
POLICY OF NON-DISCRIMINATION REGARDING ALL
CITY PROGRAMS, ACTIVITIES AND SERVICES;
ADOPTING A NON-DISCRIMINATION POLICY
STATEMENT; AUTHORIZING THE CITY MANAGER
TO HANDLE ALL INQUIRIES REGARDING SAID
POLICY; AND APPOINTING THE DIRECTOR OF
ADMINISTRATIVE SERVICES AS THE CITY OF
MIDLAND'S AMERICANS WITH DISABILITIES ACT
(ADA) LIAISON**

WHEREAS, the City Council finds it to be in the public interest to affirm the City of Midland's policy of non-discrimination regarding all City programs, activities and services; and

WHEREAS, the City Council finds it to be in the public interest to adopt a non-discrimination policy statement; and

WHEREAS, the City Council finds it to be in the public interest to authorize the City Manager to handle all inquiries regarding said policy; and

WHEREAS, the City Council finds it to be in the public interest to appoint the Director of Administrative Services as the City of Midland's Americans with Disabilities Act (ADA) liaison;

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

SECTION ONE. That the City of Midland's policy of non-discrimination regarding all City programs, activities and services is hereby affirmed.

SECTION TWO. That the following non-discrimination policy statement is hereby adopted:

The City of Midland does not discriminate on the basis of race, religion, color, national origin, sex, disability, or age in its programs, activities and services.

SECTION THREE. That the City Manager, or his designee, is hereby authorized and directed to handle all inquiries regarding the City of Midland's policy of non-discrimination.

SECTION FOUR. That the City Manager, or his designee, is hereby authorized and directed to post said policy statement and the contact information for inquiries on the City of Midland's website.

SECTION FIVE. That the Director of Administrative Services is hereby appointed as the City of Midland's Americans with Disabilities Act (ADA) liaison.

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., 2013, 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



Office of the Governor

CJD Program Review Summary Sheet

Grant Number:	DJ	2586301
Grantee Name:	Midland, City of	
Project Title:	Use-of-Force Training Technology Project	
Date Review Opened:	3/15/2013	Staff Reviewer: Kelly McBride

Findings and Recommendations

Civil Rights - Inadequate or Missing Agency Policies

Detail:

Recipients of federal assistance are prohibited from discriminating in the delivery of services or benefits on the basis of race, color, national origin, religion, sex, disability and age.

In your Programmatic Review Questionnaire, you provided responses as to how the Police Department attempts to comply with federal civil rights requirements. Technically, the City is the grantee and must comply with the civil rights requirements. Based upon further conversations with the City Attorney's Office, it is my understanding that the City of Midland does not have policies and/or procedures to notify members of the general public that the City does not discriminate in the delivery of services or benefits on the basis of race, color, national origin, religion, sex, disability, or age.

Corrective Actions:

The Office of Justice Programs provides technical assistance to help ensure grantees are complying with civil rights requirements. The Office of Civil Rights has online civil rights training which consists of six segments and accompanying self-tests. The training is designed to provide recipients with an overview of applicable nondiscrimination laws and the general civil rights obligations that are tied to grants awarded by the Department of Justice. Additional information and access to the training can be found at www.ojp.usdoj.gov/about/ocr/assistance.htm

CJD recommends the City visit this site and/or contact OJP to ensure the City develops policies and/or procedures that are in full compliance with all civil rights laws and regulations. No further action is required at this time.

Date Resolved: 6/18/2013



City Council Agenda

Approved for Agenda:
THudson
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Liz Sanchez, Purchasing Tech.

SUBJECT: Consider a resolution approving plans and specifications and authorizing advertisement for bids for the Animal Services building renovation project for the Community Services Department File 6606-13.

Purpose:

Approve plans and specifications and authorize advertisement for bids for the Animal Services building renovations.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No Funding is required at this time.

Discussion:

Please consider approval of a resolution approving plans and specifications and authorizing advertisement for bids for renovations to the Animal Services building. Please see the attached memo from Tina Jauz, Community Services Director, for additional information.

CITY OF MIDLAND
Community Services Department
Interoffice Memorandum

Date: June 26, 2013
To: Tommy Hudson, Deputy City Manager
From: Tina Jauz, Community Services Director
Subject: Animal Shelter Renovation

The Animal Services Division is seeking approval of plans, specifications and authorizing advertisement for bids for the renovations to the kennel area at the Midland Animal Shelter. The project price, estimated at \$200,000, will include but is not limited to the following improvements:

- New flooring
- New kennel doors and divider panels
- New interior and exterior doors
- Creation of a small yard for dogs that are in rabies quarantine
- New acoustical ceiling tiles
- New exterior paint

The existing shelter was built in 1991, and the renovations will help to attenuate the noise throughout the building and prevent the spread of disease between animals. The building itself has an estimated life span of 25 more years, and these renovations will allow the shelter staff to continue to serve the citizens efficiently, and will provide the maximum value to the city in return for the funds that are used.

The funds are available in the Animal Shelter and Equipment Fund 140, and there is currently \$225,000 in the fund.

RESOLUTION NO. _____

**RESOLUTION APPROVING PLANS AND
SPECIFICATIONS AND AUTHORIZING
ADVERTISEMENT FOR BIDS FOR THE ANIMAL
SERVICES BUILDING RENOVATION PROJECT**

WHEREAS, plans and specifications have been prepared for the Animal Services Building Renovation Project; and

WHEREAS, the City Council finds it to be in the public interest to approve said plans and specifications, and authorizes the City Manager to advertise for competitive bids;

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

SECTION ONE. That the plans and specifications for the Animal Services Building Renovation Project are hereby approved, those plans and specifications being substantially in the form as those on file with the office of the City Secretary, referenced by the date and number of this Resolution.

SECTION TWO. That the City Manager, or his designee, is hereby authorized to advertise for competitive bids for said work, pursuant to the statutes of the State of Texas for accomplishing the work set forth in the above approved plans and specifications.

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., 2013, 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



THE CITY OF MIDLAND

CONTRACT

Contract No.6606-13

THIS CONTRACT, effective the _____ day of _____, 20____, by and between the City of Midland, hereinafter referred to as the "City", and _____, hereinafter referred to as the "Contractor", is made for the following considerations:

1. **Cost:** Total Proposal: \$ _____ DOLLARS
2. **Scope of Work:** The Contractor shall perform all work described for Animal Services Building Renovation Project in the following documents, attached hereto and incorporated herein by reference for all legal purposes.

EXHIBIT A..... Specifications, Proposal or Cost Summary
EXHIBIT B..... Drawings
EXHIBIT C..... Bonding instructions for Public Works Contract of \$50,000 and more
EXHIBIT D..... Wage Scale

3. **City:** The words "City's Representative" or "representative" shall mean Tina Jauz or her designee under whose supervision these contract documents, including the plans and specifications, were prepared, or who may inspect work performed under this Contract; or such other representative, supervisor, or inspector as may be authorized by the City to act in any particular capacity under this Contract.

4. **The City's Representative** may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents. City's representative will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor will such representative be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto. City's representative will not be responsible for the Contractor's failure to perform the work in accordance with the contract.

5. **Contractor:** Unless otherwise stipulated, the Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new, and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

5.1. The Contractor shall, at its expense, obtain all permits and licenses necessary for the performance of this contract and pay all fees and taxes required by law, and comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the contract, including all environmental laws and regulations, whether state or federal.

5.2. All work shall be done and all materials furnished in strict conformity with the contract and specifications.

6. **Minor Work Not Mentioned:** All minor detail of the work not specifically mentioned in the Specifications but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are named in the contract. The Contractor will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this contract shall mean and include all work that may be required by the City to be done by the Contractor to accomplish any alteration or addition to the work as shown on the Specifications.

6.1. Contractor shall perform all extra work under the direction of the City's Representative when presented with a written work order signed by the City's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the City. Payment for extra work shall be as agreed in the work order.

7. **Safety:** The Contractor shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws. All machinery and equipment and other physical hazards shall be guarded in accordance with federal, state or municipal laws or regulations.

8. **INDEMNITY: THE CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS AND DEFEND THE CITY AND ALL OF THE CITY'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER,**

INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THEIR AGENTS OR EMPLOYEES, OR ANY SUBCONTRACTOR, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS CONTRACT, AND CONTRACTOR WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

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

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

NATURE HEREINABOVE DESIGNATED HAVE BEEN PAID, DISCHARGED OR WAIVED. THE CONTRACTOR, ITS SURETIES AND INSURANCE CARRIERS SHALL DEFEND, INDEMNIFY AND SAVE HARMLESS THE CITY AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, OR CLAIMS OF ANY CHARACTER WHATSOEVER, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ARISING FROM ANY ACT OF THE CONTRACTOR OR ANY SUBCONTRACTOR, THEIR AGENTS OR EMPLOYEES, IN THE EXECUTION AND SUPERVISION OF THIS CONTRACT, AND WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST THE CITY OR ANY OF ITS OFFICERS, AGENTS, OR EMPLOYEES INCLUDING ATTORNEY'S FEES.

9. **Start of Work:** The Contractor shall commence work no later than ten (10) days after receipt of the execution of this document or other written release to proceed and shall complete such work no later than _____ calendar days after release to proceed.

10. **Clean Up:** Contractor shall promptly remove from the City's premises all materials condemned by the City's Representative on account of failure to conform to the contract, whether actually incorporated in the work or not, and Contractor shall at its own expense promptly replace such condemned materials with other materials conforming to the requirements of the contract. Contractor shall also bear the expense of restoring all work of other contractors damaged by any such removal or replacement. If Contractor does not remove and replace any such condemned materials within a reasonable time after a written notice by the City, City may remove and replace such at Contractor's expense.

11. **Warranty:** Neither the final payment nor any provision in this contract shall relieve the Contractor of responsibility for faulty materials or workmanship, and he shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of substantial completion. The City shall give notice of observed defects with reasonable promptness.

12. **Remedy:** The City may, on account of subsequently discovered evidence, withhold whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

12.1. Defective work not remedied; or

12.2. Claims filed or reasonable evidence indicating possible filing of claims; or

12.3. Failure of the Contractor to make payments promptly to subcontractors or for material or labor which the City may pay as an agent for the Contractor; or

12.4. Damages to another contractor or subcontractor.

When the above grounds to withhold payment are removed, or the Contractor provides a surety bond satisfactory to the City, which will protect the City in the amount withheld, payment shall be released.

13. **Funding Out:** In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal period for contract payments due under the contract, then this contract 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.

14. **Wage Scale:** The Contractor agrees to pay all workmen in his employ no less than the generally prevailing wage rate for employees of similar category in the Permian Basin Area, as is depicted in the wage rate scale attached hereto as EXHIBIT D, and incorporated herein by reference for all legal purposes.

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

15. **PROMPT PAY ACT** - The City and Contractor agree that Texas Government Code, Chapter 2251, Payment for Goods and Services (the "Prompt Pay Act") does not waive governmental immunity.

16. **Payment:** After all work is completed by the Contractor, and the City has inspected and approved that work, the City shall within thirty-one (31) days thereafter issue payment to the Contractor in the amount of the contract and subsequent verified Change Orders. The City shall be the final judge of when work is completed by the Contractor. The City shall not make periodic payments to the Contractor, but shall make payment pursuant to this paragraph only after all work is completed by the Contractor. For contracts exceeding \$25,000 and construction time exceeds ninety days, requests for progress payments may be made to the extent of the materials and labor completed at the end of each month. Upon approval by the Owner's Representative the request and invoice shall be forwarded for payment less 5% retainage. The total of these payments shall not exceed 95% of the total contract amount.

17. **No Third Party Beneficiary:** The City's approval of this contract does not create a third party beneficiary. There is no third party beneficiary to this contract. No person or entity who is not a party to this contract shall have any third party beneficiary or other rights hereunder.

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

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

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

19. **Sovereign Immunity:** By executing this contract 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.

20. Insurance

Contractor shall at all times during the term of this Contract maintain and keep in full force and effect insurance in the following types and minimum amounts with companies authorized to do business in the State of Texas:

Commercial General Liability (including Contractual liability):

-Personal Injury: \$1,000,000.00 per person
\$1,000,000.00 per occurrence

-Property Damage: \$500,000.00 per occurrence

Business Automobile Liability: \$250,000.00 combined single limit -
Personal Injury and Property Damage

Worker's Compensation: Statutory limits

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

The Commercial General Liability shall be on a per project or per policy aggregate, including completed operations, and shall be on an occurrence basis.

The Business Automobile Liability insurance provided by Contractor shall cover any auto for bodily injury and property damage, including owned vehicles, hired and non-city vehicles, and employee non-ownership, and the amount of such policy shall be a minimum of \$250,000.00 covering any vehicle used for the execution of the work that is the subject of this Contract.

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

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

Contractor shall contractually require all contractors, subcontractors, and sub-subcontractors that work on any portion of the work that is the subject of this Contract to obtain insurance coverage that meets or exceeds the policy requirements and minimum amounts specified herein. All contractors,

subcontractors, and sub-subcontractors shall obtain insurance policies that provide blanket waivers of subrogation in favor of the City of Midland and policies that name the City of Midland as an additional insured on a claims occurred basis (except workers compensation).

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

The Contractor certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012.

21. **Assignment:** Contractor shall not, either directly or indirectly, assign all or any part of this Contract 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.

22. **RELEASE: NOTWITHSTANDING ANY OTHER PROVISIONS, CONTRACTOR 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 CONTRACTOR 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.**

23. **Governing Law and Venue:** This Contract shall be governed by the laws of the State of Texas. All performance and payment made pursuant to this Contract 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 Contract or the performance of this Contract shall be in Midland County, Texas. The obligations and undertakings of each of the parties to this Contract shall be deemed to have occurred in Midland County, Texas.

24. **Independent Contractor:** It is expressly understood and agreed that Contractor 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 Contractor shall have exclusive control of and the exclusive right to control

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

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

The statutory prerequisites outlined herein constitute jurisdictional requirements pursuant to Section 271.154 of the Texas Local Government Code and Section 311.034 of the Texas Government

Code. Notwithstanding any other provision, 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 the City has actual or constructive notice or knowledge of said claim or alleged damages. Contractor agrees that the requirements of this entire Contract are reasonable.

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

27. **Termination At Will:** The City may terminate this Contract at will for no or any reason upon giving at least one hundred eighty (180) days written notice to the Contractor. The parties to this Contract understand and agree that it is in the City's sole discretion to cancel the Contract during the term of the Contract without penalty to the City. The Contractor has no expectation and has received no guarantees that this Contract will not be terminated before the end of the Contract term. The parties have bargained for the flexibility of terminating this Contract upon tender of the requisite notice at any time during the term of the Contract. All work and services under the Contract shall be suspended upon termination of the Contract becoming effective.

Contract No: 6606-13

City of Midland

CONTRACTOR

Courtney B. Sharp, City Manager

APPROVED AS TO FORM

Keith Stretcher, City Attorney

ATTEST

Amy M. Turner, City Secretary

Contractor Corporate Acknowledgment: Contract No.6606-13

STATE OF TEXAS §

§

COUNTY OF MIDLAND §

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

known to me to be the person and official whose name is subscribed to the forgoing instrument, and acknowledged to me that he executed the same as the act and deed of said corporation, for the purposes and consideration therein expressed, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the ____ day of _____, 20__.

Notary Public, State of Texas



Contractor's Name _____

PROPOSAL Bid #6606-13

To: Purchasing Agent
City of Midland
Midland, Texas

Gentlemen: The undersigned bidder, having examined the plans, specifications and contract documents, the location of the proposed work and being fully advised as to the extent and character of the work proposes to furnish all materials, equipment and to perform all labor and work necessary for the complete work described by and in accordance with the attached plans, specifications and contract for the sum of:

Materials Portion Incorporated Into Project _____ DOLLARS

Labor Portion Incorporated Into Project _____ DOLLARS

Other Costs Not Incorporated Into Project _____ DOLLARS

Total Proposal _____ DOLLARS

The undersigned bidder hereby declares that he has visited the site of the work and has carefully examined the Contract Documents pertaining to the work covered by the above bid and he further agrees to commence work within ten (10) days after the date of written notice to do so and to substantially complete same within _____ calendar days.

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 SIGNING THIS PROPOSAL, 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 CONTRACT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE CONTRACT. THE BIDDER SPECIFICALLY AGREES THAT IF THE BIDDER BRINGS OR COMMENCES ANY LEGAL ACTION OR PROCEEDING RELATED TO THIS CONTRACT, THE CONSTRUCTION, INTERPRETATION, VALIDITY OR BREACH OF THIS 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 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 THE CITY ARE RELYING ON THEIR OWN JUDGMENT. EACH PARTY HAD THE OPPORTUNITY TO DISCUSS THIS CONTRACT WITH COMPETENT LEGAL COUNSEL PRIOR TO ITS EXECUTION.

B. 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, Bidder 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 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 Bidder will settle, the physical and mailing addresses of Bidder at the time and date the claim was presented and the physical and mailing addresses of Bidder for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Bidder 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 Bidder that Bidder's notice is insufficient. The City reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

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.

SOVEREIGN IMMUNITY: By Executing this contract 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.

_____	_____	_____
Bidder	Authorized Signature	Telephone
_____	_____	_____
Address, City and State	Please Print above Name	Fax

Bidder's Enclosure Check List: (Bidder - Please review the following list and check to ensure that you have included the documents with your bid.)

- ☐ PROOF OF AUTOMOBILE, WORKER'S COMPENSATION AND GENERAL LIABILITY INSURANCE COVERAGE AS REQUIRED BY THE TERMS OF THE CONTRACT. (**Upon award and prior to execution of the contract The City of Midland will have to be added to the policy as an additional insured and a certificate issued reflecting that provision) including a waiver of subrogation as stated in the contract**)
- ☐ 5% BID BOND FOR CONTRACTS IN AMOUNTS OF \$50,000 OR MORE. (ONLY WHEN EXHIBIT "C" IS INCLUDED IN THE CONTRACT).* **THE SUCCESSFUL BIDDER SHALL BE REQUIRED TO PROVIDE A PAYMENT BOND AND PERFORMANCE BOND FOR BIDS OF \$50,000 OR MORE. IF BOND FORMS WERE NOT INCLUDED, THEY MAY BE OBTAINED FROM THE OFFICE OF THE PURCHASING MANAGER. Call (432) 685-7234 for information.**

PLEASE NOTE:

FAILURE TO INCLUDE ANY OF THE REQUIRED DOCUMENTS ON THE CHECK LIST, MAY CAUSE REJECTION OF YOUR BID.

***FAILURE TO PROVIDE LIABILITY OR WORKER'S COMPENSATION INSURANCE AND SUBSEQUENT CERTIFICATES; OR, PAYMENT AND/OR PERFORMANCE BONDS AS REQUIRED BY THE CONTRACT MAY CAUSE FORFEITURE OF YOUR BID BOND OR OTHER SURETY (I.E.- CASH OR CASHIERS CHECK).**

SPECIFICATIONS

For

MIDLAND ANIMAL SHELTER RENOVATION
1200 NORTH FAIRGROUNDS ROAD
MIDLAND, TEXAS 79703



THE CITY OF MIDLAND, TEXAS

MIDLAND ANIMAL SHELTER RENOVATION

MAYOR

W. Wesley Perry

CITY COUNCIL

*Jeff Sparks, District One
John James, District Three
A. Scott Dufford, At-Large*

*John B. Love III, District Two
Michael Trost, District Four
Jerry Morales, At-Large*

CITY MANAGER

Courtney Sharp

GENERAL SERVICES DIRECTOR

Robert Patrick

PURCHASING MANAGER

Regina Stephenson

PROJECT/CONSTRUCTION ADMINISTRATOR

Paul O'Neill

MIDLAND ANIMAL SHELTER RENOVATION

Owner: The City of Midland
300 North Lorraine
Midland, Texas 79701

Owner's Representative: Paul O'Neill
Animal Services Manager
1200 North Fairgrounds Road
Midland, Texas 79701
(432) 685-7424
poneill@midlandtexas.gov

Architect: Lawrence Connolly, President
Connolly Architects & Consultants
2414 Exposition Boulevard, Suite A-2
Austin, Texas 78703
(512) 480-9611, Fax (512) 480-9713
Mobile (512) 771-4383
larry@connollyaia.com
www.connollyaia.com

ADA/TAA Code
Review Consultant:



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None

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None

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None

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None

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None

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None

Midland Animal Shelter Renovation
Connolly Project 1204

000110

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SECTION 012700

CUTTING AND PATCHING

PART 1 GENERAL

1.1 DESCRIPTION

- A. Work included: This Section establishes general requirements pertaining to cutting, fitting, and patching of the existing:
1. Concrete block walls.
 2. Mechanical ductwork.
 3. Plumbing supply and waste lines.
 4. Electrical conduit, wiring, switches and receptacles.
 5. Tile flooring.
 6. Structural Glaze Tile (SGT) grout re-pointing.
 7. Resinous Flooring patching at floor and base as shown in the Drawings.

1.2 RELATED WORK

- A. Section 024119 - Selective Demolition
B. Section 099100 - Painting and Sealing
C. Structural Glaze Tile (SGT)
D. Mechanical ductwork
E. Plumbing pipe
F. Electrical Conduit

1.3 QUALITY ASSURANCE

- A. Use adequate numbers of skilled workmen who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work of this Section.
- B. Resinous Flooring Single Source Responsibility: Obtain primary resinous flooring materials including primers, resins, hardening agents, finish or sealing coats from a single manufacturer with not less than ten years of successful experience in manufacturing and installing principal materials described in this section. Contractor shall have completed at least five projects of similar size and complexity; Stonhard or approved equal. Provide secondary materials only of type and from source recommended by manufacturer of primary materials.
1. Provide letter from the manufacturer certifying that the installers are experienced in installing their materials.
 2. Manufacturer to provide a letter certifying that the installation of their product on this project is consistent with their recommended installation procedures.

PART 2 PRODUCTS

2.1 MATERIALS

- A. For replacement of items removed, use materials and construction techniques to match existing building.
1. CMU
- B. SGT Vertical Grade Epoxy Mortar: ASTM 118.3. Available products: Laticrete, Summitville, Tec Adhesives.
1. Color: To match existing SGT.

- C. CMU movement cracks
 - 1. Calking to paint

PART 3 EXECUTION

3.1 SURFACE CONDITIONS

- A. Inspection:
 - 1. If uncovered conditions are not as anticipated, immediately notify the Architect and secure needed directions.
 - 2. Do not proceed until unsatisfactory conditions are corrected.

3.2 GRINDING EXISTING CMU

- A. Bull Nose Corner:
 - 1. 1" radius corner height of visible wall.

3.3 RE-POINTING

- A. SGT Joint Treatment:
 - 2. Tool or strike mortar joints on exposed face when they are "thumb print" hard.
 - 3. Tool all SGT joints concave using a non-metallic tool 1" in diameter or larger unless otherwise noted.
 - 4. Sanitary Joint Filler or Epoxy Grout, where required:
 - a. Rake mortar joints 3/8" deep. Mix and install non-sagging (vertical application) epoxy grout in strict accordance with manufacturer's directions.
- B. CMU Joint Treatment:
 - 1. Tool or strike mortar joints on exposed face when they are "thumb print" hard.
 - 2. Tool all CMU to match existing mortar joints.
- C. Concrete Block exterior window sill
 - 1. As shown in the Drawings.
 - 2. To match existing.

3.3 CLEANING SGT

- A. It is intended that with careful adherence to this specification that extensive cleaning will not be necessary. During construction, wipe glazed surface clean after tooling of joints or within 30 minutes after re-pointing with coarse rag. Keep wall clean as work progresses to avoid more difficult cleanup. Use no metal scrapers, abrasive powders or unauthorized cleaning agents. Use wooden paddles or scrapers to clean away mortar residue or lumps. Wash with clean water. A mild detergent may be used. Rinse with clean water. Wipe with clean cloths, sponges or similar item.
- B. In event of unexpected contamination of SGT walls, perform any cleaning with nothing other than a non-metallic scraper, such as a stiff bristled brush or wooden paddle to insure against any wall damage.

3.4 PATCHING RESINOUS FLOORING AND BASE

- A. Flooring:
 - 1. Flush and seamless with existing resinous flooring.
- B. Base:
 - 1. Flush with CMU wall above.

END OF SECTION

SECTION 024119

SELECTIVE DEMOLITION

PART 1 GENERAL

1.1 WORK INCLUDED

- A. The extent of selective interior and exterior demolition as shown on the Drawings and described in the Specifications includes, but is not limited to the removal of existing:
 - 1. Resinous Flooring
 - 2. Concrete Block
 - 3. Structural Glazed Tile (SGT) – save for extra stock
 - 4. Millwork
 - 5. Doors and Frames
 - 6. Lay-In Tile Ceiling
 - 7. Kennel Partitions
 - 8. Thermal insulation
 - 9. Mechanical ductwork, grilles and registers
 - 10. Plumbing fixtures, supply and waste lines
 - 11. Electrical light fixtures, wiring and conduit

1.2 RELATED WORK

- A. Section 012700 - Cutting and Patching

1.3 PROJECT CONDITIONS

- A. Work should be examined for conditions which may affect that part of the work.
- B. Protection of finished floor from damage by subsequent trades shall be the responsibility of the General Contractor.

1.4 PROTECTION

- A. Protect adjacent work during demolition.
- B. Contractor will be responsible for any damage to surrounding work.

PART 2 PRODUCTS

(There are no products.)

PART 3 EXECUTION

3.1 PROJECT CONDITIONS

- A. Protection: Contractor shall be responsible for the protection of adjoining work.
- B. The Owner assumes no responsibility for actual condition of structure or items to be removed.
 - 1. Conditions existing at the time of demolition will be maintained by the City insofar as practical.

3.2 STRUCTURAL GLAZED TILE REMOVAL

- A. Be careful in removing SGT blocks without damaging edges so they can be re-used.

3.3 PROTECTION AND CLEANING

- A. Protect resinous flooring materials from damage and wear during demolition operation. Where

temporary covering is required for this purpose, comply with manufacturer's recommendations for protective materials and method of application. General Contractor is responsible for protection and cleaning of surfaces.

END OF SECTION

SECTION 064116

ARCHITECTURAL CABINETS

PART 1 GENERAL

1.1 SUMMARY

- A. Related Documents: Conditions of the Contract, Division 1 -General Requirements, and Drawings apply to Work of this Section.

1.2 RELATED WORK

- A. Section 092116 - Gypsum Board Assemblies
- B. Section 099100 - Painting and Sealing
- C. Electrical

1.3 DEFINITIONS

- A. Exposed: As used in this Specification Section, "exposed" portions of casework include surfaces visible when doors and drawers are closed. Bottoms of casework more than 4'-0" above finish floor are considered exposed. Visible surfaces in open casework or behind clear doors also are considered as exposed.
- B. Semi-Exposed: As used in this Specification Section, "semi-exposed" portions of casework include those members behind opaque doors, such as shelves, divisions, interior faces of ends, case backs, drawer sides, backs and bottoms, and back face of doors. Tops of cases 6'-6" or more above finish floor shall be considered semi-exposed.

1.4 SUBMITTALS

- A. Shop Drawings:
 - 1. Indicate elevations, profiles, sections, and views of casework fabrications at scale large enough to permit checking for design conformity (typically 3/4 inch = 1 foot for full sections, and 3 inch = 1 foot for details).
 - 2. Show sizes, thicknesses, quantities, markings, materials, finishes, accessories, hardware, and locations of each item.
 - 3. Include assembly and installation drawings to show methods of wood blocking, fastening, bracing, jointing, and connecting to work of other trades.
 - 4. Indicate dimensions necessary for fitting casework and adjacent equipment and appliances to fixed planes.
 - 5. Indicate cut-out locations.
 - 6. Coordinate mechanical and electrical devices and other items occurring in casework.
- B. Samples:
 - 1. MDF: 8-1/2 by 11 inches on panel backing for each color, texture, and pattern; include manufacturer's name and pattern number.
 - 2. Solid surfacing
 - 3. Metal Laminate: Chemetal: Mill finish Aluminum
- C. Informational Submittals:
 - 1. Certifications specified in Quality Assurance article.
 - 2. Qualification Data: Fabricator's qualification data.

1.5 PROJECT CONDITIONS

- A. Environmental Requirements: Obtain and maintain temperature and moisture conditions as recommended by casework fabricator for storage and installation, including remainder of construction period.
- B. Field Measurements:

1. Field measure conditions where casework is indicated to be fitted to other construction prior to fabricating work of this Section.
2. Show final field measurements on shop drawings.
3. Where field measurements cannot be made without delaying Project. Coordinate dimensions among trades to ensure proper fit of casework.

1.8 WARRANTY

- A. Furnish warranty with provisions for repairing or replacing, at no additional cost to Owner, casework items that exhibit defects in material or workmanship for 2 years.

PART 2 PRODUCTS

2.1 MATERIALS

- A. MDF
 1. Thickness: $\frac{3}{4}$ "
 2. Brazos Forest Products 972.602.1777
- B. Solid Surfacing for counters shown in the Drawings.
 1. Acceptable products and manufacturers:
 - a. Corian
 - b. Wilson Art
 - c. Avonite
- C. Metal Laminate
 1. Chemetal: Mill Finish Aluminum
- D. Melamine for unseen surfaces
 2. Composition: High Pressure laminate of paper, with decorative finish, 0.020 inch thick.
 3. Color: White.
- E. 100% Certified Wood: The following wood products shall be produced from wood obtained from forests certified by an FSC-accredited certification body to comply with FSC STD-01-001, "FSC Principles and Criteria for Forest Stewardship":
 4. Softwood Lumber:
 - a. Maximum moisture content: 6 percent.
 - b. Species: Idaho white pine.
 5. Particleboard:
 - a. Comply with ANSI A208.1, phenolic resin particleboard
 - b. General purpose: Type 1-M-1.
 - c. Water resistant: Type 2-M-2 or 2-M-3.
 6. Softwood Plywood:
 - a. Quality standard: PS 1.
 - b. Face quality: A-A INT-APA.
 - c. Species: Southern yellow pine.
 - d. Ply construction: 7 ply -3/4 inch; 5 ply -1/2 inch nominal.
 7. Hardboard:
 - a. Grade: Tempered.
 - b. Face: Both faces sanded.
 - c. Thickness: 1/4 inch.
- F. Hardware:
 1. Drawer slides:
 - a. General: Steel ball-bearing, full extension, 75 pound capacity minimum, drawer hold-in closed position.
 - b. Acceptable Manufacturers:

- i. Accuride.
 - ii. Grant.
 - iii. Knape & Vogt no 1260.
- 8. Pencil drawer slides:
 - a. General: Undercounter, 45 pound capacity minimum, hold-in closed position.
 - b. Acceptable Manufacturers:
 - i. Accuride.
 - ii. Grant.
 - iii. Knape & Vogt.
- 9. Computer keyboard drawer slides:
 - a. General: Undercounter, 75 pound capacity minimum, hold-out position.
 - b. Acceptable Manufacturers:
 - i. Accuride.
 - ii. Grant.
 - iii. Knape & Vogt.
- 10. Hinges:
 - a. General: Concealed "European" style, 95 degree opening.
 - b. Acceptable Manufacturers:
 - i. Julius Blum.
 - ii. Grass, no 3703.
 - iii. Stanley.
- 11. Wire pulls:
 - a. General: 4" center to center.
 - b. Finish: Clear anodized aluminum.
 - c. Acceptable Manufacturers:
 - i. Epco.
 - ii. Stanley, no. 4484.
 - iii. Ives.
 - iv. Trimco.
- 12. Cabinet locks:
 - a. General: Pin tumblers, surface mounted.
 - b. Finish: US26D.
 - c. Acceptable Products and-Manufacturers:
 - i. Yale.
 - ii. Best.
 - iii. National Cabinet Lock.
- 13. Drawer Locks:
 - a. General: Disc or pin tumbler, surface mounted.
 - b. Finish: US26D.
 - c. Acceptable Products and Manufacturers:
 - i. Yale.
 - ii. Capitol.
 - iii. Knape and Vogt.
- 14. Cam Locks:
 - a. General: Disc or pin tumbler.
 - b. Acceptable Products and Manufacturers:
 - i. Yale.
 - ii. Capitol.
 - iii. Knape and Vogt.
- 15. Shelf standards and supports (within cabinets):
 - a. General: Steel, surface mounted, adjustable on 1/2 inch centers. Clip type supports.

- b. Finish: Zinc plated.
 - c. Acceptable Products and Manufacturers:
 - i. Knape & Vogt.
 - ii. Capitol.
- 16. Shelf standards and supports (mounted on walls):
 - a. General: Steel, surface mounted, adjustable on 1" centers.
 - b. Finish: Zinc plated.
 - c. Acceptable Products and Manufacturers:
 - i. Knape & Vogt, no 80 and 180.
 - ii. Captiol.
- 17. Grommets:
 - a. General: 1-1/2 inch hole, black.
 - b. Acceptable Products and Manufacturers:
 - i. Doug Mockett & Co.
 - ii. Selby.
 - iii. Hafele.
- 18. Wire management system:
 - a. General: Plastic, black.
 - b. Acceptable Products and Manufacturers:
 - i. Doug Mockett & Co.
 - ii. Hafele.

2.2 ACCESSORIES AND TREATMENTS

- A. Contact Adhesive:
 - 1. Type recommended by casework fabricator to suit application.
 - 2. Resorcinol resin adhesive for fire rated construction.
- B. Fasteners: Size and type to suit application.

2.3 FABRICATION

- A. General:
 - 1. Apply MDF finish in full, uninterrupted sheets of maximum practical lengths. Form comers and butt joints with hairline joints.
- B. Construction:
 - 1. Base cabinets:
 - a. Use finished end panels unless condition will be fully concealed.
 - b. Provide finished toe space fronts.
 - c. MDF: Provide concealed attached panels on public side.
 - 2. Wall cabinets:
 - a. Provide finished end panels unless condition will be fully concealed.
 - b. Provide continuous 1 inch by 3 inch anchor cleat at top and bottom of cabinet interior full width of unit. Secure cleat in rabbet over back, then glue and spot pin.
 - 3. Countertops:
 - a. Provide with 1½" bull nose edge unless noted or shown otherwise.
 - 4. Shelving:
 - a. ¾ inch thick up to 36 inch unsupported length.
 - b. 1 inch thick for over 36 inch unsupported lengths.
 - 5. Counter bracing
 - a. Provide ¾" plywood bracing as shown in drawings no more than 2'-0" on center.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Verify that blocking is in place before beginning work.
- B. Verify that field measurements are as shown on shop drawings.
- C. Verify that mechanical, electrical, and other items affecting work of this section are in place and ready to receive the work.

3.2 PREPARATION

- A. Seal concealed surfaces and items or assemblies which will be in contact with cementitious materials or surfaces.
- B. Make field cuts with extreme care to avoid splintering.

3.3 INSTALLATION

- A. General:
 - 1. Distribute defects allowed in quality grade to best overall advantage when installing Project assembled woodwork items.
 - 2. Shim as required using concealed shims.
 - 3. Before making cutouts, drill pilot holes at corners.
 - 4. Tolerances for field assemblies and joined items:
 - a. Maximum variation from true position: 1/16 Inch unless otherwise specified or required by AWI grade.
 - b. Maximum offset from true alignment with abutting materials: 1/32 inch unless otherwise specified or required by AWI grade.
 - 5. Set and secure casework and components. Use joint fasteners to align and secure adjoining cabinets and countertops. Affix base cabinets to floor.
 - 6. Secure to anchors, built-in blocking, or directly attach to substrates where capable of adequately supporting load. Use toggle bolt type fasteners for wall mounted components. Secure countertops to base cabinets.
 - 7. Install hardware in accordance with manufacturer's recommendations. Adjust and leave in proper working order.
- B. Field Fitting:
 - 1. Cut to fit and carefully scribe.
 - 2. Where work abuts other finished surfaces, scribe and cut for accurate fit.
 - 3. Do not use overlay trim pieces to cover joints.

3.4 CLEANING AND PROTECTION

- A. Protect casework from marring, defacement, or other damage until final completion.
- B. Clean spaces of debris and vacuum and wipe down Casework. Leave in condition ready for use.

END OF SECTION

SECTION 072000

SOUND AND THERMAL INSULATION

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Insulation and accessories as shown in the Drawings and as specified in this Section.
 - 1. Loose-fill building insulation in CMU – full height of interior and exterior walls.
 - 2. Sound attenuation batts at new interior gypboard walls – full height of cavity.
 - 3. Sound attenuation batts at supply and return air ductwork in the Stray and Adoption Kennels.
 - 4. Rigid foam insulation at gypboard furr outs in the Cat Room.
- B. Statement of Intent
 - 1. Have a consistent thermal envelope at the CMU exterior wall.
 - 2. Provide noise separation between the Adoption Kennels and Stray Kennels.
 - 3. Provide noise separation between the Cat Room and the rest of the building.

1.2 RELATED WORK

- A. New Concrete Block Masonry
- B. Section 092116 - Gypsum Board Assemblies

1.3 QUALITY ASSURANCE

- A. Thermal Conductivity: Thickness indicated are for thermal conductivity (k-value at 75°F or 24°C) specified for each material. Provide adjusted thickness as directed for equivalent use of material having a different thermal conductivity. Where insulation is identified by "R" value, provide thickness required to achieve indicated value.
- B. Fire and Insurance Ratings: Comply with fire-resistance, flammability and insurance ratings indicated, and comply with regulations as interpreted by governing authorities.
- C. Federal Specifications: Where compliance with FS standard is indicated, specified requirements for marking individual boards/batts/blankets are waived, provided packages of units are labeled to show compliances.

1.4 SUBMITTALS

- A. Product Data: Submit manufacturer's product specifications and installations instructions for each type of insulation material required.

1.5 DELIVERY, STORAGE AND HANDLING

- A. General Protection: Protect insulations and their accessories from physical damage and from becoming wet, soiled, or covered with ice or snow. Comply with manufacturer's recommendations for handling, storage and installation.

PART 2 PRODUCTS

2.1 MATERIALS

- A. Sound Attenuation materials:
 - 1. New metal stud walls and furr outs: full cavity sound attenuation batts.
 - 2. New furr outs in Cat Room: full cavity rigid insulation.
- B. Patched Wall Block cavity: Loose Granular Perlite Insulation
 - 1. Expanded aggregate; FS HH-1-574 or ASTM C 549; k-value of 0.33; treated with silicone for water-repellency where used in exterior wall construction.

1. ASTM C 764, Type II for poured application; with maximum flame-spread and smoke-developed indexes of 5, per ASTM E 84.
- D. Auxiliary Insulating Materials:
 1. Adhesive for Bonding Insulation: Type recommended by insulation manufacturer, and complying with fire-resistance requirements.
 2. Mechanical Anchors: Type and size shown or, if not shown, as recommended by insulation manufacturer for type of application and condition of substrata.
 3. Mastic Sealer: Type recommended by insulation manufacturer for bonding edge joints between units and filling voids in work.
 4. Adhesive for Adhering Rigid Insulation to Concrete: Per insulation manufacturer's recommendations.

PART 3 EXECUTION

3.1 INSPECTION AND PREPARATION

- A. Installer must examine substrata and conditions under which insulation work is to be performed, and must notify Contractor in writing of unsatisfactory conditions. Do not proceed with insulation work until unsatisfactory conditions have been corrected in a manner acceptable to installer.
- B. Clean substrates of substances harmful to insulations.
- C. Close off openings in cavities to receive poured-in-place insulation sufficiently to prevent escape of insulation. Provide bronze or stainless steel screen (inside) where openings must be maintained for drainage or ventilation.

3.2 INSTALLATION

- A. General
 1. Comply with manufacturer's instructions for particular conditions of installation in each case. If printed instructions are not available or do not apply to project conditions, consult manufacturer's technical representative for specific recommendations before proceeding with work.
 2. Extend insulation full thickness as required over entire area to be insulated. Cut and fit tightly around obstructions, and fill voids with insulation. Remove projections which interfere with placement.
 3. Apply a single layer of insulation of required thickness, unless otherwise required to make up total thickness.
 4. Apply insulation units to substrata by method required, complying with manufacturer's recommendations. If no specific method is indicated, bond units to substrata with adhesive or use mechanical anchorage to provide permanent placement and support of units.
 5. Seal joints between closed-cell (non-breathing) insulation units by applying mastic or sealant to edges of each unit to form a tight seal as units are shoved into place. Fill voids in completed installation with mastic or sealant.
- B. Masonry-Cell Insulation:
 1. Pour granular insulation into cavities as required, to completely fill void spaces. Maintain inspection ports to show presence of insulation at extremities of each pour area. Close ports after complete coverage has been confirmed. Limit fall of insulation to one story in height, but not to exceed 20'-0".
 2. Provide insulation in interior walls to the bottom of the roof deck.
- C. Applying Sound Attenuation Blankets:
 1. Install blankets in conformance with manufacturer's recommendations.
 2. Secure blankets by mechanical means to hold in place without sagging or slumping.
 3. Install blankets with edges and joints butted tight to leave no gaps.
 4. Cut and cope the material to fit closely around obstructions and projections.

D. Applying Rigid Insulation:

1. In all Cat Room metal stud walls and furr outs.
 - a. Install panels snug between furring strips for the full height of the wall.

3.3 PROTECTION

- A. General: Protect installed insulation from harmful weather exposures and from possible physical abuses, where possible by non-delayed installation of concealing work or, where that is not possible, by temporary covering or enclosure. Installer shall advise Contractor of exposure hazards, including possible sources of deterioration and fire hazards.

END OF SECTION

SECTION 081316

ALUMINUM DOORS & FRAMES

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Aluminum doors and frames as shown in the Drawings and in this Section.

1.2 RELATED WORK

- A. Section 087100 - Hardware
- B. Section 088000 - Glazing

1.3 QUALITY ASSURANCE

- A. Erector Qualification: Erection of the doors shall be by an experienced erector who has not less than five (5) years successful experience with similar installations and is approved by the manufacturer.
- B. Design Criteria:
 - 1. Deflection of glass framing members under design loads shall not exceed $L/175$ or $3/4"$, whichever is less.
 - 2. Deadload deflection of horizontal glass framing members shall not exceed $0.125"$.
 - 3. Design wind load shall be 20 psf.

1.4 REFERENCES

- A. Air infiltration shall be tested accordance with ASTM E 283. Infiltration shall not exceed .06 CFM per square foot of fixed area.
- B. Water infiltration shall be tested in accordance with ASTM E 331. No water penetration at a test pressure of 8 psf.

1.5 SUBMITTALS

- A. Shop Drawings: Manufacturer's Shop Drawings shall indicate sizes, construction, dimensions, core material and stop profile.
- B. Sample: Provide a single door for Owner inspection and approval. This door if approved will be used as a minimum quality standard for all other doors.

1.6 DELIVERY, STORAGE AND HANDLING

- A. Store doors flat. Do not lean.
- B. Protect doors against dampness during and after delivery.

1.7 WARRANTY

- A. One-year unconditional guarantee.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Vistawall or U.S. Aluminum with 1" thick insulating safety glass per Drawings.
- B. Mill finish Series 250 (narrow stile)

2.2 MATERIALS

- A. Extrusion shall be 6063-T5 alloy and temper (ASTM B221). Fasteners, where exposed, shall be stainless steel or zinc plated carbon steel. Perimeter anchors shall be aluminum or steel, providing the steel is properly isolated from the aluminum.
- B. Glazing gaskets shall be E.P.D.M. rubber and shall be reinforced with stretch-resistant cord. The gasket shall be a lock-in type that provides firm support for the glass, but does not depend on continuous pressure between the metal and glass to prevent fallout.
- C. Exposed surfaces shall be free of scratches and other blemishes and shall receive - Architectural Class 1 Anodic Coating conforming with the Aluminum Association Standard AAM12C22A41 PPG # 42 Clear.
- D. Aluminum Doors with Glazing:
 - 1. Weatherstripping: Glazing gaskets shall be E.P.D.M. rubber and shall be reinforced with a stretch with stretch resistant cord. The gasket shall be a lock-in type that provides firm support for the glass, but does not depend on continuous pressure between the metal and glass to prevent fallout.
 - a. Color: To match aluminum door frame.

2.3 FABRICATION

- A. Before fabricate verify measurements at project site to insure proper fit.
 - 1. Accessories: Provide glazing beads, flashing, and miscellaneous shims and other parts detailed or otherwise required to complete the work.

2.4 CLEARANCES

- A. Edge clearance shall be as follows:

Between door and frame at head and jambs	- 1/8"
At door sill: without threshold	- 1/2" max. above fin. floor
with threshold	- 3/4" max. above fin. floor
Between meeting edges of pair of doors	- 1/8"

PART 3 EXECUTION

3.1 INSPECTION

- A. Examine areas to receive doors for conditions that will adversely affect the execution and quality of work. Do not start this work until unsatisfactory conditions are corrected.
- B. Field check dimensions, elevations, and slopes on the connecting work affecting the doors to assure a proper fit and weather tight installation.

3.2 INSTALLATION

- A. Fitting: Trim doors to fit frames with clearances as specified above. Bevel vertical edges 1/8" in 2". After fitting, seal the cut raw wood edges with a coat of clear sealer.
- B. Glass: Install stops securely to ensure a tight, no rattle fit. Sandwich interior glass as shown in Drawings; sandwiched surfaces to be clean, free of dust or dirt and tightly sealed to avoid future dust infiltration.
- C. Hanging: Hang doors to maintain uniform clearances. Doors shall be out of wind and shall operate smoothly and quietly after adjustment. Replace doors damaged during installation.
- D. Install per manufacturer's recommended procedures.
- E. Install black-out shades to ensure door quiet operation.

3.3 ADJUSTMENTS

- A. Final adjustments:
 - 1. Check and readjust operating finish hardware items prior to final completion.
 - 2. Leave work in complete and proper operating condition.

3. Remove defective work and replace with work complying with the specified requirements.

3.4 PROTECT AND CLEAN

- A. Protection of aluminum and glass:
 1. Protect concealed aluminum surfaces that will contact masonry or concrete with neoprene gaskets or a coat of bituminous paint to prevent galvanic and corrosive action.
 2. If drainage of moisture from incompatible metal passes over aluminum, paint the incompatible metal with a coat of aluminum pigmented paint.
 3. Protect finished aluminum surfaces from staining by gypsum and cement materials until all adjacent masonry and plaster work has been completed.
- B. Cleaning: Upon completion of the work, wash aluminum and glass surfaces with water and soft cloths and leave in first class condition.

END OF SECTION

SECTION 084100

ALUMINUM ENTRANCES, STOREFRONTS AND WINDOWS

PART 1 GENERAL

1.1 REFERENCED DOCUMENTS

- A. Provisions established within General and Supplementary Conditions of the Contract Division 1 – General Requirements, and the Drawings are collectively applicable to this Section.

1.2 WORK INCLUDED

- A. Aluminum storefront and windows as shown in the Drawings, in this Section and to match existing.

1.3 RELATED WORK

- A. Section 042200 - Concrete Block Masonry
- B. Section 087100 - Door Hardware
- C. Section 088000 - Glazing
- D. Section 092116 - Gypsum Board Assemblies

1.4 QUALITY ASSURANCE

- A. Erector Qualification: Erection of the storefront shall be by an experienced erector who has not less than five (5) years successful experience with similar installations and is approved by the manufacturer.
- B. Design Criteria:
 - 1. Deflection of glass framing members under design loads shall not exceed $L/175$ or $3/4"$, whichever is less.
 - 2. Deadload deflection of horizontal glass framing members shall not exceed $0.125"$.
 - 3. Design wind load shall be 20 psf.
- C. Coordinate installation of door frames with alarm and detection devices installer.
- D. The project's intent is to match the materials and construction techniques of the existing building so the addition will look as "seamless" as possible.

1.5 REFERENCES

- A. Air infiltration shall be tested accordance with ASTM E 283. Infiltration shall not exceed .06 CFM per square foot of fixed area.
- B. Water infiltration shall be tested in accordance with ASTM E 331. No water penetration at a test pressure of 8 P.S.F.

1.6 SUBMITTALS

- A. Shop Drawings: Manufacturer's Shop Drawings shall indicate sizes, construction, dimensions, core material and stop profile.
- B. Sample: Provide a single door and window for Owner inspection and approval. This door if approved will be used as a minimum quality standard for all other doors.

1.7 DELIVERY, STORAGE AND HANDLING

- A. Handle products of this section in accordance with AAMA – Curtain Wall Manual #10.
- B. Protect storefront against dampness during and after delivery.

1.8 WARRANTY

- A. Special Product Warranty from Manufacturer for material and labor: Five (5) year minimum.

- B. Special Product Warranty from Contractor against water leakage for material and labor: Three (3) year minimum.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Vistawall or U.S. Aluminum with 1" thick Low-E insulating safety glass per Drawings.
- B. Aluminum Doors with Glazing:
 - 1. Vistawall or U.S. Aluminum with 1" thick insulating safety glass per Drawings.

2.2 MATERIALS

- A. Extrusion shall be 6063-T5 alloy and temper (ASTM B221). Fasteners, where exposed, shall be stainless steel or zinc plated carbon steel. Perimeter anchors shall be aluminum or steel, providing the steel is properly isolated from the aluminum.
- B. Glazing gaskets shall be E.P.D.M. rubber and shall be reinforced with a stretch cord with stretch resistant cord. The gasket shall be a lock-in type that provides firm support for the glass, but does not depend on continuous pressure between the metal and glass to prevent fallout.
 - 1. Color: To match aluminum window frame.
- C. Exposed surfaces shall be free of scratches and other blemishes and shall receive - Architectural Class 1 Anodic Coating conforming with the Aluminum Association Standard AAM12C22A41 PPG # 42 Clear.
- D. Thermal break on extruded frames.
- E. Doors:
 - 1. Extrusion shall be 6063-T5 alloy and temper (ASTM B221). Fasteners, where exposed, shall be stainless steel or zinc plated carbon steel. Perimeter anchors shall be aluminum or steel, providing the steel is properly isolated from the aluminum.
 - 2. Exposed surfaces shall be free of scratches and other blemishes and shall receive - Architectural Class 1 Anodic Coating conforming with the Aluminum Association Standard AAM12C22A41 PPG # 42 Clear.
- F. Aluminum Doors with Glazing:
 - 1. Weatherstripping: Glazing gaskets shall be E.P.D.M. rubber and shall be reinforced with a stretch with stretch resistant cord. The gasket shall be a lock-in type that provides firm support for the glass, but does not depend on continuous pressure between the metal and glass to prevent fallout.
 - a. Color: To match aluminum window frame.
- G. Glazing Sealants: As recommended by manufacturer. Comply with Division 08 Section "Glazing."
 - 1. Sealants used inside the weatherproofing system shall have a VOC content of 250 Insert value g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24).
- H. Door Frame Head Weather Protection
 - 1. Manufacturer's standard accessory designed to protect exposed door head from driving rain leaks.

2.3 FABRICATION

- A. Before fabricate verify measurements at project site to insure proper fit.
- B. Framing: Fabricate window systems with the shapes and sections detailed.
 - 1. Construction: Mill joints to a hairline fit. Assemble and connect members to form rigid, watertight assemblies. No exposed fastenings will be permitted. Reinforce the framing internally as required to meet the design criteria specified above.
 - 2. Accessories: Provide glazing beads, flashing, and miscellaneous shims and other parts detailed or otherwise required to complete the work.

2.4 CLEARANCES

- A. Edge clearance shall be as follows:
- B. Between door and frame at head and jambs - 1/8"
- C. At door sill:
 - 1. Without threshold - 1/2" max. above fin. floor
 - 2. With threshold - 1/2" max. above fin. floor

PART 3 EXECUTION

3.1 INSPECTION

- A. Examine areas to receive storefronts for conditions that will adversely affect the execution and quality of work. Do not start this work until unsatisfactory conditions are corrected.
- B. Field check dimensions, elevations, and slopes on the connecting work affecting the windows to assure a proper fit and weather tight installation.
- C. The framing system shall provide for flush glazing on sides with no projecting stops. Vertical and horizontal framing members shall have a nominal face dimension of 1-3/4". Overall depth shall be 4". Glass pocket depth shall not be less than 7/16".

3.2 INSTALLATION

- A. Erecting Storefront: Erect the members to be plumb, level, square, and in proper alignment with other work, and free from sags, waves, and buckles.
 - 1. Members shall be accurately cut and fitted and rigidly anchored in place to resist safely all normal stresses to which the work will be subjected.
 - 2. Cut and machined ends and recesses shall be true, accurate, and free of burrs and rough edges.
 - 3. Provide clearance around the perimeter between window metal and the opening substrate (concrete, masonry) for caulking.
- B. Install per manufacturer's recommended procedures.
- C. Fitting: Trim doors to fit frames with clearances as specified above. Bevel vertical edges 1/8" in 2". After fitting, seal the cut raw wood edges with a coat of clear sealer.
- D. Glass: Install stops securely to ensure a tight, no rattle fit. Sandwich interior glass as shown in Drawings; sandwiched surfaces to be clean, free of dust or dirt and tightly sealed to avoid future dust infiltration.
- E. Hanging: Hang doors to maintain uniform clearances. Doors shall be out of wind and shall operate smoothly and quietly after adjustment. Replace doors damaged during installation.

3.3 ADJUST AND CLEAN

- A. Final adjustments:
 - 1. Check and readjust operating finish hardware items prior to final completion.
 - 2. Leave work in complete and proper operating condition.
 - 3. Remove defective work and replace with work complying with the specified requirements.

3.4 PROTECT AND CLEAN

- A. Protection of aluminum and glass:
 - 1. Protect concealed aluminum surfaces that will contact masonry, concrete and steel with neoprene gaskets or a coat of bituminous paint to prevent galvanic and corrosive action.
 - 2. If drainage of moisture from incompatible metal passes over aluminum, paint the incompatible metal with a coat of aluminum pigmented paint.
 - 3. Protect finished aluminum surfaces from staining by gypsum and cement materials until all adjacent masonry and plaster work has been completed.

- B. Cleaning: Upon completion of the work, wash aluminum and glass surfaces with water and soft cloths and leave in first class condition.

END OF SECTION

SECTION 087100

DOOR HARDWARE

PART 1 GENERAL

1.1 REFERENCED DOCUMENTS

- A. Provisions established within General and Supplementary Conditions of the Contract Division 1 – General Requirements, and the Drawings are collectively applicable to this Section.

1.2 WORK INCLUDED

- A. Finish hardware as shown in the Drawings and in Schedules and in this Section.

1.3 RELATED WORK

- A. Section 081316 - Aluminum Doors
- B. Section 084100 - Aluminum Entrances

1.4 QUALITY ASSURANCE

- A. Supplier: Subcontract the furnishing of hardware only to a recognized builders' hardware supplier who has been furnishing hardware for period of not less than two (2) years, and who has in his employment an experienced hardware consultant who is available at all reasonable times during the course of the work, for project hardware consultation to the Owner, Architect and Contractor.
- B. Threshold and weather stripping to provide tight fit and secure seal that does not allow air infiltration.
- C. Hardware finish shall be consistent in color and finish glossiness.

1.5 REFERENCES

- A. Comply with Americans with Disabilities Act Guideline (ADAG)
- B. Comply with Texas Accessibility Standards (TAS)

1.6 SUBMITTALS

- A. Manufacturer's product information or samples for accessories.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Sargent.
- B. Corbin-Russwin

2.2 MATERIALS

- A. Passage and Privacy Sets
- B. Deadbolts
- C. Butts:
 - 1. Leaves of sufficient width to clear all trim.
 - 2. 1 1/2 pair of butts: 7' - 0" doors.
- D. Weather stripping and ADA-compliant metal interlocking thresholds (<1/2") per schedule.
- E. Panic hardware key-way should have Night Latch function.
- F. Coordinate master keying system with overhead doors, storefront doors and all other special doors and hardware. Provide two (2) wall-mounted key control cabinets. Provide Owner with

one cabinet for off-site use. Mount other cabinet at job site. Set up job site system with only one key per hook. Duplicate keys are to be set up in off-site key control cabinet.

- G. Key control system shall include envelopes, labels, tags with self-locking key clips, receipt forms, 3-way visible card index, temporary markers, permanent markers, and standard metal cabinet, all as recommended by system Manufacturer, with capacity for 150% of the number of locks required for the project.
- H. Provide complete cross-index system designed by Key Control Manufacturer, and place key markers and keys on hooks in both cabinets as determined by the final key schedule.
- I. Type key index. Grade 1 lock sets with lever-type handles, Corbin-Russwin 800 series. Grade 1 lock sets with lever-type handles, Corbin-Russwin 800 series.

PART 3 EXECUTION

3.1 INSTALLATION

- A. Fit and install hardware on doors and cabinets in conformance with the following Hardware Schedule.
 - 1. Provide properly sized and accurately located drilled holes for hardware on wood doors, using appropriate jigs, templates and power mortising equipment.
 - 2. Mortise butts accurately and adjust properly.
 - 3. Verify locations of hardware items with Owner.
 - 4. Set thresholds for interior and exterior doors in full bed of butyl-rubber or polyisobutylene mastic sealant. Remove excess sealant and clean adjacent surfaces.
 - 5. Keep knobs and pulls covered with heavy cloth or plastic wraps until final acceptance of the house. Upon completion, leave hardware clean, undamaged, and in proper working order.
 - 6. Individual keying shall be in accordance with the Owner's wishes. After final completion rekey house.

3.2 FIELD QUALITY CONTROL

- A. Provide secure lock-up for hardware delivered to the project, but not yet installed. Control the handling and installation of hardware items which are not immediately replaceable, so that the completion of the Work will not be delayed by hardware losses, both before and after installation.

3.3 ADJUST AND CLEAN

- A. Adjust and clean the operating hardware for each door. Lubricate moving parts with lubricant recommended by manufacturer (graphite type if no other recommended). Replace units which cannot be adjusted to operate freely and smoothly.

3.4 HARDWARE

- A. Schedule

HW1

DOOR 1; TO HAVE:

1 PC HINGE	SL11HD	SEL
1		
PANIC	33A/NL/OP	VD
1 CYLINDER	C953 - ICC/7	FA
1 PULL	1191-3	FA
1 CLOSER	P1461 - TB	LCN
1 BRACKET	1460-18PA	LCN
1 STOP	1214ES - 2-1/4"	TR
1 THRESHOLD	425	NGP

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087100-2

Door Hardware
6/14/2013

1 SWEEP	102V	NGP
1 SEAL	BY DOOR SUPPLIER	
HW2		
DOOR 2, 3, 5, 8, 12, 15, 16,18; TO HAVE:		
1 PC HINGE	SL11HD	SEL
1 PUSH/PULL		
SET	1737	TR
1 CLOSER	P1461 - TB	LCN
1 BRACKET	1460-18PA	LCN
1 STOP	1270WV / 1211ES	TR
1 THRESHOLD(3)	425	NGP
1 AUTO BOTTOM	420NA	NGP
1 SOUND SEAL	BY DOOR SUPPLIER	
HW3		
DOOR 4, 6, 7, 9, 10, 13, 14, 17; TO HAVE:		
1 PC HINGE	SL11HD	SEL
1 DEADLOCK	MS1850	AR
1 CYLINDER	C987 - ICC/7	FA
1 THUMBTURN	985T - A/R	FA
1 PUSH/PULL		
SET	1737	TR
1 CLOSER	P1461 - TB	LCN
1 BRACKET	1460-18PA	LCN
1 STOP	1270WV / 1211ES	TR
1 THRSOLD	425	NGP
1 SWEEP	102V	NGP
1 SEAL	BY DOOR SUPPLIER	
HW4		
DOOR 11; TO HAVE:		
1 PC HINGE	SL11HD	SEL
1 DEADLOCK	MS1850	AR
1 CYLINDER	C987 - ICC/7	FA
1 THUMBTURN	985T - A/R	FA
1 PUSH/PULL		
SET	1737	TR
1 CLOSER	P1461 - TB	LCN
1 BRACKET	1460-18PA	LCN
1 STOP	1211ES	TR
1 AUTO BOTTOM	420NA	NGP
1 SOUND SEAL	BY DOOR SUPPLIER	

B. Keys

1. Levels

Midland Animal Shelter Renovation
Connolly Project 1204

087100-3

Door Hardware
6/14/2013

- a. Master
 - b. Sub-Master
 - c. User
- 2. Material: Nickel Silver
 - a. All master keys stamped "Do Not Duplicate".
 - b. Stamp Owner's numbering sequence on all keys (maximum 5 digits). Coordinate sequence with Owner.
- B. Cardreaders
 - 1. As noted on Drawings

3.5 CONTINUED MAINTENANCE SERVICE

- A. Continued Maintenance Service: Approximately six (6) months after the acceptance of hardware in each area, Contractor shall return to the project and re-adjust items to restore proper function of doors and hardware. Consult with and instruct Owner's personnel in recommended additions to the maintenance procedures. Replace hardware items which have deteriorated or failed due to faulty design, materials or installation of hardware units. Prepare a written report of current and predictable problems (of substantial nature) in the performance of the hardware.

END OF SECTION

SECTION 088000

GLAZING

PART 1 GENERAL

1.1 REFERENCED DOCUMENTS

- A. Provisions established within General and Supplementary Conditions of the Contract Division 1 – General Requirements, and the Drawings are collectively applicable to this Section.

1.2 WORK INCLUDED

- A. Glass as shown in the Drawings and in this Section including:
 - 1. Performance glass for exterior doors, storefronts and windows.
 - 2. Glass for interior doors, storefronts and windows.

1.3 RELATED WORK

- A. Section 081316 - Aluminum Doors & Frames
- B. Section 084100 - Aluminum Entrances, Storefronts and Windows
- C. Section 131913 - Kennel Dividers

1.4 QUALITY ASSURANCE

- A. Each light shall bear the manufacturer's label designating the type and thickness of glass. When approved by the Building Official labels may be omitted from other than safety glazing materials providing an affidavit is furnished by the glazing contractor certifying that each light is glazed in accordance with the approved plans and specifications.
- B. Each unit of safety glass shall be permanently identified by the manufacturer. The identification shall be etched or ceramic fired on the glass and be visible when the unit is glazed.
- C. Single-Source Responsibility for Glass: Obtain glass from one source for each product indicated below:
 - 1. Primary glass of each (ASTM C 1036) type and class indicated.
 - 2. Heat-treated glass of each (ASTM C 1048) conditions indicated.
 - 3. Insulating glass of each construction indicated.
- D. Single-Source Responsibility for Glazing Accessories: Obtain glazing accessories from one source for each product and installation method indicated.
- E. Follow building official's instructions regarding label removal of glass.

1.5 SUBMITTALS

- A. Manufacturer's data sheets on each product to be used, including:
 - 1. Preparation instructions and recommendations.
 - 2. Storage and handling requirements and recommendations.
 - 3. Installation methods.
- B. Verification Samples:
 - 1. 12 inches by 12 inches in size illustrating color of glass.
 - 2. Sealed Insulating Glass Units: Two 12 inch by 12 inch samples representative of unit construction.
 - 3. Gasket trim.
- C. Shop Drawings: Sections and details of glass and glazing materials installation at framing members including head, mullions, transoms, jambs and sills, and locations of safety glazing.
- D. Warranty: Signed and dated by manufacturer.

1.6 DELIVERY, STORAGE AND HANDLING

- A. Store products in manufacturer's unopened packaging until ready for installation.

1.7 WARRANTY

- A. For insulated glass units provide ten (10) year warranty from the date of installation against seal and glass failures.
- B. Special Product Warranty from Manufacturer for material and labor: Five (5) year minimum.
- C. Special Product Warranty from Contractor against water leakage for material and labor: Three (3) year minimum.

PART 2 PRODUCTS

2.1 MANUFACTURERS AND PRODUCTS

- A. Acceptable Products and Manufacturers:
 - 1. Pittsburgh Plate Glass (PPG)
 - 2. Asahi Glass Company (AGC; formerly AFG)
 - 3. Libby Owens Ford (LOF)
- B. Comparable systems by manufacturers will be considered as equal to the above provided they can meet all requirements of this section to include being regionally extracted, harvested, or processed or manufactured materials as required by Section 012513.

2.2 GENERAL

- A. Heat strengthened and/or tempered glass lites as required by code and as recommended by manufacturer complying with ASTM C1048 and ANSI Z97.1.
- B. Temper units without tong marks.
- C. Glass unit thicknesses are indicated as minimums, to be increased as required by wind loading and spans encountered. Glass manufacturer to prepare loading and span calculations to document thickness of glass.

2.3 GLASS

- A. Exterior Aluminum Doors, Storefront and Windows – clear and frosted tempered one-inch as shown in the Drawings.
 - 1. Exterior Glass: Match existing tint
 - 2. Interior Glass: Clear and Frosted as shown in the Drawings.
- B. Interior Aluminum Doors, Windows and Storefront): clear and frosted tempered 1" thick insulated glass lites.
- C. Exterior Window
 - 1. Match existing windows
- D. Kennel Dividers
 - 1. 1/4" clear tempered glass

2.4 GLAZING MATERIALS AND ACCESSORIES

- A. Glazing Compound: One-part acrylic polymeric sealant meeting Fed. Spec. TT-S-00230; Tremco "Mono" or Pecora "Unicrylic".
- B. Accessories: Setting blocks, tape, gaskets and spacer strips as required for a complete installation.
 - 1. Color: to match aluminum frame material for a "seamless" appearance.
- C. Structural Silicone:

1. Dow 995

PART 3 EXECUTION

3.1 INSPECTION

- A. Examine areas to receive glass for conditions that will adversely affect the execution and quality of work. Do not start this work until unsatisfactory conditions are corrected.

3.2 INSTALLATION

- A. Setting Glass: Glazing shall be done at the site by skilled glaziers in conformance with the general conditions governing glazing in the FGMA Glazing Manual.
 1. Verify glass sizes for required edge clearances by measuring the openings. Cut each piece accurately and fit to its particular position. Center glass in openings vertically and horizontally. Use edge blocks in vertical jambs to prevent lateral "walking" of the glass. Notch glass to fit if necessary.
 2. Glass shall have clean cut edges. Do not nip, stone or strike edges, or scarf corners, and do not install glass with flared edges at the bottom. Do not bump, drag, or rest the edge of a glass light against metal or other hard objects.
 3. Set tempered glass with tong marks completely concealed or in as inconspicuous a location as possible.

3.3 CLEANING

- A. Upon completion of the building, clean glass on both sides and remove labels, paint spots, putty and other defacement. Replace damaged glass with new.

3.4 PROTECTION

- A. Protect installed products until completion of project.
 1. Be especially careful to protect installed glass near Resinous Floors.
- B. Repair or replace damaged products before Final Acceptance.

END OF SECTION

SECTION 092116

GYPSUM BOARD & MDF ASSEMBLIES

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Gypboard and MDF partitions, ceiling, furring and finished panel joints.
- B. New skylight wells
- C. Gypsum board and reveal base.
- D. Wrapping existing ductwork trunk line with gypboard on metal studs
- E. New skylight wells – critical size to coordinate with lay-in tile ceiling grid

1.2 RELATED WORK

- A. Existing CMU walls
- B. Existing skylights
- C. New aluminum door frame
- D. Section 095123 - Acoustical Tile Ceilings
- E. Section 096723 - Resinous Flooring
- F. Section 099100 - Painting and Sealing
- G. Re-located electrical switches and receptacles
- H. New mechanical ductwork, supply registers and return air grilles.

1.3 QUALITY ASSURANCE

- A. Single-Source Responsibility for Panel Products: Obtain each type of gypsum board and other panel products from a single manufacturer.
- B. Single-Source Responsibility for Finishing Materials: Obtains finishing materials from either the same manufacturer that supplies gypsum board and other panel products or from a manufacturer acceptable to gypsum board manufacturer.
- C. Tolerances for Drywall and MDF: Do not exceed a variation of 1/8" in 8'-0" and 1/16" in 4'-0" from plumb, level, and flat (all directions) and do not exceed 1/16" offset of planes at joints between panels; shim panels as necessary to comply with tolerances. Taping ridges shall not be visible in finished walls and ceilings.

1.4 REFERENCES

- A. American Society for Testing and Materials (ASTM)
 - 1. ASTM C 36 Gypsum Wallboard.
 - 2. ASTM C 1177 Gypsum Wallboard
 - 3. ASTM D 3273 Mold and Mildew Growth Resistant

1.5 PROJECT CONDITIONS

- A. Environmental Requirements, General: Establish and maintain environmental conditions for applying and finishing gypsum board to comply with ASTM C 840 requirements or gypsum board manufacturer's recommendations, whichever are more stringent.
- B. Room Temperatures: For non-adhesive attachment of gypsum board to framing, maintain not less than 40°F (4°C). For adhesive attachment and finishing of gypsum board, maintain not less than 50° (10°C) for 48 hours before application and continuously after until dry. Do not exceed 95°F (35°C) when using temporary heat sources.
- C. Ventilation: Ventilate building spaces as required to dry joint treatment materials. Avoid drafts during hot, dry weather to prevent finishing materials from drying too rapidly.

PART 2 PRODUCTS

2.1 MANUFACTURERS

- A. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
 - 1. Steel Framing and Furring:
 - a. Clark Steel Framing, Inc.
 - b. Consolidated Systems, Inc.
 - c. Dale Industries, Inc.
 - d. Dietrich Industries, Inc.
 - e. Marino/ Ware (formerly Marino Industries Corp.).
 - f. National Gypsum Co.: Gold Bond Building Products Division.
 - g. Unimast, Inc.
 - 2. Accessories
 - a. Fry Reglet
- B. Available Products:
 - 1. DensArmor Plus; Georgia Pacific Corp.
- C. Powder-Actuated Fasteners in Concrete: Fastener system of type suitable for application indicated, fabricated from corrosion-resistant materials, with clips or other accessory devices for attaching hangers of type indicated, and with capability to sustain, without failure, a load equal to 10 times that imposed by ceiling construction, as determined by testing according to ASTM E 1190 conducted by a qualified independent testing agency.
- D. Studs: Non-load-bearing channel type roll-formed from 25 gage electro-galvanized steel.
- E. Screws: Drywall screws, Type S Bugle Head.
- F. Reveal Base: Aluminum alloy 6063 T5 with chemical conversion coating base; 4" reveal base Fry Reglet DRMB-625-400.
- G. Reinforcing Tape: Cross laminated, spark perforated fiber tape.
- H. Joint Compound: Quick drying polyindurate type pre-fill material.
- I. Joint Topping: Vinyl base all-purpose finishing material.
- J. Acoustical Sealant: A one-part acrylic base sealant designed for use with drywall construction.
- K. Edge Sealant: USG Sheetrock Brand W/R Sealant for use in high-moisture room areas.
- L. MDF
 - 1. Interior Grade
 - 2. Thickness: 5/8"
 - 3. Brazos Forest Products 972.602.1777

2.2 STEEL FRAMING FOR WALLS AND PARTITIONS

- A. General: Provide steel framing members complying with the following requirements:
 - 1. Protective Coating: Manufacturer's standard corrosion-resistant coating.
 - 2. Recycled Content of Steel Products: Postconsumer recycled content plus one-half of preconsumer recycled content not less than 25 percent.
- B. Steel Studs for Runners: ASTM C 645, with flange edges of studs bent back 90 degrees and doubled over to form 3/16 inch (5 mm) wide minimum lip (return), and complying with the following requirements for minimum thickness of base (uncoated) metal and for depth:
 - 1. Thickness: 0.0179 inch (0.45 mm), unless otherwise noted.
 - a. For head runner, sill runner, jamb, and cripple studs at door and other openings.
 - b. Where indicated.
 - 2. Depth: As indicated.
- C. Deflection Track: Manufacturer's standard top runner designed to prevent crackling of gypsum board applied to interior partitions resulting from deflection of the structure above fabricated from steel sheet complying with ASTM A 653 (ASTM A 653M) or ASTM A 568 (ASTM A 568M).

Thickness as indicated for studs, and width to accommodate depth of studs, and of the following configuration:

1. Top Runner with Slotted Flanges: 2-1/2 inch (63.5 mm) deep flanges with slots 1 inch (25.4mm) O.C.
- D. Deflection and Firestop Track: Top runner designed to allow partition heads to expand and contract with movement of structure above while maintaining continuity of the assembly. Comply with requirements of ASTM C 645 except configuration, of thickness indicated for studs and width to accommodate depth of studs indicated with flanges offset at midpoint to accommodate gypsum board thickness.
 1. Offset Configuration: Shadow-line design with offset projecting out from depth of stud.
- E. Z-Furring Members: Manufacturer's standard Z-shaped furring members with slotted or non-slotted web, fabricated from steel sheet complying with ASTM A 653 (ASTM A 653M) or ASTM A 568 (ASTM A 568M); with a minimum base metal (uncoated) thickness of 0.0179 inch (0.45 mm), face flange of 1-1/4 inch (31.8 mm), wall-attachment flange of 7/8 inch (22.2 mm), and of depth required to fit electrical box depth.
- F. Steel Flat Strap and Backing Plate: Steel sheet for blocking and bracing complying with ASTM A 653 (ASTM A 653M) or ASTM A 568 (ASTM A 568M), length and width as indicated, and with a minimum base metal (uncoated) thickness as follows:
 1. Thickness: 0.0598 inch (1.5 mm) where indicated.
- G. Fasteners for Metal Framing: Provide fasteners of type, material, size, corrosion-resistance, holding power, and other properties required to fasten steel framing and furring members securely to substrates involved; complying with the recommendations of gypsum board manufacturers for applications indicated.
- H. Furring strips: 3/4".

2.3 GYPSUM BOARD PRODUCTS

- A. General: Provide gypsum board of types indicated in maximum lengths available that will minimize end-to-end butt joints in each area indicated to receive gypsum board application.
 1. Widths: Provide gypsum board in widths of 48 inches (1219 mm).
 2. Recycled Content of Gypsum Panel Products: Postconsumer recycled content plus one-half of preconsumer recycled content not less than 25 percent.
 3. Regional Materials: Gypsum panel products shall be manufactured within 500 miles of Project site from materials that have been extracted, harvested, or recovered, as well as manufactured, within 500 miles of Project site.
- B. Gypsum Wallboard: ASTM C 36 and as follows:
 1. Type for Vertical Surfaces: DensArmor Plus Fireguard, unless otherwise indicated.
 2. Type for Horizontal Surfaces: DensArmor Plus Fireguard, unless otherwise indicated.
 3. Edges: Tapered.
 4. Thickness: 5/8 inch (15.9 mm), unless otherwise indicated.
- C. Sound attenuation batts in interior walls.
- D. Rigid insulation between furring strips.

2.4 TRIM ACCESSORIES

- A. Accessories for Interior Installation: Corner trim, edge trim, and control joints complying with ASTM C 1047 and requirements indicated below:
 1. Material: Formed metal or plastic, with metal complying with the following requirement:
 - a. Steel sheet zinc coated by hot-dip or electrolytic process, or steel sheet coated with aluminum or rolled zinc.
 2. Shapes indicated below by reference to Fig. 1 designations in ASTM C 1047:
 - a. Corner trim on outside corners, unless otherwise indicated.
 - b. LC-bead with both face and back flanges; face flange formed to receive joint compound. Use LC-beads for edge trim, unless otherwise indicated.

- c. One-piece control joint formed with V-shaped slot and removable strip covering slot opening.

2.5 JOINT TREATMENT MATERIALS

- A. General: Provide joint treatment materials complying with ASTM C 475 and the recommendations of both manufacturers of sheet products and of joint treatment materials for each application indicated.
- B. Joint Tape for Gypsum Board: Paper reinforced tape, unless otherwise indicated.
- C. Joint Tape for Cementitious Baker Units: As recommended by cementitious baker unit manufacturer.
- D. Drying-Type Joint Compounds for Gypsum Board: Factory-packaged vinyl-based products complying with the following requirements for formulation and intended use.
 - 1. Ready-Mixed Formulation: Factory-mixed product.
 - a. Taping compound formulated for embedding tape and for first coat over fasteners and face flanges of trim accessories.
 - b. Topping compound formulated for fill (second) and finish (third) coats.
 - c. All-purpose compound formulated for both taping and topping compounds.
- E. Joint Compound for Cementitious Baker Units: Material recommended by cementitious baker unit manufacturer.

2.6 MISCELLANEOUS MATERIALS

- A. General: Provide auxiliary materials for gypsum board construction that comply with referenced standards and recommendations of gypsum board manufacturer.
- B. Laminating adhesive shall have a VOC content of 50 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24).
- C. Sound Attenuation Blankets: ASTM C 665, Type I (blankets without membrane facing) produced by combining thermosetting resins with mineral fibers manufactured from glass, slag wool, or rock wool.
 - 1. Recycled Content of Blankets: Postconsumer recycled content plus one-half of preconsumer recycled content not less than 25 percent.
- D. Acoustical Joint Sealant: Manufacturer's standard non-sag, paintable, non-staining latex sealant complying with ASTM C 834. Product effectively reduces airborne sound transmission through perimeter joints and openings in building construction as demonstrated by testing representative assemblies according to ASTM E 90.
 - 1. Acoustical joint sealant shall have a VOC content of 250 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24).
- E. Steel drill screws complying with ASTM C 1002 for the following applications:
 - 1. Fastening gypsum board to steel members not less than 0.033 inch (0.84 mm) thick.

PART 3 EXECUTION

3.1 INSTALLING STEEL FRAMING FOR WALLS AND PARTITIONS

- A. Install runners (tracks) at floors, ceilings, and structural walls and columns where gypsum board stud assemblies abut other construction.
- B. Installation Tolerances: Install each steel framing and furring member so that fastening surfaces do not vary more than 1/8 inch (3 mm) from the plane formed by the faces of adjacent framing.
- C. Extend partition framing full height to structural supports or substrates above suspended ceilings, except where partitions are indicated to terminate at suspended ceilings. Continue framing over frames for doors and openings and frame around ducts penetrating partitions above ceiling to provide support for gypsum board.
 - 1. Cut studs 1/2 inch (13 mm) short of full height to provide perimeter relief.

2. For fire-resistance-rated partitions that extend to the underside of floor/roof slabs and decks or other continuous solid structural surfaces to obtain ratings, install framing around structural and other members extending below floor/roof slabs and decks, as needed, to support gypsum board closures needed to make partitions continuous from floor to underside of solid structure.
- D. Terminate top of walls at structure above ceiling construction, unless otherwise indicated.
- E. Install steel studs and furring in sizes.
 1. Single-Layer Construction: Space studs 16 inches (406 mm) O.C., unless otherwise indicated.
- F. Install steel studs so flanges point in the same direction and leading edge or end of each gypsum board panel can be attached to open (unsupported) edges of stud flanges first.
- G. Frame door openings to comply with GA-219, and with applicable published recommendations of gypsum board manufacturer, unless otherwise indicated. Attach vertical studs at jambs with screws either directly to frames or to jamb anchor clips on door frames; install runner track section (for cripple studs) at head and secure to jamb studs.
 1. Install 2 studs at each jamb, unless otherwise indicated.
 2. Extend jamb through suspended ceilings and attach to underside of floor or roof structure above.
- H. Frame openings other than door openings to comply with details indicated, or, if none indicated, as required for openings. Install framing below sills of openings to match framing required above door heads.
- I. Furring strips: Install at foot on center for the full height of the wall to the bottom of the deck.

3.2 APPLYING AND FINISHING GYPSUM BOARD, GENERAL

- A. Gypsum Board Application and Finishing Standards: Install and finish gypsum panels to comply with ASTM C 840 and GA-216.
- B. Install sound-attenuation blankets, where indicated, prior to installing gypsum panels unless blankets are readily installed after panels have been installed on one side.
- C. Install ceiling board panels across framing to minimize the number of abutting end joints and to avoid abutting end joints in the central area of each ceiling. Stagger abutting end joints of adjacent panels not less than one framing member.
- D. Install gypsum panels with face side out. Do not install imperfect, damaged, or damp panels. Butt panels together for a light contact at edges and ends with not more than 1/16 inch (1.5 mm) of open space between panels. Do not force into place.
- E. Locate both edge or end joints over supports, except in ceiling applications where intermediate supports or gypsum board back-blocking is provided behind end joints. Do not place tapered edges against cut edges or ends. Stagger vertical joints on opposite sides of partitions. Avoid joints other than control joints at corners of framed openings where possible.
- F. Attach gypsum panels to steel studs so leading edge or end of each panel is attached to open (unsupported) edges of stud flanges first.
- G. Attach gypsum panels to framing provided at openings and cutouts.
- H. Cover both faces of steel stud partition framing with gypsum panels in concealed spaces (above ceilings, etc.), except in chases that are braced internally.
 1. Except where concealed application is indicated or required for sound, fire, air, or smoke ratings, coverage may be accomplished with scraps of not less than 8 sqft (0.7 sqm) in area.
 2. Fit gypsum panels around ducts, pipes, and conduits.
 3. Where partitions intersect open concrete coffers, concrete joists, and other structural members projecting below underside of floor/roof slabs and decks, cut gypsum panels to fit profile formed by coffers, joists, and other structural members; allow 1/4 to 3/8 inch (6.4 to 9.5 mm) wide joints to install sealant.
- I. Isolate perimeter of non-load-bearing gypsum board partitions at structural abutments, except

floors, as detailed. Provide 1/4 to 1/2 inch (6.4 to 12.7 mm) wide spaces at these locations and trim edges with U-bead edge trim where edges of gypsum panels are exposed. Seal joints between edges and abutting structural surfaces with acoustical sealant.

- J. Space fasteners in gypsum panels according to referenced gypsum board application and finishing standard and manufacturer's recommendations.
 - 1. Space screws a maximum of 12 inches (304.8 mm) O.C. for vertical applications.
- K. Install gypsum board the full height of the wall to the bottom of the deck.

3.3 GYPSUM BOARD APPLICATION METHODS

- A. Single-Layer Application: Install gypsum wallboard panels as follows:
 - 1. On ceilings, apply gypsum panels prior to wall/partition board application to the greatest extent possible and at right angles to framing, unless otherwise indicated.
 - 2. On partitions/walls, apply gypsum panels horizontally (perpendicular to framing), unless parallel application is required for fire-resistance-rated assemblies. Use maximum-length panels to minimize end joints.
 - a. Stagger abutting end joints not less than one framing member in alternate courses of board.
 - 3. On hat channels, apply gypsum panels vertically (parallel to framing) with no end joints. Locate edge joints over furring members.
 - 4. Install water-resistant gypsum backing board panels at showers, tubs, and where indicated. Install with 1/4 inch (6.4 mm) open space where panels abut other construction or penetrations.
- B. Single-Layer Fastening Methods: Apply gypsum panels to support as follows:
 - 1. Fasten with screws.

3.4 INSTALLING TRIM ACCESSORIES

- A. General: For trim accessories with back flanges, fasten to framing with the same fasteners used to fasten gypsum board. Otherwise, fasten trim accessories according to accessory manufacturer's directions for type, length, and spacing of fasteners.
- B. Install corner trim at external corners.
- C. Install edge trim where edge of gypsum panels would otherwise be exposed. Provide edge trim with face flange formed to receive joint compound, except where other types are indicated.
 - 1. Install LC-bead where gypsum panels are tightly abutted to other construction and back flange can be attached to framing or supporting substrate.
 - 2. Install L-bead where edge trim can only be installed after gypsum panels are installed.
- D. Install reveal base per Room Finish Schedule.

3.5 FINISHING GYPSUM BOARD ASSEMBLIES

- A. General: Treat gypsum board joints, interior angles, flanges of corner trim, edge trim, control joints, penetrations, fastener heads, surface defects, and elsewhere as required to prepare gypsum board surfaces for decoration.
- B. Prefill open joints, rounded or beveled edges, and damaged areas using setting-type joint compound.
- C. Apply joint tape over gypsum board joints, except those with trim accessories having flanges not requiring tape.
 - 1. Use one of the following joint compound combinations as applicable to the finish levels specified: Embedding and First Coat: Ready-mixed, drying-type, all-purpose or taping compound. Fill (Second) Coat: Ready-mixed, drying-type, a; purpose or topping compound. Finish (Third) Coat: Ready-mixed, drying-type, all-purpose or topping compound.

3.6 APPLYING TEXTURE FINISHES

- A. Match existing texture on all wall and ceiling surfaces scheduled to receive a painted finish using Sheetrock Brand Textures and Finishing Products as manufactured by United States Gypsum Company, or approved alternate.

3.7 MDF APPLICATION METHODS

- A. Concealed panel attachment
 - 1. On public side per manufacturer's recommendations.
- B. Screw attachment
 - 1. On private side per manufacturer's recommendations.
 - 2. Stainless steel screens in uniform pattern at 16" on center.
- C. Wainscot in Cat Room
 - 1. finish face flush with gypboard

3.8 FIELD QUALITY CONTROL

- A. Above-Ceiling Observation: Architect will conduct an above-ceiling observation prior to installation of gypsum board ceilings and report any deficiencies in the Work observed. Do not proceed with installation of gypsum board to ceiling support framing until deficiencies have been corrected.
 - 1. Notify Architect one week in advance of the date and time when the Project, or part of the Project, will be ready for an above-ceiling observation.
 - a. Prior to notifying Architect, complete the following in areas to receive gypsum board ceilings: Installation of 80 percent of lighting fixtures, powered for operation.
 - b. Installation, insulation, and leak and pressure testing of water piping systems.
 - c. Installation of air duct systems.
 - d. Installation of air devices.
 - e. Installation of mechanical system control air tubing.
 - f. Installation of ceiling support framing.

3.9 CLEANING AND PROTECTION

- A. Promptly remove any residual joint compound from adjacent surfaces.
- B. Provide final protection and maintain conditions, in a manner acceptable to Installer, that ensure gypsum board assemblies are without damage or deterioration at the time of Substantial Completion.

END OF SECTION

SECTION 095113

ACOUSTICAL CEILINGS

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Lay-in Acoustical Tiles
- B. Acoustical Panels
- C. Statement of Intent
 - 1. To make the existing noisy facility quieter by introducing more effective acoustical ceilings.

1.2 RELATED WORK

- A. Existing metal deck
- B. Existing CMU
- C. Section 092116 - Gypsum Board Assemblies

1.3 SYSTEM DESCRIPTION

- A. Suspension system to rigidly secure acoustical ceiling system including integral mechanical and electrical components with maximum deflection of 1/360.

1.4 QUALITY ASSURANCE

- A. Manufacturer: Company specializing in manufacture of ceiling suspension system with 10 years minimum experience.
- B. Installer: Company with three years minimum experience.
- C. Certificates:
 - 1. Submit manufacturer's certification that suspension system is capable of supporting panels, gypboard, light fixtures and grilles.

1.5 SUBMITTALS

- A. Submit 2 samples, 8 by 12 inches in size, illustrating material and finish of each acoustic unit.

1.6 EXTRA STOCK

- A. Provide three cartons of each type used.
- B. Store in designated location as directed by Owner.

1.7 ENVIRONMENTAL REQUIREMENTS

- A. Maintain uniform temperature of minimum 60 ° F and maximum humidity of 40% prior to, during, and after installation.

1.8 PRODUCT HANDLING

- A. Store, handle, and deliver products under provisions of Section 016600.
- B. Store tile and panel cartons open at each end to stabilize moisture content.

1.9 PROJECT CONDITIONS

- A. Do not install acoustical ceilings until building dust generating activities have terminated, and overhead work is completed, tested, and approved.
- B. Schedule installation of acoustic units after interior wet work is dry.
- C. Humidity: 20-40% prior to, during, and after installation.
- D. Temperature: 61°F, prior to, during, and after installation.

1.10 COORDINATION

- A. Coordinate installation with other trades and make provisions for their work to prevent cutting and patching.

1.11 WARRANTY

- A. The installation of the acoustical material shall be guaranteed to be tight and remain in place for two years after final acceptance of the building. Any loose or falling materials shall be replaced by Contractor at his own expense.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS – NON-CORROSIVE SUSPENSION SYSTEM

- A. Manufacturers: Subject to compliance with requirements indicated, provide products of one of the following:
 - 1. Chicago Metallic.
 - 2. Donn/ USG Metal Products.
 - 3. Armstrong World Industries.
 - 4. Products specified herein are those of Donn Metal Products

2.2 SUSPENSION SYSTEM MATERIALS

- A. Heavy-Duty Exposed Tee Grid.
 - 1. As recommended by tile manufacturer for 1" thick cementitious wood fiber tile.
 - 2. Intermediate duty system, complying with ASTM C 635, non-fire rated.
 - 3. All components die cut and interlocking.
 - 4. Exposed grid surface width: 15/16 inch.
 - 5. Cope cross runners lay flush with main runners, except at edge moldings.
 - 6. Color:
 - a. Mill Finish
- B. Grid Accessories: Stabilizer bars, furring clips, splices, edge moldings, hold down clips and closure strips as necessary to complement suspended ceiling grid system.
- C. All components die-cut and interlocking.
- D. Support Channels and Hangers: Galvanized steel; size and type to suit application, to rigidly secure acoustic ceiling system including integral mechanical and electrical components with maximum deflection of 1/360.

2.3 ACCEPTABLE MANUFACTURERS - ACOUSTIC UNITS

- A. Tectum

2.4 ACOUSTIC UNIT MATERIALS

- A. Acoustic Tiles
 - 1. 100% Certified Wood: The following wood products shall be produced from wood obtained from forests certified by an FSC-accredited certification body to comply with FSC STD-01-001, "FSC Principles and Criteria for Forest Stewardship":
 - 2. Wood-fiber Panel System, Class "A"
 - 3. Sizes:
 - a. Butt-jointed: 24" x 48" x 1" panels (typical).
 - b. Butt-jointed: 24" x 48" x 2" panels (Isolation and Quarantine Kennels.)
 - 4. Design: Moisture-resistant, smooth, non-directional.
 - 5. Edges: Square.
 - 6. Color: Natural
- B. Acoustic Panels
 - 1. Wood-fiber Panel System, Class "A" and having .85 NRC.

2. Size:
 - a. Butt-jointed: 48" x 96" x 2" panels.
3. Design: Moisture-resistant, smooth, non-directional.
4. Edges: Square.
5. Color: Natural

2.7 ACOUSTICAL SEALANT

- A. Acoustical Sealant for Exposed and Concealed Joints: Manufacturer's standard non-sag, paintable, non-staining latex sealant, with a VOC content of 250 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24), complying with ASTM C 834 and effective in reducing airborne sound transmission through perimeter joints and openings in building construction as demonstrated by testing representative assemblies according to ASTM E 90.
- B. Acoustical Sealant for Concealed Joints: Manufacturer's standard nondrying, non-hardening, non-skinning, non-staining, gunnable, synthetic-rubber sealant, with a VOC content of 250 g/L or less when calculated according to 40 CFR 59, Subpart D (EPA Method 24), recommended for sealing interior concealed joints to reduce airborne sound transmission.

2.8 ACCESSORIES

- A. Recycled Content: Postconsumer recycled content plus one-half of preconsumer recycled content not less than 25 percent.
- B. Hanger Wire: Minimum 12 gage, galvanized, self-annealed, mild steel wire.
- C. Aluminum Tees: Mill Finish.
- D. Retention Clips: In kennel areas and near outside doors.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Verify that existing conditions are ready to receive work.
- B. Verify that layout of hangers will not interfere with other work.
- C. Beginning of installation means acceptance of existing conditions.
 - a. **Do not begin work if new skylight wells will not allow ceiling grid to course out as shown in the Drawings. Contact Architect.**

3.2 INSTALLATION - LAY-IN GRID SUSPENSION SYSTEM

- A. Install system in accordance with ASTM C636, manufacturer's instructions and as supplemented in this Section, to produce a ceiling true to lines and levels, free from warp and soiled or damaged grid or panels.
- B. Install system capable of supporting imposed loads to a deflection of 1/360 maximum.
- C. Install after major above ceiling work is complete. Coordinate the location of hangers with other work.
- D. Hang system independent of walls, columns, ducts, pipes and conduit. Hang wires directly from structure (not from fireproofing, fireproofing suspension members, bridging or roof decks). Locate first hanger 6 inches from wall and space 4'-0" along carrying channel. Where carrying members are spliced, avoid visible displacement of face plane of adjacent members.
- E. Where ducts or other equipment prevent the regular spacing of hangers, reinforce the nearest affected hangers and related carrying channels to span the extra distance.
- F. Center system on room axis leaving equal border units, unless shown otherwise on the Drawings.
- G. Do not support fixtures or other components on main runners or cross runners if weight causes total dead load to exceed deflection capability. Support fixture loads by supplementary hangers

- located within 6 inches of each corner; or support components independently.
- H. Do not eccentrically load system, or produce rotation of runners.
- I. Install edge molding at intersection of ceiling and vertical surfaces, using longest practical lengths. Miter corners. Provide edge moldings at junctions with other interruptions. Field rabbet panel edges. Where round obstructions occur, provide preformed closers to match edge molding. Provide prefabricated radiused edge moldings around radiused wall corners. Use maximum lengths, straight, true to line, and level.
- J. Form expansion joints as detailed. Form to accommodate plus or minus one inch movement. Maintain visual closure.
- K. Install additional suspension wires for light fixtures and other items which rest on grid.
- L. Attach large sheets to gyp board w/ manufacturer's approved adhesive and per manufacturer's recommendations.

3.3 INSTALLATION – LAY-IN TILE ACOUSTICAL UNITS

- A. Install acoustical units in accordance with manufacturer's instructions.
- B. Fit acoustic units in place, free from damaged edges or other defects detrimental to appearance and function.
- C. Install units after above ceiling work is complete.
- D. Install acoustic units level, in uniform plane, and free from twist, warp and dents.
- E. Cut panels to fit irregular grid and perimeter edge trim.
- F. Install hold-down clips to retain panels tight to grid system with 10 feet of an exterior door.
- G. Lay-in tile units should be full size around skylight wells.
- H. Back rabbet 2" ceiling tile.

3.4 INSTALLATION – PANELS

- A. Install acoustical units in accordance with manufacturer's instructions.
- B. Fit acoustic units in place, free from damaged edges or other defects detrimental to appearance and function.
- C. Install units after above ceiling work is complete.
- D. Install acoustic units in uniform plane, and free from twist, warp and dents.
- E. Cut panels to fit irregular grid and perimeter edge trim.
- F. Patch ceiling at steel joist cavities for a smooth and level appearance.
- G. The intent is to make the ceiling appear as seamless as possible.

3.5 TOLERANCES

- A. Variations from Flat and Level Surface: 1/8 inch in 10 feet.
- B. Variations from Plumb of Grid Members Caused by Eccentric Loads: Two degrees maximum.

3.6 ADJUSTING AND PATCHING

- A. Replace damaged members of exposed suspension system. Replace ceiling board and tile that is damaged, installed improperly, or shows visible signs of sagging.

3.7 CLEANING

- A. Clean soiled areas of ceiling material with mild soap and water. Replace ceiling board and tile damaged by improper cleaning.

3.8 PROTECTION

- A. Protect installed work from damage due to subsequent construction activity, including temperature and humidity limitations and dust control, so that the work will be without damage and deterioration at the time of acceptance by the Owner.

END OF SECTION

SECTION 096723

RESINOUS FLOORING

PART 1 GENERAL

1.1 SUMMARY

- A. Re-condition existing resinous flooring.
- B. New resinous flooring patching
 - 1. Definitions: resinous flooring system which includes a penetrating two-component epoxy primer, three-component mortar consisting of epoxy resin, curing agent and finely graded quartz silica aggregate, three-component, epoxy undercoat, brightly colored, quartz silica aggregate broadcast and a high performance, two-component, clear, BISPHENOL F epoxy sealer.
 - 2. Application Method: Troweled mortar, broadcast quartz aggregate

1.3 RELATED WORK

- A. Section 028119 - Selective Demolition - Resinous Base/CMU
- B. Section 012700 - Cutting and Patching - New Resinous Flooring and Base
- C. Existing Resinous Flooring
- D. Existing Concrete Block
- E. Section 092116 - Aluminum base reveal
- F. Existing Floor Drains

1.4 SUBMITTALS

- A. Product Data: Submit manufacturer's technical data, installation instructions, and general recommendations for each resinous flooring material required. Include certification indicating compliance of materials with requirements.
- B. Samples: Submit, for verification purposes, 4-inch square samples of each type of resinous flooring required, applied to a rigid backing, in color and finish indicated.
- C. For initial selection of colors and finishes, submit manufacturer's color charts showing full range of colors and finishes available.

1.5 QUALITY ASSURANCE

- A. Single Source Responsibility: Obtain primary resinous flooring materials including primers, resins, hardening agents, finish or sealing coats from a single manufacturer with not less than ten years of successful experience in manufacturing and installing principal materials described in this section. Contractor shall have completed at least five projects of similar size and complexity; Stonhard or approved equal. Provide secondary materials only of type and from source recommended by manufacturer of primary materials.
- B. Pre-Installation Conference
 - 1. General contractor shall arrange a meeting not less than thirty days prior to starting work.
 - 2. Attendance
 - a. General Contractor
 - b. Architect/Owner's Representative
 - c. Manufacturer/Installer's Representative
- C. Contractor is required to perform calcium chloride tests 30 days prior to start of flooring installation to make a proper assessment of osmotic vapor transmission in the concrete.
- D. Provide letter from the manufacturer certifying that the installers are experienced in installing their materials.
- E. Manufacturer to provide a letter certifying that the installation of their product on this project is consistent with their recommended installation procedures.

- F. Provide Shop Drawings delineating control joints at dissimilar materials.
- G. Avoid puddling. No ponding or standing water shall be allowed.

1.6 DELIVERY, STORAGE AND HANDLING

- A. Material shall be delivered to job site and checked by flooring contractor for completeness and shipping damage prior to job start.
- B. All materials used shall be factory pre-weighed and pre-packaged in single, easy to manage batches to eliminate on site mixing errors. No on site weighing or volumetric measurements allowed.
- C. Material shall be stored in a dry, enclosed area protected from exposure to moisture. Temperature of storage area shall be maintained between 60 and 85°F/16 and 30°C.

1.7 PROJECT CONDITIONS

- A. Concrete substrate shall be properly cured for a minimum of 30 days.
- B. Utilities, including electric, water, heat (air temperature between 60 and 85°F/16 and 30°C) and finished lighting to be supplied by General Contractor.
- C. Job area to be free of other trades during, and for a period of 24 hours, after floor installation.
- D. Protection of finished floor from damage by subsequent trades shall be the responsibility of the General Contractor.

1.8 WARRANTY

- A. Manufacturer shall furnish a single, written warranty covering both materials and workmanship, or provide a Joint and Several warranties signed on a single document by material manufacturer and applicator jointly and severally warranting the labor and materials with no cost maximum for a period of five (5) full years from date of installation. A sample warranty letter must be included with bid package or bid may be disqualified.

PART 2 PRODUCTS

2.1 CHARACTERISTICS

- A. Color: Green, to be selected by Architect.
- B. Grit: Medium Grit.

2.2 RESINOUS FLOORING

- A. Stonshield HRI as manufactured by Stonhard, Inc., Maple Shade, NJ, (contact Jason Maciula 214-680-2494) is a nominal 3/16"/5mm thick system comprised of a penetrating two-component epoxy primer, three-component mortar consisting of epoxy resin, curing agent and finely graded silica aggregate, three-component, epoxy undercoat, brightly colored, quartz silica aggregate broadcast and a high performance, two-component, clear BISPHENOL F epoxy sealer.
- 1. Physical Properties: Provide flooring system which includes a novolac based, bisphenol F epoxy topcoat and provides the following physical properties of topping including aggregate, when tested in accordance with standards or procedures referenced below:

Compressive Strength	10,000 psi
(ASTM C-579)	
Tensile Strength.....	2,000 psi
(ASTM C-307)	
Flexural Strength	4,300 psi
(ASTM C-580)	
Hardness.....	85-90
(ASTM D-2240/Shore D Durometer)	
Bond Strength.....	>400 psi
(ASTM D-4541)	(100% concrete failure)

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scarifier or shot blast machine for removal of bond inhibiting materials such as curing compounds or laitance.

- B. Abrade the aluminum base for proper adhesion. Confirm this preparation with Manufacturer.

3.2 APPLICATION

- A. New flooring - patch existing for a seamless appearance.
- B. New Base - finish face flush with CMU as shown in the Drawings.
- C. General: Apply each component of resinous flooring system in compliance with manufacturer's directions to produce a uniform monolithic wearing surface of thickness indicated, uninterrupted except at divider strips, sawn joints or other types of joints (if any), indicated or required.
- D. Primer: Mix and apply primer over properly prepared substrate with strict adherence to manufacturer's installation procedures and coverage rates. Coordinate timing of primer application with application of troweled mortar to ensure optimum adhesion between resinous flooring materials and substrate.
- E. Troweled Mortar: Mix mortar material according to manufacturer's recommended procedures. Uniformly spread mortar over substrate using manufacturer's specially designed screed box adjusted to manufacturer's recommended height. Hand trowel apply mixed material over freshly primed substrate using steel finishing trowels or power trowel material.
- F. Grout Coat: Remove excess unbounded granules by lightly scraping and vacuuming the floor surface. Mix and apply grout coat with strict adherence to manufacturer's installation procedures and coverage rates.
- G. Mar Resistant Finish: Lightly sand or scrape to remove any floor surface irregularities. Mix and roller apply mar resistant finish with strict adherence to manufacturer's installation procedures.

3.3 FIELD QUALITY CONTROL

- A. The right is reserved to invoke the following material testing procedure at any time, and any number of times during period of flooring application.
- B. The Owner will engage service of an independent testing laboratory to sample materials being used on the job site. Samples of material will be taken, identified and sealed, and certified in presence of Contractor.
- C. Testing laboratory will perform tests for any of characteristics specified, using applicable testing procedures referenced herein, or if none referenced, in manufacturer's product data.
- D. If test results show materials being used do not comply with specified requirements, Contractor may be directed by Owner to stop work; remove non-complying materials; pay for testing; reapply flooring materials to properly prepared surfaces which had previously been coated with unacceptable materials.
- E. A full time employee of the manufacturer **must** be on site for the duration of the project.
- F. The representative of the manufacturer **must** report material usage and square feet of areas completed so that accurate material thickness and coverage can be ascertained.
- G. Avoid puddling. No ponding or standing water shall be allowed.

3.4 CURING, PROTECTION AND CLEANING

- A. Cure resinous flooring materials in compliance with manufacturer's directions, taking care to prevent contamination during stages of application and prior to completion of curing process. Close area of application for a minimum of 24 hours.
- B. Protect resinous flooring materials from damage and wear during construction operation. Where temporary covering is required for this purpose, comply with manufacturer's recommendations for protective materials and method of application. General Contractor is responsible for protection and cleaning of surfaces after final coats.
- C. Cleaning: Remove temporary covering and clean resinous flooring just prior to final inspection. Use cleaning materials and procedures recommended by resinous flooring manufacturer.

END OF SECTION

SECTION 099100

PAINTING AND SEALING

PART 1 GENERAL

1.1 WORK INCLUDED

- A. On-the-job painting, staining and finishing of materials, fittings and equipment items which are exposed to view inside and outside as indicated in the Drawings and in this Section, including but not limited to:
 - 1. Gypsum board walls and ceilings.
 - 2. CMU.
 - 3. Finished Carpentry
 - 4. Exposed metal

1.2 RELATED WORK

- A. Existing Concrete Block
- B. Existing Hidden and Exposed Metal
- C. Section 092116 - Gypsum Board & MDF

1.3 QUALITY ASSURANCE

- A. Apply small patch of finish on inconspicuous place of surface material for Owner approval before general application.

1.4 SUBMITTALS

- A. Samples:
 - 1. Submit to the Architect two 8-1/2" x 11" samples of each paint color, stain and sealer scheduled on the Paint and Stain Color Schedule prepared by the Architect. These samples shall be on a material which will accurately portray the color in the actual installation and shall be made with the actual mixed paints or stains to be used on the job.
- B. Paint Schedule:
 - 1. Interior and Exterior CMU: Match existing colors.
 - 2. Existing Metal: Sherwin Williams: To match existing SGT
 - 3. MDF: Semi-transparent stain and sealer

1.6 PRODUCT HANDLING

- A. Delivery: Deliver materials in original containers with seals unbroken and labels intact.
- B. Storage: Space at the site will be assigned for storing and mixing materials. Protect this space and repair all damage resulting from use. Store no kerosene or gasoline, and remove oily rags at the end of each day's work.
- C. Comply with pertinent provisions of Section 016600.

1.7 EXTRA STOCK

- A. Provide unopened 5 gallon container of each color to Owner.
- B. Label each container with color, color number, texture, and room locations, in addition to the manufacturer's label.
- C. Furnish under provisions of Section 017843.

1.8 PROJECT CONDITIONS

- A. Environmental Requirements: Maintain the temperature inside the building at not less than 60° F. during painting and finishing. Do no outside painting in cold or damp weather.
- B. Protection: Provide sufficient drop cloths to fully protect adjacent finished work.

PART 2 PRODUCTS

2.1 MANUFACTURERS

- A. Sherwin Williams.
- B. Benjamin Moore.
- C. P.P.G. Industries.
- D. ICI / Devco.
- E. Materials selected for coating systems for each type surface shall be products of a single manufacturer unless otherwise specified.

2.2 EPOXY PAINT MATERIALS

- A. Concrete block: Sherwin Williams Tile Clad Marine Epoxy Paint
- B. Gypboard: water-based epoxy
- C. VOC Content: Products shall comply with VOC limits of authorities having jurisdiction and, for interior paints and coatings applied at Project site, the following VOC limits, exclusive of colorants added to a tint base, when calculated according to 40 CFR 59, Subpart D (EPA Method 24).
 - a. Flat Paints and Coatings: 50 g/L.
 - b. Non-flat Paints and Coatings: 150 g/L.
 - c. Primers, Sealers, and Undercoats: 200 g/L.
 - d. Shellacs, Clear: 730 g/L.

PART 3 EXECUTION

3.1 EXAMINATION

- A. Before commencement of any work the Contractor shall inspect the surfaces to receive finish to determine the condition of those surfaces, correct as necessary for premium finish, furnish and apply suitable primer and otherwise prepare surfaces in accordance with the manufacturer's instructions.

3.2 PREPARATION

- A. Perform preparation and cleaning procedures in accordance with coating manufacturer's instructions for each substrate condition.
 - 1. Power wash existing interior and exterior CMU and metal
 - 2. Clean existing CMU and metal per manufacturer's recommendations.
 - 3. Prepare existing painted CMU and metal for new finish coats per manufacturer's recommendations.
- B. Thoroughly remove rust to bare metal with wire brush and sandpaper whether the metal will be visible or not.

3.3 APPLICATION

- A. Workmanship shall be of the highest quality. Mix and use paint materials in accord with the manufacturer's directions. Spread materials evenly, flow on smoothly, and brush out without sags, runs or brush strokes.
- B. Provide finish coats which are compatible with prime materials used. Provide barrier coats over incompatible primers where required.

- C. When undercoats, stains or other conditions show through final paint coat, apply additional coats until paint film is of uniform color and sheen.
- D. Between coats, sand enamel and lacquer finish on wood and metal surfaces to produce a smooth, even finish. Use #220 grit sandpaper or finer.
- E. Tint priming coats and undercoats to approximate shade of final coat to assure uniformity of color in the finish. Touch up section spots and "hot spots" before applying the last coat to produce an even result in the finish coat.
- F. Apply the final coat on gypsum board surfaces with rollers.

3.4 TOUCH UP AND CLEAN

- A. Touching Up: On completion, carefully touch up all holidays, marred and damaged spots, and work over all surfaces that have been repaired by other trades.
- B. Cleaning: Remove spilled, splashed, and splattered paint or stain from all surfaces. Do not mar surface finish of item being cleaned.
- C. Reinstallation: Reinstall the items removed under the provision of paragraph 3.2 E, above.

3.5 TEXTURES

- A. Gypsum wallboard "orange peel" texture as approved by Owner.

3.6 PAINT SCHEDULE

- A. Verify Paint Schedule with Architect in a walk through prior to painting.
 - 1. Gypsum drywall – ductwork furr-down color in Adoption and Stray Kennels: to match SGT: Cat Room: match original CMU color of room.
 - a. 1st coat - Epoxy primer (to match finish color)
 - b. 2nd coat - Egg shell finish Epoxy paint
 - c. 3rd coat - Egg shell finish Epoxy paint
 - 2. Interior Concrete Block (New) – color to match existing
 - a. 1st coat - Block Filler (to match finish color)
 - b. 2nd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - c. 3rd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - 3. Interior Concrete Block (Existing) – Match existing color
 - a. 1st coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - b. 2nd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - 4. Exterior Concrete Block (Existing) – Match existing color
 - a. 1st coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - b. 2nd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - 5. Exterior Concrete Block (New) – Match existing color
 - a. 1st coat - Block Filler (to match finish color)
 - b. 2nd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - c. 3rd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - 6. Exposed Metal (Existing) – Match SGT color
 - a. 1st coat - Epoxy primer (to match finish color at unfinished metal only)
 - b. 2nd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - c. 3rd coat - Egg shell finish Two-part Marine Grade Epoxy paint
 - 7. Un-Exposed Metal (Existing) – Bare Metal
 - a. 1st coat - Epoxy primer (to match existing finish color)
 - 8. MDF (New) – As approved by architect
 - a. 1st coat - Semi-transparent stain

b. 2nd coat - Clear sealer

END OF SECTION

SECTION 131913

KENNEL ENCLOSURES AND GATES

PART 1 GENERAL

1.1 REFERENCED DOCUMENTS

- A. Provisions established within General and Supplementary Conditions of the Contract Division 1 – General Requirements, and the Drawings are collectively applicable to this Section.

1.2 WORK INCLUDED

- A. Glass partitions and gates as required by Drawings and as specified in this Section.
- B. Ceiling Mesh Panels

1.3 RELATED WORK

- A. Section 042126 - Structural Glazed Tile
- B. Section 088000 - Glazing
- C. Section 096723 - Resinous Flooring.

1.4 SUBMITTALS

- A. Submit Shop Drawings, including details and sample of each item of equipment and hardware for architect's approval.
- B. Submit the product data, including complete manufacturer catalog and data sheet, complete parts list, and installation requirements for each accessory item specified.
- C. Prior to fabrication, provide a sample kennel including partitions, with operation mechanism, and gate.

1.5 QUALITY ASSURANCE

- A. Installer's responsibility includes verifying Shop Drawing measurements with as-built rough-in measurements.
- B. Installer to provide a letter from the manufacturer certifying that he is experienced in installing their materials.
- C. Manufacturer to provide a letter certifying that the installation of their product on this project is consistent with their recommended installation procedures.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Direct Animal Products, 554 South Allen Street, Boyd, Texas (877) 459-7827
- B. LGL Animal Care Products, Inc. 1520 Cavitt Street, Bryan, Texas 77801 (979) 775-1776
- C. Mason Company, 260 Depot St., Leesburg, OH 45135 (800) 543-5567
- D. Snyder Manufacturing Company, 6228 South Troy, Englewood, Colorado 80111-6422 (800) 422.1932
- E. Suburban Surgical, 275 Twelfth Street, Wheeling, Illinois 60090 (800) 323-7366.
- F. Shor-Line, 511 Osage Avenue, Kansas City, Kansas 66105 (800) 444-1579

2.2 KENNEL EQUIPMENT

- A. Kennel Doors
 - 1. Single stall fronts with full width glass door with one-way SSK latch. All gates shall be hinged by the pivotal method and swing 180 degrees.
 - a. Glass door as shown in the Drawings
 - b. ¼ tempered clear and frosted glass as shown in the drawings

- B. Kennel Dividers
 - 1. 1/4" clear tempered glass
- C. Ceiling Panels
 - 2. Wire mesh at Dog Quarantine

PART 3 EXECUTION

3.1 INSPECTION

- A. Examine the area to receive kennel equipment for conditions that will adversely affect the execution and quality of work. Do not start this work until unsatisfactory conditions are corrected.

END OF SECTION

SECTION 131920

CAGES

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Stainless Steel cages including cage, viewing screen, gate and accessories as required by Drawings and as specified in this Section.

1.2 RELATED WORK

- A. Section 092116 - Gypsum Board and MDF Assemblies

1.3 SUBMITTALS

- A. Submit Shop Drawings, including details and sample of each item of equipment and hardware for Architect's approval.
- B. Submit the product data, including complete manufacturer catalog and data sheet, complete parts list, and installation requirements for each accessory item specified.

1.4 QUALITY ASSURANCE

- A. Installer's responsibility includes verifying Shop Drawing measurements with as-built rough-in measurements.
- B. Manufacturer to provide a letter certifying that the installation of their product on this project is consistent with their recommended installation procedures.

PART 2 PRODUCTS

2.1 ACCEPTABLE MANUFACTURERS

- A. Direct Animal Products, 554 South Allen Street, Boyd, Texas (877) 459-7827
- B. LGL Animal Care Products, Inc. 1520 Cavitt Street, Bryan, Texas 77801 (979) 775-1776
- C. Mason Company, 260 Depot St., Leesburg, OH 45135 (800) 543-5567
- D. Snyder Manufacturing Company, 6228 South Troy, Englewood, Colorado 80111-6422 (800) 422.1932
- E. Suburban Surgical, 275 Twelfth Street, Wheeling, Illinois 60090 (800) 323-7366.
- F. Shor-Line, 511 Osage Avenue, Kansas City, Kansas 66105 (800) 444-1579

2.2 CAGES

- A. Cat Room: Cages with glass fronts and stainless steel gate on staff side.
- B. Trim accessories for finished appearance between cages and surrounding wall.

PART 3 EXECUTION

3.1 INSPECTION

- A. Examine the area to receive the cages and tables for conditions that will adversely affect the execution and quality of work. Do not start this work until unsatisfactory conditions are corrected.

END OF SECTION

SECTION 321813

SYNTHETIC GRASS SURFACING

PART 1 GENERAL

1.1 WORK INCLUDED

- A. Synthetic grass as shown in the Drawings and described in this Section.

1.2 RELATED WORK

- A. Section 323113 - Chain Link Fences and Gates

1.3 QUALITY ASSURANCE

- A. Field Panel Mock-Up: Construct one sample sod panel at the site. Panel shall be not less than 2 ft. by 2 ft.
 - 1. Panel to indicate quality representation of:
 - a. Synthetic grass
 - b. Underlayment.
 - c. Grass color.
 - d. Workmanship.
 - 2. The sample panel shall be fully acceptable to the Architect prior to ordering of materials.
 - 3. Approved the sample panel shall act as the standard of comparison and quality to be expected throughout the work.
 - 4. Do not alter, move, or destroy mock-up until work is completed.
- B. Installer to provide a letter from the manufacturer certifying that he is experienced in installing their materials.
- C. Manufacturer to provide a letter certifying that the installation of their product on this project is consistent with their recommended installation procedures.

1.4 SUBMITTALS

- A. Shop Drawings: Provide manufacturer subsurface details for drainage.
- B. Certificates
 - 1. Certification Letter: Submit a certified letter from manufacturer prior to delivery of synthetic grass to jobsite for compliance of specification requirements.

1.5 DELIVERY, STORAGE, AND HANDLING

- A. Cover synthetic grass material with non-staining waterproof membrane covering. Keep units dry. Allow air circulation around stacked units. Installation of wet or stained synthetic grass is prohibited.

1.6 PREINSTALLATION CONFERENCE

- A. Convene pre-installation conference one week prior to commencing work of this section.
- B. Discuss sequence and scheduling of work and interface with other trades.
- C. Review installation procedures.
- D. Attendance required:
 - 1. Architect, Contractor, mason and every party that is required to coordinate with work, or to protect work thereafter.

1.7 WARRANTIES

- A. Manufacturer
 - 1. 8 years.
- B. Installation
 - 1. 1 year.

PART 2 PRODUCTS

2.1 SYNTHETIC GRASS

- A. Pattern and Type as manufactured by Field Turf.
 - 1. FieldTurf Texas Landscape & Golf; Tom Massey; Dallas, Texas; (214) 673-3137.
 - 2. Color: Winter Rye

PART 3 EXECUTION

3.1 INSTALLATION

- A. Workmanship:
 - 1. Lay only dry synthetic grass.
 - 2. Follow manufacturer's recommended installation procedures.
 - a. Underlayment on existing grade - 4" compacted crushed stone base
 - b. On existing concrete
- B. Layers:
 - 1. Hybrid fiber.
 - 2. Field Turf infill.
 - 3. Geotextile
 - 4. Choke stone.
 - 5. Natural soil.
- C. Work sequence
 - 1. Seal turf area perimeter with concrete.
 - 2. Install underlayment drainage with perforated PVC pipe to storm sewer.
 - 3. Provide edging where applicable
- D. Provide maintenance instructions

3.2 PROTECTION OF WORK

- A. Protect the surfaces of the installed synthetic grass after installation.

END OF SECTION

SECTION 323113

CHAIN LINK FENCES AND GATES

PART 1 GENERAL

1.1 REFERENCED DOCUMENTS

- A. Provisions established within General and Supplementary Conditions of the Contract Division 1 – General Requirements, and the Drawings are collectively applicable to this Section.

1.2 WORK INCLUDED

- A. Chain link fences and gates as shown in the Drawings.
- B. Privacy screening attached to fencing, fence gates and Service Yard gate.

1.3 RELATED WORK

- A. Section 087100 - Gate Hardware
- B. Section 238126 - Air Conditioning Compressors
- C. Section 321813 - Synthetic Grass
- D. Section 323111 - Service Yard Gate
- E. Site Plan - Hearty Perennial west Texas Vines

1.4 QUALITY ASSURANCE

- A. Surface Tolerances: Allowable tolerances for fence shall be 1/2" maximum in 20' for vertical surfaces out of plane.
- B. Fence design, height and location to be verified prior to construction.
- C. Construction techniques so new fencing, gates and hardware looks seamless as possible.
- D. Coordinate installing with air conditioning compressor locations.

1.5 SUBMITTALS

- A. Provide Manufacturer's Cut Sheets and Shop Drawings prior to ordering material.
- B. Shop Drawings of Gates.
- C. Provide chain link sample prior to ordering material.
- D. Provide screening material samples prior to ordering material.

PART 2 PRODUCTS

2.1 MATERIALS

- A. Fencing: As shown in Drawings.
 - 1. Posts: ASTM A 120; Schedule 40 steel pipe, standard weight, one piece without joints; powder-coated.
 - a. Color: Black.
 - 2. Chain Link: 24 Gage powder-coated.
 - a. Color: Black.
 - 3. Nylon Screening material
 - a. Pak Unlimited, Inc. 770-519-3367
 - b. PAK 90% Security Screen
 - c. Color: As selected by Architect.
 - d. #2 grommets every one (1) foot on all sides.
 - e. Tape on all sides.

- f. Provide 9" diameter pressure-relief vents every 10' to relieve wind pressure.

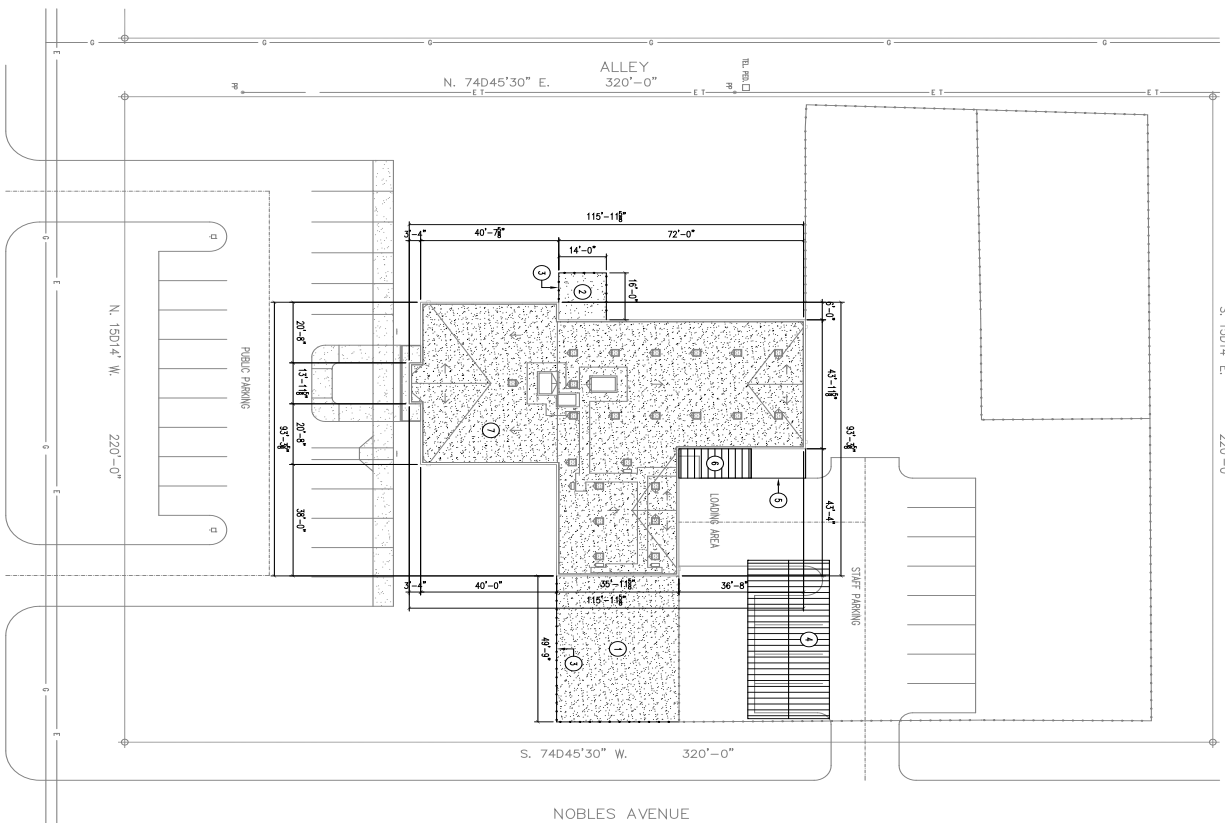
PART 3 EXECUTION

3.1 INSTALLATION

- A. General. Carefully lay out and erect structural members as necessary to install the finished work as shown on design drawings. Members shall be properly braced, plumbed, and leveled. Use sufficient number of nails, screws, and bolts to insure the rigidity of the construction.
- B. Screening
 - 1. Install material on entire chain link fence area, chain link fence gates and service yard gate.

END OF SECTION

S. 150'14" E. 220'-0"



SHEET INDEX

- A0.1 NEW SITE / ROOF PLAN
- A1.1 DEMOLITION / NEW FLOOR PLAN
- A1.2 DEMOLITION / NEW BASE DETAIL
- A2.1 NEW DOOR / WINDOW TYPES
- A2.2 DEMOLITION / NEW REFLECTED CEILING PLAN
- A2.3 BUILDING SECTIONS & INTERIOR ELEVATIONS
- A3.1 DETAILS
- A3.2 MECHANICAL DETAILS
- E1.1 DEMOLITION / NEW ELECTRICAL PLAN

NEW SITE PLAN KEYNOTES

- 1 NEW SYNTHETIC TURF EXERCISE YARD
- 2 NEW SYNTHETIC TURF GET ACQUAINTED YARD ON EXISTING CONCRETE
- 3 NEW 7' CHAIN LINK FENCE WITH HARDY PERENNIAL VINES NOT REQUIRING IRRIGATION
- 4 COVERED PARKING STRUCTURE TO BE CONSTRUCTED OVER 4 EXISTING AND 1 NEW PARKING SPACE (ADD ALTERNATE NO. 1)
- 5 REPLACE EXISTING METAL CLADDING ON CREATORIUM WITH MILL FINISH GALVALUME (ADD ALTERNATE NO. 2)
- 6 REPLACE EXISTING SHED ROOF OF CREATORIUM WITH MILL FINISH GALVALUME AND EXTEND WEST TO FACE OF EXISTING CMU WALL TO CREATE COVERED WALK (ADD ALTERNATE NO. 3)
- 7 EXISTING MODIFIED BITUMEN ROOF TO BE REPLACED AND NEW RIGID INSULATION ADDED TO EXISTING (N.L.C.)

SEAL



8.76

**MIDLAND ANIMAL
SHELTER RENOVATION**

1200 FAIRGROUNDS ROAD
MIDLAND, TEXAS 79701

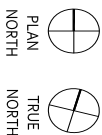
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REVISIONS

DATE ISSUED
June 14, 2013

PROJECT NUMBER
1204

PROJECT ORIENTATION

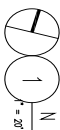


TITLE
NEW SITE /
ROOF PLAN

SHEET

A0.1

NEW SITE / ROOF PLAN



DEMOLITION PLAN KEYNOTES

- 1 REMOVE AND DISCARD 3'-4" x 7'-4" AREA OF EXISTING 8" CMU WALL FOR NEW DOOR AND FRAME
- 2 REMOVE AND DISCARD EXISTING KENNEL GATES, MESH WALL PANELS AND MESH
- 3 REMOVE AND DISCARD EXISTING DOOR AND FRAME
- 4 REMOVE AND DISCARD EXISTING MILLWORK AND FIXTURES
- 5 REMOVE AND DISCARD EXISTING CMU WALL TO DECK, PROVIDE TEMPORARY BRACING WHERE WALLS ARE TO BE REMOVED AND SOUTH OF CAT ROOM; REMOVE EXISTING W/8x24 STEEL BEAM IN CAT ROOM AND PROVIDE TEMP. BRACING (SEE NEW PLAN KEYNOTE #17)
- 6 REMOVE AND DISCARD EXISTING TUB AND CMU BASE
- 7 REMOVE EXISTING SGT AND SAVE FOR RE-USE; REMOVE AND DISCARD EXISTING BASE
- 8 REMOVE RESINOUS FLOORING TO CONCRETE
- 9 REMOVE AND DISCARD 3'-4" x 7'-4" AREA OF EXISTING 8" CMU WALL FOR NEW DOOR AND FRAME; SUPPORT NEW OPENING WITH TWO 4x8" LONG 4"x3"x8" STEEL LINTEL ANGLES, ONE EACH SIDE OF WALL, AND FLUSH WITH VERTICAL FACE OF CMU ABOVE; 4" LONG LESS OF ANGLES ARE VERTICAL
- 10 REMOVE SINK AND SAVE FOR RE-USE
- 11 GRIND FILL VISIBLE HEIGHT OF WING WALL TO MAKE 1" BILL NOSE CORNERS

DEMOLITION GENERAL NOTES

- 1 PREPARE RESINOUS FLOORING AND BASE THROUGHOUT FOR RE-CONDITIONING
- 2 GRIND RESINOUS BASE AND FIRST COURSE OF CMU (EXCEPT IN CAT ROOM) SO NEW RESINOUS BASE IS FLUSH WITH CMU ABOVE (SEE DETAIL 50A.1.1)
- 3 PREPARE INTERIOR AND EXTERIOR WALL SURFACES FOR NEW PAINT
- 4 PREPARE ALL SGT GROUT FOR RE-POINTING
- 5 SEE REFLECTED CEILING DEMOLITION PLAN (10A.12)
- 6 REMOVE RUST ON EXISTING EXPOSED METAL STRUCTURE AND W/8x24 STEEL LINTEL IN PREPARATION FOR NEW PRIMER AND PAINT
- 7 REMOVE AND DISCARD EXISTING HVAC DUCTWORK AND REGISTERS

NEW PLAN KEYNOTES

- 1 INSTALL NEW ALUMINUM DOOR AND FRAME; REF. DOOR TYPES AND HARDWARE SCHEDULE
- 2 INSTALL NEW STOREFRONT AND NEW GYP BOARD FUR DOWN (REF. RCP)
- 3 INSTALL NEW GLASS KENNEL GATES AND 1'-4" TALL FROSTED GLASS UPPER WALL PANELS
- 4 INSTALL NEW GLASS KENNEL GATES AND 2'-8" TALL FROSTED GLASS UPPER WALL PANELS
- 5 INSTALL NEW ALUMINUM WINDOW, PATCH AND PAINT 8" CMU WALL BENEATH TO MATCH EXISTING
- 6 NEW GLASS CAT DISPLAY CAGES AND GYP BOARD WALLS TO DECK

- 7 NEW 8" CMU WALL TO DECK; PATCH AND PAINT TO MATCH EXISTING
- 8 INSTALL 2 1/2" ALUMINUM REVEAL BASE, 5/8" MDX TO 4x6" A.F.F. AND 5/8" GYP BOARD ABOVE ON 3/4" FLOORING STRIPS WITH RIGID INSULATION IN CAVITY TO ALL NEW AND EXISTING CMU WALLS, THIS ROOM ONLY
- 9 NEW STAINLESS STEEL BASE AND UPPER CABINETS, COUNTERTOP AND SINK
- 10 NEW RECEPTION DESK WITH RAISED TRANSACTION COUNTER
- 11 NEW FREE-STANDING STAINLESS STEEL TUB, BASE CABINETS AND COUNTERTOP; PATCH RESINOUS FLOOR BENEATH TUB
- 12 ADD WIRE MESH KENNEL TOPS
- 13 INSTALL NEW GLASS KENNEL GATES AND WIRE MESH KENNEL TOPS
- 14 INSTALL RE-USED SINK
- 15 NEW FOLD-DOWN STAINLESS STEEL COUNTER
- 16 FREE-STANDING CAGES (N.L.C.)
- 17 NEW W/8x24 STEEL BEAM (SEE 70A.2 FOR BEAM TO WALL DETAIL)

NEW CONSTRUCTION GENERAL NOTES

- 1 RE-COAT RESINOUS FLOORING AND BASE THROUGHOUT
- 2 PAINT INTERIOR AND EXTERIOR WALLS THROUGHOUT; MATCH EXISTING COLORS
- 3 PATCH FLOOR TILE AND RESINOUS FLOORING WHERE CMU AND SGT WALLS, KENNEL VALLEY SLOPES AND RESINOUS BASE WERE REMOVED
- 4 RE-POINT MORTAR AT ALL SGT WITH EPOXY GROUT (COLOR TO MATCH SGT)
- 5 NEW RESINOUS BASE IN ROOMS WITH CMU WALLS AND RESINOUS FLOORING UNLESS NOTED OTHERWISE (SEE DETAIL 80A.1.1)
- 6 THE INTENT OF THIS PROJECT IS TO MATCH EXISTING MATERIALS AND CONSTRUCTION TECHNIQUES
- 7 SEE NEW REFLECTED CEILING PLAN (20A.12)
- 8 SEE INTERIOR ELEVATIONS FOR CABINET DETAILS
- 9 PAINT EXPOSED METAL STRUCTURE AND TR
- 10 REPLACE EXISTING DUCTWORK AND TR REGISTERS (SEE SHEET 12)

MIDLAND ANIMAL SHELTER RENOVATION

1200 FAIRGROUNDS ROAD
MIDLAND, TEXAS 79701



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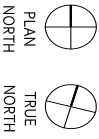
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REVISIONS

DATE ISSUED
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PROJECT NUMBER
1204

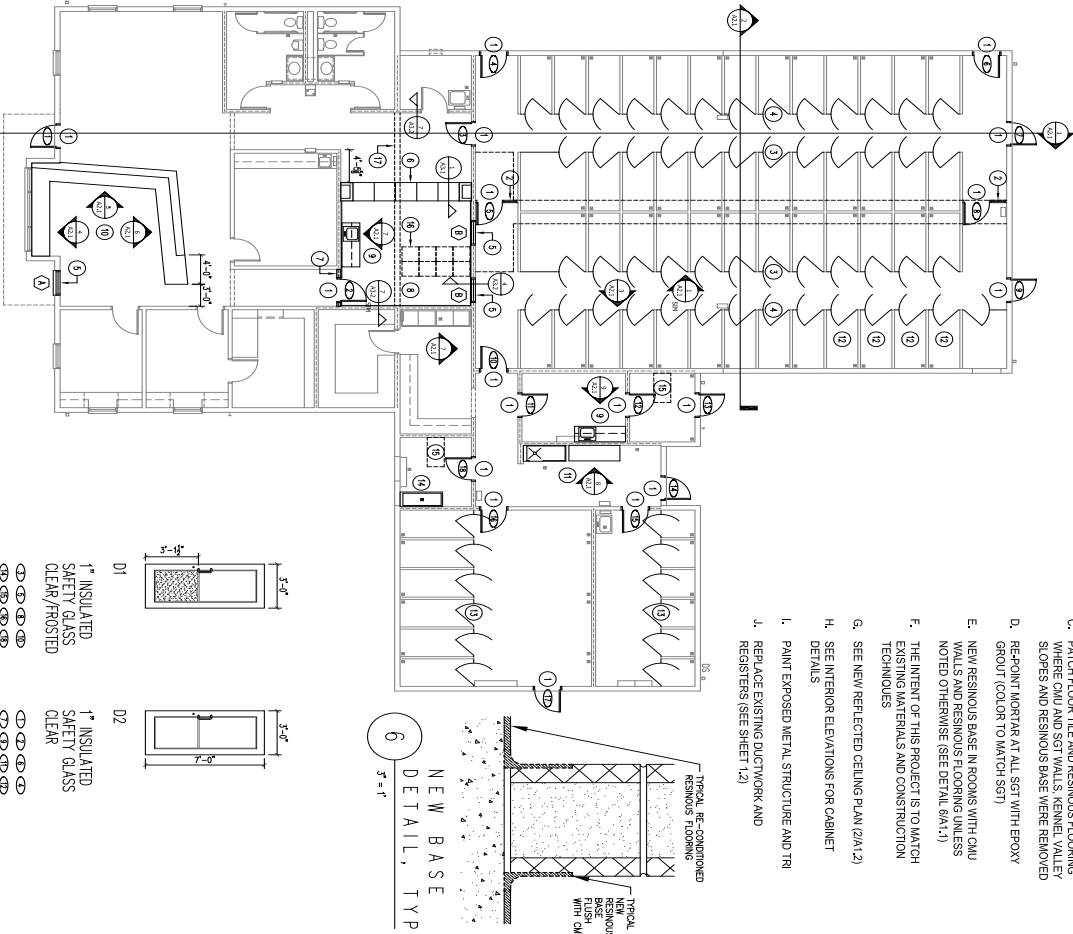
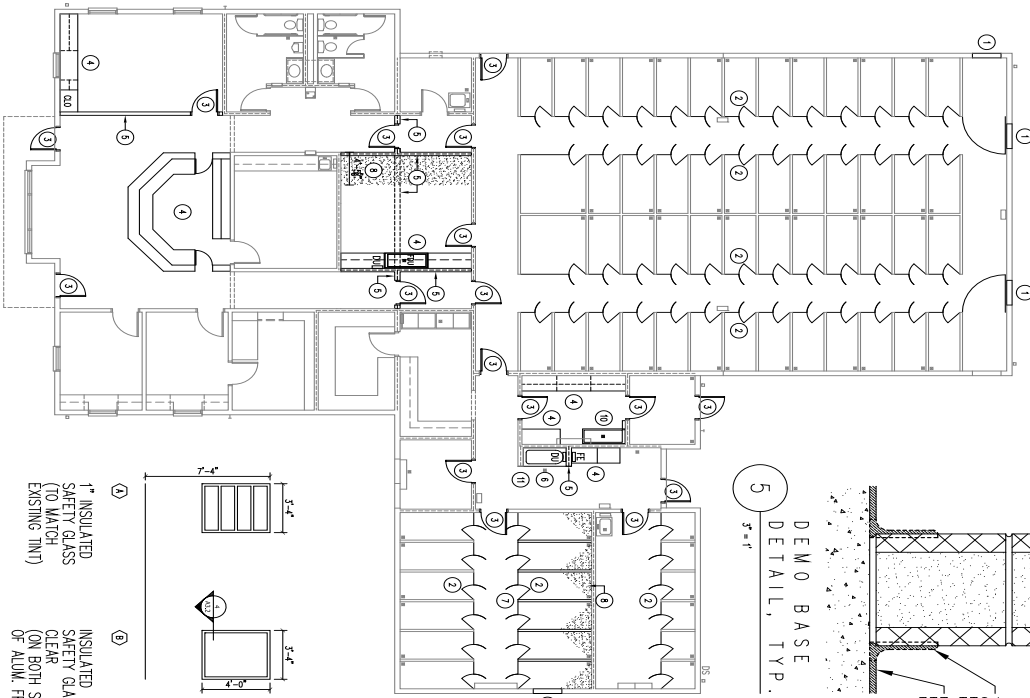
PROJECT ORIENTATION



TITLE
DEMOLITION /
NEW FLOOR PLAN

SHEET

A1.1



1
1/8" = 1'

2
1/4" = 1'

3
1/8" = 1'

4
1/4" = 1'

CONNOLLY ARCHITECTS & CONSULTANTS

SEAL



8.78

MIDLAND ANIMAL SHELTER RENOVATION

1200 FAIRGROUNDS ROAD
MIDLAND, TEXAS 79701

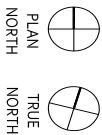
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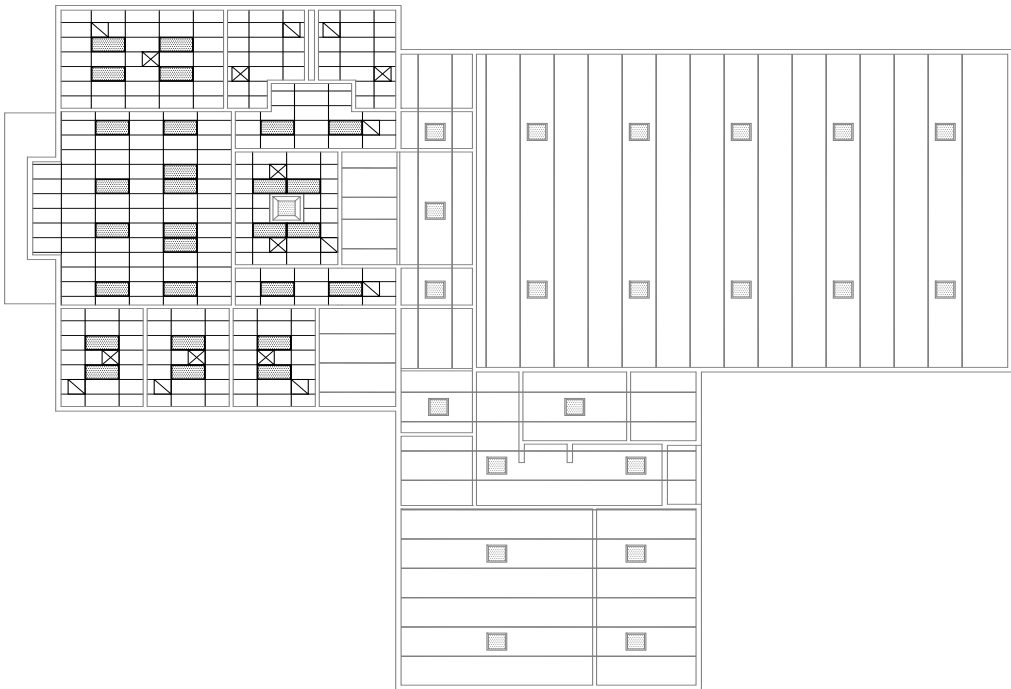


TITLE
DEMOLITION /
NEW RCP

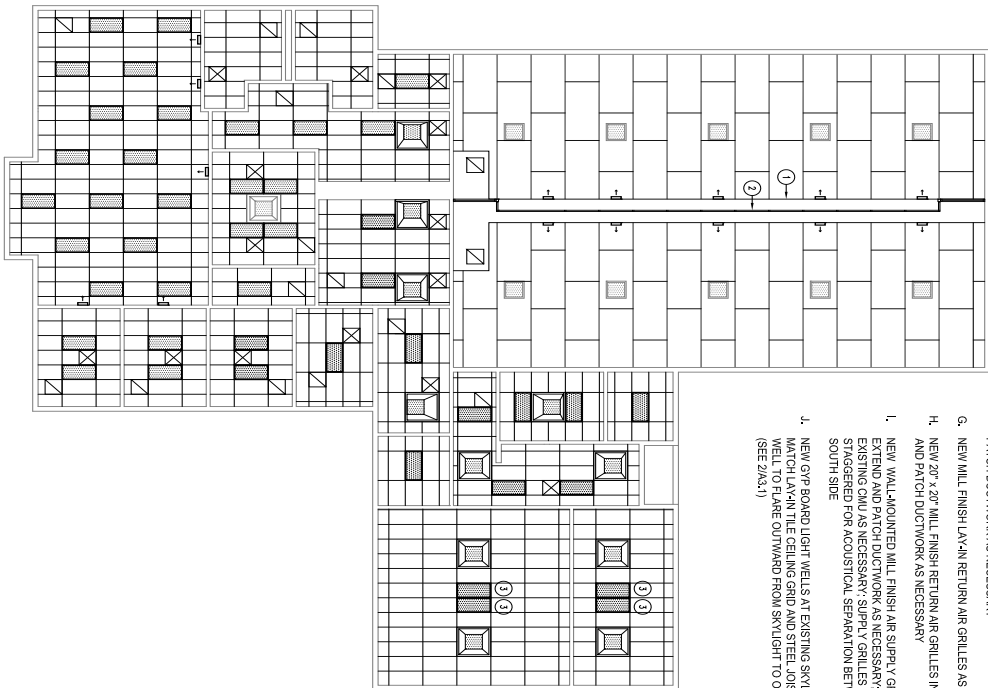
SHEET

A1.2

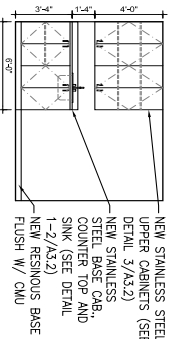
- CEILING/ELECTRICAL/MECHANICAL DEMOLITION GENERAL NOTES
- A. REMOVE AND DISCARD EXISTING:
- EXISTING GYP BOARD
 - VINYL BACK INSULATION AT DECK
 - AIR SUPPLY GRILLES
 - RETURN AIR GRILLES
 - BATT INSULATION
 - SUSPENDED FIXTURES IN NEW LAVAN TILE AREAS
- B. REMOVE EXISTING 2' x 4' LAVAN LIGHT FIXTURES AND SAVE FOR RE-USE
- C. REMOVE AND PATCH EXISTING SUPPLY AND RETURN DUCTWORK AS NECESSARY



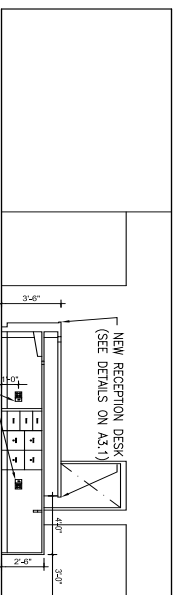
- CEILING/ELECTRICAL/MECHANICAL NEW CONSTRUCTION KEYNOTES
- ① NEW GYP ON METAL STUD FLUOR DOWN AROUND SUPPLY AND RETURN DUCTS. PATCH PANELS SEPARATE SUPPLY DUCTS TO PREVENT AIR TRANSMISSION. RETURN DUCTS TO NEW SUPPLY AND RETURN GRILLES TO OUTSIDE SURFACE OF GYP
- ② NEW GLASS PANELS FROM TOP OF EXISTING KENNEL WALL TO BOTTOM OF GYP BOARD FLUOR DOWN. SEALED CONNECTION TO STOREROOM AT EAST AND WEST ENDS
- ③ NEW LAVAN LIGHT FIXTURE, ITRONIA 2 SRT-G-324-M-H-1Z1534-WOLT-DBB108-6-0



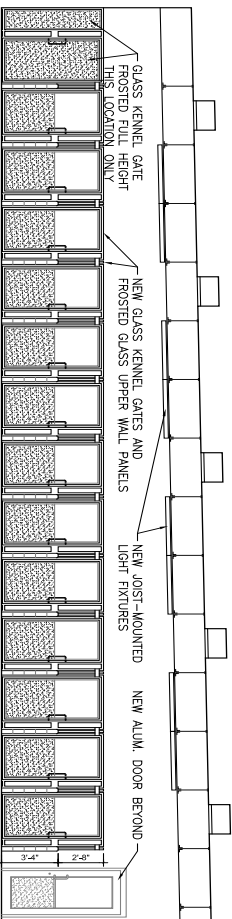
- CEILING/ELECTRICAL/MECHANICAL NEW CONSTRUCTION GENERAL NOTES
- A. REPLACE EXISTING LINED DUCTWORK WITH UNLINED DUCTWORK
- B. NEW 2' x 4' x 1" TECTUM LAVAN TILE CEILING WITH MILL FINISH GRID AS SHOWN
- C. 2' x 4' x 1" LAVAN TILE CEILINGS AT 8' - 8" A.F.F., EXCEPT IN EXPANDED LOBBY (10' - 0" A.F.F.) AND ISOLATION/QUARANTINE KENNELS (2" THICK)
- D. NEW 4' x 8' x 2" TECTUM CEILING PANELS AS SHOWN IN DOG KENNELS. TRIM CEILING PANELS FOR STUD FIT TO DECK AND TRIM AROUND STEEL JOISTS FOR SMOOTH AND STRAIGHT CEILING. THE INTENT IS TO HAVE AN EXPOSED TOLL PANEL
- E. RE-USE LAVAN LIGHT FIXTURES AS SHOWN; NEW FIXTURES AS SHOWN IN BOLD TO MATCH EXISTING FIXTURE DESIGN. NUMBER OF LAMPS AND LAMP COLOR TEMPERATURE
- F. NEW MILL FINISH LAVAN AIR SUPPLY GRILLES AS SHOWN; EXTEND AND PATCH DUCTWORK AS NECESSARY
- G. NEW MILL FINISH LAVAN RETURN AIR GRILLES AS SHOWN
- H. NEW 20' x 20' MILL FINISH RETURN AIR GRILLES IN KENNELS; EXTEND AND PATCH DUCTWORK AS NECESSARY
- I. NEW WALL-MOUNTED MILL FINISH AIR SUPPLY GRILLES AS SHOWN; EXTEND AND PATCH DUCTWORK AS NECESSARY; PATCH AND PAINT EXISTING GYP AS NECESSARY; SUPPLY GRILLES IN KENNEL ROOM STAGGERED FOR ACOUSTICAL SEPARATION BETWEEN NORTH AND SOUTH SIDE
- J. NEW GYP BOARD LIGHT WELLS AT EXISTING SKYLIGHTS AS SHOWN; MATCH LAVAN TILE CEILING GRID AND STEEL JOISTS; INTENT IS FOR WELL TO FLARE OUTWARD FROM SKYLIGHT TO OPENING IN CEILING (SEE 21A.3.1)



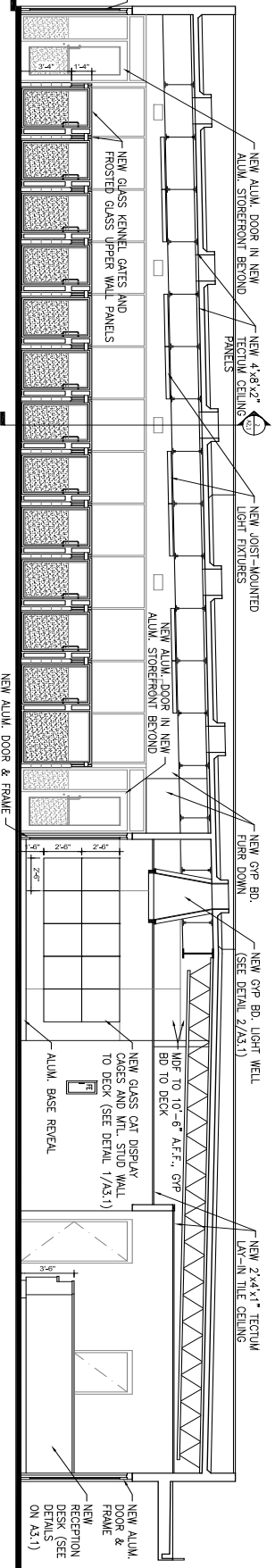
9 SOUTH ELEV. - CAT QUARANTINE
1/4" = 1'



6 EAST ELEVATION - LOBBY
1/4" = 1'



3 SOUTH ELEVATION - KENNELS
1/4" = 1'



1 EAST - WEST BUILDING SECTION
1/4" = 1'

DATE ISSUED	June 14, 2013
PROJECT NUMBER	1204
PROJECT ORIENTATION	 PLAN NORTH  TRUE NORTH
TITLE	BUILDING SECTIONS & INTERIOR ELEVATIONS

SEAL



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MIDLAND ANIMAL SHELTER RENOVATION

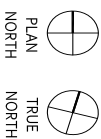
1200 FAIRGROUNDS ROAD
MIDLAND, TEXAS 79701

SITE LEGEND
REVISIONS

DATE ISSUED
June 14, 2013

PROJECT NUMBER
1204

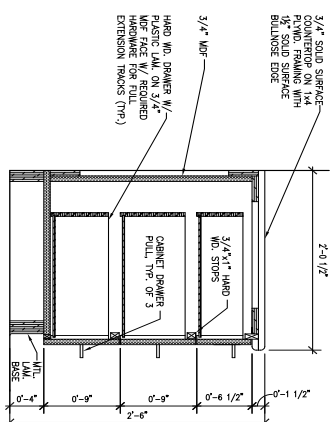
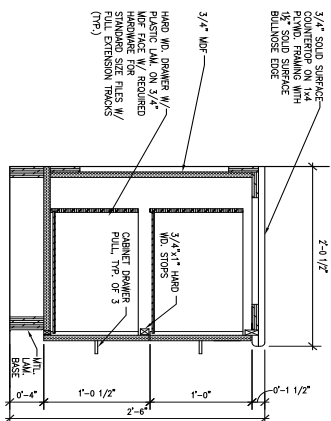
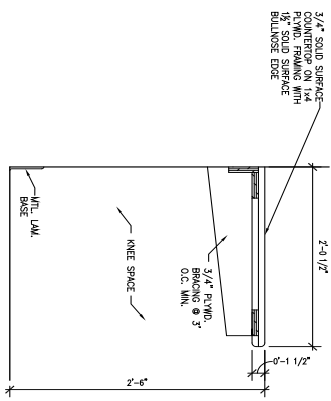
PROJECT ORIENTATION



DETAILS

SHEET

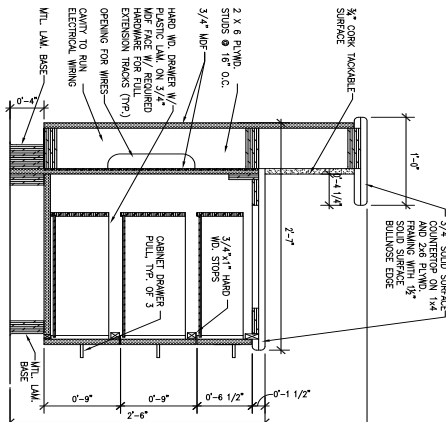
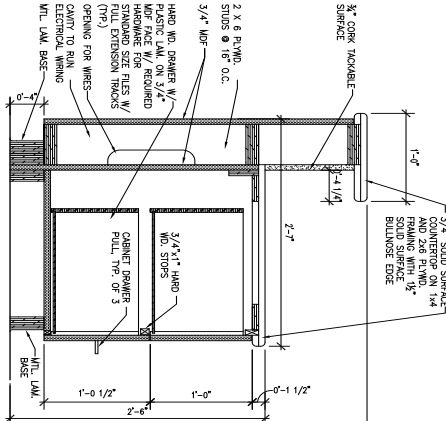
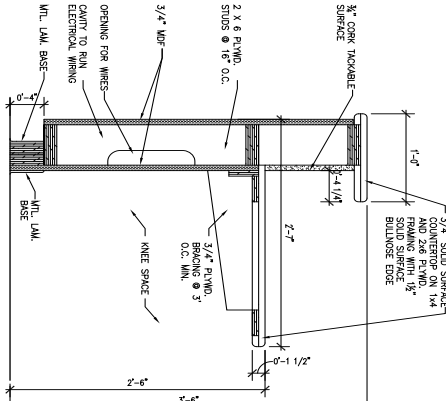
A3.1



7
1 1/2" = 1'
MDF BASE CAB.
W/ KNEE SPACE

8
1 1/2" = 1'
MDF BASE CAB.
W/ FILE DRAWERS

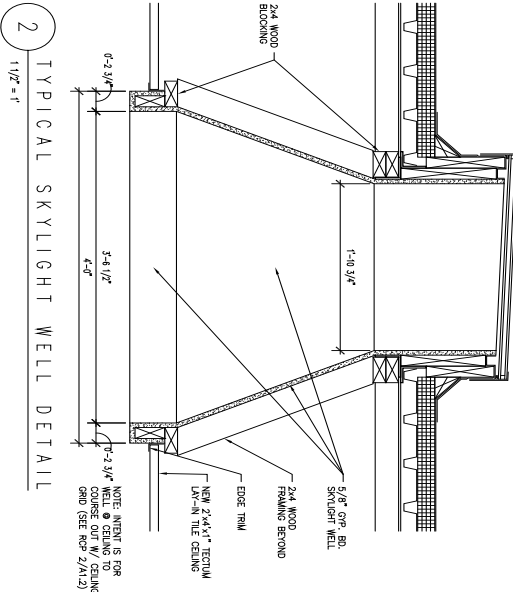
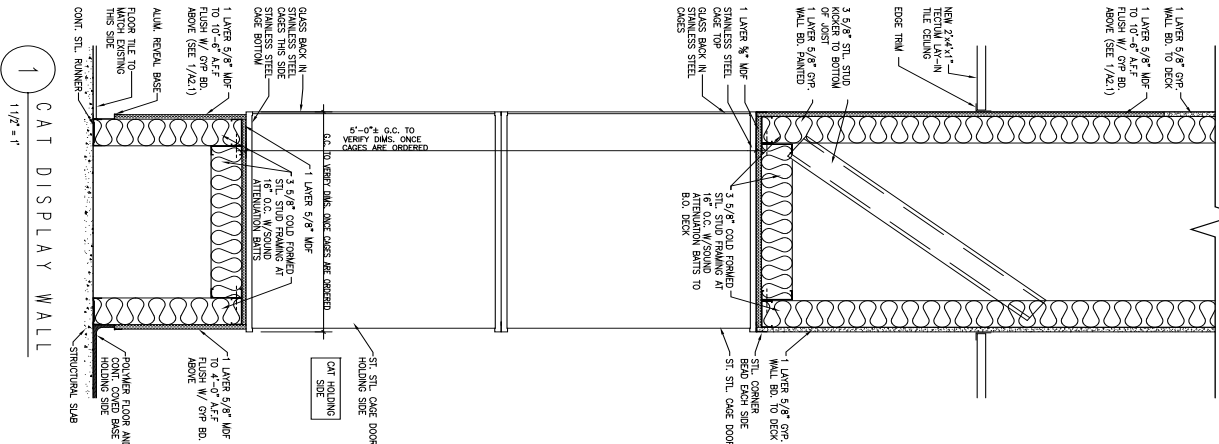
9
1 1/2" = 1'
MDF BASE CAB.
W/ 3 DRAWERS



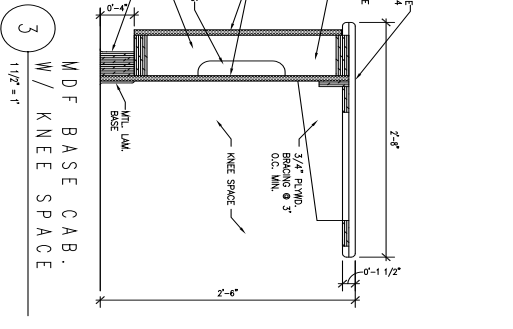
4
1 1/2" = 1'
MDF TRANSACTION
CAB. W/ KNEE SPACE

5
1 1/2" = 1'
MDF TRANSACTION
CAB. W/ FILE DRAWERS

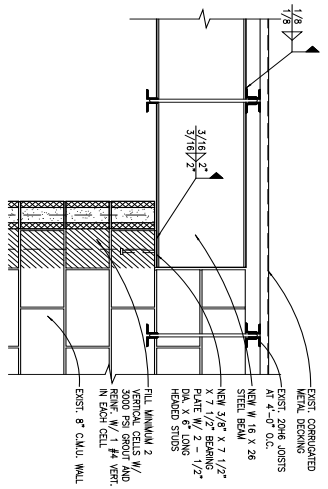
6
1 1/2" = 1'
MDF TRANSACTION
CAB. W/ 3 DRAWERS



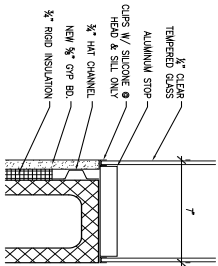
2
1 1/2" = 1'
TYPICAL SKYLIGHT WELL DETAIL



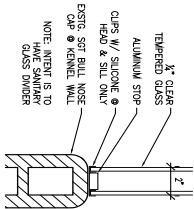
3
1 1/2" = 1'
MDF BASE CAB.
W/ KNEE SPACE



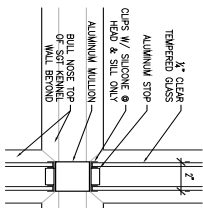
7 TYP. NEW BEAM TO WALL DETAIL
1'-0" = 1'



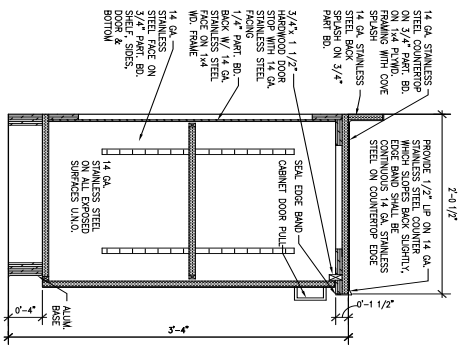
4 NEW WINDOW JAMB
(HEAD & SILL SIMILAR)
3/4" = 1'



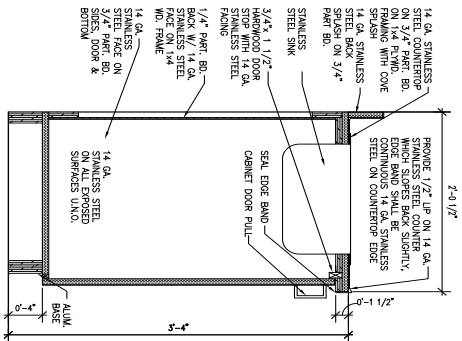
5 NEW GLASS
DIVIDER SECTION
3/4" = 1'



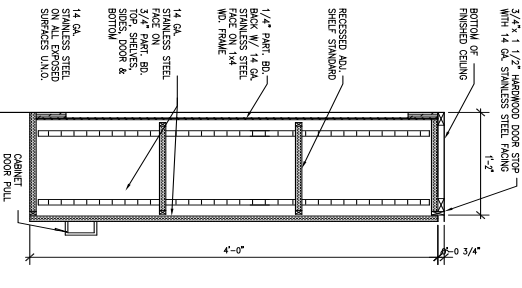
6 NEW GLASS
DIVIDER SECTION
3/4" = 1'



1 STAINLESS STEEL
BASE CABINET
1 1/2" = 1'



2 STAINLESS STEEL
BASE CAB. W/ SINK
1 1/2" = 1'



3 STAINLESS STEEL
UPPER CABINET
1 1/2" = 1'

SEAL



8.81

MIDLAND ANIMAL SHELTER RENOVATION

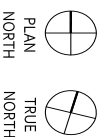
1200 FAIRGROUNDS ROAD
MIDLAND, TEXAS 79701

SITE LEGEND
REVISIONS

DATE ISSUED
June 14, 2013

PROJECT NUMBER
1204

PROJECT ORIENTATION



TITLE

DETAILS

SHEET

A3.2

EXHIBIT C

Bonding Requirements

The successful bidder shall be required to furnish a Performance & Payment Bond* for bids in excess of \$50,000.00, in an amount equal to one hundred percent (100%) of the total contract price, such bond to be executed in five (5) original counterparts by a Corporate Surety authorized to do business in the State of Texas and acceptable to the City of Midland. All bonds must be executed on forms contained in these contract documents. The form of agreement which the successful bidder, as contractor, will be required to execute is also included herewith. The form of agreement and the form of the bonds should be carefully examined by the bidder.

A certified check, cashier's check, bank money order, issued by a bank satisfactory to the Owner, or a bidder's bond on the form provided, in the amount of five percent (5%) of the largest possible lump sum bid submitted, payable without recourse to the owner, must accompany the bidder's proposal, as a guaranty that the bidder will enter a contract and execute the required payment bond and guaranty in the forms provided within fifteen (15) days after notice of award of contract to him. Bids or proposals without the required bid guaranty will not be considered. All bid sureties and payment bonds shall name the City of Midland as Obligee.

*A cash security such as a cashier's check for 100 % of the contract amount may be supplied in lieu of the Performance and Payment Bonds. The check will be returned un-cashed upon satisfactory completion of the work and evidence of payment of all obligations due for the contract.

BID BOND

THE STATE OF TEXAS §

SURETY NO. _____

COUNTY OF MIDLAND §

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(hereinafter called the Principal), as Principal, and _____

(hereinafter called the Surety), as Surety, are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of _____

_____ DOLLARS

(\$ _____), for the payment whereof the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a Bid or Proposal to enter into a certain written Contract with the obligee to _____

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully enter into such written Contract, then this obligation shall be void; otherwise to remain in full force and effect.

IT IS EXPRESSLY UNDERSTOOD AND AGREED that if said Principal should withdraw its Bid anytime after such Bid is opened and before official rejection to such Bid or, if successful in securing the award thereof, said Principal should fail to enter into the Contract and furnish satisfactory Performance Bond and Payment Bond, the Obligee, in either such events, shall be entitled and is hereby given the right to collect the full amount of this Bid Bond as liquidated damages.

PROVIDED, further that if any legal action be filed upon this Bond venue shall lie in Midland County, Texas

IN WITNESS THEREOF, THE SAID PRINCIPAL AND SURETY do sign and seal this instrument, this

_____ day of _____, 20____.

Principal

Surety

By _____

By _____

Address _____

Address _____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PAYMENT BOND

STATE OF TEXAS §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____,

of the City of _____ County of _____,
and State of _____ as Principal, and _____

_____ (hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas, a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), in the amount of _____ DOLLARS, (\$_____), for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee,
dated the _____ day of _____, 20____, to _____
_____ ,

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then this obligation shall be null and void; otherwise, it is to remain in full force and effect.

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Payment Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise affect its obligation on this

Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By_____

By_____

Address_____

Address_____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

PERFORMANCE BOND

STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

SURETY'S NO. _____

KNOW ALL MEN BY THESE PRESENTS, THAT _____

(hereinafter called the principal(s)), as principal(s), and _____

_____,
(hereinafter called the Surety(s)), as Surety(s), are held and firmly bound unto the City of Midland, Texas a home rule municipal corporation of Midland County, Texas, (hereinafter called the Obligee), the amount of _____ DOLLARS, (\$_____) for the payment whereof the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____ day of _____, 20____, to furnish and deliver the following equipment:

SPECIFICALLY including in the scope of this work and bond, the additional maintenance guaranty provisions set forth in the contract conditions, which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein, as well as the Principals primary obligation to perform according to plans and specifications.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform the work in accordance with the plans, specifications,

instructions to bidders, general and special conditions and other contract documents, including any addendums thereto, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED further that if any legal action be filed upon this Bond venue shall lie in Midland County, State of Texas.

PROVIDED further that this Performance Bond is submitted in compliance with Chapter 2253 of the Texas Government Code.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, or any assignment of the contract as may be provided for in the instructions to bidders, shall in anywise effect its obligation on this Bond, and it does waive notice of any such change, extension of time, alteration or addition to the terms of this contract, assignment thereof, or to the work to be performed thereunder.

IN WITNESS WHEREOF the said Principal and Surety have signed and sealed this instrument, this _____ day of _____, 20____.

Principal

Surety

By_____

By_____

Address_____

Address_____

APPROVED AS TO FORM:

City Attorney

NOTE: ATTACH POWER OF ATTORNEY

EXHIBIT "D"

PREVAILING WAGE RATE SCHEDULE BUILDING CONSTRUCTION TRADES as of July 24, 2009 Attorney General, General Decision TX20080297

<u>Classification</u>	<u>Rate/hr</u>	<u>Fringes</u>
Acoustical Installers	\$ 11.18	
Boilermaker	\$ 26.02	\$ 13.66
Bricklayers	\$ 18.00	
Carpenters (Including Metal Stud Installation and Drywall Hanging)	\$ 15.17	
Cement Mason/ Concrete Finisher	\$ 13.89	
Drywall Hangers	\$ 11.08	
Electrician	\$ 13.63	\$ 1.25
Elevator Mechanics	\$ 32.66	18.285+a
Forklift Operator	\$ 22.70	\$ 9.35
HVAC mechanic (set unit only)	\$ 10.00	
Ironworkers (reinforcing)	\$ 20.90	\$ 4.60
Ironworkers (structural)	\$ 10.84	
Laborers, Common or General	\$ 8.67	
Laborer, Mason Tender - Brick	\$ 9.13	
Operator, Backhoe/ Excavator	\$ 13.81	
Operator, Blade/ Grader	\$ 12.97	
Operator, Front End Loader	\$ 12.23	
Painter (Including Drywall Finishing)	\$ 15.81	\$ 4.56
Plasterer	\$ 14.00	
Plumber (Including HVAC Work)	\$ 19.20	\$ 6.55
Roofer	\$ 12.06	
Sheet Metal Worker (Including HVAC Work)	\$ 10.00	
Sprinkler Fitters	\$ 12.00	
Tile Setter	\$ 8.50	
Truck Driver	\$ 10.15	
Welders	*	

*Welders receive the rate prescribed for the craft performing the operation to which welding is incidental.

a under 5 years employment, 6% of BHR, over 5 years employment, 8%BHR.

Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Labor Day, Thanksgiving Day, The Friday after thanksgiving and Christmas Day.

Unlisted classifications needed for the work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(v)).

IMPORTANT NOTICE

Conflict Of Interest Reporting Requirements

Compliance with Local Government Code, Title 5. Matters Affecting Public Officers and Employees, Subtitle C. Matters Affecting Public Officers and Employees of More Than One Type of Local Government, Chapter 176. Disclosure of Certain Relationships with Local Government Officers; Providing Public Access to Certain Information.

Bidders are responsible for filing Conflict of Interest form "CIQ" in accordance with the above referenced statute. Failure to do so is a class C Misdemeanor. Contracts or Purchase Orders awarded to a vendor that has violated this law is subject to termination at such time that the violation is discovered with no recourse to the City of Midland. The bidder will be subsequently removed from the bidders list for a minimum of one year.

When there is no known conflict of interest as defined by the statute, it is not necessary to file/submit the Form CIQ. The form must be submitted if a conflict is subsequently discovered.

By submitting a response to this request, vendor represents that it complies with the requirements of Chapter 176 of the Texas Local Government Code.

More information, additional forms, instructions and FAQs are available at: <http://www.ci.midland.tx.us/Purchasing/HB914.htm> and click the appropriate link.

A copy of the form is attached. A fill-in version is available from the above web-site.

For a current list of the City Elected Officials go to: <http://www.ci.midland.tx.us> and choose City Government from the left side bar, then click Mayor and Council.

For a current list of the City Management Staff go to: <http://www.ci.midland.tx.us> and choose City Government from the left side bar, then click City Manager's Office.

If you have previously submitted a form, it is NOT necessary to send another, unless the status has changed. If submitting due to change in previous status, please note change in status on the front of the form.

Upon completion of the form, sign and submit with bid or mail to:

City of Midland

Attn: City Secretary

P. O. Box 1152

Midland, Texas 79702

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire is being filed in accordance with chapter 176 of the Local Government Code by a person doing business with the governmental entity.

By law this questionnaire must be filed with the records administrator of the local government not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. See Section 176.006, Local Government Code.

A person commits an offense if the person violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of person doing business with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than September 1 of the year for which an activity described in Section 176.006(a), Local Government Code, is pending and not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 Name each employee or contractor of the local governmental entity who makes recommendations to a local government officer of the governmental entity with respect to expenditures of money AND describe the affiliation or business relationship.

4 Name each local government officer who appoints or employs local government officers of the governmental entity for which this questionnaire is filed AND describe the affiliation or business relationship.

CITY OF MIDLAND

**Consideration of Location of Bidder's Principal Place of Business
For Bids of \$50,000 up to \$100,000 for Services and \$500,000 for Commodities**

Affidavit of Eligibility

Pursuant to Texas Local Government Code 271.9051, in purchasing real property, personal property that is not affixed to real property, or services, if the City receives one or more bids from a bidder whose principal place of business is in the City of Midland and whose bid is within five percent (5%) of the lowest bid price received by the City from a bidder who is not a resident of the City of Midland, the City may enter into a contract with:

- (1) the lowest bidder; or
- (2) the bidder whose principal place of business is in the City of Midland if the City Council determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City of Midland created by the contract award, including the employment of residents of the City of Midland and increased tax revenues to the City of Midland.

In order to receive consideration, bidders must submit this affidavit to:

Regina Stephenson
Purchasing Manager
City of Midland
300 N. Loraine St.,
PO BOX 1152
Midland, TX 79702-1152

Complete all areas below. Incomplete affidavits may be rejected.

Local Business Name: _____

Local Address (must be within the City limits): _____

1. Is the above address the principal place of business for the business named above? ☐ Yes ☐ No
2. How many residents of the City of Midland are employed at the above business location? _____
3. Year your business was established in the City of Midland: _____
4. If you collect sales tax for ANY class of customer, provide the following Reseller information:

Reseller Permit Number: _____

Company Name and Address (as it appears on permit):

5. Does your business have more than one office in the State of Texas? ☐ Yes ☐ No
If Yes, identify the office location considered as the point-of sale for the purpose of sales tax calculation:

6. Was the local business required to pay business and/or real property tax for the most recent tax year?

☐ Yes ☐ No

If Yes, did the local business pay any of this tax to the City of Midland? ☐ Yes ☐ No

Under penalty of perjury, the undersigned states that the foregoing statements are true and correct. It is further acknowledged that any person, firm, corporation or entity intentionally submitting false information to the City in an attempt to qualify for eligibility shall be prohibited from bidding on City of Midland products and services for a period of one (1) year.

Authorized Signature: _____ Date: _____

Printed Name and Title: _____

CERTIFICATE OF INSURANCE:

PRODUCER INSURANCE COMPANY PHONE	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE APPROVED BY THE POLICIES BELOW.
INSURED	COMPANIES AFFORDING COVERAGE
VENDOR COMPANY	COMPANY LETTER A COMPANY NAME COMPANY LETTER B COMPANY LETTER C COMPANY LETTER D COMPANY LETTER E

>COVERAGES*****

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF THE CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL TERMS, EXCLUSIONS, AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF DATE (MM/DD/YY)	POLICY EXP DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY ☐ COMMERCIAL GEN LIABILITY ☐ CLAIMS MADE ☒ OCC. ☐ OWNER'S & CONTRACTOR'S PROTECTIVE PROTECTIVE ☐ ☐	ABC123456789	00/00/00	00/00/00	GENERAL AGGREGATE 1000000* PROD-COMP/OP AGG. 1000000* PERS. & ADV. INJURY 500000* EACH OCCURRENCE 500000* FIRE DAMAGE 50000* [ANY ONE FIRE] MED. EXPENSE 5000* [ANY ONE PERSON] COMB. SINGLE LIMIT 250000*
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS ☐ GARAGE LIABILITY	ABC123456789	00/00/00	00/00/00	BODILY INJURY [EACH PERSON] BODILY INJURY [PER ACCIDENT] PROPERTY DAMAGE EACH OCCURRENCE AGGREGATE
	EXCESS LIABILITY ☐ UMBRELLA FORM ☐ OTHER THAN UMBRELLA FORM				
A	WORKERS' COMP AND EMPLOYERS' LIAB	ABC123456789		00/00/00	{STATUTORY LIMITS} EACH ACCIDENT 100000* DISEASE-POL. LIMITS 500000* DISEASE-EACH EMP. 100000*
A		ABC123456789		00/00/00	
	OTHER				

DESCRIPTION OF OPERATIONS / LOCATIONS/ VEHICLES/ SPECIAL ITEMS

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

> CERTIFICATE HOLDER <*****> CERTIFICATE HOLDER <*****>

City of Midland
 P.O. BOX 1152
 MIDLAND, TX
 79702-1152

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE

-----ACORD 25-S (2001/08) *Insurance limits should be adjusted to the amounts required by the attached contract.-----

NOTE: The wording under "Description of Operations", must appear exactly as shown above. Otherwise it will be rejected and contract execution will be delayed until a properly worded certificate is received.

NOTICE TO BIDDERS

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 ABOVE REQUIREMENTS, 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.

ANY VENDOR WHO FAILS TO COMPLY WITH THE TERMS OF THE AWARD MAY BE DECLARED AN IRRESPONSIBLE VENDOR. BIDS SUBMITTED BY SAID VENDOR SHALL NOT BE CONSIDERED AGAIN FOR A MINIMUM PERIOD OF SIX MONTHS AS DETERMINED BY THE CITY MANAGER, OR DIRECTOR OF GENERAL SERVICES.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: David D. Beard, P.E.

SUBJECT: Consider a resolution to amend the Public Improvement Development Agreement with Playa Del Pueblo Ltd. by authorizing the additional allocation of funds in the amount of \$88,461. The site is generally located on the north side of I-20 approximately 300' east of Terrell Street. Said agreement being authorized by Section 395.081 of the Texas Local Government Code.

Purpose:

Consider a resolution to amend the Public Improvement Development Agreement with Playa Del Pueblo Ltd. by authorizing the additional allocation of funds in the amount of \$88,461. The site is generally located on the north side of I-20 approximately 300' east of Terrell Street. Said agreement being authorized by Section 395.081 of the Texas Local Government Code.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Original Allocation	\$265,558
Additional Allocation (WW Bore under I-20)	<u>\$88,461</u>
Total	\$354,019

That the sum of \$88,461 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Playa del Pueblo Wastewater Main Extension Project (9000).

Discussion:

The Playa Del Pueblo site is located on the north side of I-20 approximately 300' east of Terrell Street. Wastewater improvements include the installation of a new wastewater main along the north frontage of I-20 and a bore under I-20 to connect to the existing 36" wastewater main on the south side of I-20. Once constructed, the new main allow development of currently unserved area north of the interstate in the vicinity of Lamesa Road.

Due to unforeseen site conditions in the boring process, the contractor had to increase the size of the bore and casing. As a result, the developer has incurred additional expenses to complete the project and is requesting an increase in the original allocation of the Development Agreement in the amount of \$88,461.

Staff recommends approval of the additional allocation of funds. Attached is the request and justification from the developer along with a location map.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF AN ADDENDUM TO THE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PLAYA DEL PUEBLO, LTD. FOR DEVELOPMENT OF PLAY DEL PUEBLO ADDITION; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$88,461 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

WHEREAS, the City Council, by Resolution No. 2012-269, passed August 28, 2012, authorized the execution of a public improvement development agreement with Playa Del Pueblo, Ltd., which set forth the extent of the City's participation in the construction of public improvements related to the development of Playa Del Pueblo Addition; and

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of an addendum to said agreement and to appropriate funds therefor;

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

SECTION ONE. That the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, an addendum to the public improvement development agreement with Playa Del Pueblo, Ltd. Said addendum is marked as Exhibit "A", attached hereto and incorporated herein for all purposes.

SECTION TWO. That the sum of \$88,461.00 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Playa Del Pueblo Wastewater Main Extension Project (9029).

SECTION THREE. That the City Treasurer is hereby authorized and directed to pay Playa Del Pueblo, Ltd. pursuant to the terms of said addendum, in amount not to exceed \$88,461.00, from funds available in the said 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., 2009, 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 CONTENT
AND COMPLETENESS:

Jose Ortiz, Engineering Services Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

**ADDENDUM TO THE PUBLIC IMPROVEMENT DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND
PLAYA DEL PUEBLO, LTD.**

THIS ADDENDUM is made and effective July 10, 2013, by and between the City of Midland, Texas ("City"), a home-rule municipal corporation, and Playa Del Pueblo, Ltd. ("Developer").

WHEREAS, the City and Developer entered into that certain Public Improvement Development Agreement dated August 29, 2012 (the "Agreement") regarding the development of the property described as Playa Del Pueblo Addition, City and County of Midland, Texas; and

WHEREAS, the Agreement has been in full force and effect since its effective date, and has not been allowed to lapse; and

WHEREAS, the City and Developer desire to make certain amendments to said Agreement as shown below;

W I T N E S S E T H:

For and in consideration of the execution of this Addendum and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

ARTICLE I.

The City agrees to participate in the funding of the construction of the public improvements set forth in Exhibit "A", attached hereto and incorporated herein by reference, said amount to be no more than \$88,461.00. In no case shall the City's contributions to the public improvements required to be constructed on the Property exceed 30 percent of the actual cost of all the public improvements associated with the development without Developer complying with the applicable competitive sealed bid procedures set forth in state law and the ordinances and regulations of the City of Midland, Texas. If the City's contribution for public improvements for any contract exceeds 30 percent of the total cost of all public improvements associated with such contract and such public improvements were constructed without complying with said applicable competitive sealed bid procedures, then the City's maximum contribution under this Agreement for such phase shall not exceed 30 percent of the actual cost of all public improvements associated with the particular contract.

ARTICLE II.

The Agreement, inclusive of this Addendum, is hereby ratified and affirmed by the City and Developer, and the Agreement shall in all respects remain in full force and effect in accordance with its provisions and as amended above.

EXECUTED by the duly authorized officials as of the day and year first above written.

CITY OF MIDLAND

By: _____
Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

PLAYA DEL PUEBLO, LTD.

By: _____
David Diaz, Executive Director

THE STATE OF TEXAS §
 §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, on this day personally appeared DAVID DIAZ, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged that he executed and delivered the foregoing instrument for the purposes and consideration therein expressed on behalf of PLAYA DEL PUEBLO, LTD., in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this _____ day of _____, 2013.

Notary Public, State of _____



P.O. Box 91958 Albuquerque, NM 87199-1958

PROJECT NAME: Playa Del Pueblo Offsite Water and Sewer Improvements
SUMMARY FOR: Cost breakdown for rock encountered under Interstate 20

SCOPE: Three weeks @ 50 hours / week labor, equipment & material to remove and reinstall 90' of 30" casing. Delayed production to drill through mixed soils for the remaining 178'

LABOR:	Classification	# Persons	Rate	Hrs	Total
	Super indent	1	\$50.00	150.0	\$7,500.00
	Foreman	1	\$22.00	120.0	\$2,640.00
	Foreman OT	1	\$33.00	30.0	\$990.00
	Operator	1	\$18.00	120.0	\$2,160.00
	Operator OT	1	\$27.00	30.0	\$810.00
	Labor	1	\$15.00	120.0	\$1,800.00
	Labor OT	1	\$22.50	30.0	\$675.00

SUBTOTAL LABOR WAGES \$16,575.00
 MARKUP ON LABOR COSTS FOR PROJECT O/H & PROFIT - 10% \$1,657.50
 LABOR BURDEN (35% OF LABOR COSTS) \$5,801.25
 BOND (1% OF LABOR COSTS) \$0.00

EQUIP:

TOTAL LABOR \$24,033.75

Classification	# Equip.	Rate	Hrs	Total
JD 240 Excavator	1	\$47.00	120.0	\$5,640.00
36/600 AA Boring Unit	1	\$51.39	120.0	\$6,166.80
260' 30" Auger	1	\$15.03	120.0	\$1,803.60
Service Trucks	2	\$35.50	120.0	\$8,520.00
30" Robbins Head	1	\$122.00	120.0	\$14,640.00

- EQUIPMENT \$36,770.40
 MARKUP (10%) \$3,677.04

TOTAL EQUIPMENT \$40,447.44

Supplies	Classification	Quantity	Rate	Total
	Disc Cutters	9	\$1,200.00	\$10,800.00
	Fuel	500	\$4.00	\$2,000.00
				\$0.00

SUBTOTAL - Rental Equipment \$12,800.00
 MARKUP (10%) \$1,280.00

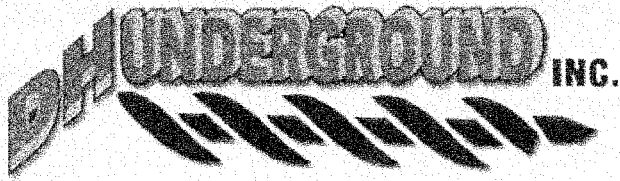
TOTAL MATERIALS \$14,080.00

Item	Quantity	Unit	Unit Cost	Total
Per diem	3	12	\$250.00	\$9,000.00
	0	0	\$0.00	\$0.00
	0		\$0.00	\$0.00
	0		\$0.00	\$0.00

SUBTOTAL - SUBCONTRACTORS \$9,000.00
 MARKUP (10%) \$900.00

TOTAL Material \$9,900.00

TOTAL - ALL ITEMS \$88,461.19



P.O. Box 93958 Albuquerque, NM 87199-1958

PROJECT NAME: Playa Del Pueblo Offsite Water and Sewer Improvements
SUMMARY FOR: Cost breakdown for rock encountered under Interstate 20

SCOPE: Three weeks @ 50 hours / week labor, equipment & material to remove and reinstall 90' of 30" casing. Delayed production to drill through mixed soils for the remaining 178'

LABOR:

Classification	# Persons	Rate	Hrs	Total
Super indent	1	\$50.00	150.0	\$7,500.00
Foreman	1	\$22.00	120.0	\$2,640.00
Foreman OT	1	\$33.00	30.0	\$990.00
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SUBTOTAL LABOR WAGES \$16,575.00
 MARKUP ON LABOR COSTS FOR PROJECT O/H & PROFIT - 10% \$1,657.50
 LABOR BURDEN (35% OF LABOR COSTS) \$5,801.25
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- EQUIPMENT \$36,770.40
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Supplies

Classification	Quantity	Rate		Total
Disc Cutters	9	\$1,200.00	-	\$10,800.00
Fuel	500	\$4.00	-	\$2,000.00
				\$0.00

SUBTOTAL - Rental Equipment \$12,800.00
 MARKUP (10%) \$1,280.00

TOTAL MATERIALS \$14,080.00

Item	Quantity	Unit	Unit Cost	Total
Perdiem	3	12	\$250.00	\$9,000.00
	0	0	\$0.00	\$0.00
	0		\$0.00	\$0.00
	0		\$0.00	\$0.00

SUBTOTAL - SUBCONTRACTORS \$9,000.00
 MARKUP (10%) \$900.00

TOTAL Material \$9,900.00

TOTAL - ALL ITEMS \$88,461.19

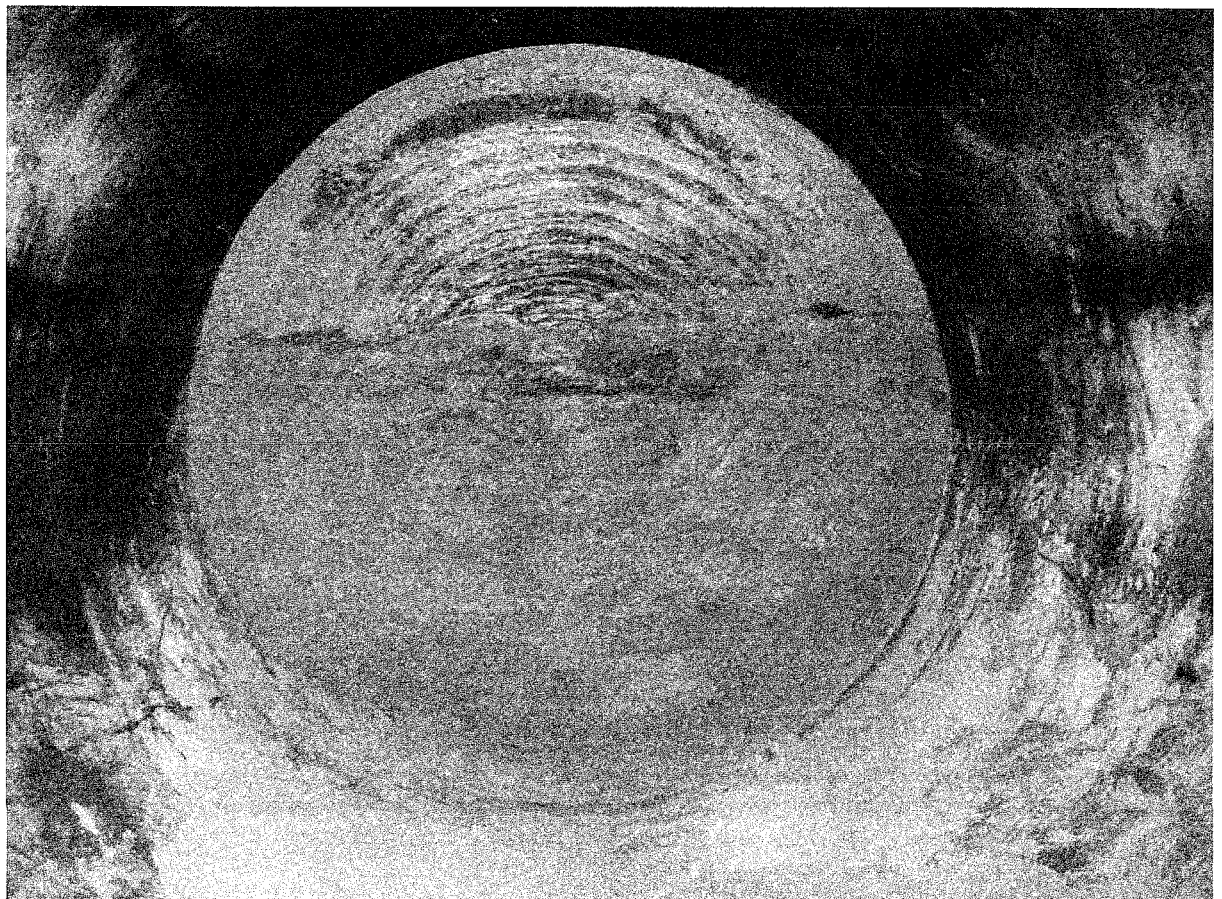


P.O. Box 91956 Albuquerque, NM 87199-1958

The Plans call for a 24" steel casing to be installed. Because of our experience in the area we increased the casing to a 30" to allow the use of an American Augers Rock cutting head. This is a steerable head designed to cut solid rock up to 5000 psi.

The job was bid based on knowledge we have of the area and the information in the soils report and boring taken 1300 feet to the west of the crossing location. The Log of boring shows Tan Caliche with penetration of 5" in 50 blows in our experience this material will not exceed 4000 psi. I have attached a copy of the Log of Boring. Therefore, using an auger boring method with an American Augers Heavy Duty Christmas Tree Rock Head designed to cut up to 5,000 psi rock with a steering head would not be an issue according to the soil report.

DH Underground Inc. mobilized on this project on 4/4/13. The job was bid to install 40' per 10 hour day. During the first two days of drilling we were able to penetrate the Tan Caliche Rock at 4 lf per hour. At 80 feet in we have now encountered rock much harder than 5,000 psi. This rock is at the top 1/3 of the casing and Tan Caliche in the bottom 2/3 of the casing. Please see picture below.



The rock shown above slowed production to 10 lf in 4 days. At the end of 4 days the cutting arm on the x-mas tree head was no longer cutting the rock, we removed the auger and cutting head and sent a camera in the casing to see if we could find the problem. Please see the picture above. We are no longer able to cut the rock with the current method. The rock encountered is destroying the cutting head designed for 5000 psi rock.

To the best of our knowledge the rock we have encountered is in the range of 10,000 -12,000 psi material. In order to cut through boulders this hard we will need to remove the 90' of 30" casing and the steering head and reinstall the casing with the Robbins Small Boring Unit (SBU). The SBU is welded to outside of the casing requiring the removal of the existing casing. The SBU is designed to cut up 20,000 psi rock, although it is not a steerable head and due to the very difficult mixed soil of boulders and dirt and caliche we are still a concerned with maintaining line and grade. Because the first 90' is on line and grade and there is room for adjustment inside the 30" casing, there is room to adjust the 12" line where it ties into the existing 36" sewer main. There is a good chance we will have a useable product, but there is also a risk of the bore ending up off the designed line and grade.

DH Underground has a long history of boring all over the southern United States in a variety of conditions. Some of the recent tunnels we have completed within the southern United States and in the Permian Basin Area include:

Colorado River Municipal Water District Ward County North Well Field Pipeline Project
Wickett, Texas 250' of 48" installed with AA Christmas Tree Head.

Union Pacific Rail Road Toyah Subdivision Siding Iatan, Texas- 200' of 48" installed with AA Christmas Tree Head.

Intrepid Pot Ash Mine – Intrepid HB Solar Solution Mine Project , between Carlsbad ,NM & Hobbs, NM –four bores totaling 1,500' of 30" installed with AA Christmas Tree Head

Union Pacific Rail Road Toyah Subdivision Service Order No. 51363 Monahans, Odessa, Midland in Ector County Texas - 300' of 48", 380' of 36" all installed with AA Christmas Tree Head.

City of Odessa U.P.R.R Waterline Crossing – 150' of 24" installed with AA Christmas Tree Head.

SAS bore Panda Express Midland, TX 60' of 16" installed with AA Christmas Tree Head.

Albuquerque, Bernalillo County Water Utility Authority, Carnuel MDW & WWCA Phase I Water Improvements – 600' of 30" installed in 20,000 psi Granite with Robbins SBU Head

Pueblo of Laguna Sewer and Water System Replacement Project – 500' of 30" installed with AA Christmas Tree Head and Robbins SBU Head at two different locations in Laguna, NM

The change request sent is based on six days to remove & reinstall the casing to 90' and nine days to install the remaining 178' of 30" casing with the SBU cutting head, for a total of three additional weeks.

Please feel free to contact me with any questions or concerns.

John Theiler
DH Underground, Inc
Phone:(505) 220-0115
Fax: (505) 877-4434

DEPTH FEET	SYMBOL	SAMPLE	TEST	MATERIAL DESCRIPTION	U D W p c f	U C t s f	M C	L L	P I	% - 2 0 0	S O I L	C L A S S
			4.5	Brown SANDY LEAN CLAY								
5			50	= 1"								
			95									
10			50	Tan CALICHE (some rock-like) = 5"			19.2	NP	NP	86.8	ML	
15			50	= 5"								
				Total Depth of Boring = 15.0 Feet								
20												
25												
30												
35												
40												

Groundwater Note: The boring was advanced to a depth of 15.0 feet below the ground surface without using drilling fluid and groundwater was not encountered above that depth.

LOG OF BORING	Project No. 6691111	Date:	Type:	BORING NO. B-5
	Playa del Pueblo Midland, Texas	11-22-2011	Auger	

SUMMARY OF SOIL CLASSIFICATION TEST RESULTS

<i>Boring Number</i>	<i>Depth in Feet</i>	<i>Liquid Limit %</i>	<i>Plasticity Index %</i>	<i>% Passing 200-mesh Sieve</i>	<i>Natural Moisture Content %</i>	<i>Classification</i>	<i>Material Description</i>
B-1	5.0-6.5	NP*	NP*	63.5	11.4	SM	Tan CALICHE
B-2	9.0-10.5	NP*	NP*	78.3	17.4	ML	Tan CALICHE
B-3	5.0-6.5	NP*	NP*	63.9	18.7	ML	Tan CALICHE
B-4	0-1.5	29	12	63.3	8.3	CL	Brown SANDY LEAN CLAY
B-4	13.0-14.5	NP*	NP*	60.5	14.2	CL-ML	Tan CALICHE
B-5	9.0-10.5	NP*	NP*	86.8	19.2	ML	Tan CALICHE
B-6	2.5-4.0	34	17	62.0	9.2	CL	Brown SANDY LEAN CLAY
B-6	13.0-14.5	NP*	NP*	65.0	10.9	ML	Tan CALICHE
B-7	1.5-2.5	32	12	41.4	6.2	GC	Brown SANDY LEAN CLAY w/Calcareous Particles
B-8	5.0-6.5	NP*	NP*	44.5	9.5	SM	Tan CALICHE
B-9	2.5-4.0	NP*	NP*	30.9	5.0	SM	Tan CALICHE
B-9	5.0-6.5	NP*	NP*	39.1	4.7	SM	Tan CALICHE
*Non-plastic							
TEST RESULTS		Project No. 6691111				PLATE II	
		Playa del Pueblo Midland, Texas					

ENGINEERING DIVISION

Playa Del Pueblo

Development Agreement

Playa Del
Pueblo

12" Water Main

12" Wastewater Main

Lamesa Rd

I-20

Existing 36" Wastewater Main

N



Map by DDB 07/15/2012



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Price Robinson, Police Chief

SUBJECT: Approve a resolution to accept a modification to the FY2013 grant award in the amount of \$75,816 from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program and appropriate funds

Purpose:

Approve a resolution to accept a modification to the FY2013 grant award in the amount of \$75,816 from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program and appropriate funds

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

No fiscal impact on the City of Midland

That the modification to the Fiscal Year 2013 H.I.D.T.A. grant in the amount of \$75,816 is hereby accepted and directed to be deposited into the General Fund (001) of the City, and;
That the sum of \$75,816 is hereby appropriated from to the General Fund (001) Unappropriated Fund Balance (5650) to the FY'2013 H.I.D.T.A. Grant Project (7107)

Discussion:

The purpose of the High Intensity Drug Trafficking Area (HIDTA) program, as authorized by the Anti-Drug Act of 1988, is to enhance and coordinate drug control efforts among federal, state, and local law enforcement agencies. The program provides agencies with resources in the way of technology, equipment, and funding in order to better combat drug trafficking. The Midland Police Department has been part of the West Texas Region of the Southwest Border HIDTA since August 2008.

RESOLUTION NO.

RESOLUTION ACCEPTING A MODIFICATION TO THE FISCAL YEAR 2013 GRANT AWARD FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF \$75,816.00; THESE FUNDS WILL BE DIRECTED TO THE FISCAL YEAR 2013 HIGH INTENSITY DRUG TRAFFICKING AREAS GRANT PROJECT 7107; AND APPROPRIATING FUNDS

WHEREAS, the City of Midland, Texas, has received a modification to the Fiscal Year 2013 grant award from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) program to enhance and coordinate drug control efforts among federal, state, and local law enforcement agencies; and

WHEREAS, the Southwest Border HIDTA program provides agencies with resources in the way of technology, equipment, and funding in order to better combat drug trafficking; and

WHEREAS, the modification to the Fiscal Year 2013 grant award in the amount of \$75,816.00 from the Southwest Border HIDTA program will be directed to the Fiscal Year 2013 HIDTA Grant Project 7107; and

WHEREAS, the City Council finds it to be in the public interest to accept said grant award;

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

SECTION ONE. That the City of Midland, Texas, acting through its Mayor and City Council, hereby accepts the modification to the Fiscal Year 2013 Southwest Border HIDTA program grant award in the amount of \$75,816.00 to be used for the purpose of enhancing and coordinating drug control efforts among federal, state, and local law enforcement agencies to better combat drug trafficking.

SECTION TWO. That the Mayor, Director of Finance and Chief of Police of the City of Midland, Texas, are hereby authorized and directed to evidence the City of Midland's acceptance by executing all necessary documents in order to accept said grant funds.

SECTION THREE. That the modification to the Fiscal Year 2013 H.I.D.T.A. grant in the amount of \$75,816 is hereby accepted and directed to be deposited into the General Fund (001) of the City, and; that the sum of \$75,816 is hereby appropriated from the General Fund (001) Unappropriated Fund Balance (5650) to the FY'2013 H.I.D.T.A. Grant Project (7107).

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., 2013, 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 CONTENT
AND COMPLETENESS:

Price Robinson, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
CSharp
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Price Robinson, Chief of Police

SUBJECT: Requesting approval to apply for the FY 2013 Justice Assistance Grant (JAG) Program

Purpose:

Requesting approval to apply for the FY 2013 Justice Assistance Grant (JAG) Program

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

City of Midland will receive \$17,732.00 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 \$29,554.00 through the 2013 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 \$17,732.00 (60%) and Midland County will receive \$11,822.00 (40%).

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2013 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$29,554.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$17,732.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$11,822.00 (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 \$29,554.00 through the FY2013 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 \$29,554.00 in grant funds will be divided so that the City of Midland will receive \$17,732.00 (60%) and Midland County will receive \$11,822.00 (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 \$17,732.00 (60%) and Midland County will receive \$11,822.00 (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 \$17,732.00 (60%) and Midland County will receive \$11,822.00 (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 FY2013 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 FY2013 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., 2013, 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 CONTENT
AND COMPLETENESS:

Price Robinson, Police Chief

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Holly McGrath Rosas, Assistant Director of Utilities

SUBJECT: Consider a Resolution Approving Change Order Number 3 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 3 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 \$22,660.56 from the Water and Sewer Fund. That the sum of \$22,670 is hereby appropriated from the Water and Sewer Fund (300) Unappropriated Fund Balance (5650) to the Influent Screens Replacement Project (8966)

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. On May 22, 2012, Change Order Number 1 was approved in the amount of \$503,002. On November 27, 2012 Change Order Number 2 was approved in the amount of \$325,553. 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. Inspection for manhole to determine cause of irregular flow patterns: Within a few weeks of installing a new flow meter in Manhole B (which measures the amount of influent that enters the WPCP via the Airport line), flow measurements become erratic and started to fluctuate greatly. The company that provided and installed the unit made numerous trips to recalibrate the device. The consensus with the contractor, engineer, City and subcontractor was that some unknown object was in the manhole causing the flow disruption. This money was for the Contractor to plug the upstream/influent line, pump out the manhole and visually inspect the manhole and determine what was causing the problematic flow patterns. This is an increase of \$6,966.22.

2. Clean out invert of flowmeter manhole B of all material. Backfill with clean gravel. Install HDPE pipe to spring line-open above spring line to form invert in manhole and pour concrete to spring line of pipe; The outcome of item 1 above was that the manhole was not provided with a form invert and filled with various objects such as tires, sump pump discharge hose, etc. that had been transported to and deposited in the void in the bottom of the manhole. This money was for the Contractor to plug the upstream/influent line, dewater the manhole, clean the manhole out, install clean rock ballast and install a 12" thick formed concrete invert. This is an increase of \$18,886.34

3. Credit for Concrete Ribbon Curb in the amount of \$3,192.00; this is money due the City since the amount of ribbon curb installed was less than what was estimated.

This results in a net increase to the contract of \$22,660.56 with no additional days to the contract. This is the final Change Order for this project.

RESOLUTION NO.

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER THREE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$22,660.56 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT; AND APPROPRIATING \$22,660.56; THE ORIGINAL CONTRACT WAS FOR \$5,357,080.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$6,208,395.56

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of Change Order No. 3 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. 3 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 attached hereto as Exhibit "1" and incorporated herein for all legal purposes.

SECTION TWO. That the sum of \$22,670.00 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., 2013, 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. 3 TO CONTRACT
BETWEEN THE CITY OF MIDLAND, TEXAS,
AND RED RIVER CONSTRUCTION COMPANY**

THIS CHANGE ORDER NO. 3, entered into on this 10th day of July, 2013, 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 \$22,660.56.
3. Except as expressly amended in this Change Order No. 3, 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 _____, 2013.

Notary Public, State of Texas

Change Order No. 03

Page 1 of 2

Project Name: Influent Screen Replacement	HDR Project No.: 100137-115661
Project Owner: City of Midland WPCP	Owner's Project No.: WPCP10-100/8966
300 N. Loraine Midland, TX 79701	Date of Issuance: May 21, 2013
Project Contractor: Red River Construction	Date of Contract: June 14, 2011
2804 Capital Street Wylie, TX 75098	Original Contract Period: 365 Calendar Days from Contract Notice to Proceed to Substantial Completion; 400 days to Final Completion

It is agreed to modify the Contract referred to above as follows:

Item No.	Item and Description of Changes	Contract Price		Contract Time	
		Decrease	Increase	Decrease	Increase
CPR 23	Inspect manhole to determine cause of irregular flow patterns.		\$6,966.22		
CPR 24	Clean out invert of flowmeter manhole "B" of all material, both organic and inorganic. Backfill with clean gravel (1 ½ to 3" nominal stone size). Install HDPE pipe to spring line-open above spring line to form an invert in manhole and pour concrete to spring line of pipe. See attached sketch for additional information and requirements.		\$18,886.34		
Base Bid Item No. 7	Concrete Ribbon Curb - \$24/Linear Foot (LF). Delete 133 LF from Project (\$133 LF x \$24/LF=\$3,192.00 credit due Owner).	(\$3,192.00)			
Subtotal		(\$3,192.00)	\$25,852.56		
Difference Net			\$22,660.56		

Change Order No. 03

Page 2 of 2

Summary: It is agreed to modify the Contract referred to above as follows:

Contract Price prior to this Change Order

\$ 6,185,734.51

Net Increase (decrease) of this Change Order

\$22,660.56

Contract Time prior to this Change Order

455 days to Substantial Completion (10/26/2012)
& 490 days to Final Completion (11/30/2012)

Net Increase (decrease) of this Change Order

0 days

Revised Contract Price with all approved Change Orders

\$ 6,208,395.07

Revised Contract Time with all approved Change Orders

545 days to Substantial Completion
(01/24/2013) and 580 days to Final
Completion (2/28/2013)

The changes included in this Change Order are to be accomplished in accordance with the terms, stipulations and conditions of the original Contract as though included therein.

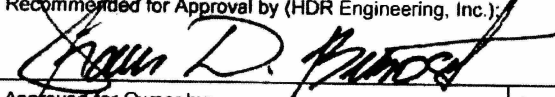
Accepted for Contractor by:



Date:

5/29/13

Recommended for Approval by (HDR Engineering, Inc.):



Date:

05/29/2013

Approved for Owner by:

Attest:

Date:

Distribution: ☒ Owner ☒ Contractor ☐ Office ☐ Field ☐ Other



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Holly McGrath Rosas, Assistant Director of Utilities

SUBJECT: Consider a Resolution Approving a Discharge License with Holly Energy Partners-Operating, L.P.

Purpose:

Consider a resolution approving a discharge license with Holly Energy Partners- Operating, L.P. for the purpose of discharging treated wastewater from the remediation of an oil pipeline leak through dual phase extraction. They will be required to meet all specifications spelled out in the City's Industrial Waste Ordinance No. 6778, with regard to acceptable levels of certain contaminants in their treated wastewater.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

A \$1,500 License fee will be paid to the City, in addition to a discharge fee of 0.74¢ per 1,000 gallons discharged. Monies collected will be paid to the City's Water Fund.

Discussion:

Holly Energy Partners approached the City about discharging treated wastewater. This wastewater will come from the remediation of an oil pipeline leak. The wastewater will be treated through a Dual Phase Extraction process to ensure compliance. They are required to pre-treat and test the effluent they are discharging periodically to assure that they meet the City's standards for sewer disposal and are required to obtain this Discharge Permit. They will discharge into the City's sewer system at their location at Commemorative Air Force, 9600 Wright Drive.

The City's industrial waste ordinance specifies the maximum limits for certain constituents that can be allowed into the sewer system without adverse effects to the treatment plant and pipelines. Any discharge that does not meet these requirements must go through an approved pretreatment process to reduce the limits of the contaminant to acceptable levels and must provide proof that such treatment has occurred. Analyses of the wastewater must be provided to the City at specific intervals at the start of the treatment process and then continue thereafter on a less-frequent basis, once the treatment process reaches the level of treatment required. Holly Energy Partners have agreed to the provisions of the ordinance and we recommend approval of the license.

RESOLUTION NO. _____

**RESOLUTION AUTHORIZING THE EXECUTION OF A
DISCHARGE LICENSE AGREEMENT WITH HOLLY
ENERGY PARTNERS - OPERATING, L.P., FOR THE
PURPOSE OF DISCHARGING TREATED
WASTEWATER**

WHEREAS, a request has been made for a Discharge License by Holly Energy Partners - Operating, L.P., to allow for the discharging of treated wastewater; and

WHEREAS, the City Council finds it to be in the public interest to authorize the execution of a Discharge License for such purpose;

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

THAT the City Manager and City Secretary are hereby authorized and directed to execute and attest, respectively, on behalf of the City of Midland, Texas, a Discharge License Agreement with Holly Energy Partners - Operating, L.P., said Agreement being on file in the office of the City Secretary, referenced by the date and number of this Resolution.

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., 2013, 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, Utilities Director

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

DISCHARGE LICENSE

THE STATE OF TEXAS §

**§ KNOW ALL MEN BY THESE
PRESENTS:**

COUNTY OF MIDLAND §

THIS AGREEMENT is effective this 9th day of July, 2013, by and between THE CITY OF MIDLAND, TEXAS, a home rule municipal corporation, hereinafter called "Licensor," and **Holly Energy Partners- Operating, L.P.**, hereinafter called "Licensee."

Licensee desires use of certain public sanitary sewers within the City of Midland, Texas, for the purposes set forth below.

It is the position of the Licensor that Licensee must obtain a license in order to use the public sanitary sewers.

W I T N E S S E T H:

For and in consideration of the execution of this agreement and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows, to wit:

I. Term

This license shall be for a term of Five (5) years, commencing with the date of this agreement written above, the "Commencement Date," unless terminated earlier as provided hereafter. Either party may terminate this Agreement at will for no or any reason upon giving at least ninety (90) days written notice to the other. The parties to this Agreement understand and agree that it is in their sole discretion to cancel the Agreement during the term of the Agreement without penalty. The parties have no expectation and have received no guarantees that this Agreement will not be terminated before the end of the Agreement term. The parties have bargained for the flexibility of terminating this Agreement upon tender of the requisite notice at any time during the term of the

Agreement. All work and services under the Agreement shall be suspended upon termination of Agreement becoming effective.

II. Financial Considerations

In further consideration for the rights herein granted to Licensee, Licensee shall pay to the Licensor a one-time License Fee in the sum of one thousand and five hundred dollars and No/100 Dollars (**\$1,500.00**). This License is not effective until the Licensor receives the License Fee of (**\$1,500.00**), which shall be paid to Licensor on or before **July 9, 2013**.

In addition to the License Fee, Licensee shall also pay to Licensor a monthly Discharge Fee for every one-thousand (1,000) gallons discharged. At the time of the execution of this Agreement, Licensor's current rate for the Discharge Fee is **seventy four Cents (\$0.74)**. Licensor and Licensee understand and agree that the Discharge Fee changes periodically pursuant to applicable ordinances in the Midland City Code. Licensor shall notify Licensee of any changes in the Discharge Fee, and said Discharge Fee shall be due on or before the last business day of each month.

The License Fee and Discharge Fee payments shall be exclusive of and in addition to all general municipal taxes of whatever nature, including but not limited to ad valorem taxes and special taxes and assessments for public improvements. The License Fee and Discharge Fee payments shall be made to the Licensor at the office of the Director of Utilities, P. O. Box 1152, Midland, Texas, 79702.

III. Use

1. Licensee shall be allowed to dispose of wastewater from remediation of an oil pipeline leak through Dual Phase Extraction (DPE). A vacuum is drawn on recovery wells in which vapor, petroleum free product and groundwater are withdrawn. Vapors are separated and destroyed in a thermal oxidizer, liquid stream is separated and treated as described above. Petroleum product is recovered and stored for disposal. Estimated groundwater discharge rate is 10 gallons per minute. The system is constructed to operate continuously and unattended and has multiple levels of control to shut down the system appropriately by a Programmable Logic Controller (PLC). System will be monitored in person continuously during start-up and as necessary thereafter at **Commemorative Air Force, 9600 Wright Drive**, Midland, Texas, by means of a pretreatment system into Licensor's sanitary sewer system until this license terminates. However, before Licensee disposes of any such wastewater into the sanitary sewer system, Licensee must process such wastewater in a manner approved by Licensor's Director of Utilities that would reduce the metal content to a level below each of the respective limits set forth in the City of Midland's Code of Ordinances, Section 3-1-24.

The phrase "metal content" as used throughout this license agreement shall mean the individual limits of Arsenic, Barium, Boron, Cadmium, Chromium, Copper, Lead, Manganese, Mercury, Nickel, Selenium, Silver and/or Zinc.

2. Before Licensee discharges any wastewater into the Licensor's sanitary sewer system, Licensee shall test such wastewater for metal content and provide the results to Licensor's Director of Utilities. If the metal content is at or below the limits set forth in the City of Midland's Code of Ordinances, Section 3-1-24 Sewage Quality Control, Licensee may begin discharging such wastewater into the sanitary sewer system immediately upon delivery of the test results to the Director of Utilities.

3. After commencing the discharge of wastewater into Licensor's sanitary sewer system, Licensee shall monitor and test the wastewater for metal content in accordance with the following schedule:

- a. Commencing with the first day and up to the fourteenth day after discharge begins, test every three (3) days, or as directed by the Director of Utilities.
- b. Day fifteen (15) to day seventy (70), test not less than once every fourteen (14) days, or as directed by the Director of Utilities.
- c. After day seventy (70), test not less than once every fourteen (14) days unless Licensor's Director of Utilities in his discretion authorizes in writing less frequent testing based on the results of previous tests.

Licensee shall provide Licensor's Director of Utilities a copy of the results from each wastewater test conducted as required herein within three (3) business days after receiving said results.

4. Licensee shall discontinue disposing of such wastewater in the sanitary sewer system at any time that such tests indicate that the metal content is greater than the limits set forth in the City of Midland's Code of Ordinances, Section 3-1-24 Sewage Quality Control. Thereafter, Licensee may not dispose of such wastewater in the sanitary sewer system until Licensee has reduced the metal content to a level at or below the limits set forth in the City of Midland's Code of Ordinances, Section 3-1-24 Sewage Quality Control and has provided test results reflecting such to the Director of Utilities. Further, Licensee shall again monitor and test the wastewater on a periodic basis in accordance with the schedule outlined in paragraph 5, above, as if Licensee was beginning the disposal of such wastewater in the sanitary sewer system for the first time.

5. Licensor reserves the right to test the wastewater being disposed of in the sanitary sewer system at any time. The cost of such test shall be borne by the Licensee. If the test

indicates a metal content level which exceeds the limits set forth in the City of Midland's Code of Ordinances, Section 3-1-24 Sewage Quality Control. Licensor shall immediately notify Licensee and provide Licensee with a copy of the test results.

6. Licensor's Director of Utilities shall determine the manner and location such wastewater will be discharged into the sanitary sewer system. Licensor's Director of Utilities shall have the right to order Licensee to discontinue disposing of such wastewater in the sanitary sewer system at any time he determines that the amount or quality of such wastewater endangers the operation of the sanitary sewer system. Further, Licensee shall dispose of such wastewater in the sanitary sewer system at the same rate that such water is treated by the appropriate pretreatment system. Licensee shall pay to Licensor a Discharge Fee per 1000 gallons for the use of said sanitary sewer system. Such charge is based on the cost incurred by the Licensor in disposing of such water in the sanitary sewer system and is in addition to the License Fee described in Paragraph 2, above.

7. Notwithstanding any other provisions, Licensee shall at all times during the term of this license agreement comply with applicable federal, state, and local laws regarding Licensee's activities pursuant to this license agreement, including but not limited to any policy of the City of Midland and all applicable sections of the Municipal Code of Midland, Texas, as may be amended, said sections being hereby incorporated by reference and made a part of this license agreement for all legal purposes. Failure to abide by any such law or policy mentioned herein constitutes grounds for the immediate termination of this license agreement.

Further, Licensee agrees to indemnify, defend, and hold Licensor, its elected officials, employees, officers, and agents harmless from any fines, penalties, or costs, including but not limited to required remediative costs which may be assessed against Licensor by the U.S. Environmental Protection Agency, the Texas Commission on Environmental Quality, or any other governmental entity with appropriate jurisdiction, and which directly result from Licensee's activities pursuant to this Discharge License (hereinafter in this paragraph called "the penalties"). Licensor shall attempt to give Licensee written notice not later than sixty (60) business days after Licensor receives written notice of the penalties and shall allow Licensee to contest or defend the penalties if Licensee so desires. Licensor shall reasonably cooperate with Licensee in the defense of the penalties.

IV. Standard General Conditions

1. **Insurance** - Licensee shall provide and maintain in force throughout the term of this license at its own expense, insurance coverage with minimum limits as follow: (a) Worker's Compensation - statutory minimums with subrogation waived against Licensor; (b) Employer's Liability - \$500,000 each occurrence; (c) General Liability, including Bodily Injury, Property Damage, and Contractual Liability - \$5,000,000 combined single limit, each occurrence; and (d) Automotive Liability, including Bodily Injury and Property Damage - \$1,000,000 combined single limit, each occurrence. Licensee shall also carry sudden and accidental pollution insurance. Licensee shall furnish to Licensor certificates of insurance evidencing the coverages required above prior to commencing discharge of wastewater into Licensor's sanitary sewer system. Each such certificate shall contain a statement of the insurer's obligation to notify Licensor at least thirty (30) days prior to cancellation of any policy covered thereunder. Such insurance shall be written with insurance companies authorized to do business in the State of Texas and acceptable to Licensor and all insurance policies except worker's compensation shall include Licensor as an additional insured and shall cover all of Licensee's contractors and subcontractors. Copies of the required policies of insurance that have been issued or certificates evidencing proof of said policies shall be deposited with the Licensor prior to commencing discharge of wastewater into Licensor's sanitary sewer system. Notwithstanding anything herein to the contrary, Licensee shall at all times be in compliance with applicable federal, state and local laws, regulations and rules regarding financial responsibility as related to the activities authorized by this Discharge License. All insurance required above shall provide a waiver of subrogation in favor of Licensor. The parties agree that, prior to the execution of this Agreement, Licensor shall provide one or more certificates of insurance specifically stating that these requirements have been met and subject to the approval of the Licensor. The Licensor shall not be required to provide any insurance whatsoever pursuant to this Agreement.

The Licensee certifies that the certificate of insurance provided as required herein complies with the requirements of Senate Bill 425, passed during the 82nd regular session of the Texas Legislature, and effective January 1, 2012.

2. **INDEMNITY** - LICENSEE WILL INDEMNIFY AND HOLD HARMLESS AND DEFEND LICENSOR AND ALL OF LICENSEE'S OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGE AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY,

ON ACCOUNT OF ANY NEGLIGENT ACT OF LICENSEE, ITS AGENTS, OFFICERS OR EMPLOYEES IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, AND LICENSEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST LICENSOR OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ATTORNEY'S FEES.

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

3. **Assignment** - The rights granted by this license inure solely to the benefit of the Licensee. The rights and privileges set forth herein shall not be assignable without the express written consent of the City Manager.

4. **Notice** - Any notice or communication required in the administration of this License shall be sent to the Licensor as follows: City Manager, City of Midland, P.O. Box 1152, Midland, Texas, 79702.

Any notice or communication required in the administration of this license shall be sent to the Licensee as follows: **Holly Energy Partners-Operating, L.P., Attn: Allison Stockweather.**

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

6. **WAIVER OF ATTORNEY'S FEES** - BY EXECUTING THIS AGREEMENT, LICENSEE AGREES TO WAIVE AND DOES HEREBY KNOWINGLY, CONCLUSIVELY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY CLAIM IT HAS OR MAY HAVE IN THE FUTURE AGAINST THE LICENSOR, REGARDING THE AWARD OF ATTORNEY'S FEES, WHICH ARE IN ANY WAY RELATED TO THE AGREEMENT, OR THE CONSTRUCTION, INTERPRETATION OR BREACH OF THE AGREEMENT. THE LICENSEE SPECIFICALLY AGREES THAT IF THE LICENSEE 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 LICENSEE AGREES TO ABANDON, WAIVE AND RELINQUISH ANY AND ALL RIGHTS TO THE

RECOVERY OF ATTORNEY'S FEES TO WHICH LICENSEE MIGHT OTHERWISE BE ENTITLED.

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

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

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

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

9. **Third-party Beneficiary** - The Licensor's approval of this Discharge License does not create a third party beneficiary. There is no third party beneficiary to this Discharge License. No person or entity who is not a party to this Discharge License shall have any third party beneficiary or other rights hereunder.

10. **Sovereign Immunity** - By executing this Agreement the City is not waiving its sovereign immunity and retains all immunity from suit. The City is not granting consent to be sued by legislative resolution or action.

THERE IS NO WAIVER OF SOVEREIGN IMMUNITY.

11. **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, Licensee or his legal representative, shall give the City Manager, or any other reasonable official of the Licensor, 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 Licensee will settle, the physical and mailing addresses of Licensee at the time and date the claim was presented and the physical and mailing addresses of Licensee for the six months immediately preceding the occurrence of such damages, and the names and addresses of the witnesses upon whom the Licensee relies to establish its claim; and a failure to so notify the City Manager within the time and manner provided herein shall exonerate, excuse and except the Licensor from any liability whatsoever. The Licensor is under no obligation to provide notice to Licensee that Licensee's notice is insufficient. Licensor reserves the right to request reasonable additional information regarding the claim. Said additional information shall be supplied within thirty (30) days after receipt of notice.

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

12. **Consideration** - The terms of this 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 have executed this license as of the date first above written.

LICENSOR

CITY OF MIDLAND, TEXAS

By _____

Courtney Sharp, City Manager

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

LICENSEE

Holly Energy Partners- Operating, L.P

By _____

Title: Allison Stockweather, Senior Manager
Environmental Health and Safety

ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, on this day personally appeared Allison Stockweather, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same on behalf of Holly Energy Partners-Operating, L.P., for the purposes and consideration herein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE THIS _____ day of _____, A.D., 200__.

Notary Public, State of

Printed Name

My Commission Expires:_____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/30/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 1000 Main Street, Suite 3000 Houston, TX 77002	CONTACT NAME: PHONE (A/C, No. Ext): E-MAIL: ADDRESS:
S1005 -all-NOC-13/14	INSURER(S) AFFORDING COVERAGE INSURER A : Zurich American Insurance Co INSURER B : American Guarantee & Liability Ins Co INSURER C : American Zurich Insurance Co. INSURER D : INSURER E : INSURER F :
INSURED HOLLY ENERGY PARTNERS - OPERATING, L.P. 2828 N. Harwood Suite 1300 DALLAS, TX 75201	NAIC # 16535 26247 40142

COVERAGES

CERTIFICATE NUMBER:

HOU-002006495-34

REVISION NUMBER: 33

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC		GLO9309982-10	06/01/2013	06/01/2014	EACH OCCURRENCE \$ 3,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 3,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
A	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS		BAP5345163-08	06/01/2013	06/01/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$		AUC 9383698 05	06/01/2013	06/01/2014	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below Y/N ☒ N N/A		WC5345166-09	06/01/2013	06/01/2014	☒ WC STATU-TORY LIMITS ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

The City of Midland is included as an additional insured (except as respects all coverage afforded by the Workers Compensation Policy) as required by written contract, but only for liability arising out of the operations of the Named insured. The City of Midland its agents, employees and officers are granted a Waiver of Subrogation as required by written contract as respects all coverage's noted above. The Insurance Carrier shall provide 30 days written notice in accordance with state law in the event this policy is cancelled or nonrenewal, for any reason other than non payment of premium. Sudden and Accidental Pollution Liability with Time Element reporting is included within the General Liability policy.

CERTIFICATE HOLDERCITY OF MIDLAND
CITY HALL, ROOM 520
300 NORTH LORRAINE
MIDLAND, TX 79701**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
of Marsh USA Inc.

Duncan T. Plaskett

Duncan T. Plaskett

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City of Midland
CITY ATTORNEY'S OFFICE
Office Memorandum

DATE: July 3, 2013

TO: The Honorable Mayor and City Council Members

FROM: John Ohnemiller, First Assistant City Attorney

SUBJECT: Employment of the Cotton, Bledsoe, Tighe & Dawson law firm to represent City of Midland employees in depositions arising from the Show of Support Parade accident

Two lawsuits have been filed as a result of the accident that occurred on November 15, 2012 during the Show of Support Parade. Those lawsuits are: (1) *Richard Sanchez, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (441st Judicial District Court, Midland County, Texas; Cause No. CV-49,117), and (2) *Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (116th Judicial District Court, Dallas County, Texas; Cause No. 12-15024).

The City of Midland is not a party to either suit, however, it is anticipated that City employees will be deposed by the parties. The proposed resolution authorizes the employment of the Cotton, Bledsoe, Tighe & Dawson law firm to represent City employees in depositions arising from this litigation.

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

JO/lo

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF COTTON, BLEDSOE, TIGHE & DAWSON, P.C. TO REPRESENT CITY OF MIDLAND EMPLOYEES IN DEPOSITIONS ARISING FROM THE LAWSUIT STYLED RICHARD SANCHEZ, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (441st JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NO. CV-49,117) OR THE LAWSUIT STYLED CATHERINE STOUFFER, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (116th JUDICIAL DISTRICT COURT, DALLAS COUNTY, TEXAS; CAUSE NO. 12-15024); AND AUTHORIZING THE PAYMENT OF ALL COSTS

WHEREAS, the City Council of the City of Midland finds it to be in the public interest to employ the law firm of Cotton, Bledsoe, Tighe & Dawson, P.C. to represent City of Midland employees in depositions arising from the lawsuit styled *Richard Sanchez, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (441st Judicial District Court, Midland County, Texas; Cause No. CV-49,117) or the lawsuit styled *Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (116th Judicial District Court, Dallas County, Texas; Cause No. 12-15024);

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

SECTION ONE. That the law firm of Cotton, Bledsoe, Tighe & Dawson, P.C. is hereby employed to represent City of Midland employees in depositions and all matters arising from the lawsuit styled *Richard Sanchez, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (441st Judicial District Court, Midland County, Texas; Cause No. CV-49,117) or the lawsuit styled *Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc.* (116th Judicial District Court, Dallas County, Texas; Cause No. 12-15024). Said law firm is hereby employed to represent City of Midland employees in depositions and all matters arising from any other suit or proceeding involving the same subject matter. Any and all such representation taken by said law firm prior to the adoption of this resolution is hereby ratified and approved.

SECTION TWO. That the City Attorney is hereby authorized to request said law firm represent the City of Midland in depositions and all matters arising from the above-referenced lawsuits or any other suit or proceeding involving the same subject matter.

SECTION THREE. That the City Treasurer is hereby authorized and directed, upon receipt of proper invoice or statement approved by the City Attorney, to pay said law firm from funds available in the General Liability Self-Insurance Fund.

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., 2013, 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: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by GBT Realty Corp. for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District on a 1.011-acre tract of land being the north 141 feet of Block 1, Harrison Tract, City and County of Midland, Texas. (Generally located on the east side of N. Midland Drive, approximately 160 feet north of Shell Avenue.)

Purpose: Consider an ordinance on second reading on a request by GBT Realty Corp. for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District on a 1.011-acre tract of land being the north 141 feet of Block 1, Harrison Tract, City and County of Midland, Texas.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

This property was approved for a zone change on first reading at the June 25th Council meeting from PD, Planned District for an Office Center to PD, Planned District for a Transition District. The approved site plan included the building footprint for a Dollar General store which depicted an eight foot masonry screening wall running along the north-south alley, and a six foot east-west wood screening fence on the northern and southern property boundaries. Thirty six parking spaces were provided along with a locked gate at the northeastern property corner. The site has one driveway entrance off of N. Midland Drive.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.011-ACRE TRACT OF LAND BEING THE NORTH 141 FEET OF BLOCK 1, HARRISON TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET NORTH OF SHELL 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 “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 PD, Planned District for a Transition 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 an Office Center, and it shall be used as a PD, Planned District for a Transition District,

subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

A 1.011-acre tract of land being the north 141 feet of Block 1, Harrison Tract, 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 use and development of this property shall conform to the regulations of the NS, Neighborhood Service District.
2. That the development of this property shall conform to the conditions shown on the site plan attached hereto and incorporated herein as Exhibit “A”.
3. That the development of this property shall conform to the elevations and materials shown on Exhibits “B” and “C”, which are attached hereto and incorporated herein.
4. That the development of this property shall conform to the requirements of the Fire Marshal, the Building Official, and the regulations of the City of Midland Landscaping Code.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

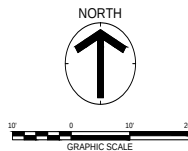
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



DOLLAR GENERAL

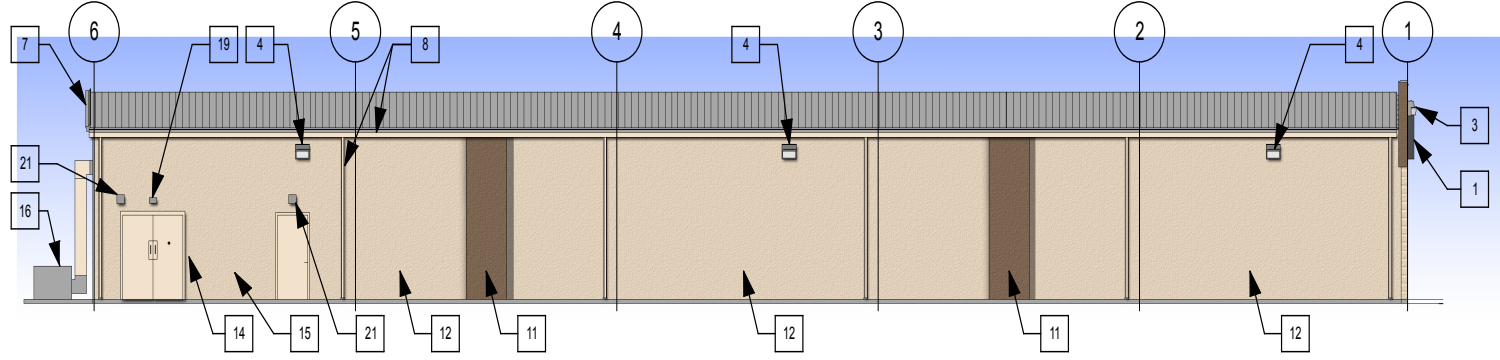
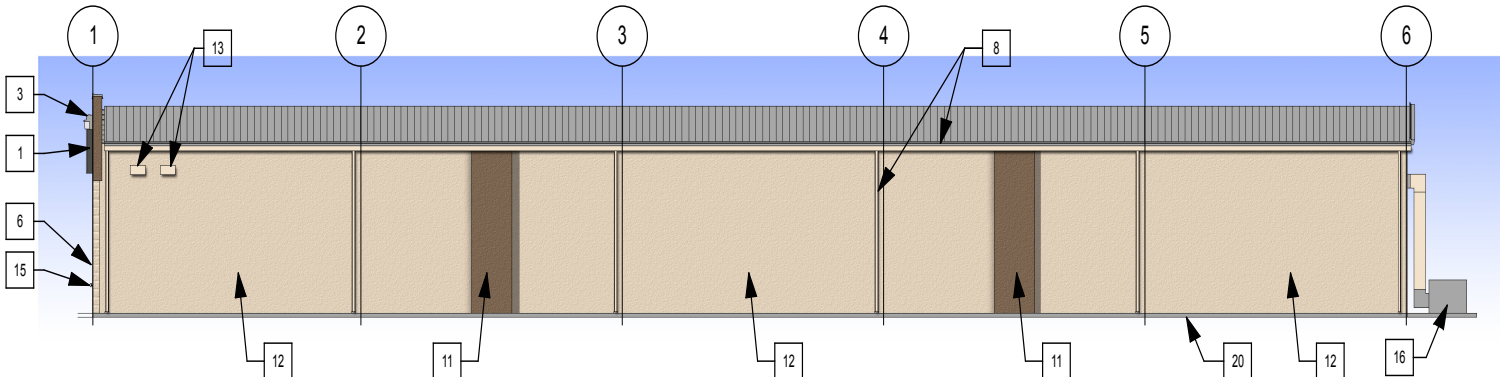
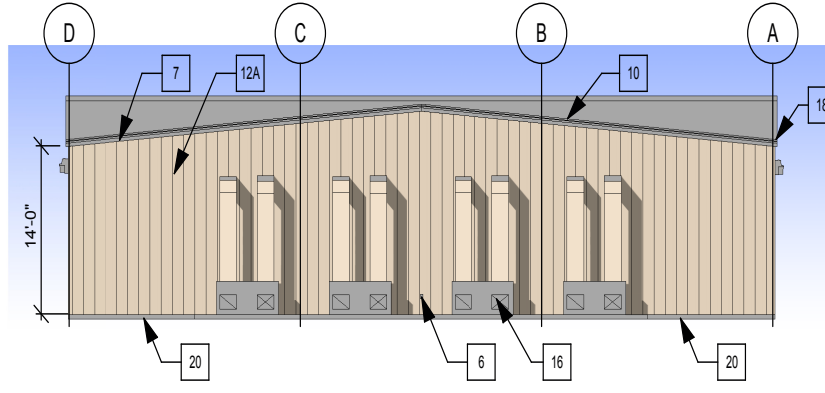
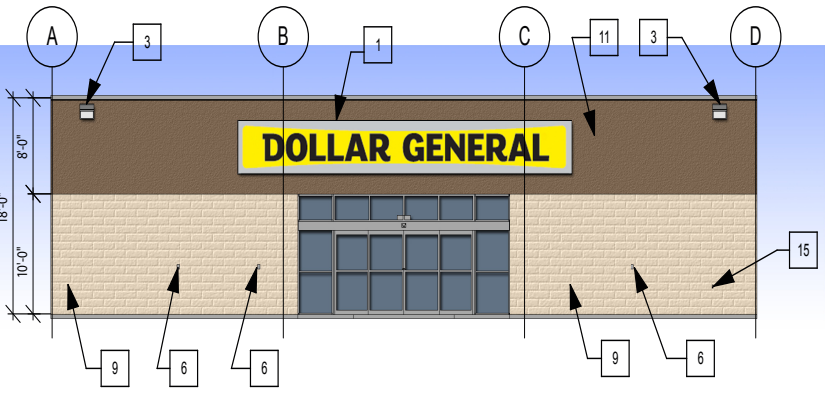
STORE #
MIDLAND, TX

DOLLAR GENERAL
02.14.13
MJM 12224

△	
△	
△	

This drawing and the design shown is the property of the architect. The reproduction, copying or use of this drawing without their written consent is prohibited and any infringement will be subject to legal action.

A2.0



KEYED NOTES

- SIGN FURNISHED AND INSTALLED BY DOLLAR GENERAL CORP. WITH CIRCUIT AS NOTED ON ELECTRICAL PLAN. SIGN TO BE CENTERED ON FRONT OF BUILDING. CONTRACTOR IS TO PROVIDE ADEQUATE BLOCKING AS REQUIRED BY SIGN MANUFACTURER TO SUPPORT SIGN WEIGHT OF UP TO 1,400 LBS. EXTERIOR CANOPY SIGN SHALL BE SUPPORTED BY THE FACE OF CANOPY. CONTRACTOR IS TO PROVIDE ADEQUATE STRUCTURE TO SUPPORT SIGN. COORDINATE THE PROPER SIGNAGE TO BE USED WITH DOLLAR GENERAL.
- NOT USED.
- WALL PACK. 16'-6" A.F.F. TO TOP OF WALL PACK. REFER TO ELECTRICAL DRAWINGS FOR ADDITIONAL INFORMATION.
- WALL PACK. 12'-0" A.F.F. TO TOP OF WALL PACK. REFER TO ELECTRICAL DRAWING E2.0 FOR ADDITIONAL INFORMATION.
- NOT USED.
- RECEPTACLE. REFER TO ELECTRICAL DRAWING E1.0 FOR ADDITIONAL INFORMATION.
- TRIM - SEE SHEET S1.0 FOR COLOR
- GUTTER AND DOWNSPOUT - SEE SHEET S1.0 FOR COLOR - DOWNSPOUT TO GO TO CHANNEL UNDER SIDEWALK OR TO SPLASHBLOCK (SEE CIVIL)
- SPLIT FACE CONCRETE MASONRY UNIT. PAINT TO MATCH SIDE WALL PANELS.
- ROOF PANEL. GALVALUME FINISH.
- FLAT METAL PANEL WITH DRYVIT "SWISS MOCHA" COLOR EIFS FINISH (VP BUILDINGS "TEXTURE CLAD PANEL" OR APPROVED EQUAL.)
- FLAT METAL PANEL WITH EIFS FINISH (VP BUILDINGS "TEXTURE CLAD PANEL" OR APPROVED EQUAL.) COLOR TO MATCH "LIGHT STONE" OR DOLLAR GENERAL PROTOTYPICAL METAL PANELS.
- NOT USED.
- STANDARD METAL PANEL PER DOLLAR GENERAL PROTOTYPE. COLOR TO MATCH "LIGHT STONE" OR OTHER DOLLAR GENERAL PROTOTYPICAL METAL PANEL COLORS.
- VENT FOR BATHROOM EXHAUST. REFER TO MECHANICAL M1.0 FOR ADDITIONAL INFORMATION.
- DOOR BUZZER. REFER TO ELECTRICAL DRAWING E1.0 FOR ADDITIONAL INFORMATION.
- WALL HYDRANT. REFER TO PLUMBING DRAWING P1.0 FOR ADDITIONAL INFORMATION.
- PACKAGE UNITS - SEE MECHANICAL
- NOT USED.
- MINIMUM EAVE HEIGHT IS 14'-0" A.F.F.
- OUTSIDE AIR TEMP. SENSOR MOUNTED OVER RECEIVING DOORS @ 8'-0" A.F.F.
- FINISH GRADE AT EXTERIOR WALLS SHALL BE A MINIMUM OF 6" BELOW FINISHED FLOOR AT ALL NON-PAVED AREAS.
- EXTERIOR EMERGENCY LIGHTS AT EXITS - SEE ELECTRICAL

DOLLAR GENERAL® 2009 Logo - 6'-0" X 16'-1" Double Face Center Pole Sign



Cabinet Size: 6'-0" X 16'-1"

Mldg: 2 1/4" G molding (EX-275), removable for servicing.

V.O. 5'-7 1/2" X 15'-8 1/2"

One piece pan formed and embossed SPARTECH UV polycarbonate face (no exceptions).

Cabinet finish: Spraylat FM 171 brushed aluminum.

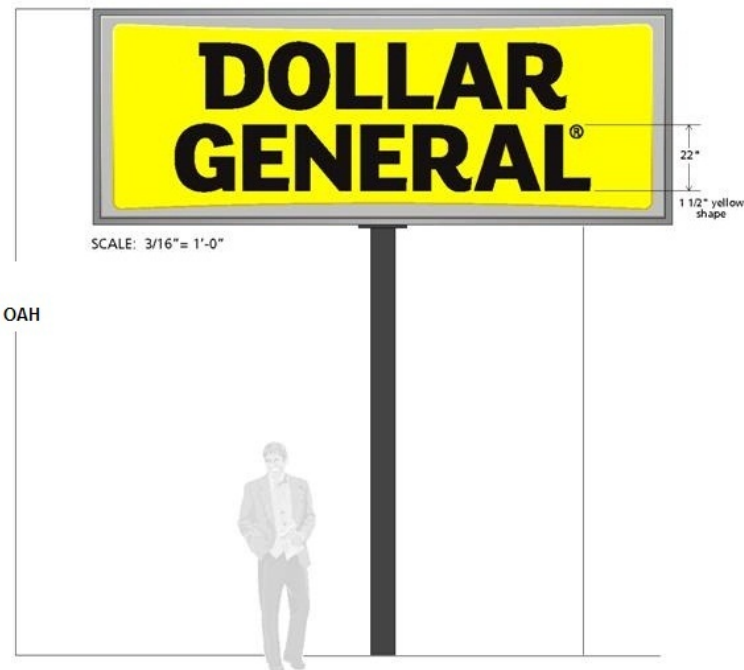
Black logotype embossed 1/2" on special yellow embossed shape (Spraylat C8-2633 yellow, no exceptions) on Gray (PMS Cool Gray 5) background and returns.

Decorative process: Production quantities are to have screen printed graphics (yellow, black, gray & white), no mask and spray.

Labeling: Requires UL Label and Union Label.

• NOTE: MUST be COOL WHITE LAMPS

NOTE: All signs come complete with ON/OFF switch and electric eye (when requested).



Dualite Sales & Service, Inc.

WILLIAMSBURG, OHIO • CEDAR HILL, TEXAS

Dualite Sales & Service, Inc.

One Dualite Lane

Williamsburg, Ohio 45176

Customer Approval
and Comments

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NOTES CORRESPONDING TO SCHEDULE B

1.2. RESTRICTIVE COVENANTS RECORDED IN VOLUME 94, PAGE 322 DO AFFECT THIS TRACT.

MAIN BENCHMARK

SITE ELEVATION DATUM IS NAVD 83 BASED ON A RADIO-STATIC OBSERVATION ON NOVEMBER 28, 2012. THE FOLLOWING COORDINATES WERE USED FOR AN OPEN SOLUTION:

NO.	DESCRIPTION	COORDINATES	APP.
041764	TX01	CEDESA	APP.
041765	TX02	STANTON	APP.
041766	TX03	ANDREWS	APP.
041767	TX04	CHAVEZ	APP.
041768	TX05	MCKINNEY	APP.
041769	TX06	ALBERT	APP.
041770	TX07	MCCOY	APP.
041771	TX08	STOLING CITY	APP.
041772	TX09	FORT STOCKTON	APP.

CONTOUR INTERVAL = 0.5'

SITE BENCHMARK 1
CORNER OF CONCRETE
NORTH-EAST CORNER OF CONCRETE ON SOUTH LINE OF SUBJECT TRACT.
ELEVATION = 2650.16'

STATEMENT OF ENCROACHMENTS

THERE ARE NO VISIBLE ENCROACHMENTS, EXCEPT AS SHOWN.

UTILITY NOTES

THE LOCATION OF UTILITIES SHOWN HEREON ARE FROM OBSERVED EVIDENCE OF ABOVE GROUND APPURTENANCES ONLY. THE SURVEYOR WAS NOT PROVIDED WITH UNDERGROUND PLANS OR SURFACE GROUND MARKINGS TO DETERMINE THE LOCATION OF ANY SUBTERRANEAN UTILITIES.

GENERAL NOTES

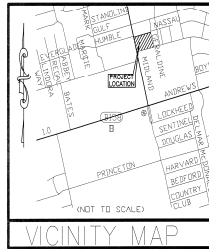
LEGAL DESCRIPTION SHOWN HEREON.
BEARINGS ARE ORIENTED TO THE TEXAS STATE PLANE
COORDINATE SYSTEM, CENTRAL ZONE 4203.
CONTOUR INTERVAL = 0.5'

ZONING INFORMATION

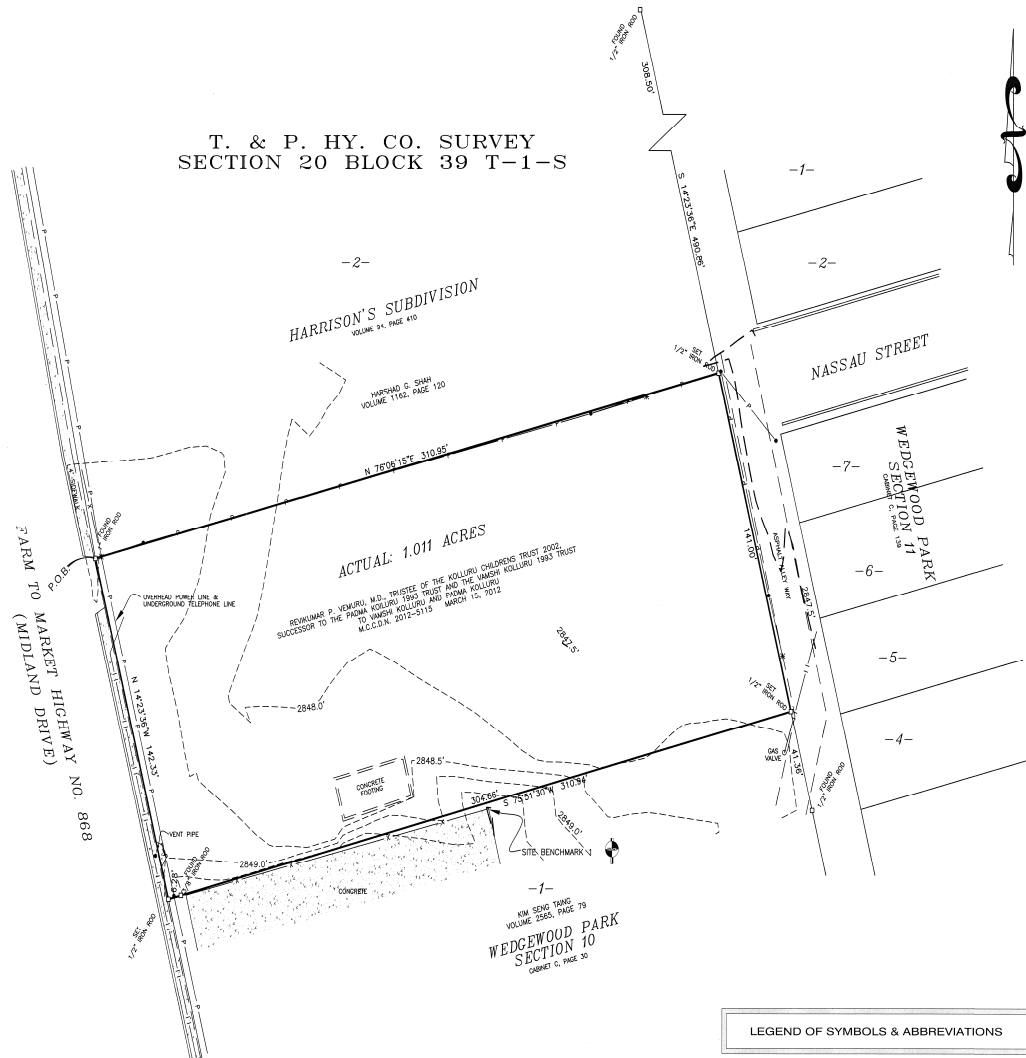
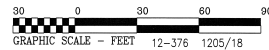
ZONED: CS - PHDC (PLANNING DISTRICT) WITH AN UNDERLYING ZONING OF 0-1 (OFFICE DISTRICT)
SECTION 2.1
FRONT YARD - 20 FEET
SIDE YARD - 5 FEET
REAR YARD - 10 FEET
HEIGHT - TWO AND ONE HALF STORES
LOT SIZE - MINIMUM 5000 SQUARE FEET AND MUST BE 50 FEET WIDE
LANDSCAPE REGULATIONS - SEE ARTICLE X

FLOOD NOTE

THE SUBJECT TRACT IS WITHIN ZONE "X" AREAS DETERMINED TO BE OUTSIDE THE 500 YEAR FLOODPLAIN ACCORDING TO FIRM (FLOOD INSURANCE RATE MAP) MAP NO. 483300008 E, EFFECTIVE DATE: DECEMBER 6, 1999. SEE MAP BELOW.



ALTA/ACSM LAND TITLE SURVEY FOR GBT REALTY SHOWING PART OF THE SUPPLEMENTARY PLAT OF ORIGINAL OF HARRISON'S SUBDIVISION SECTION 20 BLOCK 39 T-1-S OF THE T. & P. HY. CO. SURVEY CITY OF MIDLAND, MIDLAND COUNTY, TEXAS



LEGEND OF SYMBOLS & ABBREVIATIONS

⊙	WATER VALVE	x	LIGHT POLE
—SS—	SANITARY SEWER	•	GUY ANCHOR
□	PEDESTAL BOX	○	MANHOLE
—F—	FENCE	+	FIRE HYDRANT
—P—	POWER LINE	⊙	HANDICAPPED PARKING
⊙	WATER METER	□	PROPERTY CORNER
•	POWER POLE	⊙	ELECTRIC BOX
—W—	WATER LINE	—G—	GAS PIPELINE
—T—	TELEPHONE LINE	⊙	GAS VALVE
—FO—	FIBER OPTIC LINE	—C—	UNDERGROUND CABLE

AS SURVEYED LEGAL DESCRIPTION

All that certain lot, tract or parcel of land, being part of Section 20, Block 39, Township 1 South of the City of Midland, part of Tract 1 of the Original Harrison's Subdivision as shown by plat of same recorded in Volume 94, Page 410 of the Deed Records of Midland County, Texas, being all of that certain tract of land described in a deed from Revisor P. Vemuru, Trustee to the Kolluru Children's Trust, dated on March 13, 2012, and recorded in Midland County Clerk's Document No. 2012-5115, being more completely described as follows, to-wit:

BEGINNING at a 1" iron rod (found) for the Northwest corner of the above mentioned Kolluru tract, the Northwest corner of the above mentioned Tract 1, the Southwest corner of Tract 2, in the West right-of-way line of Farm to Market Highway No. 868 (Midland Drive);

THENCE North 76 deg. 06 min. 15 sec. East with the South line of Tract 2 and the North line of Tract 1 and Kolluru tract, a distance of 310.95 ft. to a 3/4" iron rod (set) for the Northeast corner of same, the Southeast corner of Tract 2, from which a 3/4" iron rod (found) for the Northeast corner of same bears North 14 deg. 23 min. 36 sec. West - 208.50 ft.;

THENCE South 14 deg. 23 min. 36 sec. East with the East line of the Kolluru tract and Tract 1, a distance of 141.00 ft. to a 3/4" iron rod (set) for the Southeast corner of same, the Northeast corner of Wedgewood Park Section 10 as shown by plat of same recorded in Cabinet C, Page 30 of the Plat Records;

THENCE South 75 deg. 51 min. 30 sec. West with the North line of Wedgewood Park Section 10 and the South line of the Kolluru tract, a distance of 310.94 ft. to a 3/4" iron rod (set) for the Southwest corner of same, the Northwest corner of Wedgewood Park Section 10, the West line of Tract 1, in the East right-of-way line of Farm to Market Highway No. 868;

THENCE North 14 deg. 23 min. 36 sec. West with the East right-of-way line of Farm to Market Highway No. 868 and the West line of the Kolluru tract and Tract 1, a distance of 142.00 ft. to the place of beginning, containing 1.011 acres of land.

RECORD TITLE DESCRIPTION

Being the North 141 feet of Tract one (1), Supplementary Plat of Original of Harrison's Subdivision, an addition to the City of Midland County, Texas, according to the map or plat thereon, recorded in Volume 94, Page 410, Deed Records, Midland County, Texas.

ALTA / ACSM LAND TITLE SURVEY

I, Philip W. Cornett, Registered Professional Land Surveyor do hereby certify to Franklin Land Associates, LLC, Republic (The State of Texas, Inc. 2004, Ltd. & Co. of Texas, and its respective successors and assigns and First American Title Insurance Company as of the date hereof that I have made a careful survey of a tract of land described as follows:

- The accompanying survey was made on the ground and correctly shows the location of all buildings, structures and other improvements situated on the above premises and the courses and distances shown thereon are correct; and there are no visible encroachments on the subject property or upon adjacent and abutting said property except as shown hereon.
- The title lines and the lines of actual possession are the same, except as shown.
- The Property described herein is the same as the property described in Title Commitment No. 1002-28375-011 (the Commitment), with an effective date of September 10, 2012 and that all easements, covenants and restrictions referenced in said title commitment are apparent from a physical inspection of the site or otherwise noted as to their effect on the subject property.
- Said described property is located within Zone "X" areas determined to be outside the 500 year floodplain, according to the Federal Emergency Management Agency (FEMA), on Flood Insurance Rate Map with an effective date of December 6, 1999, Map No. 483300008 E, County of Midland, Texas which is the current Flood Insurance Rate Map for the community in which said premises is situated.
- Midland Drive is immediately adjacent to the subject property and no strips, gores or gaps are present.
- The survey accurately indicates and locates all visible utility connections for all utilities required for the operation or proposed operation of the subject property including connections for electricity, gas, telephone, storm drainage, sanitary waste disposal and drinking water. All visible utility services required for the operation or proposed operation of the subject property enter the subject property through adjoining public road ways or existing easements as shown on the survey.
- The field-measured description of the subject property forms a mathematically closed figure.
- The legal description shown on this plan describes the same property as that in the Commitment.
- There are no gaps, gores, or strips in the parcels or lots that constitute the subject property.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys, jointly established and adopted by ALTA and NSPS in 2011, and includes Items 1, 2, 3, 4, 6(b), 7(b), 7(b)(1), 8, 9, 11(c), 12, 14, 16, 17, 18, 19 and 20(c) of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor registered in the State of Texas, the maximum Relative Horizontal Accuracy of this survey does not exceed that which is specified therein.

REGISTRATION NO. 5515
WITHIN THE STATE OF TEXAS
DATE OF SURVEY, November 28, 2012 "ON THE GROUND"
DATE OF LAST REVISION, November 28, 2012
FIRM: J.C. COWAN & ASSOCIATES, INC.
SURVEY PREPARED BY:
JOHN COWAN & ASSOCIATES, INC.
2012 ANTHONY DRIVE
TYLER, TEXAS 75701
PHONE: (903) 581-2238
E-MAIL: jcowaninc@jcowaninc.com



PLANNING AND ZONING COMMISSION

May 20, 2013

CASE: Z-13-006

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District.

APPLICANT: GBT Reality

OWNER: Vamshi M. Kolluru & Padma Kolluru

REPRESENTATIVE: Bob Gage, GBT Reality

LEGAL DESCRIPTION: A 1.011-acre tract of land being the north 141 feet of Block 1, Harrison Tract, City and County of Midland, Texas.

LOCATION: Generally located at the east side of N. Midland Drive, approximately 160 feet north of Shell Avenue.

CURRENT ZONING: PD, Planned District for an Office Center

DETAILS OF REQUEST:

1. The applicant previously requested to rezone this property at the March 18th Planning and Zoning meeting from a Planned District for an Office Center to an LR-1, Local Retail District. The proposed development is for a Dollar General Store, and the item was deferred at this meeting due to several concerns raised by citizens of the surrounding neighborhood. Items of concern included increased traffic for the area, entry and exit from the property, screening of the alley and surrounding properties, and lighting.

SURROUNDING ZONING AND LAND USE:

2. This property has frontage along N. Midland Drive, and is presently zoned PD, Planned District for an Office Center. Immediately south of this property is a PD, Planned District for a Transition District, with an underlying zoning of NS, Neighborhood Service District. Immediately west of this property is a 1F-2, Single Family Residential District, and east of this property is a TH, Townhome District.

ANALYSIS:

3. The new request for this application is to rezone this property from a PD, Planned District for an Office Center to a PD, Planned District for a Transition District. This is to allow for the application of site plan controls to address the concerns mentioned in paragraph one from the previous public hearing. The property provides entry and exit from the northwest corner off of Midland Drive. The proposal satisfies the City's parking regulations by providing 36 parking spaces. An eight foot masonry screen wall has been provided along the north/south alley, and six foot tall wood screening fences along the northern and southern east/west property boundaries. A gate has been added to prevent traffic from exiting the property and dispersing via Nassau Street or through the alley. A Knox box will be required to provide adequate access for the Fire Department's purposes for the gate along the alley. A 15 foot pole sign is to be located in the northeastern most corner of the property. The building will be a total of 9,100 square feet with approximately 7,200 square feet of retail floor area. The dumpster is located in the northeast corner of the property, and will require private solid waste collection as the City would be unable to provide collection based on its location.

STAFF RECOMMENDATION:

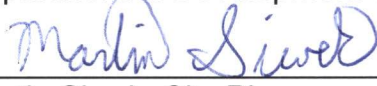
Staff recommends approval of the applicants request for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District subject to the following conditions.

- A. That the underlying zoning classification for this property be subject to the NS, Neighborhood Service District Standards.
- B. That the proposed development will significantly conform to the proposed site plan, Exhibit A.
- C. That the proposed development will significantly conform to elevations and proposed materials in Exhibits B and C.

- D. That the proposed development will conform to all requirements by the Fire Marshall's Office.
- E. That the proposed development will conform to all requirements by the Building Official's Office.
- F. The proposed development shall comply with all requirements of the City Landscape Code.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services



Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B, and C

Case Number: _____

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Austin Rogers, GBT Realty Corp. 665-370-0670/arogers@gbtrealty.com
Applicant Name (Phone/e-mail)

9010 Overlook Blvd., Brentwood, TN 37027
Address Zip Code

Vamshi M. Kolluru & Padma Kolluru 972-491-0309
Property Owner Name (Phone/e-mail)

1741 Case Dr., Plano, Tx 75025
Address Zip Code

Sarah Holley, GSP 615-770-8568/sarah-holley@gspnet.com
Representative Name (Phone/e-mail)

511 Union St, Suite 1400, Nashville, TN 37219
Address Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. 2002 N. Midland Dr.

Blk 001, Lot 141, Addn: Harrison Tract,
Midland, Midland County, Texas

PRESENT ZONE: PDOC REQUESTED ZONE: PDTD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: For use as a commercial
retail store

Present Use of Property: Vacant

Proposed Use of Property: Dollar General Store

How will zone change affect the public health, safety and welfare? It will benefit
the area by providing a convenient general store.

Describe how conditions affecting the property have changed since present zoning designation:
The property has not been developed since 1996,
so this change will allow new development.

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 additional district.
- Single PD, Planned District zone change: \$550. Multiple PD proposal: add \$100 per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOI,DED) of the PD site plan:

Site Plan in digital format .pdf and .jpg:

✓
✓

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): Pasha Kollar Date: 5/1/2013

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.

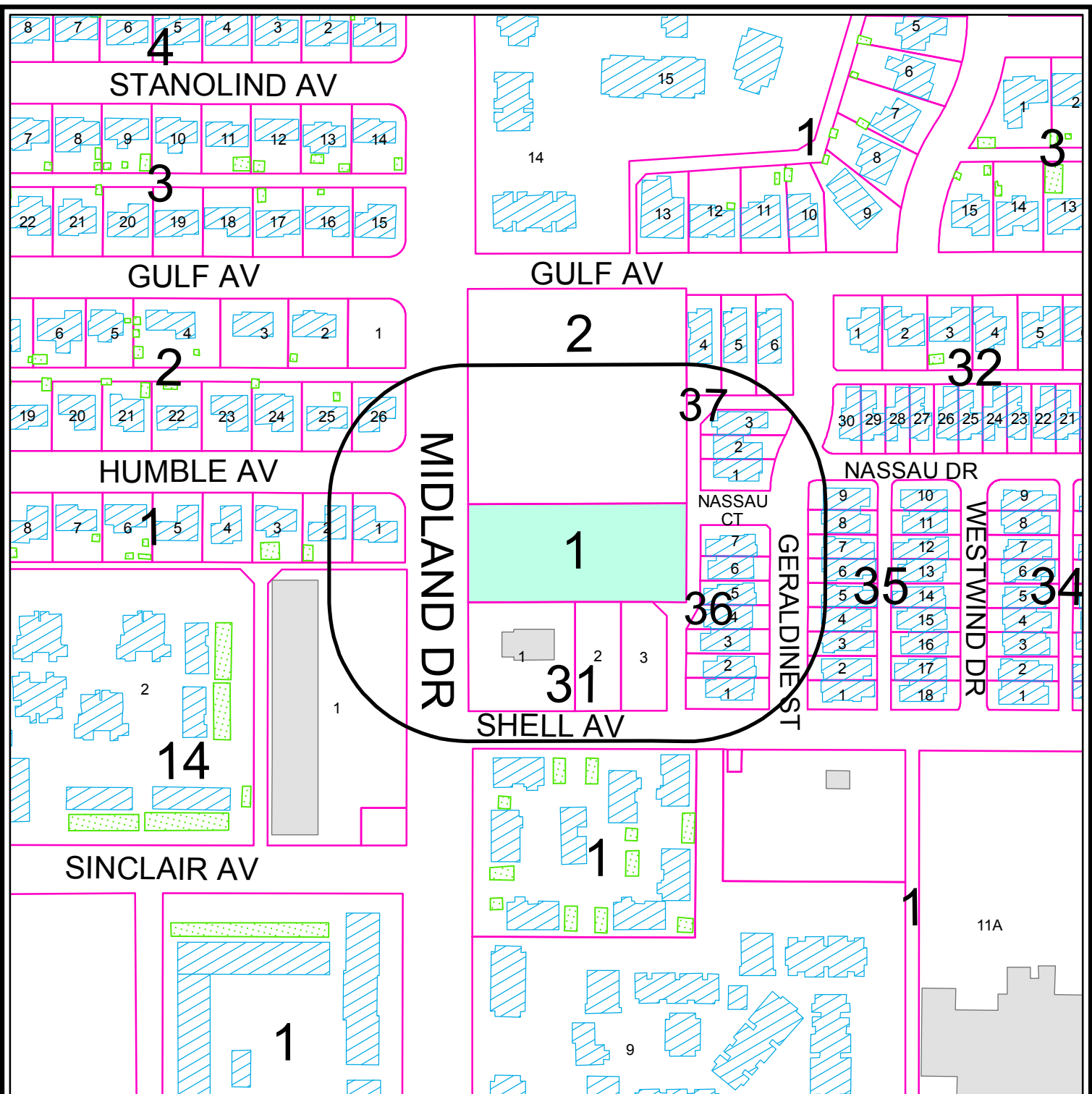
Authorized Agent (signature)

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: _____	Date: _____
Assigned: _____	
For: _____	On: _____

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



PROPERTY OWNER NOTIFICATION MAP

Z - 13 - 006

Scale: 1" = 200'

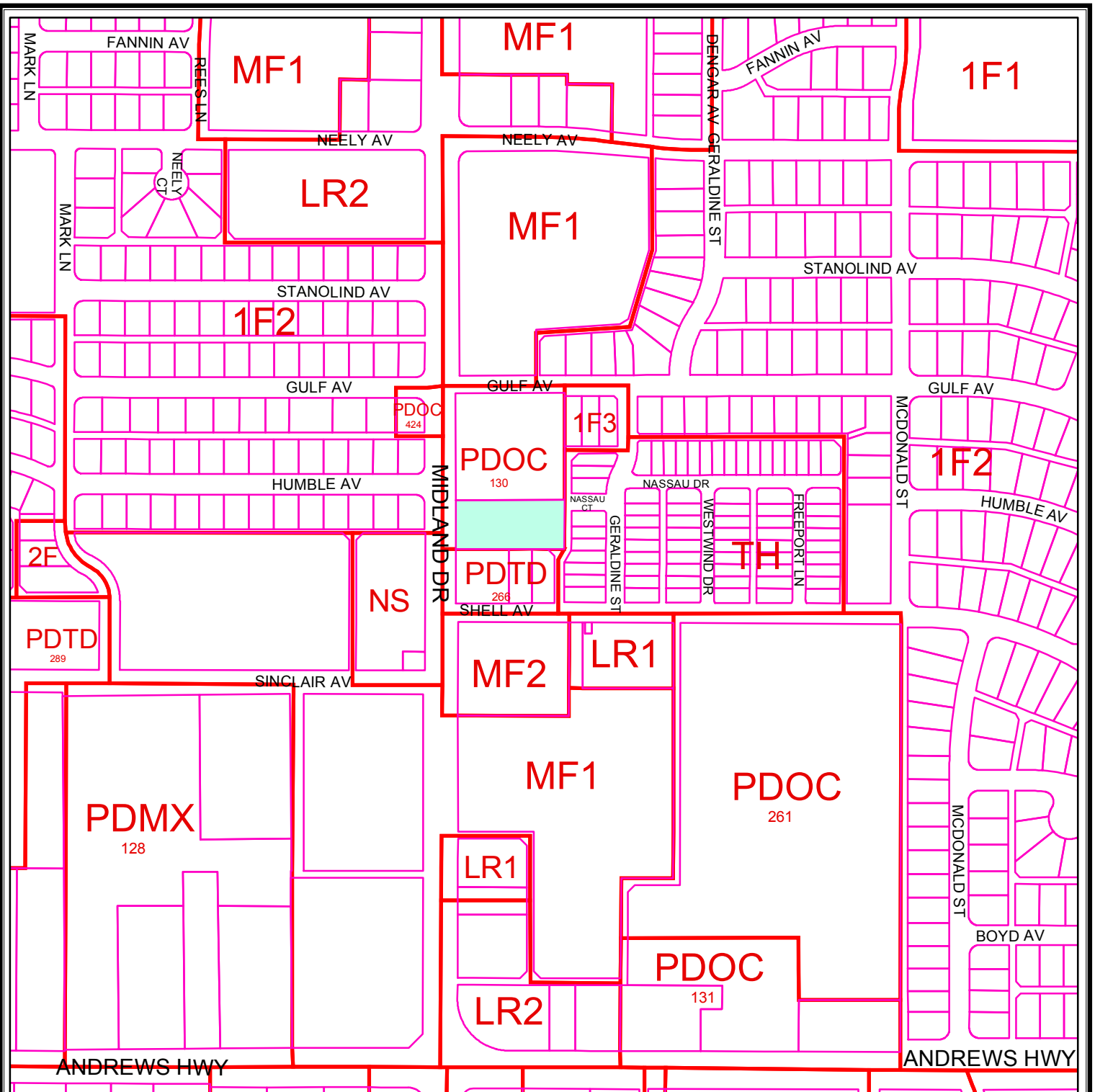
Consider a request for a zone change from PD, Planned District for an Office Center, to PD, Planned District for a Transition District on a 1.011-acre tract of and being the north 141.00 feet of Block 1, Harrison Tract, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 13 - 006

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for an Office Center, to PD, Planned District for a Transition District on a 1.011-acre tract of and being the north 141.00 feet of Block 1, Harrison Tract, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, IP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

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COMPARER

FILE NO. 3829

TO

THE PUBLIC

JOHN S. HARRISON ET UX
JOHN S. HARRISON and
Elizabeth A. Harrison
To

Restrictive Covenants
Dated: Oct. 29, 1946

The Public

State of Texas

County of Midland: WHEREAS, John S. Harrison and Elizabeth A. Harrison own S 1/2 of NW 1/4 of SW 1/4 of Sec. 20, block 39, Township #1S., T & P Ry. Co. Survey as recorded Deed Records, Midland Co, book 90, Page 559, and which land has been divided into eight plats containing 2 1/2 acres more or less as shown by map attached to this document; and whereas John S. Harrison and Elizabeth A. Harrison desire to keep tracts 1, 2, 3, 4, 5, 6, 7 and 8 of S 1/2 of NW 1/4 of SW 1/4 of Sec. 20, block 39, Township #1S., T & P Ry. Co. Survey, residential property of the first class and to protect said tracts, 1, 2, 3, 4, 5, 6, 7 and 8 afore mentioned from encroachments foreign to residential property of such class; NOW THEREFORE, in consideration of the premises and for the purpose of enhancing the value of said tracts 1, 2, 3, 4, 5, 6, 7 and 8 of said plat afore mentioned of the division of S 1/2 of NW 1/4 of SW 1/4 of Sec. 20, block 39, Township #1S., T & P Ry. Co. Survey, and to insure its desirability for residential purposes, we, the said John S. Harrison and Elizabeth A. Harrison individually and jointly do hereby and herein create and place upon said tracts 1, 2, 3, 4, 5, 6, 7 and 8 of S 1/2 of NW 1/4 of SW 1/4 of Sec. 20, block 39, Township #1S., T & P Ry. Co. Survey, the following restrictions, to-wit:

1. No more than two principle dwellings shall be erected on each tract, and by principle dwellings it is meant the chief or primary building used as a residence, as distinguished from out buildings or servants quarters.
2. Each tract shall not be subdivided into more than two tracts - but the provision of #1 applies to the entire tract whether subdivided into two tracts or not.
3. No principle dwelling shall be erected containing less than four rooms and bath, and such dwelling shall be of frame or more substantial construction; box and strip type construction for main principle dwelling shall not be permitted; the principle dwelling shall contain not less than 800 sq. ft. of floor space, no building or plat of a building shall be moved from some other location to the tract, to be used in whole or in part as principle dwelling unless.

such building conforms to afore mentioned construction requirements and is painted and in a good state of preservation.

4. All out bldings, stock and poultry pens shall be located not less than 150 ft. from property line fronting County maintained road or street - garages and servants quarters excepted. No out door toilets will be permitted.

5. No tract or subdivision of tract shall ever be used by or conveyed to any person of African descent, provided however, this restriction shall not prevent occupancy by domestic employees of such descent who may be employed by owners or tenants of such premises, and these restrictions shall not prevent construction of quarters for such employees upon the tract.

6. No noxious or offensive trade or activity shall be carried on upon any of the tracts, however these restrictions shall not prevent the drilling of oil wells and the development under an oil and gas lease and the production of oil, gas and other minerals and removing the same therefrom; this restriction shall not prohibit or prevent the keeping of a reasonable amount of live stock or poultry upon any of the tracts;

7. These covenants and restrictions are to run with tracts 1, 2, 3, 4, 5, 6, 7 and 8 and shall be binding on the parties executing this instrument, their heirs and assigns, and all persons claiming under them, or claiming said land or any part thereof, their heirs and assigns, until Jan. 1, 1980, at which time said covenants and restrictions shall be automatically extended for successive periods of ten years unless by a vote of the majority of the owners of tracts 1, 2, 3, 4, 5, 6, 7 and 8 it is agreed that said covenants and restrictions shall be changed in whole or in part;

8. If the parties executing this instrument, or their heirs and assigns, or any person whomsoever, shall violate or attempt to violate any of the restrictive covenants and restrictions herein set out, it shall be lawful for any other person or persons owning any building plot or premises located in or on tracts 1, 2, 3, 4, 5, 6, 7 and 8 to protect any proceedings, at law or in equity, against the person or persons violating or attempting to violate any restrictive covenants or restrictions and either to prevent him or them from so doing, or to recover damages or other dues arising out of or resulting from such violations.

John S. Harrison

Elizabeth A. Harrison

JOINT ACKNOWLEDGMENT

THE STATE OF TEXAS §
COUNTY OF MIDLAND §

BEFORE ME, the undersigned, a Notary Public, M. I. Kroenlein, in and for said County, Texas, on this day personally appeared John S. Harrison and Elizabeth A. Harrison, his wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes and consideration therein expressed, and the said Elizabeth A. Harrison wife of the said John S. Harrison having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Elizabeth A. Harrison acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, This 29th day of October, A. D. 1946.

(SEAL)

M. I. Kroenlein, Notary Public in and for
Midland County, Texas. M. I. Kroenlein

Filed for record the 5th day of October, A. D. 1946 at 10:45 o'clock A. M.

Recorded on this the 6th day of October, A. D. 1946 at 11:00 o'clock A. M.

By Lucille Johnson Deputy, LUCILLE JOHNSON, Clerk County Court,
Midland County, Texas.

FILE NO. 5264
RESTRICTIONS
TO
THE PUBLIC

JOHN S. HARRISON ET UX
THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, John S. Harrison and wife, Elizabeth Ann Harrison, filed for record on October 5, 1946, in volume 91, page 466, of the deed records of Midland County, Texas, certain restrictive covenants affecting a portion of the West 1/2 of the Southwest 1/4 of Section 20, Block 39, Township 1-South, T. & P. Ry. Co. Survey, Midland County, Texas; and

Whereas, they wish to execute this correction instrument, in order to describe the land affected with greater particularity:

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that we, John S. Harrison and wife, Elizabeth Ann Harrison, of the County of Midland, State of Texas, in consideration of the premises and for the purpose of enhancing the value of HARRISON'S TRACTS, a subdivision of a portion of the West 1/2 of the Southwest 1/4 of Section 20, Block 39, Township 1-South, T & P. Ry. Co. Survey, Midland County, Texas, as more particularly described by metes and bounds as follows:

Beginning at a point in the western boundary line of Said Section 20, a distance of 1302 feet North of its Southwest corner, and being the NW corner of a tract of land conveyed to Forest Hunter and wife, Jessie R. Hunter, recorded in volume 87, page 139, of the deed records of Midland County, Texas, as the place of beginning; thence North 74 deg. 45'

East 1330 feet along the North line of the Hunter tract to its NE corner as the SE corner of this tract of land; thence North 15 deg. 15' West 677 feet to a stake for the NE corner of this tract of land; thence South 74 deg. 45' West 1330 feet to a stake in the West boundary line of Section 20 as the NW corner of this tract of land; thence South 15 deg. 15' East 677 feet along the Western Boundary line of said Section 20 to the place of beginning; And for the purpose of insuring its desirability for residential purposes, hereby and herein create and place upon said HARRISON'S TRACTS, effective as of October 5, 1946 and relating back to said date, the following restrictions:

1. No more than two principal dwellings shall be erected on each tract, and by principal dwellings it is meant the chief or primary building used as a residence, as distinguished from out-buildings or servants quarters.
2. Each tract shall not be subdivided into more than two tracts - but the provision of paragraph 1 preceding applies to the entire tract whether subdivided into two tracts or not.
3. No principal dwelling shall be erected containing less than four rooms and bath, and such dwelling shall be of frame or more substantial construction; box and strip type construction for main principal dwellings shall not be permitted; the principal dwelling shall not contain less than 800 square feet of floor space, no building or part of a building shall be moved from some other location to the tract, to be used in whole or in part as a principal dwelling unless such building conforms to the aforementioned construction requirements and is painted and in a good state of preservation.
4. All out-buildings, stock and poultry pens shall be located not less than 150 feet from property line fronting County maintained road or street, - garages and servants' quarters excepted. No out-door toilets will be permitted.
5. No tract or subdivision of a tract shall ever be used by or conveyed to any person of African descent, provided, however, that this restriction shall not prevent occupancy by domestic employees of such descent who may be employed by owners or tenants of such premises, and these restrictions shall not prevent construction of quarters for such employees upon the premises.
6. No noxious or offensive trade or activity shall be carried on upon any of the tracts; however, these restrictions shall not prevent the drilling of oil wells and the development under an oil and gas lease and the production of oil, gas and other minerals and removing the same therefrom; this restriction shall not prohibit or prevent the keeping of a reasonable amount of live stock or poultry upon any of the tracts.
7. These covenants and restrictions are to run with the land and shall be binding on the parties executing this instrument, their heirs and assigns, and all persons claiming under them or independent of them, their heirs and assigns, until January 1, 1980, at which time said covenants and restrictions shall be automatically extended for successive periods of ten years unless by a vote of the majority of the owners of Harrison's Tracts it is agreed that said covenants and restrictions shall be changed in whole or in part.
8. If the parties hereto, their heirs and assigns, or any person whomever, shall violate or attempt to violate any of the restrictive covenants and restrictions herein set out, it shall be lawful for any other person or persons owning any building plot or premises located in said Harrison's Tracts to initiate and maintain any proceedings, at law or in equity, against the person or persons violating or attempting to violate any restrictive covenants or restrictions, and either to prevent him or them from so doing, or to recover damages or other dues and equities arising out of or resulting from such violations or attempted violations.

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Done at Midland, Texas, this the 14 day of February, 1947.

John S. Harrison

John S. Harrison

Elizabeth Ann Harrison

Elizabeth Ann Harrison

THE STATE OF TEXAS

COUNTY OF MIDLAND

Before me, the undersigned authority, on this day personally appeared John S. Harrison and Elizabeth Ann Harrison, his wife, both known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they each executed the same for the purposes and consideration therein expressed, and the said Elizabeth Ann Harrison, wife of the said John S. Harrison, having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said Elizabeth Ann Harrison acknowledged such instrument to be her act and deed, and she declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it.

Given under my hand and seal of office this the 14 day of February, 1947.
(SEAL)

D. Lord Murr

Notary Public Midland County, Texas.

D. LORD MURR

Notary Public in and for Midland County, Texas.

Filed for record the 17th day of March, A. D. 1947 at 11:00 o'clock A. M.

Recorded on this the 17th day of March, A. D. 1947 at 4:00 o'clock P. M.

LUCILLE JOHNSON, Clerk County Court,

Midland County, Texas.

By Lucille Johnson Deputy.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 1, being a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard)

Purpose: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 1, being a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Public hearings were held on June 25th and June 26th, 2013 concerning the annexation of this property into the Midland City Limits. The City Council also approve the annexation and associated service plan for this 40.498-acre tract on first reading June 25, 2013. As a reminder, this is a voluntary annexation with residential development plans submitted and under review with the City.

Attachments:

Map

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on May 28, 2013 and May 29, 2013; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on May 17, 2013;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 1

ZONING - FD, FUTURE DEVELOPMENT

METES AND BOUNDS DESCRIPTION of a 40.498 Acre Tract of Land being 40.135 acres out of a 40.498 Acre Tract of Land, as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and a 0.363 Acre Tract of Land described as Exhibit B as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, located in Section 37, Section 38, and Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10689414.20 & E=1728297.74) a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the west line of Section 37, the east line of Section 38, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, the east line of a 634.887 acre tract of land as recorded in Volume 3131, Page 210, Official Public Records, Midland County, Texas, the southwest corner of a 108.712 acre tract of land as recorded in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, for the northwest corner of a 40.498 acre tract of land as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and the northwest corner of this tract from which a 1/2" iron rod and plastic cap marked "RPLS 4413" found for the northwest corner of the 108.712 acre tract of land bears N 14°25'48" W a distance of 2417.76 feet;

THENCE, along the north boundary line of the 40.498 acre tract of land and the south boundary line of the 108.712 acre tract of land, S 84°27'35" E a distance of 2349.72 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, the northeast corner of the 40.498 acre tract of land, the most southerly corner of the 108.712 acre tract of land and the northeast corner of this tract;

THENCE, along the east boundary line of the 40.498 acre tract of land, S 30°42'19" E a distance of 20.00 feet to a point in the center of said pipeline easement for the southeast corner of the 40.498 acre tract of land and the southeast corner of this tract, from which a City of Midland Control Point marked "43/93" bears S 12°53'34" E a distance of 9436.9 feet;

THENCE, along the south boundary line of the 40.498 acre tract of land and the centerline of said pipeline easement, S 59°17'41" W at a distance of 35.46 feet cross the south line of said Section 37 and the north line of said Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, from which a 1" black iron pipe found for the southwest corner of said Section 37 bears S 75°19'36" E a distance of 91.64 feet and a 1" black iron pipe found for the northwest corner of said Section 48 bears S 75°19'36" W a distance of 91.57 feet, continuing for a total distance of 2499.30 feet to a 3/4" galvanized iron pipe and plastic cap marked "RPLS 4413" set in the west line of said Section 48, the east line of Section 47, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and the east line of the 634.887 acre tract of land for the southwest corner of this tract, from which a 1" black iron pipe found for the southwest corner of said Section 48 and the southeast corner of said Section 47 bears S 14°16'09" E a distance of 4659.26 feet;

THENCE, along the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, N 14°16'09" W a distance of 156.99 feet to a point of curve to the right in the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land, the west boundary line of the 40.498 acre tract of land, the most southerly corner of a 0.363 acre tract of land described as Exhibit A as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, and a corner of this tract;

THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, with a curve to the right having a radius of 1500.00 feet, delta angle of 17°58'42" and an arc length of 470.67 feet (chord bearing N 05°16'48" W a distance of 468.74 feet), to a point for a corner of the 0.363 acre tract of land described as Exhibit A and a corner of this tract;

THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, N 03°42'33" E at a distance of 59.38 feet pass the north line of said Section 48 and the south line of said Section 38, the northeast corner of the 0.363 acre tract of land described as Exhibit A and the southwest corner of a 0.363 acre tract of land described as Exhibit B, as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, continuing for a total distance of 114.29 feet to a point of curve to the left for a corner of the 0.363 acre tract of land described as Exhibit B and a corner of this tract;

THENCE, along the west boundary line of the 0.363 acre tract described as Exhibit B, with a curve to the left having a radius of 1500.00 feet, delta angle of 18°08'21" and an arc length of 474.88 feet, (chord bearing N 05°21'37" W a distance of 472.90 feet), to a point in the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land for the most northerly corner of the 0.363 acre tract of land described as Exhibit B and for a corner of this tract;

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APR 25 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Page 1 of 2

Exhibit "A"

CASE NO. 2-13-017

THENCE, along the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, N 14°25'48" W a distance of 326.76 feet to the POINT OF BEGINNING.

Bearing, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.



Michael L. Stanford

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APR 25 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Page 2 of 2

CASE NO. 2-13-017

16.7

EXHIBIT B

SERVICE PLAN FOR Tract 1

Being a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.)

DEVELOPMENT SERVICES

Existing Services: Public access is not currently available to Tract 1 since this vacant property is pending development.

- A. Type of service to be provided upon annexation: Maintenance of this road and other roads and public improvements will become the City's responsibility following construction by the developer(s) and acceptance by the City. Engineering services, platting, traffic studies and controls will be provided as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters are anticipated on this tract.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water and sewer services are located within the vicinity of Tract 1, but water and sewer mains will need to be extended to serve any development in accordance with City regulations.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

**SEC 38,
BLK 40,
T-1-S**

**SEC 37,
BLK 40,
T-1-S**

**SEC 47,
BLK 40,
T-1-S**

SEC 48, BLK 40, T-1-S

PROPOSED ANNEXATION MAP

M - 13 - 004

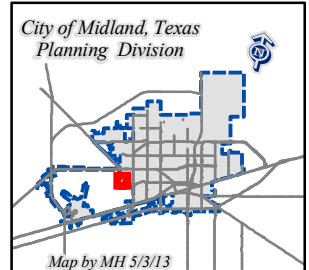
Scale: 1" = 500'

TRACT 1

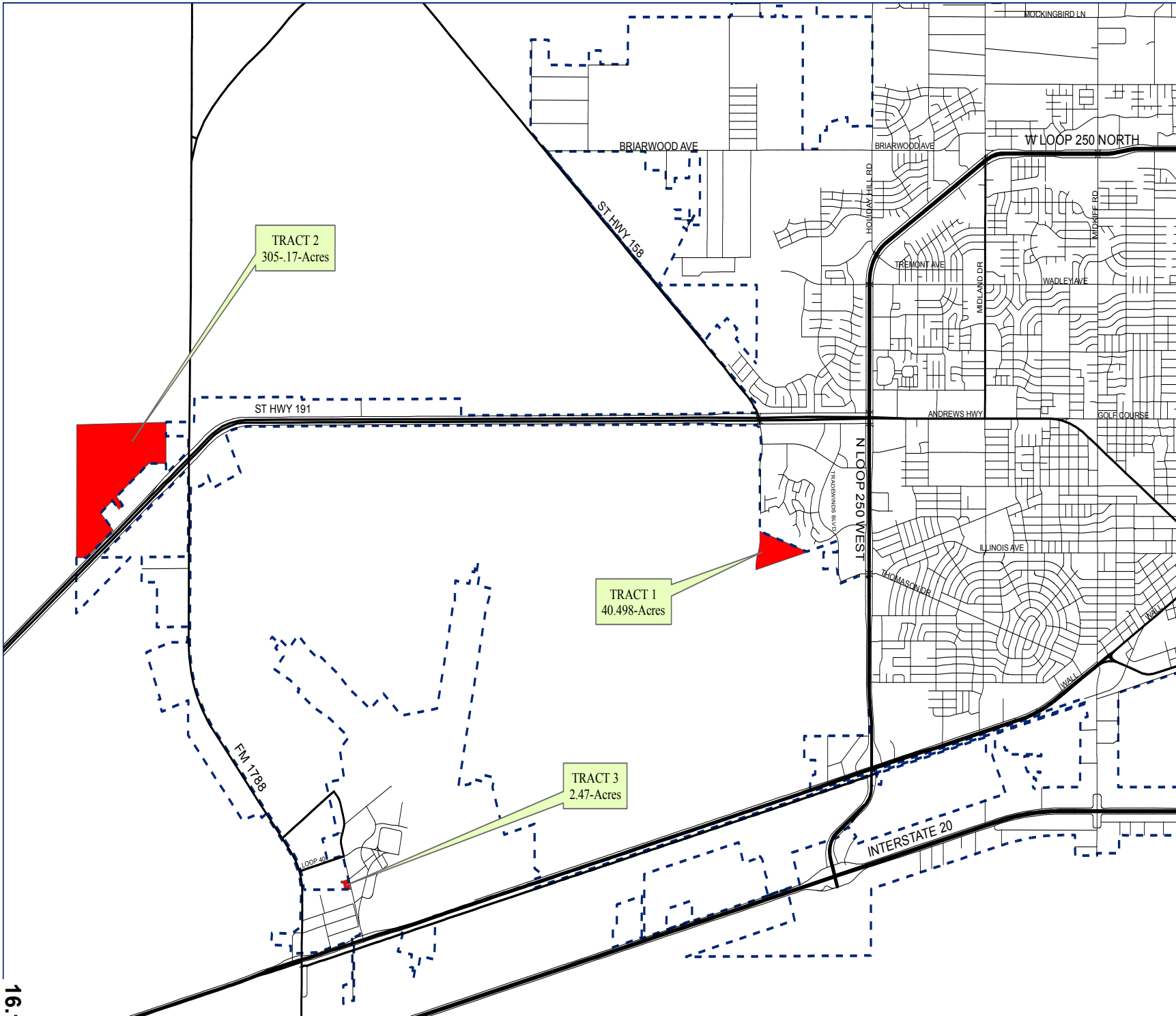
Consider a request for the annexation of a 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

-  ANNEXATION BOUNDARY
-  CITY LIMITS
-  SURVEY SECTION
-  CITY PARCEL
-  COUNTY PARCEL
-  PUBLIC BLDGS
-  PRIVATE BLDGS



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Proposed Annexation

May 10, 2013

LEGEND

- Streets
- City Limits
- Annexation Tract



PLANNING DIVISION
Map by MH

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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 2, being a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west side of N. FM 1788)

Purpose: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 2, being a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west side of N. FM 1788)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Public hearings were held on June 25th and June 26th, 2013 concerning the annexation of this property into the Midland City Limits. The City Council also approve the annexation and associated service plan for this 305.17-acre tract on first reading June 25, 2013. As a reminder, this is a voluntary annexation submitted by the applicant, but may have been initiated by the City through the terms of the Agricultural Exemption Agreement. Development plans have been submitted and are under review with the City.

Attachments:

Map

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TO-MARKET ROAD 1788); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on May 28, 2013 and May 29, 2013; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on May 17, 2013;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 2

ZONING - LI, LIGHT INDUSTRIAL

Legal Description:

BEING a 305.17 acre tract of land situated in Section 37, Block 41, T-1-S, T&P RR Co., Midland County, Texas, and being more fully described by metes and bounds as follows:

BEGINNING at (N:10,680,333.64, E:1,697,375.73) a 1/2 inch iron rod in Stone Mound found for the Southwest corner of said Section 37 and the Southeast corner of Section 38, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and the Southwest corner of the herein described tract;

THENCE N 14°06'06" W, with the West line of said Section 37, a distance of 5325.2 feet to (N:10,685,498.48, E:1,696,078.24) a 1/2 inch iron rod found for the Northwest corner of said Section 37 and the Northeast corner of said Section 38, and the Northwest corner of the herein described tract;

THENCE N 74°59'19" E, a distance of 4159.7 feet to a point on the North Section line of said Section 37 and the South Section line of said Section 36, for the Northeast corner of the herein described tract;

THENCE S 14°10'06" E, with the West boundary line of said Calvary chapel tract and that certain tract of land as described in deed to Steve L. Holifield Sr., Volume 1666, Page 335, Official Public Records, Midland County, Texas, a distance of 60.0 feet pass a 1/2 inch iron rod found on the West boundary line of said Calvary chapel tract and continuing on for a total distance of 1637.0 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE S 75°45'28" W, with the North boundary line of that certain tract of land as described in deed to Absolute Investments, Inc., recorded in Instrument number 2012-22283, Official Public Records, Midland County, Texas, a distance of 838.1 feet to a 1/2 inch iron rod with red plastic cap marked

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MAY 21 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Exhibit "A"

CASE NO. 2-13-023

"West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 13°56'07" E. in and across said Section 37, a distance of 25.0 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of this herein described tract;

THENCE S 34°41'17" W. in and across said Section 37, a distance of 1970.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 55°18'12" E. in and across said Section 37, a distance of 449.9 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE S 34°38'41" W. in and across said Section 37, a distance of 246.5 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE N 55°18'12" W. in and across said Section 37, a distance of 450.4 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 34°41'48" W. in and across said Section 37, a distance of 739.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 55°18'12" E. in and across said Section 37, a distance of 900.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set in the Northwest right-of way line of said State Highway 191 for an exterior corner of the herein described tract;

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MAY 21 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

CASE NO. 2-13-023

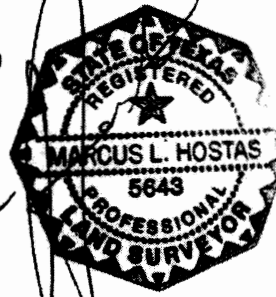
THENCE S 34°45'31" W, with the Northwest right-of-way line of said State Highway 191, a distance of 1665.7 feet to a point on the South Section line of said Section 37 for an exterior corner of the herein described tract;

THENCE S 75°05'11" W, with the South Section line of said Section 37 and the North Section line of Section 48, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, a distance of 437.2 feet to the POINT OF BEGINNING.

Subject tract containing 305.17 acres of land.

NOTE:

THIS DESCRIPTION NOT TO BE USED FOR TRANSFERING TITLE!

M. Hostas 5/21/13




CASE NO. 2-13-023

EXHIBIT B

SERVICE PLAN FOR Tract 2

Being a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west side of N. FM 1788)

DEVELOPMENT SERVICES

Existing Services: State maintained public roads FM 1788 & SH 191 Service Drives.

- A. Type of service to be provided upon annexation: Tract 2 is adjacent to FM 1788 & SH 191. Maintenance of roads internal to the pending subdivision plat and public improvements will become the City's responsibility following construction by the developer(s) and acceptance by the City. Engineering services, platting, traffic studies and controls will be provided as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters are anticipated on this tract.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water services are located within the vicinity of Tract 2, but water mains will need to be extended to serve any development in accordance with City regulations.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

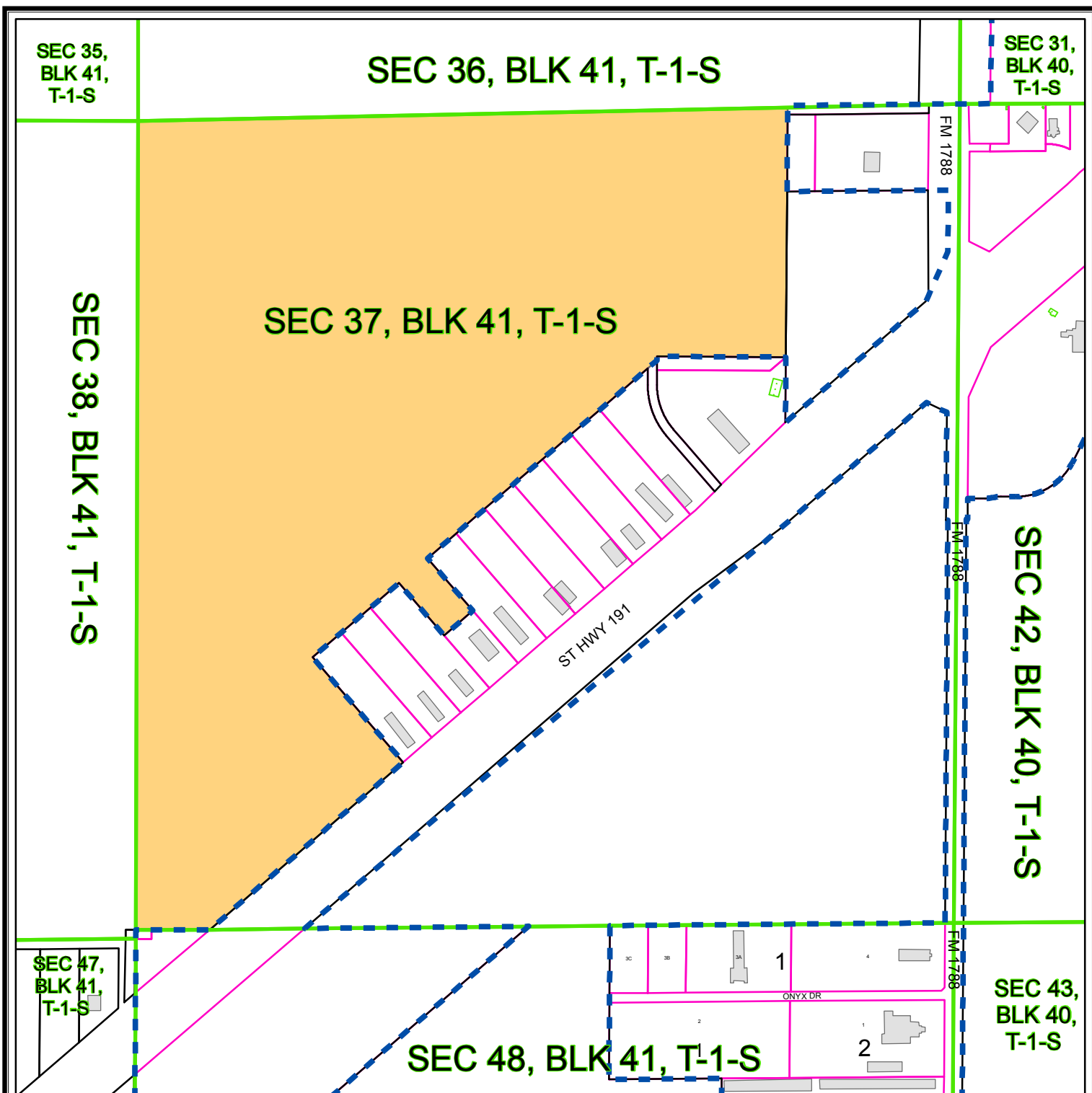
Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

- A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.
- B. Capital improvements to begin within 2 1/2 years: None anticipated.



PROPOSED ANNEXATION MAP

M - 13 - 007

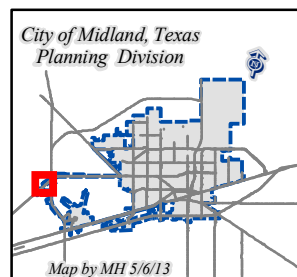
Scale: 1" = 900'

TRACT 2

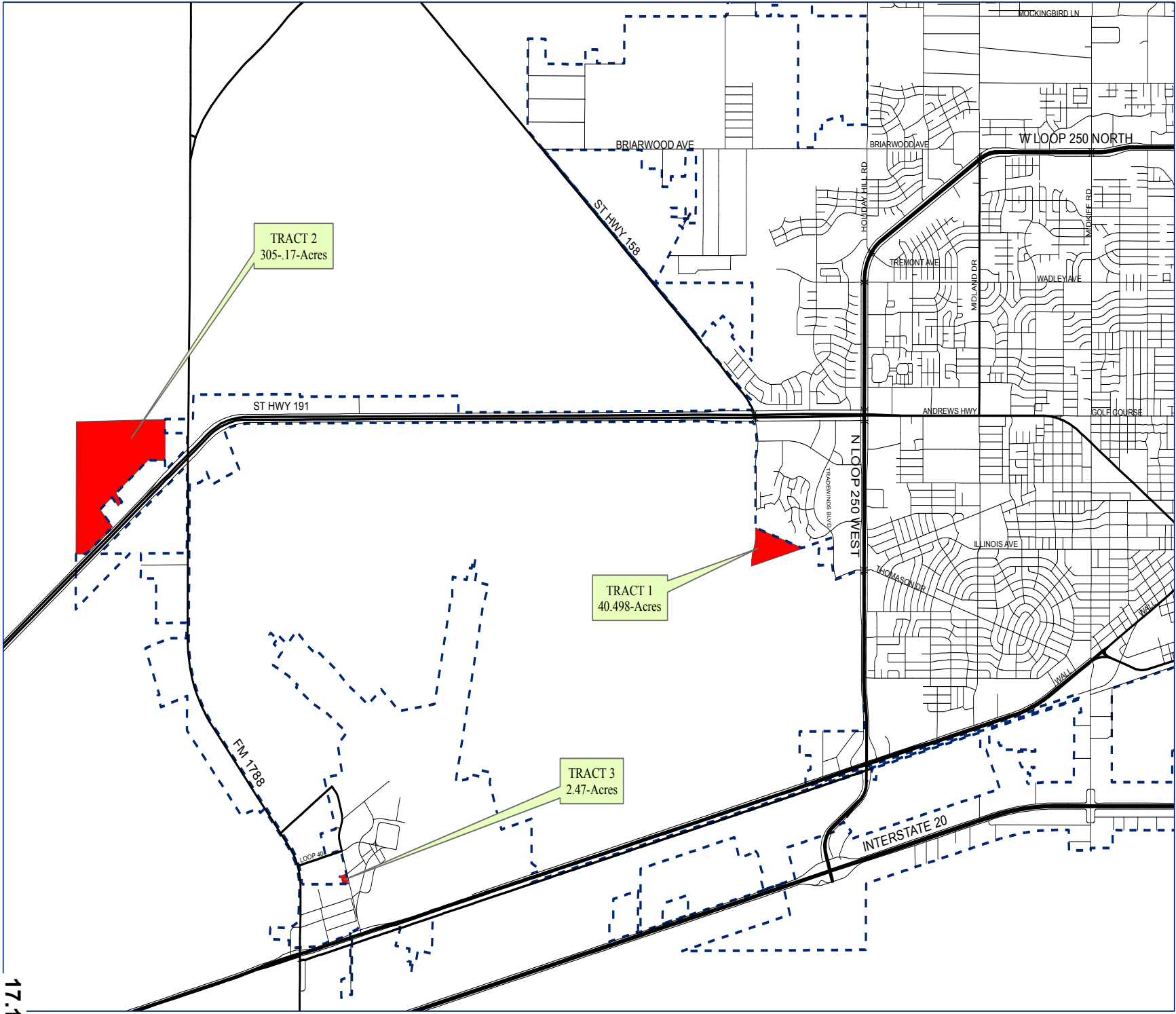
Consider a request for the annexation of a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- COUNTY PARCEL
- CITY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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Proposed Annexation

May 10, 2013

LEGEND

- Streets
- - - City Limits
- Annexation Tract



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 3, being a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40)

Purpose: Consider an ordinance on second reading for annexing and adopting a service plan for Tract 3, being a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

Public hearings were held on June 25th and June 26th, 2013 concerning the annexation of this property into the Midland City Limits. The City Council also approve the annexation and associated service plan for this 2.47-acre tract on first reading June 25, 2013. As a reminder, this is a voluntary annexation submitted by the applicant, but may have been initiated by the City through the terms of the Agricultural Exemption Agreement. Development plans have been submitted and are under review with the City.

Attachments:

Map
Proposed Ordinance

Exhibit B: Service Plan

ORDINANCE NO.

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40); AND APPROVING A PUBLIC SERVICE PLAN

WHEREAS, public hearings before the City Council of the City of Midland, Texas, a home rule municipal corporation, where all interested persons were provided an opportunity to be heard on the proposed annexation of the hereinafter described territory, were held in the City Council Chambers on May 28, 2013 and May 29, 2013; and

WHEREAS, notice of such public hearings was published in a newspaper having general circulation in the City of Midland, Texas, and in the below described territory, on May 17, 2013;

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

SECTION ONE. That the following described property adjoining the present boundary lines of the City of Midland, Texas, be and the same is hereby annexed to and incorporated within the boundary of the City of Midland, Texas:

Being a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, and being more fully described by metes and bounds attached hereto as Exhibit "A" and incorporated herein by reference for all legal purposes.

SECTION TWO. That the service plan, attached hereto as Exhibit "B", which provides for the extension of municipal services into the area described above in Section One, is hereby approved.

SECTION THREE. That this ordinance be published in the official newspaper in the City of Midland, Texas, and the same shall not be effective until after the publication

thereof.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 3
ZONING - IP-2, INDUSTRIAL PARK

**LEGAL DESCRIPTION FOR A 2.47 ACRE TRACT
BEING PART OF PROPOSED LOT 1, BLOCK 4,
DEVON ADDITION, SECTION 4 AND A PART OF SECTION 8,
BLOCK 40, T-2-S, T. & P. RR. CO. SURVEY,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

BEGINNING at (Y= 10,671,245.90', X= 1,712,930.07') a 1/2" iron rod with plastic cap marked "PLS 1974" set on the West right-of-way line of Wright Drive and the most Northerly Northeast corner of said Proposed Lot 1, Block 4 and this tract, from whence the Northwest corner of said Section 8 bears N29°58'29"W, a distance of 2212.02 feet and S75°17'06"W, a distance of 1702.05 feet;

THENCE S29°58'29"E with the West right-of-way line of said Wright Drive and the East line of said Proposed Lot 1, Block 4, at 420.00 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set at the Southeast corner of said Lot 1, Block 4 continuing for a total distance of 426.80 feet to the Southeast corner of this tract;

THENCE S74°54'08"W along a Midland city limits line, a distance of 275.23 feet to the Southwest corner of this tract;

THENCE N29°58'29"W with the West line of said Proposed Lot 1, Block 4, a distance of 280.26 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at the Northwest corner of said Proposed Lot 1, Block 4 and the beginning of a non-tangent curve;

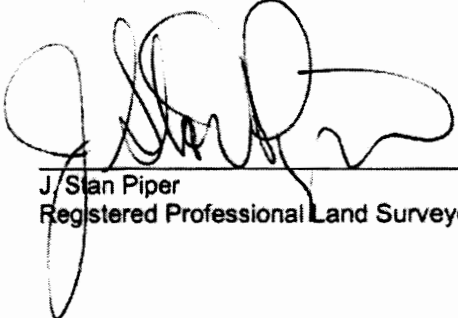
THENCE around a non-tangent curve to the right in a Northwesterly direction with the a Proposed Temporary Turn-Around Easement to be dedicated on said Proposed Devon Addition, Section 4 with a radius of 50.00 feet, an arc length of 249.81, a delta angle of 286°15'36" and a chord distance of 60.00 feet which bears N29°58'29"W to a 1/2" iron rod with plastic cap marked "PLS 1974" set on the North right-of-way line of Proposed Lindbergh Drive, Section 4 and an interior corner of this;

THENCE N59°50'14"E with the North line of said Proposed Lindbergh Drive and said Proposed Devon Addition, Section 4, a distance of 251.00 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at an interior corner of said Devon Addition, Section 4 and of this tract;

THENCE N14°55'53"E with a cutback line of said Proposed Lindbergh Drive and said Proposed Devon Addition, Section 4, a distance of 21.25 feet to the **PLACE OF BEGINNING**. (Tract contains 107,582 square feet or 2.47 acres.)

Bearings, distances and coordinates are relative to Texas State Plane Coordinate System, Central Zone, 1983/86 NAD, with a combined grid factor of 0.9998706 for mean project datum. The theta angle is equal to -0°58'09.9" at City of Midland control station "Warfield" with published values of N=10,664,066.89' and E= 1,712,553.67' in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on March 27, 2013.


J. Stan Piper
Registered Professional Land Surveyor #1974

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 W. Wall Street, Suite 100
Midland, TX 79701

RECEIVED PER SURVEYING BOX 60432; MIDLAND, TX 79711; (432) 550-7810

MAY 10 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Exhibit "A"

CASE NO. 2-13-024

EXHIBIT B

SERVICE PLAN FOR Tract 3

Being a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40)

DEVELOPMENT SERVICES

Existing Services: State maintained public roads FM 1788 & City maintained Wright Drive.

- A. Type of service to be provided upon annexation: Tract 3 is adjacent to FM 1788 & Wright Drive. Maintenance of roads internal to the pending subdivision plat and public improvements will become the City's responsibility following construction by the developer(s) and acceptance by the City. Engineering services, platting, traffic studies and controls will be provided as warranted. Development and utility extension plans, right-of-ways, easements, and other typical development matters are anticipated on this tract.
- B. Capital improvements to begin within 2 1/2 years: None

UTILITIES

Existing Services: Water and sewer services are located within the vicinity of Tract 3, but water and sewer mains will need to be extended to serve any development in accordance with City regulations.

- A. Type of service to be provided upon annexation: None.
- B. Capital improvements to begin within 2 1/2 years: None

POLICE

Existing Services: None

- A. Type of service to be provided upon annexation: emergency and routine call response.
- B. Capital improvements to begin within 2 1/2 years: No improvements anticipated.

FIRE

Existing Services: Fire and emergency response provided through agreement with Midland County

- A. Fire and EMS Service to be provided upon the effective date of annexation: All services are currently available and will continue following annexation.

B. Capital improvements to begin within 2 1/2 years: None anticipated.

COMMUNITY SERVICES

Existing Services: Health and Senior Services
throughout Midland County including on site
septic system permitting

A. Type of service to be provided upon annexation: Animal Control services including pick up, impoundment, records maintenance, adoption and education will be immediately available.

B. Capital improvements to begin within 2 1/2 years: None anticipated.

-2-

Case Number: M-13-006

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Younger Partners, Ltd.	432-682-9031
Applicant Name	(Phone/e-mail)
P.O. Box 11004	79701-1004
Address	Zip Code

SAME	
Property Owner Name	(Phone/e-mail)
Address	Zip Code

Parkhill, Smith & Cooper, Inc.	432-697-1447
Representative Name	(Phone/e-mail)
1700 W. Wall, Suite 100	79701
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. See attached Metes and Bounds description.

PRESENT ZONE: N/A REQUESTED ZONE: IP-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: _____

Present Use of Property: Vacant Lot

Proposed Use of Property: Industrial park uses

How will zone change affect the public health, safety and welfare? It will not affect it.

Describe how conditions affecting the property have changed since present zoning designation:
N/A

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district. N/A
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

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

Jared A. Squyres who, being by me duly sworn, upon oath says: That (s)he is authorized by Younger Partners, Ltd., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.


Authorized Agent (signature)

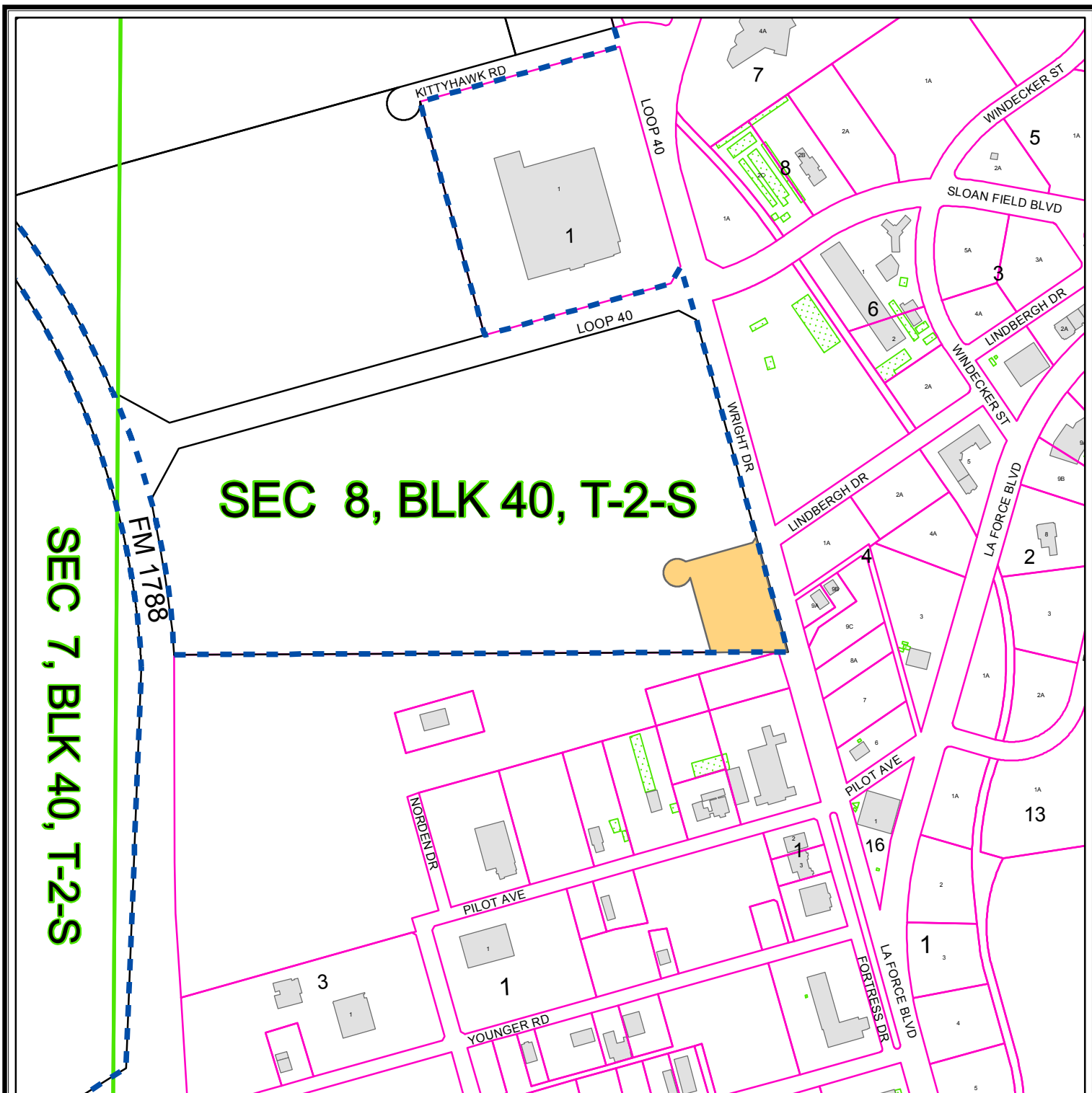
Subscribed and sworn to before me, this 7th day of June, 20 13, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: _____	Date: _____
Assigned: <u>KV</u>	
For: <u>CC</u>	On: _____



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



PROPOSED ANNEXATION MAP

M - 13 - 006

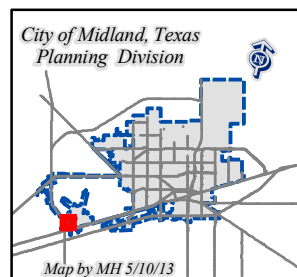
Scale: 1" = 500'

TRACT 3

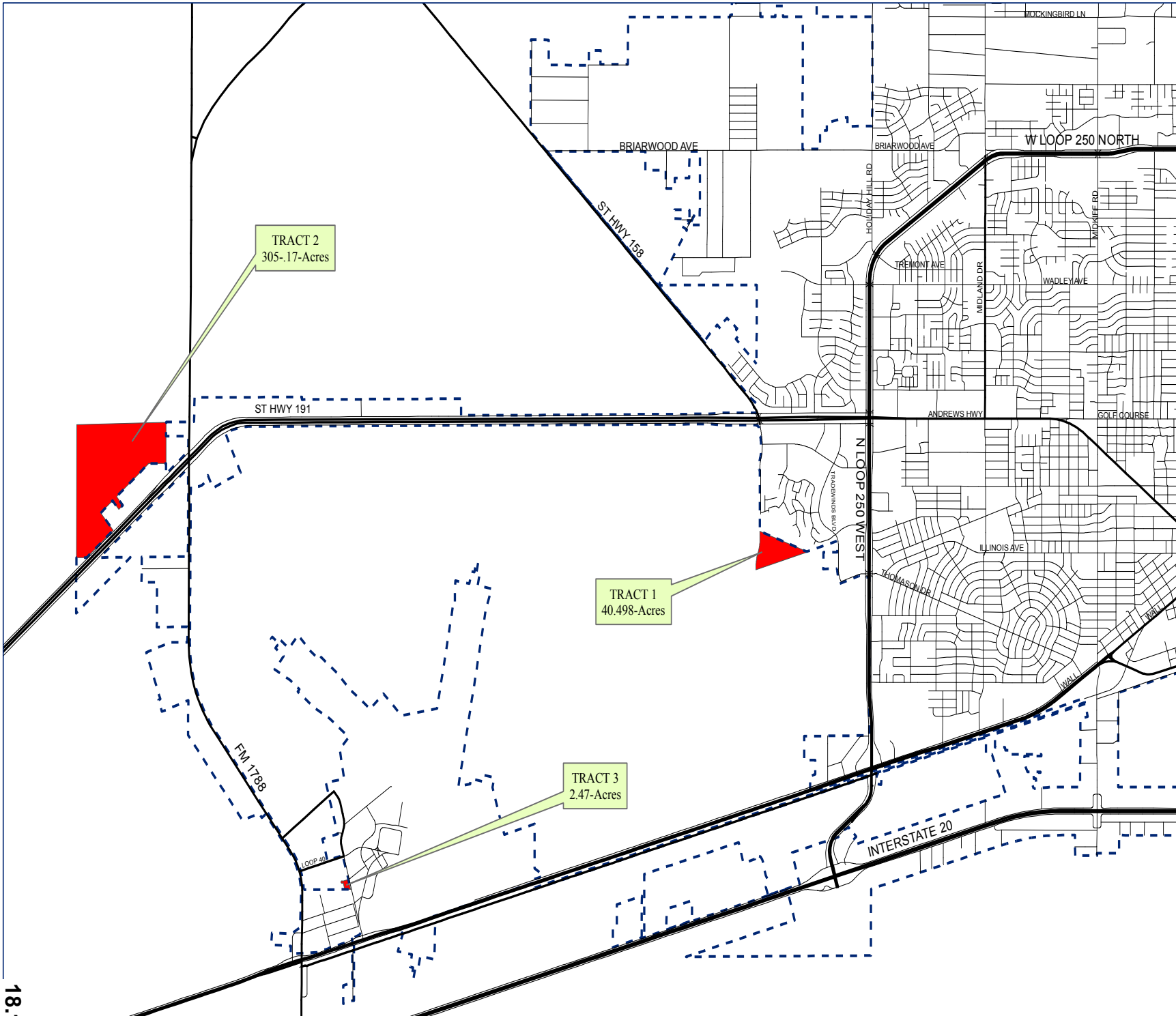
Consider a request for the annexation of a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

- ANNEXATION BOUNDARY
- CITY LIMITS
- SURVEY SECTION
- COUNTY PARCEL
- CITY PARCEL
- PUBLIC BLDGS
- ACCESSORY BLDGS



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Proposed Annexation

May 10, 2013

LEGEND

- Streets
- - - City Limits
- Annexation Tract



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Real Property Resources (Tract 1) for the initial zoning of annexed land to FD, Future Development District on a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard. – District 4).

Purpose:

Consider an ordinance on second reading on a request by Real Property Resources (Tract 1) for the initial zoning of annexed land to FD, Future Development District on a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard. – District 4).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

This land was recently annexed at the request of Real Property Resources, who intend to build upon the exiting Legends Park residential neighborhood. This is the second and final City Council consideration of an ordinance establishing the initial zoning of this 40.498-acre property. This land is located approximately ¼ mile to the southwest of the intersection of Tradewinds Blvd. and Champions Drive and extends westward to meet the future Avalon Drive extension. Due to the preliminary lot configuration the owners have requested FD, Future Development District as the initial zoning.

Attachments:

Map
Proposed Ordinance
Metes & Bounds

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, 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 SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on June 25, 2013, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an FD, Future Development District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:33 a.m. on said June 25, 2013, as advertised; and

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

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

SECTION ONE. That the zoning classification of the area indicated as Tract 1 on

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

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 1

ZONING - FD, FUTURE DEVELOPMENT

METES AND BOUNDS DESCRIPTION of a 40.498 Acre Tract of Land being 40.135 acres out of a 40.498 Acre Tract of Land, as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and a 0.363 Acre Tract of Land described as Exhibit B as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, located in Section 37, Section 38, and Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas.

BEGINNING at (N=10689414.20 & E=1728297.74) a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the west line of Section 37, the east line of Section 38, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, the east line of a 634.887 acre tract of land as recorded in Volume 3131, Page 210, Official Public Records, Midland County, Texas, the southwest corner of a 108.712 acre tract of land as recorded in Instrument No. 2012-3638, Official Public Records, Midland County, Texas, for the northwest corner of a 40.498 acre tract of land as recorded in Instrument No. 2013-5263, Official Public Records, Midland County, Texas, and the northwest corner of this tract from which a 1/2" iron rod and plastic cap marked "RPLS 4413" found for the northwest corner of the 108.712 acre tract of land bears N 14°25'48" W a distance of 2417.76 feet;

THENCE, along the north boundary line of the 40.498 acre tract of land and the south boundary line of the 108.712 acre tract of land, S 84°27'35" E a distance of 2349.72 feet to a 1/2" iron rod and plastic cap marked "RPLS 4413" found in the north ROW line of a 40 foot wide pipeline easement as recorded in Volume 42, Page 289, Midland County Deed Records, the northeast corner of the 40.498 acre tract of land, the most southerly corner of the 108.712 acre tract of land and the northeast corner of this tract;

THENCE, along the east boundary line of the 40.498 acre tract of land, S 30°42'19" E a distance of 20.00 feet to a point in the center of said pipeline easement for the southeast corner of the 40.498 acre tract of land and the southeast corner of this tract, from which a City of Midland Control Point marked "43/93" bears S 12°53'34" E a distance of 9436.9 feet;

THENCE, along the south boundary line of the 40.498 acre tract of land and the centerline of said pipeline easement, S 59°17'41" W at a distance of 35.46 feet cross the south line of said Section 37 and the north line of said Section 48, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, from which a 1" black iron pipe found for the southwest corner of said Section 37 bears S 75°19'36" E a distance of 91.64 feet and a 1" black iron pipe found for the northwest corner of said Section 48 bears S 75°19'36" W a distance of 91.57 feet, continuing for a total distance of 2499.30 feet to a 3/4" galvanized iron pipe and plastic cap marked "RPLS 4413" set in the west line of said Section 48, the east line of Section 47, Block 40, T-1-S, T. & P. RR. Co. Survey, Midland County, Texas, and the east line of the 634.887 acre tract of land for the southwest corner of this tract, from which a 1" black iron pipe found for the southwest corner of said Section 48 and the southeast corner of said Section 47 bears S 14°16'09" E a distance of 4659.26 feet;

THENCE, along the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, N 14°16'09" W a distance of 156.99 feet to a point of curve to the right in the west line of said Section 48, the east line of said Section 47, the east boundary line of the 634.887 acre tract of land, the west boundary line of the 40.498 acre tract of land, the most southerly corner of a 0.363 acre tract of land described as Exhibit A as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, and a corner of this tract;

THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, with a curve to the right having a radius of 1500.00 feet, delta angle of 17°58'42" and an arc length of 470.67 feet (chord bearing N 05°16'48" W a distance of 468.74 feet), to a point for a corner of the 0.363 acre tract of land described as Exhibit A and a corner of this tract;

THENCE, along the east boundary line of the 0.363 acre tract of land described as Exhibit A, N 03°42'33" E at a distance of 59.38 feet pass the north line of said Section 48 and the south line of said Section 38, the northeast corner of the 0.363 acre tract of land described as Exhibit A and the southwest corner of a 0.363 acre tract of land described as Exhibit B, as recorded in Instrument No. 2013-8477, Official Public Records, Midland County, Texas, continuing for a total distance of 114.29 feet to a point of curve to the left for a corner of the 0.363 acre tract of land described as Exhibit B and a corner of this tract;

THENCE, along the west boundary line of the 0.363 acre tract described as Exhibit B, with a curve to the left having a radius of 1500.00 feet, delta angle of 18°08'21" and an arc length of 474.88 feet, (chord bearing N 05°21'37" W a distance of 472.90 feet), to a point in the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land for the most northerly corner of the 0.363 acre tract of land described as Exhibit B and for a corner of this tract;

Page 1 of 2

RECEIVED

APR 25 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Exhibit "A"

CASE NO. 2-13-017

THENCE, along the west line of said Section 37, the east line of said Section 38, the east line of the 634.887 acre tract of land and the west boundary line of the 40.498 acre tract of land, N 14°25'48" W a distance of 326.76 feet to the POINT OF BEGINNING.

Bearing, Distances and Coordinates are based upon the Texas State Plane Coordinate System NAD 83 Central Zone and are relative to the City of Midland GPS Control Monuments as provided by the City of Midland. Acreages shown are surface values.



Michael L. Stanford

RECEIVED

APR 25 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Page 2 of 2

CASE NO. 2-13-017

19.7

Case Number: Z-13-017

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Real Property Resources
Applicant Name (Phone/e-mail)
6305 82nd St. Lubbock, TX 79424
Address Zip Code

Same
Property Owner Name (Phone/e-mail)
Address Zip Code

Same
Representative Name (Phone/e-mail)
Address Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. See attached (same as annexation)

PRESENT ZONE: N/A REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)
Reason for Zone Change Request: New residential development

Present Use of Property: Vacant

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 additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

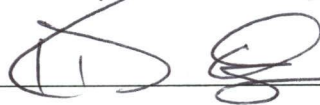
16 copies (FOLDED) of the PD site plan:

Site Plan in digital format .pdf and .jpg:

✓

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature):



Date: 4/25/13

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>DS</u>	Date: <u>4/29</u>
Assigned: <u>KV</u>	
For: <u>CC</u>	On: <u>6/25/13</u>

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

**SEC 38,
BLK 40,
T-1-S**

**SEC 37,
BLK 40,
T-1-S**

**SEC 47,
BLK 40,
T-1-S**

SEC 48, BLK 40, T-1-S

LOCATION & ZONING MAP

Z - 13 - 017

Scale: 1" = 500'

TRACT 1

Consider the initial zoning of annexed land to FD, Future Development District on a 40.498-acre tract of land out of Sections 37, 38 and 48, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

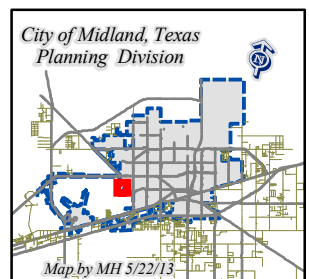
LEGEND

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

ZONING DISTRICTS:

O1 - OFFICE DISTRICT

PD - PLANNED DISTRICT FOR A HOUSING DEVELOPMENT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013.

TO: CITY COUNCIL/CITY MANAGER.

FROM: Ken Van Dyne, Acting Planning Division Manager.

SUBJECT: Consider an ordinance on second reading on a request by Covington (Tract 2) for the initial zoning of annexed land to LI, Light Industrial District on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the north side of State Hwy 191 west side of N. FM 1788 – District 4).

Purpose:

Consider an ordinance on second reading on a request by Covington (Tract 2) for the initial zoning of annexed land to LI, Light Industrial District on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the north side of State Hwy 191 west side of N. FM 1788 – District 4).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

This land was recently annexed at the request of the property owner, who intends to develop this 305-acre site with large subdivision lots to develop in a manner consistent with the surrounding industrial uses. This is the second and final City Council consideration of an ordinance establishing the initial zoning of this property. This land is located to the northwest of the intersection of FM 1788 and State Hwy 191. Some of the fronting properties (not included in this proposed annexation) include industrial/oil services operations with a number of active oil wells within the site. The property owner has requested that this land is zoned in a similar manner which would be an LI, Light Industrial District, and subject to all regulations as defined in the City Code with respects to development of this site.

Attachments:

Map
Proposed Ordinance
Metes & Bounds

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, 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 LI, LIGHT INDUSTRIAL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TO-MARKET ROAD 1788; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on June 25, 2013, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an LI, Light Industrial District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:36 a.m. on said June 25, 2013, as advertised; and

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

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

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

Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an LI, Light Industrial District.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 2

ZONING - LI, LIGHT INDUSTRIAL

Legal Description:

BEING a 305.17 acre tract of land situated in Section 37, Block 41, T-1-S, T&P RR Co., Midland County, Texas, and being more fully described by metes and bounds as follows:

BEGINNING at (N:10,680,333.64, E:1,697,375.73) a 1/2 inch iron rod in Stone Mound found for the Southwest corner of said Section 37 and the Southeast corner of Section 38, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and the Southwest corner of the herein described tract;

THENCE N 14°06'06" W. with the West line of said Section 37, a distance of 5325.2 feet to (N:10,685,498.48, E:1,696,078.24) a 1/2 inch iron rod found for the Northwest corner of said Section 37 and the Northeast corner of said Section 38, and the Northwest corner of the herein described tract;

THENCE N 74°59'19" E, a distance of 4159.7 feet to a point on the North Section line of said Section 37 and the South Section line of said Section 36, for the Northeast corner of the herein described tract;

THENCE S 14°10'06" E, with the West boundary line of said Calvary chapel tract and that certain tract of land as described in deed to Steve L. Holifield Sr., Volume 1666, Page 335, Official Public Records, Midland County, Texas, a distance of 60.0 feet pass a 1/2 inch iron rod found on the West boundary line of said Calvary chapel tract and continuing on for a total distance of 1637.0 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE S 75°45'28" W. with the North boundary line of that certain tract of land as described in deed to Absolute Investments, Inc., recorded in Instrument number 2012-22283, Official Public Records, Midland County, Texas, a distance of 838.1 feet to a 1/2 inch iron rod with red plastic cap marked

RECEIVED

MAY 21 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Exhibit "A"

CASE NO. 2-13-023

"West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 13°56'07" E. in and across said Section 37, a distance of 25.0 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of this herein described tract;

THENCE S 34°41'17" W. in and across said Section 37, a distance of 1970.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 55°18'12" E. in and across said Section 37, a distance of 449.9 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE S 34°38'41" W. in and across said Section 37, a distance of 246.5 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an exterior corner of the herein described tract;

THENCE N 55°18'12" W. in and across said Section 37, a distance of 450.4 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 34°41'48" W. in and across said Section 37, a distance of 739.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set for an interior corner of the herein described tract;

THENCE S 55°18'12" E. in and across said Section 37, a distance of 900.6 feet to a 1/2 inch iron rod with red plastic cap marked "West Co. Midland" set in the Northwest right-of-way line of said State Highway 191 for an exterior corner of the herein described tract;

RECEIVED

MAY 21 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

CASE NO. 2-13-023

THENCE S 34°45'31" W, with the Northwest right-of-way line of said State Highway 191, a distance of 1665.7 feet to a point on the South Section line of said Section 37 for an exterior corner of the herein described tract;

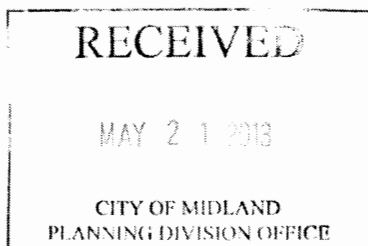
THENCE S 75°05'11" W, with the South Section line of said Section 37 and the North Section line of Section 48, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, a distance of 437.2 feet to the POINT OF BEGINNING.

Subject tract containing 305.17 acres of land.

NOTE:

THIS DESCRIPTION NOT TO BE USED FOR TRANSFERING TITLE!

M. Hostas 5/21/13



CASE NO. 2-13-023

Case Number: 2-13-023

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Dunaway Associates, Attn: Brooks Baca (817) 675-9878 BBACA@dunaway-assoc.com
Applicant Name (Phone/e-mail)

4000 N. Big Spring Street, Ste 101, Midland, TX 79706
Address Zip Code

2010 Midland Properties JV, LLC (432) 553-7017 [Fletcher Smith]
Property Owner Name (Phone/e-mail)

3008 W. Lancaster Ave., Fort Worth TX 76107
Address Zip Code

Representative Name

(Phone/e-mail)

Address

Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. SEE ATTACHED LEGAL DESCRIPTION

PRESENT ZONE: ~~Future Development~~ ANNEXATION REQUESTED ZONE: Light Industry
(List by tracts, if more than one district is requested)

Reason for Zone Change Request: Currently being annexed into the City of Midland.

Present Use of Property: Agricultural

Proposed Use of Property: Industrial

How will zone change affect the public health, safety and welfare? No affect

Describe how conditions affecting the property have changed since present zoning designation:
Property was previously in the county

Is a Specific Use Permit with Term for alcoholic beverages sales needed? ____ Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS *(if applicable):*

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE *(by property owner only - authorized agent must sign affidavit below)*

Property Owner (signature): J. Smith Date: 5-31-13

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.

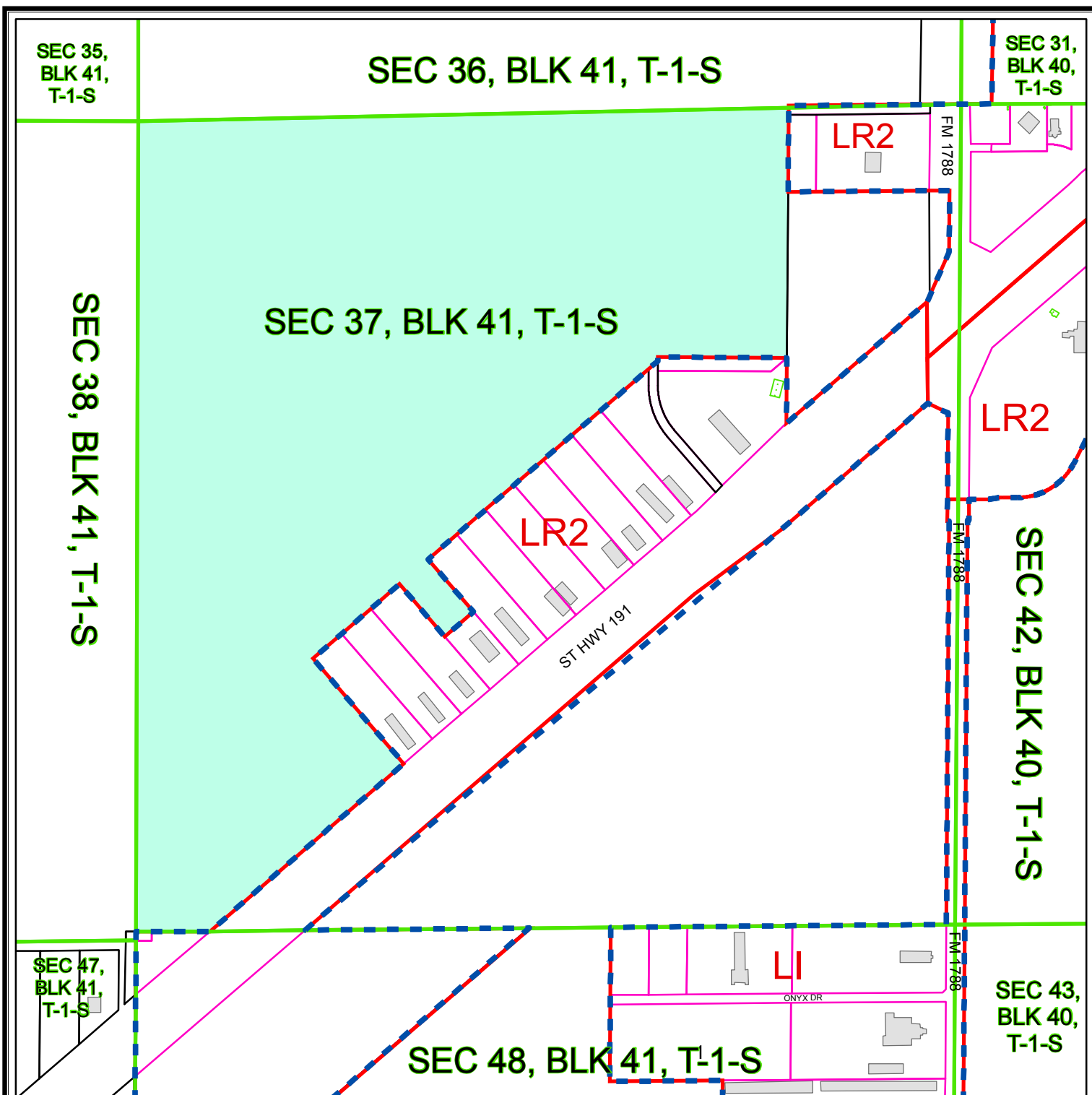
Authorized Agent (signature)

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: _____	Date: _____
Assigned: _____	
For: _____	On: _____

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



LOCATION & ZONING MAP

Z - 13 - 023

Scale: 1" = 900'

TRACT 2

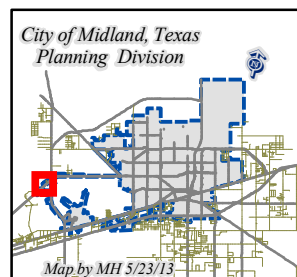
Consider the initial zoning of annexed land to LI, Light Industrial District on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

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

ZONING DISTRICTS:

- LR - LOCAL RETAIL DISTRICT
- LI - LIGHT INDUSTRIAL DISTRICT



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City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: July 9, 2013.

TO: CITY COUNCIL/CITY MANAGER.

FROM: Ken Van Dyne, Acting Planning Division Manager.

SUBJECT: Consider an ordinance on second reading on a request by Covington (Tract 2) for the initial zoning of annexed land to LI, Light Industrial District on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the north side of State Hwy 191 west side of N. FM 1788 – District 4).

Purpose:

Consider an ordinance on second reading on a request by Covington (Tract 2) for the initial zoning of annexed land to LI, Light Industrial District on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the north side of State Hwy 191 west side of N. FM 1788).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

This land was recently annexed at the request of Younger Partners, who intend to continue development of this area for industrial use. This is the second and final City Council consideration of an ordinance establishing the initial zoning of this property encompassing approximately 2 ½ acres. This land is located south of the U.S. Post Office on the south leg of Loop 40 which serves as the main entrance to Midland International Airport from FM 1788. The area to the south is currently zoned and developed as an Industrial Park. The property owner has requested that this land is zoned in a similar manner which would be an IP-2, Industrial Park District, and subject to all regulations as defined in the City Code with respects to development of this site.

Attachments:

Map
Proposed Ordinance
Metes & Bounds

ORDINANCE NO.

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, 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-2, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing to be held before the City Council on June 25, 2013, to consider amendments to the zoning regulations and map establishing the zoning classification of the property described in Section One hereof as an IP-2, Industrial Park District as set out in Section 11-1-6 of the City Code of Midland, Texas; and

WHEREAS, such a public hearing was held in the Council Chambers beginning at 10:39 a.m. on said June 25, 2013, as advertised; and

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

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

SECTION ONE. That the zoning classification of the area indicated as Tract 3 on

Exhibit “A”, attached hereto and incorporated herein by reference, is hereby established as an IP-2, Industrial Park District.

SECTION TWO. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION THREE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FOUR. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION FIVE. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

TRACT 3
ZONING - IP-2, INDUSTRIAL PARK
**LEGAL DESCRIPTION FOR A 2.47 ACRE TRACT
BEING PART OF PROPOSED LOT 1, BLOCK 4,
DEVON ADDITION, SECTION 4 AND A PART OF SECTION 8,
BLOCK 40, T-2-S, T. & P. RR. CO. SURVEY,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS**

Boundary being further described by metes and bounds as follows:

BEGINNING at (Y= 10,671,245.90', X= 1,712,930.07') a 1/2" iron rod with plastic cap marked "PLS 1974" set on the West right-of-way line of Wright Drive and the most Northerly Northeast corner of said Proposed Lot 1, Block 4 and this tract, from whence the Northwest corner of said Section 8 bears N29°58'29"W, a distance of 2212.02 feet and S75°17'06"W, a distance of 1702.05 feet;

THENCE S29°58'29"E with the West right-of-way line of said Wright Drive and the East line of said Proposed Lot 1, Block 4, at 420.00 feet pass a 1/2" iron rod with plastic cap marked "PLS 1974" set at the Southeast corner of said Lot 1, Block 4 continuing for a total distance of 426.80 feet to the Southeast corner of this tract;

THENCE S74°54'08"W along a Midland city limits line, a distance of 275.23 feet to the Southwest corner of this tract;

THENCE N29°58'29"W with the West line of said Proposed Lot 1, Block 4, a distance of 280.26 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at the Northwest corner of said Proposed Lot 1, Block 4 and the beginning of a non-tangent curve;

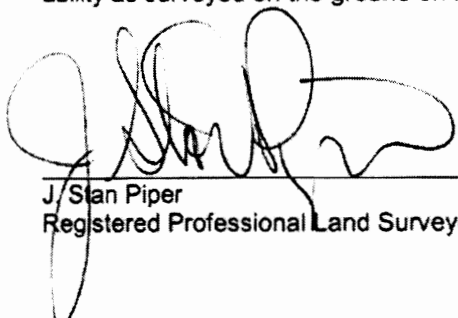
THENCE around a non-tangent curve to the right in a Northwesterly direction with the a Proposed Temporary Turn-Around Easement to be dedicated on said Proposed Devon Addition, Section 4 with a radius of 50.00 feet, an arc length of 249.81, a delta angle of 286°15'36" and a chord distance of 60.00 feet which bears N29°58'29"W to a 1/2" iron rod with plastic cap marked "PLS 1974" set on the North right-of-way line of Proposed Lindbergh Drive, Section 4 and an interior corner of this;

THENCE N59°50'14"E with the North line of said Proposed Lindbergh Drive and said Proposed Devon Addition, Section 4, a distance of 251.00 feet to a 1/2" iron rod with plastic cap marked "PLS 1974" set at an interior corner of said Devon Addition, Section 4 and of this tract;

THENCE N14°55'53"E with a cutback line of said Proposed Lindbergh Drive and said Proposed Devon Addition, Section 4, a distance of 21.25 feet to the **PLACE OF BEGINNING**. (Tract contains 107,582 square feet or 2.47 acres.)

Bearings, distances and coordinates are relative to Texas State Plane Coordinate System, Central Zone, 1983/86 NAD, with a combined grid factor of 0.9998706 for mean project datum. The theta angle is equal to -0°58'09.9" at City of Midland control station "Warfield" with published values of N=10,664,066.89' and E= 1,712,553.67' in U.S. Survey Feet.

I, J. Stan Piper, Registered Professional Land Surveyor, do hereby certify that this legal description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and ability as surveyed on the ground on March 27, 2013.


J. Stan Piper
Registered Professional Land Surveyor #1974

Prepared for:
Parkhill, Smith, and Cooper, Inc.
1700 W. Wall Street, Suite 100
Midland, TX 79701

RECEIVED BY SURVEYING BOX 60432; MIDLAND, TX 79711; (432) 550-7810

MAY 10 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Exhibit "A"

CASE NO. 2-13-024

Case Number: _____

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Younger Partners, Ltd.	432-682-9031
Applicant Name	(Phone/e-mail)
P.O. Box 11004 Midland, TX	79701-1004
Address	Zip Code

SAME	(Phone/e-mail)
Property Owner Name	
Address	Zip Code

Parkhill, Smith & Cooper, Inc.	432-697-1447
Representative Name	(Phone/e-mail)
1700 W. Wall, Suite 100 Midland, TX	79701
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. See attached Metes and Bounds description.

PRESENT ZONE: N/A REQUESTED ZONE: IP-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: _____

Present Use of Property: Vacant Lot

Proposed Use of Property: Industrial park uses

How will zone change affect the public health, safety and welfare? It will not affect it.

Describe how conditions affecting the property have changed since present zoning designation:
N/A

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district. N/A
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

Site Plan in digital format .pdf and .jpg: _____

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

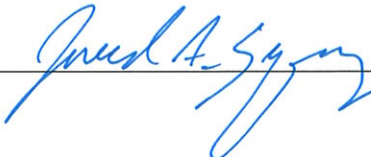
Property Owner (signature): _____ Date: _____

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

Jared A. Squyres who, being by me duly sworn, upon oath says: That (s)he is authorized by Younger Partners, Ltd., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

 _____
Authorized Agent (signature)

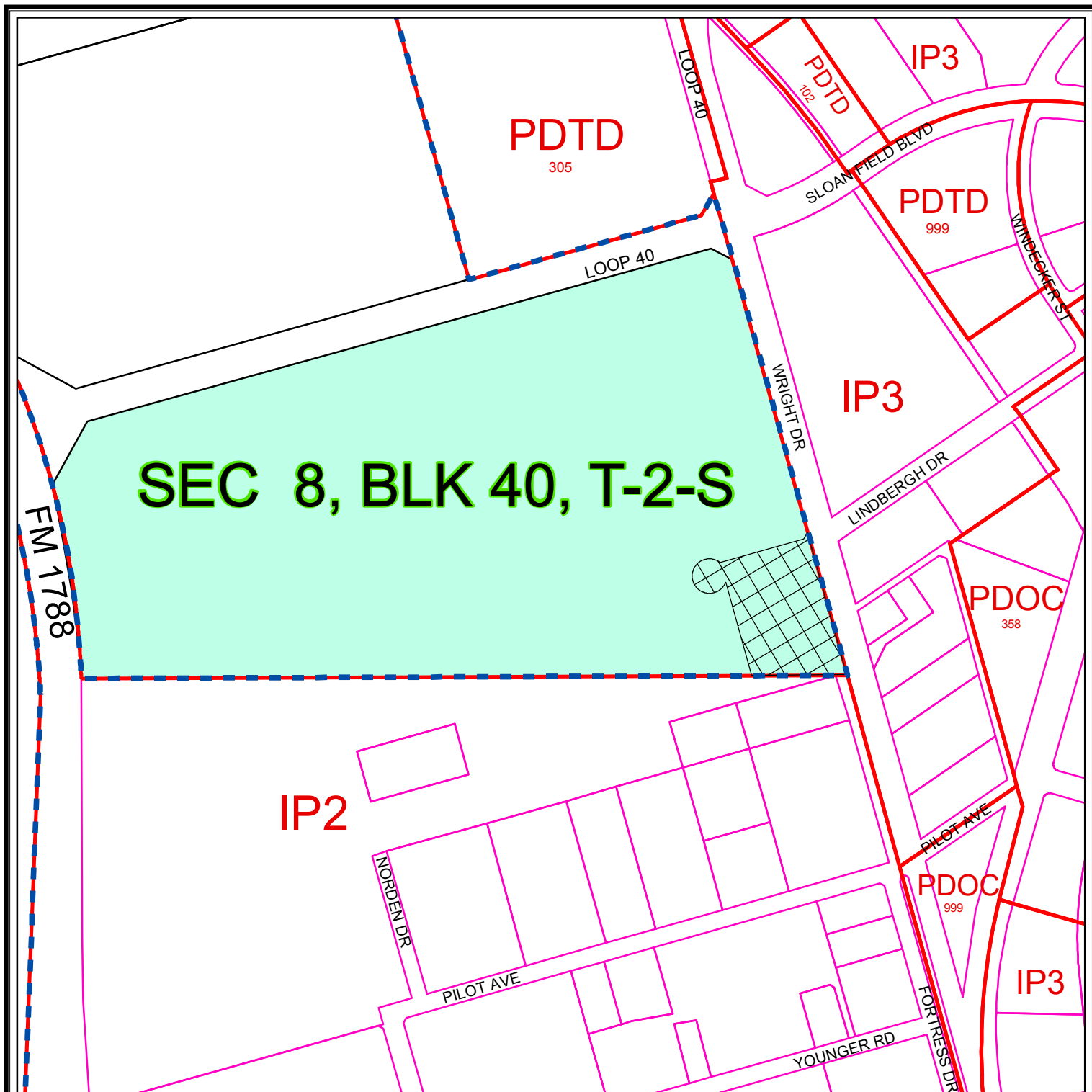
Subscribed and sworn to before me, this 7th day of June, 20 13, to certify which witness my hand and seal of office.

NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: _____	Date: _____
Assigned: _____	
For: _____	On: _____



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



LOCATION & ZONING MAP

M - 13 - 006

Scale: 1" = 400'

TRACT 3

Consider the initial zoning of annexed land to IP-2, Industrial Park District on a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T & P RR Co. Survey, Midland County, Texas.

LEGEND

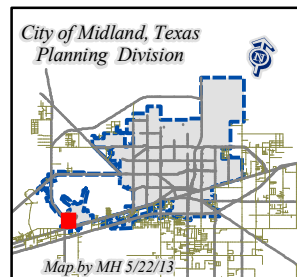
- CITY LIMITS
- CITY PARCEL
- COUNTY PARCEL
- ZONING
- SURVEY SECTION

ZONING DISTRICTS:

IP - INDUSTRIAL PARK DISTRICT

PDOC - PLANNED DISTRICT FOR A OFFICE CENTER

PDTD - PLANNED DISTRICT FOR A TRANSITION DISTRICT



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider ordinance on second reading on a request by David Miller for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 21, Block 3, Wydewood Estates, Section 33, City and County of Midland, Texas (Generally located on the south side of Wadley Avenue, approximately 450 feet east of Sunburst Drive)

Purpose:

Consider ordinance on second reading on a request by David Miller for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 21, Block 3, Wydewood Estates, Section 33, City and County of Midland, Texas

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The City Council has recently approved two zone changes on this parcel that adopted site plans for apartment construction. The same applicant now wishes to amend the site plans as they relate to the clubhouse and the business sign. The amended clubhouse would be enlarged just over 600 square feet, and the roof line would be raised six feet. Further, instead of one 64 square foot sign on the Wadley Avenue driveway, two 40-square foot signs are proposed, and no sign would be permitted on Preston Drive. The City Council approved this ordinance on first reading on June 25, 2013. It is now appropriate to consider this ordinance on second and final reading.

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 21, BLOCK 3, WYDEWOOD ESTATES, SECTION 33, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WADLEY AVENUE, APPROXIMATELY 450 EAST OF SUNBURST 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 Housing Development, 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:

Lot 21, Block 3, Wydeewood Estates, Section 33, City and County of Midland, Texas.

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

1. That all conditions of City of Midland Ordinance No. 9100 shall remain in full force and effect, except as otherwise stated below.
2. That the dimensions of the clubhouse shall conform to the conditions shown on Exhibit "A", the maximum floor area shall not exceed 5,121 square feet, and maximum building height shall not exceed 40 feet above grade. The architectural details shall conform to the conditions shown on Exhibits "B" and "C". Exhibits "A", "B" and "C" are attached hereto and incorporated herein.
3. That a maximum of two apartment identification signs shall be allowed, located on either side of the Wadley Avenue driveway, as shown on Exhibit "D", which is attached hereto and incorporated herein. The maximum area of each sign shall not exceed 80 square feet. The design of the sign shall conform to the conditions shown on Exhibit "E", which is attached hereto and incorporated herein. No identification sign shall be allowed on Preston Drive.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

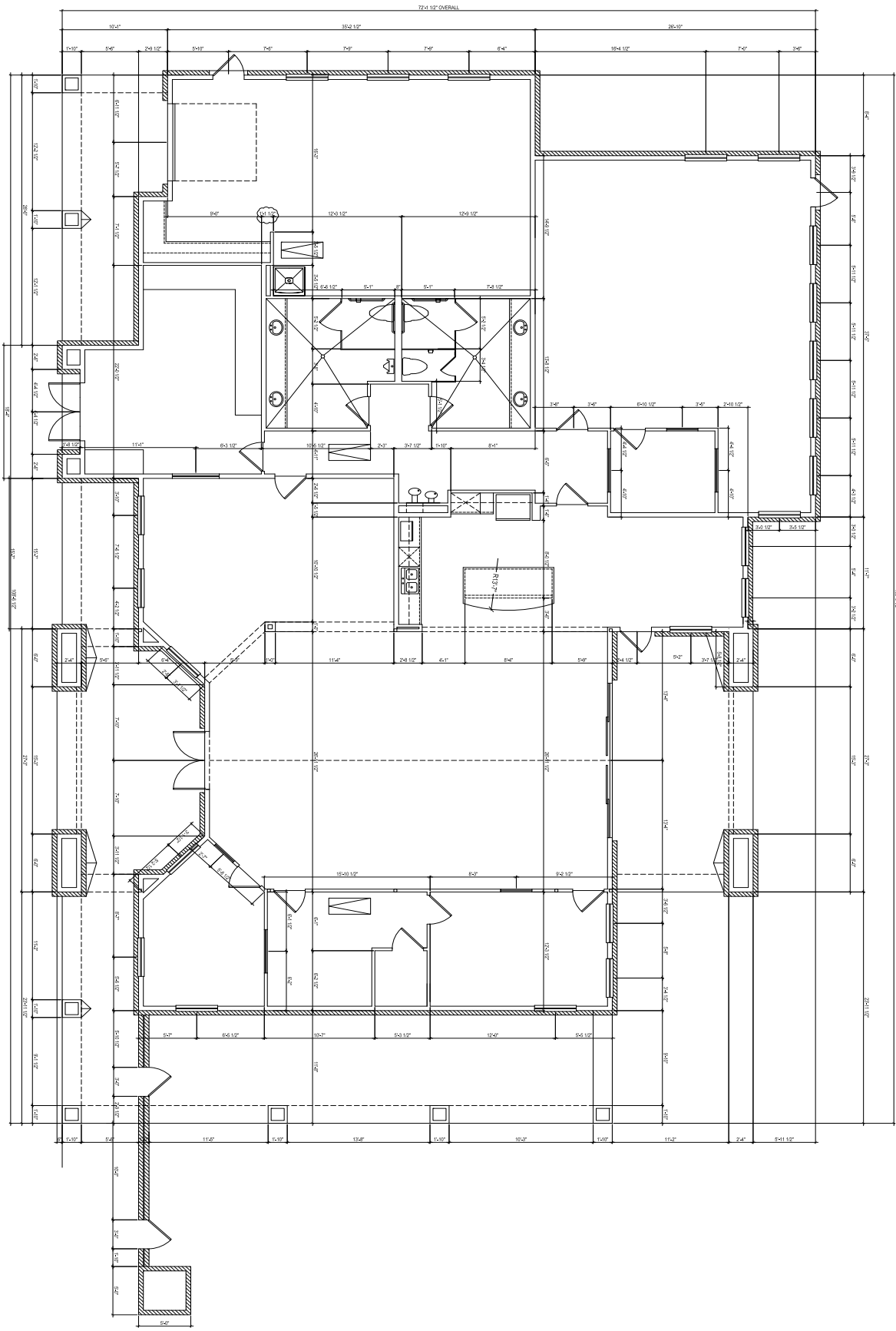
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



1 CLUBHOUSE - DIMENSIONAL FLOORPLAN
SCALE: 1/8" = 1'-0"



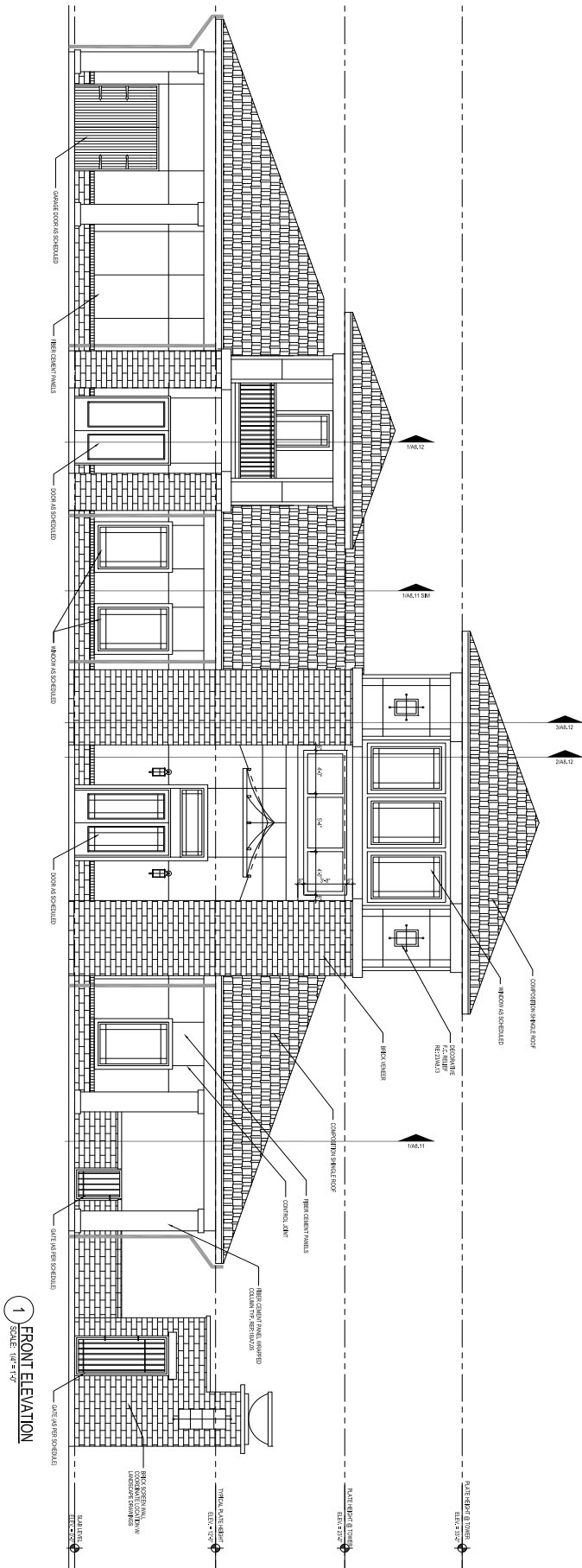
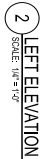
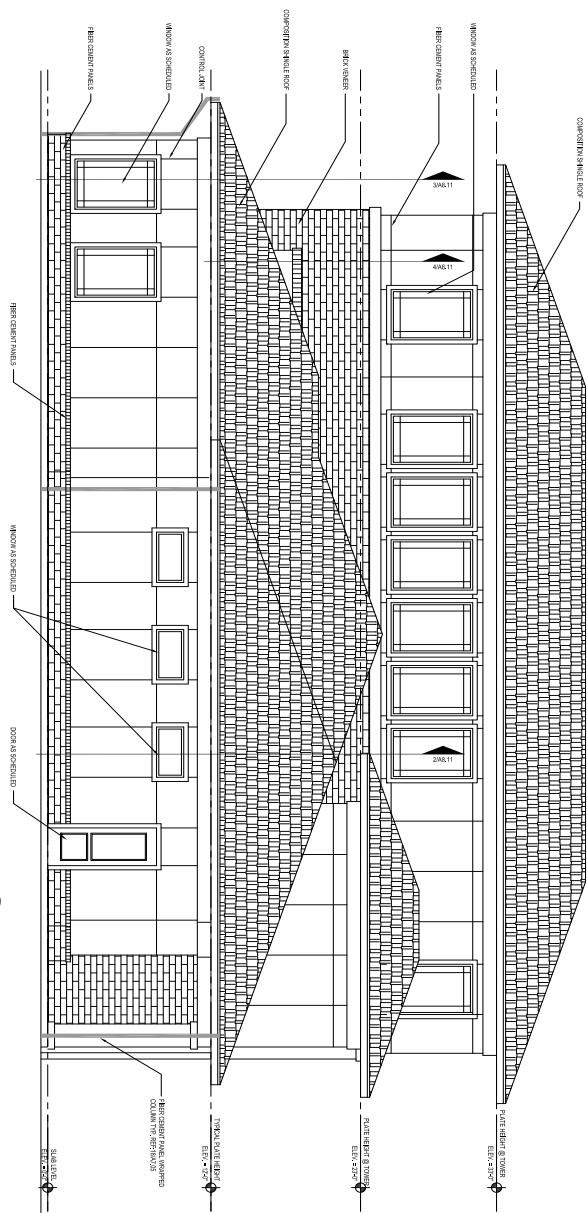
HUMPHREYS & PARTNERS
ARCHITECTS, L.P.
 5339 ALPHA ROAD • SUITE 300 • DALLAS, TEXAS 75240
 (972) 701-9636 • (972) 701-9639 FAX
 DALLAS • PHOENIX • ORLANDO • NEW ORLEANS • IRVINE
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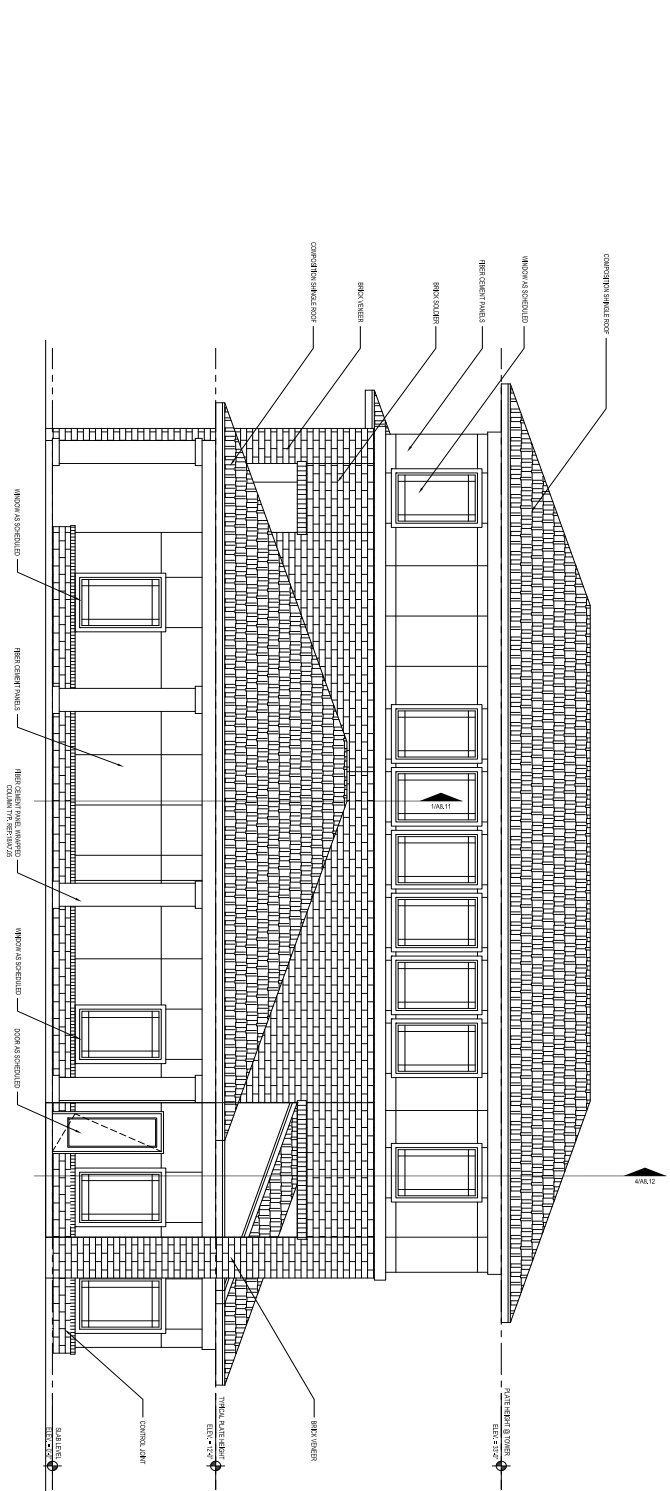


WADLEY APARTMENTS
 WEIDNER
 APARTMENT HOMES
 MIDLAND, TX

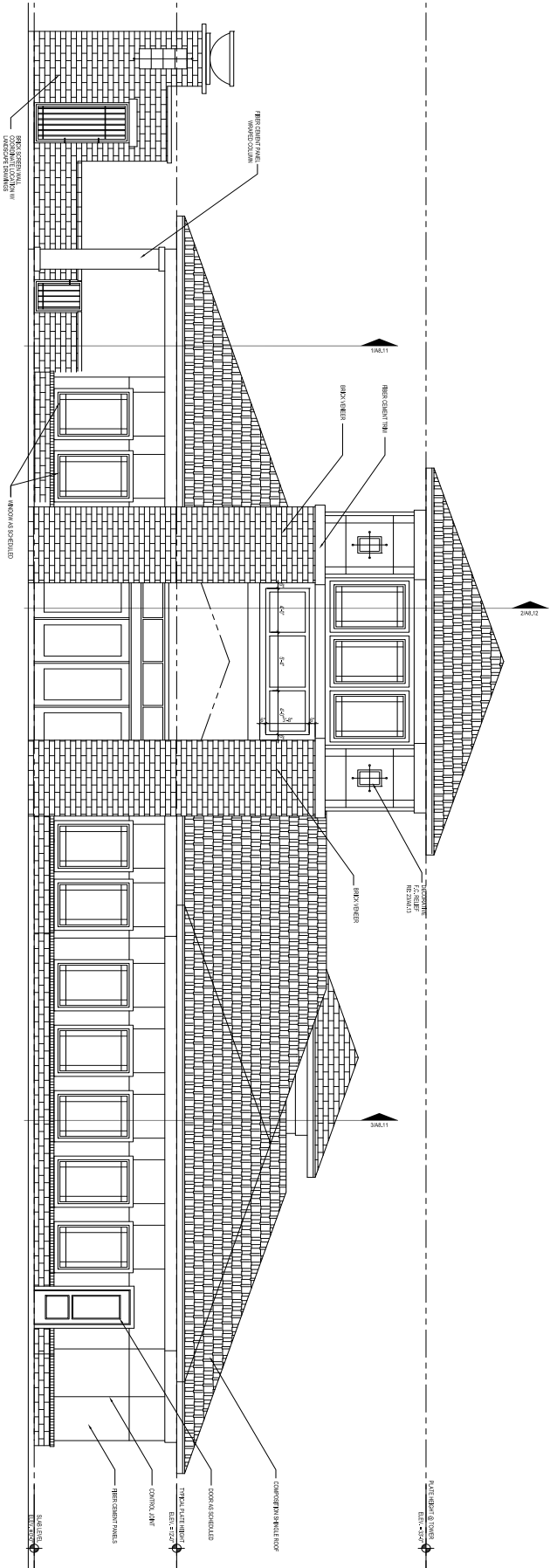
NOT TO SCALE
 THIS DRAWING IS THE PROPERTY OF HUMPHREYS & PARTNERS, ARCHITECTS, L.P. AND IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREON. IT IS NOT TO BE REPRODUCED, COPIED, OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE WRITTEN PERMISSION OF HUMPHREYS & PARTNERS, ARCHITECTS, L.P. ANY VIOLATION OF THIS NOTICE SHALL BE SUBJECT TO LEGAL ACTION.

DATE	2/22/13
BY	WADLEY APARTMENTS
CHECKED	WADLEY APARTMENTS
APPROVED	WADLEY APARTMENTS
PROJECT	WADLEY APARTMENTS
SHEET NO.	2





2 RIGHT ELEVATION
SCALE: 1/8" = 1'-0"



1 REAR ELEVATION
SCALE: 1/8" = 1'-0"

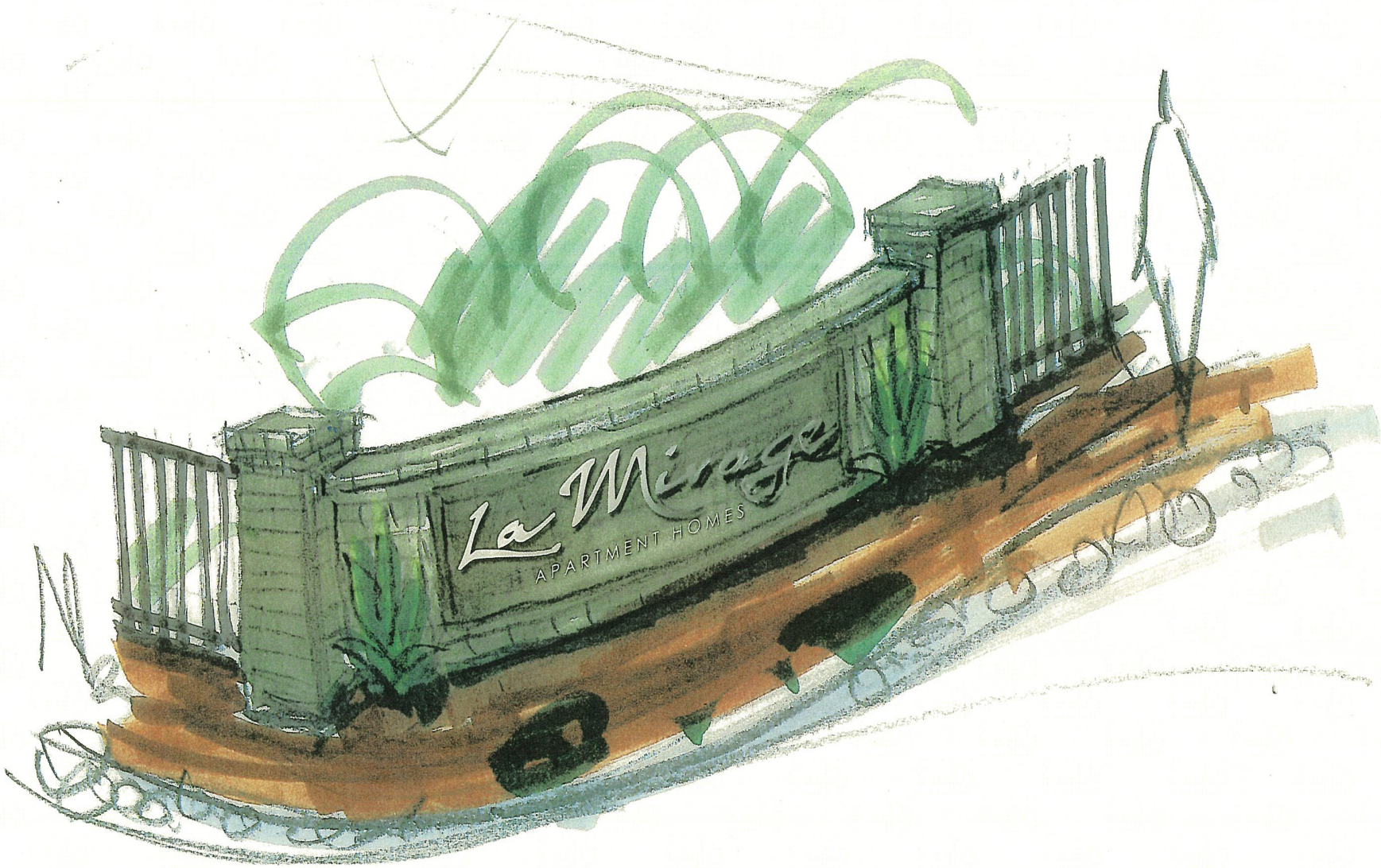
Project Name:	WADLEY APARTMENTS
Client:	WEIDNER APARTMENT HOMES
Location:	MIDLAND, TX
Architect:	HUMPHREYS & PARTNERS ARCHITECTS, L.P.
Scale:	1/8" = 1'-0"
Sheet:	A8.05
Revision:	1/2
Comments:	

WADLEY APARTMENTS
WEIDNER
APARTMENT HOMES
MIDLAND, TX

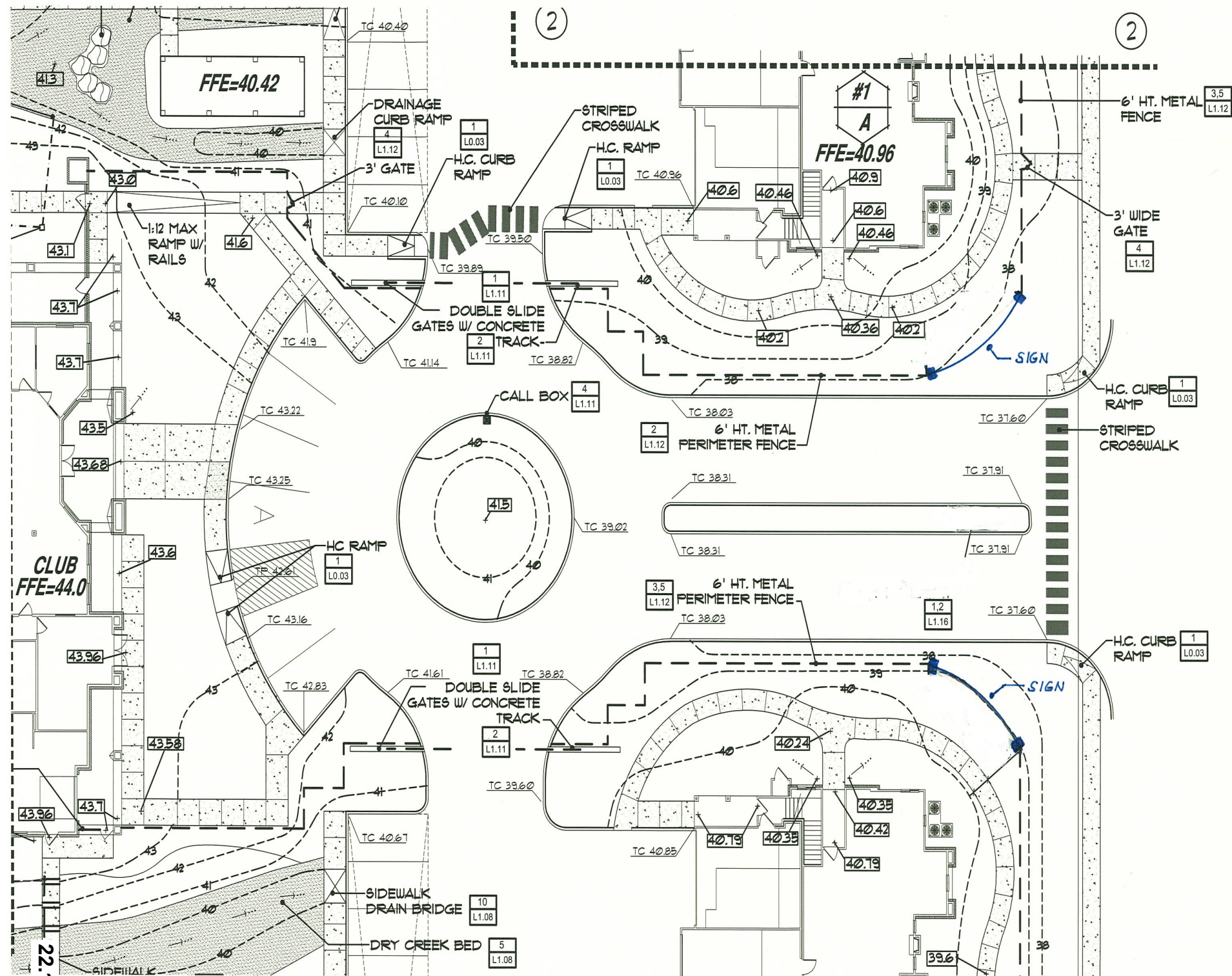
**HUMPHREYS & PARTNERS
ARCHITECTS, L.P.**
5339 ALPHA ROAD • SUITE 300 • DALLAS, TEXAS 75240
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A8.05
SHEET CONTENTS:
CLUBHOUSE
EXTERIOR ELEVATIONS
SHEET NO.







(3) 02-01-13 C

REVISIONS:

- | | | |
|---|----------|---|
| 1 | 11-28-12 | G |
| 2 | 12-04-12 | A |
| 5 | 02-04-13 | C |
| 6 | 04-02-13 | P |
| 7 | 04-17-13 | C |
| | | |

CLIENT:

BGO ARCHITECTS
4144 N. CENTRAL
DALLAS, TX

CONTACT:
bgoarchitect

AVENUE



ALL LETTERING

40 S.F. - MAX.

PLANNING AND ZONING COMMISSION

June 3, 2013

CASE: Z-13-022.

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: David Miller

OWNER: Weidner Properties.

LEGAL DESCRIPTION: Lot 21, Block 3, Wydewood Estates, Section 33, City and County of Midland, Texas.

LOCATION: South side of Wadley Avenue, approximately 450 feet east of Sunburst Drive.

DETAILS OF REQUEST:

1. The Planning and Zoning Commission recently approved site plans on this lot for the construction of apartments. Later, it approved an amendment that affected the exterior building materials. We have now received another request to amend the site plan, consisting of two elements; the clubhouse and the signs, Exhibits A, B and C relate to the clubhouse, and Exhibits D and E relate to the signs.

SURROUNDING ZONING AND LAND USE:

2. The land to the north, across Wadley Avenue, is zoned and developed with single-family homes. To the east is a Planned District for a Housing Development that is developed with townhouses, a 1F-2 District developed with residences, and an MF-1 District developed with apartments. To the south are Bush Elementary School and a storm water detention basin. The area to the west is zoned Planned District for a Shopping, and is developed with a mix of office and retail uses.

ANALYSIS:

3. The current site plan represents the clubhouse as an outline of a building, with no dimensions or floor area labeled. This is not out of the ordinary since it is not located on the perimeter of the property. Exhibit A affects only the clubhouse portion of the approved site plan, and includes a building footprint with exterior dimensions, and lists the floor area at 5,121 square feet. The staff finds this exhibit to be acceptable. Proposed Exhibits B and C represent the four elevation views of the clubhouse. The exterior architecture has changed slightly from the approved site plan in that the front entryway is more defined by constructing an "arched tower" above it. The proposed building height is 40 feet, or six feet taller than shown on the approved site plan. In the staff's opinion, the proposed elevation views are somewhat more attractive, and the building height is well below the maximum 50-foot permitted height.

SIGNS:

4. The Sign Code allows one 64-square foot sign on each street frontage adjacent to an apartment. The approved site plan shows a single sign on Wadley Avenue, and no sign is shown on Preston Drive. The applicant is now requesting two signs on Wadley Avenue, one on either side of the driveway. Each sign is proposed to be a maximum of 40 square feet each, or a total of 80 feet. The frontage along Wadley Avenue is significant, at 550 feet. Further, this Planned District disallows signs on Preston Drive. For these two reasons, the staff has no objection to this proposed sign package.

STAFF RECOMMENDATION:

We recommend approval of this request for a zone change from PD, Planned District for a Housing Development to Amended Planned District, subject to the following conditions:

- A. That the construction of the clubhouse shall conform to the conditions shown on Exhibits A, B and C in all respects. The maximum floor area of the clubhouse shall not exceed 5,121 square feet, and the maximum building height shall not exceed 40 feet above grade.
- B. A maximum of two signs may be located along Wadley Avenue, to be located as shown on Exhibit D. The maximum area of each sign shall not exceed 40 square feet, for a combined sign area of 80 square feet.
- C. All other conditions of Ordinance 9100 not otherwise amended by these conditions shall remain in effect.


Ken Van Dyne
Acting Planning Division Manager
Department of Development Services


Jim Compton, Senior Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A-E

Case Number: 2-13-022

CITY OF MIDLAND
Planning Division

APPLICATION TO AMEND A PLANNED DISTRICT

Applicant: DAVID MILLER
Address: 5001 W. LOOP 289. 806.797.3162 david.miller@midway1.com
Street Address City State Zip Code
LUBBOCK TX 79414
(Phone/e-mail)

Property Owner: WEINER INVESTMENTS
Address: 9757 NE JUANITA DR. #300 425.821.3844.
Street Address City State Zip Code
KIRKLAND WA. 98034
(Phone/e-mail)

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:

5001 WEST WADLEY.

Current PD Classification: PDHD

Requested PD Classification: PDHD to Amended PDHD
(List by tracts if more than one zoning district is requested)

Reason for amendment request: ENLARGE LEASING OFFICE.

Describe how conditions affecting the property have changed since it was designated its present zone: LARGER LEASING OFFICE.

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): *David R. Miller* Date: 5/21/13

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

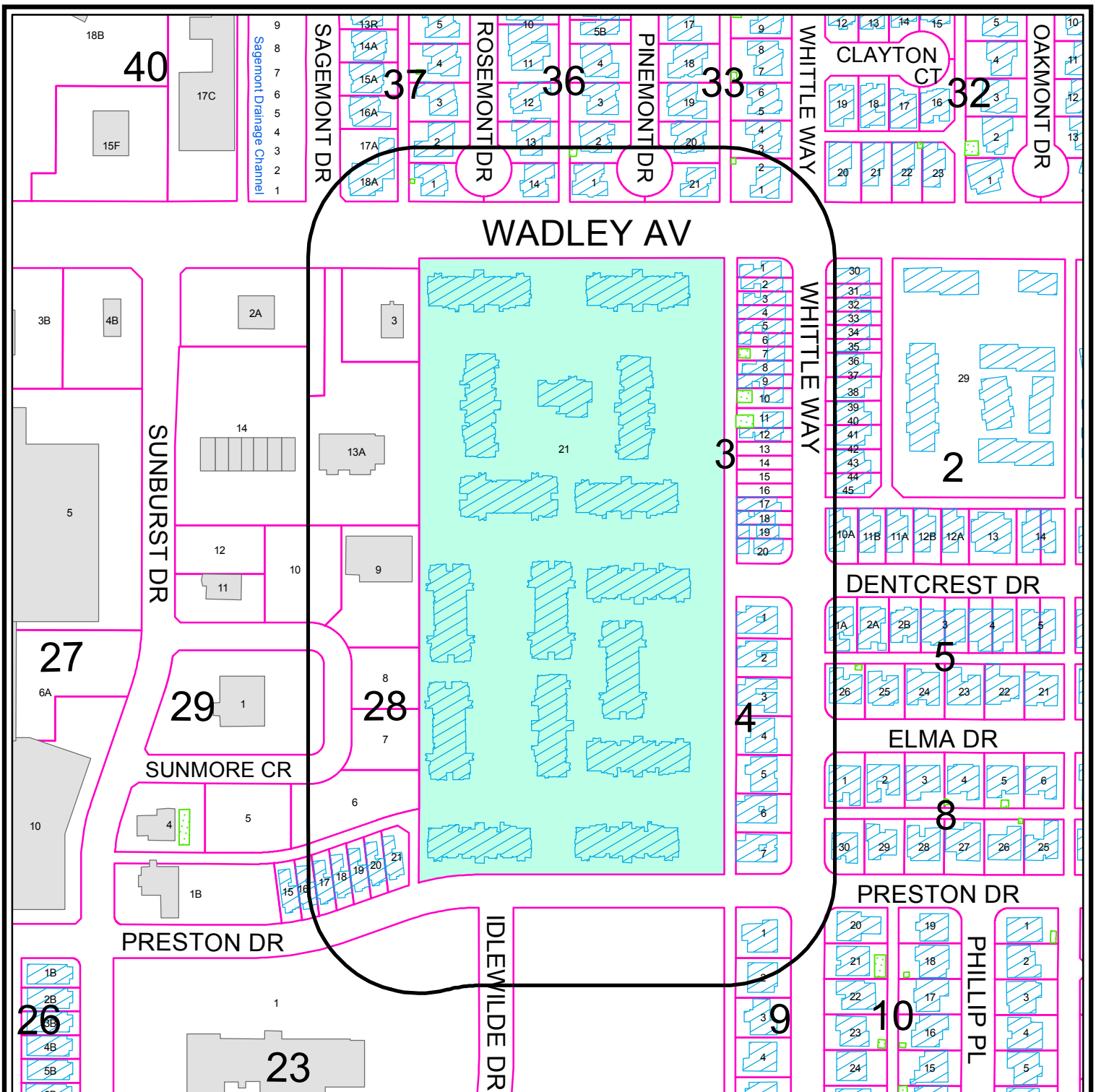
FOR OFFICE USE ONLY

Rec'd By: *JS* Date: 5/21

Assigned: *JS*

For: _____ On: _____

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



PROPERTY OWNER NOTIFICATION MAP

Z - 13 - 022

Scale: 1" = 250'

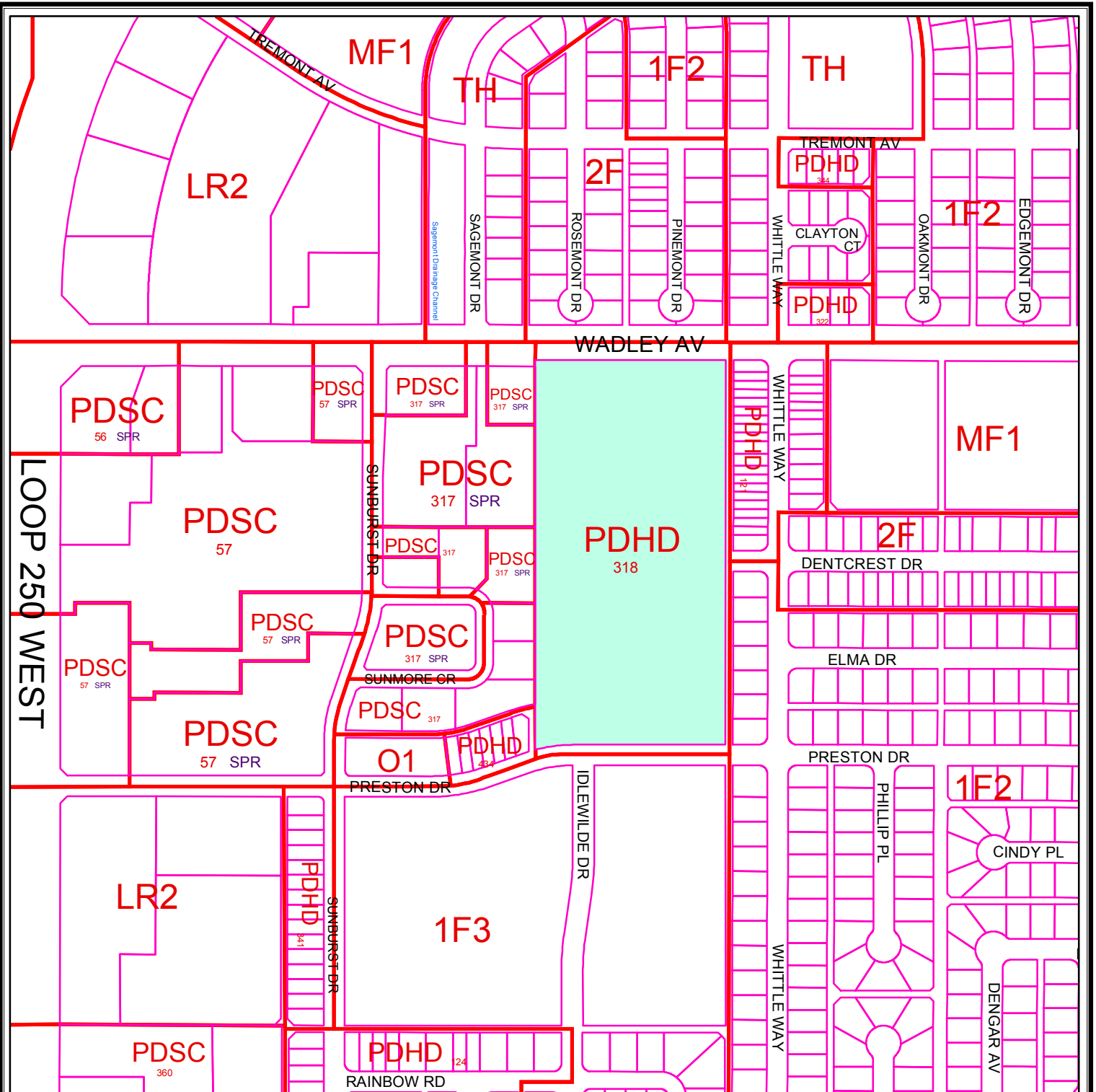
Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 21, Block 3, Wydewood Estate, Section 33, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 13 - 022

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 21, Block 3, Wydeewood Estate, Section 33, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	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: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by COM Aquatics, Inc. for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District, on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3; and 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 W. Wadley Avenue and N. "A" Street)

Purpose:

Consider an ordinance on second reading on a request by COM Aquatics, Inc. for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District, on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3; and Lot 1C, Block 3; "A" Street Community Center, Section 7, City and County of Midland, Texas. The first reading was approved by City Council on June 25, 2013, with no changes made to this item since first reading.

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 the proposed location for a new natatorium and parking area for expanding the operations of the current COM Aquatics building to the south. The PD, Planned District for a Shopping Center that is the current zoning on the site of the proposed building is governed by underlying LR-2, Local Retail District, regulations which limit the building

height to 2 ½ standard stories and a new site plan also requires that this Planned District is amended to accommodate the proposed structure's height of nearly 42 feet. The parking area to the west is currently zoned as a PD, Planned District for a Community Center, this area would be combined into a single zoning to match the Site Plan (Exhibit – A). The applicant is requesting to rezone this property to a single Amended Planned District for a Shopping Center; with the exception for the height allowance is satisfied at no greater than 42 feet. The new swimming facility plans that have been completed include securing the vacation of alley right-of-way, a provision for rerouting of public utilities, and replatting. City Council approved the second reading of the vacation of the right-of-way of the alley, pending inspection and approval of re-routed sewer lines in December of 2012 and the Preliminary Plat was approved by the Planning and Zoning Commission in February, 2012. A parking study (requested by the Planning Division as part of the application process) was based upon past events at the current COM Aquatics facility in addition to the anticipated needs of the future natatorium. The results of the parking study indicated the 110 existing parking spaces used by the current COM Aquatics facility would require roughly 80 additional parking spaces to meet peak demand. The new natatorium, which will displace some of that overflow parking, will offset this by providing 90 parking spaces by inclusion of the western lot into this planned district. Additionally, COM Aquatics has secured additional parking from neighboring property owners for overflow parking should the need arise. The new building will be primarily comprised of concrete block, glass, and architectural metal panels arranged in artistic, modern design (Exhibits – B & C). Staff concurs with the Planning & Zoning Commission in finding this development to be a complementary expansion to the existing facility and provides an attractive, pedestrian-scale development in its design, and recommends approval of this zone change request.

Attachments:

June 3, 2013 P&Z Staff Report
Proposed Ordinance and Exhibits A through C

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 3, THE ADJACENT VACATED 0.162-ACRE EAST/WEST ALLEY, "A" STREET COMMUNITY CENTER, SECTION 3, AND LOT 1C, BLOCK 3, "A" STREET COMMUNITY CENTER, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A COMMUNITY CENTER, IN PART, AND PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH "A" STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 Community Center, in part, and PD, Planned District for an Shopping Center, in part, and it shall be used as an Amended Planned, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lot 3, Block 3, the adjacent vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3, and Lot 1C, Block 3, "A" Street Community Center, Section 7, City and County of Midland, Texas.

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

1. That this planned district shall be subject to the regulations of the LR-2, Local Retail District, except as otherwise stated below.
2. That the development shall conform to Exhibits "A", "B" and "C", which are attached hereto and incorporated herein.
3. That the maximum height of the building shall not exceed 42 feet.
4. That all roof or ground-based utility equipment shall be appropriately screened.
5. That the site plan shall meet all requirements of the Fire Marshal.
6. That the development shall meet all building code requirements.
7. That the development shall comply with all provisions of the City of Midland Landscaping Code in place at the time of development.
8. That City of Midland Ordinances Nos. 5811 and 7620 are amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this

ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

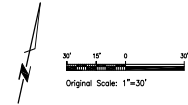
Keith Stretcher, City Attorney

A STREET COMMUNITY CENTER

ADDITION

SECTION 9

Being a Replat of
 Lot 1C, Block 3,
 "A" Street Community Center
 Section 7;
 Lot 2, Block 2,
 "A" Street Community Center
 Section 8;
 and
 0.162 Ac. of to be vacated
 alley right of way
 to the City of Midland, Texas

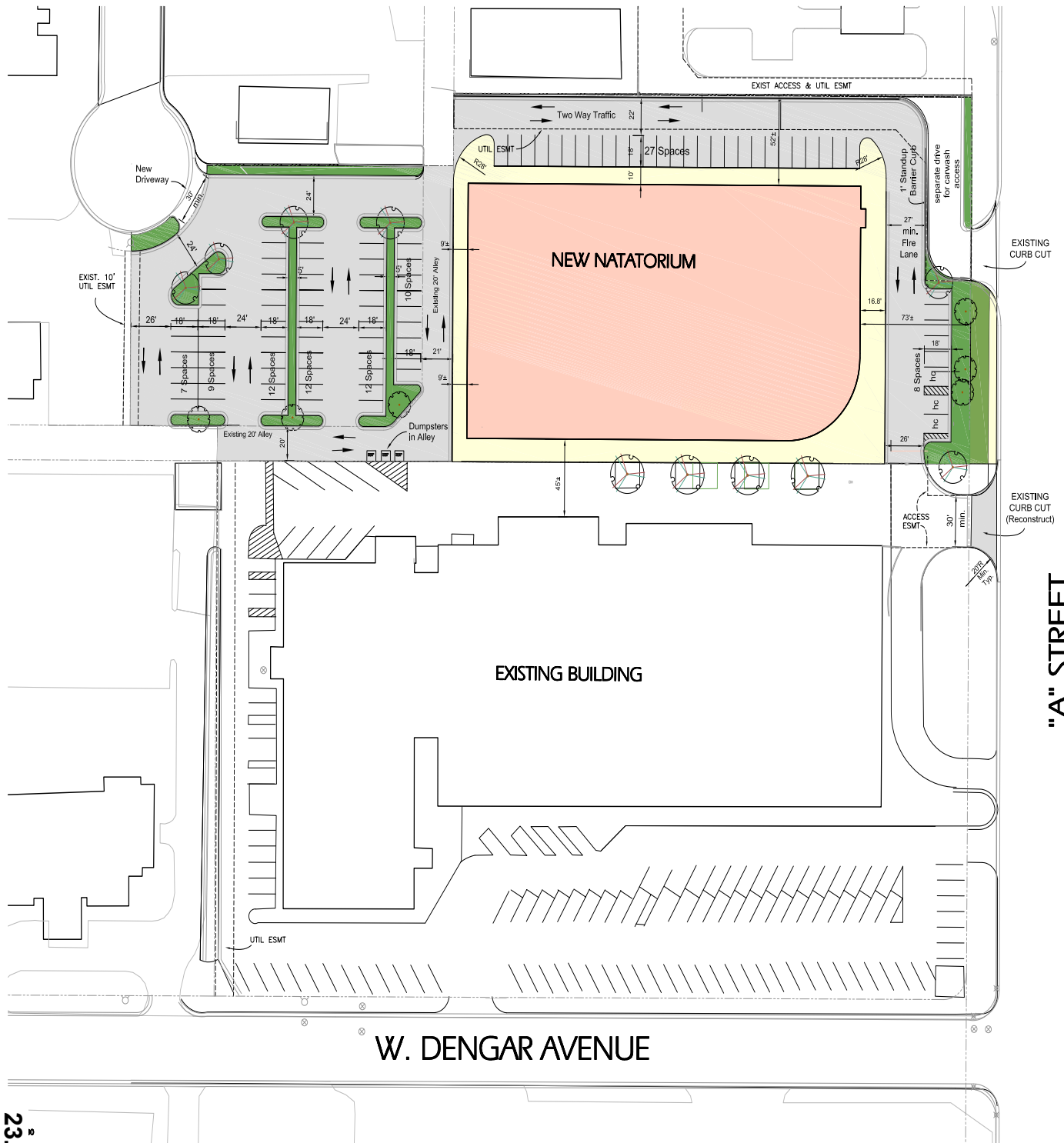


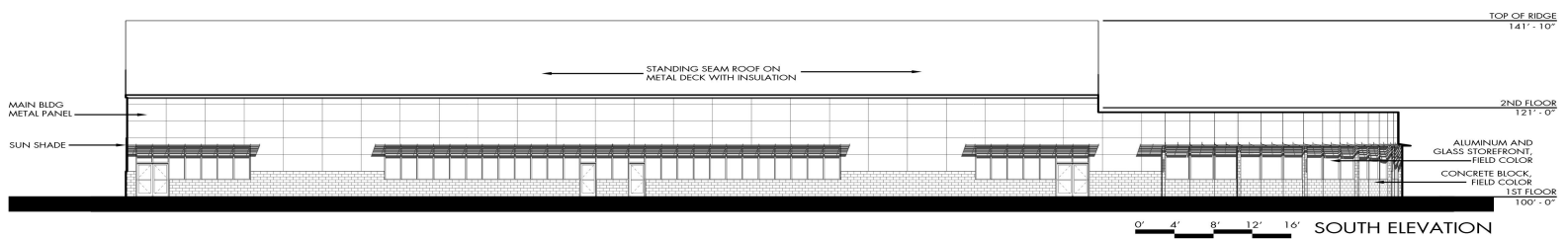
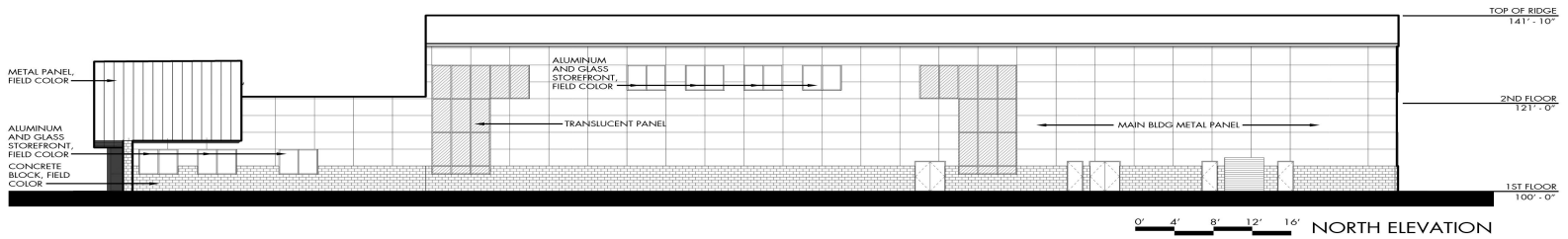
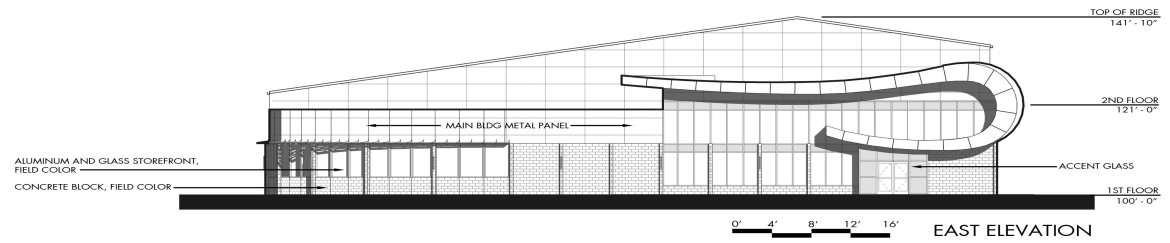
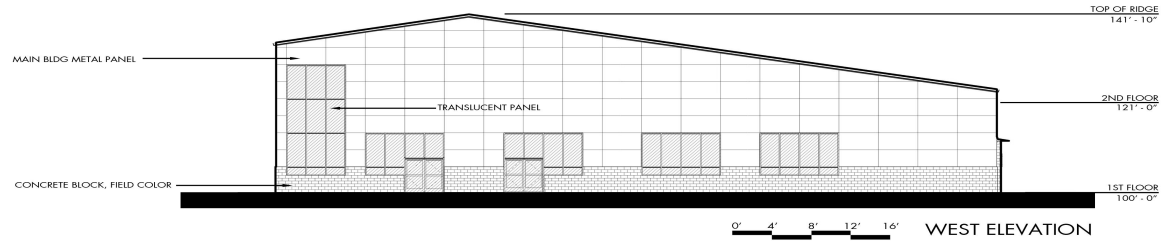
NOTES:

- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY [Pattern] TO BE PAVED.
- SHADED AREAS DENOTED BY [Pattern] TO BE CONCRETE.
- SHADED AREAS DENOTED BY [Pattern] TO BE IRRIGATED & LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- SHADED AREAS DENOTED BY [Pattern] ARE BUILDINGS.
- LANDSCAPED AREA (NOT INCLUDING R.O.W.S.) WILL BE A MINIMUM OF 10% OF TOTAL LOT AREA LESS THE BUILDING AREA.
- EXTERIOR BUILDING MATERIALS SHALL BE CONCRETE BLOCK, ALUMINUM AND GLASS STORE FRONT, METAL AND TRANSLUCENT PANELS OR SIMILAR CONSTRUCTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, BUILT-UP, STANDING SEAM OR METAL PANEL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7a OF THE MIDLAND CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MIDLAND CITY CODE.

SITE DATA	
SITE AREA	107,069 SF ±
BUILDING AREA (Foot Print)	37,730 SF ±
LANDSCAPE AREA REQUIRED	6,707 SF ±
LANDSCAPED AREA SHOWN (NOT INCLUDING ROW)	5159 SF ±
TREES REQUIRED-(3" Cal. Min.)	17
PARKING SPACES REQUIRED	200 Total Site
PARKING SPACES SHOWN	110 Existing Lot 97 Proposed
H.C. PARKING SPACES REQUIRED	7 Total Site
H.C. PARKING SPACES EXISTING	14
H.C. PARKING SPACES PROPOSED	3

**A STREET
 COMMUNITY
 CENTER
 ADDITION
 SECTION 9**







PLANNING AND ZONING COMMISSION

June 3, 2013

CASE: Z-11-052

REQUEST: Hold a public hearing and consider a request by COM Aquatics, Inc. for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District.

APPLICANT/OWNER: COM Aquatics, Inc.

LEGAL DESCRIPTION: Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3; and Lot 1C, Block 3; "A" Street Community Center, Section 7, City and County of Midland, Texas.

LOCATION: Generally located near the southwest corner of the intersection of W. Wadley Avenue and N. "A" Street.

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

ASSOCIATED CASES: P-11-075 & V-12-001.

DETAILS OF REQUEST:

1. The applicant is requesting to rezone their property for the purpose of expanding the operations of the current COM Aquatics building to the south. This proposed rezoning takes in both the site where the new natatorium is to be constructed, as well as, the lot to the west to accommodate additional parking area. The PD, Planned District for a Shopping Center that is the current zoning on the site of the proposed building is governed by underlying LR-2, Local Retail District, regulations which limit the building height to 2 ½ standard stories and a new site plan also requires that this Planned District is amended to accommodate the proposed structure's height of nearly 42 feet. The parking area to the west is currently zoned as a PD, Planned District for a Community Center, this area would be combined into a single zoning to match the Site Plan (Exhibit – A). The applicant is requesting to rezone this property to a single Amended Planned District for a Shopping Center, with the exception for the height allowance is satisfied at no greater than 42 feet.

SURROUNDING ZONING AND LAND USE:

2. This property has frontage along North "A" Street, just south of the intersection with Wadley Avenue. West of the site is the Junior League Baseball Facility and the City Park, to the South the True-Life Christian Fellowship is just south of the main COM Aquatics Facility. The two latter land uses offer opportunity for overflow parking.

ANALYSIS:

3. The applicant's request to rezone this property is to allow for the future development of a new swimming facility that is the result of a long fundraising effort and cooperation with the City in securing the vacation of alley right-of-way, rerouting of public utilities, and replatting. City Council just approved the second reading of the vacation of the right-of-way of the alley, pending inspection and approval of re-routed sewer lines in December of 2012 and the Preliminary Plat was approved by the Planning and Zoning Commission in February, 2012. Parking for the area and its events was the primary concern with maximum occupancy for a pool facility not readily translated into onsite parking, planning staff asked Parkhill Smith & Cooper to provide a parking study (as part of the application process) based upon past events at the current COM Aquatics facility in addition to the anticipated needs of the future natatorium. No events would be scheduled at the two facilities simultaneously to put additional burden on the limited surface parking onsite. The results of the lengthy study indicated that a number of visiting teams arrive via bus without all parents attending, thereby utilizing parking at all meets. Drop-off users for summer camp programs had a similar reduced parking demand. Greatest demand was determined to be 157-168 spaces between the summer and school months with 187-193 spaces being the peak including the required staffing. In summary, the 110 existing parking spaces used by the current COM Aquatics facility would require roughly 80 additional parking spaces to meet peak demand. The new natatorium, which will displace some of that overflow parking, will offset this by providing 90 parking spaces by inclusion of the western lot into this planned district. In addition, the City has spoken with the applicant about securing additional overflow parking on adjacent properties if need requires. COM Aquatics has provided letters from both True Lite Church (approximately 260 spaces – empty nearly every day with the exception of Sundays) and a letter of The Junior League of Midland (approximately 90 spaces available) both provide open permission to use their parking lots with the exception of when the owner themselves are using them. The new site plan will have access to both "A" Street and to Wadley Avenue (via Wadley Court). Landscaping shortage may be offset with contribution to the Midland Parks & Recreation Endowment Fund. Routing and traffic circulation is acceptable in design and by fire code. Since the common alley will be used for this site's traffic extensively, the dumpsters; in their open location, will need to be screened with masonry to match the building. The new building will be primarily comprised of concrete block, glass, and architectural metal panels arranged in artistic, modern design (Exhibits – B & C). Staff finds this development to be a complementary expansion to the existing facility and provides an attractive, pedestrian-scale development in its design, despite its height.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from a PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District subject to the below conditions.

1. The Planned District will be subject to regulations of the LR-2 District, except as stated below.

2. That the development shall be substantially consistent with Exhibits A, B & C.
3. That the maximum height of the building shall not exceed 42 feet.
4. That all roof or ground based utility equipment shall be appropriately screened.
5. That the proposed site plan must meet all requirements by the Fire Marshall's Office.
6. The proposed development must meet all building code requirements.
7. The proposed development will meet the requirements of the City of Midland Landscape code in place at the time of development.
8. That Ordinances 5811 and 7620 are amended by this action.



Ken VanDyne, Senior Planner
Acting Planning Division Manager
Department of Development Services



Ken Van Dyne
Acting Planning Division Manager
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B, and C

Case Number: 2-11-052

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

COM Aquatics, Inc.	432-684-7755
Applicant Name	(Phone/e-mail)
3003 North A Street	Midland, Texas 79705
Address	Zip Code
COM Aquatics, Inc.	432-684-7755
Property Owner Name	(Phone/e-mail)
3003 North A Street	Midland, Texas 79705
Address	Zip Code
Parkhill, Smith, and Cooper, Inc.	432-697-1447 EOliiver@team-psc.com
Representative Name	(Phone/e-mail)
1700 W. Wall Street, Suite 100	Midland, Texas 79701
Address	Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. Being a replat of Lot 3, Block 3, "A" Street Community Center Section 3; Lot 1C, Block 3, "A" Street Community Center Section 7 and 0.306 Ac. of to be vacated alley right of way to the City of Midland, Texas

PRESENT ZONE: PD-CC and PD-SC REQUESTED ZONE: Amended PD-SC
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To facilitate the development of the property into a new swimming facility.

Present Use of Property: Parking Lot

Proposed Use of Property: New Natatorium for COM Aquatics

How will zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation:
None

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: X
Site Plan in digital format .pdf and .jpg: X

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

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

Eric L. West, P.E. who, being by me duly sworn, upon oath says: That (s)he is authorized by COM Aquatics, Inc., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

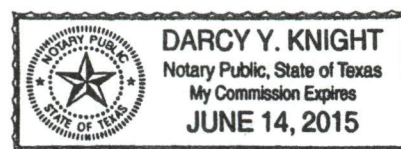
Eric L. West

Authorized Agent (signature)

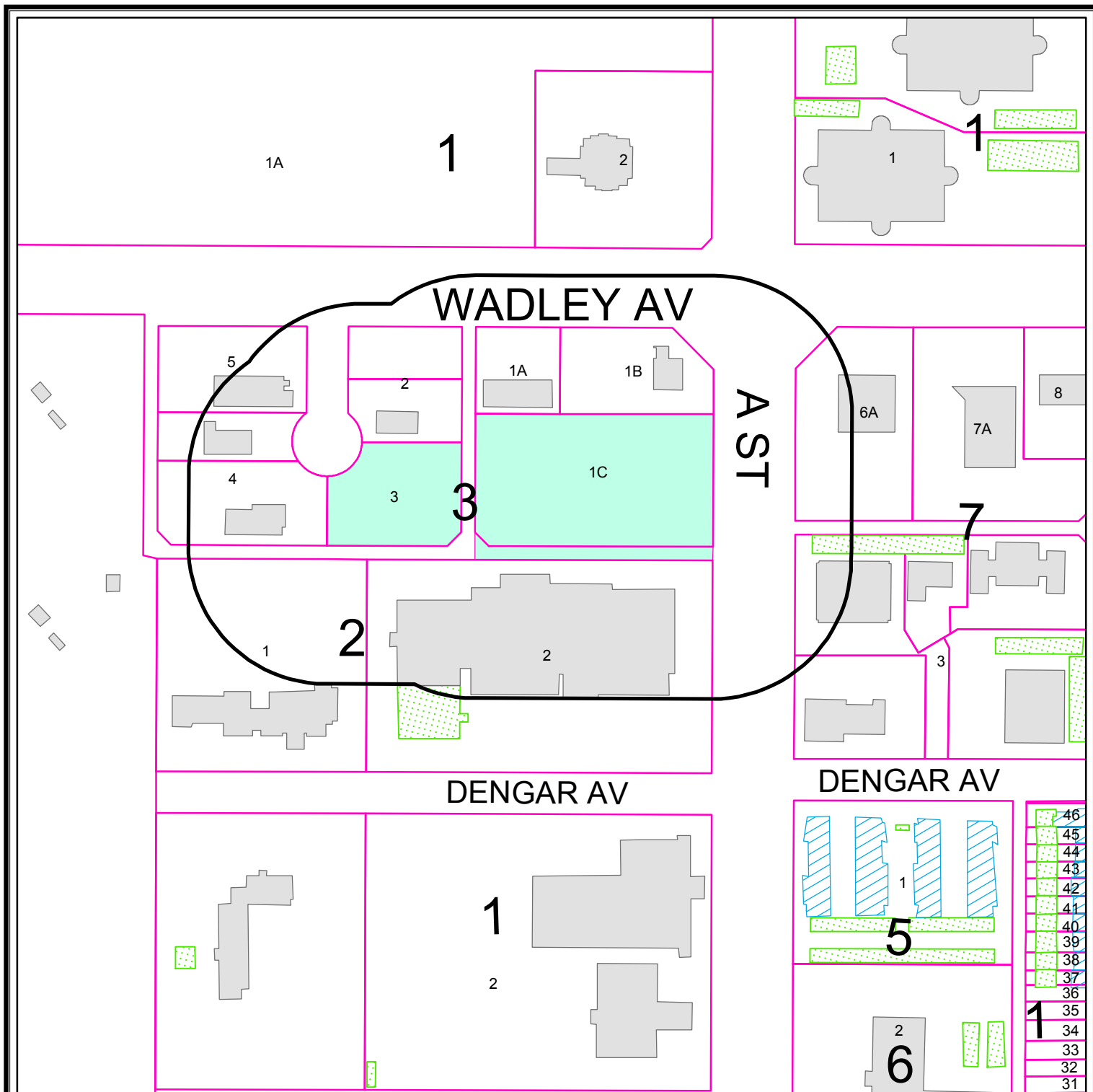
Subscribed and sworn to before me, this 29th day of October, 20 11, to certify which witness my hand and seal of office.

Darcy Y. Knight
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>KV</u>	Date: <u>10/29/11</u>
Assigned: <u>KV</u>	
For: _____	On: _____



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



PROPERTY OWNER NOTIFICATION MAP

Z - 11 - 052

Scale: 1" = 200'

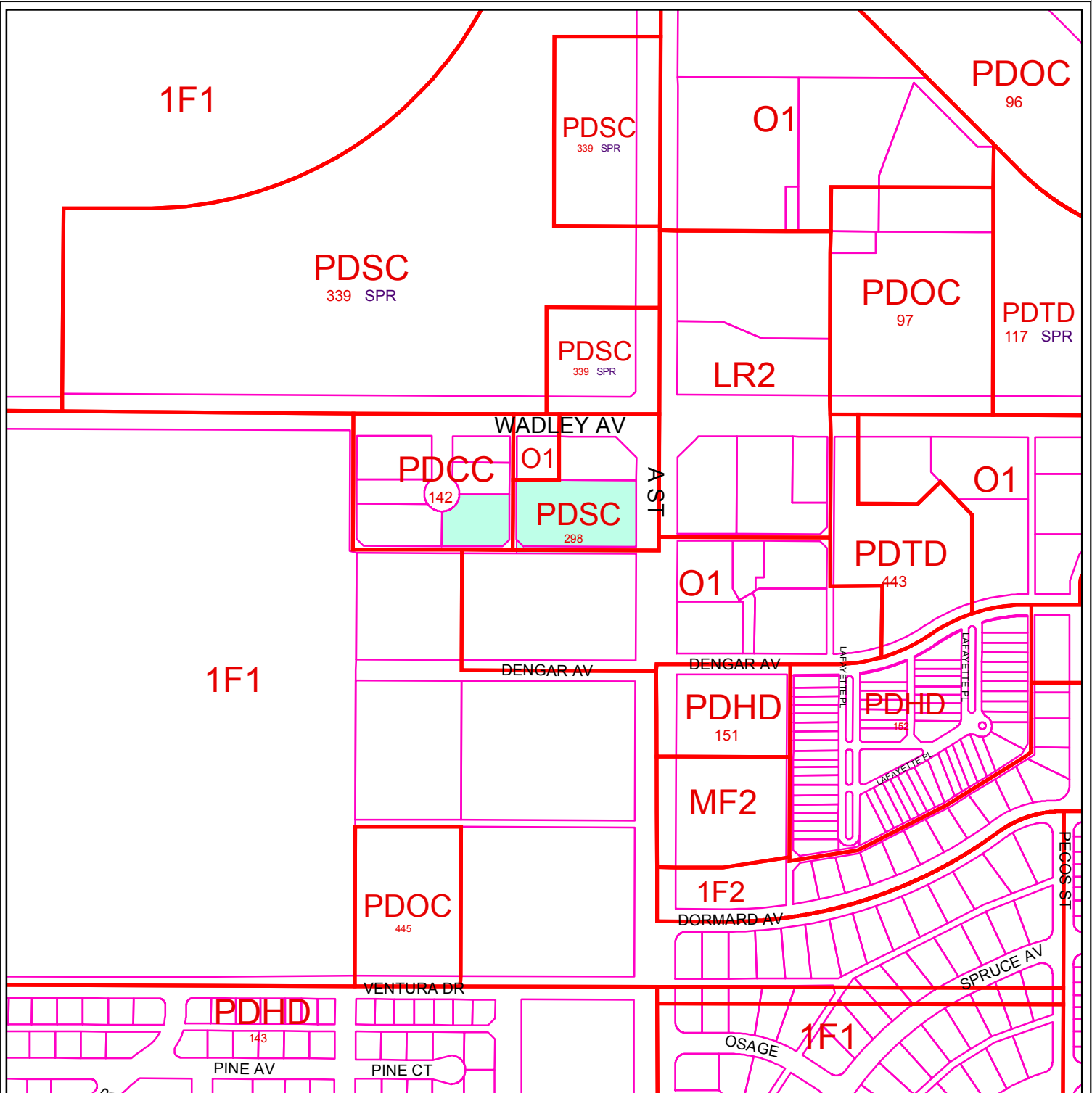
Consider a request for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3; and on Lot 1C, Block 3; "A" Street Community Center, Section 7, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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ZONING MAP

Z - 11 - 052

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 3; and on Lot 1C, Block 3; "A" Street Community Center, Section 7, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 02	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, 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: 6/25/2013

TO: City Council / City Manager

FROM: Steve Thorpe, Building Official

SUBJECT: Consider an ordinance amending City Code Sections 5-10-2 and 5-10-9 to include Midland County Courthouse, 500 N. Loraine. (DEVELOPMENT SERVICES)

Purpose:

To allow an approved person/business to sell food from a location on Tennessee Avenue east of Loraine Street, adjacent to Midland County Courthouse, 500 North Loraine Street for a period longer than the current time allowed and the Code Administration Division is the enforcement agency for this location's activity

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

none

Discussion:

The proposed amendments would allow a currently licensed vendor to obtain a special license to sell food for a Monday through Friday week at a location adjacent to the Midland County Courthouse, 500 North Loraine Street and return to that location after a week "off". The food units would receive an additional inspection from the Building Official to insure their appearance meets the desired aesthetics for the location. Additionally the Code Administration Division would be responsible for enforcement and the additional licensing of these vendors. The location would be on the north side of Tennessee Avenue, east of Loraine Street, directly adjacent to the Midland County Courthouse, 500 N. Loraine Street.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE V, “BUSINESS REGULATIONS”, CHAPTER 10, “SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS”, SECTION 2, “PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION”, AND SECTION 9, “DUTY OF POLICE”, SO AS TO ALLOW LICENSED FOOD VENDORS TO SELL FOOD AT A LOCATION ADJACENT TO THE MIDLAND COUNTY COURTHOUSE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

WHEREAS, the City Council finds it to be in the public interest to make certain amendments to the City regulations regarding sidewalk sales and selling from fixed locations in order to allow licensed food vendors to sell food at a location adjacent to the Midland County Courthouse;

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

SECTION ONE. That Title V, “Business Regulations”, Chapter 10, “Sidewalk Sales and Selling From Fixed Locations”, Section 2, “Permit and license required if selling from a fixed location”, of the City Code of Midland, Texas, shall hereby be amended to read as follows:

5-10-2. Permit and license required if selling from a fixed location.

(a) A person who desires to do business from a fixed location, without traveling from place to place, shall make application for a license and a permit or permits from the chief of police, to do business in a fixed location. Said permit shall state that the operation of such business will be permitted at a specified location for a period not to exceed three days, and it shall be unlawful for such individual to continue to engage in such business for a period in excess of that stated in the permit. Further, once a specific location has been used by a permitted individual, no additional permits shall be issued to the same location for a period of not less than 15 days. The term “location” shall generally mean the same business site, such as a business or shopping center. No permit or license shall be issued for the operation of such business in a fixed location in zoning districts AE, Agricultural-Estate District through MF-2, Multiple-Family Dwelling District, as enumerated in Title XI, “Zoning Regulations,” Chapter 1, “Zoning,” of this Code. The application shall be the same as described in Section 5-10-1 of this Code.

A licensed and health department approved food vendor that desires to conduct business within the designated Texas Avenue right-of-way directly adjacent to Centennial

Plaza or Tennessee Avenue right-of-way directly adjacent to the Midland County Courthouse, located on Block 42, Homestead Addition, shall obtain a permit from the Building Official in the Code Administration Division, 4th Floor, City Hall, to conduct business for up to 1 business week beginning on Monday and ending on Saturday; sanctioned special events in Centennial Plaza may alter this schedule. A vendor may not obtain a permit for successive weeks. There shall be a maximum of three vendors allowed per business week at Centennial Plaza. The permit can be obtained beginning Monday of the week prior to vending from Centennial Plaza or the Tennessee Avenue right-of-way. Business hours shall be from 7:00 a.m. to 10:00 p.m. Equipment shall be removed each day and the space shall be cleaned. The Mobile equipment used at this location must obtain an inspection and approval from the Building Official prior to obtaining a permit. The inspection shall ensure the equipment is in acceptable physical condition and appearance.

(b) Except that the provisions of this subsection shall not apply to persons engaged in the business of selling firewood; said persons may sell firewood from October 1 to March 1. The provisions of the subsection shall also not apply to persons engaged in the business of the sale of ice cream from an ice cream truck which travels from place to place; said persons may conduct said business from April 1 to September 30.

(c) An individual who obtains a permit to do business from a fixed location shall only do business from 7:00 a.m. to 10:00 p.m.

(d) An individual engaging in business by virtue of a valid permit and/or license obtained under the provisions of this Chapter shall be allowed to display, sell and/or store goods, merchandise, commodities or other wares in the open, outside of a building, for the temporary period stated in such permit and/or license, notwithstanding the provisions of Title XI, "Zoning Regulations," of this Code prohibiting such open display, sale and storage in certain zoning districts.

SECTION TWO. That Title V, "Business Regulations", Chapter 10, "Sidewalk Sales and Selling From Fixed Locations", Section 9, "Duty of police", of the City Code of Midland, Texas, shall hereby be amended to read as follows:

5-10-9. Duty of police.

It shall be the duty of the Midland police department to enforce the provisions of this Chapter against any person found to be violating the same. In conjunction with said duty all Midland police officers shall have the authority to require any person seen operating from a fixed location to produce his license and/or permit.

The Building Official and staff of the Code Administration Division shall be responsible for enforcement regarding Centennial Plaza and Tennessee Avenue right-of-way food vendors.

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 five hundred dollars (\$500.00).

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 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

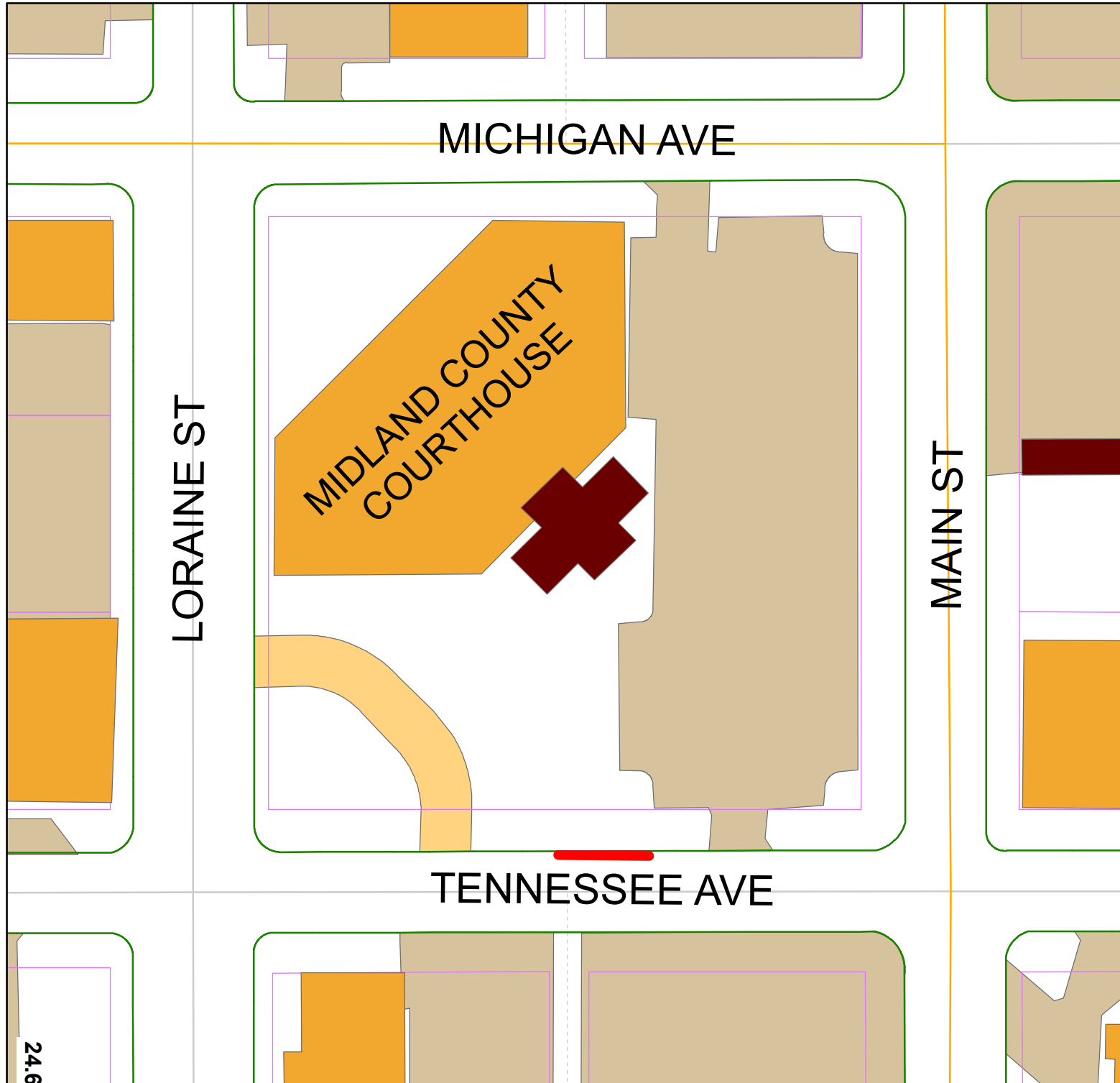
Amy M. Turner, Interim City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



Proposed 46'
vendor parking
area





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on second reading on a request by Leslie Diann Hahn, Trustee and Peggy Sue Jones Hahn for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.)

Purpose: Consider an ordinance on second reading on a request by Leslie Diann Hahn, Trustee and Peggy Sue Jones Hahn for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

There is no cost to the City for processing this application.

Discussion:

At the previous June 25th Council meeting the applicants, Leslie Diann Hahn, Trustee and Peggy Sue Jones Hahn requested to vacate the above described alleys and rights-of-way for the future development of a senior family home, and the future expansion of the Mesquite Terrace Apartments. The approximate three acres of right of way was assessed by the Midland County Appraisal District at \$1.50/square foot. The total value of these assessed rights-of-way is approximately \$192,073.50. The applicant is disputing the assessed value of the alleys and rights-of-way and is requesting Council to consider an alternative assessment.

Attachments: Exhibit A, B, C, D, and E.

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.13-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 18-21, BLOCK 166, A 0.25-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-15, BLOCK 165, A 0.14-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-4, BLOCK 167, A 1.78-ACRE PORTION OF LESLIE DRIVE RIGHT-OF-WAY, AND A 0.64-ACRE PORTION OF KRISTIE LANE RIGHT-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$192,073.50; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.13-acre portion of alley right-of-way adjacent to Lots 18-21, Block 166, a 0.25-acre portion of alley right-of-way adjacent to Lots 1-15, Block 165, a 0.14-acre portion of alley right-of-way adjacent to Lots 1-4, Block 167, a 1.78-acre portion of Leslie Drive right-of-way, and a 0.64-acre portion of Kristie Lane right-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas, are 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 \$192,073.50, as shown in Exhibit "F" 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 0.13-acre portion of alley right-of-way adjacent to Lots 18-21, Block 166, a 0.25-acre portion of alley right-of-way adjacent to Lots 1-15, Block 165, a 0.14-acre portion of alley right-of-way adjacent to Lots 1-4, Block 167, a 1.78-acre portion of Leslie Drive right-of-way, and a 0.64-acre portion of Kristie Lane right-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas, as described in Exhibits “A”, “B”, “C”, “D” and “E” attached hereto and made a part hereof for all legal purposes, are 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 \$192,073.50.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

VACATED RIGHT OF WAY EXHIBIT

20' ALLEY

LEGAL DESCRIPTION of a 0.13 acre tract of Public Alley Right-of-Way out of Wilshire Park, Section 11, an Addition to the City of Midland Texas as recorded in Cabinet "C", Page 90 of the Plat Records of Midland County, Texas, and being located in Section 31, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described as follows:

BEGINNING at (N: 10,687,473.29, E: 1,734,777.04) the Southwest corner of this tract, a point at the Southeast corner of the intersection of Beal Parkway, a 60-foot public road, and a 20-Foot Alley, the Northwest corner of Lot 21, Block 166, said Wilshire Park, Section 11, from which a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northwest corner of the tract to Fasken Land & Minerals, Ltd as recorded in Volume 1346, Page 598 of the Deed Records of Midland County, Texas and for an exterior corner of said Wilshire Park, Section 11, bears S 14°19'26" E a distance of 506.37 feet, and N 75°32'54" E a distance of 7.60 feet;

THENCE Northerly with the East line of said Beal Parkway, with the West line of said 20-Foot Alley, through a Curve to the Left having a Radius of 956.78 feet, an Arc Length of 9.90 feet, a Chord Length of 9.90 feet, a Chord Bearing of N 21°50'48" W, and a Delta Angle of 0°35'34", to a point of reverse curvature;

THENCE Northerly with the East line of said Beal Parkway, with the West line of said 20-Foot Alley, through a Curve having a Radius of 955.66 feet, an Arc Length of 10.27 feet, a Chord Length of 10.27 feet, a Chord Bearing of N 21°50'07" W, and a Delta Angle of 0°36'56", to a point at the Northeast corner of the intersection of said Beal Parkway and said 20-Foot Alley, the Southwest corner of Lot 22, said Block 166, for the Northwest corner of this tract;

THENCE N 75°32'58" E with the South lines of Lots 22 - 25, said Block 166, and with the North line of said 20-Foot Alley, a distance of 278.86 feet to a point in the South line of said Lot 25, for the Northeast corner of this tract;

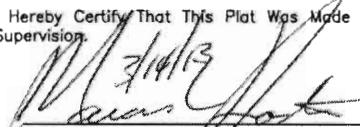
THENCE S 14°27'00" E, in and across said 20-Foot Alley to (N: 10,687,542.24, E: 1,735,044.56) a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" set in the South line of said 20-Foot Alley, and in the North line of Lot 18, said Block 166, for the Southeast corner of this tract;

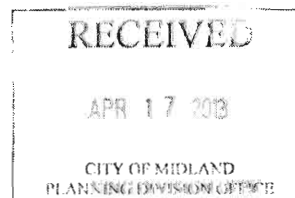
THENCE S 75°32'58" W with the South line of said 20-Foot Alley, and with the North lines of Lots 18 - 21, said Block 166, to the POINT OF BEGINNING.

Subject tract contains a total of 0.13 Acres (5,551 Sq. Feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.


MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
 DATE SURVEYED FEBRUARY 12, 2013



LEGEND

-  DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
-  DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
-  DENOTES POINT OF CURVATURE
-  DENOTES CALCULATED POINT
-  DENOTES BOUNDARY LINE
-  DENOTES ADJACENT TRACT



WEST COMPANY


OF MIDLAND, INC.
 ENGINEERS - PLANNERS - SURVEYORS
 REGISTRATION: FIRM 2184
 110 W. LOUISIANA AVE., SUITE 110
 MIDLAND, TEXAS 79701
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Exhibit "A"

CASE NO. V-13-008

VACATED RIGHT OF WAY EXHIBIT

20' ALLEY

LEGAL DESCRIPTION of a 0.25 acre tract of Public Alley Right-of-Way out of Wilshire Park, Section 11, an Addition to the City of Midland Texas as recorded in Cabinet "C", Page 90 of the Plat Records of Midland County, Texas, and being located in Section 31, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described as follows:

BEGINNING at (N: 10,687,161.87, E: 1,734,864.40) the most Westerly Southwest corner of this tract, a point at the Southeast corner of the intersection of Beal Parkway, a 60-foot public road, and a 20-Foot Alley, the Northwest corner of Lot 1, Block 165, said Wilshire Park, Section 11, from which a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northwest corner of the tract to Fasken Land & Minerals, Ltd as recorded in Volume 1346, Page 598 of the Deed Records of Midland County, Texas and for an exterior corner of said Wilshire Park, Section 11, bears S 14°19'26" E a distance of 183.00 feet;

THENCE N 14°19'26" W with the East line of said Beal Parkway, with the West line of said 20-Foot Alley, a distance of 20.00 feet to (N: 10,687,181.25, E: 1,734,859.46) a point at the Southwest corner of Lot 15, said Block 165, for the Northwest corner of this tract;

THENCE N 75°33'28" E with the South lines of Lots 15 - 9, said Block 165, and with the North line of said 20-Foot Alley, a distance of 403.70 feet to a point in the South line of said Lot 9, for the most Northerly Northeast corner of this tract;

THENCE S 48°45'52" E with the Southwest lines of Lots 9 - 8, said Block 165, and with the Northeast line of said 20-Foot Alley, a distance of 22.56 feet to a point at the Southwest corner of said Lot 8, the Northwest corner of Lot 7, said Block 165, for the most Easterly Northeast corner of this tract;

THENCE S 06°54'38" W with the West lines of Lots 7 - 6, said Block 165, and with the East line of said 20-Foot Alley, a distance of 137.39 feet to a point at the Northeast corner of the intersection of said 20-Foot Alley and Kristie Lane, a 60-foot public road, the Southwest corner of said Lot 6, for the Southeast corner of this tract;

THENCE Westerly with the North line of said Kristie Lane, and with the South line of said 20-Foot Alley, through a curve having a Radius of 307.00 feet, an Arc Length of 20.66 feet, a Chord length of 20.66 Feet, a Chord Bearing of S 82°24'11" W, and a Delta Angle of 03°51'18", to a point at the Northwest corner of the intersection of said Kristie Lane and said 20-Foot Alley, the Southeast corner of Lot 5, said Block 165, for an Exterior corner of this tract;

THENCE N 06°54'38" E with the West line of said 20-Foot Alley, and with the East line of said Lot 5, a distance of 113.27 feet to a point for the most Easterly Northeast corner of said Lot 5, for an Interior corner of this tract;

THENCE N 48°45'52" W with the Northeast line of said Lot 5 and with the Southwest line of said 20-Foot Alley a distance of 22.56 feet, to a point for the most Northerly Northeast corner of said Lot 5, for an Interior corner of this tract;

THENCE S 75°33'28" W with the North lines of Lots 5 - 1, said Block 165, a distance of 374.45 feet to the POINT OF BEGINNING.

Subject tract contains a total of 0.25 Acres (11,086 Sq. Feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013



LEGEND



- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- 9 DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT TRACT



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APR 17 2013

CITY OF MIDLAND
PLANNING DEPARTMENT

WEST COMPANY



OF MIDLAND, INC.

ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
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Exhibit "B"

CASE NO. V-13-008

VACATED RIGHT OF WAY EXHIBIT 20' ALLEY

LEGAL DESCRIPTION of a 0.14 acre tract of Public Alley Right-of-Way out of Wilshire Park, Section 11, an Addition to the City of Midland Texas as recorded in Cabinet "C", Page 90 of the Plat Records of Midland County, Texas, and being located in Section 31, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described as follows:

BEGINNING at (N: 10,687,059.38, E: 1,735,200.20) a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northeast corner of the tract to Fasken Land & Minerals, Ltd as recorded in Volume 1346, Page 598 of the Deed Records of Midland County, Texas and for an interior corner of said Wilshire Park, Section 11, a point at the Southwest corner of the intersection of a 20-Foot Alley and of Kristie Lane, a 60-foot public road, for the Northwest corner of this tract;

THENCE N 75°33'22" E with the South line of said Kristie Lane a distance of 20.00 feet to a point at the Northeast corner of said 20-Foot Alley, and at the Northwest corner of Lot 4, Block 167, said Wilshire Park, Section 11, for the Northeast corner of this tract;

THENCE S 14°19'26" E with the West lines of Lots 1-4, said Block 167, a distance of 300.00 feet to a point in the North line of Graceland Drive, a 60-foot public road, for the Southwest corner of said Lot 1, for the Southeast corner of this tract;

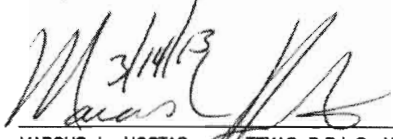
THENCE S 75°33'22" W with the North line of said Graceland Drive a distance of 20.00 feet to a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" set at the Southeast corner of said Fasken tract, an interior corner of said Wilshire Park, Section 11, for the Southwest corner of this tract;

THENCE N 14°19'26" W with the East line of said Fasken tract and with a Western line of said Wilshire Park, Section 11, a distance of 300.00 feet to the POINT OF BEGINNING.

Subject tract contains a total of 0.14 Acres (6,000 Sq. Feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.


MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013



LEGEND

-  DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
-  DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
-  DENOTES POINT OF CURVATURE
-  DENOTES CALCULATED POINT
-  DENOTES BOUNDARY LINE
-  DENOTES ADJACENT TRACT



WEST COMPANY



OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
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SHEET 2 OF 2

Exhibit "C"

CASE NO. 13-008

VACATED RIGHT OF WAY EXHIBIT LESLIE DRIVE

LEGAL DESCRIPTION of a 1.78 acre tract of Leslie Drive Right-of-Way out of Wilshire Park, Section 11, an Addition to the City of Midland Texas as recorded in Cabinet "C", Page 90 of the Plat Records of Midland County, Texas, and being located in Section 31, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described as follows:

BEGINNING at (N: 10,687,300.43, E: 1,734,829.02) a point at the Northwest corner of Lot 15, Block 165, said Wilshire Park, Section 11, said point at the Southeast corner of the intersection of Beal Parkway, a 60-foot public road, and Leslie Drive, a 60-foot public road, from which a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northwest corner of the tract to Fasken Land & Minerals, Ltd as recorded in Volume 1346, Page 598 of the Deed Records of Midland County, Texas and for an Exterior corner of said Wilshire Park, Section 11, bears S 14°19'26" E a distance of 326.00 feet, for the most Westerly Southwest corner of this tract;

THENCE N 14°19'26" W with the East line of said Beal Parkway, in and across said Leslie Drive, a distance of 60.00 feet to a point at the Southwest corner of Lot 21, Block 166, said Wilshire Park, Section 11, for the Northwest corner of this tract;

THENCE N 75°32'58" E with the South lines of Lots 21 - 14, said Block 166, and with the North line of said Leslie Drive, a distance of 500.08 feet to a point of curvature in the South line of said Lot 14;

THENCE Easterly with a the South lines of Lot 14 - 13, said Block 166, and with the North line of said Leslie Drive, through a curve having a Radius of 103.73 feet, an Arc Length of 31.13 feet, a Chord Length of 31.01 feet, a Chord Bearing of N 84°09'09" E, and a Delta Angle of 17°11'42", to a point in the South line of said Lot 3, for an Interior corner of this tract;

THENCE with the curved South and West lines of Lots 13 - 10, said Block 166, and with the Northeast line of said Leslie Drive, through a curve having a Radius of 50.00 feet, an Arc Length of 181.42 feet, a Chord length of 97.05 feet, a Chord Bearing of S 59°21'28" E, and a Delta Angle of 207°53'32", to a point in the West line of said Lot 10, to the point of tangency;

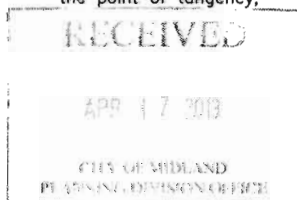
THENCE Southerly with the curved West line of said Lot 10 and with the East line of said Leslie Drive, through a curve having a Radius of 103.73 feet, an Arc Length of 31.19 feet, a Chord Length of 31.01 feet, a Chord bearing of S 22°52'04" E, and a Delta Angle of 17°11'01", to a point for the Southwest corner of said Lot 10, and for the Northwest corner of Lot 9, said Block 166, for an Exterior corner of this tract;

THENCE S 14°12'32" E with the West line of said Lot 9 and with the East line of said Leslie Drive a distance of 45.02 feet to the beginning of a curve to the Right;

THENCE Southerly with the West lines of Lots 9 - 7, said Block 166, and with the East line of said Leslie Drive, through a curve having a Radius of 214.57 feet, an Arc Length of 79.09 feet, a Chord Length of 78.74 feet, a Chord Bearing of S 03°39'45" E and a Delta Angle of 21°08'43" to a point in the West line of said Lot 7, for an Exterior corner of this tract;

THENCE S 06°54'38" W with the East line of said Leslie Drive, and with the West line of Lots 7 - 4, said Block 166, a distance of 229.94 feet to a point in the West line of said Lot 4 for the beginning of a curve to the left;

THENCE Southerly with the curved West lines of Lots 4 - 3, said Block 166, and with the East line of said Leslie Drive, through a curve having a Radius of 292.58 feet, an Arc Length of 108.00 feet, a Chord Length of 107.39 feet, a Chord Bearing of S 03°39'52" E, and a Delta Angle of 21°07'47", to a point at the Southwest corner of said Lot 3 and the Northwest corner of Lot 2, said Block 166, the point of tangency;



CONTINUED ON NEXT PAGE



LEGEND



- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- 9 DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT TRACT



WEST COMPANY



OF MIDLAND, INC.

ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
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SHEET 2 OF 3

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Exhibit "D"

CASE NO. V-13-008

VACATED RIGHT OF WAY EXHIBIT

LESLIE DRIVE

THENCE S 14°14'23" E with the West line of Lots 2 - 1, said Block 166, and with the East line of said Leslie Drive, a distance of 140.00 feet to a point at the Northeast corner of the intersection of said Leslie Drive, and of Graceland Drive, a 60-foot public road, at the Southwest corner of said Lot 1, for the Southeast corner of this tract;

THENCE S 75°33'12" W with the North line of said Graceland Drive, and the South line of said Leslie Drive, a distance of 60.00 feet to (N: 10,686,800.14, E: 1,735,396.46), a point at the Southeast corner of Lot 1, Block 167, said Wilshire Park, Section 11, from which a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Southwest corner of said Fasken tract bears S 75°33'15" W a distance of 426.02 feet, for the most Southerly Southwest corner of this tract;

THENCE N 14°14'23" W with the East lines of Lot 1 - 3, said Block 167 a distance of 140.21 feet to a point in the East line of said Lot 3, to the beginning of a curve to the right;

THENCE Northerly with the East lines of Lots 3 - 4, said Block 167, and with the West line of said Leslie Drive, through a curve having a Radius of 352.58 feet, an Arc Length of 130.15 feet, a Chord Length of 129.41 feet, a Chord Bearing of N 03°39'43" W, and a Delta Angle of 21°08'59", to a point at the Southwest corner of the intersection of Kristie Lane, a 60-foot public road, and said Leslie Drive, the Northeast corner of said Lot 4, Block 167, the point of tangency;

THENCE N 06°54'38" E with the West line of said Leslie Drive, with the Southeast line of said Kristie Lane and with the East lines of Lots 6 - 7, Block 165, said Wilshire Park, Section 11, a distance of 229.94 feet to a point at the Northeast corner of said Lot 7, to the beginning of a curve to the left;

THENCE Northerly with the curved West line of said Leslie Drive, and with the East line of Lot 8, said Block 165, through a curve having a Radius of 154.57 feet, an Arc Length of 56.98 feet, a Chord Length of 56.76 feet, a Chord Bearing of N 03°40'27" W, and a Delta Angle of 21°09'34", to a point in the East line of said Lot 8, for the point of tangency;

THENCE N 14°12'32" W with the West line of said Leslie Drive and with the East line of said Lot 8, Block 165, a distance of 45.02 feet to the beginning of a curve to the Left;

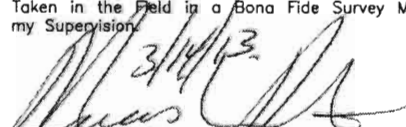
THENCE Northwesterly with the Northeast lines of Lots 8 - 9, said Block 165, and with the Southwest line of said Leslie Drive, through a curve having a Radius of 43.73 feet, an Arc Length of 68.87 feet, a Chord Length of 61.89 feet, a Chord Bearing of N 59°23'52" W, and a Delta Angle of 90°06'30", to a point in the North line of said Lot 9, the point of tangency;

THENCE S 75°32'58" W with the South line of said Leslie Drive and with the North lines of Lots 9 - 15, said Block 165, a distance of 500.21 feet to the POINT OF BEGINNING.

Subject tract contains a total of 1.78 Acres (77,434 Sq. Feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.


 MARCUS L. HOSTAS TEXAS R.P.L.S. No. 56434
 DATE SURVEYED FEBRUARY 12, 2013



LEGEND



- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- 9 DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT TRACT



WEST COMPANY



OF MIDLAND, INC.
 ENGINEERS - PLANNERS - SURVEYORS
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SHEET 3 OF 3

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CASE NO. V-13008

VACATED RIGHT OF WAY EXHIBIT

KRISTIE LANE

LEGAL DESCRIPTION of a 0.64 acre tract of Kristie Lane Right-of-Way out of Wilshire Park, Section 11, an Addition to the City of Midland Texas as recorded in Cabinet "C", Page 90 of the Plat Records of Midland County, Texas, and being located in Section 31, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described as follows:

BEGINNING at (N: 10,686,984.56, E: 1,734,909.68) a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northwest corner of the tract to Fasken Land & Minerals, Ltd as recorded in Volume 1346, Page 598 of the Deed Records of Midland County, Texas and for an Exterior corner of said Wilshire Park, Section 11, a point at the Southeast corner of the intersection of Beal Parkway, a 60-foot public road, and of Kristie Lane, a 60-foot public road, for the Southwest corner of this tract;

THENCE N 14°19'26" W with the East line of said Beal Parkway, with the West line of said said Kristie Lane, a distance of 60.00 feet to (N: 10,687,042.70, E: 1,734,894.83), a point at the Southwest corner of Lot 1, Block 165, said Wilshire Park Section 11, for the Northwest corner of this tract;

THENCE N 75°33'28" E with the South lines of Lots 1-5, said Block 1, and with the North line of said Kristie Lane, a distance of 319.88 feet to the beginning of a curve to the Right;

THENCE Easterly with the curved North line of said Kristie Lane and with the South lines of said Lot 5 and of a 20-Foot Alley and of Lot 6, said Block 165, through a curve having a Radius of 307.00 feet, an Arc Length of 114.41 feet, Chord Length of 113.75 feet, Chord Bearing of N 86°14'11" E, and Delta Angle of 21°21'10", to a point in the South line of said Lot 6, the point of tangency;

THENCE S 83°05'22" E with the South line of said Lot 6 a distance of 43.12 feet to the Southeast corner of said Lot 6, a point in the West line of Leslie Drive, a 60-foot public road, for the Northeast corner of this tract;

THENCE S 06°54'38" W with the West line of said Leslie Drive, and the East line of said Kristie Lane, a distance of 60.00 feet to a point at the Northeast corner of Lot 4, Block 167, said Wilshire Park, Section 11, for the Southeast corner of this tract;

THENCE N 83°05'22" W with the North line of said Lot 4, Block 167, and with the South line of said Kristie Lane, a distance of 43.12 feet to the beginning of a curve to the Left;

THENCE Westerly with the curved South line of said Kristie Lane and with the North line of said Lot 4, Block 167, through a curve having a Radius of 247.00 feet, an Arc Length of 92.05 feet, a Chord Length of 91.52 feet, a Chord Bearing of S 86°14'11" W and a Delta Angle of 21°21'10", to the point of tangency, a point at the Northwest corner of said Lot 4, Block 167, at the Southeast corner of the intersection of a 20-Foot Alley and of said Kristie Lane;

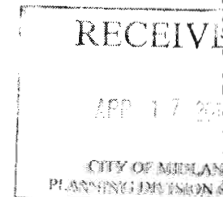
THENCE S 75°33'28" W with the South line of said Kristie Lane, and the North line of said 20-Foot Alley, at a distance of 20.00 feet passing a 1/2" Iron Rod with Red plastic cap marked "West Co Midland" found at the Northeast corner of said Fasken tract, and continuing on with the North line of said Fasken tract for a total distance of 320.00 feet to the POINT OF BEGINNING.

Subject tract contains a total of 0.64 Acres (27,978 Sq. Feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

Marcus L. Hostas
 MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
 DATE SURVEYED FEBRUARY 12, 2013



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- DENOTES ADJACENT TRACT



WEST COMPANY

OF MIDLAND, INC.
 ENGINEERS - PLANNERS - SURVEYORS
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SHEET 2 OF 2

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Exhibit "E"

CASE NO. 13-008



June 14, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.13-acre portion of alley right-of-way adjacent to Lots 18-21, Block 166, a 0.25-acre portion of alley right-of-way adjacent to Lots 1-15, Block 165, a 0.14-acre portion of alley right-of-way adjacent to Lots 1-4, Block 167, a 1.78-acre portion of Leslie Drive right-of-way, and a 0.64-acre portion of Kristie Lane right-of-way, all out of Wilshire Park Addition, Section 11, 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 \$192,073.50. The property can be vacated and recorded in the Midland County Clerk's office when the City of Midland has received this amount from the adjoining property owner(s).

Very truly yours,

A handwritten signature in black ink that reads "Courtney SP". The signature is stylized, with the first name "Courtney" written in a cursive script and the initials "SP" written in a more bold, blocky style.

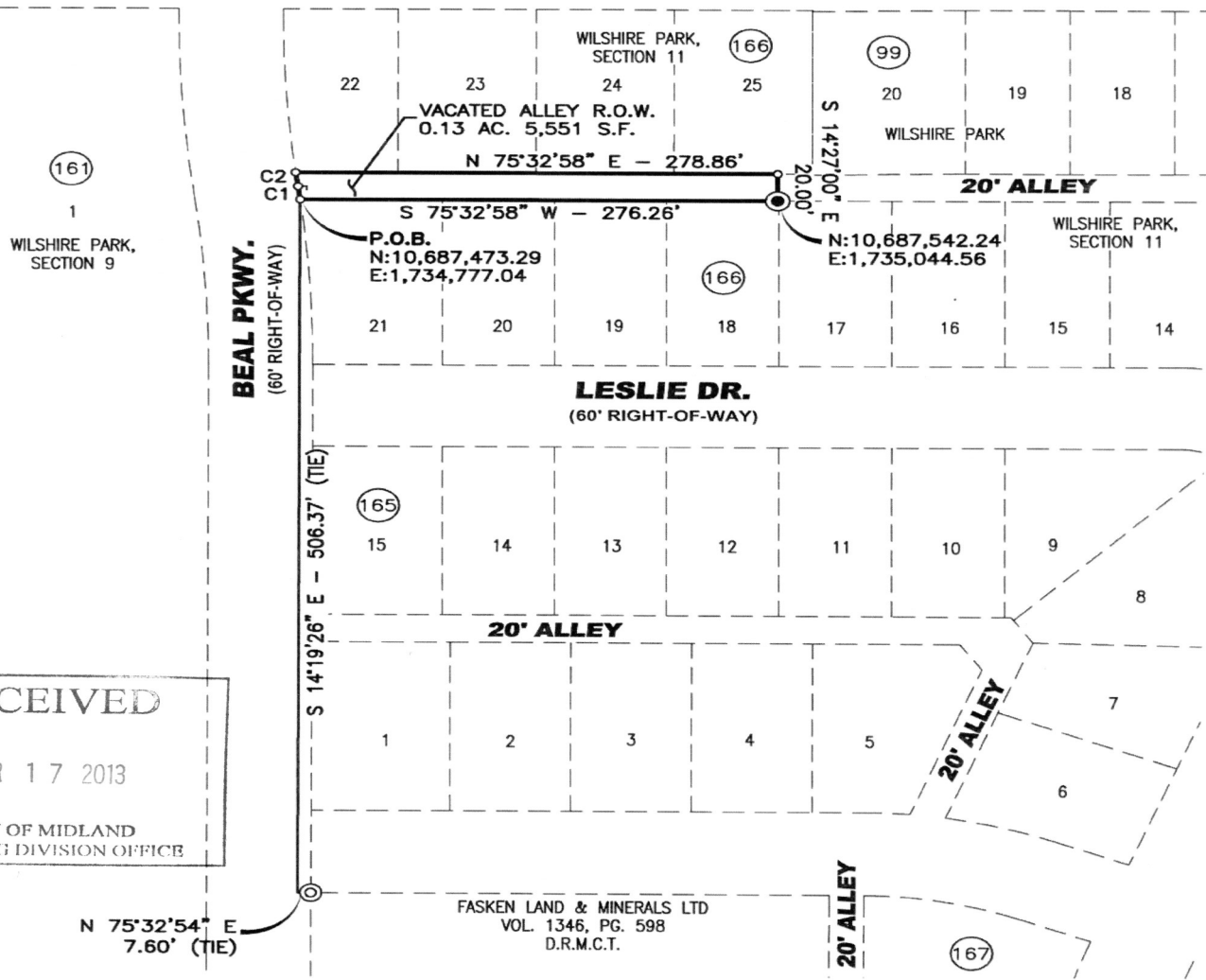
Courtney Sharp
City Manager

Exhibit "F"

L:\Ordinances\Planning\Vacate & Abandon\2013\Wilshire Park Addition Appraisal Letter.wpd

VACATED RIGHT OF WAY EXHIBIT 20' ALLEY

LEISURE DR.
(60' RIGHT-OF-WAY)



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CITY OF MIDLAND
PLANNING DIVISION OFFICE

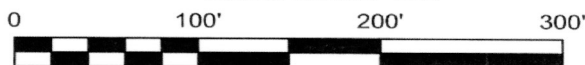
CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	956.78'	9.90'	9.90'	N 21°50'48" W	0°35'34"
C2	955.66'	10.27'	10.27'	N 21°50'07" W	0°36'56"

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013

LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- 9 DENOTES POINT OF CURVATURE
- o DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- DENOTES ADJACENT TRACT

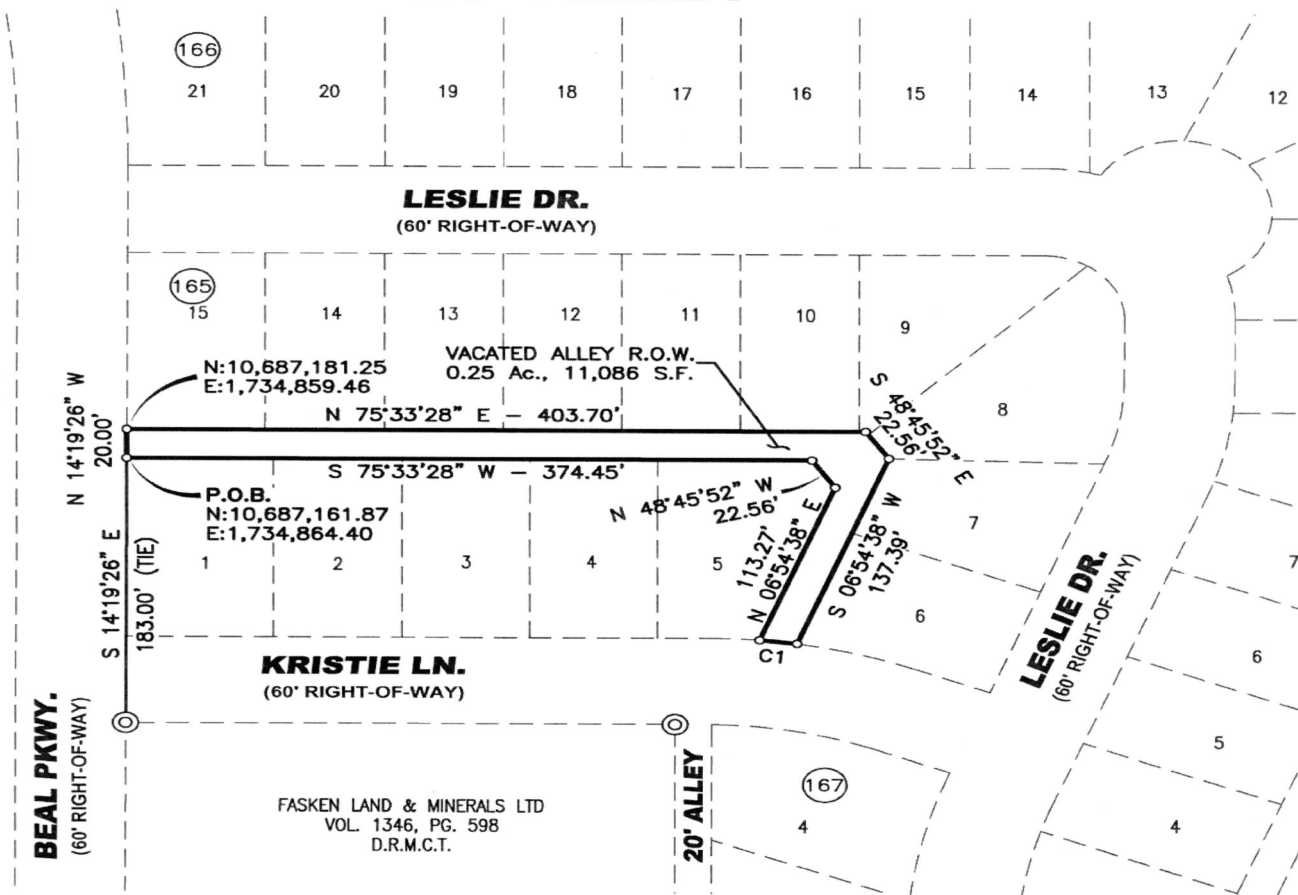


WEST COMPANY

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SHEET 1 OF 2

161

WILSHIRE PARK,
SECTION 9
1

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	307.00'	20.66'	20.66'	S 82°24'11" W	3°51'18"

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013



RECEIVED

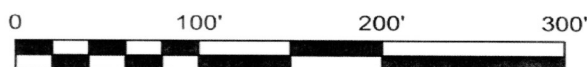
APR 17 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

LEGEND



- | | |
|---|---|
|  | DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND" |
|  | DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND" |
|  | DENOTES POINT OF CURVATURE |
|  | DENOTES CALCULATED POINT |
|  | DENOTES BOUNDARY LINE |
|  | DENOTES ADJACENT TRACT |



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

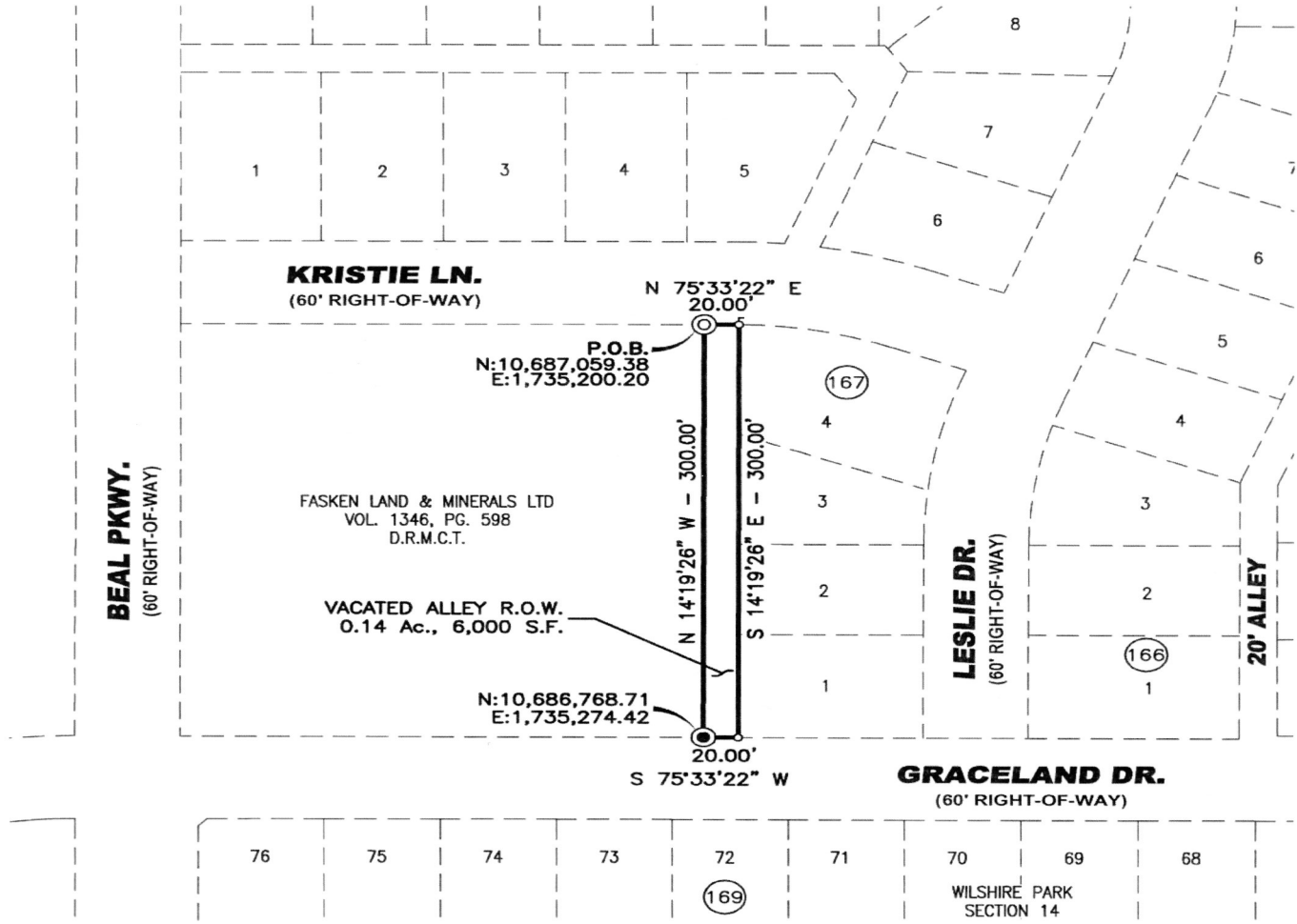
SHEET 1 OF 2

© COPYRIGHT 2013 WEST COMPANY OF MIDLAND

E: /CIVIL DRAWINGS/2013-0206/ROW VACATIONS/2013-0206 ROW VACATIONS.dwg

CASE NO. 13-008

VACATED RIGHT OF WAY EXHIBIT 20' ALLEY



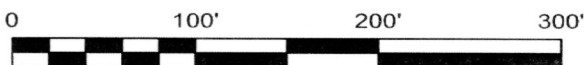
I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013

LEGEND



- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- 9 DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT TRACT



RECEIVED

APR 17 2013

CITY OF MIDLAND
PLANNING DIVISION

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

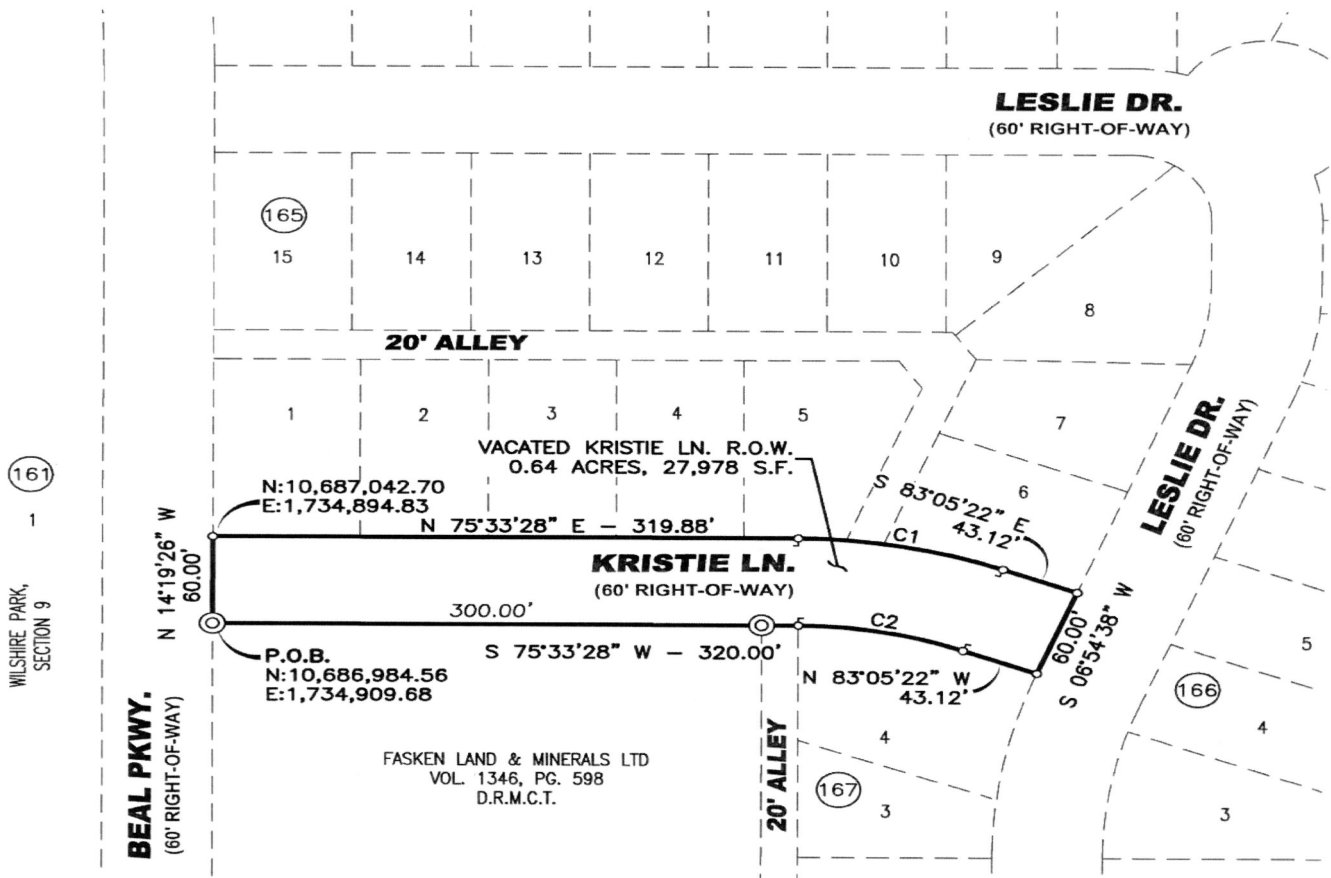
SHEET 1 OF 2

LESLIE DRIVE



- | CURVE | RADIUS | ARC LENGTH | CHORD | CHORD BEARING | Δ ANGLE |
|-------|---------|------------|---------|---------------|------------|
| C1 | 103.73' | 31.13' | 31.01' | N 84°09'09" E | 17°11'42" |
| C2 | 50.00' | 181.42' | 97.05' | S 59°21'28" E | 207°53'32" |
| C3 | 103.73' | 31.19' | 31.01' | S 22°52'04" E | 17°11'01" |
| C4 | 214.57' | 79.09' | 78.74' | S 03°39'45" E | 21°08'43" |
| C5 | 292.58' | 108.00' | 107.39' | S 03°39'52" E | 21°07'47" |
| C6 | 352.58' | 130.15' | 129.41' | N 03°39'43" W | 21°08'59" |
| C7 | 154.57' | 56.98' | 56.76' | N 03°40'27" W | 21°09'34" |
| C8 | 43.73' | 68.87' | 61.89' | N 59°23'52" W | 90°06'30" |

VACATED RIGHT OF WAY EXHIBIT KRISTIE LANE



CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	307.00'	114.41'	113.75'	N 86°14'11" E	21°21'10"
C2	247.00'	92.05'	91.52'	S 86°14'11" W	21°21'10"

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED FEBRUARY 12, 2013



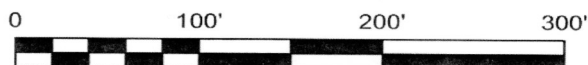
RECEIVED

APR 17 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES FOUND 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES POINT OF CURVATURE
- DENOTES CALCULATED POINT
- DENOTES BOUNDARY LINE
- - - DENOTES ADJACENT TRACT



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

SHEET 1 OF 2

CASE NO. V-13008

25.17

Case Number: V-13-008

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:
Leslie Drive, Kristie Lane, Alley
- II. Reason for Request: Owners of the surrounding lots plans to re-plot into two lots, in which case the city roads will no longer be needed.
- III. Reasons, in applicant's opinion, why the requested vacation will not adversely affect the public welfare or will contribute to it in a positive way:
The roads are unimproved. No lots except those being replotted will lose road or alley access.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)
Name: Leslie Diann Hahn, Trustee and Peggy Sue Jones Hahn
Address: Individually and as Independent Street Trustee U/W/O Lawrence H. Hahn, Deceased City 3307 Stanolind Ct., Midland, TX State 79707 Zip Code / #432-694-5730.
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.

Lisli Deann Hahn, Trustee

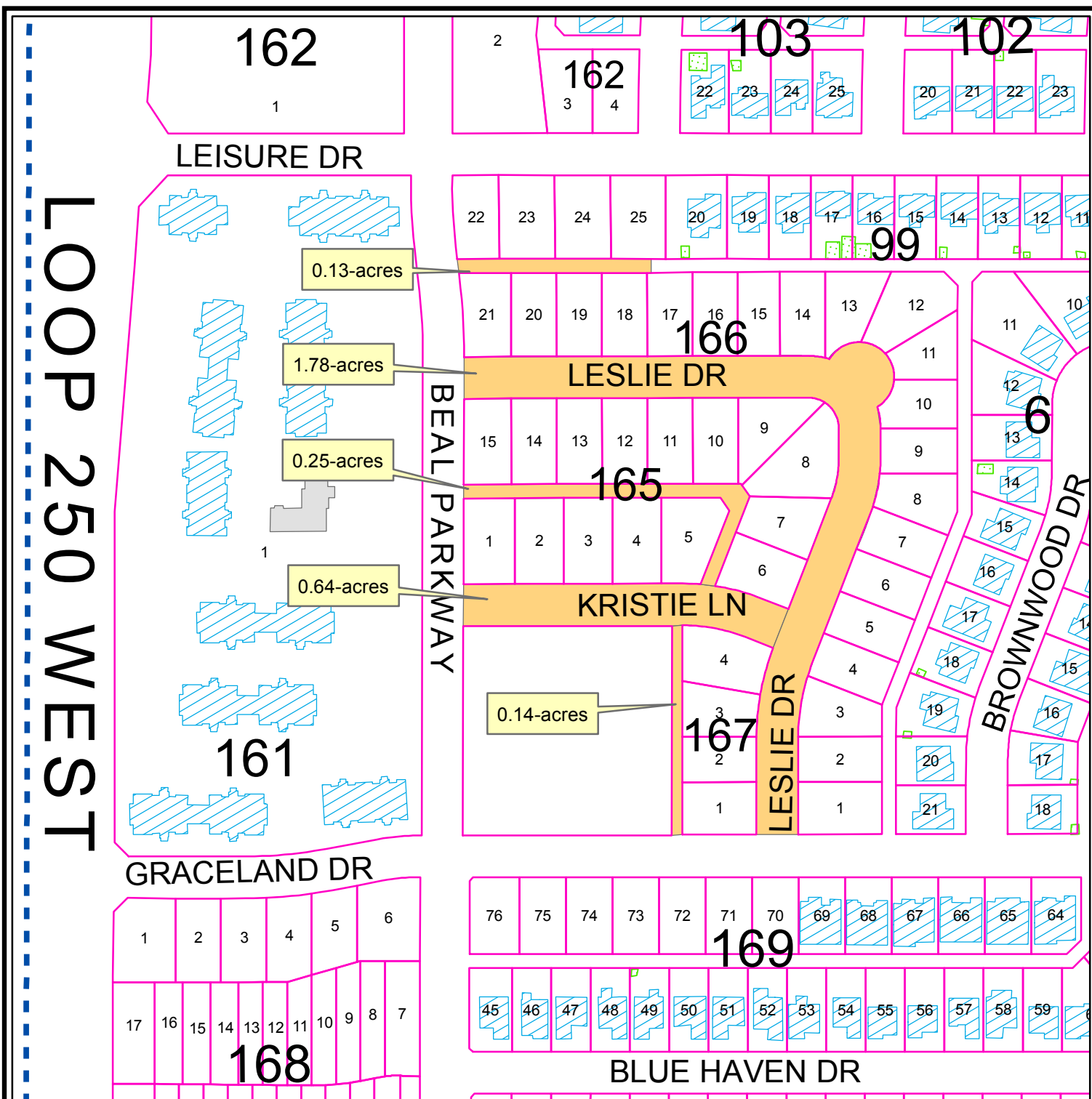
Signature of applicants: *Peggy Sue Jones Hahn* Date: 3/15/13

****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>ES</u>	Date: <u>4/17/13</u>
Assigned: _____	
For: _____	On: _____



LOCATION MAP

V - 13- 008

Scale: 1" = 200'

Consider a request for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PUBLIC BLDGS
- PRIVATE BLDGS
- ACCESSORY BLDGS



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MEMO

To: Mayor and Council
From: Jim Nichols, Assistant City Manager
Date: July 3, 2013
Re: Westridge Apartments ROW Acquisition

Mayor and Council –

Per your direction at the last Council meeting, the development team for the Westridge Apartment project has assembled data to justify an alternative price for the ROW vacation that they are requesting to accommodate their project. The City's original value was set at \$192,073.50. The developer expressed a belief that this figure is higher than the market would dictate. Council asked the developer to provide information to justify a lower value. Attached is a memo from David Diaz and backup information that offers an alternative unit price of \$0.29/sf equating to a total value of \$45,000.00. This information is being presented for Council's consideration.



Midland Community Development Corporation

July 2, 2013

Jim Nichols

As you are aware at the previous City Council meeting on June 25, the council asked our organization to make an offer to pay for the required right-of-way land to be vacated based on appraised comparables. In support of our offer I took the value of the City's most recent sale of right-of-way which occurred on June 11th whereby the City sold 4.3 acres or approximately 192,970 SqFt for \$19,321. This property is in close proximity to N. Big Spring & Loop 250 and is intended to be an apartment development. Final price on the City right-of-way (street & alleys) equals approximately 10 cents per square feet.

To further support our offer, I looked up the MCAD value of the property adjacent to the property sold by the City and found a 10.45 acre parcel with an MCAD value of 29 cents/SqFt. (see supporting MCAD data sheet) You should know this property is approximately 900 ft from Loop 250 & Big Spring St.

With the above supporting documentation it is our best estimate that the value of the right-of-way for the Westridge project is approximately 29 cents per square foot. We ask that the City of Midland accept this letter as our official offer to purchase the right-of-way for the Westridge Senior Apartments at a maximum cost of approximately 29 cents per square foot for a total of \$45,000.

Westridge Apartments is Senior Housing and it will have 51% ownership under Midland CDC, a local non-profit, therefore any and all consideration given to this project would be greatly appreciated.

Sincerely,

David Diaz,

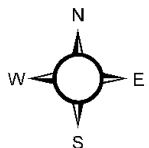
Exec. Director

N. Big Spring @ Loop 250



Legend

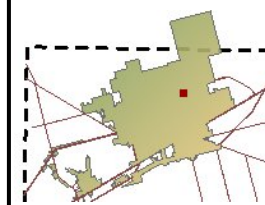
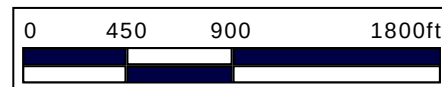
-  Identified Features
-  City Limit
-  Points Of Interest
-  Post Office
-  Chamber of Commerce
-  Other
-  Theatre
-  Medical
-  Library
-  Animal Control
-  Stadium
-  Police Station
-  Cemetery
-  Golf Course
-  Fire Station
-  Museum
-  Courthouse
-  City Hall
-  Midland Central Appraisal District
-  Airport
-  Label Street Small
-  Major County Road
-  State
-  Federal
-  Street
- County Road
- Survey Section
- Park
- Apartment
- Shopping Center
- School
- Parcel
- County Boundary
- GTS ADMIN.AE-



City of Midland
300 N. Loraine
Midland, Texas 79701

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Scale





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: June 11, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Leslie Diann Hahn & L. H. Hahn for a zone change from 1F-2, Single Family Dwelling District to PD, Planned District for a Housing Development on Lots 1 – 15, Block 165; Lots 1 – 25, Block 166; Lots 1 – 4, Block 167, and the adjacent to be vacated 1.79-acres of Leslie Drive, the 0.43-acres of Kristie Lane and the 0.45-acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.)

Purpose: Hold a public hearing at approximately 10:36 a.m. and consider an ordinance on a request by Leslie Diann Hahn & L. H. Hahn for a zone change from 1F-2, Single Family Dwelling District to PD, Planned District for a Housing Development on Lots 1 – 15, Block 165; Lots 1 – 25, Block 166; Lots 1 – 4, Block 167, and the adjacent to be vacated 1.79-acres of Leslie Drive, the 0.43-acres of Kristie Lane and the 0.45-acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas..

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

This property is presently zoned 1F-2, Single Family Dwelling District, and is being proposed to be rezoned to a PD, Planned District for a Housing Development with an underlying zoning of MF-1, Multi-Family Dwelling District. The applicant is proposing a site plan for a senior family living home with 96 units on one lot, and is also including a second lot subject to future site plan review for the development of apartments. The senior family

living home would have a density of approximately 14.0/units an acre, which is two units an acre less than what is permitted by the zoning ordinance. The attached exhibits illustrate the materials of the proposed complex, with masonry covering the first floor, and hardieplank for the second floor. All buildings would be subjected to a maximum building height of 35 feet.

Attachments: Exhibits A, B, C, and D

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A LOTS 1-15, BLOCK 165, LOTS 1-25, BLOCK 166, LOTS 1-4, BLOCK 167, THE ADJACENT TO BE VACATED 1.79 ACRES OF LESLIE DRIVE, THE 0.43 ACRES OF KRISTIE LANE, AND THE 0.45 ACRES OF ALLEY RIGHTS-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); 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 PD, 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 1F-2, One-Family

Dwelling District, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lot 1-15, Block 165, Lots 1-25, Block 166, Lots 1-4, Block 167, the adjacent to be vacated 1.79 acres of Leslie Drive, the 0.43 acres of Kristie Lane, and the 0.45 acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit "E", which is attached hereto and incorporated herein.

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

1. That the use and development of this property shall conform to the regulations of the MF-1, Multiple-Family Dwelling District.
2. That the maximum height for all buildings shall not exceed 35 feet.
3. That the development of this property shall conform to the conditions shown on Exhibit "A", which is attached hereto and incorporated herein.
4. That the elevations of buildings on this property shall conform to Exhibits "B", "C" and "D", which are attached hereto and incorporated herein.
5. That the development of this property shall conform to the requirements of the Fire Marshal, the Building Official, and the regulations of the City of Midland Landscaping Code.
6. That any future development (Lot 2A) shall be addressed 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

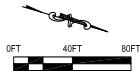
Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



SCALE 1" = 40'

COORDINATES, BEARINGS, DISTANCES AND AREAS SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM," TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM 1983.



Know what's below.
Call before you dig.

NOTICE TO CONTRACTOR

1. ALL DIMENSIONS SHOWN ARE TO BACK OF CURB UNLESS NOTED OTHERWISE.
2. ALL PROPOSED SIDEWALKS ARE TO BE 5' UNLESS NOTED OTHERWISE.

GENERAL: PLANNED DISTRICT SITE PLAN OF PROPOSED LOTS 1A AND 2A, BLOCK 165, WILSHIRE PARK. A 16-UNIT SENIOR CITIZEN HOUSING COMMUNITY IS PROPOSED FOR THE 6.86 ACRE LOT 1A (A DENSITY OF 13.91 UNITS/ACRE). BUILDINGS WILL CONSIST OF THREE 2-STORY MULTIFAMILY BUILDINGS, A CLUBHOUSE, AND A POOL. A DRIVEWAY WILL BE BUILT ACROSS LOT 2A, WITH FUTURE DEVELOPMENT OF THAT LOT BY PD SITE PLAN AMENDMENT.

ACCESS: PRIMARY ACCESS WILL BE OFF GRACELAND DRIVE. A SECOND DRIVEWAY WILL CONNECT THE SITE TO BEAL PARKWAY THROUGH A PROPOSED 47' ACCESS EASEMENT ACROSS LOT 2A, BLOCK 165. THE SITE WILL BE GATED, WITH KNOX BOXES FOR FIRE DEPARTMENT ACCESS, AND 26' FIRE LANE THROUGHOUT.

BLDG HEIGHT: THE PROPOSED BUILDINGS WILL BE TWO-STORIES.

SETBACKS: 20' BUILDING SETBACKS WILL BE OBSERVED AROUND THE ENTIRE SITE.

PARKING: PER CITY CODE, REQUIRED PARKING IS 2 SPACES PER UNIT. THE COMMUNITY WILL HAVE 94 UNITS. 214 REGULAR SPACES. 412 ACCESSIBLE PARKING SPACES (17 REQUIRED). 226 PARKING SPACES TOTAL (192 REQUIRED).

LANDSCAPE: LOT 1A AREA: 298,855 S.F. BUILDING FOOTPRINT: 57,443 S.F. REQUIRED LANDSCAPE: 24,162 S.F. (8.0% OF LOT AREA LESS BUILDING). PROPOSED LANDSCAPE: 110,022 S.F. (33.9% OF LOT AREA LESS BUILDING). 306 L2 FT OF GRACELAND DRIVE FRONTAGE-152 TREES ALONG FRONTAGE REQUIRED (1 TREE/30 FT) (6 TREES SHOWN). 226 PARKING SPACES - 188 PARKING LOT SHADE TREES REQUIRED (1 TREE/15 SPACES FOR FIRST 150, THEN 1 TREE/20 SPACES THEREAFTER) (10 SHOWN). REMAINING TREES TO BE BANKED WITH CITY OF MIDLAND TREE FUND.

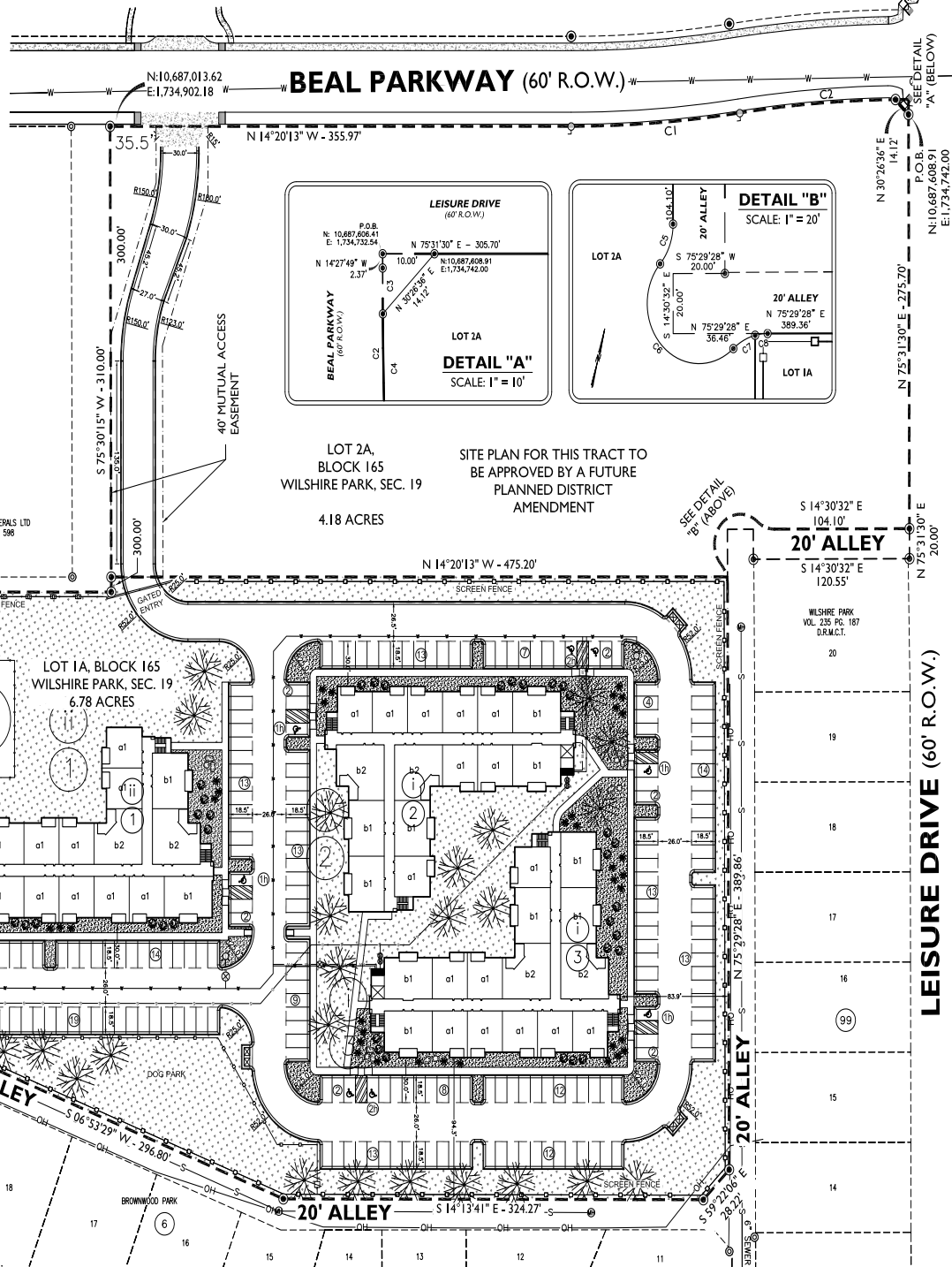
SCREENING: 4' WOODEN SCREENING FENCE WILL BE PLACED ALONG THE NORTH, EAST, AND WEST SIDES OF THE SITE. DECORATIVE IRON FENCING WILL BE PLACED IN FRONT OF THE SITE ALONG GRACELAND DRIVE.

LEGEND

- | | | |
|---|---|--|
| <ul style="list-style-type: none"> ⊙ DENOTES SET 1.2-INCH IRON ROD ⊙ DENOTES FOUND MONUMENT AS NOTED ⊙ DENOTES EXISTING WATER VALVE ⊙ DENOTES EXISTING FIRE HYDRANT ⊙ DENOTES EXISTING SEWER MANHOLE ⊙ DENOTES EXISTING POWER POLE ⊙ DENOTES PROPOSED WATER METER ⊙ DENOTES PROPOSED SEWER CLEANOUT | <ul style="list-style-type: none"> ⊙ DENOTES PROPOSED FIRE HYDRANT ⊙ DENOTES PROPOSED WATER VALVE --- DENOTES SITE PLAN BOUNDARY --- DENOTES EASEMENT LINE --- DENOTES ADJACENT TRACT OH DENOTES OVERHEAD ELECTRIC LINE W DENOTES EXISTING WATER LINE S DENOTES EXISTING SEWER LINE --- DENOTES PROPOSED FIRE LANE | <ul style="list-style-type: none"> □ DENOTES PROPOSED FENCE --- DENOTES PROPOSED WATER LINE --- DENOTES PROPOSED FIRE LINE --- DENOTES PROPOSED SEWER LINE --- DENOTES PARKING SPACE COUNT □ DENOTES PROPOSED CONCRETE □ DENOTES PROPOSED GRASS □ DENOTES PROPOSED LANDSCAPE |
|---|---|--|

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	130.57	955.66	7.49.09"	N 18°14'47" W	130.47
C2	128.30	955.66	7.41.33"	N 18°18'55" W	128.20
C3	7.63	955.66	0.22.27"	N 14°41'33" W	7.63
C4	120.67	955.66	7.14.09"	N 18°33'19" W	120.50
C5	114.45	20.00	67.24.59"	N 18°11'46" W	114.14
C6	80.33	20.00	117.24.09"	S 50°30'32" E	39.32
C7	9.60	20.00	27.30.10"	N 47°49'59" E	9.51
C8	4.85	20.00	13.54.25"	N 68°33'19" E	4.84

FASHER LAND & MINERALS LTD
VOL. 1346, PG. 598
D.R.M.C.T.



BEAL PARKWAY (60' R.O.W.)

LEISURE DRIVE (60' R.O.W.)

LOT 2A

DETAIL "A"
SCALE: 1" = 10'DETAIL "B"
SCALE: 1" = 20'

LOT 2A,
BLOCK 165
WILSHIRE PARK, SEC. 19
4.18 ACRES

SITE PLAN FOR THIS TRACT TO
BE APPROVED BY A FUTURE
PLANNED DISTRICT
AMENDMENT

20' ALLEY
S 14°30'32" E
104.10'
S 14°30'32" E
120.55'

LEISURE DRIVE (60' R.O.W.)

GRACELAND DRIVE (60' R.O.W.)

BROWNWOOD DRIVE

PLANNED DISTRICT SITE PLAN

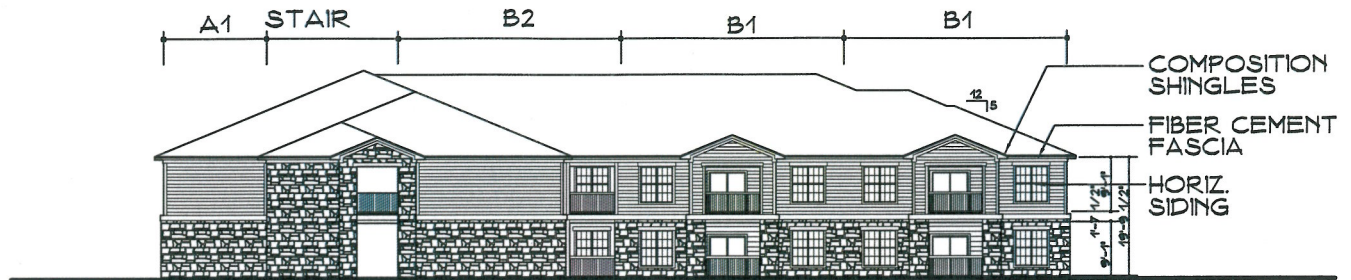
WESTRIDGE SENIOR HOUSING
PROP. LOTS 1A & 2A, BLOCK 165, WILSHIRE PARK ADDITION,
SECTION 19, CITY AND COUNTY OF MIDLAND, TEXAS

C.01 OF 1

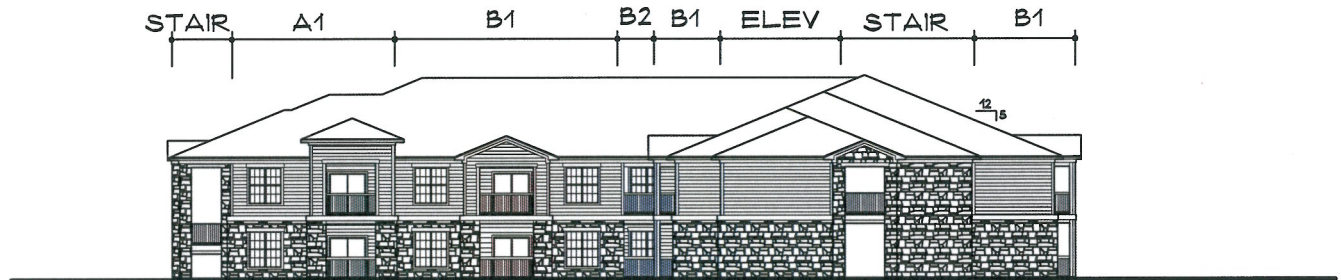
MAVERICK ENGINEERING
1909 West Vail Street, Suite "C"
Midland, Texas 79701
Tel: (432) 262-0616 Fax: (432) 262-1475
www.MaverickEng.com

DRAWN BY	DATE	BY	DATE	REVISION

CHECKED BY	DATE	APPROVED BY	DATE



STONE VENEER 61%
HORIZ. SIDING 39%



STONE VENEER 61%
HORIZ. SIDING 39%



STONE VENEER 66%
HORIZ. SIDING 34%



STONE VENEER 63%
HORIZ. SIDING 37%

ELEVATIONS

MACDONALD COMPANIES

MIDLAND, TEXAS

BLDG TYPE I

0 8' 16' 32'

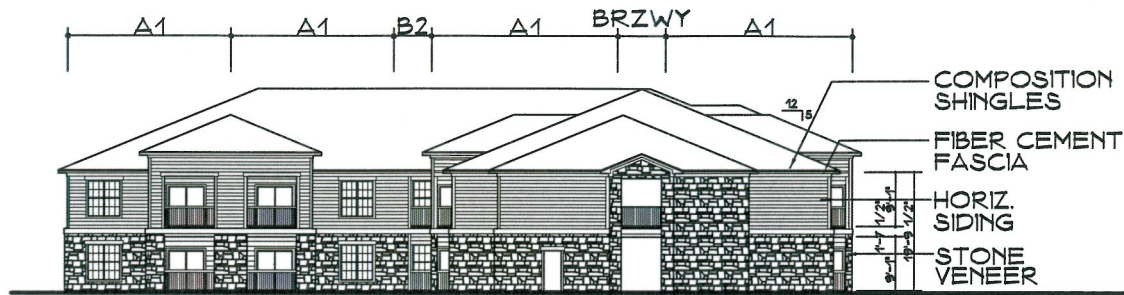
ARCHITECT:
DON E. LEWIS #8665
PRELIMINARY - NOT TO BE USED FOR
REGULATORY APPROVAL, PERMITTING,
OR CONSTRUCTION
DATE: 5 MAR 13

EXHIBIT B

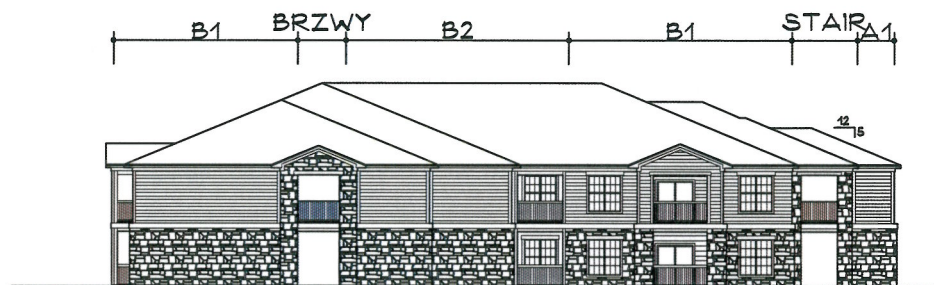
CASE NO. Z-13-012

ARCHON CORPORATION
ARCHITECTS / PLANNERS
2929 CARLISLE STREET
SUITE 130 - DALLAS, TX
75204 214/526-0731

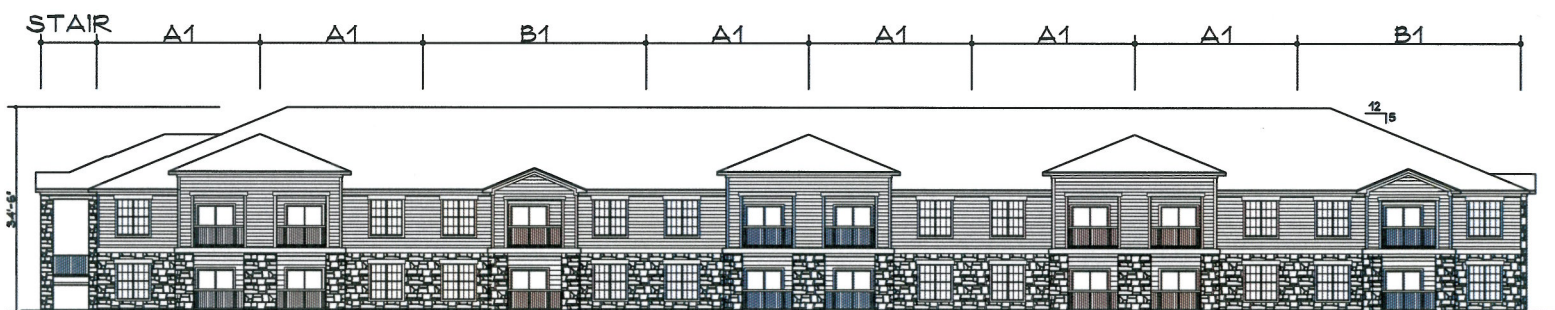
8'92



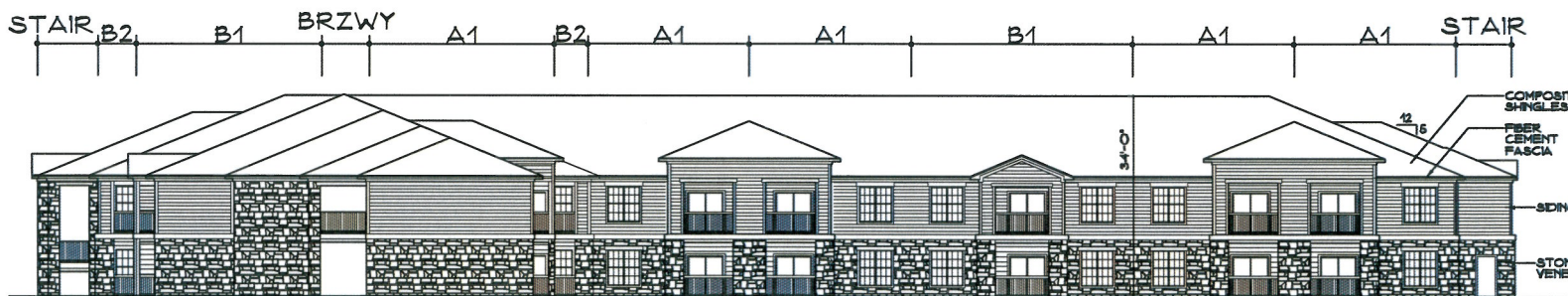
STONE VENEER 63%
HORIZ. SIDING 37%



STONE VENEER 61%
HORIZ. SIDING 39%



STONE VENEER 55%
HORIZ. SIDING 45%



STONE VENEER 63%
HORIZ. SIDING 37%

ELEVATIONS

MACDONALD COMPANIES

WESTRIDGE SENIOR HOUSING

MIDLAND, TEXAS

BLDG TYPE II

0 8' 16' 32'

ARCHITECT:
DON E. LEWIS
PRELIMINARY - NOT TO BE USED FOR
REGULATORY APPROVAL, PERMITTING,
OR CONSTRUCTION
DATE: 5 MAR 13

#8665

EXHIBIT C

CASE NO. Z-13-012



ARCHON CORPORATION
ARCHITECTS / PLANNERS
2929 CARLISLE STREET
SUITE 130 - DALLAS, TX
75204 214/526-0731



STONE VENEER 53%
HORIZ. SIDING 47%



STONE VENEER 89%
HORIZ. SIDING 11%

ELEVATIONS

WESTRIDGE SENIOR HOUSING

MACDONALD COMPANIES

MIDLAND, TEXAS

REC / LEASING



ARCHITECT:
DON E. LEWIS #8665
PRELIMINARY - NOT TO BE USED FOR
REGULATORY APPROVAL, PERMITTING,
OR CONSTRUCTION
DATE: 5 MAR 13

EXHIBIT D

CASE NO. 213-012



ARCHON CORPORATION
ARCHITECTS / PLANNERS
2929 CARLISLE STREET
SUITE 130 - DALLAS, TX
75204 214/526-0731

26.10

John F. Watson & Company

PROFESSIONAL LAND SURVEYORS & PLANNERS

200 N. Loraine, Suite 220, Midland, Texas 79701, (432) 520-2400, Fax (432) 520-2404

www.windearthwater.com

WILSHIRE PARK ADDITION, SECTION 19 (PRELIMINARY REPLAT OF SECTION 11) – 11.036 ACRES – ZONING CHANGE

LEGAL DESCRIPTION: BEING 11.036 ACRES OF LAND LYING IN AND BEING SITUATED OUT OF SECTION 31, BLOCK 39, T-1-S, T & P RR Co. SURVEY, IN MIDLAND COUNTY, TEXAS AND BEING A PORTION OF WILSHIRE PARK ADDITION, SECTION 11, AN ADDITION TO THE CITY OF MIDLAND RECORDED IN CABINET C, PAGE 90 OF THE PLAT RECORDS OF MIDLAND COUNTY, TEXAS; SAID 11.036 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS AND AS SURVEYED UNDER THE SUPERVISION OF JOHN F. WATSON & COMPANY IN APRIL, 2013:

BEGINNING at a point (N(Y) 10687606.41', E(X) 1734732.32') at the intersection of the south r-o-w line of Leisure Drive and the east r-o-w line of Beal Parkway (Illinois Avenue) for the northwest corner of said Wilshire Park Addition, Section 11 and hereof;

THENCE North 75°31'30" East a distance of 305.70 feet along the south r-o-w line of said Leisure Drive to a point at the intersection of said r-o-w line and the west line of the residue of Rocky Lane for the northeast corner of said Section 11 and hereof;

THENCE South 14°30'32" East a distance of 120.55 feet along said west r-o-w line and the east line of Lot 25, Block 166 of said Section 11 to a point in the north line of a 20 foot wide alley for southeast corner of said Lot 25 and an ell corner hereof;

THENCE South 75°29'28" West a distance of 20.00 feet along the north line of said alley to a point for an interior corner hereof;

THENCE South 14°30'32" East a distance of 20.00 feet across said alley to a point in the north line of Lot 18 of said Block 166 for an interior corner hereof;

THENCE North 75°29'28" East a distance of 426.32 feet along the south line of said alley to a point for a cutback corner of said alley and another 20 foot wide alley and an angle point of Lot 12 of said Block 166 and hereof;

THENCE South 59°22'06" East a distance of 28.22 feet along the southwest cutback line of said alley to a point for an angle point of said Lot 12 and hereof;

THENCE along the westerly line of said other alley and the easterly line of said Section 11 the following three (3) calls:

CASE NO. Z-13-012



1. South 14°13'41" East a distance of 324.27 feet to a point for an angle point hereof;
2. South 06°53'29" West a distance of 296.80 feet to a point for an angle point hereof;
3. South 14°15'32" East a distance of 185.65 feet to a 1/2 inch iron rod (N(Y) 10686845.27', E(X) 1735570.99') found at the intersection of the west line of said alley and the north r-o-w line of Graceland Drive for the southeast corner of Lot 1 of said Block 166 and hereof;

THENCE South 75°32'19" West a distance of 296.30 feet along the north r-o-w line of said Graceland Drive to a point in the center of an alley for an ell corner hereof and from which a 1/2 inch iron rod found for the southeast corner of that certain Drill Site as shown on said plat of said Section 11 bears South 75°32'19" West a distance of 10.00 feet along said r-o-w line;

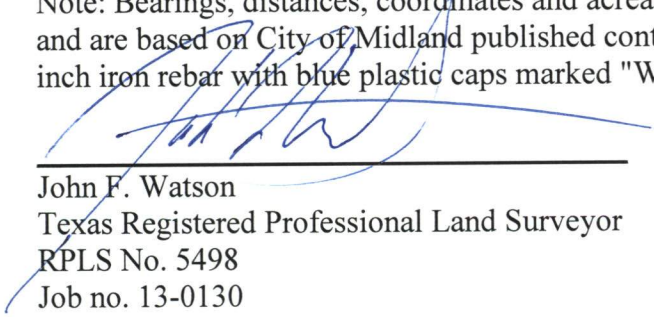
THENCE North 14°20'09" West a distance of 330.22 feet along the centerline of said alley to a point in the centerline of Kristie Lane for an interior corner hereof;

THENCE South 75°30'15" West a distance of 310.00 feet along the centerline of said Kristie Lane to a point in the east r-o-w line of said Beal Parkway (Illinois Avenue) for an ell corner hereof and from which a 1/2 iron rod with cap found for the northwest corner of said Drill Site bears South 14°20'13" East a distance of 30.00 feet along said r-o-w line;

THENCE along said easterly r-o-w of said Beal Parkway (Illinois Avenue) the following four (4) calls:

1. North 14°20'13" West a distance of 355.97 feet to a point for the point of curvature of a curve to the left;
2. Along said curve turning to the left with an arc length of 130.57 feet, a radius of 956.78 feet, and a chord bearing North 18°14'47" West a chord distance of 130.47 feet to a point for the point of curvature of a curve to the right;
3. Along a reverse curve turning to the right with an arc length of 128.30 feet, a radius of 955.66 feet, and a chord bearing North 18°18'35" West a chord distance of 128.20 feet to a point for an angle point hereof;
4. North 14°27'49" West a distance of 2.37 feet to the **POINT OF BEGINNING** and containing 11.036 acres of land, more or less;

Note: Bearings, distances, coordinates and acreage shown hereon are Grid, NAD83, Texas Central Zone and are based on City of Midland published control monuments "E89-3590". "Iron rods set" are 1/2 inch iron rebar with blue plastic caps marked "WATSON-5498".


John F. Watson
Texas Registered Professional Land Surveyor
RPLS No. 5498
Job no. 13-0130



April 19, 2013

PLANNING AND ZONING COMMISSION

May 20, 2013

CASE: Z-13-012

REQUEST: Hold a public hearing and consider a request for a zone change from 1F-2, Single Family Dwelling District to PD, Planned District for a Housing Development.

APPLICANT: Granger MacDonald

OWNER: Leslie Diann Hahn & L H Hahn

REPRESENTATIVE: Andrew Mellen

LEGAL DESCRIPTION: Lots 1 - 15, Block 165; Lots 1 - 25, Block 166; Lots 1 - 4, Block 167, and the adjacent to be vacated 1.79acres of Leslie Drive, the 0.43-acres of Kristie Lane and the 0.45-acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas.

LOCATION: Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.

CURRENT ZONING: 1F-2, Single Family Dwelling District

ASSOCIATED CASE: P-13-021, V-13-008

DETAILS OF REQUEST:

1. The applicant is requesting to rezone the above described property from 1F-2, Single Family Dwelling District, to PD, Planned District for a Housing Development. The request is to allow for the future development of senior family living homes and for the phase two development of the Mesquite Terrace apartments west of this property.

SURROUNDING ZONING AND LAND USE:

2. This property is presently zoned within a large 1F-2, Single Family Dwelling District that extends from Beal Parkway to Midkiff Road. Immediately south of this property is a 2F, Two Family Dwelling District and a TH, Townhome District. West of this property is a medium sized PD, Planned District for a Housing Development with an underlying zone classification of MF-1.

ANALYSIS:

3. The applicant is requesting to rezone approximately a 13.0 acre site to a PD, Planned District for a Housing Development with an underlying classification of MF-1, Multi-Family Dwelling District. The area on the site plan listed as Lot 1A, Block 165, Wilshire Park, Section 19 is 6.78-acres, and is planned for a 96 unit development for senior family living homes. This brings the

site to approximately 14.0 units per acre which is 2 units an acre less than what is permitted within an MF-1 District. The proposed building will be two stories, and a 20 foot setback will be observed around the entire site. Two parking spaces per unit are required by the City Code, and the site plan indicates that 214 regular spaces shall be provided with 12 handicap spaces for a total of 226 parking stalls. Landscaping will comply with the City of Midland Landscape Code. Two points of entry and exit will be provided for the property from Graceland Drive and Beal Parkway. A six foot wood screening fence will be constructed along the north, east, and west sides of the property, while a decorative iron fence shall be installed along Graceland Drive. Lot 2a to the west of this property will be subject to future site plan review for the phase two expansion of the Mesquite Terrace apartment complex along Beal Parkway.

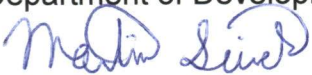
STAFF RECOMMENDATION:

Staff recommends approval of the applicants request for a zone change from 1F-2, Single Family Dwelling District, to PD, Planned District for a housing development subject to the following conditions.

- A. That the underlying zoning classification for this property be subject to the MF-1, Multi-Family Dwelling District standards.
- B. That the maximum height for all buildings shall not exceed 35 feet.
- C. That the proposed development shall significantly conform to Exhibit A.
- D. That the elevations of all proposed buildings shall significantly conform to Exhibits B, C, and D.
- E. That the proposed development will conform to all requirements by the Fire Marshall's Office.
- F. That the proposed development will conform to all requirements by the Building Official's Office.
- G. That the proposed development shall comply with the City of Midland Landscape Ordinance.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services



Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B, C, and D

Case Number: 2-13-012

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Granger MacDonald 830-257-5323

Applicant Name (Phone/e-mail)
2951 Fall Creek Road Kerrville TX 78028

Address Zip Code

Leslie Diann Hahn & L H Hahn

Property Owner Name (Phone/e-mail)
3307 Standolind Avenue Midland TX 79701

Address Zip Code

Andrew L. Mellen 432-682-0588

Representative Name (Phone/e-mail)
110 West Louisiana Ave Suite 110 Midland TX 79701

Address Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. Proposed Lot 1A, block 165, Wilshire Park

See attached metes & bounds description

PRESENT ZONE: 1F-2 REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: Senior Family Living Apartment Style,
and Future Phase II apartments for Mesquite Terrace

Present Use of Property: Raw Land, Platted as 1F-1

Proposed Use of Property: Apartements

How will zone change affect the public health, safety and welfare? Provide additional
space for senior family housing, as well as other apartment living

Describe how conditions affecting the property have changed since present zoning designation:
n/a

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 additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: x
Site Plan in digital format .pdf and .jpg: x

SIGNATURE (by property owner only - authorized agent must sign affidavit below)

Property Owner (signature): _____ Date: _____

If an Agent is authorized by the property owner to file and execute the application on behalf of the property owner, the Agent must complete the affidavit below.

STATE of TEXAS
COUNTY OF MIDLAND

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

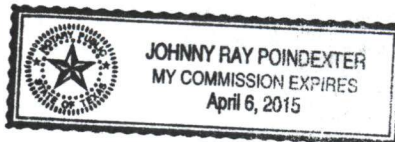
Andrew L. Mellen Jr.

Authorized Agent (signature)

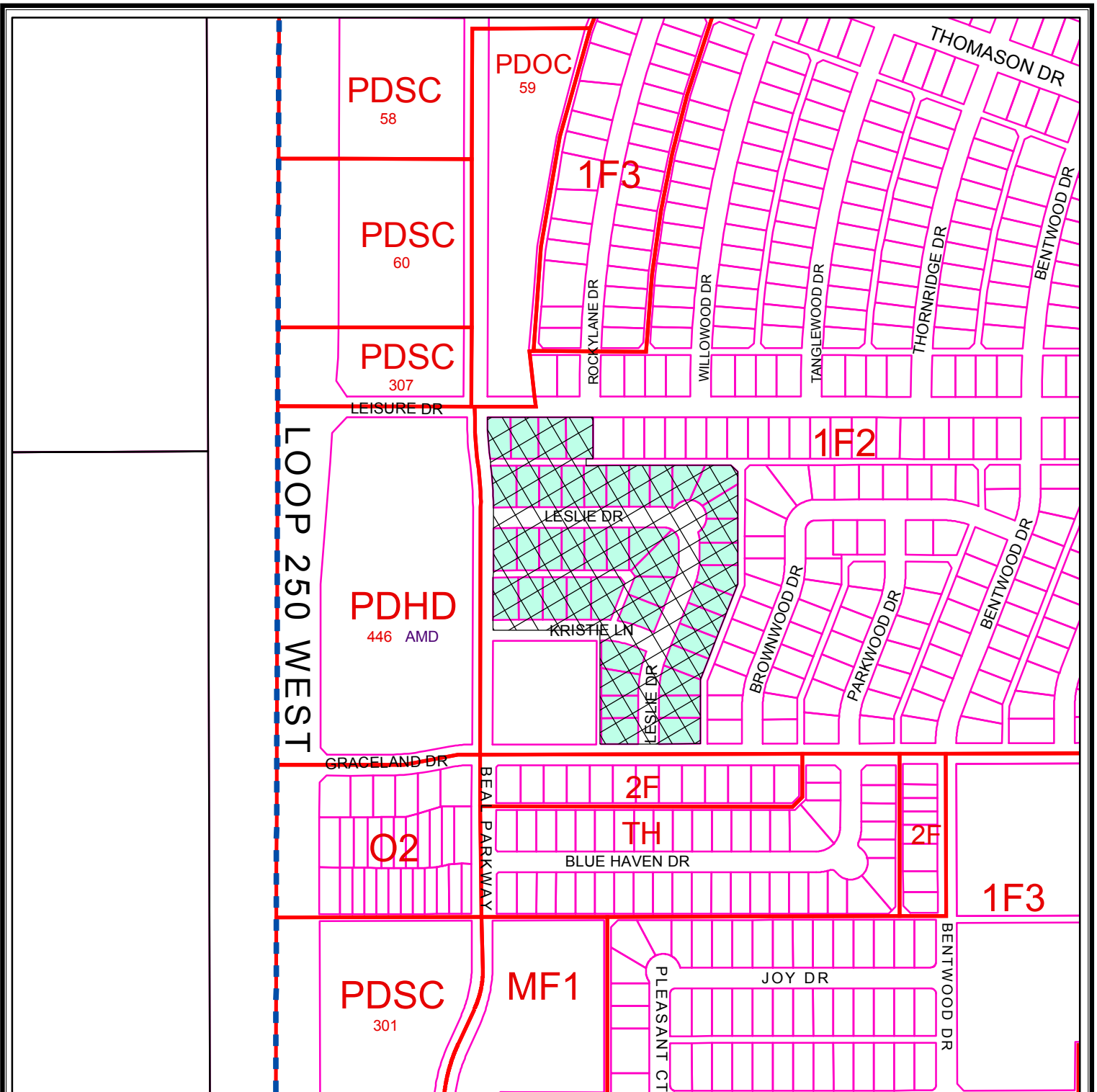
Subscribed and sworn to before me, this 4th day of MARCH, 2013, to certify which
witness my hand and seal of office.

Johnny Ray Poindexter
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>MS</u>	Date: _____
Assigned: <u>MS</u>	
For: <u>P+Z</u>	On: <u>5/20/13</u>



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



ZONING MAP

Z - 13 - 012

Scale: 1" = 400'

Consider a request for a zone change from 1F-2, One Family Dwelling District, to PD, Planned District for a Housing District on Lots 1 - 15, Block 165; Lots 1 - 25,, Block 166; Lots 1 - 4, Block 167, and the adjacent to be vacated 1.79-acres of Leslie Drive, the 0.43-acres of Kristie Lane and the 0.45-acres of alley rights-of-way, all out of Wilshire Park Addition, Section 11, 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: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:30 a.m. regarding a proposed oil and gas permit to Vector Oil & Gas LP (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Barron #4) located 838 feet from the north line and 2,186 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 west side of Oriole Drive, approximately 840 feet south of Mockingbird Lane.)

Purpose:

At approximately 10:30 a.m. hold a public hearing on a request from Vector Oil & Gas LP (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Barron #4) located 838 feet from the north line and 2,186 feet from the west line located in Section 6, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. One letter of objection 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 of the application. No variances requested.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date	Operator Name (must match W-1)	Operator Address
4/3/2013	Vector Oil & Gas LP	508 West Wall Street; Suite 1200 Midland, Texas 79701
Representative Name	Representative Address (within Midland City Limits)	Rep. Tele. (432) 686-4327
Michael W. Wallace	508 West Wall Street; Suite 1200 Midland, Texas 79701	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 #4

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:

838' FNL & 2186' FWL Section 6, Blk 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 as well as, use of water wells on location (See plat Exhibit N)

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

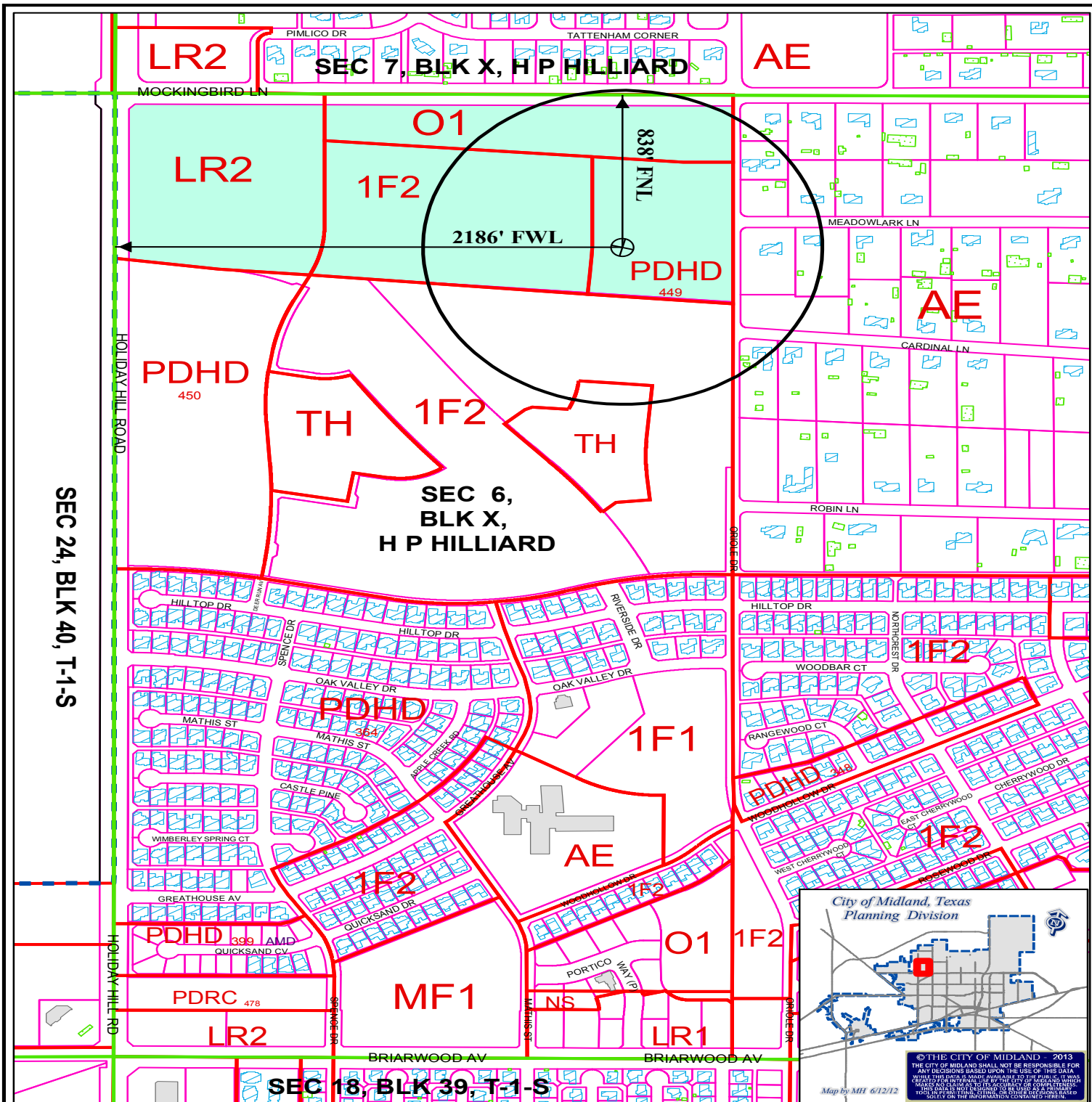
State of Texas)

County of Midland)

Michael W. Wallace on April 2, 2013, 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.

Keri R. Waddell
Notary Public, State of TEXAS





LOCATION AND ZONING MAP

O - 13 - 005

Scale: 1" = 600'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 838' FNL and 2186' FWL, Section 6, Block "X", H. P. Hilliard Survey, Midland County, Texas.

Barron # 4

LEGEND

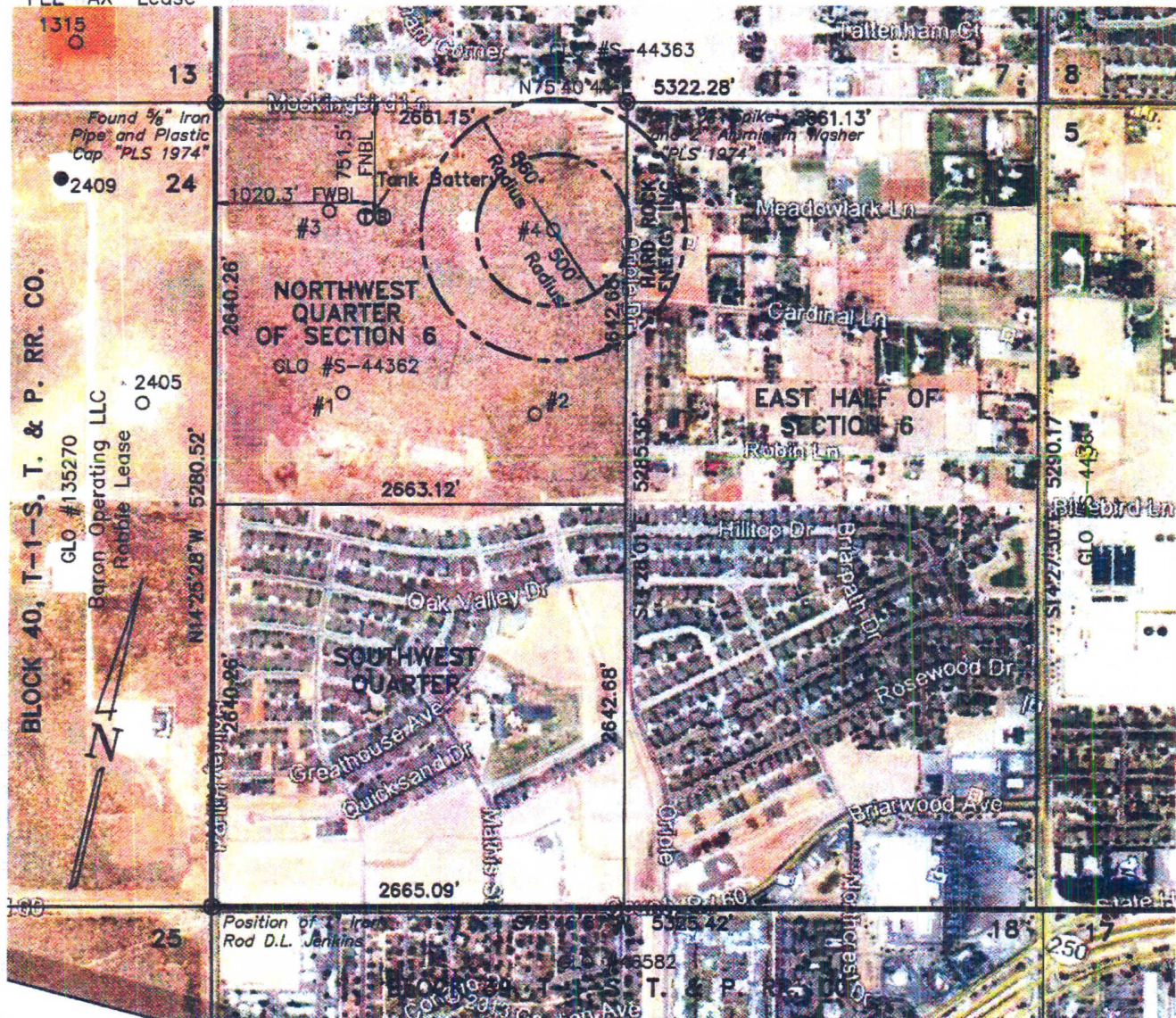
	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	OFFICE
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

Faskin Oil and
Ranch, LTD
FEE "AX" Lease

HARD ROCK ENERGY INC.



Drawing File: HolidayHill5.Dwg; Drawn by: Gene M. Rodriguez; Scale: 1"=1000'; Date: 2/18/13

PLAT SHOWING A 500' AND 860' RADIUS OF
PROPOSED BARRON #4 BEING 838.0' FNL & 2186.4' FWL
IN 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; 432.550.7810

DRILL SITE

BARRON #4

0-13-005



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:33 a.m. regarding a proposed oil and gas permit to Petroplex Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Western-T 8 #4) located 2,173 feet from the south line and 2,173 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of the extension of North Midland Drive, approximately 1/2 mile north of Green Tree Boulevard.)

Purpose:

At approximately 10:33 a.m. hold a public hearing on a request from Petroplex Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Western-T 8 #4) located 2,173 feet from the south line and 2,173 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application with updated surface owner approval letter. Petroplex Energy, Inc. has addressed the recommendations and updated the application. The Committee is recommending the requested landscaping and irrigation variance and waiver of the road repair agreement.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 12/31/12	Operator Name (must match W-1) Petroplex Energy, Inc.	Operator Address 110 N. Marienfeld Midland, TX 79702
Representative Name Don Hale	Representative Address (within Midland City Limits) 3011 Garden City Hwy	Rep. Tele. 432-687-2222 Rep. Fax 432-687-2231
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: Don Hale 24/7 Answering Services - No. 1 (Tele.): 432-687-2222 No. 2 (Tele.): 432-687-2231 Option B: Attached as Exhibit A Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Jim McCright 432-853-7900 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. Petroplex Energy, Inc. P.O. Box 3082, Midland, TX 79702 2. The Jeffrey Family Trust 14812 W. Ravenswood Drive Sun City West, AZ 85375 3. ATTACHED AS EXHIBIT C is (a Title Opinion by John Collins, 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): Ranch/Farm ATTACHED AS EXHIBIT D is (a Title Opinion by John Collins, 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)].		

RECEIVED

APR 16 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

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: Western-T 8 #4

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:

2173' FSL & 2173' FWL, Sec. 8, Blk. 39, T-1-S, T&P RR 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)].

(No City Streets Will Be Used)

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

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

(1) Drilling: None

(2) Operations: Sharyland

Description of water source to be used during Drilling: Western-T water wells located in S/2 of Sec. 8, Blk. 39, T-1-S, T&P RR Survey

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

Overhead electric lines

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)].

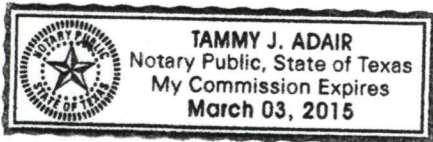
Petroplex Energy, Inc.
[NAME OF COMPANY]

By Don Hale
Its Director of Special Projects

State of Texas)

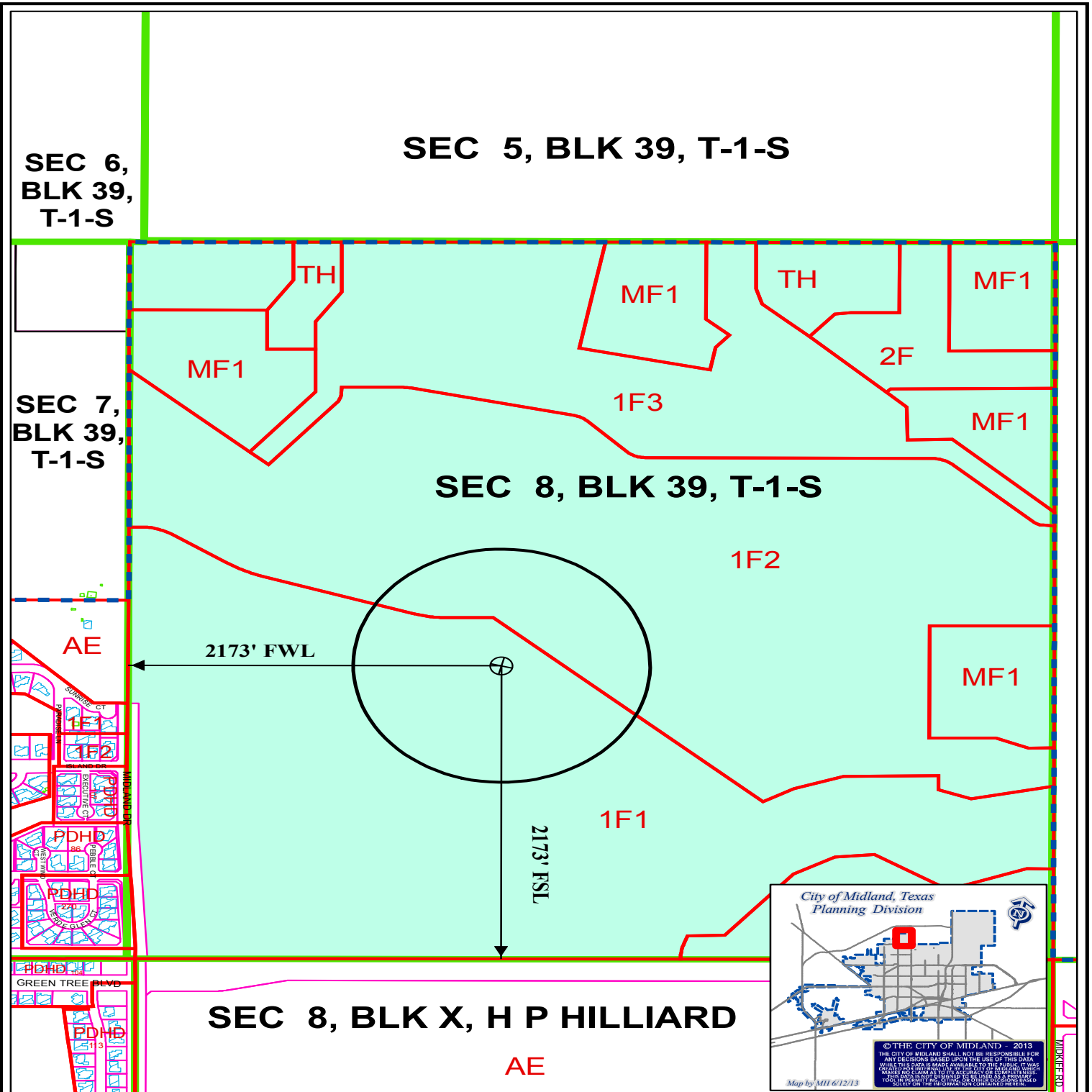
County of Midland)

, 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]

Tammy J. Adair
Notary Public, State of Texas



LOCATION AND ZONING MAP

O - 13 - 006

Scale: 1" = 800'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 2173' FSL and 2173' FWL, Section 8, Block 39, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Western-T 8 #4

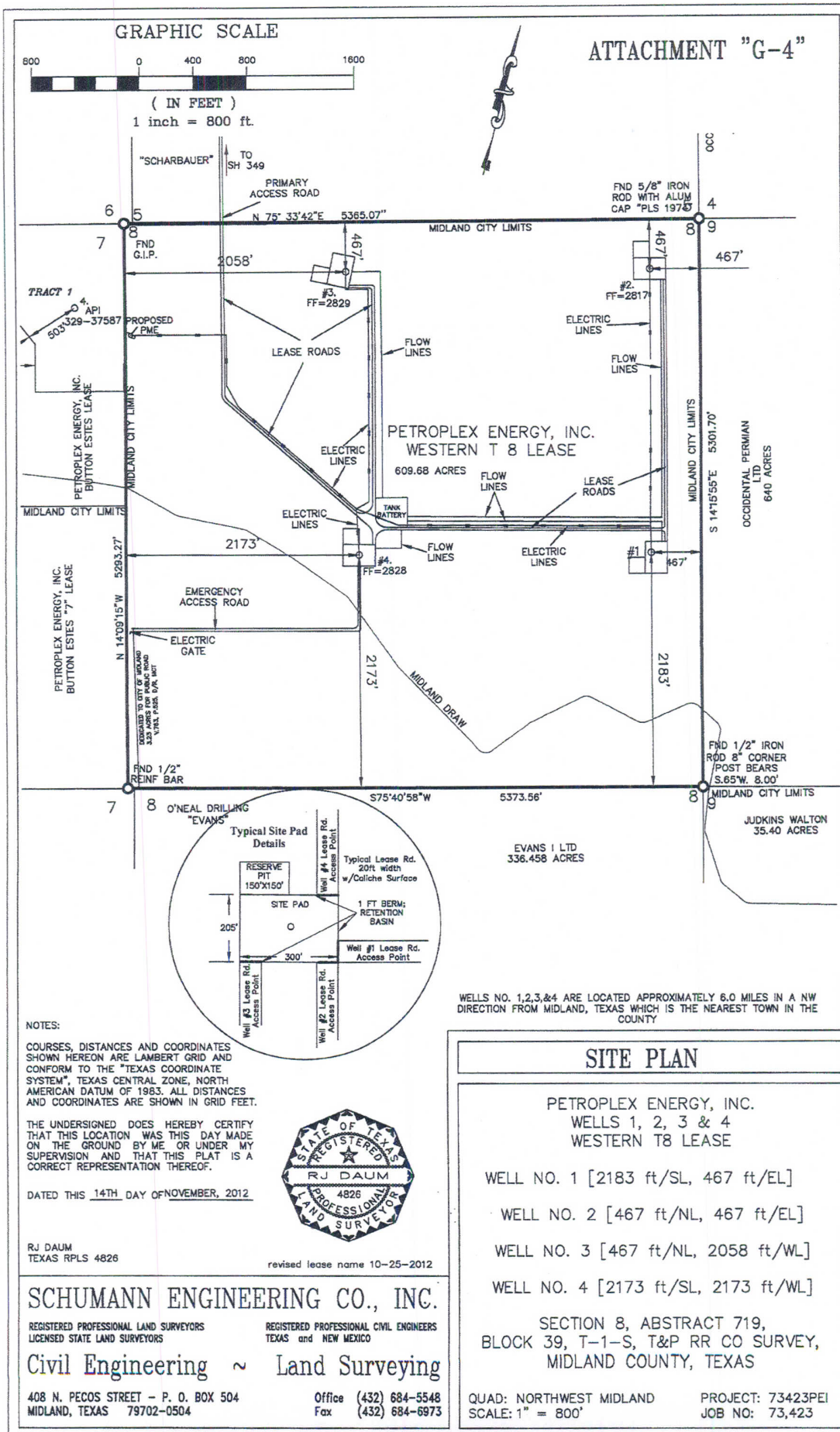
LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, 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







City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:36 a.m. regarding a proposed oil and gas permit to Midland Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Wimberley 1 #4) located 832 feet from the south line and 982 feet from the east line located in Section 1, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the E. Loop 250 North, north of N. Fairgrounds Road)

Purpose:

At approximately 10:36 a.m. hold a public hearing on a request from Midland Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Wimberley 1 #4) located 832 feet from the south line and 982 feet from the east line located in Section 1, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application with updated letterhead on surface notification approval letters. Midland Energy, Inc. has addressed the recommendations and updated the application. The Committee is recommending the requested landscaping and irrigation variance and waiver of the road repair agreement.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 4/25/13	Operator Name (must match W-1) Midland Energy, Inc.	Operator Address 110 N. Marienfeld, Ste 290 Midland, TX 79702
Representative Name Don Hale	Representative Address (within Midland City Limits) 3011 Garden City Hwy	Rep. Tele. 432-687-2222 Rep. Fax 432-687-2231
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: Don Hale 24/7 Answering Services - No. 1 (Tele.): 432-687-2222 No. 2 (Tele.): 432-853-5000 Option B: Attached as Exhibit A Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Jim McCright - 432-853-7900 Greg Russell - 432-853-5033 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. 2. 3.		
ATTACHED AS EXHIBIT C is (a Title Opinion by Mike Canon, 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): Ranch/Farm		
ATTACHED AS EXHIBIT D is (a Title Opinion by Mike Canon, 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)].		

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CITY OF MIDLAND
PLANNING DIVISION OFFICE

II. Mineral Ownership

1. Loydene W. Davis, Trustee of the Wimberley Trust, 2601 Bowie Dr, Plano, TX 75025
2. Sammy Curtis Cook, as separate property, 9470 River Rd, College Station, TX 77845
3. Connie Romel Poor, as separate property, 3803 Calculus Rd., Dallas, TX 75244
4. Mary Katherine Cain, as separate property, 905 Happy Haven, Apt. 12, McQueeney, TX 78123
5. W.D. Wimberley, as separate property, 832 Oxford Dr., Odessa, TX 79764
6. Loyd V. Wimberley, as separate property, 6007 SCR 1185, Midland, TX 79706
7. Vivian King, as separate property, P.O. Box 823, Midlothian, TX 76065
8. Athena Diane Edminston, as separate property, 604 Jill Sue Circle, Pflugerville, TX 78660
9. Cecilia Marie Wilmes, as separate, 8 Oso Dr., Tijeras, NM 87059
10. Melvin James Coon, as separate property, 3250 Tower Ridge Dr., Corinth, TX 76210

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: Wimberley 1 #4

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:

832' FSL & 982' FEL, Sec 1, Blk. X, H.P. Hillard 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: Sharyland

Description of water source to be used during Drilling:

Truck/Private water well

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

Buried electric lines

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)].

Midland Energy, Inc.
[NAME OF COMPANY]

By Don Hale
Its General Manager of Operations

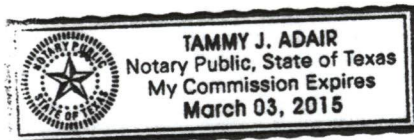
State of Texas

County of Midland)

Don Hale, 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.

Tammy J. Adair
Notary Public, State of Texas

[SEAL]







City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:39 a.m. regarding a proposed oil and gas permit to CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #1) located 1,550 feet from the south line and 1,980 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located on the east side of the State Hwy 349, approximately 2 ½ miles north of Arapahoe Road.)

Purpose:

At approximately 10:39 a.m. hold a public hearing on a request from CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #1) located 1,550 feet from the south line and 1,980 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application with a title opinion including addresses, notation of the 860 ft. circle, a map clarification, language change for variance request concerning fencing and road repair agreement, include emergency phone numbers and make a correction to the MSDS. CrownQuest Operating, LLC has addressed the recommendations and updated the

application. The Oil and Gas Advisory Committee recommends approval of landscaping / irrigation variance, variance for having the required slats in fencing, waiver of road repair and having a right-of-way agreement prior to receiving permit.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

RECEIVED

MAY - 1 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

I. General Information

Date 5/1/13	Operator Name (must match W-1) CrownQuest Operating, LLC	Operator Address 500 West Texas Ave., Suite 500 Midland, Texas 79701
Representative Name Jeffrey T. Beard	Representative Address (within Midland City Limits) 500 West Texas Ave., Suite 500 Midland, Texas 79701	Rep. Tele. 432-818-0300 Rep. Fax 432-687-4804
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: Jeffrey T. Beard		
24/7 Answering Services - No. 1 (Tele.): 432-212-9308 No. 2 (Tele.): 432-818-0300		
Option B: David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404		
Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). None		

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

- 1.
2. See attached Title Opinion
- 3.

ATTACHED AS EXHIBIT C is (a Title Opinion by Albert Sherman, 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):

Pasture Land

ATTACHED AS EXHIBIT D is (a Title Opinion by Albert Sherman, 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: COM Nail #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:

1,550'FSL, 1,980FEL of Section 36, Block 39, T1N T&P RR Co. Survey, Martin 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

Description of water source to be used during Drilling:

Water to be hauled by truck to location

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

Overhead electric lines

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

See attached 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)].

CrownQuest Operating, LLC

[NAME OF COMPANY]

By Jeffrey T. Beard

Its Land Manager

State of Texas

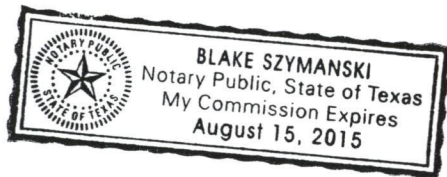
County of Midland

Jeffrey T. Beard

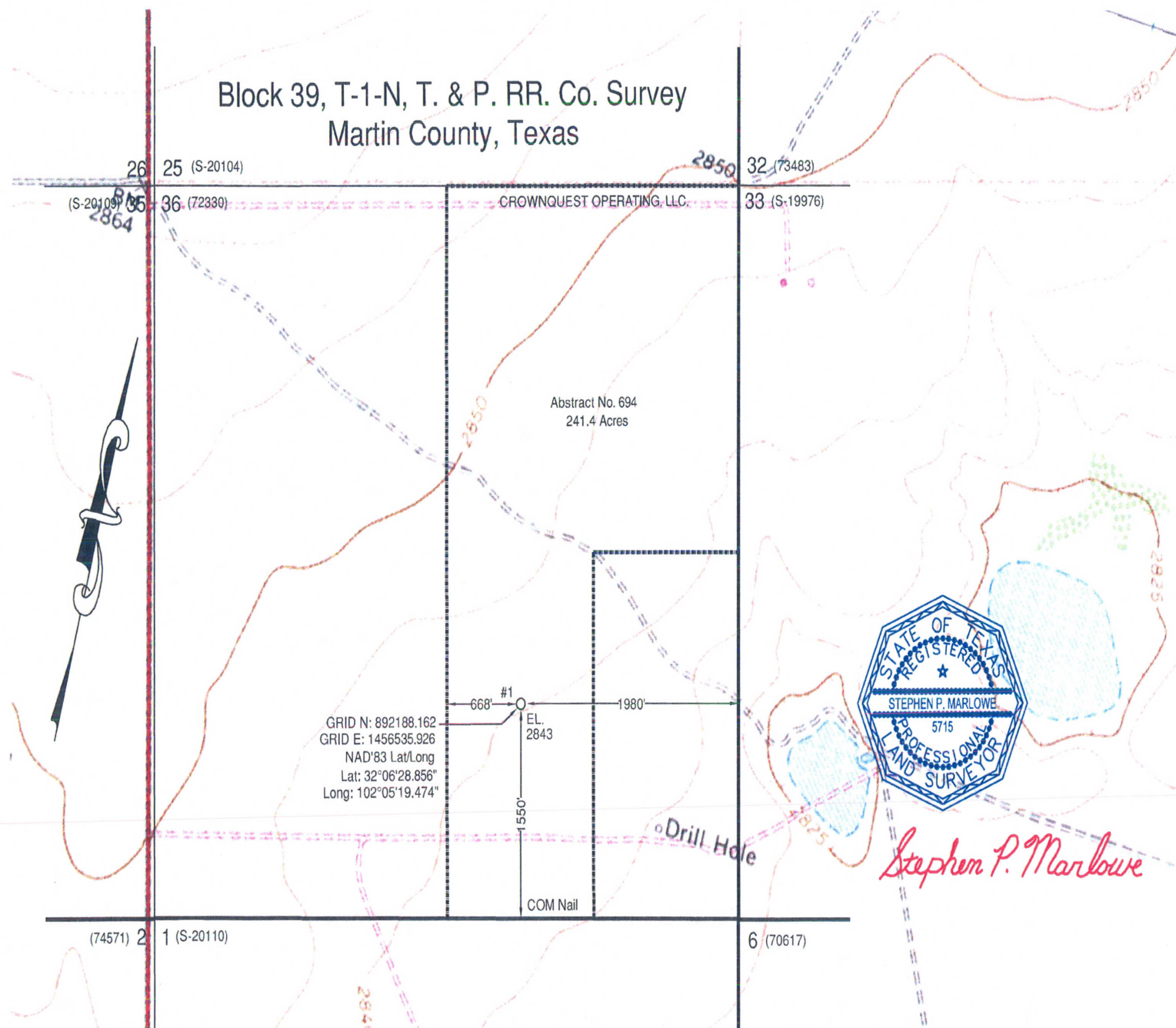
, personally appeared before me, and being first duly sworn declared he/she signed the application in the capacity designated, if any, and further states that he/she has read the above application and attached exhibits and the statements therein are true and correct to the best of their knowledge.

[Signature]
Notary Public, State of Texas

[SEAL]



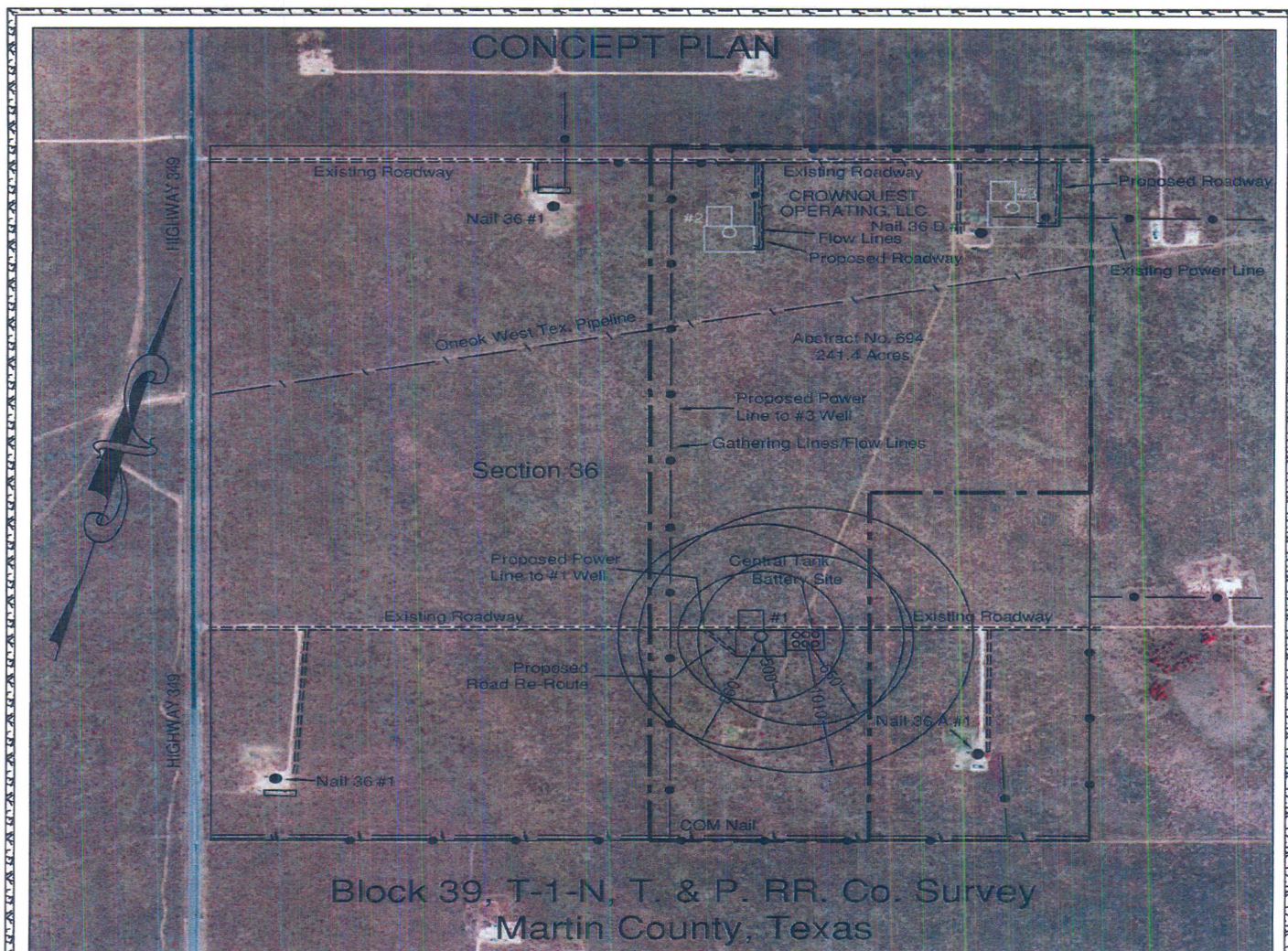
Block 39, T-1-N, T. & P. RR. Co. Survey
Martin County, Texas



DRILL SITE MAP

COM NAIL #1

0-13-008



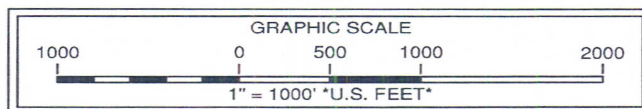
LEGEND:

- x — Fence
- ● — Overhead Power Line
- \ — Pipeline (As described)
- --- — Road (As described)
- E — Buried Electric Line
- +++++ Railroad Tracks
- - - - Well Lease Line
- - Well (As described)

COM Nail #1
Lat: 32°06'28.86"N
Long: 102°05'19.47"W

Center of Battery Facility
Lat: 32°06'29.36"N
Long: 102°05'16.36"W

Note: Lat/Longs shown herein are NAD'83 Datum.



Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715



August 3, 2012

120803B10

P.O. Box 51622, Midland, Texas, 79710 (432) 570-6256 Fax (432) 682-3262

CONCEPT PLAN

CROWNQUEST OPERATING, LLC.
CONCEPT PLAN
COM Nail #1
1550 FSL & 1980' FEL
Section 36, Block 39, T-1-N
T. & P. RR. Co. Survey
Martin County, Texas

Scale: 1" = 1000'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:42 a.m. regarding a proposed oil and gas permit to CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #2) located 660 feet from the north line and 2,173 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located on the east side of the State Hwy 349, approximately 3 miles north of Arapahoe Road.

Purpose:

At approximately 10:42 a.m. hold a public hearing on a request from CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #2) located 660 feet from the north line and 2,173 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application with a title opinion including addresses, notation of the 860 ft. circle, a map clarification, language change for variance request concerning fencing and road repair agreement include emergency phone numbers and make a correction to the

MSDS. CrownQuest Operating, LLC has addressed the recommendations and updated the application. The Oil and Gas Advisory Committee recommends approval of landscaping / irrigation variance, variance for having the required slats in fencing, waiver of road repair and having a right-of-way agreement prior to receiving permit.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

RECEIVED

MAY - 1 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

I. General Information

Date 5/1/13	Operator Name (must match W-1) CrownQuest Operating, LLC	Operator Address 500 West Texas Ave., Suite 500 Midland, Texas 79701
Representative Name Jeffrey T. Beard	Representative Address (within Midland City Limits) 500 West Texas Ave., Suite 500 Midland, Texas 79701	Rep. Tele. 432-818-0300 Rep. Fax 432-687-4804
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: Jeffrey T. Beard 24/7 Answering Services - No. 1 (Tele.): 432-212-9308 No. 2 (Tele.): 432-818-0300 Option B: David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404 Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). None		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):		
1.		
2. See attached Title Opinion		
3.		
ATTACHED AS EXHIBIT C is (a Title Opinion by Albert Sherman 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): Pasture Land		
ATTACHED AS EXHIBIT D is (a Title Opinion by Albert Sherman 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: COM Nail #2

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:

660°FNL, 2,173FEL of Section 36, Block 39, T1N T&P RR Co. Survey, Martin 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

Description of water source to be used during Drilling:

Water to be hauled by truck to location

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

Overhead electric lines

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

See attached 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)].

CrownQuest Operating, LLC
[NAME OF COMPANY]

By Jeffrey T. Beard
Its Land Manager

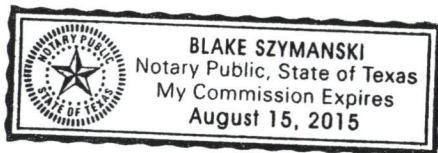
County of Midland)

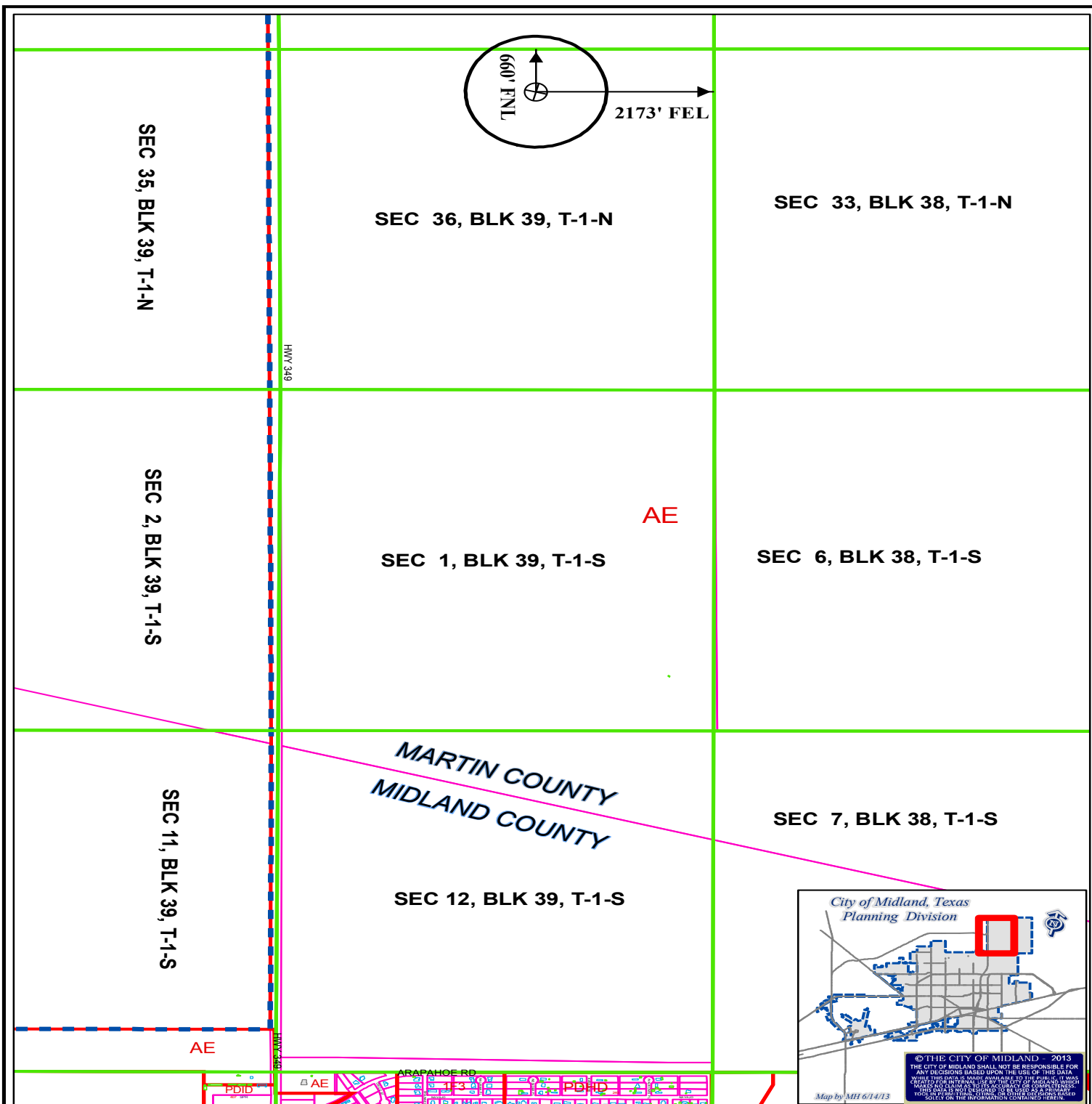
State of Texas)

Jeffrey T. Beard, 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.

[Signature]
Notary Public, State of Texas

[SEAL]





LOCATION AND ZONING MAP

O - 13 - 009

Scale: 1" = 1,700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 660' FNL and 2173' FEL, Section 36, Block 39, T-1-N, T & P RR Co. Survey, Martin County, Texas.

COM Nail #2

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

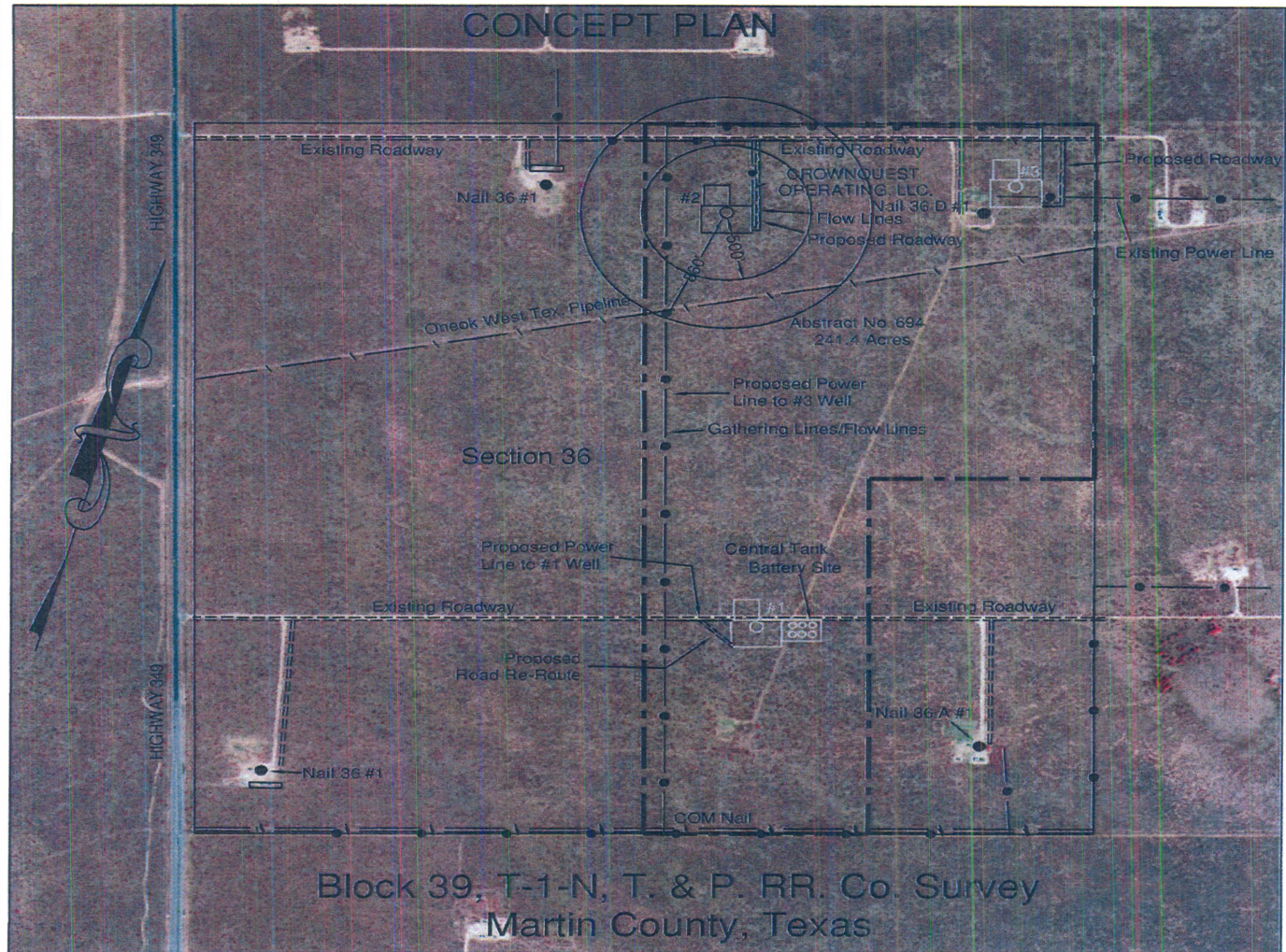
FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	OFFICE
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE
1F1, 1F2, 1F3	ONE-FAMILY DWELLING	LR1, LR2, LR3	LOCAL RETAIL
MH	MOBILE HOME DWELLING	C1, C2, C3	COMMERCIAL
TH	TOWNHOUSE DWELLING	IP, JP1, IP2, IP3	INDUSTRIAL PARK
2F	TWO-FAMILY DWELLING	LI	LIGHT INDUSTRY
MF1, MF2	MULTIPLE FAMILY DWELLING	HI	HEAVY INDUSTRY

Block 39, T-1-N, T. & P. RR. Co. Survey
Martin County, Texas

26 25 (S-20104)
35 (S-20109) 36 (72330)
32 (73483) 33 (S-19976)
CROWNQUEST OPERATING, LLC.
#2
660
480'
EL.
2855
GRID N: 895119.729
GRID E: 1455577.340
NAD'83 Lat/Long
Lat: 32°06'57.709"
Long: 102°05'31.156"
Abstract No. 694
241.4 Acres
Drill Hole
COM Nail
1 mill
Stephen P. Marlowe
STATE OF TEXAS
REGISTERED
STEPHEN P. MARLOWE
5715
PROFESSIONAL
LAND SURVEYOR



Stephen P. Marlowe

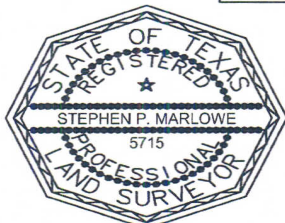
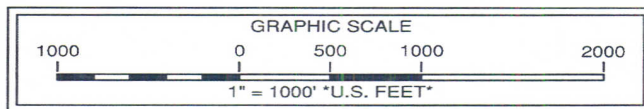


LEGEND:

- x — - Fence
- ● — - Overhead Power Line
- \ — - Pipeline (As described)
- - - - - Road (As described)
- E - - - - Buried Electric Line
- +++++ - Railroad Tracks
- - - - - Well Lease Line
- - Well (As described)

COM Nail #2
Lat: 32°06'57.71"N
Long: 102°05'31.16"W

Note: Lat/Longs shown herein are NAD'83 Datum.



Stephen P. Marlowe
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715
P.O. Box 51622, Midland, Texas, 79710 (432) 570-6256 Fax (432) 682-3262

August 3, 2012
120803B11

CONCEPT PLAN

CROWNQUEST OPERATING, LLC.

CONCEPT PLAN

COM Nail #2

660 FNL & 2173' FEL

Section 36, Block 39, T-1-N

T. & P. RR. Co. Survey

Martin County, Texas

Scale: 1" = 1000'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:45 a.m. regarding a proposed oil and gas permit to CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #3) located 467 feet from the north line and 467 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located on the east side of the State Hwy 349, approximately 3 miles north of Arapahoe Road.)

Purpose:

At approximately 10:45 a.m. hold a public hearing on a request from CrownQuest Operating, LLC (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (COM Nail #3) located 467 feet from the north line and 467 feet from the east line located in Section 36, Block 39, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application with a title opinion including addresses, notation of the 860 ft. circle, a map clarification, language change for variance request concerning fencing and road repair agreement include emergency phone numbers and make a correction to the MSDS. CrownQuest Operating, LLC has addressed the recommendations and updated the

application. The Oil and Gas Advisory Committee recommends approval of landscaping / irrigation variance, variance for having the required slats in fencing, waiver of road repair and having a right-of-way agreement prior to receiving permit.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)



I. General Information

Date 5/1/13	Operator Name (must match W-1) CrownQuest Operating, LLC	Operator Address 500 West Texas Ave., Suite 500 Midland, Texas 79701
Representative Name Jeffrey T. Beard	Representative Address (within Midland City Limits) 500 West Texas Ave., Suite 500 Midland, Texas 79701	Rep. Tele. 432-818-0300 Rep. Fax 432-687-4804
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: Jeffrey T. Beard 24/7 Answering Services - No. 1 (Tele.): 432-212-9308 No. 2 (Tele.): 432-818-0300		
Option B: David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404 Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):		
Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): David Kuhnert, 500 West Texas Ave., Suite 500 Midland, Texas 79701 Phone: 432-269-6404		
Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). None		

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease):

- 1.
2. See attached Title Opinion
- 3.

ATTACHED AS EXHIBIT C is (a Title Opinion by Albert Sherman, 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):

Pasture Land

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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: COM Nail #3

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:

467'FNL, 467'FEL of Section 36, Block 39, T1N T&P RR Co. Survey, Martin 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)].

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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)].

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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

Description of water source to be used during Drilling:

Water to be hauled by truck to location

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

Overhead electric lines

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

See attached 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)].

CrownQuest Operating, LLC

[NAME OF COMPANY]

By Jeffrey T. Beard

Its Land Manager

State of Texas

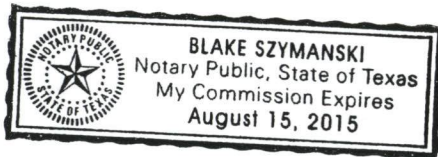
County of Midland

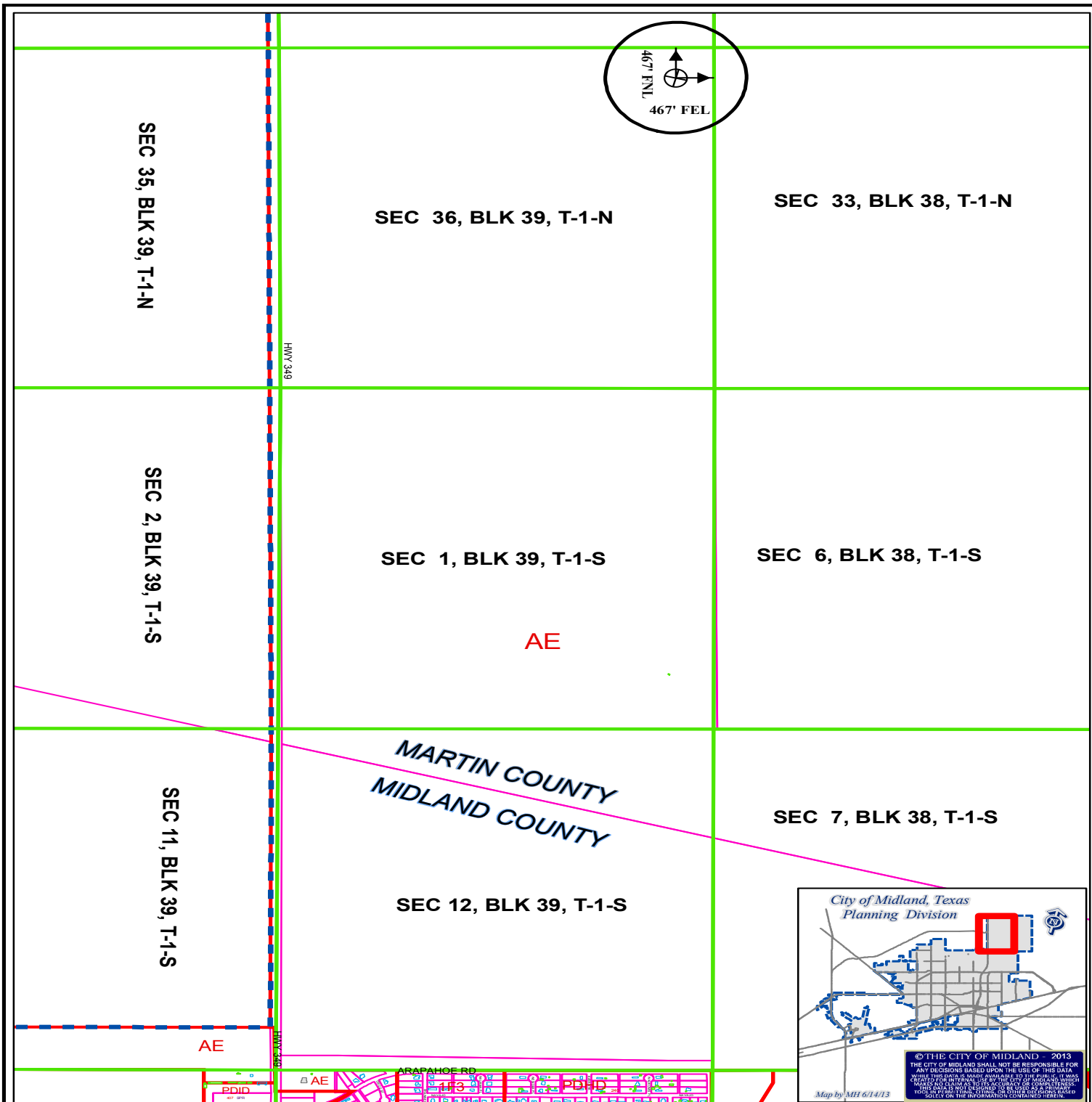
Jeffrey T. Beard

, 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.

[Signature]
Notary Public, State of Texas

[S E A L]





LOCATION AND ZONING MAP

O - 13 - 010

Scale: 1" = 1,700'

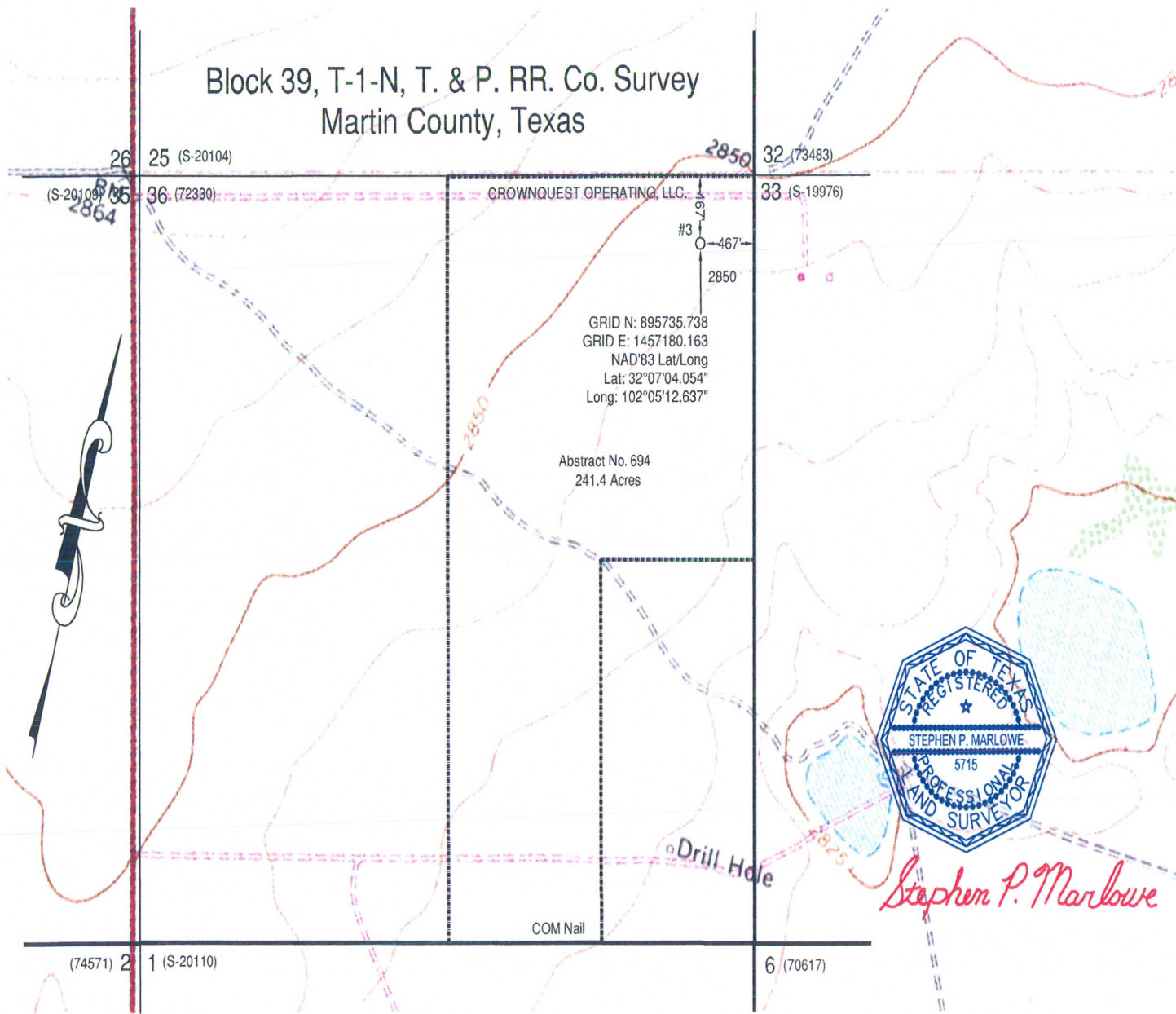
Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 467' FNL and 467' FEL, Section 36, Block 39, T-1-N, T & P RR Co. Survey, Martin County, Texas.

COM Nail #3

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.
ZONING DISTRICTS:					
FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK		
PD	PLANNED DISTRICT	P	PARKING		
AE	AGRICULTURE ESTATE	O1, O2	OFFICE		
CE	COUNTRY ESTATE	NS	NEIGHBORHOOD SERVICE		
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		

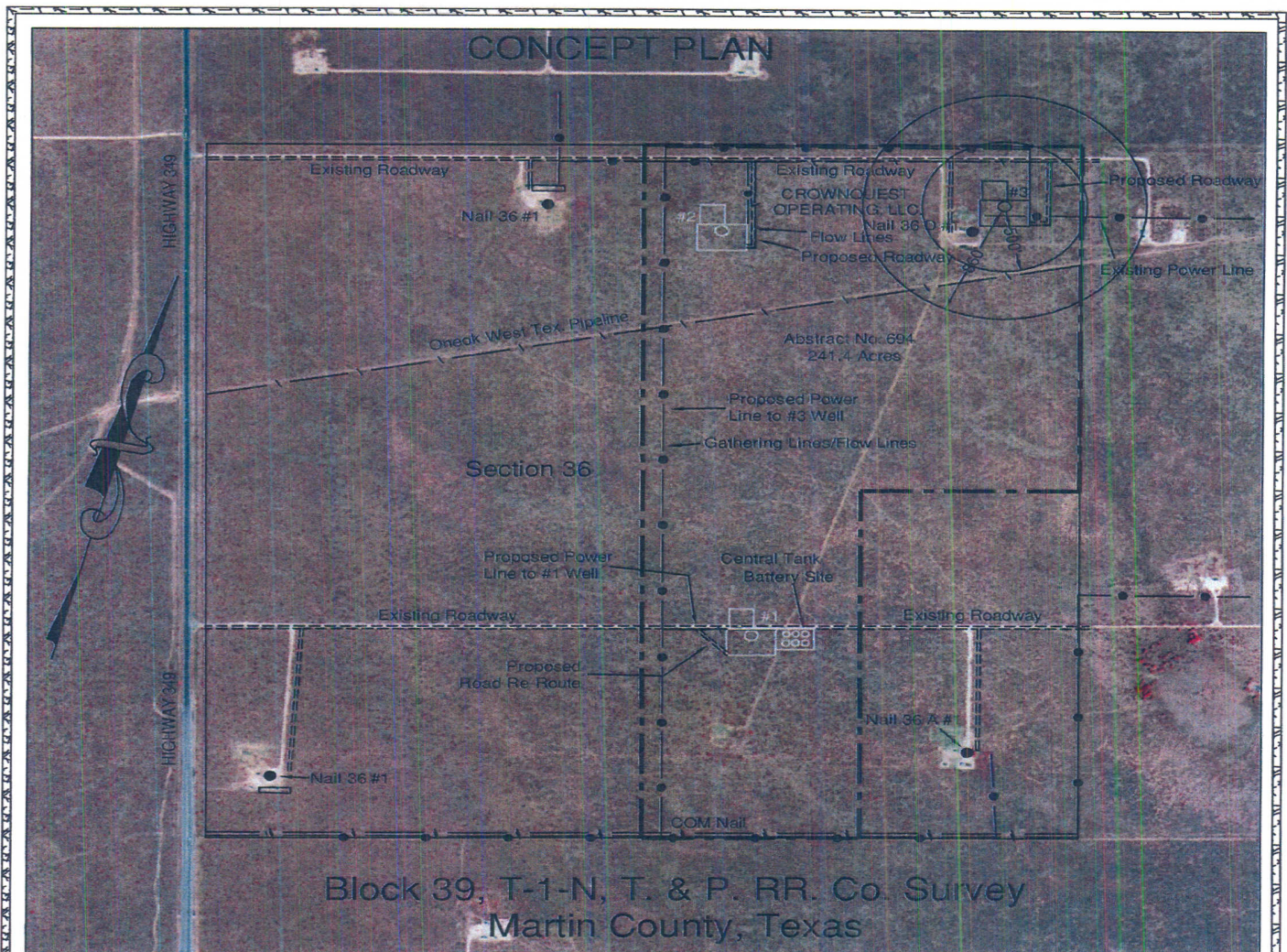
Block 39, T-1-N, T. & P. RR. Co. Survey Martin County, Texas



DRILL SITE MAP

COM NAIL #3

O-13-010

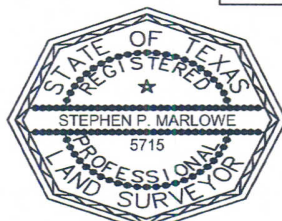
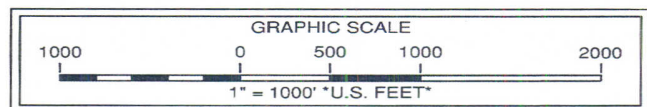


LEGEND:

- x — — — — — Fence
- • — — — — — Overhead Power Line
- \ — — — — — Pipeline (As described)
- — — — — Road (As described)
- E — — — — — Buried Electric Line
- +++++ Railroad Tracks
- — — — — Well Lease Line
- — Well (As described)

COM Nail #3
Lat: 32°07'04.05"
Long: 102°05'12.64"

Note: Lat/Longs shown herein are NAD'83 Datum.



August 3, 2012

120803B12

REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5715

P.O. Box 51622, Midland, Texas, 79710 (432) 570-6256 Fax (432) 682-3262

CONCEPT PLAN

CROWNQUEST OPERATING, LLC.
CONCEPT PLAN
COM Nail #3
467' FNL & 467' FEL
Section 36, Block 39, T-1-N
T. & P. RR. Co. Survey
Martin County, Texas

Scale: 1" = 1000'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:48 a.m. regarding a proposed oil and gas permit to Callon Petroleum Operating Company (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Pecan Acres 23 #8) located 660 feet from the north line and 660 feet from the west line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south side of the west extension of Mockingbird lane, approximately $\frac{3}{4}$ mile west of Golden Gate drive.)

Purpose:

At approximately 10:48 a.m. hold a public hearing on a request from Callon Petroleum Operating Company (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Pecan Acres 23 #8) located 660 feet from the north line and 660 feet from the west line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. No letters of objection 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 of the application. Callon Operating is requesting a landscaping/irrigation variance. The Oil and Gas Advisory Committee recommends a two year landscaping/irrigation variance.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

RECEIVED

MAY - 1 2013

I. General Information		
Date 3/29/13	Operator Name (must match W-1) Callon Petroleum Operating Company	Operator Address CITY OF MIDLAND P.O. Box 1287 Natchez, MS 39121
Representative Name Jimmy Baggett	Representative Address (within Midland City Limits) 4305 N. Garfield, Suite 235 Midland, TX 79705	Rep. Tele. (432) 686-1828 Rep. Fax (432) 686-2764
Fee: \$4,000.00 Rec'd Yes ☒ No ☐		
Permit Compliance Contact (Choose 1): Option A: 24/7 Answering Services - No. 1 (tele): _____ No. 2 (Tele.): _____ Option B: Jimmy Baggett 4305 N. Garfield, Suite 235 Midland, TX 79705 Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): _____ Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Jimmy Baggett (432) 202-7210 4305 N. Garfield, Suite 235 Midland, TX 79705 Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). Eleven: See Exhibit B		
II. Mineral Ownership		
Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): See Attached List		
1. _____		
2. _____		
3. _____		
ATTACHED AS EXHIBIT C is (a Title Opinion by Mike Canon , 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)]. Attached		
III. Surface Ownership & Use		
General Description of Current Surface Use (within 860 feet of proposed surface location): Future Development (zoned FD): No building allowed except those for customary agricultural uses. Temporary designation for newly annexed land.		
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		
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		
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)]. Attached		
IV. Well & Operations Information		

Proposed Well Name: Pecan Acres 23 #8
Proposed Hole Size, Casing Program and Cementing Program (attach Exhibit as Necessary) [See § J(11) and § L(4)]: Attached
Legal Description of Proposed Well Site: 660' FNL, 660' FWL of Section 23, Block 40, T1S, T&P RR Co. Survey, Midland County, Texas (Abstract 252)
ATTACHED AS EXHIBIT G is the Location Site Plan [See § J(9)]. Attached 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 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 ATTACHED AS EXHIBIT J is a copy of the required TCEQ report as to depth of usable quality ground water. [See § J(17)] Attached 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 ATTACHED AS EXHIBIT L is the Fencing and Irrigation Plan. [See § J(30)]. Attached variance request 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): Beause 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 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)]. Attached
Description of Public Utilities required during (1) drilling and (2) operations:
(1) Drilling: No public utilities will be needed during drilling operations. (2) Operations: See Exhibit N and N-3
Deescription of water source to be used during Drilling: Water will be pulled from water wells existing on adjacent property and hauled if necessary.
Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]: See Exhibits G & N attached.
Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: See Exhibit O - Pits will be deep buried in accordance with City of Midland requirements.
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 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 ATTACHED AS EXHIBIT R is the required Insurance Certificate. [See § J(19) and § K(3)]. Attached 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 ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. See Exhibit T and Attachment T-1 ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)]. Attached

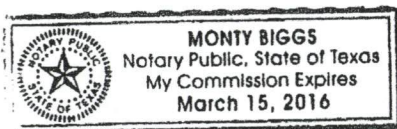
Callon Petroleum Operating Company

By: Jimmy Baggett
Jimmy Baggett
Operations Manager

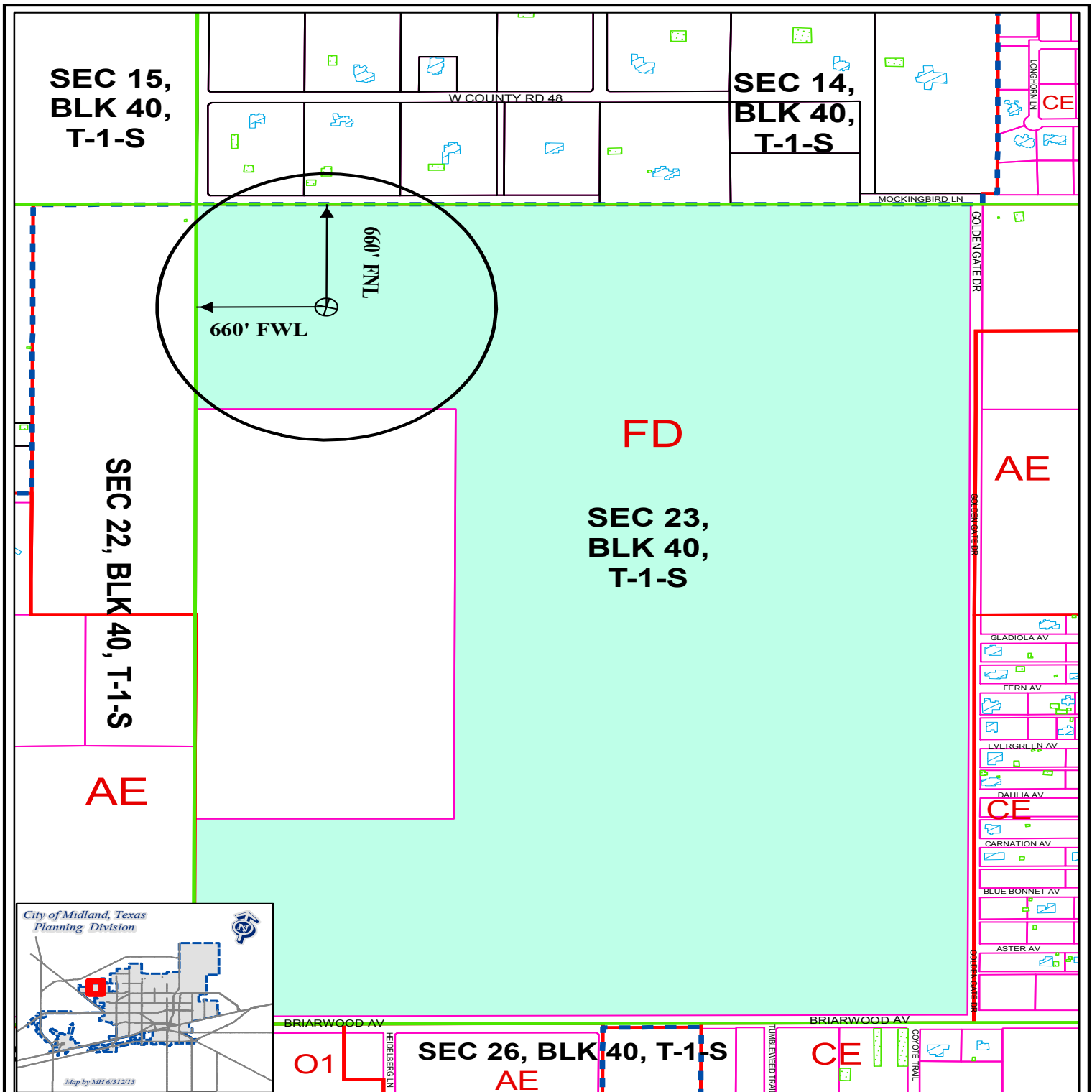
STATE OF TEXAS

COUNTY OF MIDLAND

This instrument was acknowledged before me on the 18th day of April, 2013 by Jimmy Baggett, Operations Manager for Callon Petroleum Operating Company, who personally appeared before me, and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.



[Signature]
Notary Public – State of Texas



LOCATION AND ZONING MAP

O - 13 - 011

Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 660' FNL and 660' FWL, Section 23, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 23 #8

© THE CITY OF MIDLAND 2013. 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 AND WHILE IMAGES NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT DESIGNED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

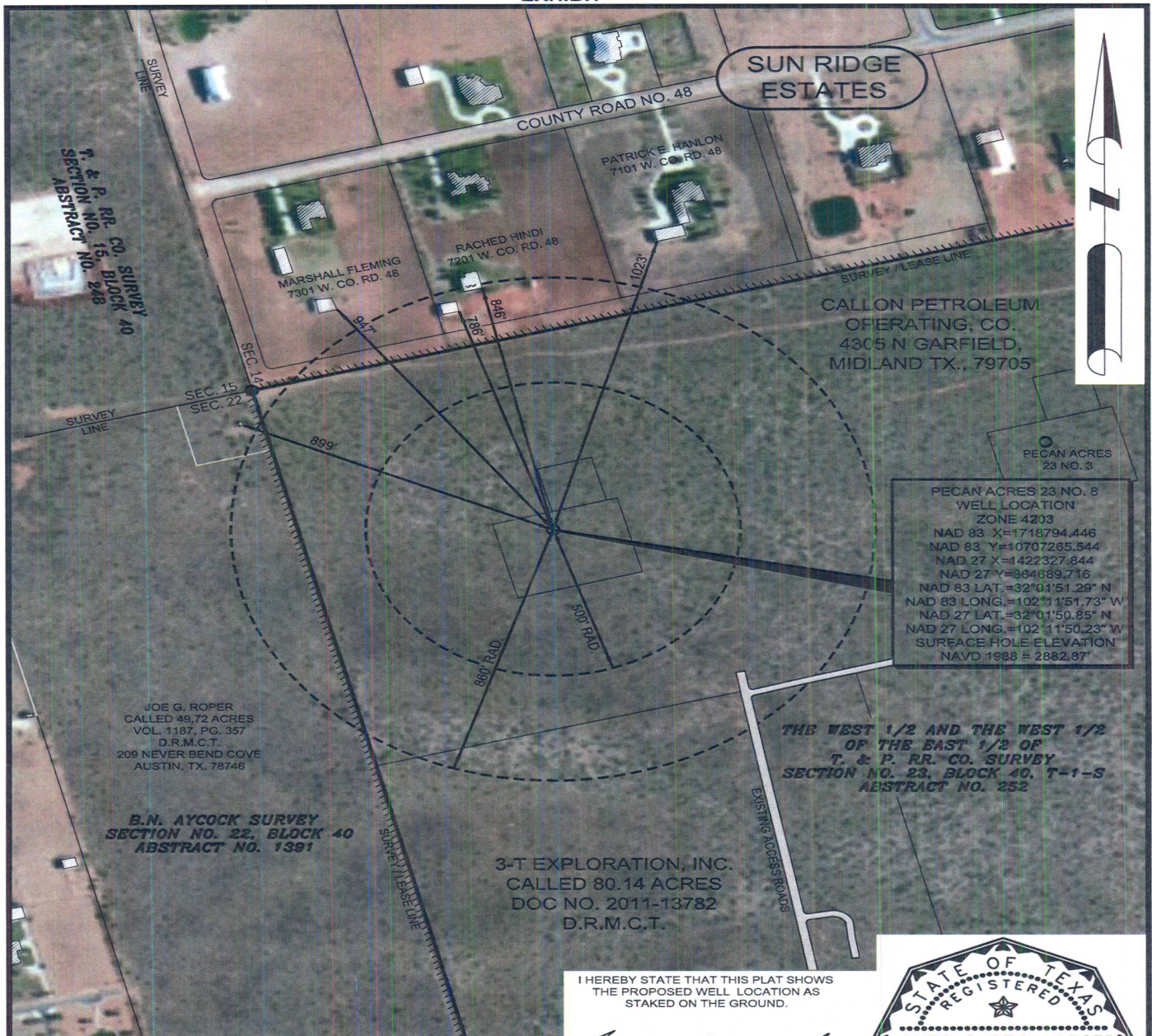
LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, 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

EXHIBIT



SCALE: 1" = 400'

NOTES:

- 1.) BEARINGS & COORDINATES SHOWN HEREON ARE REFERENCED TO THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83 DATUM (TEXAS CENTRAL ZONE 4203) DERIVED FROM GPS OBSERVATIONS AND ARE BASED ON NGS MONUMENT MDD A (GRID COORDINATES X=1750074.49, Y=10709180.31)
- 2.) LATITUDE & LONGITUDE ARE NAD 83 & 27 GEOGRAPHIC.
- 3.) THIS IS A RESIDENCE STRUCTURE TIE PLAT AND DOES NOT REPRESENT A TRUE BOUNDARY SURVEY. THIS SURVEY IS BASED ON OWNERSHIP AND EASEMENT INFORMATION PROVIDED BY CALLON PETROLEUM OPERATING COMPANY. SURVEYOR DID NOT ABSTRACT SUBJECT TRACT AND THERE MAY BE EASEMENTS OR OTHER ENCUMBRANCES THAT AFFECT THE SUBJECT TRACT THAT ARE NOT SHOWN HEREON.

REV.	DATE	BY:	DESCRIPTION	CHK
			PROJECT NO. 1109036	

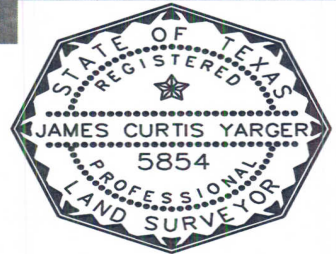


TRANSGLOBAL
SERVICES LLC

8205 Camp Bowie West, Suite 204
Fort Worth, Texas 76116
(817) 386-0362 ~ Fax (682) 224-3377

I HEREBY STATE THAT THIS PLAT SHOWS
THE PROPOSED WELL LOCATION AS
STAKED ON THE GROUND.

James Curtis Yarger
JAMES CURTIS YARGER
REGISTERED PROFESSIONAL LAND SURVEYOR
STATE OF TEXAS #5854

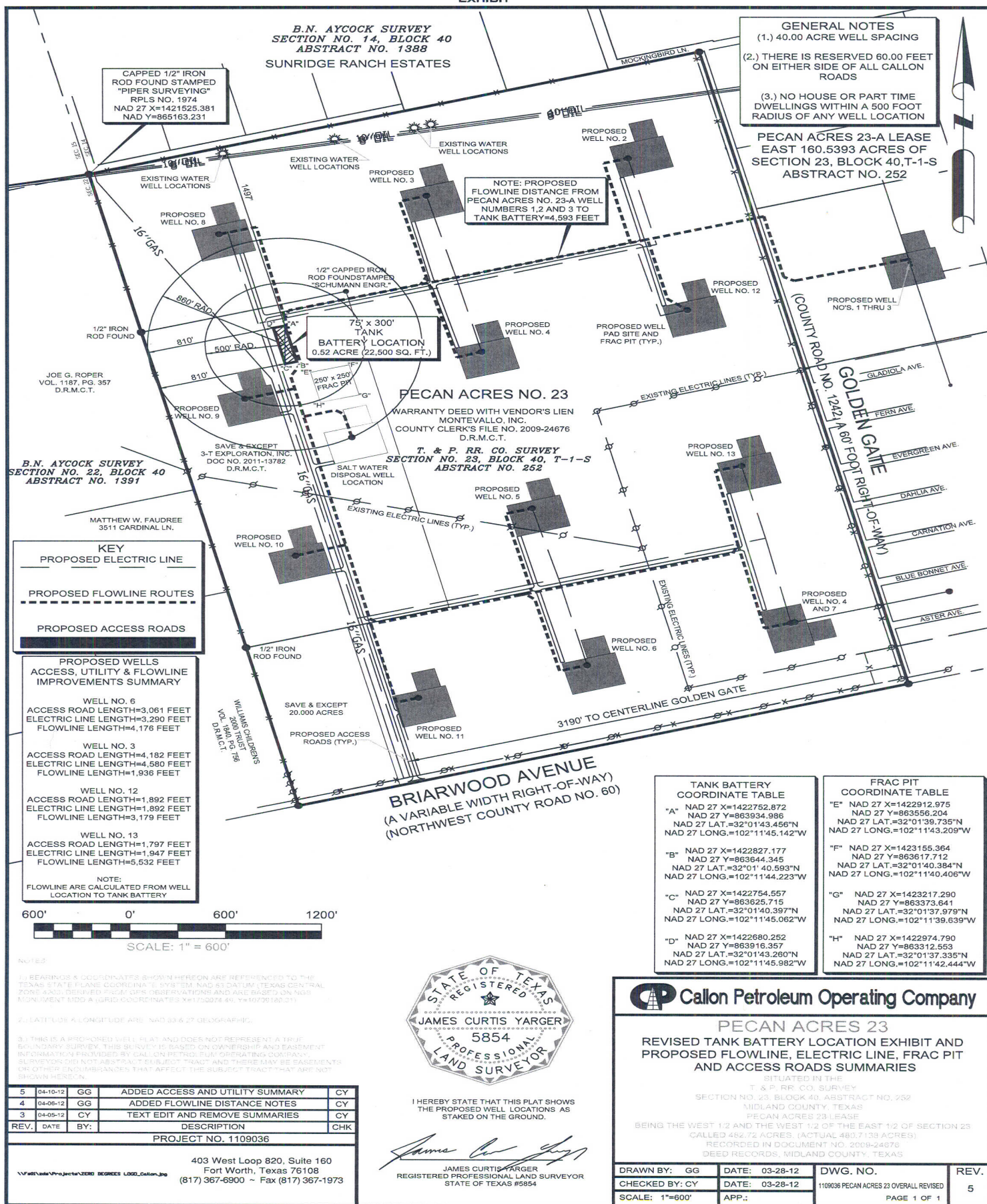


Callon Petroleum Operating Company

**PECAN ACRES 23 NO. 8
RESIDENCE STRUCTURE TIES PLAT**

SITUATED IN THE
T. & P. RR. CO. SURVEY
SECTION NO. 23, BLOCK 40, ABSTRACT NO. 252
MIDLAND COUNTY, TEXAS
BEING THE WEST 1/2 AND THE WEST 1/2 OF THE EAST 1/2 OF
T. & P. RR. CO. SURVEY
SECTION NO. 23, BLOCK 40, T-1-S, ABSTRACT NO. 252
CALLED 482.72 ACRES IN DOCUMENT NO. 2009-24676
DEED RECORDS, MIDLAND COUNTY, TEXAS
SAID WELL LOCATION BEING
N 69°12' W, 7.0 MILE FROM THE CITY OF MIDLAND
MIDLAND COUNTY, TEXAS

DRAWN BY: GG	DATE: 03-12-13	DWG. NO.	REV.
CHECKED BY: CY	DATE: 03-12-13	1109036 PECAN ACRES 23 NO 8 RESIDENCE STRUCTURE PLAT	0
SCALE: 1"=400'	APP.:	PAGE 1 OF 1	





City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Hold a public hearing at approximately 10:51 a.m. regarding a proposed oil and gas permit to Callon Petroleum Operating Company (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Pecan Acres 22A #3) located 660 feet from the north line and 587 feet from the east line located in Section 22, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south side of the west extension of Mockingbird lane, approximately 1 mile north of Briarwood Avenue.)

Purpose:

At approximately 10:51 a.m. hold a public hearing on a request from Callon Petroleum Operating Company (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits*, (Pecan Acres 22A #3) located 660 feet from the north line and 587 feet from the east line located in Section 22, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. This is an opportunity for the Council to receive public comment. Council may consider this permit following a 30-day public comment period and at a regularly scheduled meeting. One letter of objection 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 of the application noting that a surface agreement is not in place at the time of review. Callon Operating is requesting a landscaping/irrigation variance. The Oil and Gas Advisory Committee recommends denial of landscaping /irrigation variance due to proximity to a residence.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

013-012
RECEIVED

MAY - 1 2013

I. General Information

Date 3/29/13	Operator Name (must match W-1) Callon Petroleum Operating Company	Operator Address P.O. Box 1287 Natchez, MS 39121
Representative Name Jimmy Baggett	Representative Address (within Midland City Limits) 4305 N. Garfield, Suite 235 Midland, TX 79705	Rep. Tele. (432) 686-1828 Rep. Fax (432) 686-2764
Fee: \$4,000.00 Rec'd Yes ☒ No ☐		

Permit Compliance Contact (Choose 1):

Option A:

24/7 Answering Services - No. 1 (tele):

No. 2 (Tele.):

Option B: **Jimmy Baggett 4305 N. Garfield, Suite 235 Midland, TX 79705**

Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A):

Emergency Contact Representative (Name, Address, 24-Hour Tele. No.):

Jimmy Baggett (432) 202-7210

4305 N. Garfield, Suite 235 Midland, TX 79705

Other Permitted Wells in City (ATTACH EXHIBIT B [see § J(26)]). **Eleven: See Exhibit B**

II. Mineral Ownership

Name(s) and Address(es) of Mineral Estate Lessors (under applicable lease): **See Attached List**

1.

2.

3.

ATTACHED AS EXHIBIT C is (a Title Opinion by **Monty D. Biggs, 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)]. **Attached**

III. Surface Ownership & Use

General Description of Current Surface Use (within 860 feet of proposed surface location):

Future Development (zoned FD): No building allowed except those for customary agricultural uses.

Temporary designation for newly annexed land.

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**

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**

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)]. **Attached**

IV. Well & Operations Information

Proposed Well Name: **Pecan Acres 22A #3**

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

Attached

Legal Description of Proposed Well Site: **660' FNL, 587' FEL of Section 22, Block 40, T1S, T&P RR Co. Survey, Midland County, Texas**

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

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**

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**

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

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**

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

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): Beause 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 conjuncton with this request. [See § J(31)]. **Attached**

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)]. **Attached**

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

(1) Drilling: **No public utilities will be needed during drilling operations.**

(2) Operations: **See Exhibit N and N-3**

Deescription of water source to be used during Drilling: **Water will be pulled from water wells existing on adjacent property and hauled if necessary.**

Description of all electric lines to production facilities (reference exhibits as necessary) [See § L(10)]: **See Exhibits G & N attached.**

Plan detailing construction, location, and closure of pits used for Drilling and Completion operations (attach exhibit if necessary) [See § J(35)]: **See Exhibit O - Pits will be deep buried in accordance with City of Midland requirements.**

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**

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**

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

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**

ATTACHED AS EXHIBIT T is Applicant's Emergency Action Response Plan. [See § J(22)]. **See Exhibit T and Attachment T-1**

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

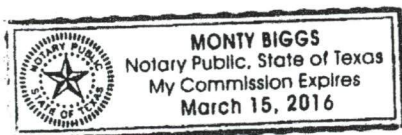
Callon Petroleum Operating Company

By: *Jimmy Baggett*
Jimmy Baggett
Operations Manager

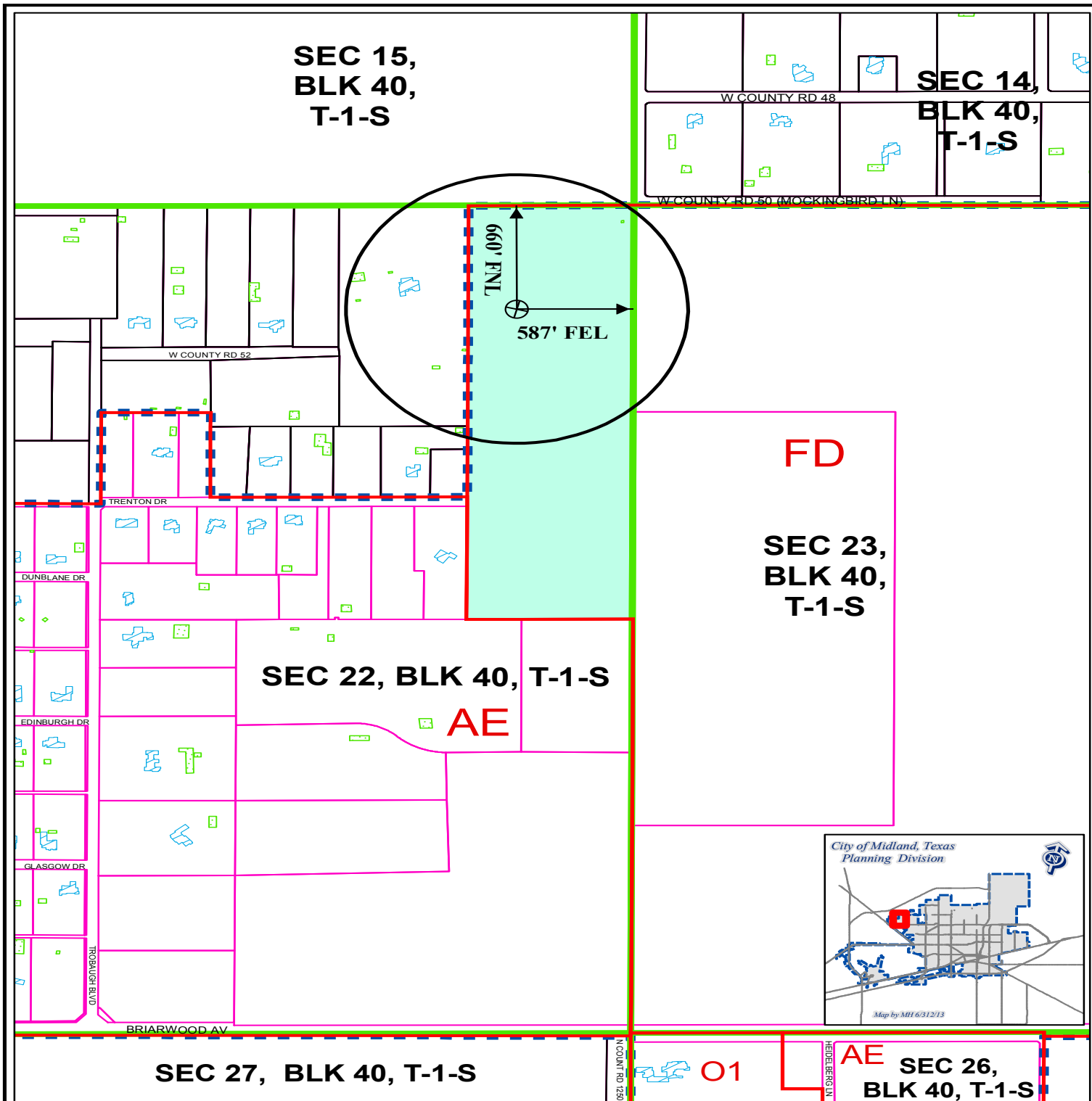
STATE OF TEXAS

COUNTY OF MIDLAND

This instrument was acknowledged before me on the 18th day of April, 2013 by Jimmy Baggett, Operations Manager for Callon Petroleum Operating Company, who personally appeared before me, and states that he has read the above application and attached exhibits and the statements therein are true and correct to the best of his knowledge.



[Signature]
Notary Public – State of Texas



LOCATION AND ZONING MAP

O - 13 - 012

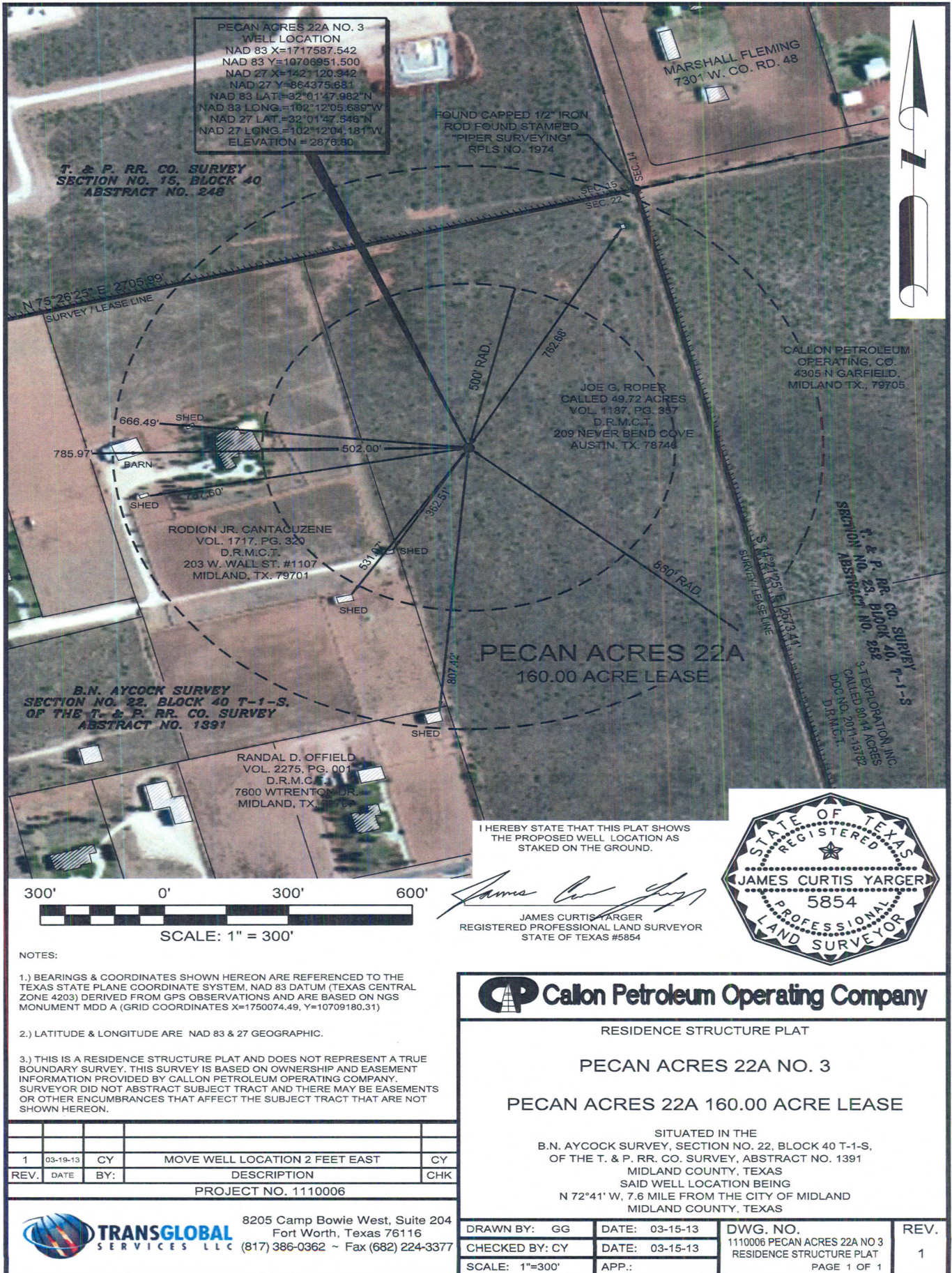
Scale: 1" = 700'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 660' FNL and 587' FEL, Section 22, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Pecan Acres 22A #3

© THE CITY OF MIDLAND 2013. 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 AND WHILE MAKERS NO CLAIM AS TO ITS ACCURACY OR COMPLETENESS. THIS DATA IS NOT PRESENTED TO BE USED AS A PRIMARY TOOL IN PERMITTING, CITING, OR OTHER DECISIONS BASED SOLELY ON THE INFORMATION CONTAINED HEREIN.

EXHIBIT

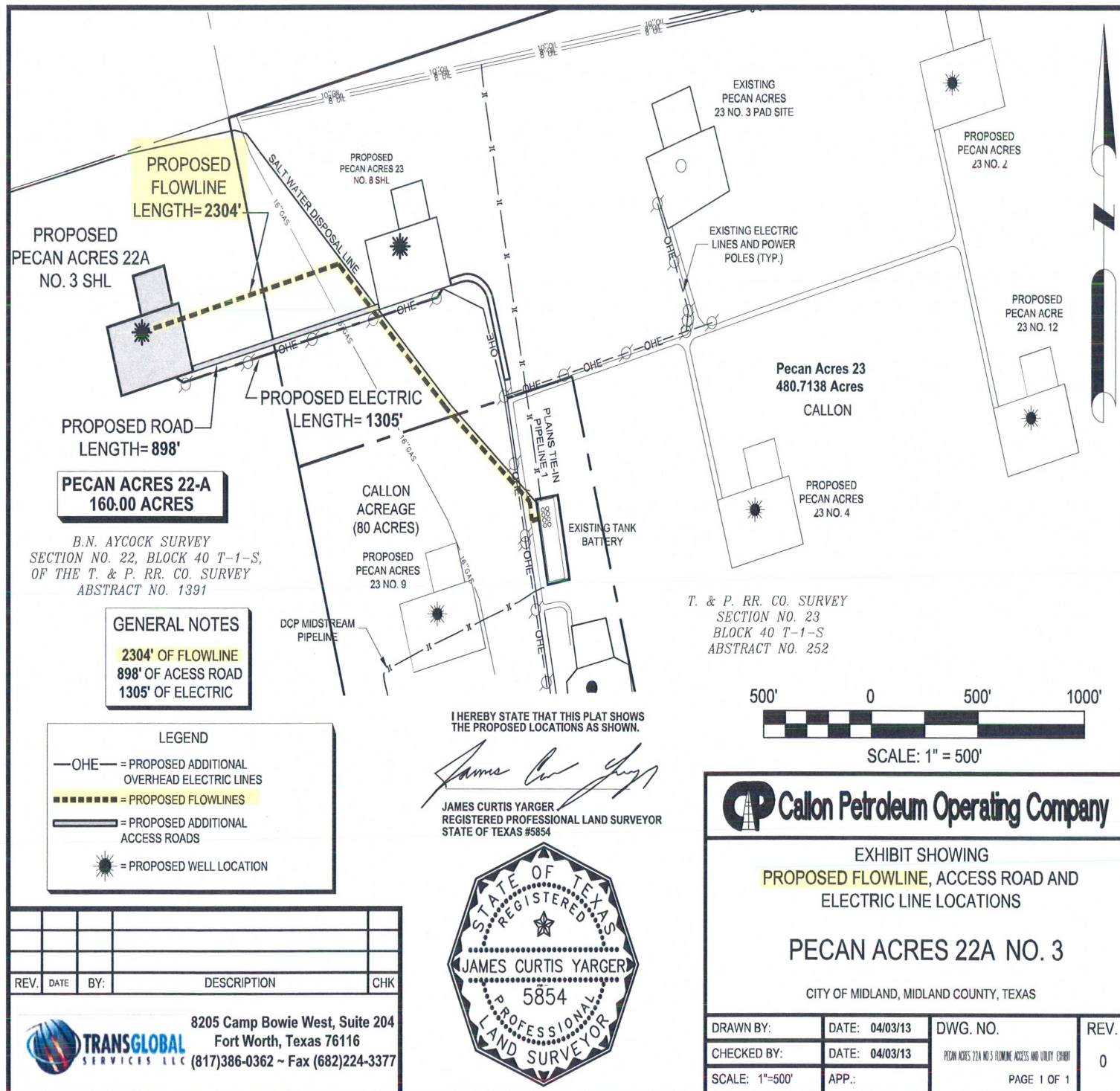


DRILL SITE MAP

PECAN ACRES 22A #3

O-13-012

34.6



FLOW LINE LOCATION

PECAN ACRES 22A #3

0-13-012

34.7



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:54 a.m. and consider an ordinance on a request by Grassland 2 Development Company, LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2). (Generally located at the east side of State Hwy 158 and at the west extension of Mosswood Drive.)

Purpose:

Hold a public hearing at approximately 10:54 a.m. and consider an ordinance on a request by Grassland 2 Development Company, LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the east side of State Highway 158, about a half mile north of State Highway 191, and at the west extension of Mosswood Drive. A smaller portion of the 197-acre Preliminary Plat of Grassland Estates West, Section 9,

which was approved by both the Planning and Zoning Commission and City Council earlier this year, has been annexed and zoned by the City Council as PDHD, Planned District for a Housing Development (as the area abuts State Highway 158 and requires a common area with a screening fence) and 1F-1, One-Family Dwelling District. The applicant is currently incurring a negative impact on lots backing onto State Highway 158 as prospective buyers are not willing to invest in bigger lots backing towards a state highway. Instead, buyers desire smaller lot sizes. Thus, the applicant wishes to obtain smaller lots in order to better serve this market demand. Therefore, the applicant's request is to amend a 5.32 acre-tract of the PD's underlining zoning from 1F-1 to 1F-2 (lots south of the west extension of Mosswood Drive), and to rezone a 5.35 acre-tract of the 1F-1 zoning district to a 1F-2 zoning district (lots north of the west extension of Mosswood Drive). The Planning and Zoning Commission voted unanimously for approval, and staff concurs.

Attachments:

Application

Maps

June 17, 2013 Staff Report

Exhibits A and B – Metes and Bounds

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 5.32-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 5.35-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS BEING OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158 AND AT THE WEST EXTENSION OF MOSSWOOD DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Midland, in compliance with the City Charter 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 Amended Planned District for a Housing Development and a 1F-2, One-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 a Housing Development, and it shall be used as an Amended Planned District for a

Housing Development, said property being described as follows:

A 5.32-acre tract of land out of Section 35, 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.

Special Conditions and Restrictions:

1. That the Amended Planned District for a Housing Development described herein shall be subject to regulations of the 1F-2, One-Family Dwelling District.
2. That all remaining conditions of City of Midland Ordinance Nos. 9088 and 9091 not otherwise amended by this ordinance shall remain in full force and effect.

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 1F-1, One-Family Dwelling District, and it shall be used as a 1F-2, One-Family Dwelling District, said property being described as follows:

A 5.35-acre tract of land out of Section 35, 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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

WEST COMPANY

of Midland Inc.

110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

May 13, 2013

FIELD NOTES OF A 5.32 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: All bearings, distances, coordinates, and area's shown hereon are based upon the Texas Coordinate System, Texas Central Zone, NAD83.

BEGINNING at (N=10,695,287.62', E=1,725,112.33') a point in the Southwest corner of Grassland Estates West, Section 7, as recorded in Cabinet "I", Page 104, Midland County Plat Records and in the Northern right-of-way of State Highway No. 158, for the Southeast corner this tract;

THENCE N 59°04'48" W, along the Northern right-of-way of State Highway No. 158, 1447.58 feet to a point (N=10,696,031.45', E=1,723,870.47') for the Southwest corner this tract;

THENCE N 30°55'48" E, 160.12 feet to a point for a corner this tract;

THENCE S 59°04'48" E, 1447.58 feet to a point in the Western boundary of said Grassland Estates West, Section 7 for the Northeast corner this tract;

THENCE S 30°55'12" W, along the Western boundary of said Grassland Estates West, Section 7, 160.12 feet to the Place of Beginning and containing 5.32 acres of land.

Grassland Estates West, Section 9
Grassland 2 Dev. Co., LLP
PDHD-1F-2 Zoning Request
Job No. 2013-0157

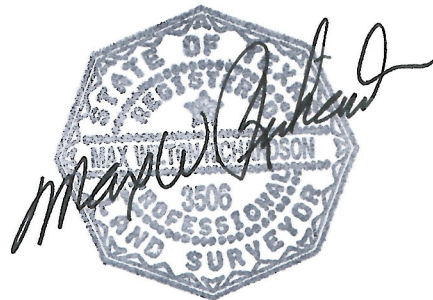


EXHIBIT A

CASE NO. 2-13-019

WEST COMPANY

of Midland Inc.

110 W. Louisiana Ave. Suite. 110
MIDLAND TEXAS 79701-3414
OFFICE (432) 687-0865 FAX (432) 687-0868
www.team-west.com

May 13, 2013

FIELD NOTES OF A 5.35 ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T & P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS:

NOTE: All bearings, distances, coordinates, and area's shown hereon are based upon the Texas Coordinate System, Texas Central Zone, NAD83.

BEGINNING at (N=10,695,424.98', E=1,725,194.60') a point in the Southwest corner of Grassland Estates West, Section 7, as recorded in Cabinet "I", Page 104, Midland County Plat Records, for the Southeast corner this tract;

THENCE N 59°04'48" W, 1447.56 feet to a point (N=10,696,168.80', E=1,723,952.77') for the Southwest corner this tract;

THENCE N 30°55'48" E, 30.00 feet to a point for a corner this tract;

THENCE N 21°12'11" E, 121.75 feet to a point for a corner this tract;

THENCE N 30°55'12" E, 10.00 feet to a point for the Northwest corner this tract;

THENCE S 59°04'48" E, 1468.10 feet to a point in the Western boundary of said Grassland Estates West, Section 7 for the Northeast corner this tract;

THENCE S 30°55'12" W, along the Western boundary of said Grassland Estates West, Section 7, 160.00 feet to the Place of Beginning and containing 5.35 acres of land.

Grassland Estates West, Section 9
Grassland 2 Dev. Co., LLP
1F-1 To 1F-2 Zoning Request
Job No. 2013-0157

Marcus 5/28/13




EXHIBIT B

CASE NO. 2-13-019

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-019.

REQUEST: Hold a public hearing and consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2).

APPLICANT: Grassland 2 Development Company, LLP.

OWNER: SBC Corporation.

REPRESENTATIVE: West Company of Midland, Inc.

LEGAL DESCRIPTION: Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

LOCATION: Generally located at the east side of State Hwy 158 at the west extension of Mosswood Drive.

CURRENT ZONING: PDHD, Planned District for a Housing Development and 1F-1, One-Family Dwelling District.

DETAILS OF REQUEST:

1. The Planning and Zoning Commission approved the Preliminary Plat for Grassland Estates West, Section 9, on January 14, 2013. The 197-acre subdivision was also approved by the City Council on February 12, 2013. A majority of this subdivision is located outside the City limits, but a smaller portion of that plat has been annexed and zoned by the City Council. This area is zoned PDHD, Planned District for a Housing Development, and 1F-1, One-Family Dwelling District. The Planned District, with an underlining zoning of 1F-1, is essentially in place because the area abuts State Highway 158, and therefore requires a common area with a screening fence. The front yard setback is also reduced to 15' instead of the usual 25'. The applicant wishes to amend a 5.32 acre-tract of the PD's underlining zoning from 1F-1 to 1F-2 (lots south of the west extension of Mosswood Drive), and wants to rezone a 5.35 acre-tract of the 1F-1 zoning district to a 1F-2 zoning district (lots north of the west extension of Mosswood Drive), both in order to obtain smaller lots to better serve market demand.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is northeast of State Highway 158 and approximately a half mile north of State Highway 191. To the north of this proposed subdivision, the property abuts the future extension of Wadley Avenue and then the Country Sky neighborhood. Midland's Extra Territorial Jurisdiction (ETJ) lies to the west. To the southeast is the Grassland Estates West 7th subdivision zoned both PDHD, Planned District for a Housing Development, and 1F-1, One-Family Dwelling District. To the east, the property is bounded by the Grassland Estates 16th subdivision, zoned AE, Agricultural Estate District, location of the Nueva Vista Golf Course.

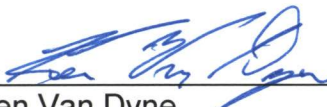
ANALYSIS:

3. During the initial zoning of the annexed property, the developer had requested the zoning districts for this area to be PDHD and 1F-1 for residential development. Currently, however, the developer is incurring a negative impact of some lots backing onto State Highway 158. Prospective buyers are not willing to invest in bigger lots backing towards a state highway, and instead, desire smaller lot sizes. Thus, in order to accommodate for and better serve this residential demand, the applicant wishes to amend the underlining zoning of the Planned District from 1F-1 to 1F-2, and change a portion of the 1F-1 district to a 1F-2. For this reason, we find the zone change request to be reasonable.

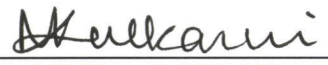
STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District, on a 5.35-acre tract of land (Tract 2), subject to the following conditions:

- A. That the underlining zoning classification of the amended PD be subject to 1F-2, One-Family Dwelling District.
- B. That all remaining conditions of Ordinances 9088 and 9091 not otherwise amended by these conditions shall remain in place.



Ken Van Dyne
Acting Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps

ase Number 2-13-019

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

<u>Grassland 2 Dev. Co., LLP</u>		<u>697-9866</u>
Applicant Name		(Phone/e-mail)
<u>P.O. Box 80246</u>	<u>Midland, Texas</u>	<u>79708</u>
Address		Zip Code
<u>SBC Corporation</u>		<u>522-2040</u>
Property Owner Name		(Phone/e-mail)
<u>P.O. Box 10132</u>	<u>Midland, Texas</u>	<u>79702</u>
Address		Zip Code
<u>West Company of Midland Inc.</u>		<u>697-0865</u>
Representative Name		(Phone/e-mail)
<u>110 W. Louisiana, Suite 110</u>	<u>Midland, Texas</u>	<u>79701</u>
Address		Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. 10.67 Ac. Tr. out of Section 35, Block 40, T15, T&P R&G.

PRESENT ZONE: PDHD 1F-1 REQUESTED ZONE: PDHD 1F-2
(List by tracts if more than one district is requested)

Reason for Zone Change Request: To better serve residential demand.

Present Use of Property: Vacant

Proposed Use of Property: Residential

How will zone change affect the public health, safety and welfare? None

Describe how conditions affecting the property have changed since present zoning designation:
Residential lot requests.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes ☒ No

2013-0157

APPLICATION FEES:

- Single, standard zone change: \$400. Multiple, standard zone change: add \$100 per additional district.
- Single PD, Planned District zone change: \$550. Multiple PD proposal: add \$100 per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

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 Grassland 2 Dev. Co., LLP & SBC Corporation, 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.

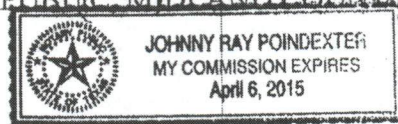
Max W. Richardson

Authorized Agent (signature)

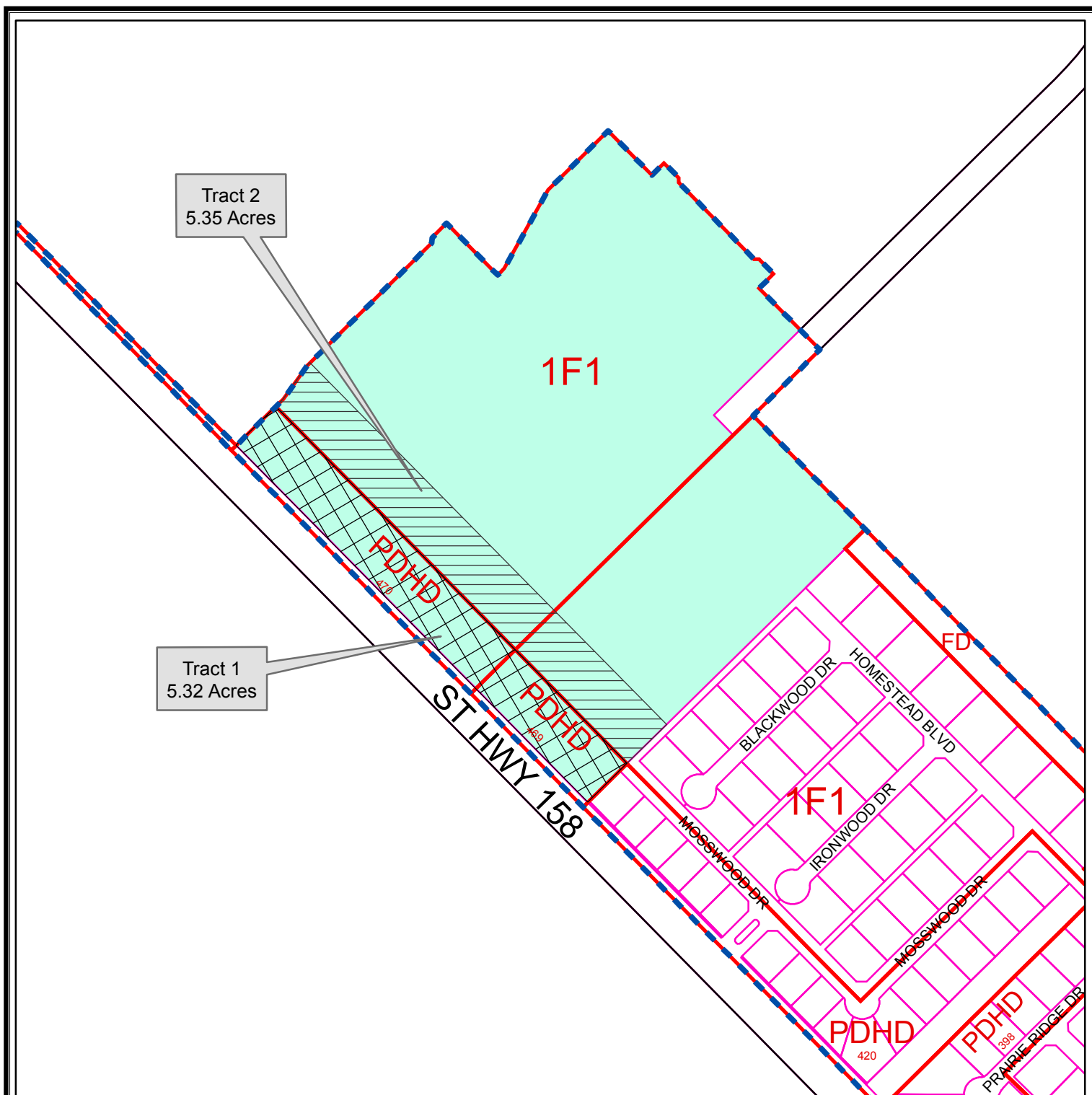
Subscribed and sworn to before me, this 7 day of May, 20 13, to certify which witness my hand and seal of office.

Johnny Ray Poindexter
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>J C</u>	Date: <u>5-7-13</u>
Assigned: <u>M K</u>	
For: <u>P & Z</u>	On: <u>6-17</u>



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



ZONING MAP

Z - 13 - 019

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

ZONING

CITY LIMITS

CITY PARCELS

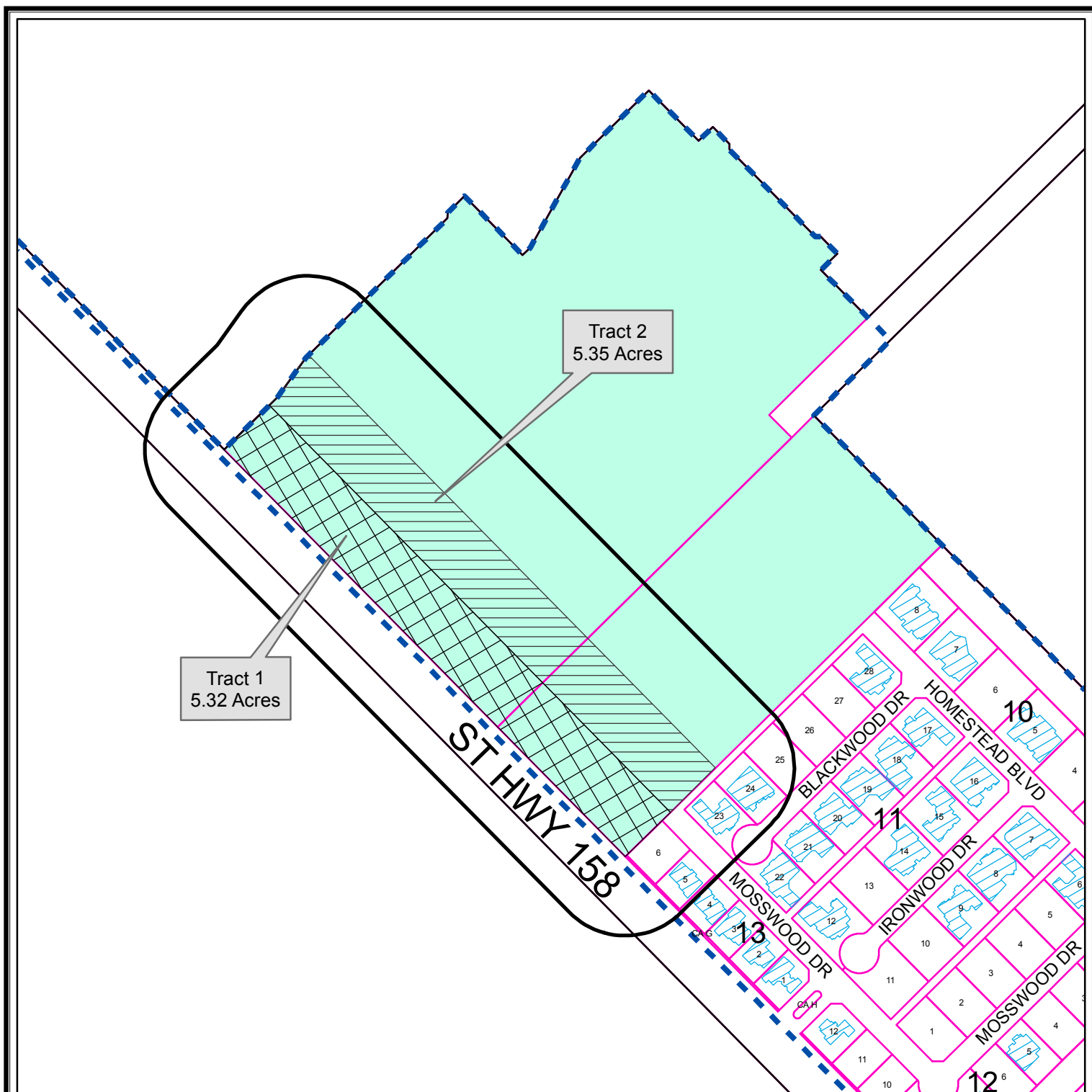
COUNTY PARCELS

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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PROPERTY OWNER NOTIFICATION MAP

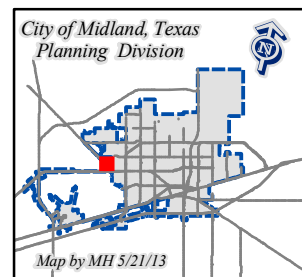
Z - 13 - 019

Scale: 1" = 350'

Consider a request for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2, One-Family Dwelling District on a 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T & P RR Co. Survey, City and County of Midland, Texas.

LEGEND

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



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City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 10:57 a.m. and consider an ordinance on a request by Innovative Land Development, Inc. for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District. (Generally located at the east side of N. Lamesa Road, approximately ½ mile north of E. Loop 250 North.)

Purpose:

Hold a public hearing at approximately 10:57 a.m. and consider an ordinance on a request by Innovative Land Development, Inc. for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to process this request.

Discussion:

The applicant's property is located on the east side of Lamesa Road, about a half mile north of Loop 250 North, and adjacent to Granger Road. The entire 78-acre area was initially rezoned from AE, Agricultural-Estate District to 5 tracts of land zoned 1F-3, One-Family Dwelling District, TH, Townhouse District, O-1, Office District, and LR-2, Local Retail District in 2008. In 2011, a 16-acre Stonebridge Addition (Phase 1) final plat was approved with the majority of the land in the 1F-3 District. The applicant wishes to rezone the remaining 10.32 acres of the 1F-3 District to a TH, Townhouse Dwelling District. The rezoning to the Townhouse District would allow for 3,500 square foot lots yielding about 8 units per acre rather than the 5,500 square foot lots yielding 4 units per

acre in the 1F-3 District. Rezoning to allow townhouses will change the area to medium-density residential, which only slightly varies from the recommendation in the “Future Land Use Plan” of the Midland Master Plan 2005 which calls for single-family (low) residential. Additionally, the original mixed-use intention of the area will remain, and only slightly modify the initial plan of development, which had already planned for a small 1-acre Townhouse District on the eastern side. The Planning and Zoning Commission voted unanimously for approval, and staff concurs.

Attachments:

Application

Maps

June 17, 2013 Staff Report

Exhibit A – Metes and Bounds

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 10.32-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A TH, TOWNHOUSE DWELLING DISTRICT (GENERALLY LOCATED AT THE EAST SIDE OF NORTH LAMESA ROAD, APPROXIMATELY ½ MILE NORTH OF EAST LOOP 250 NORTH); 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 TH, Townhouse 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 1F-3, One-Family Dwelling District, and it shall be used as a TH, Townhouse Dwelling District, said property being described as follows:

A 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard 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 the definitions given in the zoning regulations contained in

the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SIX. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ZONE CHANGE FROM IF-3 TO TH

LEGAL DESCRIPTION OF A 10.32 ACRE TRACT LOCATED IN THE WEST PART OF THE SOUTH HALF OF SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

RECEIVED

MAY 17 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

Boundary being further described by metes and bounds as follows:

BEGINNING at (N= 10,713,494.85', E= 1,755,824.81') a "+" cut in concrete at the most Easterly Southeast corner of Lot 13, Block 4, Stonebridge Addition as recorded in Cabinet "I", Page 80, Plat Records of Midland County and the Southwest corner of this tract, from whence the Southwest corner of said Section 1, bears S75°43'32"W, a distance of 768.89 feet and S14°16'28"E, a distance of 1422.56 feet;

THENCE N14°22'16"W with an East line of said Lot 13, at 105.00 feet pass its Northeast corner continuing for a total distance of 135.00 feet to an interior corner of this tract;

THENCE S75°37'44"W with the centerline of Milltown Road, a distance of 20.24 feet to an exterior corner of this tract;

THENCE N14°25'46"W with the centerline of Granger Road, a distance of 540.02 feet to an exterior corner of this tract;

THENCE N75°34'14"E with the centerline of Porterfield Road, a distance of 47.52 feet to an interior corner of this tract;

THENCE N14°25'46"W with an East line of said Stonebridge Addition, a distance of 135.00 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" found at the Northeast corner of Lot 14, Block 1 of said Stonebridge Addition and the Northwest corner of this tract;

THENCE N75°34'33"E with a North line of a 69.26 Acre Tract previously surveyed on February 19, 2008, at 313.25 feet pass a 1/2" iron rod found at the Southeast corner of a 5.909 Acre Tract as described in Volume 1234, Page 333, Official Records continuing for a total distance of 536.97 feet to the Northeast corner of this tract;

THENCE S14°22'54"E with a West line of Tract II as described in Partition Deed recorded in Volume 952, Page 655, Deed Records of Midland County, a distance of 448.28 feet to a 1/2" iron rod with a plastic cap marked "PLS 1974" found at a fence corner being an exterior corner of this tract and an exterior corner of said Tract II;

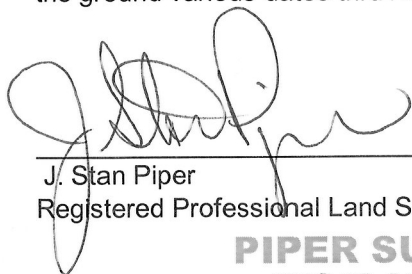
THENCE S75°34'43"W, a distance of 40.00 feet to an interior corner of this tract;

THENCE S14°22'16"E, a distance of 362.25 feet to the Southeast corner of this tract;

THENCE S75°37'44"W, a distance of 523.65 feet to the **PLACE OF BEGINNING**. Tract consists of 10.32 acres of land.

Bearings, distances, and coordinates are relative to the Texas State Plane Coordinate System, NAD 1983/86 Central Zone, with a combined grid factor of 0.99991858, and a theta angle equal to -0°54'07.92" at NGS Benchmark "N-1126" with values of N= 10,717,633.15 and E= 1,753,899.27 in U.S. Survey Feet based on City of Midland GPS Control Survey. To obtain horizontal surface distances multiply the grid distance above by 1.00008143.

I, J. Stan Piper, Professional Land Surveyor, do hereby certify that this description is based on an actual survey made by me or under my supervision, and that the same is true and correct to the best of my knowledge and belief as surveyed on the ground various dates thru August 10, 2012.



J. Stan Piper
Registered Professional Land Surveyor #1974

Prepared for:
Parkhill, Smith & Cooper Inc.
Attn.: Eric West, P.E.
1700 W. Wall, Suite 100
Midland, Texas 79701

PIPER SURVEYING BOX 60432, MIDLAND, TX 79711, 432-550-7810

EXHIBIT A

CASE NO. 2-13-021

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-021.

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

APPLICANT: Innovative Land Development, Inc.

OWNER: Mark Payne.

REPRESENTATIVE: Parkhill, Smith & Cooper, Inc.

LEGAL DESCRIPTION: On a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas.

LOCATION: Generally located at the east side of N. Lamesa Road, approximately ½ mile north of E. Loop 250 North.

CURRENT ZONING: 1F-3, One-Family Dwelling District.

DETAILS OF REQUEST:

1. The zoning of the approximately 78-acre piece of land on the northeast corner of the intersection of N. Lamesa Road and E. Loop 250 North, initially zoned AE, Agriculture-Estate District, was rezoned to 5 tracts of land zoned: 1F-3, One-Family Dwelling District, TH, Townhouse District, O-1, Office District, and LR-2, Local Retail District at the property owner's request, and approved by the City Council on May 2008. In March 2011, a 16-acre Stonebridge Addition (Phase 1) final plat was approved with the majority of the land in the 24.8-acre 1F-3 District. In this zone change request, the applicant wishes to change the remaining vacant 10.32 acres of the 1F-3, One-Family Dwelling District to a TH, Townhouse Dwelling District. The present undeveloped area will continue to be used as a residential subdivision, with only a slight modification to the initial plan of development.

SURROUNDING ZONING AND LAND USE:

2. This applicant's property is north of Loop 250 North, east of Lamesa Road, and adjacent to Granger Road. To the north of this proposed Townhouse District is a PDID, Planned District for a Business and Industrial Park (primarily consisting of storage and warehouse buildings), and an O-1, Office District. To the west is a 1F-3, One Family Dwelling District. An O-1 District abuts the south, with an active oil well

nearby. This existing well may affect any proposed lotting pattern due to its proximity of less than 500'. The applicant will need the mineral operator's approval prior to any final plat. Finally, to the east is an approximately 1-acre Townhouse District as well as a large AE, Agriculture-Estate District.

ANALYSIS:

3. During the initial zoning of the property, one of the five tracts the developer had requested was a 24.8-acre piece of land zoned 1F-3. This single-family district includes lots with a minimum lot size of 5,500 square feet with a density of around 4 units per acre. The zone change to an approximate 10-acre Townhouse District will allow for one-family attached homes on 3,500 square-foot lots, and will increase the density to about 8 units per acre. The area will only slightly change from single-family (low) residential, which is the recommendation according to the "Future Land Use Plan" in the Midland Master Plan 2025, to medium-density residential. The mixed-use intention of the subdivision will remain. The rezoning will also only slightly modify the original zoning, which already includes a 1.08-acre Townhouse District to the east. For these reasons, we find the zone change request to be reasonable.

STAFF RECOMMENDATION:

Staff recommends approval of this request for a zone change from a 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District.



Ken Van Dyne
Acting Planning Division Manager
Department of Development Services



Madhuri Kulkarni, City Planner
Department of Development Services

Attachments:

Application
Maps

Case Number: 2-13-021

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

Innovative Land Development, Inc.

(432) 520-0000

Applicant Name

(Phone/e-mail)

1603 Idlewilde, Midland, Texas

79073

Address

Zip Code

Mark Payne

(432) 520-0000

Property Owner Name

(Phone/e-mail)

1603 Idlewilde, Midland, Texas

79073

Address

Zip Code

Parkhill, Smith & Cooper, Inc.,

(432) 697-1447

Representative Name

(Phone/e-mail)

1700 W. Wall, Suite 100, Midland, TX 79701

Address

Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. See attached Metes and Bounds.

PRESENT ZONE: 1F-3

REQUESTED ZONE: TH

(List by tracts if more than one district is requested)

Reason for Zone Change Request: This area is presently undeveloped. TH zoning is consistent with current development plans.

Present Use of Property: Pasture or Range Land

Proposed Use of Property: Residential Subdivision

How will zone change affect the public health, safety and welfare? It will not affect the public health, safety, and welfare.

Describe how conditions affecting the property have changed since present zoning designation: Change is only a slight modification to existing plan to develop subdivision.

Is a Specific Use Permit with Term for alcoholic beverages sales needed? Yes X No

APPLICATION FEES:

- Single, standard zone change: **\$400**. Multiple, standard zone change: add **\$100** per additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan: _____

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

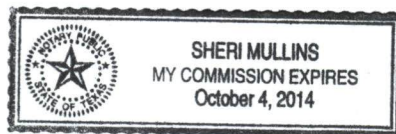
Jared Squyres who, being by me duly sworn, upon oath says: That (s)he is authorized by Innovative Land Development, Inc., the owner of the above described property, to fully represent him/her in this application and that (s)he had the legal right, power and authority to sign said owner's name hereto as his/her attorney in fact.

Jared A. Squyres
Authorized Agent (signature)

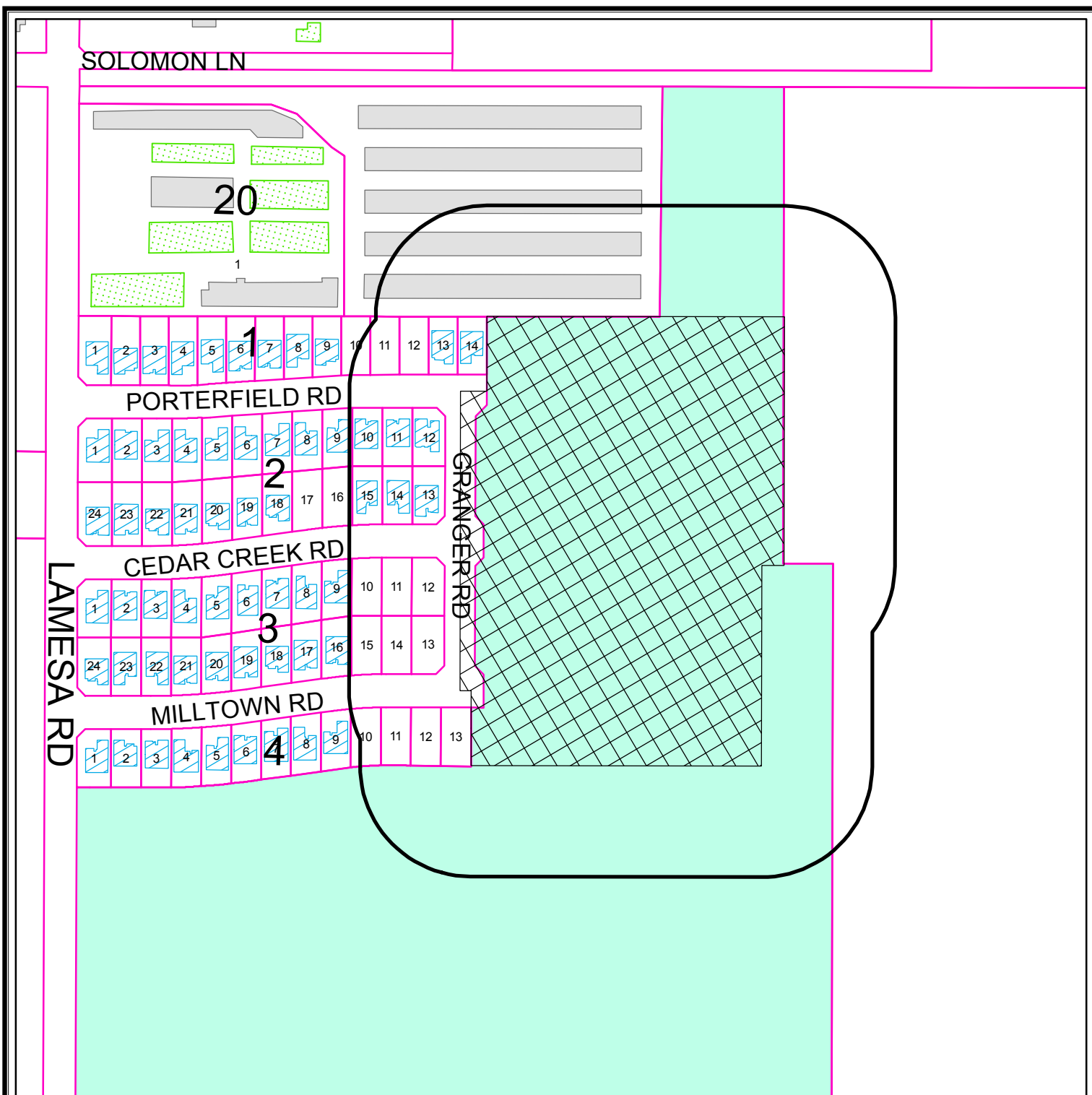
Subscribed and sworn to before me, this 13 day of May, 2013, to certify which witness my hand and seal of office.

Sheri Mullins
NOTARY PUBLIC, MIDLAND COUNTY, TEXAS

FOR OFFICE USE ONLY	
Rec'd By: <u>PS</u>	Date: <u>5/17</u>
Assigned: <u>MK</u>	
For: <u>P+2</u>	On: <u>6/17/13</u>



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



PROPERTY OWNER NOTIFICATION MAP

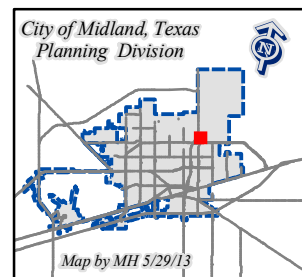
Z - 13 - 021

Scale: 1" = 250'

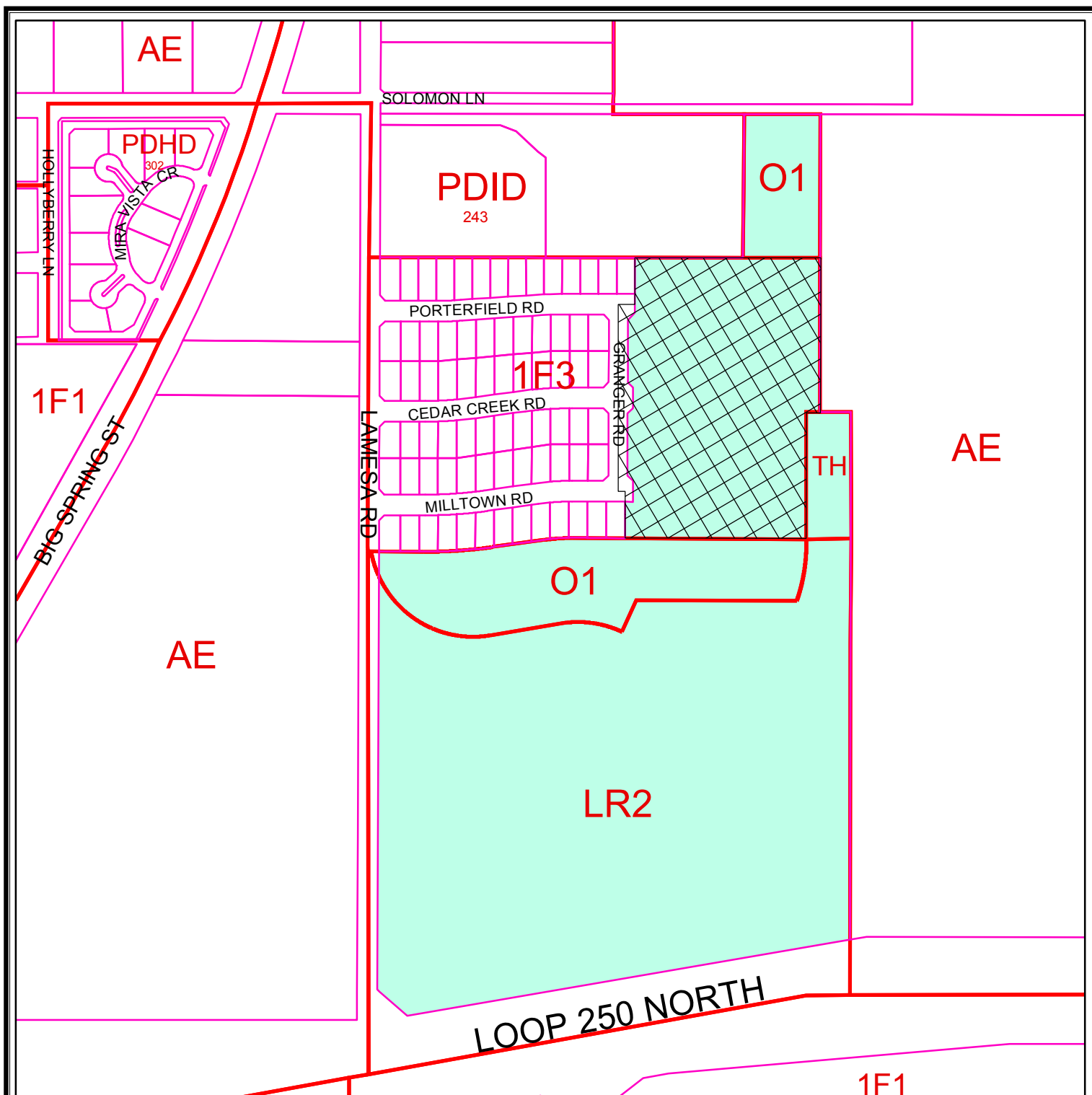
Consider a request for a zone change from 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

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



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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 - 13 - 021

Scale: 1" = 400'

Consider a request for a zone change from 1F-3, One Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	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: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken VanDyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 11:00 a.m. and consider an ordinance on a request by City of Midland for a zone change from PD, Planned District for a Mixed Use District to a PD, Planned District for a Housing Development. (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.)

Purpose: Hold a public hearing at approximately 11:00 a.m. and consider an ordinance on a request by City of Midland for a zone change from PD, Planned District for a Mixed Use District to a PD, Planned District for a Housing Development.

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 presently zoned PD, Planned District for a Mixed Use District. The City of Midland has submitted plans to develop a new fire station off of Sinclair Avenue, and is requesting to rezone a portion of the PD, Planned District for a Mixed Use District that was approved by City Council for the development of office and apartments in 1982. The property has remained vacant since this time and the City has identified this location as an ideal location for the new station. The underlying zoning district for this property shall be 1F-1, Single Family Dwelling District. The purpose of this application is to rezone the portion of the existing Planned District for the use of a fire station for this property.

Attachments: Site Plan, Exhibits A and B

ORDINANCE NO.

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.50-ACRE PORTION OF LOT 1, BLOCK 3, WALLACE HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A MIXED USE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF SINCLAIR AVENUE, APPROXIMATELY 380 FEET WEST OF NORTH MIDLAND 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 PD, 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 a Mixed Use District, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said

property being described as follows:

A 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas, said tract being more specifically described by metes and bounds in Exhibit “C”, 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 use and development of this property shall conform to the regulations of the 1F-1, One-Family Dwelling District.
2. That the development of a fire station shall be permitted, and that any other use of the property shall require the submittal of a site plan in the same manner as a zone change.
3. That the building shall significantly conform to the elevations and materials shown on Exhibits “A” and “B”, which are attached hereto and incorporated herein.
4. That the maximum height of the building shall be set at 35 feet.
5. That all driveways shall comply with the Midland City Code.
6. That landscaping shall comply with the Midland City Code.
7. That the building shall comply with all requirements of the Building Official.
8. That the building shall comply with all requirements of the Fire Marshal’s Office.
9. That City of Midland Ordinance No. 6251 is amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not

affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

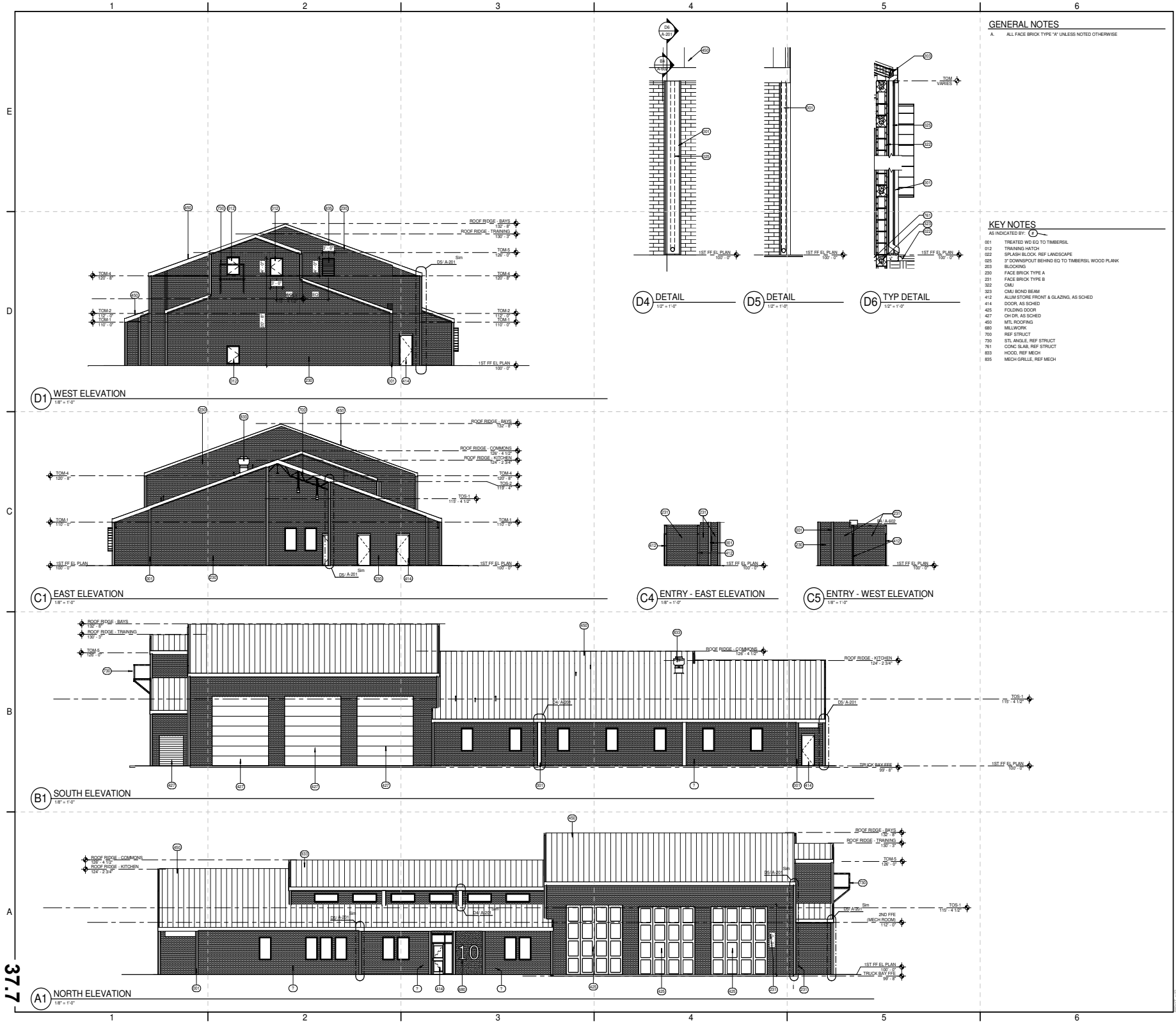
James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



4/18/2013 10:28:00 AM



GENERAL NOTES
A. ALL FACE BRICK TYPE "A" UNLESS NOTED OTHERWISE

- KEY NOTES
AS INDICATED BY:
- 001 TREATED WOOD TO TIMBERSL
 - 012 TRAINING HATCH
 - 022 SPLASH BLOCK, REF LANDSCAPE
 - 025 3" DOWNPOUT BEHIND ED TO TIMBERSL WOOD PLANK
 - 203 BLOOMING
 - 250 FACE BRICK TYPE A
 - 251 FACE BRICK TYPE B
 - 302 CMU
 - 303 CMU BOND BEAM
 - 412 ALLUM STONE FRONT & GLAZING, AS SCHED
 - 414 DOOR, AS SCHED
 - 425 FOLDING DOOR
 - 427 CH DR, AS SCHED
 - 450 MTL ROOFING
 - 689 MILLWORK
 - 700 REF STRUCT
 - 730 STL ANGLE, REF STRUCT
 - 791 CONC SLAB, REF STRUCT
 - 833 HOOD, REF MECH
 - 855 MECH GRILLE, REF MECH



FIRE STATION 10

100% CONSTRUCTION DOCUMENTS

4501 SINCLAIR
MIDLAND, TEXAS
79707
KEY PLAN

NO.	DATE	REVISION

EXTERIOR ELEVATIONS

HGS SURVEYING COMPANY

Texas Registered Surveying Firm No. 100862-00
10 Quail Run, Midland, Texas 79707
432-689-7941

LEGAL DESCRIPTION OF A 2.50 ACRE TRACT OF LAND
LOCATED IN SECTION 19, BLOCK 39; T. 1 S., T. & P. RR. COMPANY
SURVEY, MIDLAND COUNTY, TEXAS AND BEING A PORTION OF
LOT 1, BLOCK 3, WALLACE HEIGHTS SECTION 4,
CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

BEGINNING at a point at the Northeast corner of Lot 1, Block 3, Wallace Heights Section 4, according to the plat thereof recorded in Cabinet C-174 Plat Records of Midland County, Texas, from which a spike-nail found at the Northwest corner of Block 1, Nottingham Square Addition, according to the plat thereof recorded in Cabinet B-208 of said Plat Records, bears N 75°00' E, a distance of 30.00 feet;

THENCE S 15°00' E with the fenced East line of said Lot 1, Block 3, a distance of 418.85 feet to a point at the Southeast corner of this tract;

THENCE S 75°00' W, a distance of 260.00 feet to a point at the Southwest corner of this tract;

THENCE N 15°00' W, a distance of 418.85 feet to a point in the North line of said Lot 1, at the Northwest corner of this tract;

THENCE N 75°00' E with the North line of said Lot 1 and South right of way line of Sinclair Avenue, a distance of 260.00 feet to the Place of Beginning.

Notes:

This tract is subject to Public Utility Easements according to the plat of record of Wallace Heights Section 4.

Bearings are referenced to the plat of record. Distances are U.S. Survey Feet.


H. Gene Smith 07/12/2012
H. Gene Smith, TX RPLS No 4931



CASE NO. 2-13-025

PLANNING AND ZONING COMMISSION

June 17, 2013

CASE: Z-13-025

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

APPLICANT/OWNER: City of Midland.

LEGAL DESCRIPTION: 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland Texas.

LOCATION: Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.

CURRENT ZONING: PD, Planned District for a Mixed Use District.

DETAILS OF REQUEST:

1. This property is presently zoned PD, Planned District for a Mixed Use District. The City of Midland has submitted plans to develop a new fire station off of Sinclair Avenue, and is requesting to rezone a portion of the PD, Planned District for a Mixed Use District that was approved by City Council for the development of office and apartments in 1982. The property has remained vacant since this time and the City has identified this location as an ideal location for the new station. The underlying zoning district for this property shall be 1F-1, Single Family Dwelling District. The purpose of this application is to rezone the portion of the existing Planned District for the use of a fire station for this property.

SURROUNDING ZONING AND LAND USE:

2. The property is located just west of N. Midland Drive and south of Sinclair Avenue. Immediately north and east of this property is a medium sized MF-1, Multi-Family Dwelling District along with some small Local Retail Districts. To the west and south is a large 1F-1, Single Family Dwelling District.

ANALYSIS:

3. Fire stations are a permitted use in this district, and this would be located on a 2.5-acre site with a maximum building height of 35 feet. The proposed amount of setback from Sinclair Avenue is approximately 50 feet. Staff agrees that this provides an adequate amount of setback given the height of the building and surrounding land uses. Staff has no objection to the proposed building height.

SITE PLAN:

4. Exhibit A is a plan view of the fire station site. Two driveways are located off of Sinclair Avenue for egress and ingress. The western most driveway will allow for fire trucks to exit the site, while the eastern most driveway will allow the fire trucks to enter the site and park in the rear bay entrance. The 30 foot wide aisle provides sufficient access for the trucks to enter the bay area from the rear of the building. The alternate building designated on the southwest corner will be part of a phased development and shall be addressed at the appropriate date. Staff is recommending that the site plan for this project be addressed administratively to allow the Fire Department to expediently serve the public health, safety, and welfare of the citizens of Midland. Landscaping will comply with the City of Midland Landscape ordinance.
5. Exhibits B and C represent the elevation view of the fire station. The exterior of the building is shown as masonry for the façade and metal for the roof. We believe the conditions shown on Exhibits B and C will result in an attractive building compatible with existing development in the area.

PARKING:

6. The fire station will provide 25 parking spaces which meets the city's parking requirements. One parking space is owed per 1,000 square feet of storage, and then one parking space for each 400 square feet of office or general space.

STAFF RECOMMENDATION:

- A. That the use and development of this property shall conform to the regulations of the 1F-1, Single Family Dwelling District.
- B. That the development of a fire station shall be permitted, and that any other use of the property shall require the submittal of a site plan in the same manner as a zone change.
- C. That the elevations of the building shall significantly conform to the materials depicted in Exhibits B and C.

- D. That all driveways are in compliance with Midland City Code.
- E. That landscaping shall comply with the Midland City Code.
- F. That the building complies with all requirements from the Building Official's Office.
- G. That the building complies with all requirements per the Fire Marshall's Office.



Ken VanDyne
Acting Planning Division Manager
Department of Development Services



Martin Siwek, City Planner
Department of Development Services

Attachments:

Application
Maps
Exhibits A, B, and C

Case Number: 2-13-025

CITY OF MIDLAND
Planning Division

APPLICATION TO CHANGE ZONING CLASSIFICATION

City of Midland 432.685.7400 ms; wekamidlandtxas.gov
Applicant Name (Phone/e-mail)
300 N. Lorraine 79701
Address Zip Code
City of Midland 432.685.7400
Property Owner Name (Phone/e-mail)
Same
Address Zip Code
N/A
Representative Name (Phone/e-mail)
Address Zip Code

Street address and Legal Description of property (complete Lot, Block, and Subdivision Name or if unplatted, attach a Metes and Bounds description with surveyor's seal). Each district must be described separately. see attached field notes

PRESENT ZONE: PDMX REQUESTED ZONE: PDHD
(List by tracts if more than one district is requested)

Reason for Zone Change Request: to better serve public safety, health, & welfare with a fire station

Present Use of Property: vacant

Proposed Use of Property: fire station

How will zone change affect the public health, safety and welfare? It will improve it.

Describe how conditions affecting the property have changed since present zoning designation:
Remained vacant

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 additional district.
- Single PD, Planned District zone change: **\$550**. Multiple PD proposal: add **\$100** per district.
- If a Traffic Impact Analysis is required, a fee of up to \$500.00 will be assessed.

SITE PLAN SUBMITTALS (if applicable):

16 copies (FOLDED) of the PD site plan:

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

_____ 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.

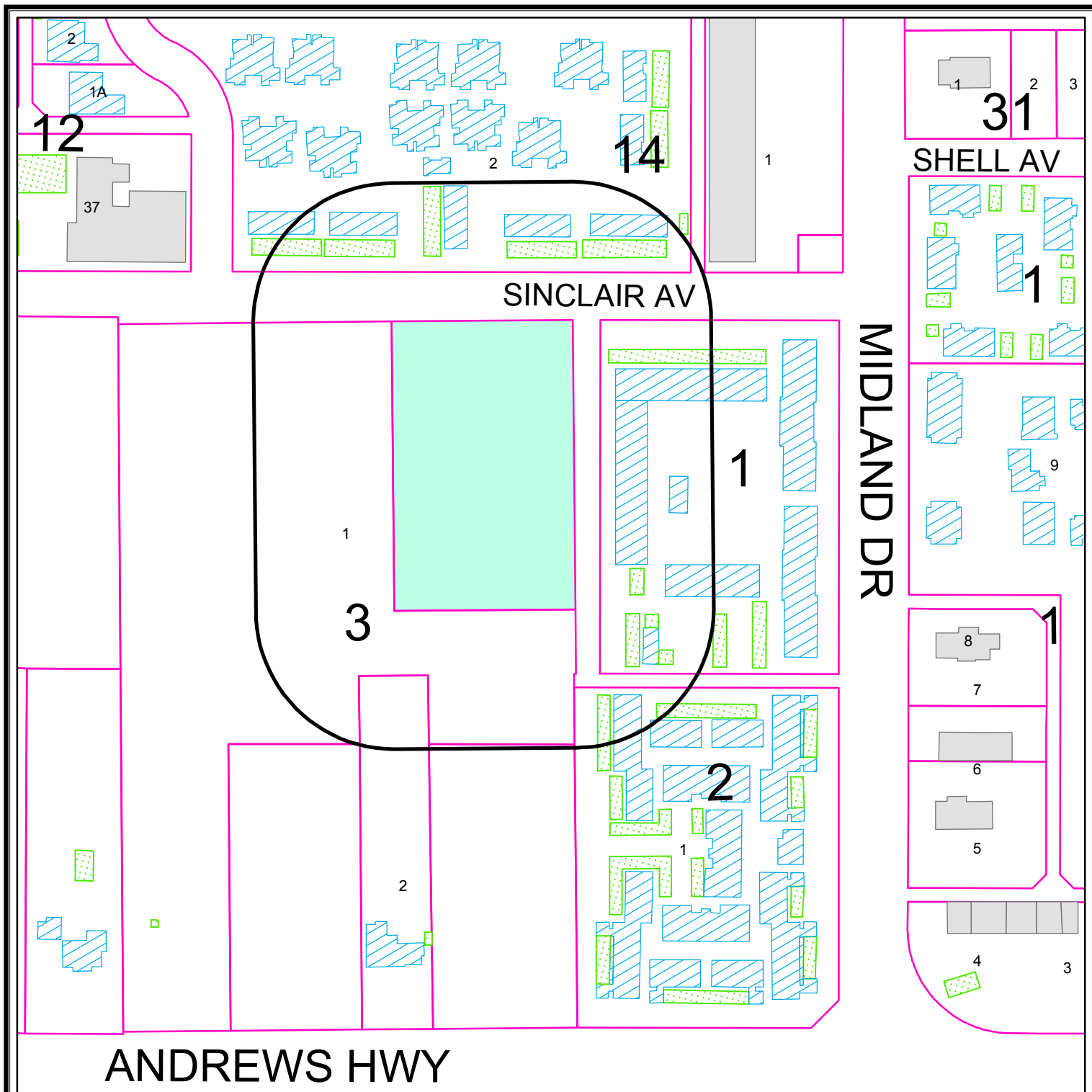
Authorized Agent (signature)

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>CS</u>	Date: <u>5/30</u>
Assigned: <u>MS</u>	
For: <u>P+2</u>	On: <u>6/17/13</u>

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



PROPERTY OWNER NOTIFICATION MAP

Z - 13 - 025

Scale: 1" = 200'

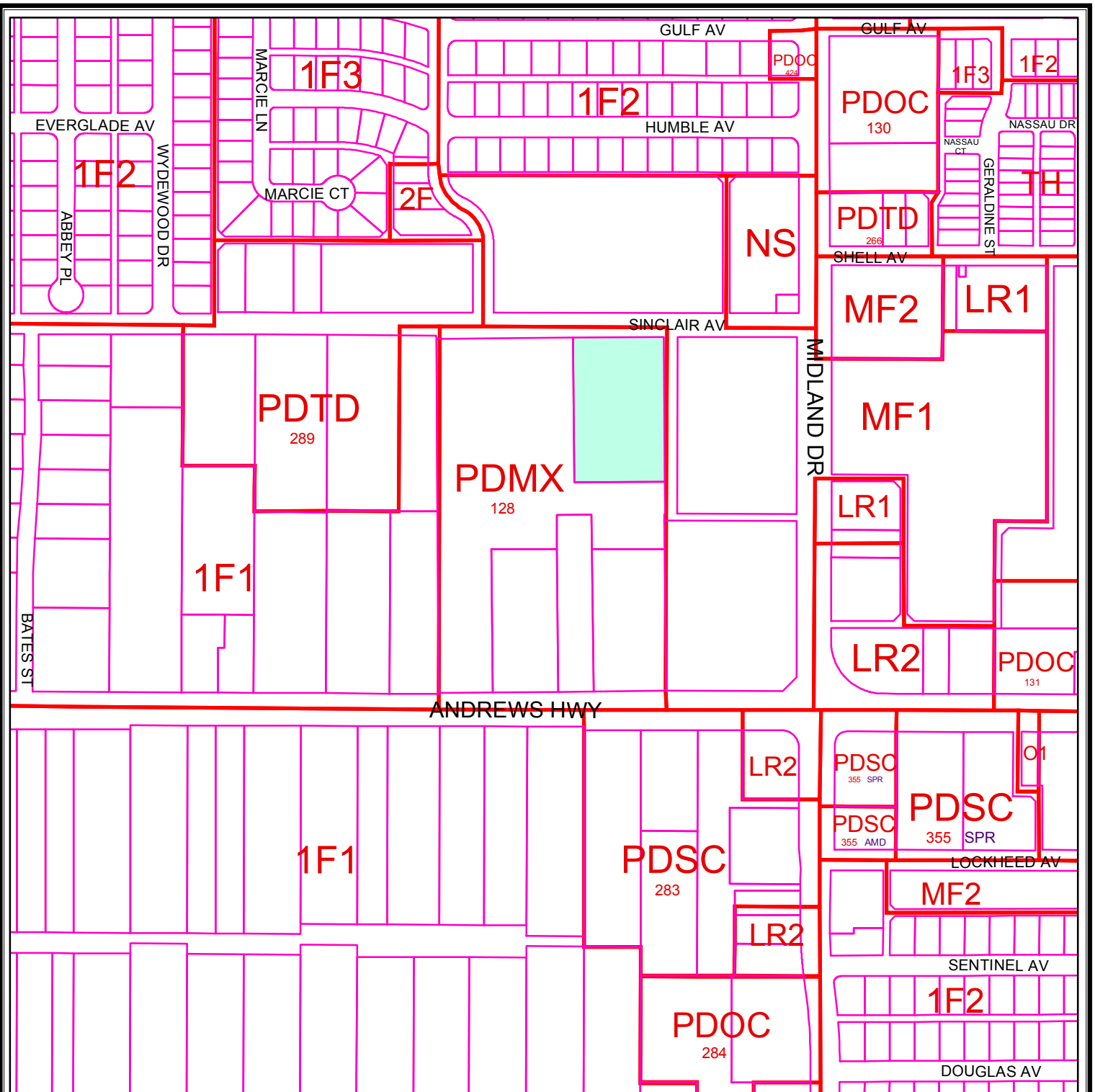
Consider a request for a zone change from PD, Planned District for a Mixed Use District, to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

Z - 13 - 025

Scale: 1" = 400'

Consider a request for a zone change from PD, Planned District for a Mixed Use District, to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas.

LEGEND

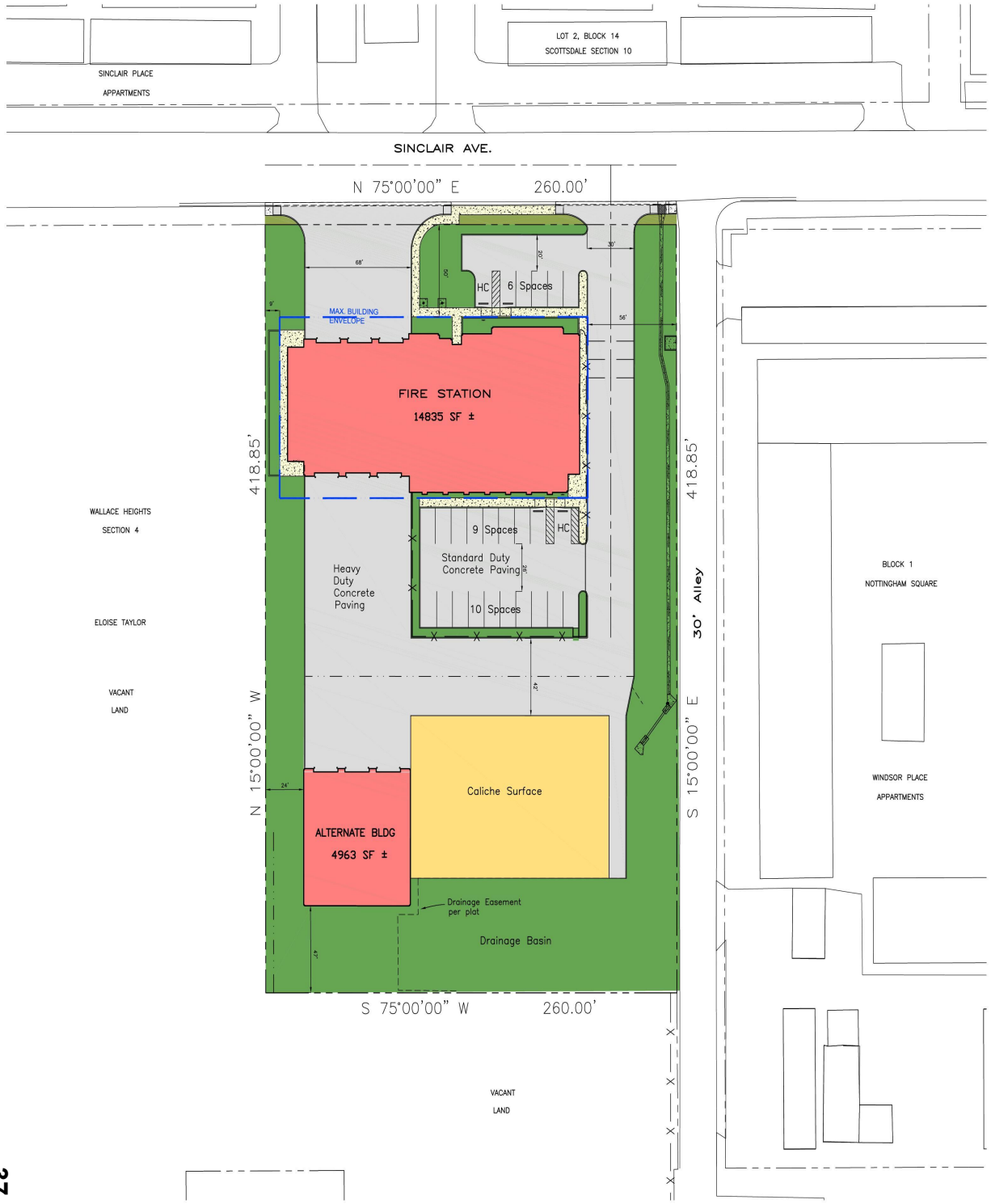
ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	01, O2	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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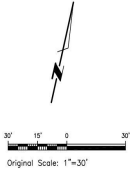


PLANNED DISTRICT SITE PLAN

WALLACE HEIGHTS ADDITION

SECTION 7

Lot 6, Block 3



NOTES:

- BUILDING FOOTPRINT, PARKING AND LANDSCAPING SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. FINAL SITE DESIGNS TO BE REVIEWED BY THE CITY OF MIDLAND PRIOR TO ISSUING BUILDING PERMITS.
- SHADED AREAS DENOTED BY [light blue box] TO BE PAVED OR OTHER DRIVING SURFACE.
- SHADED AREAS DENOTED BY [yellow box] TO BE CONCRETE SIDEWALK.
- SHADED AREAS DENOTED BY [green box] TO BE IRRIGATED & LANDSCAPED INCLUDING TREES, GRASS OR SHRUBS - WHICH MAY BE ENHANCED BY OTHER LANDSCAPE MATERIALS.
- SHADED AREAS DENOTED BY [dark green box] TO BE IRRIGATED GRASS AND GROUND COVER.
- SHADED AREAS DENOTED BY [red box] ARE PROPOSED BUILDINGS.
- SHADED AREA DENOTED BY [orange box] IS CALICHE.
- EXTERIOR BUILDING MATERIALS SHALL BE DECORATIVE OR PAINTED CMU, FACE BRICK, PRECAST CONCRETE, TILT-WALL, ALUMINUM STORE FRONT, GLAZING OR SIMILAR CONSTRUCTION.
- ROOF MATERIALS MAY INCLUDE COMPOSITE, BUILT-UP OR STANDING SEAM METAL ROOF.
- ALL SIGNS SHALL BE IN CONFORMANCE WITH SECTION 11-7a OF THE MIDLAND CITY CODE.
- ALL EXTERIOR LIGHTING SHALL ADHERE TO THE STANDARDS OUTLINED IN SECTION 11-10 OF THE MIDLAND CITY CODE.

SITE DATA	
SITE AREA	108,900 SF
BUILDING AREA (Foot Print)	19,798 SF ±
PARKING SPACES PROVIDED	25
HC SPACES REQUIRED	1
HC SPACES PROVIDED	2
LANDSCAPING REQUIRED	8,910 SF
LANDSCAPING SHOWN	37,014 SF ±



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 11:03 A.M. and consider an ordinance on a request by City of Midland for a city-initiated zone change from MH, Manufactured Home District on Lot 1A, Block 5, and Lots 2A – 5A, & 7A, Block 4, Bizzell-Kiser; from MH, Manufactured Home, Section 5; Lot 6B, Block 4, Bizzell-Kiser, Section 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; on Lots 10A – 16A, Block 7, Bizzell-Kiser, Section 5; a 0.145-acre portion of Tract 7, Bizzell-Kiser; from 1F-3, One-Family Dwelling District and all of Block 3, Bizzell-Kiser, Sections 4 & 5; Lots 1A, 10A – 12A, Block 4, Bizzell-Kiser, Section 5; Lots 8B & 9B, Block 4, Bizzell-Kiser, Section 6; Lot 2A, Block 5, Bizzell-Kiser, Section 5; Lots 1A – 3A, 5A – 9A, 12A – 22A, Block 6, Bizzell-Kiser, Section 5; Lots 10A & 11A, Block 6, Bizzell-Kiser, Section 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Block 7, Bizzell-Kiser, Section 4; Lots 3A – 9A, Block 7, Bizzell-Kiser, Section 5; 0.656-acre portions of Tract 7, Bizzell-Kiser; Lots 1A -4A, Block 9, Bizzell-Kiser, Section 4; a 0.45-acre portion of Tract 9, Bizzell-Kiser; all of Block 10, Bizzell-Kiser, Section 4; Lots 1A – 7A, Block 11, Bizzell-Kiser, Section 4; Lots 1A – 21A, Block 13, Bizzell-Kiser, Section 7; Lots 22B & 23B, Block 13, Bizzell-Kiser, Section 8; Lots 1A – 18A, Block 14, Bizzell-Kiser, Section 4; a 0.18-acre portion of Tract 14, Bizzell-Kiser; and on Blocks 45 & 46, Belmont Addition; and all adjacent and previously vacated rights-of-way, to PD, Planned District for Housing Development, City and County of Midland, Texas. (Generally located south of E. Gist Avenue, between S. Main Street and S. Terrell Street. – District 2)

Purpose:

Hold a public hearing at approximately 11:03 A.M. and consider an ordinance on a request by City of Midland for a city-initiated zone change from MH, Manufactured Home District on Lot 1A, Block 5, and Lots 2A – 5A, & 7A, Block 4, Bizzell-Kiser; from MH, Manufactured Home, Section 5; Lot 6B, Block 4, Bizzell-Kiser, Section 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; on Lots 10A – 16A, Block 7, Bizzell-Kiser, Section 5; a 0.145-acre portion of Tract 7, Bizzell-Kiser; from 1F-3, One-Family Dwelling District and all of Block 3, Bizzell-

Kiser, Sections 4 & 5; Lots 1A, 10A – 12A, Block 4, Bizzell-Kiser, Section 5; Lots 8B & 9B, Block 4, Bizzell-Kiser, Section 6; Lot 2A, Block 5, Bizzell-Kiser, Section 5; Lots 1A – 3A, 5A – 9A, 12A – 22A, Block 6, Bizzell-Kiser, Section 5; Lots 10A & 11A, Block 6, Bizzell-Kiser, Section 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Block 7, Bizzell-Kiser, Section 4; Lots 3A – 9A, Block 7, Bizzell-Kiser, Section 5; 0.656-acre portions of Tract 7, Bizzell-Kiser; Lots 1A -4A, Block 9, Bizzell-Kiser, Section 4; a 0.45-acre portion of Tract 9, Bizzell-Kiser; all of Block 10, Bizzell-Kiser, Section 4; Lots 1A – 7A, Block 11, Bizzell-Kiser, Section 4; Lots 1A – 21A, Block 13, Bizzell-Kiser, Section 7; Lots 22B & 23B, Block 13, Bizzell-Kiser, Section 8; Lots 1A – 18A, Block 14, Bizzell-Kiser, Section 4; a 0.18-acre portion of Tract 14, Bizzell-Kiser; and on Blocks 45 & 46, Belmont Addition; and all adjacent and previously vacated rights-of-way, to PD, Planned District for Housing Development, City and County of Midland, Texas. (Generally located south of E. Gist Avenue, between S. Main Street and S. Terrell Street. – District 2)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to approve this request.

Discussion:

Effective November 2009, the City Council annexed 81.35-acres of the Belmont & Bizzell-Kiser Subdivisions, commonly referred to as the “windowpane area”. The property associated with this zone change request represents approximately 71 percent of the land area, or a 57.84-acre tract, out of the original “windowpane” annexation. The initial zoning upon annexation for this subject re-zoning area included two MH, Manufactured Home Districts and one 1F-3, One-Family Dwelling District. The adopted Service Plan for the Windowpane Area included several City Services to be provided following annexation, as well as capital improvements to begin within 2 ½ years of annexation. Despite the City’s investment in the extension of water and sewer lines, paved roads, and services such as solid waste pickup, code enforcement, police and fire protection; the subject rezoning area still contains a wide variety of nuisances and public health hazards; junk vehicles, debris-filled yards, evident overcrowding of housing in portions, and stray dogs are commonly seen throughout. Absent any development incentives to invest in this area, the City has initiated a zone change to a PD, Planned District for a Housing Development. Clearly this 58-acre neighborhood is in need of a greater proactive action if the City wants to see this blighted area improve. While some headway has been made on capital improvements and infrastructure investment, the roads are paved, but many of them still narrow and inadequate. Alleys in the area are progressively being encroached upon in some areas by neighboring structures. While the neighborhood has had some other positive benefits to annexation in the way of city services, the result so far is in-line with the Planning Division reports of 2009 indicate; that is, “the majority of cost related to the area being annexed will be borne by the Code Administration Division”. Residents in this area cited the same nuisances in the City Council minutes of 2009 that we still see today; a need to “clean up the area”, “community efforts to combat drug problems”, and still today, “traffic right-of-way issues”

with some streets that are still too narrow. Absent any long-term plan and prioritization of addressing all of these issues, it is indeed a difficult environment to attract infill development on a number of vacant lots scattered throughout the 58-acre community. Therefore, the Planning Division is acting on a City-Initiated request to rezone this area to a PD, Planned District for a Housing Development. The objective being to ease the development standards of the majority of the 1F-3, One-Family Dwelling District, to permit either a single manufactured home or a stick-built home to be constructed on any lot throughout the neighborhood with the provision that the lots are platted to Subdivision Code required sizes, any necessary public improvements are made or deferred, and that the manufactured home meet certain standards as outlined in the requirements recommended for this Planned District for a Housing Development.

Attachments: Application, Maps, 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 LOT 1A, BLOCK 5, AND LOTS 2A-5A AND 7A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOT 6B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND A 0.45-ACRE PORTION OF TRACT 4, BIZZELL-KISER, AND LOTS 10A-16A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.145-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND ALL OF BLOCK 3, BIZZELL-KISER, SECTIONS 4 AND 5, AND LOTS 1A, 10A-12A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOTS 8B AND 9B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND LOT 2A, BLOCK 5, BIZZELL-KISER, SECTION 5, AND LOTS 1A-3A, 5A-9A, 12A-22A, BLOCK 6, BIZZELL-KISER, SECTION 5, AND LOTS 10A AND 11A, BLOCK 6, BIZZELL-KISER, SECTION 4, AND A 0.166-ACRE PORTION OF TRACT 6, BIZZELL-KISER, AND LOTS 1A AND 2A, BLOCK 7, BIZZELL-KISER, SECTION 4, AND LOTS 3A-9A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.656-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND LOTS 1A-4A, BLOCK 9, BIZZELL-KISER, SECTION 4, AND A 0.45-ACRE PORTION OF TRACT 9, BIZZELL-KISER, AND ALL OF BLOCK 10, BIZZELL-KISER, SECTION 4, AND LOTS 1A-7A, BLOCK 11, BIZZELL-KISER, SECTION 4, AND LOT 8A, BLOCK 11, BIZZELL-KISER, SECTION 5, AND A 0.87-ACRE PORTION OF TRACT 11, BIZZELL-KISER, AND ALL OF BLOCK 12, BIZZELL-KISER, SECTION 4, AND LOTS 1A-21A, BLOCK 13, BIZZELL-KISER, SECTION 7, AND LOTS 22B AND 23B, BLOCK 13, BIZZELL-KISER, SECTION 8, AND LOTS 1A-18A, BLOCK 14, BIZZELL-KISER, SECTION 4, AND A 0.18-ACRE PORTION OF TRACT 14, BIZZELL-KISER, AND BLOCKS 45 AND 46, BELMONT ADDITION, AND ALL ADJACENT AND PREVIOUSLY VACATED RIGHTS-OF-WAY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED SOUTH OF EAST GIST AVENUE, BETWEEN SOUTH MAIN STREET AND SOUTH TERRELL STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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 PD, 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 MH, Manufactured Home Dwelling District, in part, and 1F-3, One-Family Dwelling District, in part, and it shall be used as a PD, Planned District for a Housing Development, subject to the special conditions and restrictions hereinafter set out, said property being described as follows:

Lot 1A, Block 5, and Lots 2A-5A and 7A, Block 4, Bizzell-Kiser, Section 5, and Lot 6B, Block 4, Bizzell-Kiser, Section 6, and a 0.45-acre portion of Tract 4, Bizzell-Kiser, and Lots 10A-16A, Block 7, Bizzell-Kiser, Section 5, and a 0.145-acre portion of Tract 7, Bizzell-Kiser, and all of Block 3, Bizzell-Kiser, Sections 4 and 5, and Lots 1A, 10A-12A, Block 4, Bizzell-Kiser, Section 5, and Lots 8B and 9B, Block 4, Bizzell-Kiser, Section 6, and Lot 2A, Block 5, Bizzell-Kiser, Section 5, and Lots 1A-3A, 5A-9A, 12A-22A, Block 6, Bizzell-Kiser, Section 5, and Lots 10A and 11A, Block 6, Bizzell-Kiser, Section 4, and a 0.166-acre portion of Tract 6, Bizzell-Kiser, and Lots 1A and 2A, Block 7, Bizzell-Kiser, Section 4, and Lots 3A-9A, Block 7, Bizzell-Kiser, Section 5, and a 0.656-acre portion of Tract 7, Bizzell-Kiser, and Lots 1A-4A, Block 9, Bizzell-Kiser, Section 4, and a 0.45-acre portion of Tract 9, Bizzell-Kiser, and all of Block 10, Bizzell-Kiser, Section 4, and Lots 1A-7A, Block 11, Bizzell-Kiser, Section 4, and Lot 8A, Block 11, Bizzell-Kiser, Section 5, and a 0.87-acre portion of Tract 11, Bizzell-Kiser, and all of Block 12, Bizzell-Kiser, Section 4, and Lots 1A-21A, Block 13, Bizzell-Kiser, Section 7, and Lots 22B and 23B, Block 13, Bizzell-Kiser, Section 8, and Lots 1A-18A, Block 14, Bizzell-Kiser, Section 4, and a 0.18-acre portion of Tract 14, Bizzell-Kiser, and Blocks 45 and 46, Belmont Addition, and all adjacent and previously vacated rights-of-way, 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 said property shall be subject to the following special conditions and restrictions:

1. That this planned district shall be subject to the regulations of the 1F-3 District, except as stated below.
2. That a single manufactured home may be installed on any lot throughout the planned district with the provision that the lot is platted and conforms to City of Midland Zoning Code required dimensions, including a minimum 50-foot lot width; in addition:
 - a. Setbacks shall be a minimum of 20 feet for the front yard, 5 feet for the side yard, and 10 feet for the rear yard. The corner lot side yard setback on the street side shall be a minimum of 10 feet;
 - b. One manufactured home per lot is allowed with individual water and sewer connection;
 - c. Building permits are required prior to installation and inspections prior to occupancy;
 - d. Building permits are required for any modifications on or about the manufactured home, covered porches, etc.;
 - e. No structural modifications may be made to the manufactured home (i.e., partitioning a manufactured home into separate dwelling units, creation of separate entrances, etc., for the purpose of creating more than a single dwelling unit on one platted lot);
 - f. The manufactured home shall be no more than ten (10) years old at the time of placement on a lot, unless approval is granted prior to placement by the City Manager or his designee. Approval criteria shall be based on the manufactured home’s appearance and structural integrity;
 - g. The manufactured home shall have a pitched roof, shingled or standing seam metal roof;
 - h. Skirting of the manufactured home shall be brick, stone, or siding that matches the manufactured home;
 - i. Entrance landing and steps shall be made to appear to be integral to the manufactured home;
 - j. All lots must have a minimum of two paved/concrete parking spaces, 400 square feet minimum, accessible from the street (no vehicular access allowed from the alley), and a parking pad to be installed in conjunction with the manufactured home installation;
 - k. Driveway approaches shall be asphalt pavement or caliche, or as

approved by City of Midland Engineering Services Department; and

1. No travel trailer/RV shall be allowed on any lot.
3. Until the City of Midland improves all streets, curbs, gutters, and sidewalks, paved approach improvements may be deferred.
4. Dedication of right-of-way may be required on some streets not deemed to have adequate road width.
5. That City of Midland Ordinance Nos. 8762 and 8767 are amended by this ordinance.

SECTION THREE. That the definitions given in the zoning regulations contained in the City Code of the City of Midland, Texas, shall be applicable to such of those terms as are used herein.

SECTION FOUR. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FIVE. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Council of the City of Midland hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this ordinance shall be in accordance with the general penalty provisions contained in Section 1-3-1 of the City Code of Midland, Texas, which provides for a fine not exceeding two thousand dollars (\$2,000.00).

SECTION SEVEN. The City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the ____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting “AYE”:

Council members voting “NAY”:

PASSED AND APPROVED THIS ____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

For a 57.84 acre tract for re-zoning located in Section 2, Block 39, T-2-S, T & P RR Co. Survey, Midland County, Texas and being Blocks 45 and 46 of Belmont Addition and Tracts 3 thru 7 and Tracts 9 thru 14 of Bizzell-Kiser Addition as recorded in Vol. 88, Pg. 512 of the Midland County Deed Records and being more fully described as follows;

Beginning at a point at the centerline intersection of Main Street and Stokes Ave. in the City of Midland, Texas and having a coordinate of $X = 1,757,707.08$ ft., $Y = 10,687,678.51$ ft. a $\frac{1}{2}$ " diameter iron rod found the northeast corner of said Block 45 bears $N 84^{\circ} 09' 10'' E$ a distance of 207.19 ft.

Thence $N 75^{\circ} 49' 39'' E$ along the centerline of said Stokes Ave. a distance of 220.01 ft. to a point in Baird Street at the southeast corner of Tract C of Annexation Ordinance dated Dec. 23, 1952,

Thence $N 14^{\circ} 10' 05'' W$ along Baird Street and the east line of said Tract C a distance of 386.75 ft. to a point in Gist Ave.,

Thence $N 75^{\circ} 45' 49'' E$ along Gist Ave. a distance of 1434.43 ft. to a point in the west line of Terrell Street,

Thence $S 15^{\circ} 05' 17'' E$ along the west line of Terrell Street a distance of 1499.85 ft. to a point for the centerline of Longview Ave.,

Thence $S 75^{\circ} 46' 09'' W$ along the centerline of said Longview Ave. a distance of 730.89 ft. to a nail spike found for the centerline intersection of Longview Ave. and Fort Worth Street,

Thence $S 14^{\circ} 41' 26'' E$ along the centerline of said Fort Worth Street a distance of 297.27 ft. to a point in same,

Thence $S 75^{\circ} 45' 55'' W$ along the south line of Bizzell-Kiser Addition a distance of 694.39 ft. to a point in the east line of Baird Street,

Thence $N 14^{\circ} 10' 05'' W$ along the east line of said Baird Street a distance of 690.00 ft. to a point in same,

Thence $S 75^{\circ} 50' 05'' W$ crossing said Baird Street and continuing along the south line of said Block 46 in all a distance of 256.14 ft. to the southwest corner of said Block 46,

Thence $N 14^{\circ} 09' 10'' W$ along the said west line of Block 46 crossing Wolcott Ave. and continuing with the west line of said Block 45 in all a distance of 720.04 ft. to the place of beginning and containing 57.84 acres.

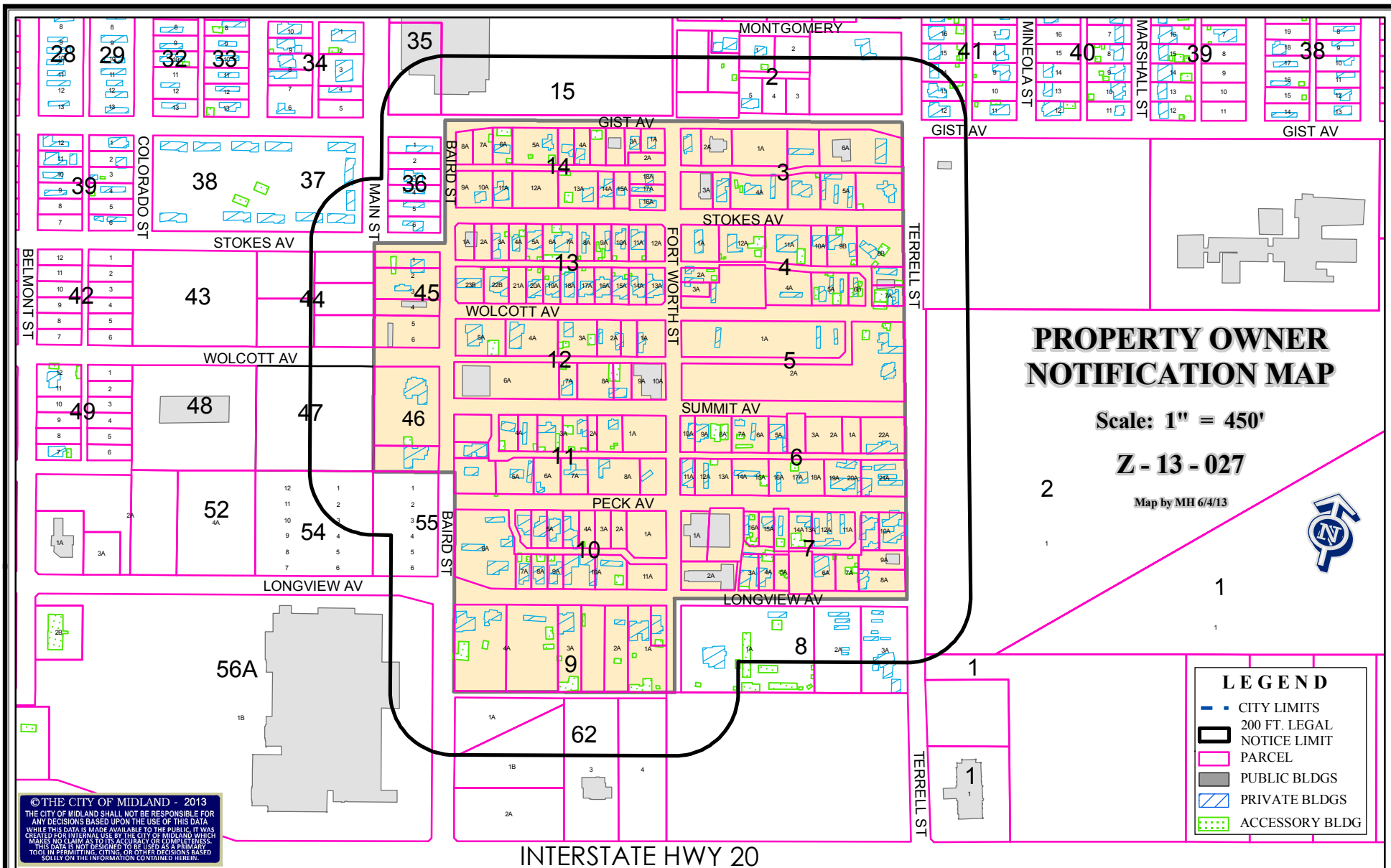
Bearings, distances and coordinates are based on the Texas State Coordinate System, Central Zone, NAD 83.

This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

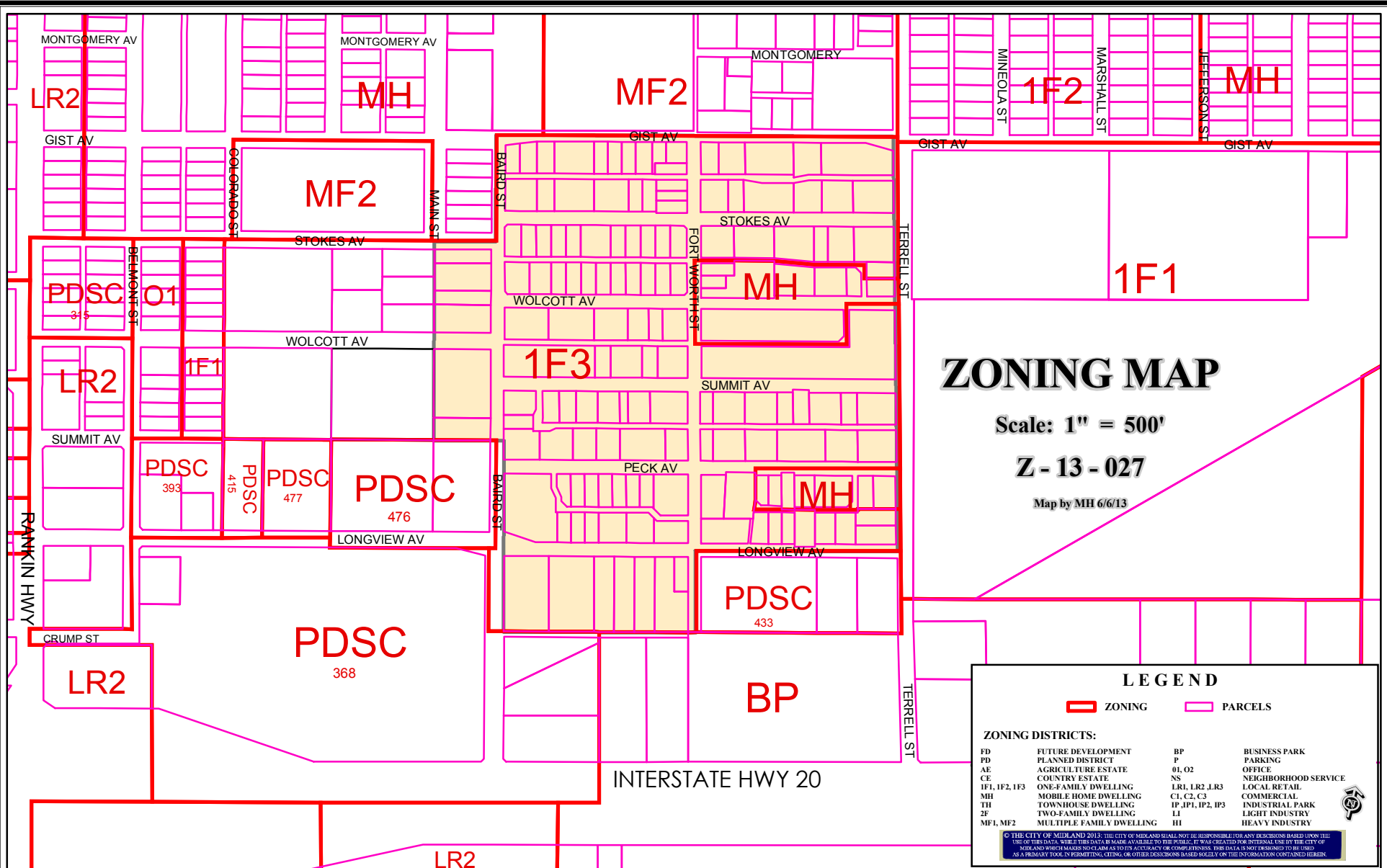


Richard A. Shelton 6-5-13
 Richard A. Shelton, RPLS 4356
 City of Midland, Texas
 432-685-7290

CASE NO. 2-13-027



Consider a City-Initiated proposal for a zone change from MH, Manufactured Home District on Lot 1A, Blk 5, and Lots 2A - 5A, & 7A, Blk 4, Bizzell-Kiser, Sec. 5; Lot 6B, Blk 4, Bizzell-Kiser, Sec. 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; from MH, Manufactured Home District on Lots 10A - 16A, Blk 7, Bizzell-Kiser, Sec. 5, a 0.145-acre portion of Tract 7, Bizzell-Kiser; and from 1F-3, One-Family Dwelling District on all of Block 3, Bizzell-Kiser; Sections 4 & 5; Lots 1A, 10A - 12A, Blk 4, Bizzell-Kiser, Sec. 5; Lots 8B & 9B, Blk 4, Bizzell-Kiser, Sec. 6; Lot 2A, Blk 5, Bizzell-Kiser, Sec. 5; Lots 1A - 3A, 5A - 9A, 12A - 22A, Blk 6, Bizzell-Kiser, Sec. 5; Lots 10A & 11A, Blk 6, Bizzell-Kiser, Sec. 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Blk 7, Bizzell-Kiser, Sec. 4; Lots 3A - 9A, Blk 7, Bizzell-Kiser, Sec. 5; 0.656-acre portions of Tract 7, Bizzell-Kiser; Lots 1A - 4A, Blk 9, Bizzell-Kiser, Sec. 4; a 0.45-acre portion of Tract 9, Bizzell-Kiser; all of Blk 10, Bizzell-Kiser, Sec. 4; Lots 1A - 7A, Blk 11, Bizzell-Kiser, Sec. 4; Lot 8A, Blk 11, Bizzell-Kiser, Sec. 5; a 0.87-acre portion of Tract 11, Bizzell-Kiser; all of Blk 12, Bizzell-Kiser, Sec. 4; Lots 1A - 21A, Blk 13, Bizzell-Kiser, Sec. 7; Lots 22B & 23B, Blk 13, Bizzell-Kiser, Sec. 8; Lots 1A - 18A, Blk 14, Bizzell-Kiser, Sec. 4; a 0.18-acre portion of Tract 14, Bizzell-Kiser; and on Blocks 45 & 46, Belmont Addition; and all adjacent and previously vacated rights-of-way, to PD, Planned District for Housing Development, City and County of Midland, Texas.



Consider a City-Initiated proposal for a zone change from MH, Manufactured Home District on Lot 1A, Blk 5, and Lots 2A - 5A, & 7A, Blk 4, Bizzell-Kiser, Sec. 5; Lot 6B, Blk 4, Bizzell-Kiser, Sec. 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; from MH, Manufactured Home District on Lots 10A - 16A, Blk 7, Bizzell-Kiser, Sec. 5, a 0.145-acre portion of Tract 7, Bizzell-Kiser; and from 1F-3, One-Family Dwelling District on all of Block 3, Bizzell-Kiser; Sections 4 & 5; Lots 1A, 10A - 12A, Blk 4, Bizzell-Kiser, Sec. 5; Lots 8B & 9B, Blk 4, Bizzell-Kiser, Sec. 6; Lot 2A, Blk 5, Bizzell-Kiser, Sec. 5; Lots 1A - 3A, 5A - 9A, 12A - 22A, Blk 6, Bizzell-Kiser, Sec. 5; Lots 10A & 11A, Blk 6, Bizzell-Kiser, Sec. 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Blk 7, Bizzell-Kiser, Sec. 4; Lots 3A - 9A, Blk 7, Bizzell-Kiser, Sec. 5; 0.656-acre portions of Tract 7, Bizzell-Kiser; Lots 1A - 4A, Blk 9, Bizzell-Kiser, Sec. 4; a 0.45-acre portion of Tract 9, Bizzell-Kiser; all of Blk 10, Bizzell-Kiser, Sec. 4; Lots 1A - 7A, Blk 11, Bizzell-Kiser, Sec. 4; Lot 8A, Blk 11, Bizzell-Kiser, Sec. 5; a 0.87-acre portion of Tract 11, Bizzell-Kiser; all of Blk 12, Bizzell-Kiser, Sec. 4; Lots 1A - 21A, Blk 13, Bizzell-Kiser, Sec. 7; Lots 22B & 23B, Blk 13, Bizzell-Kiser, Sec. 8; Lots 1A - 18A, Blk 14, Bizzell-Kiser, Sec. 4; a 0.18-acre portion of Tract 14, Bizzell-Kiser; and on Blocks 45 & 46, Belmont Addition; and all adjacent and previously vacated rights-of-way, to PD, Planned District for Housing Development, City and County of Midland, Texas.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Hold a public hearing at approximately 11:06 a.m. and consider a resolution on a request by MISD for a Temporary Land Use Permit for School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of S. Lamesa Road and E. Gist Avenue. - District 2)

Purpose:

Hold a public hearing at approximately 11:06 a.m. and consider a resolution on a request by MISD for a Temporary Land Use Permit for School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of S. Lamesa Road and E. Gist Avenue.)

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

No City funds are required to approve this request.

Discussion:

Midland has an urgent need on two fronts due to the rapid success of our growing economy. The housing need is widely recognized as our low unemployment draws new people to our area. The second great need is for teachers to educate a rapidly growing population that has already exceeded the projections for 2025 for our most recent comprehensive plan. Recognizing the critical need to house nearly a hundred new teachers, MISD Superintendent, Ryder Warren, enlisted support from several local entities to identify potential housing solutions. Among these were City of Midland staff and local engineering firm. In evaluating the timeline constraints and the school owned properties, the City's Planning Staff and Parkhill Smith & Cooper had identified the same location through independent studies. The site (Exhibit – A) is located at the southwest corner of the intersection of S. Lamesa Road and E. Gist Ave. As shown it is currently setup for 70

manufactured homes on what is a 38.5-acre site owned by the school district. Homes will be attached to and served with city water and sewer services that are adjacent to this platted lot. It is requested at this time that a Temporary Land Use Permit is granted to MISD so that the estimated 100 new teachers required for the 2013-2014 school year will have available housing. City Staff recognizes that the current housing situation affects many who are here in Midland as well as our own staffing needs at times. However, given the short time constraints and that MISD typically markets to a wide audience for new teachers who would have difficulty securing housing in such a short time at market rates, we recommend approval of this Temporary Land Use Permit for one year, provided the School Faculty Housing is limited to MISD efforts to attract and retain school teachers.

Attachments: Application, Maps, Proposed Resolution, Site Plan – Exhibit A

RESOLUTION NO.

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR SCHOOL FACULTY HOUSING ON LOT 1, BLOCK 2, PARKWAY SOUTH ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH LAMESA ROAD AND EAST GIST AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

WHEREAS, pursuant to Section 11-1-6(D) of the City Code of Midland, Texas, Midland Independent School District has applied for authorization to temporarily use land for school faculty housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas; and

WHEREAS, the Council finds and determines that such temporary use shall be allowed;

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

SECTION ONE. That Midland Independent School District (“M.I.S.D.”) is hereby authorized by the City Council to have school faculty housing on the following described land:

Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas.

SECTION TWO. That said temporary use shall be allowed within the area designated herein, subject to the following conditions and restrictions:

- A. That the arrangement of the faculty housing shall be generally in conformance with the layout as shown on the site plan which is attached hereto and incorporated herein as Exhibit “A”.
- B. That the paving and turning radii provided for navigation through this temporary land use must also meet standards for emergency vehicles.
- C. That this temporary land use is designed to address the shortage in both available housing and teachers for Midland’s increased population and, as such, no school faculty housing shall be subleased in whole or in part (a room or portion of a residence). Any such sublease shall be considered a violation of this temporary land use.

- D. That M.I.S.D. shall be responsible for assuring compliance with Condition C above. Options for noncompliance may include removal of the nonconforming dwelling up to revoking the temporary land use.
- E. That the period of operation shall be for one year which shall commence upon receipt of the first certificate of occupancy issued by the City of Midland Building Official.
- F. That all residential structures shall be required to meet building and fire codes.
- G. That M.I.S.D. shall be responsible for assuring that this property maintains a clean and clutter-free appearance.
- H. That no vehicles shall be parked in undesignated parking areas, with each unit to have at minimum two off-street parking spaces.
- I. That no resident or guest vehicles shall interfere with the operations of Travis Elementary School.
- J. That any provisions made for trash dumpsters are screened.
- K. That upon vacating the property with the school faculty housing, the property shall not be left with any trash or construction debris.
- L. That if not further utilized, any access drives or curb cuts that allow entry to the site shall be removed to the property line and the curbing replaced. If an access remains to the site from the Travis School lot for this unused road, it shall be similarly blocked or fenced to prevent potential dumping.
- M. That Ryder Warren, as Superintendent of M.I.S.D., shall be responsible for ensuring that the conditions of this permit are observed.

SECTION THREE. The City Council reserves at all times the full right and power to revoke said temporary use for violation of any of its terms or any misrepresentations contained in the application, after a hearing of which the holder of said temporary use has been given at least one (1) day notice.

On motion of Council member _____, seconded by Council member _____, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the _____ day of _____, A.D., 2013, 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:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

- Legend**
- TRRC Pipelines
 - EASEMENT PROPOSED
 - EXISTING INT-CONTOUR
 - EXISTING INT-CONTOUR
 - Existing Easements
 - PROPOSED WATER
 - PROPOSED SEWER
 - PROPOSED TRAILERS
 - PROPOSED FENCE
 - Proposed Edge of Pavement
 - Proposed Centerline
 - Potential Bus Lane
 - Existing Parcels
 - LANDSCAPE
 - TRAILERS PROPOSED
 - Paving

TRAVIS
ELEMENTARY
SCHOOL

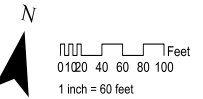
GIST

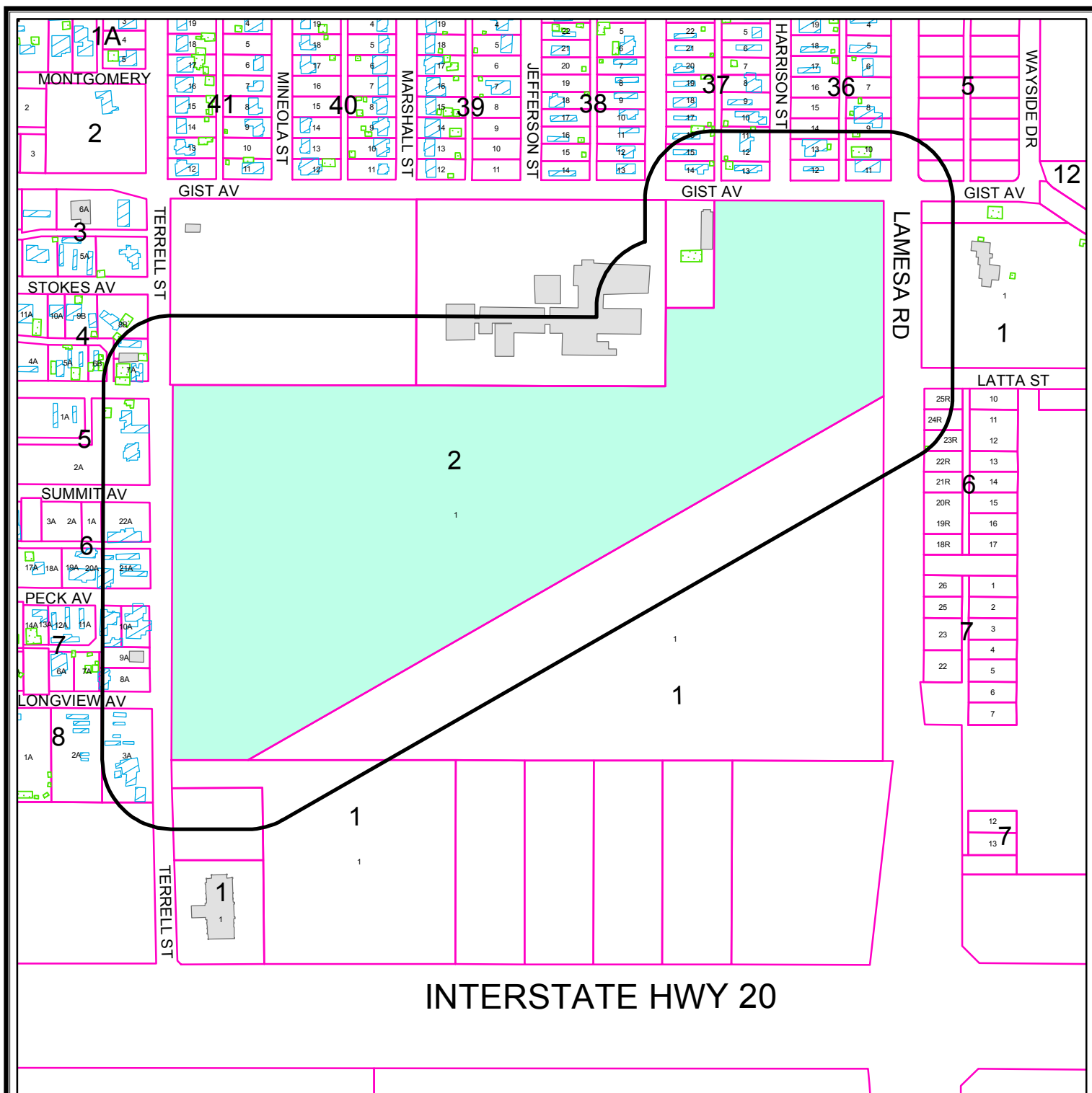
POTENTIAL
30' BUS LANE

MISD
TEMPORARY HOUSING
**TEMPORARY USE PERMIT
EXHIBIT A**

LAMESA

LATTA





PROPERTY OWNER NOTIFICATION MAP

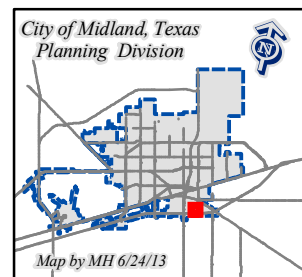
M - 13 - 016

Scale: 1" = 400'

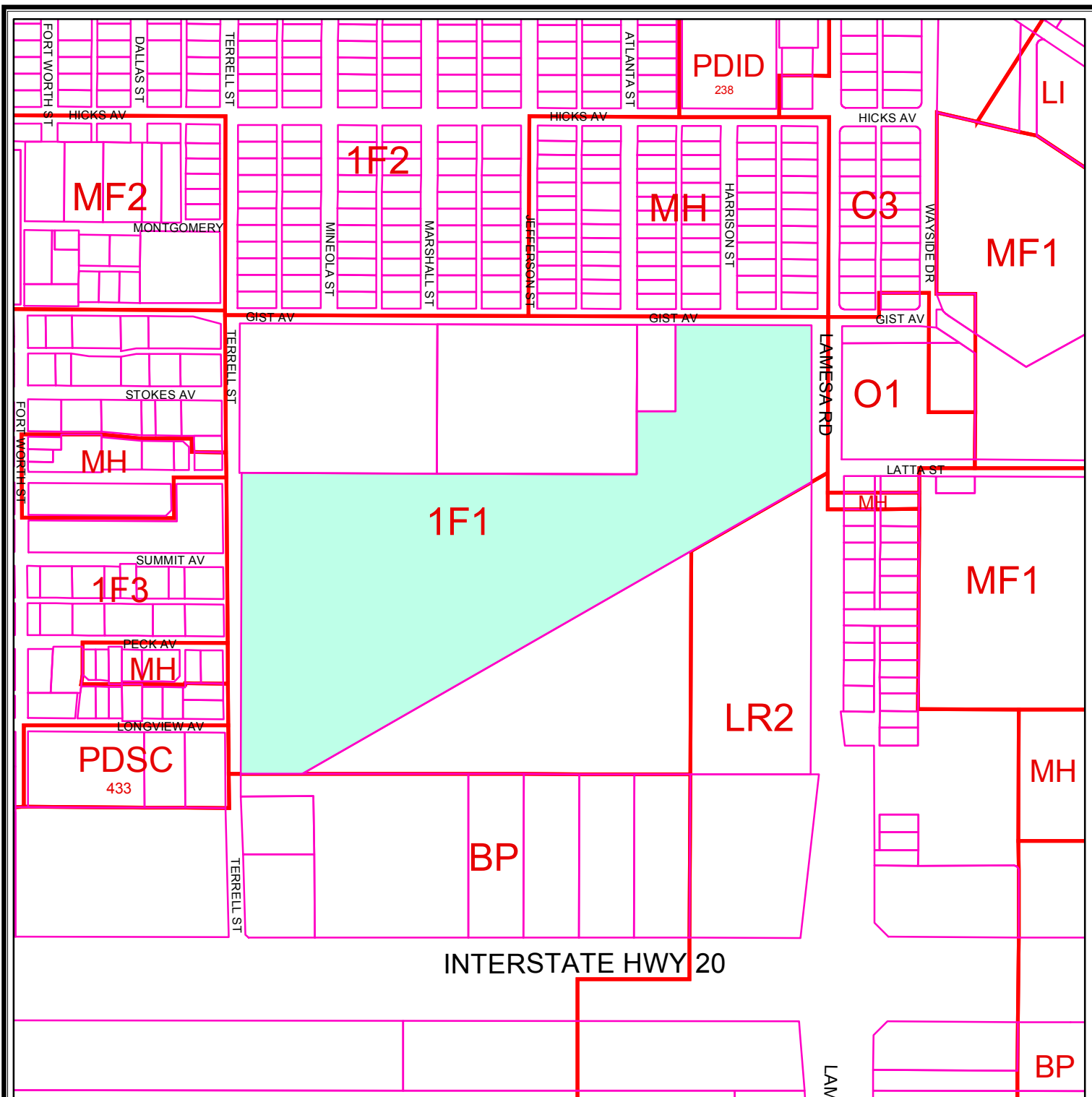
Consider a request for a Temporary Land Use Permit for a School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas.

LEGEND

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



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ZONING MAP

M - 13 - 016

Scale: 1" = 500'

Consider a request for a Temporary Land Use Permit for a School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas.

LEGEND

ZONING PARCELS

ZONING DISTRICTS:

FD	FUTURE DEVELOPMENT	BP	BUSINESS PARK
PD	PLANNED DISTRICT	P	PARKING
AE	AGRICULTURE ESTATE	O1, O2	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 of Midland
Office Memorandum

DATE: 7/9/2013

TO: The Honorable Mayor and City Council Members

FROM: Amy Turner, City Secretary

SUBJECT: Consider an Ordinance amending the Fiscal Year 2012-2013 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$50,000.

The Sports and Entertainment Association of Midland (SEAM) has requested additional funds to promote tourism in Midland. SEAM is a subgranting board under the direction of the Midland Chamber of Commerce and they oversee the subgranting of sports and entertainment requests for use of Hotel/Motel tax funds.

During the FY 2012-2013 budget process, the City Council approved funding for SEAM in the amount of \$210,000. The previous four years the group had been allocated \$135,000 but in FY 2010-11 and FY 2011-12 the group requested and was allocated an additional \$95,000 due to an increase of qualified applications for funding.

SEAM anticipates additional requests this fiscal year totaling an additional \$38,000. Any monies not spent by SEAM will go back to Hotel/Motel Fund at the end of the fiscal year.

Fiscal Impact:

Appropriate \$50,000 from the Hotel / Motel Fund (090) Unappropriated Fund Balance (5650) to Hotel / Motel Fund (090) Administration (005) Hotel / Motel (0690) CVB – Chamber of Commerce (6180) budget account.

ORDINANCE NO.

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2012-2013 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

WHEREAS, the City Council approved funding for the Sports and Entertainment Association of Midland (SEAM) during FY 2012-2013 budget process in the amount of \$210,000.00, and due to more organizations becoming aware of SEAM and how they can assist, SEAM has seen an increase in qualified applicants for funding, and anticipates additional requests this fiscal year totaling an additional \$50,000.00; and

WHEREAS, the additional funding provided which is not spent by SEAM, will revert back to the Hotel/Motel Fund at the end of this fiscal year; and

WHEREAS, the Council finds it to be in the public interest to amend the official municipal budget Fiscal Year 2012-2013 in order to provide additional funding to SEAM necessary to meet unforeseen conditions which could not by reasonably diligent thought and attention have been included in the original budget for the 2012-2013 fiscal year;

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

SECTION ONE. That in accordance with Texas Local Government Code Section 102.009, the official municipal budget for the fiscal year 2012-2013 as approved by Ordinance 9052 is hereby amended by appropriating \$50,000.00 from the Hotel/Motel (090) Unappropriated Fund Balance (5650) to Hotel/Motel Fund (090) Administration (005) Hotel/Motel (0690) CVB-Chamber of Commerce (6180) budget account.

SECTION TWO. That the City Treasurer is hereby authorized and directed to pay Project expenses out of funds available in said budget account upon receipt of proper invoice or statement therefor approved by the City Manager.

The above and foregoing ordinance was duly proposed, read in full and adopted on first reading, the _____ day of _____, A.D., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

Amy M. Turner, City Secretary

APPROVED AS TO FORM:

Keith Stretcher, City Attorney



June 12, 2013

City of Midland
City Secretary's Office
300 N. Lorraine
Midland, Texas 79701

Dear Ms. Turner;

The Midland Chamber's Convention & Visitors Bureau's Sports and Entertainment Association of Midland (SEAM) is requesting additional funding from the Hotel/Motel Tax Fund to continue working with grant applicants for the remainder of fiscal year 2012-2013. With the criterion that has been put in place, this Board has allocated all the available funds that were received for this fiscal year. A projected amount of \$38,000 in additional grants are anticipated before the end of this fiscal year. SEAM would like to request \$50,000.00 from the Hotel/Motel Tax Fund.

In October 2012, the City Council allocated SEAM \$210,000.00 to work with event right holders to enhance their events and for some, provide additional funds for hotel assistance and help offset the cost of Midland's rising hotel rates. Attached you will find detailed information on how this funding has been disbursed (Attachment A).

The criterion that the SEAM Board uses is as follows:

Number of Overnight visitors x number of nights of event x \$175 = DVS

If you have day visitors (sports) add the previous & the following sums together.

Day visitors x number of days of event x \$40 = DVS

Total DVS: DVS day + DVS overnight = Total DVS*

**One person cannot be counted as day & night, only one or the other.*

ONV x N x 175 = DVS night

DV x N x 40 = DVS day



The procedures that have been in place for grant applications are as follows:

- Request for Grant Application received from Event Right Holders
- Meeting with CVB staff if requested by event right holder to go through process
- Grant Application received and reviewed by CVB staff to research history of the event and create a snap shot of event prior to SEAM Board review
- SEAM Board reviews and either approves or denies, based on Hotel/Motel Tax Laws set by the State of Texas
- Post Event Report is filed within 45 days of closure of event and reviewed by CVB staff
- SEAM Board reviews Post Event Reports and either approves or denies payment

SEAM has worked diligently to be good stewards of the Hotel/Motel Tax money which the City Council has entrusted to this organization with since 2004, and looks forward to closing 2012-2013 with great success. As the information regarding availability of grant money continues to reach into the sports and entertainment community, we feel our efforts will continue to be of great value for Midland.

Thank you for your consideration of the additional funding to the Sports and Entertainment Association of Midland. If there are any questions, please feel free to contact me.

Sincerely,

Robt. E. Burns
President & CEO
Midland Chamber of Commerce
109 N. Main Street
Midland, Texas 79701
(432)683-3381

Enclosed: Attachment A

Attachement A

SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND

Draft Financials as of May 21, 2013

Grant Approval	Funding Approval	Grant	Amount Requested Previous FY	Hotel Ass. Requested	Amount Requested	Amount Granted (-)	Balance
10/01/12	10/01/12	Beginning Balance					\$ 210,000.00
08/21/12	11/13/12	Mixed Martial Arts Tournament	N/A	\$ -	\$ 3,000.00	\$ 1,252.00	\$ 208,748.00
09/11/12	12/10/12	UIL Football Playoffs	N/A	\$ 12,500.00	\$ 10,000.00	\$ 22,500.00	\$ 186,248.00
09/11/12	11/13/12	TAM National Regional Tennis Tournament	\$ 1,500.00	\$ -	\$ 4,000.00	\$ 4,000.00	\$ 182,248.00
09/11/12	11/13/12	TAM Major Zone Tennis Tournament	\$ 500.00	\$ -	\$ 3,000.00	\$ 3,000.00	\$ 179,248.00
09/11/12	01/15/12	Midland College Fall Sports Tournaments	N/A	\$ -	\$ 12,000.00	\$ 12,000.00	\$ 167,248.00
09/11/12	12/10/12	UIL Trophies	\$ 10,000.00	\$ -	\$ 10,000.00	\$ 10,000.00	\$ 157,248.00
10/16/12	12/10/12	PAFRA	\$ 3,000.00	\$ 4,000.00	\$ 7,000.00	\$ 11,000.00	\$ 146,248.00
10/16/12	02/19/13	Midtown Soldiers Boxing Club	N/A	\$ -	\$ 6,000.00	\$ -	\$ 146,248.00
10/16/12	02/19/13	Tall City Oilman's Tournament	\$ 10,000.00	\$ 2,500.00	\$ 5,500.00	\$ 8,000.00	\$ 138,248.00
11/13/12	02/19/13	Byron Johnston Tournament	\$ 11,000.00	\$ 6,000.00	\$ 12,000.00	\$ 18,000.00	\$ 120,248.00
11/13/12	04/16/13	COM Aquatics Winter Invitational	N/A	\$ -	\$ 2,500.00	\$ 2,500.00	\$ 117,748.00
11/13/12	02/19/13	UCR NYE Roping Event	N/A	\$ -	\$ 3,000.00	\$ 625.00	\$ 117,123.00
12/10/12	02/19/13	Tex-Mex Barrel Racing Association	\$ 1,600.00	\$ -	\$ 2,000.00	\$ 1,159.00	\$ 115,964.00
12/10/12	03/19/13	Presidents Cup Soccer Tournament	N/A	\$ 2,000.00	\$ 8,000.00	\$ 10,000.00	\$ 105,964.00
12/10/12	03/13/13	TAM Zone Advancement Tournament	\$ 500.00	\$ -	\$ 1,000.00	\$ 1,000.00	\$ 104,964.00
12/10/12	04/16/13	UIL 5A & 4A Soccer Playoffs	N/A	\$ -	\$ 10,000.00	\$ 10,000.00	\$ 94,964.00
12/10/12	04/16/13	West Texas Kennel Club	\$ 4,000.00	\$ -	\$ 4,000.00	\$ 4,000.00	\$ 90,964.00
01/15/12	04/16/13	LHS & MHS Tournament of Champions	\$ 14,000.00	\$ -	\$ 18,000.00	\$ 18,000.00	\$ 72,964.00
01/15/12	04/16/13	Greenwood HS West Texas Classic	N/A	\$ -	\$ 4,000.00	\$ 4,000.00	\$ 68,964.00
01/15/12	-	Com Aquatics LCS Championship	\$ -	\$ -	\$ 2,000.00	\$ -	\$ 68,964.00
01/15/12	02/19/13	Tall City Relays	\$ 7,500.00	\$ -	\$ 12,000.00	\$ 12,000.00	\$ 56,964.00
02/19/13	-	RockHounds/Sockers Season	N/A	\$ -	\$ 12,000.00	\$ -	\$ 56,964.00
02/19/13	-	Trinity District Tennis Tournament	N/A	\$ -	\$ 1,100.00	\$ 1,100.00	\$ 55,864.00

Attachement A

02/19/13	03/19/13	LHS- MHS Softball - West Texas Classic	\$ 5,000.00	\$ -	\$ 5,000.00	\$ 5,000.00	\$ 50,864.00
02/19/13	-	Midland College JUCO- Softball Spring Classic	\$ 8,500.00	\$ 3,050.00	\$ 8,950.00	\$ -	\$ 50,864.00
02/19/13	-	24/7 MMA Event	N/A	\$ -	\$ 4,000.00	\$ -	\$ 50,864.00
03/19/13		MUGS- Mother's Day Tournament	N/A		\$ 1,500.00	\$ 1,500.00	\$ 49,364.00
03/19/13		MUGS- ASA Dist. 26 Qualifier	N/A		\$ 500.00	\$ 500.00	\$ 48,864.00
03/19/13		COM Aquatics- USA Diving	N/A		\$ 8,000.00	\$ 8,000.00	\$ 40,864.00
03/19/13		RockHounds- An American Celebration (July 4th festivities)	\$ 8,000.00		\$ 12,000.00	\$ 10,000.00	\$ 30,864.00
03/19/13		TAM- Nat'l Open Tennis Tournament	\$ 1,250.00		\$ 2,500.00	\$ 2,500.00	\$ 28,364.00
04/16/203	-	24/7 Entertainment-State of Emergency	N/A		\$ 2,000.00	\$ 1,000.00	\$ 27,364.00
04/16/203		MUGS- 8 Game Guarantee	\$ 8,902.00		\$ 10,000.00	\$ 10,000.00	\$ 17,364.00
04/16/203		RockHounds- Country Concert	\$ 2,000.00		\$ 3,000.00	\$ 3,000.00	\$ 14,364.00
05/21/11		Little League Regional Championship		\$ 13,500.00		\$ 13,500.00	\$ 864.00
05/21/11		Tex-Mex Barrel Racing Association	\$ 2,000.00		\$ 3,000.00		\$ 864.00

**INDICATED THAT THE GRANT DATE AND AMOUNT ARE NOT FINAL AS NO POST EVENT REPORT HAS BEEN SUBMITTED
AND A FINAL GRANT AMOUNT HAS NOT BEEN AWARDED.**



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ron Jenkins, Oil & Gas Compliance Coordinator

SUBJECT: Consider a resolution approving the issuance of a permit to Petroplex Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits, (Western-T 8 #2)* located 1260 feet from the north line and 672 feet from the east line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of the extension of North Midkiff Road, approximately 3/4 mile north of the extension of Green Tree Boulevard.)

Purpose:

To consider a resolution approving the issuance of a permit to Petroplex Energy, Inc. (Operator), *for a Permit to Drill an Oil & Gas Well within the City Limits, (Western-T 8 #2)* located 1260 feet from the north line and 672 feet from the east line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. The required 30-day public comment has passed and the Council may consider this request. No letters of objection 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 of the application with updated tax certificate, updated drainage plan. Petroplex Energy, Inc. has addressed these recommendations and updated the application. The Committee is recommending the requested landscaping and irrigation variance until property changes ownership and at that time be reviewed by City Council. In addition Petroplex Energy is requesting a waiver for a road repair agreement since no city streets will be used.

Attachments: Application; Location map; Exhibit - Drill site map, Exhibit – Flow Line Location.

RESOLUTION NO. _____

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PETROPLEX ENERGY, INC. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,260 FEET FROM THE NORTH LINE AND 672 FEET FROM THE EAST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF THE EXTENSION OF GREEN TREE BOULEVARD); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

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 May 28, 2013; 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 1,260 feet from the north line and 672 feet from the east line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Said permit is attached hereto as Exhibit "A" and incorporated herein for all legal purposes.

SECTION THREE. That the requirement of a Road Repair Agreement between Operator and the City of Midland is hereby waived in regard to said permit.

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., 2013, 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:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

OIL AND GAS WELL PERMIT

The City Council of the City of Midland, Texas, at its regular meeting on July 9, 2013, considered the application of Petroplex Energy, Inc., dated December 31, 2012, 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 Petroplex Energy, Inc., dated December 31, 2012, and filed with the Oil & Gas Compliance Officer and incorporated herein for all legal purposes.

The location of Petroplex Energy, Inc., Western-T 8 #2 oil and gas well shall be 1260 feet from the north line and 672 feet from the east line, Section 8, Block 39, T-1-S, T & P RR Co. 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 Petroplex Energy, Inc., 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 July 9, 2013, through July 9, 2014, 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.

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

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.

A variance granted for landscaping and irrigation to be consistent with the surface owner housing development plan.

A waiver granted for road repair agreement due to no city streets used by operator to access well or tank battery.

This permit shall constitute a written contract for purposes of insurance requirements.

In addition to the requirements of the Midland City Code, Ordinance 8769, and the requirements of this permit, including the General and Specific Conditions incorporated herein, Petroplex Energy, Inc., shall develop, maintain and operate the well described herein in accordance with the conditions, limitations and safeguards contained in Petroplex Energy, Inc., application for said well. Petroplex Energy, Inc., application for said well is incorporated herein by reference for all legal purposes.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, THIS _____ day of July, 2013.

CITY OF MIDLAND, TEXAS

BY: _____

W. Wesley Perry, Mayor

UNDERSTOOD AND AGREE THIS _____ day of July, 2013.

Petroplex Energy, Inc.

By: _____

Don Hale, Director of Special Projects

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: _____
Don Hale, Director of Special Projects

Petroplex Energy, Inc.
110 N. Marienfeld
Midland, Texas 79702
(432) 687-2231

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. Variance granted July 9, 2013.

Landscaping and irrigation is to be consistent with housing development of surface owner.

(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: _____
Don Hale, Director of Special Projects

Petroplex Energy, Inc.
110 N. Marienfeld
Midland, Texas 79702
(432) 687-2222

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Exhibit U:	Hazardous Materials Management Plan
Exhibit V:	Proposed Wellbore Schematic



APPLICATION FOR OIL AND GAS PERMIT

(Pursuant to Midland City Ordinance No. 8769)

I. General Information		
Date 12/31/12	Operator Name (must match W-1) Petroplex Energy, Inc.	Operator Address 110 N. Marienfeld Midland, TX 79702
Representative Name Don Hale	Representative Address (within Midland City Limits) 3011 Garden City Hwy	Rep. Tele. 432-687-2222 Rep. Fax 432-687-2231
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: Don Hale 24/7 Answering Services - No. 1 (Tele.): 432-687-2222 No. 2 (Tele.): 432-687-2231 Option B: Attached as Exhibit A Company Compliance Representative (Name, Address, Local Telephone) (ATTACH STATEMENT AS EXHIBIT A): Emergency Contact Representative (Name, Address, 24-Hour Tele. No.): Jim McCright 432-853-7900 Greg Russell 432-853-5033 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. Petroplex Energy, Inc. P.O. Box 3082, Midland, TX 79702		
2. The Jeffrey Family Trust 14812 W. Ravenswood Drive		
3. Sun City West, AZ 85375		
ATTACHED AS EXHIBIT C is (a Title Opinion by John Collins, 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):		
Ranch/Farm		
ATTACHED AS EXHIBIT D is (a Title Opinion by John Collins, 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: Western-T 8 #2

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:

1260' FNL & 672' FEL, Sec. 8, Blk. 39, T-1-S, T&P RR 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)]. (No City Streets Will Be Used)

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

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

- (1) Drilling: None
- (2) Operations: Sharyland

Description of water source to be used during Drilling: Western-T water wells located in S/2 of Sec. 8, Blk, 39, T-1-S, T&P RR Survey

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

Overhead electric lines

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)].

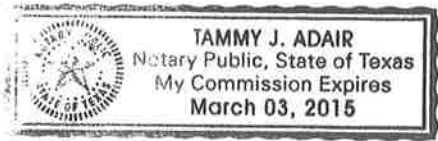
ATTACHED AS EXHIBIT U is Applicant's Hazardous Materials Management Plan, a copy of which has been submitted and is on file with the Midland Fire Department. [See § J(23)].

Petroplex Energy, Inc.
[NAME OF COMPANY]

By *Don Hale*
Its General Manager, Operations

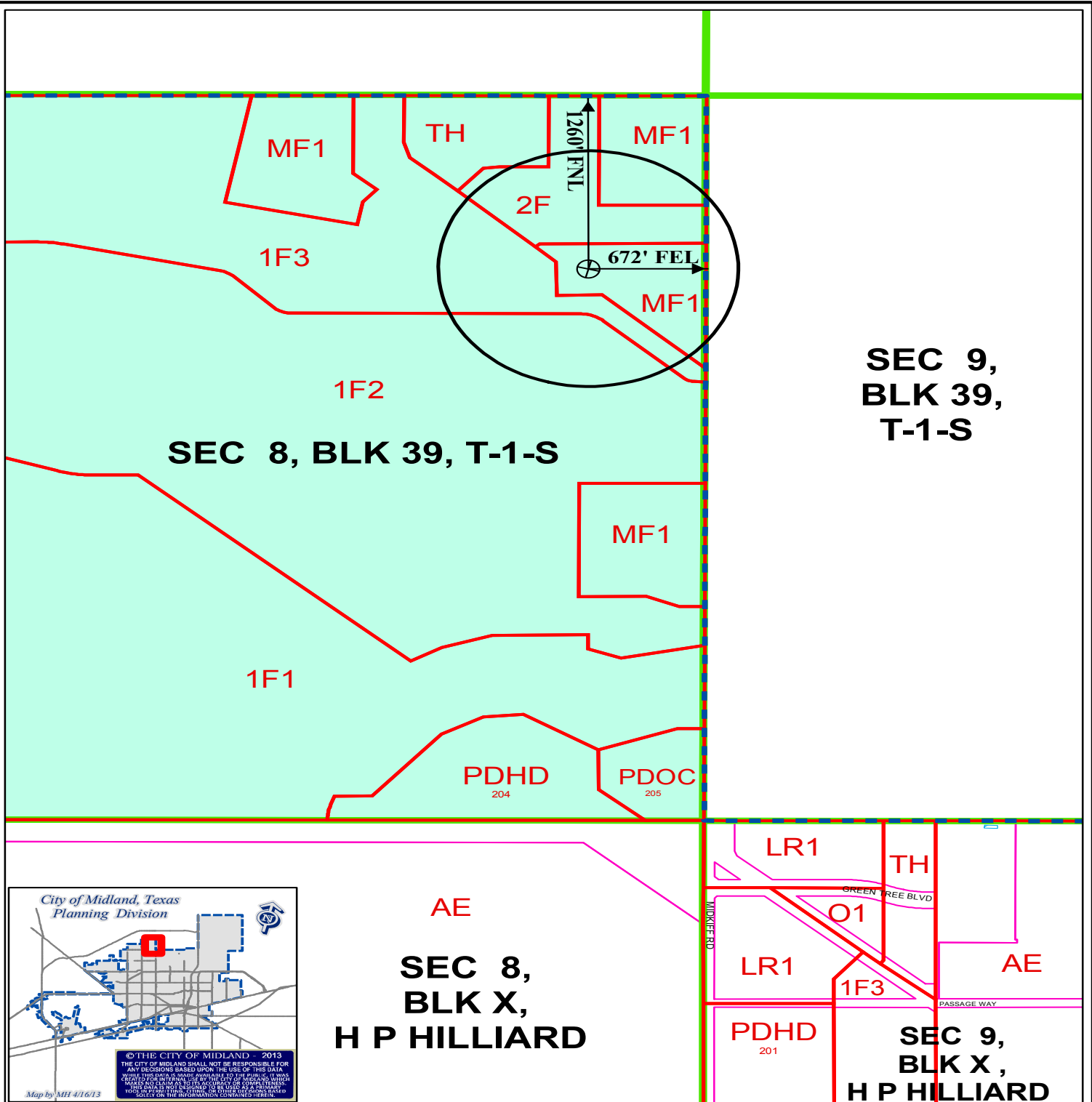
County of Midland) State of Texas)

Don Hale, 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.



Tammy J. Adair
Notary Public, State of Texas

[SEAL]



LOCATION AND ZONING MAP

O - 13 - 003

Scale: 1" = 800'

Consider a request for a Permit to drill an Oil and Gas Well within the City Limits located 1260' FNL and 672' FEL, Section 8, Block 39, T-1-S, T & P RR Co. Survey, Midland County, Texas.

Western-T 8 #2

LEGEND

	CITY PARCELS		PUBLIC BLDGS		CITY LIMITS
	COUNTY PARCELS		PRIVATE BLDGS		860 FT. BUFFER
	ZONING		ACCESSORY BLDGS		SURVEY SEC.

ZONING DISTRICTS:

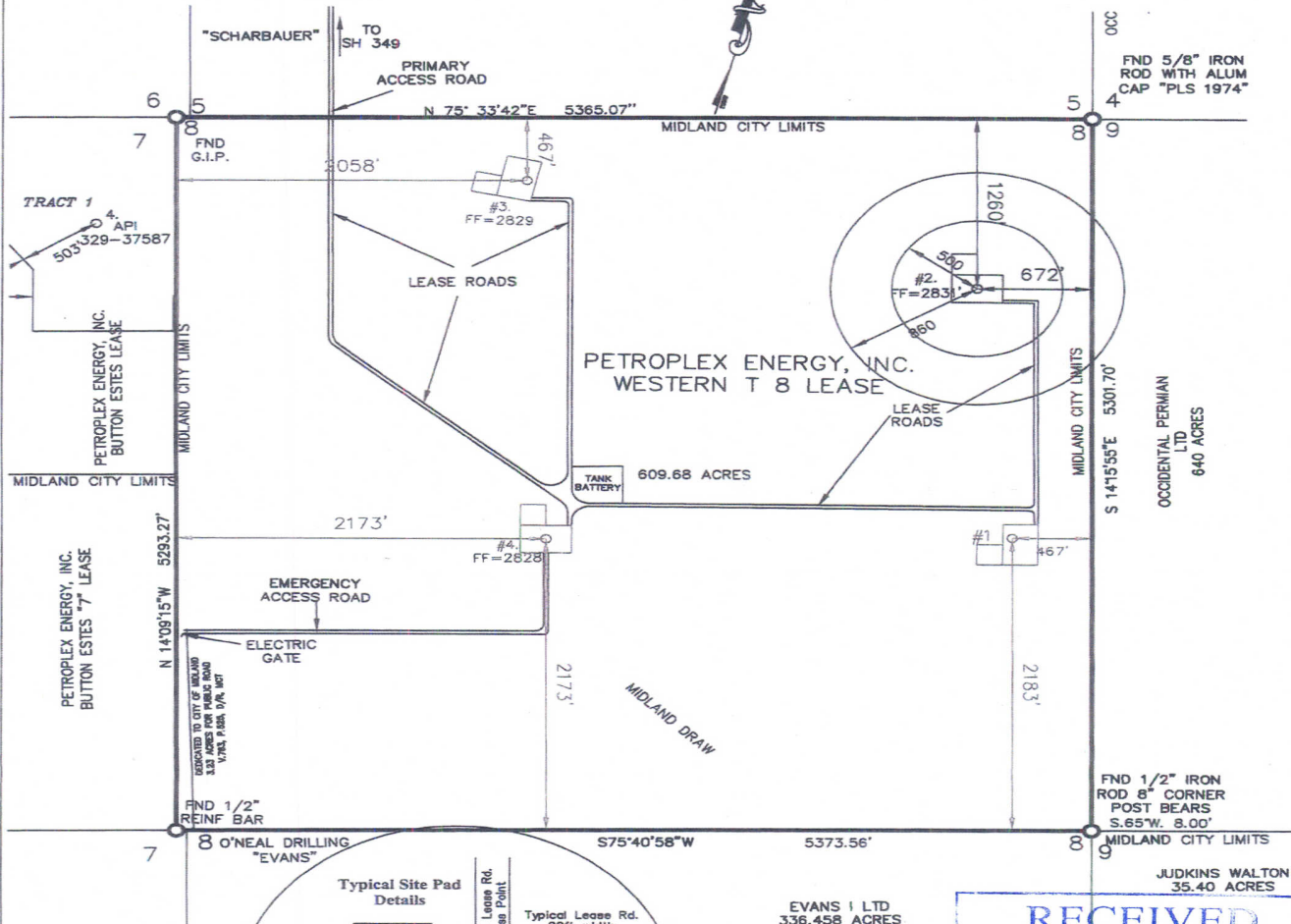
FD
PD
AE
1F1, 1F2, 1F3
MH
TH
2F
MF1, MF2

FUTURE DEVELOPMENT
PLANNED DISTRICT
AGRICULTURE ESTATE
ONE-FAMILY DWELLING
MOBILE HOME DWELLING
TOWNHOUSE DWELLING
TWO-FAMILY DWELLING
MULTIPLE FAMILY DWELLING

BP
P
01, 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

EXHIBIT "G"



MAY - 6 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

WELLS NO. 1,2,3,&4 ARE LOCATED APPROXIMATELY 6.0 MILES IN A NW DIRECTION FROM MIDLAND, TEXAS WHICH IS THE NEAREST TOWN IN THE COUNTY

SITE PLAN

PETROPLEX ENERGY, INC.
WELL #2
WESTERN T8 LEASE

WELL NO. 2 [1260ft/NL, 672 ft/EL]

SECTION 8, ABSTRACT 719,
BLOCK 39, T-1-S, T&P RR CO SURVEY,
MIDLAND COUNTY, TEXAS

QUAD: NORTHWEST MIDLAND
SCALE: 1" = 800'

PROJECT: 73423PEI
JOB NO: 73.423

NOTES:

COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

THE UNDERSIGNED DOES HEREBY CERTIFY
THAT THIS LOCATION WAS THIS DAY MADE
ON THE GROUND BY ME OR UNDER MY
SUPERVISION AND THAT THIS PLAT IS A
CORRECT REPRESENTATION THEREOF.

DATED THIS 9th DAY OF April, 2013

RJ DAUM
TEXAS RPLS 4826

revised lease name 10-25-2012

SCHUMANN ENGINEERING CO., INC.

REGISTERED PROFESSIONAL LAND SURVEYORS
LICENSED STATE LAND SURVEYORS

REGISTERED PROFESSIONAL CIVIL ENGINEERS
TEXAS and NEW MEXICO

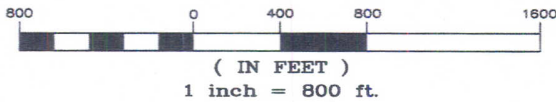
Civil Engineering ~ Land Surveying

408 N. PECOS STREET - P. O. BOX 504
MIDLAND, TEXAS 79702-0504

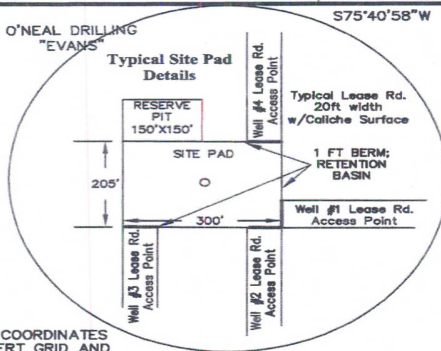
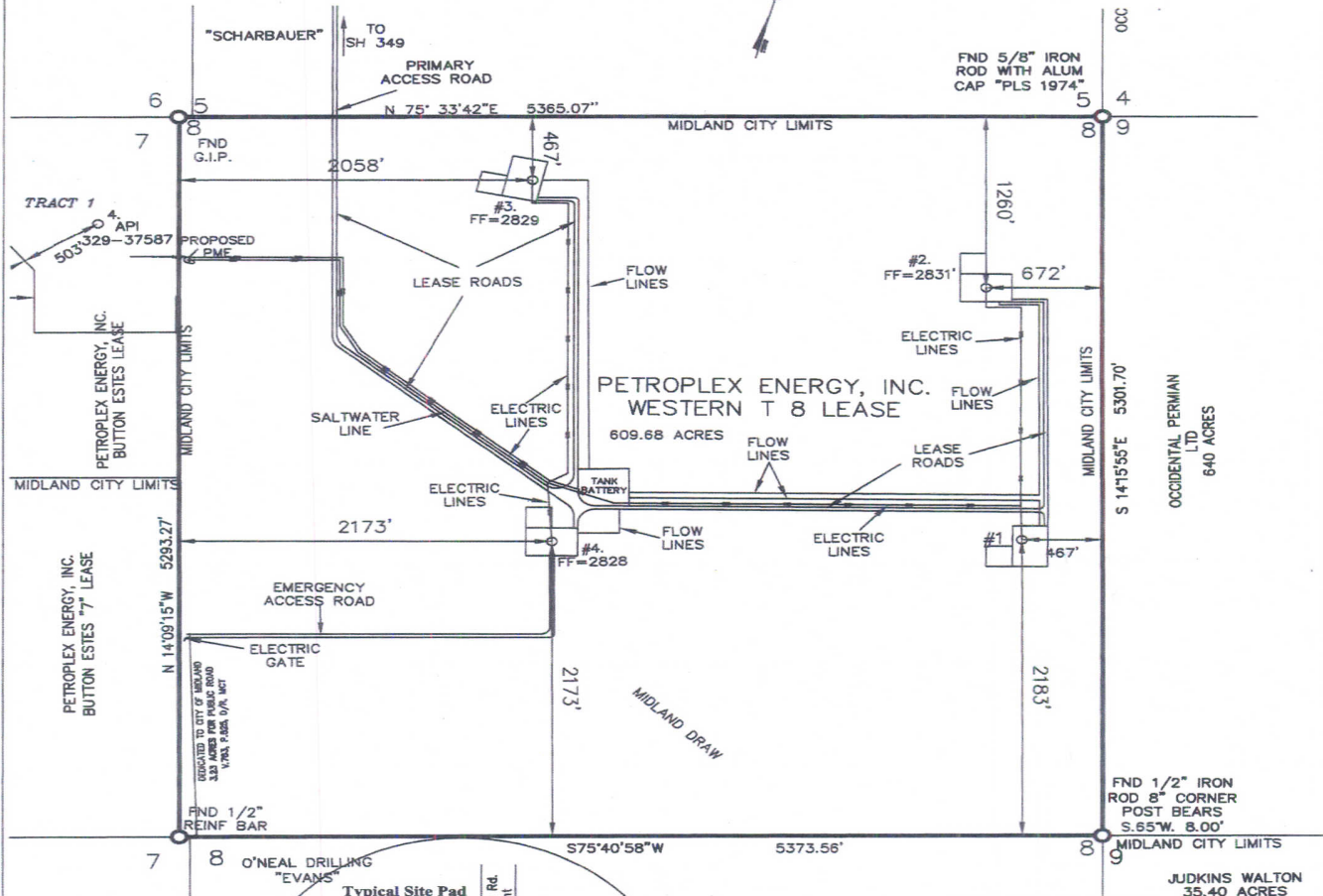
Office (432) 684-5548
Fax (432) 684-6973



GRAPHIC SCALE



ATTACHMENT "N-4"



NOTES:

COURSES, DISTANCES AND COORDINATES SHOWN HEREON ARE LAMBERT GRID AND CONFORM TO THE "TEXAS COORDINATE SYSTEM", TEXAS CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983. ALL DISTANCES AND COORDINATES ARE SHOWN IN GRID FEET.

THE UNDERSIGNED DOES HEREBY CERTIFY THAT THIS LOCATION WAS THIS DAY MADE ON THE GROUND BY ME OR UNDER MY SUPERVISION AND THAT THIS PLAT IS A CORRECT REPRESENTATION THEREOF.

DATED THIS 25th DAY OF April, 2013

RJ DAUM
TEXAS RPLS 4826



revised lease name 10-25-2012

SCHUMANN ENGINEERING CO., INC.

REGISTERED PROFESSIONAL LAND SURVEYORS
LICENSED STATE LAND SURVEYORS

REGISTERED PROFESSIONAL CIVIL ENGINEERS
TEXAS and NEW MEXICO

Civil Engineering ~ Land Surveying

408 N. PECOS STREET - P. O. BOX 504
MIDLAND, TEXAS 79702-0504

Office (432) 684-5548
Fax (432) 684-6973

EVANS I LTD
336.458 ACRES

RECEIVED

MAY - 6 2013

CITY OF MIDLAND
PLANNING DIVISION OFFICE

WELLS NO. 1,2,3,&4 ARE LOCATED APPROXIMATELY 6.0 MILES IN A NW DIRECTION FROM MIDLAND, TEXAS WHICH IS THE NEAREST TOWN IN THE COUNTY

SITE PLAN

PETROPLEX ENERGY, INC.
WELLS 1, 2, 3 & 4
WESTERN T8 LEASE

WELL NO. 1 [2183 ft/SL, 467 ft/EL]

WELL NO. 2 [1260 ft/NL, 672 ft/EL]

WELL NO. 3 [467 ft/NL, 2058 ft/WL]

WELL NO. 4 [2173 ft/SL, 2173 ft/WL]

SECTION 8, ABSTRACT 719,
BLOCK 39, T-1-S, T&P RR CO SURVEY,
MIDLAND COUNTY, TEXAS

QUAD: NORTHWEST MIDLAND
SCALE: 1" = 800'

PROJECT: 73423PEI
JOB NO: 73,699

FLOW LINE LOCATION

WESTERN T-8 #2

O-13-003



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013.

TO: CITY COUNCIL/CITY MANAGER.

FROM: Ken Van Dyne, Acting Planning Division Manager.

SUBJECT: Consider a motion interpreting City of Midland Ordinance 9090 determining that a proposed apartment development to be located on Lot 1A, Block 4, Gateway Plaza is in compliance with Ordinance 9090 which governs said property. Said property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of W. Hwy 80 – District 4).

Purpose:

Consider a motion interpreting City of Midland Ordinance 9090 determining that a proposed apartment development to be located on Lot 1A, Block 4, Gateway Plaza is in compliance with Ordinance 9090 which governs said property. Said property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of W. Hwy 80 – District 4).

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

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

Discussion:

The developer of the approved 214-unit Tradewinds Apartment Complex has requested to make a number of façade changes to the building elevations that had been approved with the Ordinance establishing the Planned District zoning for the apartments. Because these changes reflect what was presented to City Council as Exhibit items to be “typical in design and material”, the new, proposed facades are presented for interpretation. The developer has cited higher than anticipated costs in the Midland market for both labor and materials for the proposed changes. Planning Staff finds that the facades still match the original intent of the design with no increase in height and no changes being proposed to the facades that front the Tradewinds Boulevard right-of-way.

Attachments:

Map
Ordinance
Exhibits



2 BUILDING 'A' REAR ELEVATION
SCALE 1/8"=1'-0"



1 BUILDING 'A' FRONT ELEVATION
SCALE 1/8"=1'-0"



REVISIONS

TRADEWINDS APARTMENTS
214 UNITS IN MIDLAND, TEXAS FOR
OAKWOOD DEVELOPMENT

ISSUED FOR
SUBMITTAL
JUNE 28, 2013



4202 Beltway Drive
Addicks, TX 75001
214.520.6873
bgoarchitects.com

DATE

02-22-13

PROJECT

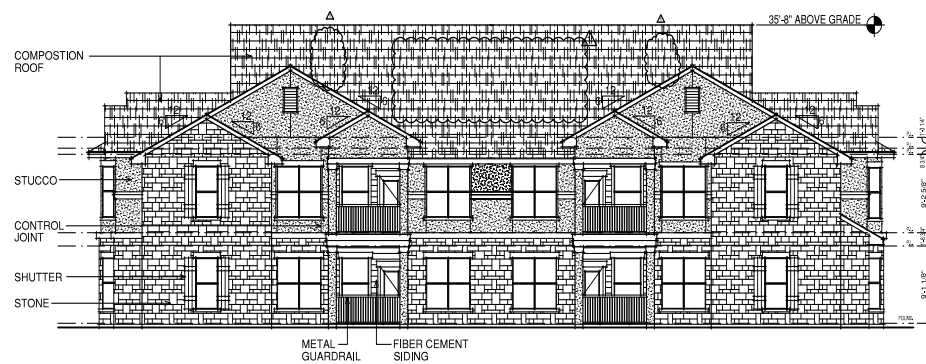
12133

SHEET NUMBER

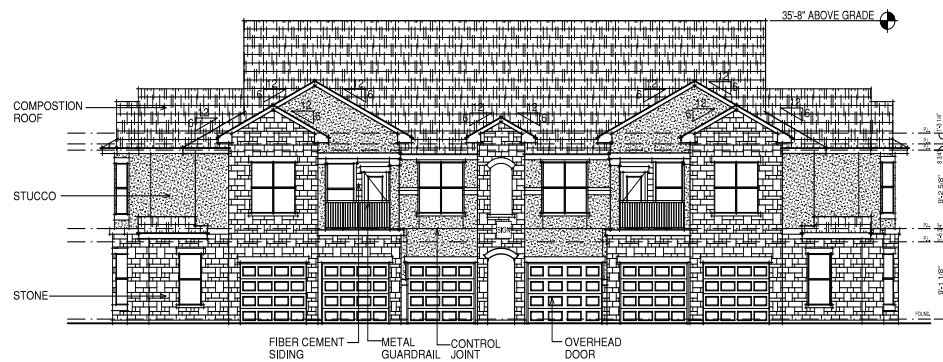
A-1

ELEV. 'A'

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2 BUILDING 'D' REAR ELEVATION



1 BUILDING 'D' FRONT ELEVATION



2 BUILDING 'E' REAR ELEVATION - BUILDING(S) #1 & #12
SCALE 1/8"=1'-0"



1 BUILDING 'E' FRONT ELEVATION - BUILDING(S) #1
SCALE 1/8"=1'-0"



REVISIONS
07-08-13:

TRADEWINDS APARTMENTS
214 UNITS IN MIDLAND, TEXAS FOR
OAKWOOD DEVELOPMENT

ISSUED FOR
SITE
JUNE 28, 2013

BGO
architects

4202 Beltway Drive
Addison, TX 75001
214.520.8878
bgoarchitects.com

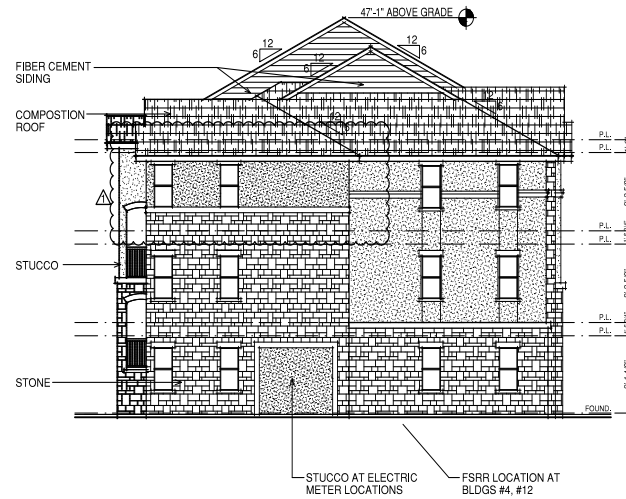
DATE
02-22-13

PROJECT
12133

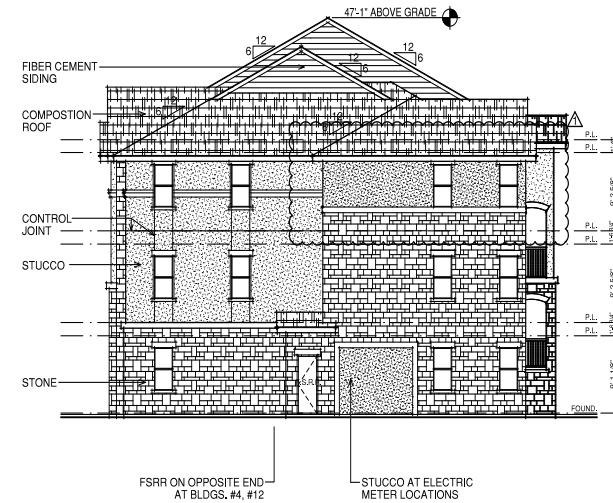
SHEET NUMBER

A-9

ELEV. 'E'



4 BUILDING 'E' END ELEVATION - BUILDING(S) #12
SCALE 1/8"=1'-0"



3 BUILDING 'E' END ELEVATION - BUILDING(S) #12
SCALE 1/8"=1'-0"



1 BUILDING 'E' FRONT ELEVATION - BUILDING(S) #12
SCALE 1/8"=1'-0"



REVISIONS

Δ 07-08-13

TRADEWINDS APARTMENTS

214 UNITS IN MIDLAND, TEXAS FOR
OAKWOOD DEVELOPMENT

ISSUED FOR PERMIT
JUNE 28, 2013



4202 Beltway Drive
Addicks, TX 75001
214.520.8878
bgoarchitects.com

DATE

02-22-13

PROJECT

12133

SHEET NUMBER

A-9A

ELEV. 'E'



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on a request by Lance Friday Homes to vacate 5,992 square-foot portion of Spruce Avenue (Generally located at the intersection of Spruce Avenue and Carver Street).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate a 5,992 square-foot portion of Spruce Avenue.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$599.20

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section, attached as Exhibit B. There are 41 residential lots in this subdivision. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved street right-of-way. This application is for the portion of Spruce Avenue located west of Carver Street. The staff has no objection to the change in street alignment. The Planning and Zoning Commission has approved the preliminary plat, conditioned upon the vacation of the three segments of right-of-way. Since this right-of-way has not been used by the public, a public hearing is not required. We have contacted the franchised utility companies, who indicate no objection to this proposal. We contacted the Midland Central Appraisal District, who indicates that the value of this land is \$599.20 (0.10/sq. ft.). Staff recommends approval of this request, conditioned upon the submittal of this amount.

Attachments:

Application
Maps
Proposed Ordinance and Exhibit A
Proposed Plat, Exhibit B

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.138-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 23 AND 24, BLOCK 6, AND TO LOTS 1 AND 2, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$599.20; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, 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 \$599.20, 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 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, 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 \$599.20.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

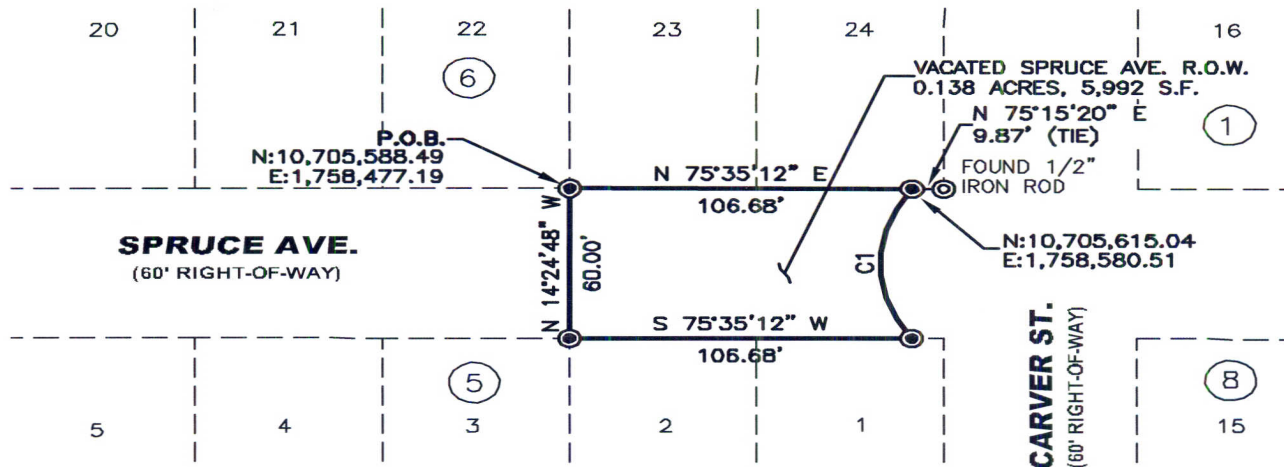
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT SPRUCE AVENUE



LEGAL DESCRIPTION of a 0.138 acre tract of Spruce Avenue Right-of-Way out Sun Garden Village, Second Section, an Addition to the City of Midland Texas as recorded in Volume 130, Page 133 of the Deed Records of Midland County, Texas, and being located in Section 24, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described by metes and bounds as follows:

BEGINNING at (N: 10,705,588.49, E: 1,758,477.19) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the North line of said Spruce Avenue, a 60 foot public road, at the Southwest corner of Lot 23, Block 6, Sun Garden Village, Second Section, for the Northwest corner of this tract;

THENCE N 75°35'12" E with the South lines of said Lot 23 and Lot 24, Block 6 and with the North line of said Spruce Avenue a distance of 106.68 feet to (N: 10,705,615.04, E: 1,758,580.51) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the South line of said Lot 24 for the point of curvature of a curve to the Left, from which a 1/2" Iron Rod found for the Southeast corner of said Lot 24 bears N 75°15'20" E a distance of 9.87 feet, for the Northeast corner of this tract

THENCE Southerly in and across said Spruce Avenue with said curve through a Chord length of 60.00 feet, a Chord Bearing of S 14°24'48" E, a delta angle of 73°44'23", an Arc Length of 64.35 feet, and a Radius of 50.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the point of tangency of said curve in the North line of Lot 1, Block 5, Sun Garden Village Second Section, for the Southeast corner of this tract;

THENCE S 75°35'12" W with the South line of said Spruce Avenue and with the North lines of said Lot 1 and Lot 2, Block 5 a distance of 106.68 feet to (N: 10,705,530.37, E: 1,758,492.13) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the Northwest corner of said Lot 2 for the Southwest corner of this tract;

THENCE N 14°24'48" W in and across said Spruce Avenue a distance of 60.00 feet to the POINT OF BEGINNING;

Subject tract containing a total of 0.138 acres (5,992 s.f.) of land.

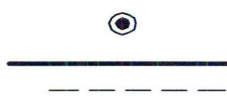
NOTE: Coordinates, Bearings, Distances, and Areas shown hereon are Lambert Grid and conform to the "Texas Coordinate System", Texas Central Zone, North American Datum of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED APRIL 4, 2012

CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	64.35'	50.00'	73°44'23"	S 14°24'48" E	60.00'

LEGEND



DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
DENOTES BOUNDARY LINE
DENOTES ADJACENT TRACT



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



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.138-acre portion of East Spruce Avenue right-of-way adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, 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 \$599.20. 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,

A handwritten signature in blue ink that reads "Courtney Sharp". The signature is stylized, with the first letters of the first and last names being large and prominent.

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Spruce Avenue, Blks 5 & 6, Sun Garden Village Addition Appraisal Letter.wpd

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:
0.138 Acres of Apruce Ave, to the west of Carver St.

II. Reason for Request: To allow for proposed Sun Garden Village, Third Section

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:
Street dead ends into Midland Draw just west of the proposed tract.
Currently improved. All tracts which would lose road access are owned
by City of Midland and are a part of Midland Draw.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222

Phone: 682-7827

Midland
City

Tex.
State

79705

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. _____

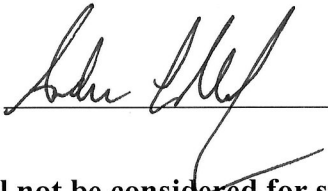
V. Clearance is needed from the following utility companies: City of Midland / Atmos Energy

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.

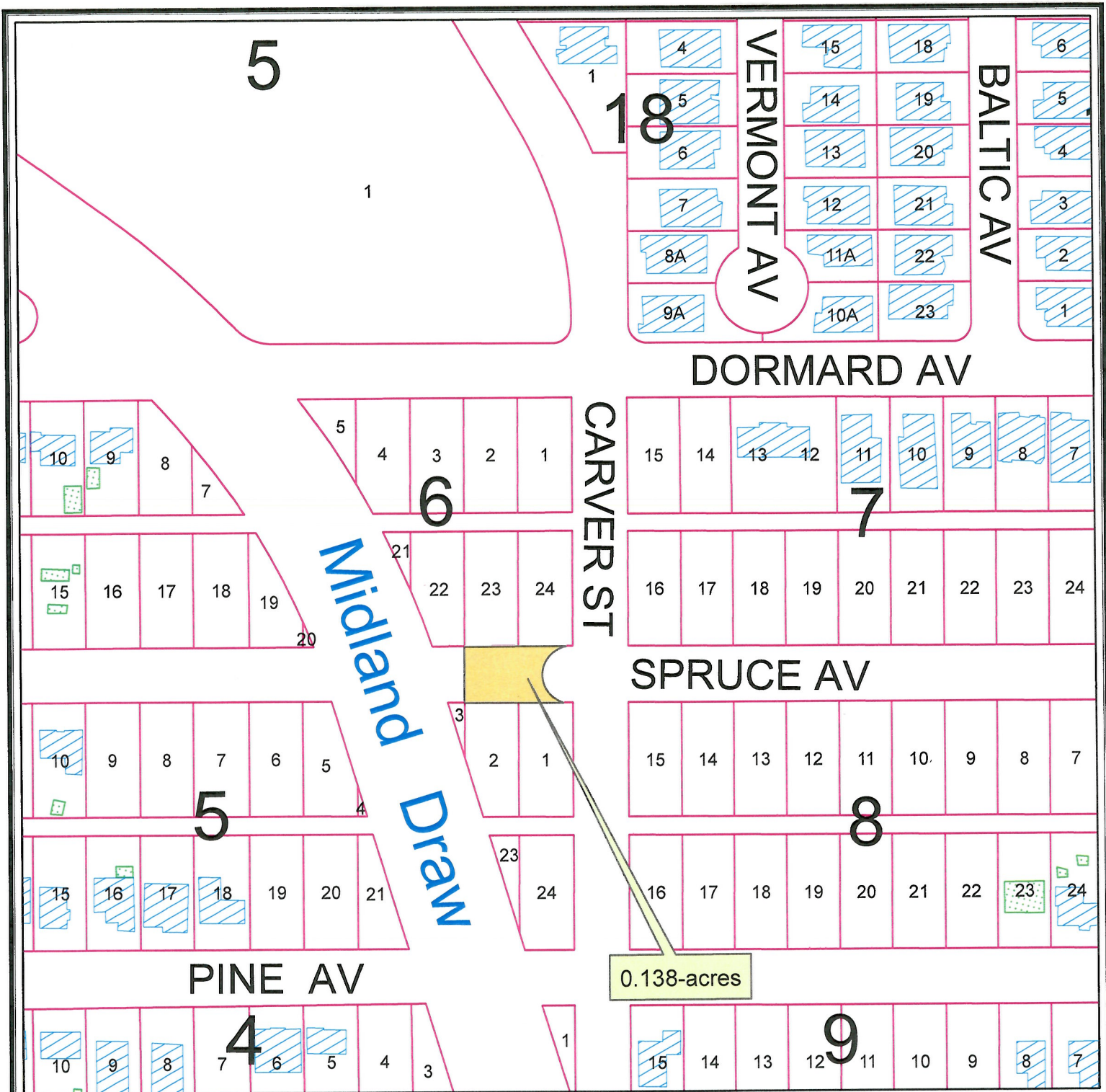
Signature of applicant:  Date: 1-24-13

****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></u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____



LOCATION MAP

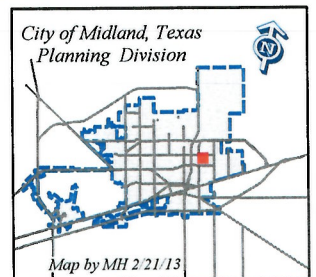
V - 13 - 003

Scale: 1" = 150'

Consider a request for the vacation of a 0.138-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lots 23 and 24, Block 6, and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- PRIVATE BLDGS
- ACCESSORY BLDGS



©THE CITY OF MIDLAND - 2013
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 SOLELY ON THE INFORMATION CONTAINED

PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the _____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

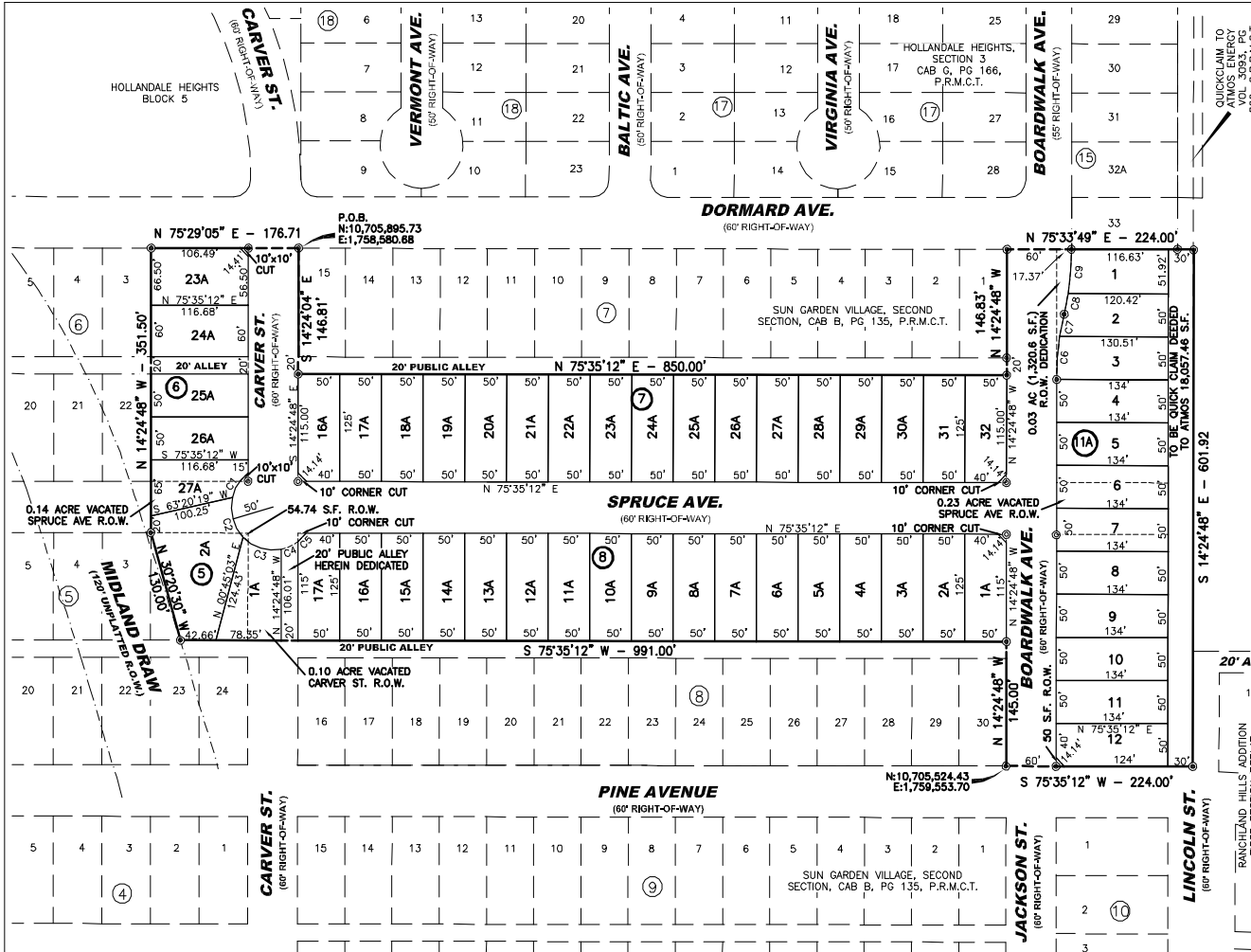
CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY

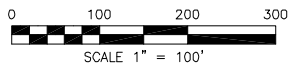
OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FIRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

SUN GARDEN VILLAGE,
SECTION 3



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED
- DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- DENOTES DEED RECORDS, MIDLAND CO., TX
- DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE



NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Heston, being duly sworn, do hereby certify that this plat was prepared from a correct and true survey of the land and improvements shown thereon were properly located under my personal supervision and in accordance with the regulations of the City of Midland, Texas.

Marcus L. Heston, P.E.L.S.
Registration No. 56

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
C8	300.00'	24.57'	24.56'	N 02°55'06" W	04°41'34"
C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

Print Name:

SHARYLAND UTILITIES

Print Name:

QUICKCLAIM TO
ATMOS ENERGY
BY VOL. 50931, PG
166, O.P.R.M.C.T.
800, O.P.R.M.C.T.

RANCHLAND HILLS COUNTRY CLUB
RH REAL ESTATE DEVELOPMENT LTD
VOL. 2322, PG 596, O.P.R.M.C.T.

20' ALLEY

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City Council Agenda

Approved for Agenda:

City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on a request by Lance Friday Homes to vacate 4,249 square-foot portion of Carver Street (Generally located south of Spruce Avenue).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate a 4,249 square-foot portion of Carver Street.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$424.90.

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section, attached as Exhibit B. It contains 41 residential lots. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved rights-of-way. This application is for the portion of Carver Street located south of Spruce Avenue. The staff has no objection to the change in street alignment. The Planning and Zoning Commission has approved the preliminary plat, conditioned upon the vacation of the three segments of right-of-way. Since this right-of-way has not been used by the public, a public hearing is not required. We have contacted the franchised utility companies, who indicate no objection to this proposal. The Midland Central Appraisal District indicates that the value of this land is \$424.90 (0.10/sq. ft.). Staff recommends approval of this request, conditioned upon the submittal of this amount.

Attachments:

Application
Maps
Proposed Ordinance and Exhibit A
Proposed Plat, Exhibit B

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.098-ACRE PORTION OF NORTH CARVER STREET RIGHT-OF-WAY ADJACENT TO LOT 1, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON SOUTH SIDE OF EAST SPRUCE AVENUE, APPROXIMATELY 150 FEET NORTH OF EAST PINE AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$424.90; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, 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 \$424.90, 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 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, 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 \$424.90.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

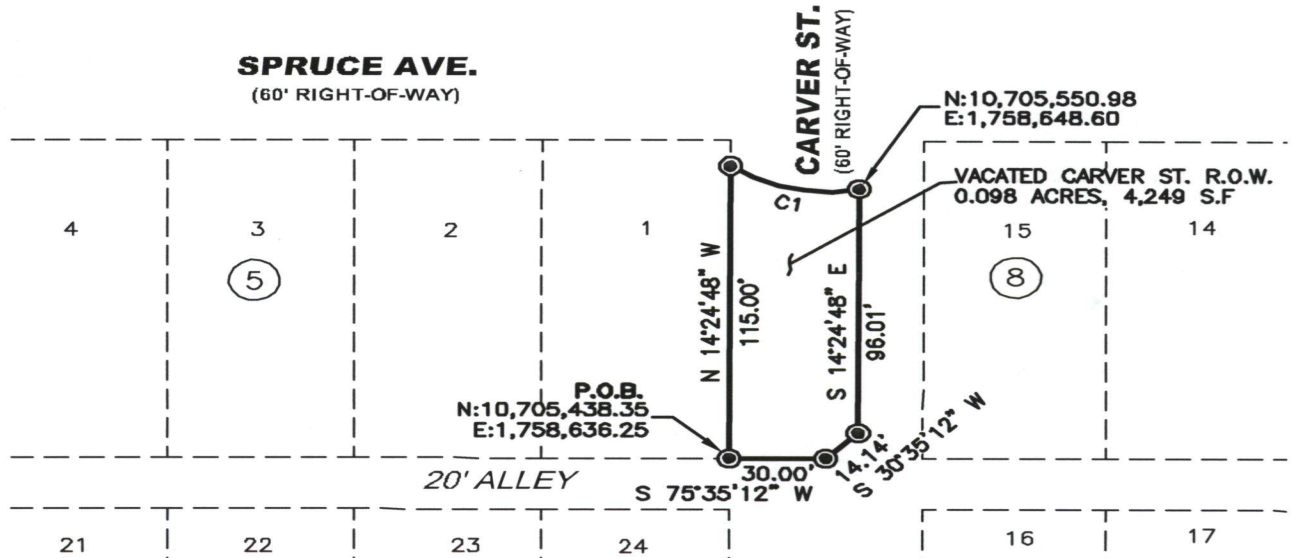
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT CARVER STREET



LEGAL DESCRIPTION of a 0.098 acre tract out of Carver Street Right-of-Way out of Sun Garden Village, Second Section, an Addition to the City of Midland Texas as recorded in Volume 130, Page 133 of the Deed Records of Midland County, Texas, and being located in Section 24, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described by metes and bounds as follows:

BEGINNING at (N: 10,705,438.35, E: 1,758,636.25) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the West line of said Carver Street, a 60 foot public road, at the Southeast corner of Lot 1, Block 5, Sun Garden Village, Second Section, for the Southwest corner of this tract;

THENCE N 14°24'48" W with the East line of said Lot 1 and the West line of said Carver Street a distance of 115.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the Northwest Corner of this tract;

THENCE Easterly in and across Carver Street with a curve a Chord Length of 41.00 feet, a Chord bearing of N 88°15'11" E, a Delta Angle of 48°24'25", an Arc Length of 42.24 feet, and a Radius of 50.00 feet to (N: 10,705,550.98, E: 1,758,648.60) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the Northeast corner of this tract;

THENCE S 14°24'48" E in and across said Carver Street a distance of 96.01 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the most Easterly Southeast corner of this tract;

THENCE S 30°35'12" W in and across said Carver Street a distance of 14.14 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set for the most Southerly Southeast corner of this tract;

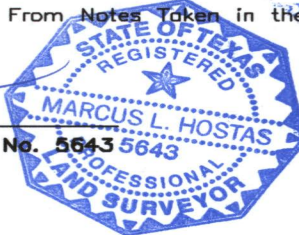
THENCE S 75°35'12" W in and across said Carver Street a distance of 30.00 feet to the POINT OF BEGINNING;

Subject Tract containing a total of 0.098 Acres (4,249 square feet) 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS TEXAS R.P.L.S. No. 5643
DATE SURVEYED APRIL 4, 2012

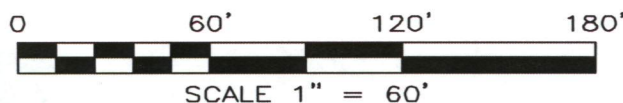


CURVE	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	42.24'	50.00'	48°24'25"	N 88°15'11" E	41.00'

LEGEND

DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"

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



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.098-acre portion of North Carver Street right-of-way adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, 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 \$424.90. 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,

A handwritten signature in black ink that reads "Courtney Sharp". The signature is stylized, with the first letters of the first and last names being large and prominent.

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Carver Street, Blk 5, Sun Garden Village Addition Appraisal Letter.wpd

Case Number: V-13-004

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:
0.098 Acres of Carver Street, to the south of Spruce Ave.
- II.** Reason for Request: To allow for proposed Sun Garden Village, Third Section
- 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:
Carver Street dead ends into Midland Draw just south of the proposed tract, and is not currently improved

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222

Phone: 682-7827

Street

Midland

City

Tex.

State

79705

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**

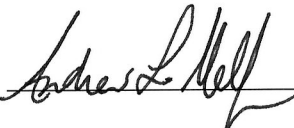
Required items Attached? Date Received: 1. _____ 2. _____ 3. _____ 4. _____ 5. _____

- 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:

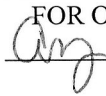
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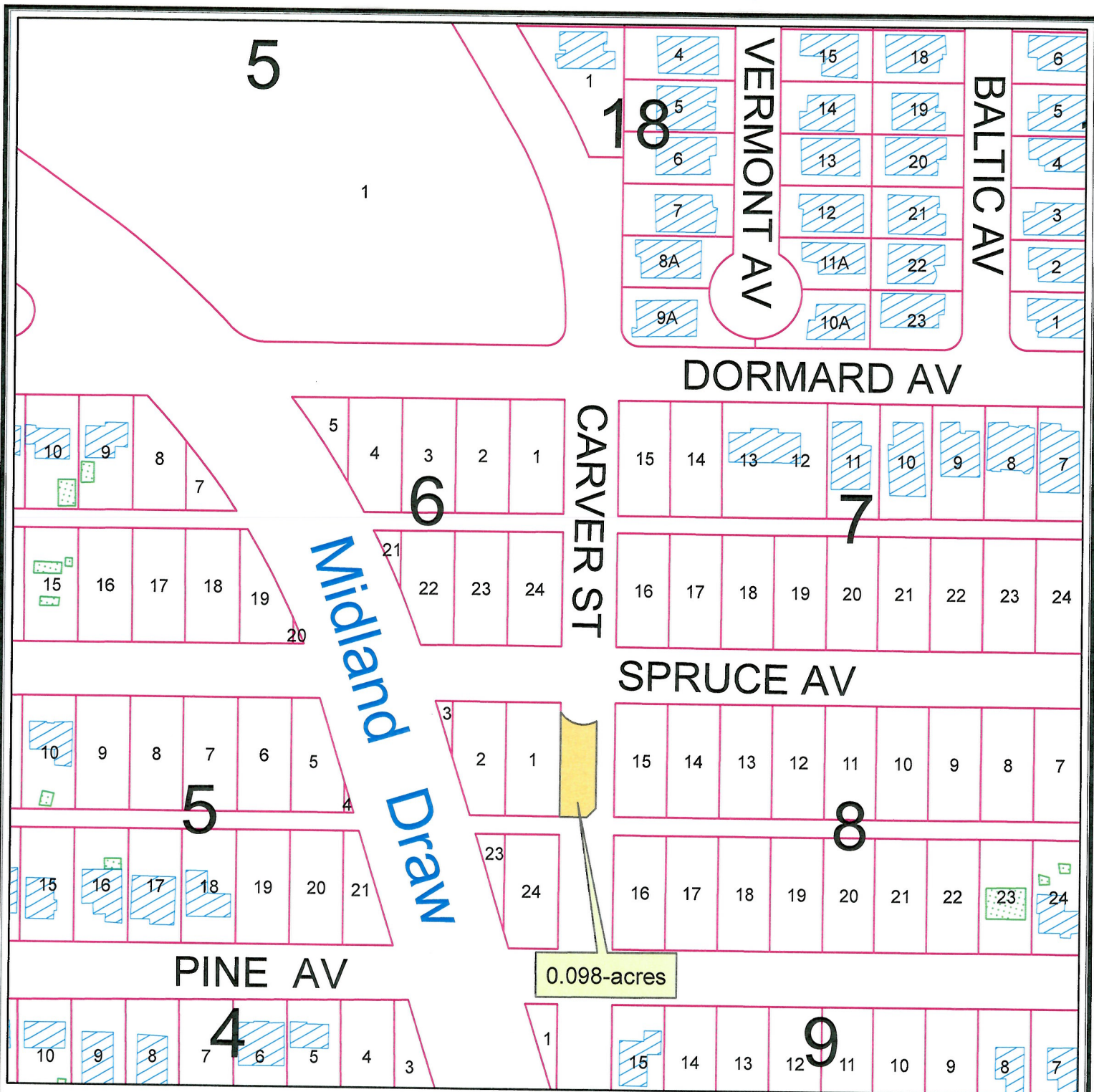
Signature of applicant:  Date: 1-24-13

****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></u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____



LOCATION MAP

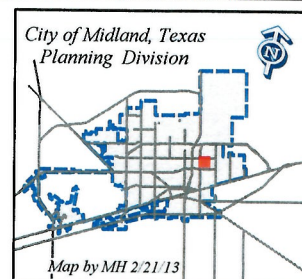
V - 13 - 004

Scale: 1" = 150'

Consider a request for the vacation of a 0.098-acre portion of the right-of-way of N. Carver Street adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas.

LEGEND

-  CITY LIMITS
 PARCEL
 PRIVATE BLDGS
 ACCESSORY BLDGS



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PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the

_____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY

OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

SUN GARDEN VILLAGE,
SECTION 3

PLAT FILED FOR RECORD
MIDLAND COUNTY, TEXAS

NO. _____ CABINET _____

DATE: _____ PAGE _____

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

Print Name:

SHARYLAND UTILITIES

Print Name:

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Heston, being duly Licensed Professional Surveyor of the State of Texas, do hereby certify that this plat was prepared from an actual and correct survey of the land and improvements shown thereon were properly located under my personal supervision and in accordance with the provisions of the Regulations of the City of Midland, Texas.

Marcus L. Heston, P.R.L.S.
Registration No. 5612

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
C8	300.00'	24.57'	24.56'	N 02°55'06" W	04°41'34"
C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED
- DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- D.R.M.C.T. DENOTES DEED RECORDS, MIDLAND CO., TX
- P.R.M.C.T. DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE

0 100 200 300
SCALE 1" = 100'

NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: July 9, 2013

TO: CITY COUNCIL/CITY MANAGER

FROM: Ken Van Dyne, Acting Planning Division Manager

SUBJECT: Consider an ordinance on a request by Lance Friday Homes to vacate 8,040 square-foot portion of Spruce Avenue (Generally located at the intersection of Spruce Avenue and Jackson Street).

Purpose:

Consider an ordinance on a request by Lance Friday Homes to vacate an 8,040 square-foot portion of Spruce Avenue.

Recommended City Council Action

☒ Approve

☐ Deny

☐ Direction/Informational

Fiscal Impact:

Approval will net the City \$804.

Discussion:

Lance Friday Homes has submitted a preliminary plat named Sun Garden Village, Third Section, attached as Exhibit B, which contains 41 residential lots. This plat proposes to change the existing street alignments, which will require the vacation of three portions of unimproved street rights-of-way. This application is for the portion of Spruce Avenue located east of Jackson Street. The staff has no objection to the change in street alignment. The Planning and Zoning Commission has approved the preliminary plat, conditioned upon the vacation of the three segments of right-of-way. Since this right-of-way has not been used by the public, a public hearing is not required. We have contacted the franchised utility companies, who indicate no objection to this proposal. The Midland Central Appraisal District indicates that the value of this land is \$804 (0.10/sq. ft.). Staff recommends approval of this request, conditioned upon the submittal of this amount.

Attachments:

Application
Maps
Proposed Ordinance and Exhibit A
Proposed Plat, Exhibit B

ORDINANCE NO.

AN ORDINANCE VACATING AND ABANDONING A 0.185-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOT 4, BLOCK 12, AND TO LOT 1, BLOCK 11, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH JACKSON STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$804.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

WHEREAS, it has been determined by the Midland City Council that a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, 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 \$804.00, 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 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, 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 \$804.00.

That this Ordinance shall not be effective until a final plat, entitled Sun Garden Village, Third Section, is submitted to the City of Midland in proper form for approval.

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

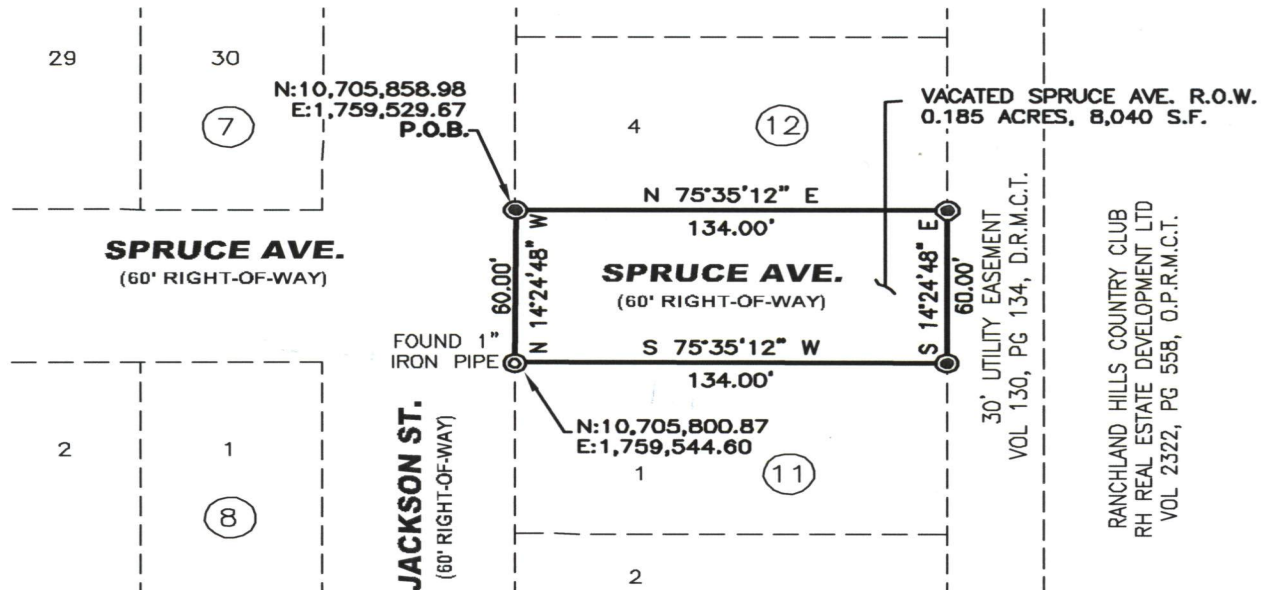
APPROVED AS TO CONTENT
AND COMPLETENESS:

James R. Nichols, Assistant City Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

ABANDONED RIGHT OF WAY EXHIBIT SPRUCE AVENUE



LEGAL DESCRIPTION of a 0.185 acre tract of Spruce Avenue Right-of-Way out Sun Garden Village, Second Section, an Addition to the City of Midland Texas as recorded in Volume 130, Page 133 of the Deed Records of Midland County, Texas, and being located in Section 24, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas, Subject Tract being more particularly described by metes and bounds as follows:

BEGINNING at (N: 10,705,858.98, E: 1,759,529.67) a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set in the North line of said Spruce Avenue, a 60 foot public road, at the Southwest corner of Lot 4, Block 12, Sun Garden Village, Second Section, for the Northwest corner of this tract;

THENCE N 75°35'12" E with the South line of said Lot 4 and with the North line of said Spruce Avenue a distance of 134.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the Southeast corner of said Lot 4 and in the West line of a 30 foot Utility Easement as recorded in Volume 130, Page 134 of the Deed Records of Midland County, Texas, for the Northeast corner of this tract;

THENCE S 14°24'48" E in and across said Spruce Avenue and with the West line of said 30' Utility Easement a distance of 60.00 feet to a 1/2 inch Iron Rod with red plastic cap marked "West Co Midland" set at the Northeast corner of Lot 1, Block 11, Sun Garden Village, Second Section, for the Southeast corner of this tract;

THENCE S 75°35'12" W with the North line of said Lot 1 and with the South line of said Spruce Avenue a distance of 134.00 feet to (N: 10,705,800.87 E: 1,759,544.60) a 1 inch Iron Pipe found at the Northwest corner of said Lot 1 for the Southwest corner of this tract;

THENCE N 14°24'48" W in and across said Spruce Avenue and with the East line of Jackson Street, a 60 foot public road, a distance of 60.00 feet to the POINT OF BEGINNING;

Subject tract containing a total of 0.185 acres (8,040 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 of 1983.

I Hereby Certify That This Plat Was Made From Notes Taken in the Field in a Bona Fide Survey Made Under my Supervision.

MARCUS L. HOSTAS
DATE SURVEYED APRIL 4, 2012

TEXAS R.P.L.S. No. 5643



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- DENOTES BOUNDARY LINE
- DENOTES ADJACENT TRACT



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/2012/2012-0453/EXHIBITS/2012-0453 VACATION EXHIBIT.dwg



July 1, 2013

Midland City Council
City of Midland, Texas

RE: Request for vacation of a 0.185-acre portion of East Spruce Avenue right-of-way adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, 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 \$804.00. 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,

A handwritten signature in black ink that reads "Courtney Sharp". The signature is stylized with a large, looped "C" and a long, sweeping "S" that extends to the right.

Courtney Sharp
City Manager

Exhibit "B"

L:\Ordinances\Planning\Vacate & Abandon\2013\Spruce Avenue, Blks 11 & 12, Sun Garden Village Addition Appraisal Letter.wpd

PRELIM PLAT SUN GARDEN VILLAGE, SECTION 3

BEING A REPLAT OF LOTS 1-2, BLOCK 5, LOTS 1-2, & 23-24 BLOCK 6, LOTS 16-30, BLOCK 7, LOTS 1-15, BLOCK 8, ALL OF BLOCKS 11 AND 12, SUN GARDEN VILLAGE, SECOND SECTION, AS RECORDED IN CABINET "B", PAGE 135, PLAT RECORDS OF MIDLAND COUNTY

OWNER'S CERTIFICATE

THE STATE OF TEXAS
COUNTY OF MIDLAND

WHEREAS, I, LANCE FRIDAY, as the record owner of a tract of land situated in Section 24, Block 39, T-1-S, T&P RR. Co. Survey, County of Midland, and more particularly described hereon.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That, I, LANCE FRIDAY, being the owner of the land shown on this plat designated as SUN GARDEN VILLAGE, SECTION 3, on Addition to the City of Midland, Midland County, Texas and whose name is subscribed hereto, do hereby dedicate to the public use forever the streets, alleys, and easements shown thereon; and do hereby give an easement of ingress and egress to the City of Midland for garbage and trash collection, and location and maintenance of trash containers and access thereto and condition said that no construction shall commence on said lot or lots until the exact location of said containers therewith have been selected and approved by the Director of Utilities. WITNESS my hand at Midland, Texas, this

the _____ day of _____, 2012.

By: Lance Friday
Vice President
GPS HOLDINGS, LTD

ACKNOWLEDGEMENT

THE STATE OF TEXAS
COUNTY OF MIDLAND

Before me, the undersigned authority, a Notary Public in and for the State of Texas, on this day personally appeared Lance Friday, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that the same was the act as owner, and that he executed the same as the act 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 IN AND FOR THE STATE OF TEXAS

CERTIFICATE OF APPROVAL

This is to certify that the above and foregoing plat of "SUN GARDEN VILLAGE, SECTION 3", was approved by the proper action of the Director of Development Services of the City of Midland, Texas on this the _____ day of _____, 2012.

BECKY FERGUSON, CHAIRMAN

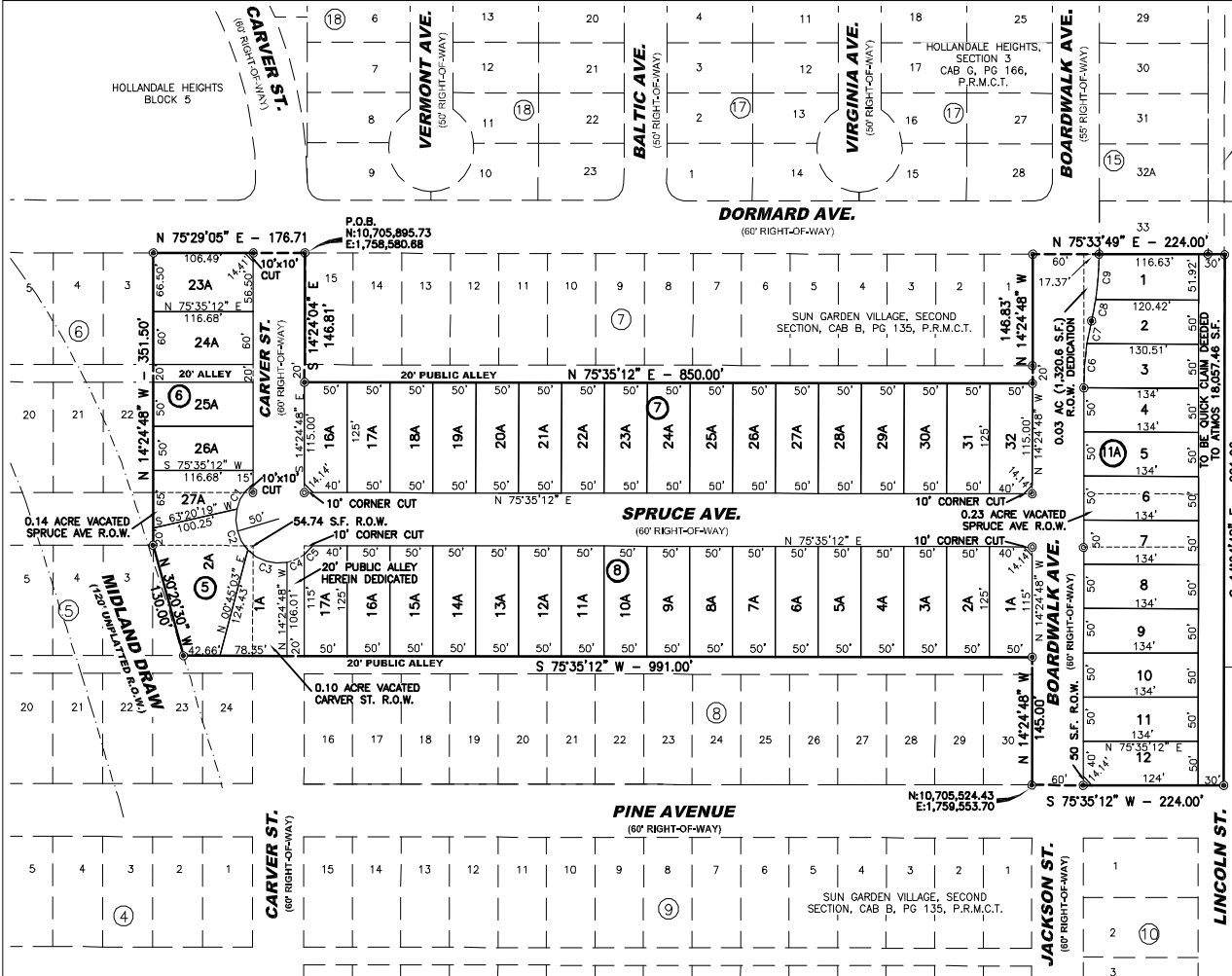
CAMERON WALKER, SECRETARY

GPS HOLDINGS, LTD
LANCE FRIDAY, VICE PRESIDENT
4305 N GARFIELD ST., STE 222
MIDLAND, TEX. 79705
(432) 682-7827

WEST COMPANY

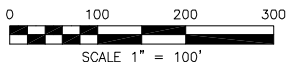
OF MIDLAND, INC.
ENGINEERS - PLANNERS - SURVEYORS
REGISTRATION: FRM 2184
110 W. LOUISIANA AVE., SUITE 110
MIDLAND, TEXAS 79701
(432) 687-0865 • FAX (432) 687-0868
JUNE 2012

SUN GARDEN VILLAGE,
SECTION 3



LEGEND

- DENOTES SET 1/2-INCH IRON ROD W/RED PLASTIC CAP MARKED "WEST CO. MIDLAND"
- ⊙ DENOTES FOUND MONUMENT AS NOTED
- DENOTES OFFICIAL PUBLIC RECORDS, MIDLAND COUNTY, TX
- DENOTES DEED RECORDS, MIDLAND CO., TX
- DENOTES PLAT RECORDS, MIDLAND CO., TX
- DENOTES EASEMENT LINE
- DENOTES BOUNDARY LINE



NOTES:

- SELLING A PORTION OF THIS ADDITION BY METES AND BOUNDS MAY BE A VIOLATION OF CITY ORDINANCE AND STATE LAW AND SUBJECT TO FINES AND WITHHOLDING OF UTILITIES AND BUILDING PERMITS.
- APPROVAL OF A SITE PLAN BY THE CITY OF MIDLAND MAY BE REQUIRED BEFORE THE DEVELOPMENT OF ANY LOT AND BEFORE A BUILDING PERMIT MAY BE OBTAINED.
- BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS STATE PLANE COORDINATE SYSTEM, TEXAS NORTH CENTRAL ZONE, NORTH AMERICAN DATUM OF 1983.

SURVEYOR'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS:

That I, Marcus L. Ferguson, being a duly Licensed Surveyor in the State of Texas, do hereby certify that this plat was prepared from an actual and correct survey of the land and easements shown thereon were properly taken under my personal supervision and in accordance with the provisions of the City of Midland, Texas.

Marcus L. Ferguson, P.E.L.S.
Registration No. 5612

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	50.00'	35.00'	34.29'	N 18°39'48" E	40°06'25"
C2	50.00'	50.00'	47.94'	N 30°02'18" W	57°17'45"
C3	50.00'	49.97'	47.92'	N 87°19'06" W	57°15'51"
C4	50.00'	22.11'	21.93'	S 51°23'00" W	25°19'59"
C5	50.00'	14.19'	14.14'	N 30°35'12" E	18°15'37"
C6	300.00'	50.18'	50.12'	N 10°24'56" W	09°35'02"
C7	300.00'	26.45'	26.44'	N 03°05'52" W	05°03'06"
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C9	320.58'	52.06'	52.01'	N 10°04'37" W	09°18'18"

UTILITY COMPANY'S CERTIFICATE

This plat has been checked for accessibility of utilities.

ATMOS ENERGY

Print Name:

ONCOR ELECTRIC DELIVERY

Print Name:

SUDDENLINK

Print Name:

GRANDE COMMUNICATIONS

Print Name:

AT&T-TEXAS

Print Name:

SHARYLAND UTILITIES

Print Name:

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:
0.185 Acres of Spruce Avenue, to the east of Jackson St.
- II.** Reason for Request: To allow for proposed Sun Garden Village, Third Section
- 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:
Spruce Ave. dead ends into a utility easement and then a golf course
The road is presently not developed.

IV. REQUIRED ITEMS:

1. Applicant(s) Information: (Attach extra sheets as necessary.)

Name: Lance Friday

Address: 4305 N. Garfield, Suite 222 Phone: 682-7827

<u>Street</u>	<u>Tex.</u>	<u>79705</u>
<u>Midland</u>	<u>State</u>	<u>Zip Code</u>
<u>City</u>		

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.

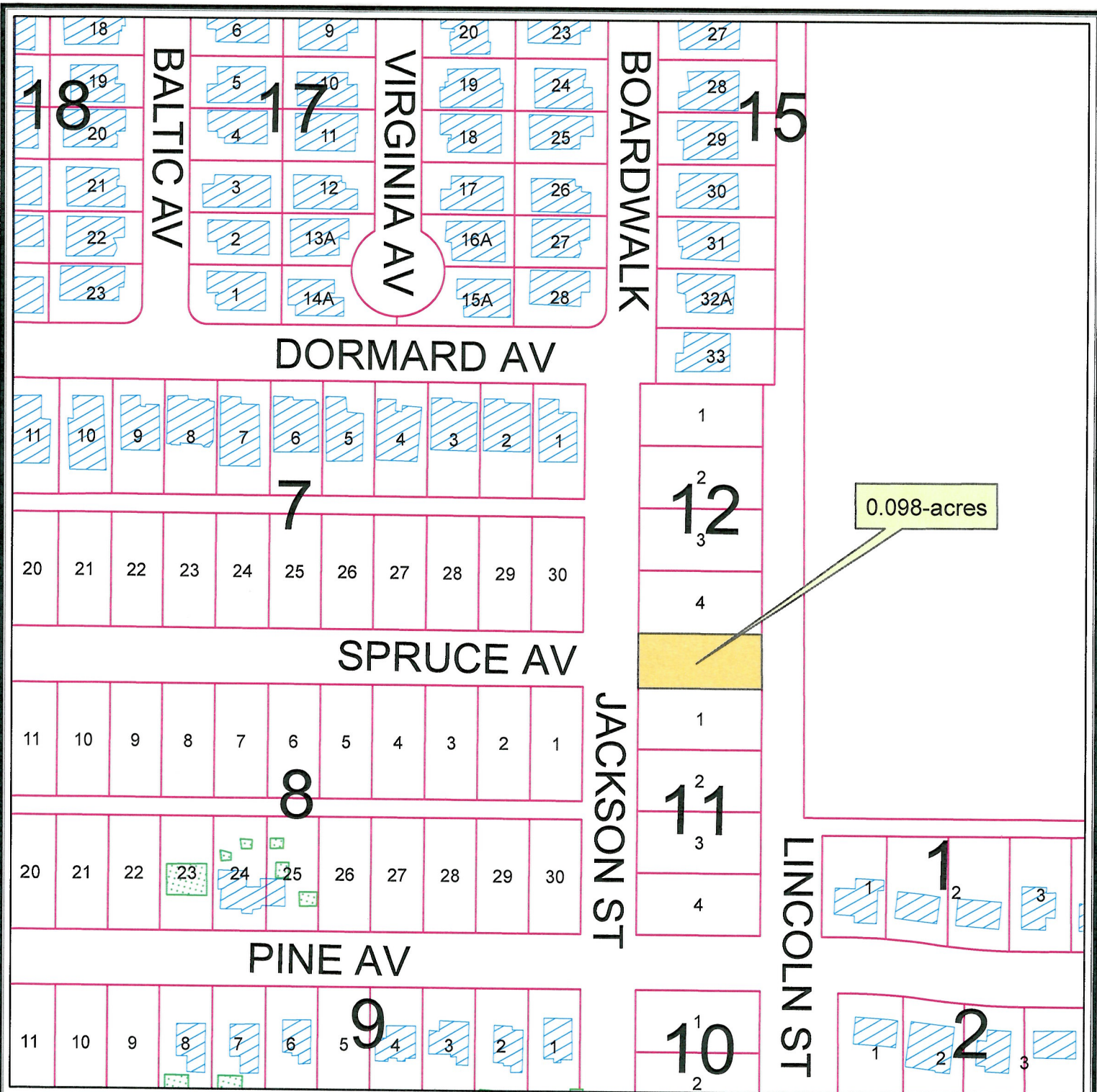
Signature of applicant: Andrew J. Mel Date: 1-24-13

****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>Ang</u>	Date: <u>1/24/13</u>
Assigned: _____	
For: _____	On: _____



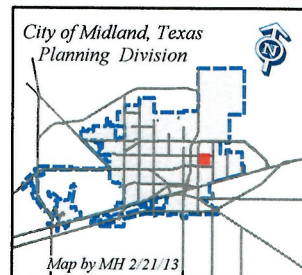
V - 13 - 005

Scale: 1" = 150'

Consider a request for the vacation of a 0.185-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lot 4, Block 12, and to Lot 1, Block 11, Sun Garden Village, Second Section, City and County of Midland, Texas.

LEGEND

- CITY LIMITS
- PARCEL
- 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 DECISION SOLELY ON THE INFORMATION CONTAINED HEREIN.



City Council Agenda

Approved for Agenda:
JNichols
City Manager's Office

MEETING DATE: 7/9/2013

TO: City Council / City Manager

FROM: Gary Saunders, Transportation Manager

SUBJECT: Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication.

Purpose:

Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication.

Recommended City Council Action

☒ Approve ☐ Deny ☐ Directional / Informational

Fiscal Impact:

Approximately \$750.00 for installation cost of signs including materials, equipment and labor.

Discussion:

The Legal Department has prepared an ordinance authorizing the installation of stop signs at various intersections within the City of Midland.

This ordinance has been requested to assign right-of-way for the motorist at each intersection in compliance with the Texas Manual on Uniform Traffic Control Devices. The proposed intersections for installation of stop signs are as follows:

On Blackwood Drive at Homestead Boulevard

On Ironwood Drive at Homestead Boulevard

On Ironwood Drive at Mosswood Drive

On Liberty Drive at Starboard Drive

On Mosswood Drive at Homestead Boulevard

On Starboard Drive at Tradewinds Boulevard

Staff recommends approval of this ordinance.

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

WHEREAS, the Council finds that the unusual character and volume of traffic on various intersecting streets within the City require that operators of motor vehicles traveling along said streets to stop before entering said intersections; and

WHEREAS, the Council finds it to be in the public interest to authorize and require the establishment of stop signs at said intersections;

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

SECTION ONE. In addition to all other stop signs, stop signs at the intersections enumerated in the following list are hereby ordered to be erected and are hereby validated and fully authorized, whether the same have already been placed and are existing upon said intersections, or shall be placed there hereafter, and all persons operating vehicles upon or over the streets of the City of Midland shall obey such stop signs. All streets located in the column under the word “On” are the streets on which stop signs are hereby ordered and authorized at their intersection with the streets listed on the same line and in the column immediately to the right headed by the word “At”.

ON

Blackwood Dr.
Ironwood Dr.
Ironwood Dr.
Liberty Dr.
Mosswood Dr.
Starboard Dr.

AT

Homestead Blvd.
Homestead Blvd.
Mosswood Dr.
Starboard Dr.
Homestead Blvd.
Tradewinds Blvd.

SECTION TWO. That the Traffic Engineer is hereby authorized and directed to erect and install appropriate signs and markings at the designated locations in conformance

with the State Highway Department's Manual and Specifications, indicating and carrying out the provisions of this ordinance.

SECTION THREE. The provisions of this ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances that are directly inconsistent with or in direct conflict with any of the provisions of this ordinance are hereby expressly repealed but only 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 hundred dollars (\$200.00).

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., 2013; 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., 2013, at a regular meeting of the City Council:

Council members voting "AYE":

Council members voting "NAY":

PASSED AND APPROVED THIS _____ day of _____, A.D., 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary

APPROVED AS TO CONTENT
AND COMPLETENESS:

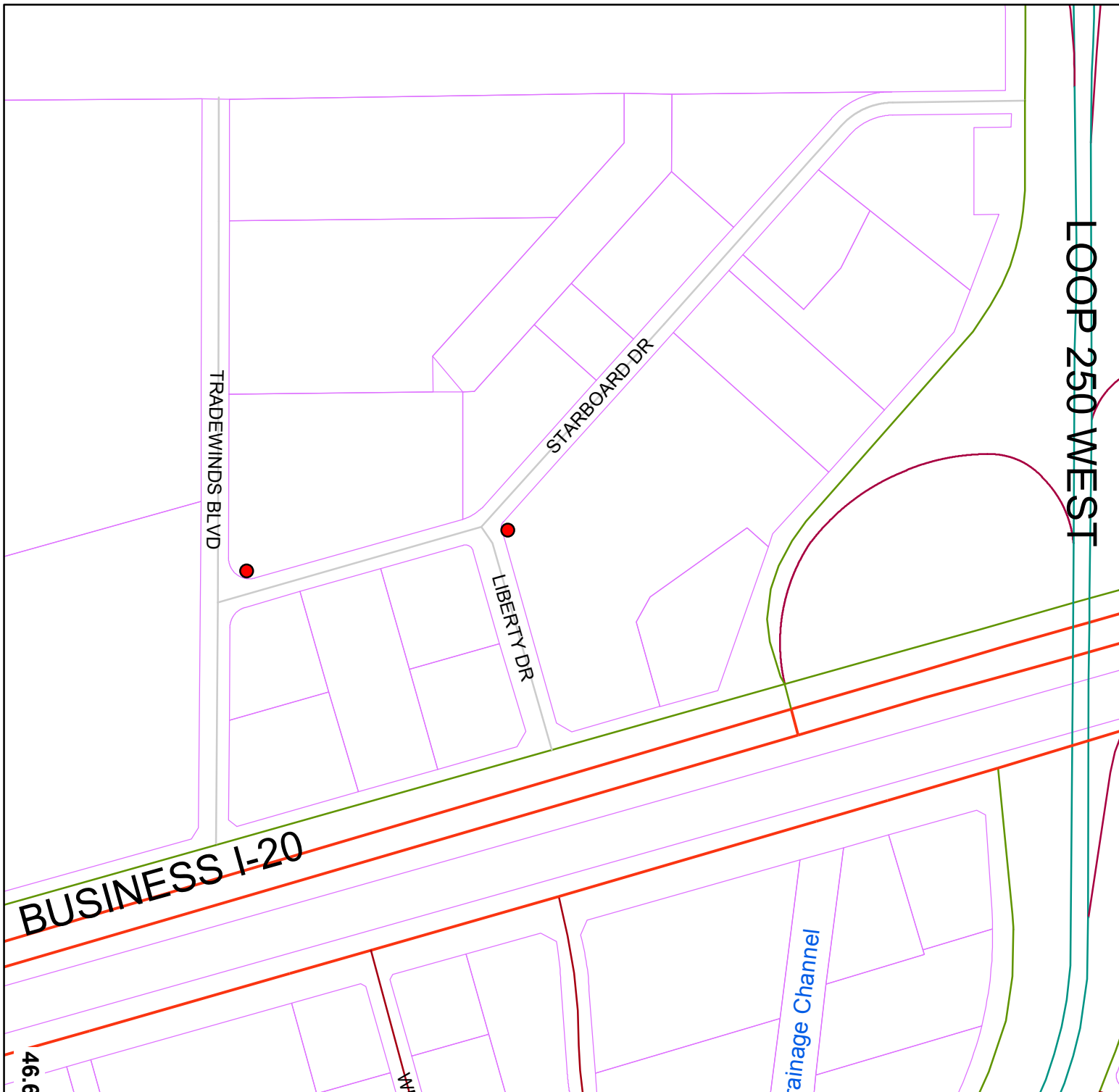
Gary Saunders, Transportation Manager

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

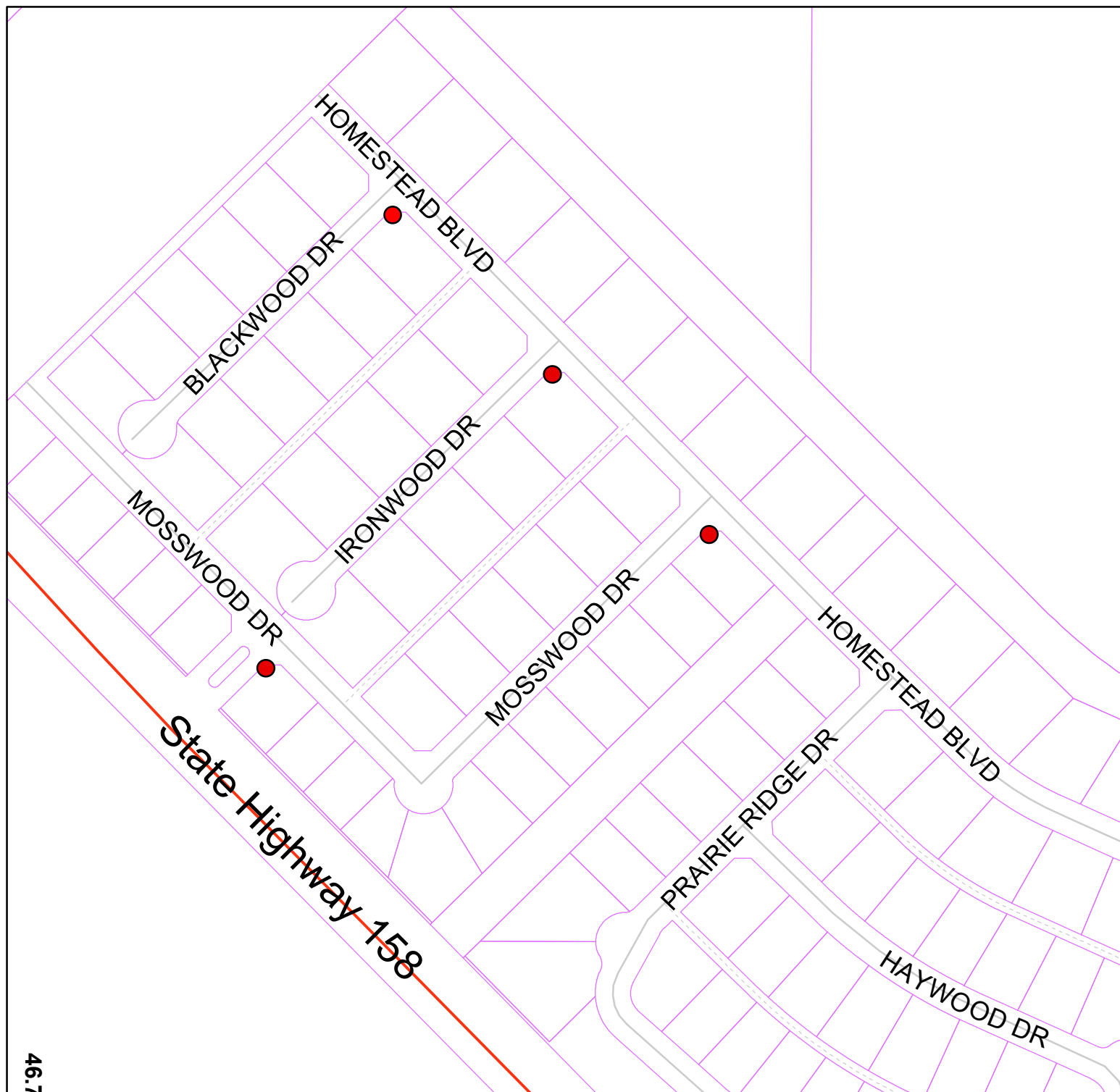
Transportation Division

● Proposed stop sign
Installation



Transportation Division

● Proposed stop sign
installation



City of Midland
City Secretary's Office
Interoffice Memorandum

Date: July 3, 2013
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 July 9, 2013. Remaining expirations and vacancies are listed below:

AIRPORT PLANNING AND DEVELOPMENT BOARD – Two terms expired on September 30, 2012.

ANIMAL SERVICES ADVISORY COMMISSION – One vacancy which will expire on September 30, 2013.

CITY DEVELOPMENT ADVISORY COMMITTEE – One terms expired on September 30, 2012.

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS – Two vacancies for Alternate terms expired on September 30, 2007.

HOUSING AUTHORITY COMMISSION – One vacancy as Alternate term expiring in October 2015

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, and two terms expired on January 1, 2010.

MIDLAND HOUSING FINANCE CORPORATION – One vacancy expired on September 30, 2010, two terms expired on September 30, 2011 and one term expired on September 30, 2012.

MIDLAND MUNICIPAL MANAGEMENT DISTRICT BOARD – One vacancy.

MIDLAND-ODESSA URBAN TRANSIT DISTRICT BOARD – Two terms expired on September 30, 2012.

PLANNING AND ZONING COMMISSION – One vacancy expiring on September 30, 2015.

PERMIAN BASIN AIRPORT BOARD – Two terms expired on September 30, 2010 (Carlsbad and Hobbs New Mexico), one term expired on September 30, 2011 and two terms expired on September 30, 2012.

TAX INCREMENT REINVESTMENT ZONE BOARD –Four terms expired on March 20, 2010, one term expired March 20, 2011, one terms expired on March 20, 2012 and two terms expired on March 20, 2013. (Four City representatives, two Hospital representatives and two County representatives.)

ZONING BOARD OF ADJUSTMENT AND AIRPORT ZONING BOARD OF ADJUSTMENT- One term expired on September 30, 2011, one term expired on September 30, 2012 and 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

July 9, 2013

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 2015	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
J. Ross Lacy	09/12*	Sept 30 2014	Sept 30 2020
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>
Vacancy-Tony Carrillo	09/09	Sept 30 2013	Sept 30 2017
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
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

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>
Reggie Lawrence	09/10	Sept 30 2012	Sept 30 2014
Alonda Massey	11/11	Sept 30 2013	Sept 30 2015
Tim Bryson	11/11	Sept 30 2013	Sept 30 2015
W. Roger Beebe	02/13	Sept 30 2014	Sept 30 2016
Avery I. Pullins	02/13*	Sept 30 2013	Sept 30 2017

CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS

(Decision Making)

(Membership - 7; Terms - 4 Years expiring 2-2-2-1)

Position to include: 1. Registered Architectural or Builder Superintendent, 2. Registered Structural Engineer, 3. Registered Mechanical and Plumbing, 4. Registered Electrical Engineer, 5. Registered Fire Protection Engineer

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>	<u>Position</u>
Don Woodward (At Large)	11/11*	Sept 30 2016	Sept 30 2020	5
Richard D. Dunham	10/05	Sept 30 2013	Sept 30 2013	1
Greg Turner	03/11*	Sept 30 2013	Sept 30 2021	4
Chris Repman	10/07*	Sept 30 2014	Sept 30 2018	3
Jay K. Bradford	09/10	Sept 30 2014	Sept 30 2018	2

ALTERNATES:

Vacancy	Sept 30 2007	Any
Vacancy	Sept 30 2007	Any

HOTEL/MOTEL TAX ADVISORY BOARD

(Advisory)

(Membership - 7; Terms - 2 Years Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Karmen Hendrix Bryant	02/12*	Sept 30 2013	Sept 30 2017
David Baur	09/10	Sept 30 2013	Sept 30 2014
Lisa Grissom	09/09	Sept 30 2013	Sept 30 2013
Steve Jones	02/09*	Sept 30 2013	Sept 30 2013
Annabell Ramirez	09/12	Sept 30 2014	Sept 30 2016
Brian Smith	09/12	Sept 30 2014	Sept 30 2016
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>
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 2015
Dennis Bade	09/12	Oct 2014	Oct 2016
Norma Duran	11/08*	Oct 2014	Oct 2014

ALTERNATES:

Vacancy	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	11/02
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.

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
Vicky Hailey	(CC)	01/13*	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>
Laura Roman	01/08	Jan 14 2014	Jan 14 2014
Robert Rendall, Chairman	01/09*	Jan 14 2014	Jan 14 2017
Michael Trost	02/11*	Jan 14 2016	Jan 14 2019
Cary J. Love	12/09	Jan 14 2016	Jan 14 2016
Gary Douglas	11/11*	Jan 14 2016	Jan 14 2019

MIDLAND FRESH WATER SUPPLY DISTRICT #1

(Ad Hoc)

(3 Non Voting Members)

Appt Date

Wes Perry
Gary Harris
Wayne Merritt

05/12
05/12
05/12

**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 2014	Jan 1 2014

* Indicates appointment to an unexpired term.

MIDLAND HOUSING FINANCE CORPORATION

(Decision Making)

(Membership - 5; Terms - 2 Years - Staggered)

	<u>Appt Date</u>	<u>Term Expires</u>	<u>Eligibility Expires</u>
Vacancy - (Damon L. Blakeley)	07/07*	Sept 30 2010	
Adrienne Valencia	10/07	Sept 30 2011	Sept 30 2011
Melissa Wicker	10/07	Sept 30 2011	Sept 30 2011
Jerry Morales (Liaison Officer)	10/08	Sept 30 2012	Sept 30 2012
Nathan Miller	11/11*	Sept 30 2012	Sept 30 2016

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
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
Rebecca Bell	09/12	Sept 30 2014	Sept 30 2016

* Indicates appointment to an unexpired term.

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>
Russell Richards (Petroleum Eng.)	09/12	Sept 30 2015	Sept 30 2018
Perry Dan Taylor (Real Estate)	09/12	Sept 30 2015	Sept 30 2018
Lance Friday (Real Estate)	09/12*	Sept 30 2013	Sept 30 2019
Paul Brown (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017
David Rosen (Petroleum Eng.)	11/11	Sept 30 2014	Sept 30 2017

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>
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
Katey Howard	09/12*	Sept 30 2014	Sept 30 2020
Amanda McCann	11/11*	Sept 30 2015	Sept 30 2018
Edward Mayberry	09/12	Sept 30 2015	Sept 30 2021

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
David Hardwick (Ft. Stockton)	10/07	Sept 30 2012
Lex Hinds (Seminole)	10/08	Sept 30 2012

PERMIAN BASIN AIRPORT BOARD CON'T

	<u>Appt. Date</u>	<u>Term Expires</u>
Elvin Brownlee III (Andrews)	12/10*	Sept 30 2013
Jim Little (Big Spring)	09/03	Sept 30 2013
Frankie Rolfe (Kermit)	09/12	Sept 30 2013
Don Bethel (Lamesa)	02/91	Sept 30 2013
Willie Taylor (Odessa)	02/00	Sept 30 2013
Gloria Pena (Odessa)	03/03*	Sept 30 2013
Barbara Graff (Odessa)	06/10*	Sept 30 2013
Henry Cutbirth (Monahans)	09/05	Sept 30 2013
Isabelle Blanchard (Pecos)	10/10	Sept 30 2013
Luis E. Elguezabal (San Angelo)	10/07	Sept 30 2013
Glenn Wortham (Sweetwater)	10/07	Sept 30 2013
John Rogotzke (Snyder)	01/12	Sept 30 2013
Lance Goodrich (Artesia, NM)	09/09	Sept 30 2013
Larry Fry (Roswell, NM)	09/00	Sept 30 2013

Ex-Officio members are the City Manager and the City Attorney. The Secretary is the Director of Aviation.

**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 2014	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>
Vacancy - Royce Watkins	02/08*	Sept 30 2015	Sept 30 2017
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
Kevin Wilton	09/08*	Sept 30 2015	Sept 30 2017
Karen York	10/10*	Sept 30 2015	Sept 30 2018
Sharla Hotchkiss	10/12	Sept 30 2015	Sept 30 2018
Warren Lvey	10/12*	Sept 30 2014	Sept 30 2020

ALTERNATES:

Tony Carrillo	11/11	Sept 30 2014	Sept 30 2017
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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>
Mark T. Wellen (City), Chairman	07/01	Mar 20 2010	Mar 20 2010
Randy Prude (County)	03/07	Mar 20 2010	Mar 20 2013
Ken Burgess (City)	10/12*	Mar 20 2013	Mar 20 2018
Judge Mike Bradford (County)	01/07*	Mar 20 2010	Mar 20 2014
Bob Lanier (City), Secretary	04/03	Mar 20 2011	Mar 20 2011
Pete Hulder (Hospital)	03/10	Mar 20 2016	Mar 20 2016
Michael Blonkvist (City)	09/12*	Mar 20 2014	Mar 20 2020
John L. Kennedy (City)	10/09*	Mar 20 2015	Mar 20 2018
Link Grimes (City)	12/12*	Mar 20 2015	Mar 20 2021
Charlene McBride (College)	12/12	Mar 20 2016	Mar 20 2019
Steve Castle (College)	04/13*	Mar 20 2015	Mar 20 2021
Russell Meyer (Hospital)	12/12	Mar 20 2016	Mar 20 2019

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>
Manny Ribera	10/07	Sept 30 2011	Sept 30 2011
Ken Morgan	01/10*	Sept 30 2012	Sept 30 2014
Carla Repman	01/10*	Sept 30 2013	Sept 30 2015
Scott Young	09/12*	Sept 30 2013	Sept 30 2017
Todd Byars	02/08*	Sept 30 2014	Sept 30 2014

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: bart hotchkiss
Address: 1701 community lane
midland 79701
(City) (State) (Zip)

Date: 7/12/2012
Phone: 423-684-6140 (Home)
_____(Business)
Email: bhotch@grandecom.net

I am ☒ I am not ☐ a U.S. Citizen

Please tell us about yourself:

I have lived in Midland 41 years.

Are you a graduate of Midland 101? ☐ yes ☒ no

Occupation: retired

Professional and/or Community Activities:

computer sales, real estate, Murray's Deli, The Fire Place

United Way campaign board, Hospice Midland Board, P & Z Commission 6 years, Council 2 years

volunteer: Keep Midland Beautiful '85 - current, Museum of the Southwest '74 - '80, Tree Keepers 2008 - current

What is your personal vision for the City?

I feel that we need to become very proactive to be able to address our two major issues: 1. water 2. Boom & bust cycles

Please specify any time constraints you may have.

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:

Parks & recreation

Planning & Zoning

Senior Citizens Center Planning (if such a board is created) not just for selfish reasons

Please tell us why you are interested in serving on this board or commission.

to better our city for future generations

What contribution would you most like to make?

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

East Hetchkins

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

Amy Turner

From: Jim Nichols
Sent: Monday, June 24, 2013 7:25 PM
To: Amy Turner
Subject: Fwd: P&Z Chairman

FYI

Sent from my iPhone

Begin forwarded message:

From: Ken VanDyne <kvandyne@midlandtexas.gov>
Date: June 24, 2013, 7:20:20 PM CDT
To: Courtney Sharp <csharp@midlandtexas.gov>, Keith Stretcher <kstretcher@midlandtexas.gov>, Tommy Hudson <thudson@midlandtexas.gov>, Jim Nichols <jnichols@midlandtexas.gov>, Wes Perry <wes@eglresources.com>
Cc: Galen Gatten <galengatten@gmail.com>, Sharla Hotchkiss <hotchkiss@grandecom.net>, Warren Ivey <warren.ivey@century21.com>, Cindy Lanning <cinpetric@gmail.com>, Jay Norris <jnorris2526@suddenlink.net>, Jane Wolf <jane@janewolf.com>, Karen York <kyork@pbhba.org>, Kevin Wilton <kevinwilton@suddenlink.net>
Subject: P&Z Chairman

Hello Everyone-

I had heard last week, but wanted to wait until I could confirm the news with our current P&Z Chairman, Royce Watkins, himself. He informed me today that he is formally stepping down from his position, effective immediately.

He said it is no secret and welcomes any prayers offered as he goes to MD Anderson next week to undergo surgery to remove a recently discovered brain tumor. He's not sure how long the road is ahead, but knows it will require a refocus outside of the commitment he feels he can honor P&Z with right now.

So he wanted to thank the City and Commission, and personally relay that his stepping down will be permanent. He is in good spirits and hopeful. He says the sudden effects are a lightheadedness and some confusion to his speech with word loss/confusion.

If anyone wants to call him over the next week, I don't think he would mind 638-8026.

Thanks.

-Ken



KEN VAN DYNE
ACTING DIVISION MANAGER
CITY OF MIDLAND
PLANNING DIVISION
300 N. LORRAINE ST.
MIDLAND, TEXAS 79701
P: 432.685.7406
F: 432.686.1609